

MINUTES OF MEETING OF THE BOARD OF COMMISSIONERS  
of  
JERICHO WATER DISTRICT

held remotely via telephone conference, on the 17<sup>th</sup> day of March 2021, at 8:30 A.M.

Present:	Commissioners	Thomas A. Abbate
		James Asmus
		Patricia Beckerle
	Attorney	Michael F. Ingham
	Superintendent	Peter F. Logan
	Business Manager	Kathleen Cannon
	Asst. Business Manager	Amanda Blum
	Engineer	William Merklin

In response to the restrictions and concerns relative to the Coronavirus (COVID-19) pandemic, today's meeting of the Board of Commissioners and all meetings until further notice will be held via a phone-conferencing platform pursuant to Governor Cuomo's most recent Executive Order 202.87. A roll call was taken to assure that those listed were in attendance and that a quorum of the Board was present. Members of the public were given the opportunity to call in and listen to the meeting live. The Board Meeting was recorded and will later be transcribed. A notice was posted on the District's website, [www.jerichowater.org](http://www.jerichowater.org), stating same on April 6<sup>th</sup>, 2020.

Commissioner Abbate opened the Board Meeting with an update pertaining to continued efforts of the District to address the COVID-19 virus pandemic.

Ms. Blum gave the COVID-19 report which included:

1. One service department employee who was last at work on March 4<sup>th</sup>, 2021 who had close contact with a family member that tested positive for COVID-19. The employee was placed on a precautionary quarantine, tested negative twice, remained symptom free and returned to work on Monday, March 15<sup>th</sup>, 2021.
2. One service department employee who was last at work on March 9<sup>th</sup>, 2021 who had close contact with a family member who tested positive for COVID-19. The employee was placed on a precautionary quarantine, tested negative once, and has remained symptom free thus far, employee is scheduled to return to work on Monday, March 22<sup>nd</sup>, 2021.
3. One part-time office employee who was last at work on March 9<sup>th</sup>, 2021 was quarantined due to close contact with someone who tested positive for COVID-19 outside of the workplace. The employee began to show symptoms that same day and tested positive on Wednesday March 10<sup>th</sup>,

2021. The employee is scheduled to return to work on March 23<sup>rd</sup>, 2021 pending NCDH isolation release. Contact tracing within the District resulted in no close contacts identified, however out of an abundance of caution, all office employees on site March 9<sup>th</sup> were sent for a precautionary COVID-19 test (the results of which were all negative) and one employee was placed on a precautionary quarantine scheduled to return to work on March 22<sup>nd</sup>, 2021 (so far is completely symptom free).

Miss Cannon reported that the NYSDOH recently updated guidance regarding travel and quarantine as of March 10<sup>th</sup>, 2021. The new guidance no longer requires fully vaccinated individuals (who are  $\geq 2$  weeks following last dose, within 3 months of their last dose, and asymptomatic) to quarantine. The District's Sick Leave Policy was previously amended to include this new guidance. In addition to the March 10<sup>th</sup>, 2021 guidance, a press release was issued from Governor Cuomo stating that beginning April 1<sup>st</sup>, 2021 domestic travel to non-contiguous states may commence without quarantining, but travelers must still complete the NYS traveler health form. Current policies will remain in effect for international travel to countries with a level 2, 3 or 4 travel advisory from the CDC. Once clear guidance is released regarding the April 1<sup>st</sup> changes, the District will update the Travel Policy and notify employees.

Miss Cannon then reported that as of today, March 17<sup>th</sup>, 2021 Governor Cuomo expanded COVID-19 vaccine eligibility to public facing essential workers from governmental and non-profit agencies. Last week the District issued an employee memo announcing the change with instructions on how to sign up for their vaccination appointment.

Mr. Ingham reported that Governor Cuomo signed NYS Senate Bill S2588A, which amends civil service law to include paid leave for COVID-19 Vaccination up to four hours for each injection, effective immediately. Miss Cannon will issue an employee memo notifying staff of the new law.

Minutes of the previous meeting(s) were read and approved unanimously.

Monthly report of Engineer was read and ordered filed.

1. Well 20 & 21 AOP Treatment: Pilot Testing Protocol preparation and Preliminary Design is underway.
2. Well 22 Facility Improvements & AOP Treatment: Pilot Testing Protocol preparation and Preliminary Design is underway.
3. Kirby Lane AOP: The Basis of Design Report (BODR) has been submitted to NCDH for approval. Detailed Design is underway. D&B has submitted a proposal to address additional scope identified during the initial design phase.

Mr. Merklin then presented the Commissioners with an amendment to the original January 6, 2020 proposal for engineering services for additional engineering services for 1,4 Dioxane and PFAS Treatment at Kirby Lane Station in the not to exceed amount of \$289,000.00, thereby amending their original contract. The request includes the additional effort for detailed design and grant assistance scope of work identified to be included in the treatment facility for the removal of 1,4-Dioxane and PFAS at the Kirby Lane Station Project.

After discussion, and upon motion duly made and seconded, it was

RESOLVED that the Commissioners approve D&B's request for proposal amendment to their fee for engineering services for the 1,4 Dioxane and PFAS Treatment at Kirby Lane Station in the amount of \$289,000.00 thereby amending their original contract, to be charged to Capital Account No. H-8397-01 1-2303 Kirby Lane AOP System.

VOTE	AYES	3	NOES	0	ABSENTIONS	0
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Commissioner Abbate	AYE
Commissioner Asmus	AYE
Commissioner Beckerle	AYE

4. Southwoods Road -New Well and Treatment Facility: The contractor has encountered a problem while abandoning the well and will be returning to the site next week to attempt to rectify the situation. D&B is preparing the Design Report and contract documents for construction of the permanent well and treatment facility.
5. PTAS at Well 6 & 16: The preconstruction meeting has been held and construction is underway.
6. Well 17 GAC Treatment for Simazine Removal: Construction is underway.
7. Well 20 GAC Treatment for Simazine Removal: Construction is underway.
8. Split Rock Tank Rehabilitation and Booster Station: The tank rehabilitation work is underway. Preparation of contract documents for the Booster Pumping Station and Drainage Improvements is underway. A design meeting was recently held with JWD.
9. Syosset Tank Replacement Planning: D&B is preparing a proposal to prepare a Basis of Design Report (BODR), which will include an evaluation of tank alternatives and overall planning for the Main Plant site.
10. Jericho Tank Condition Assessment: The report has been finalized to address JWD comments.

Mr. Merlin reported that overall, the coating system on the tank is in poor condition and requires rehabilitation. A full replacement of the tank is not recommended and therefore is not being evaluated. The rehabilitation of the Jericho Tank should begin within the next two years once the site becomes available upon completion and startup of the new AOP treatment system. This project will be part of the District's Capital Plan and will be funded and tracked accordingly when the time comes.

11. Woodbury Tank Altitude Valve: Notice to Proceed has been sent and the preconstruction meeting has been held. Construction is underway. D&B met with JWD and Mike Ingham to discuss acquisition of easements on adjacent properties.
12. Requirements Contracts -Water Service Gooseneck Replacements: D&B and JWD will meet to move this project forward.
13. Wells 4 and 31 Pump Rehabilitation: Well 31 has been completed and is operational. Well 4 pump shop drawings are being prepared.
14. McCoun's Lane Water Main Improvements: The final service connection at 97 Hoaglands Lane is pending.
15. Glen Head Water Main Improvements: D&B, JWD and Mike Ingham met to discuss the easement needs. A meeting with the property owner will be scheduled. Markout and survey will be scheduled when an easement seems likely to be approved.
16. Main Plant SCADA Improvements: The design is underway.
17. Transfer Switch Replacements: The design is underway.
18. Emergency Response Plan (ERP) Update: D&B is updating the ERP.
19. Pandemic Preparedness: D&B is preparing a draft document for JWD review.
20. Wells 18 & 19 Drainage Improvements: D&B has started the preliminary design work.
21. 2021 Capital Plan Update: D&B met with JWD to discuss the project and is preparing the first draft of the Capital Plan table.

Status of Proposed Development Projects – Engineers Report

1. The Center for Developmental Disabilities (The Center) Water Main Improvements: The District has received funding from the developer and D&B is commencing with the design and permitting work.
2. LIU Post Water Distribution Improvements: Construction starting this week.
3. Woodbury Hills Development: No update since last meeting.
4. Silver Path Estates Request for Water Availability: JWD is sending the application to the developer. Work will commence upon receipt of funding from the developer.
5. Amazon Warehouse (former Cerro Wire Site): No update since last meeting.
6. Marriott at Milleridge Inn Water Main: No update from last meeting.

Mr. Ingham reported that the developer wanted to make a minor change to the easement agreement regarding the placement of temporary obstructions on the easement. Appropriate "hold harmless" must be added to the Agreement in this kind of situation.

7. Country Club Developers: No update from last meeting.
8. Tam O'Shanter Development: No update from last meeting.
9. Aveley Residential Development: No update from last meeting.

Mr. Ingham presented to the Commissioners the following resolution to purchase TrojanUVFlex™-Advanced Oxidation Systems for 1,4 Dioxane removal AOP treatment:

**JERICHO WATER DISTRICT  
SOLE SOURCE/EMERGENCY RESOLUTION REGARDING  
TROJAN UV FLEX AOP SYSTEM**

WHEREAS, on October 26, 2020, the New York State Department of Health ("DOH") adopted a new Maximum Contaminant Level ("MCL") for 1,4-Dioxane at 1 part per billion ("ppb"); and

WHEREAS, the District has seven (7) wells with detections over the MCL; and

WHEREAS, the MCL regulations provided the District with a deferral period granting impacted districts with a temporary suspension of enforcement

proceedings on the condition that they meet strict requirements and guidelines ;  
and

WHEREAS, the District received a 1,4-Dioxane referral on or about November 24<sup>th</sup>, 2020; and

WHEREAS, the deferral is for a maximum of two (2) years; and

WHEREAS, the deferral mandates quarterly reporting which evidence success at achieving milestones for both the acquisition and installation of AOP treatment systems as well as the construction of new capital facilities where required; and

WHEREAS, the DOH has approved only one form of AOP treatment for 1,4-Dioxane, namely the Trojan UV Flex system; and

WHEREAS, the time constraints in the deferral obviate any contemplation of the requisite pilot testing for any different kind of AOP treatment system other than the Trojan UV Flex system; and

WHEREAS, upon the advice of District counsel<sup>1</sup>, this factual situation qualifies as an emergency exempting the District from the standard bidding procedures under the auspices of GML Section 103(4); and

WHEREAS, by virtue of Trojan being the only AOP system approved by the NYSDOH, District counsel further advises that it constitutes a "unique" sole source system exempt from competitive bidding under GML<sup>2</sup> ; and

NOW THEREFORE, with due recognition of the above recitals and upon motion duly made and seconded, the District promulgates the following declarations:

1. There exists an emergency under GML §103(4) which requires the immediate design, installation, and expeditious placement into service of AOP treatment systems for the removal of 1,4-Dioxane from Wells 9, 14, 20, 21, 22, 25, & 26.
2. Under the exigent circumstances confronting the District, and by virtue of the Trojan AOP system being the only one approved by the NYSDOH, it qualifies as a unique "sole source" system exempt from GML §103.

3. Therefore, the District authorizes the Superintendent and the District's Engineer to acquire on an economical basis the necessary Trojan UV Flex AOP systems required to timely comply with the DOH deferral plan.

<sup>1</sup> District counsel advised that his opinion was derived from Grimm v. City of Troy, 60 Misc. 2<sup>nd</sup> 579 1969 where the court addressed the emergency exception under GML §103 and concluded as follows:

Section 103 of the General Municipal Law, which governs the City's conduct, provides in subdivision 4 for emergency situations. An 'unforeseen' occurrence or condition is one which is not anticipated, which creates a situation which cannot be remedied by the exercise of reasonable care or which is fortuitous. (Rodin v. Director of Purchasing of Town of Hempstead, 38 Misc. 2d 362, 238 N.Y.S.2d 2).

<sup>2</sup> Whereas in support of his opinion that the Trojan system constituted a unique, sole-source exception to the GML, Mr. Ingham cited Comptrollers Opinion No. 88-35 (1988), 1988 WL 168999 wherein the Comptroller concluded:

As indicated above, another exception to the bidding requirement which may be applicable to certain software purchases is the sole source exception. The exception has been applied in the case of public utility services (Harlem Gas v Mayor, 33 NY 309; Williams v Bryant, 53 AD2d 229, 385 NYS2d 425) and to patented items which are determined, in good faith and without intent to arbitrarily inhibit or restrict competition, to be required in the public interest (1983 Opns St Comp No. 83-105, p 129; see Baird v Mayor, 96 NY 567).

Accordingly, if a municipality objectively determines that particular prepackaged or canned software uniquely serves the public interest and that such software is available from only one source, it would appear that the software could be acquired without competitive bidding under the sole source exception.

VOTE	AYES	3	NOES	0	ABSENTIONS	0
Commissioner Abbate			AYE			
Commissioner Asmus			AYE			
Commissioner Beckerle			AYE			

Mr. Ingham reported regarding the FOIL request received from Mr. Freier. Mr. Freier has scaled down his request and the District is currently working to assemble the requested records including professional service agreements, salary schedules and a listing of records on file.

Mr. Logan reported that all analysis of wells and bacteriological sampling for the period March 3rd, 2021 to March 16th, 2021, had been completed and all were within state and federal standards.

Mr. Logan memorialized the Commissioners approval (via email on March 8<sup>th</sup>, 2021) of the draft contract modification from Bensin Contracting for JWD Contract No. C7-20, Well No. 20 GAC Installation to abandon and remove two drainage structures and add two new manholes and 150 LF of 15" HDPE drainage piping in the

amount of \$53,935.00. After discussion, and upon motion duly made and seconded, it was

RESOLVED that the Commissioners approved the draft Contract Modification for Contract No. C7-20, Well No. 20 GAC Installation from Bensin Contracting in the amount of \$53,935.00 for drainage modifications contingent upon a formal change order from D&B Engineers & Architects.

VOTE	AYES	3	NOES	0	ABSENTIONS	0
Commissioner Abbate			AYE			
Commissioner Asmus			AYE			
Commissioner Beckerle			AYE			

Mr. Logan reported regarding an issue discovered at Well No. 11. The distribution piping from the wellhead to the discharge pipe has shifted, deeming it unsafe and inoperable. Mr. Logan recommended utilizing the District's Requirements Contract for Emergency Water Main Repairs with Bancker Construction to make the repairs. After discussion, the Commissioners directed Mr. Logan to get a cost estimate from Bancker Construction utilizing the Requirements Contract to present for their approval.

Mr. Logan informed the Commissioners via email on March 3<sup>rd</sup>, 2021 of a broken 10-inch water main located on Old Jericho Turnpike near Karol Place in Muttontown. Due to the hazardous location of the break and traffic control equipment needed, Mr. Logan called in Banker Construction Corp. to repair the main, utilizing the District's Requirements Contract for Emergency Water Main Repairs. Once an invoice is received, Miss Cannon will prepare an increase to the blanket purchase order for the Commissioners to approve.

Mr. Logan presented to the Commissioners a letter from Mr. Gary Passavia from Woodbury 884 Owner LLC requesting to move a fire hydrant located at The Sagamore at Mills Pond, Jericho Tpke, Woodbury. Mr. Ingham will prepare a "Deposit for Costs" Agreement requiring a deposit from the owner to prepare an RFP to complete the work. Once the agreement is signed and deposit is received, Mr. Logan will prepare and distribute the RFP.

Miss Cannon then presented and reviewed with the Commissioners a Cash Balance/Cash Deposit report as of March 15<sup>th</sup>, 2021. After discussion, the report was ordered filed.

Miss Cannon then presented and reviewed with the Commissioners a Purchase Order by Expense Account Report listing all purchase orders issued between March 2<sup>nd</sup>, 2021 and March 15<sup>th</sup>, 2021. After discussion, the report was ordered filed.



Miss Cannon then informed the Commissioners that the District received the first half of taxes collected by the Town of Oyster Bay in the gross amount of \$2,541,252.92; \$308,766.75 of which was for 2020 water bills in arrears that the County attached to consumers tax bills. In addition, the Town of Oyster Bay deducted \$1,459,683.25 to pay the District's required debt service payment, resulting in a net check of \$1,081,569.67.

Miss Cannon then requested authorization to transfer \$750,000.00 from the District's General Fund Checking Account to the District's Investment Account to maximize earned interest. After discussion, the Commissioners authorized Miss Cannon to transfer the funds.

Miss Cannon then requested that the Commissioners approve the following prior year budget transfer due to a negative balance caused by a reclass entry after year-end review of fixed assets (nunc pro tunc):

A-8340-000-2102	Building Improvements	(\$2,300.00)
A-8340-000-2104	Education, Meeting & Dues	\$2,300.00

After discussion and upon motion duly made and seconded, it was

RESOLVED that the Commissioners authorize the above listed budget transfer.

VOTE	AYES	3	NOES	0	ABSENTIONS	0
Commissioner Abbate			AYE			
Commissioner Asmus			AYE			
Commissioner Beckerle			AYE			

Miss Cannon then reported that District employee, Matthew Regan has successfully completed his two-year traineeship in the title of Water Meter Servicer Trainee as of March 19<sup>th</sup>, 2021. On March 20<sup>th</sup>, 2021 he was made a permanent Water Meter Servicer with a \$1,000.00 increase to base salary as per the District's step and grade chart.

Miss Cannon then presented to the Commissioners a letter from Ms. Kelly Jackson, Claims Specialist at Zurich Insurance regarding the insurance claim for the Hoffman Center's, stating that the claim was denied under the District's General Liability Insurance Policy. Miss Cannon explained that after discussing with Ms. Nicole Morton, of Salerno Brokerage, the claim was resubmitted to the District's Professional Liability Insurance Policy. The claim is currently being investigated and Miss Cannon will keep the Commissioners apprised of the insurance company's decision.

Miss Cannon reported that the Bank Reconciliations for the month of February 2021 were completed. After discussion, the Commissioners ordered the Bank Reconciliations filed.

Miss Cannon then presented to the Commissioners a proposal from Progressive Marketing Group for the District's Website Maintenance in the amount of \$2,544.00 per year for the period of April 1<sup>st</sup>, 2021 through March 31<sup>st</sup>, 2022 with the option to extend for two additional years (\$2,616 per year for year 2 and three). The proposal also includes Website Hosting of \$585.00 for year one (11/1/20 through 10/31/21) with the option to extend for two additional years (year two in the amount of \$603.00/year and year three in the amount of \$621.00/year) and Website SSL Certificate Renewal of \$125.00 for year one (2/2021-1/2022) with the option to extend for two additional years (year two in the amount of \$129.00/year and year three in the amount of \$133.00/year). After discussion and upon motion duly made and seconded, it was

RESOLVED that the Commissioners approve the proposal from Progressive Marketing Groups for the District's Website Maintenance, Website Hosting and SSL Certificate Renewal in the total amount of \$3,254.00 to be charged to Operating Account No. A-8310-000-4420 IT Computer Services.

VOTE	AYES	3	NOES	0	ABSENTIONS	0
Commissioner Abbate			AYE			
Commissioner Asmus			AYE			
Commissioner Beckerle			AYE			

Miss Cannon then informed the Commissioners that she received the following six (6) requests to waive penalties:

1. Account No. 61102084-2 in the amount of \$196.64
2. Account No. 50206071-0 in the amount of \$79.63
3. Account No. 20150117-2 in the amount of \$107.18
4. Account No. 25462300-0 in the amount of \$289.31
5. Account No. 21150141-0 in the amount of \$159.15
6. Account No. 36615000-0 in the amount of \$67.71

Miss Cannon informed the Commissioners that no penalty on any of the above accounts has been waived in the last five (5) years. After discussion, the Commissioners authorized Miss Cannon to waive penalties on the accounts listed above and instructed her to send revised bills.

Miss Cannon then requested that the Commissioners approve the following budget transfer to cover negative balance created by Town of Oyster Bay's deduction from first half tax payment.

A-9730-000-7000	BAN's Interest	\$7.00
A-9710-000-7000	Serial Bonds Interest	(\$7.00)

RESOLVED that the Commissioners authorize the above listed budget transfer.

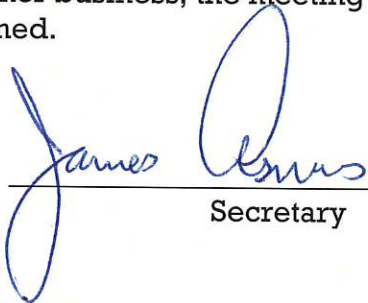
VOTE	AYES	3	NOES	0	ABSENTIONS	0
Commissioner Abbate			AYE			
Commissioner Asmus			AYE			
Commissioner Beckerle			AYE			

At 9:40 a.m. Ms. Jane Barbato, the District's Water Conservationist, joined the meeting to present the District's Annual DEC Report detailing the efforts of the District and its consumers towards water conservation. In 2020, the District issued 262 underground sprinkler permits, the most issued since 2005. Ms. Barbato has expanded the leak detection program at the District utilizing EyeOnWater as a tool to educate consumers on their water usage. Now that the Meter Change Out Program is substantially complete, approximately 20% of customers have signed up for EyeOnWater. After discussion, the Commissioners thanked Ms. Barbato for her thorough report.

The Board went into Executive Session at 9:55 a.m. to discuss pending litigation matters and personnel and reentered with no action taken.

The following claims were then audited and approved for payment: General Fund #25273 to #25309, Construction Fund #2547 to #2548 and Installation Fund #4124.

There being no further business, the meeting was, upon motion duly made and seconded and adjourned.

  
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 Secretary