

## Tualatin Valley Water District



BOARD OF COMMISSIONERS  
1850 SW 170th AVENUE  
SPECIAL MEETING MINUTES  
MAY 29, 2013

### Present:

Commissioners: President Dick Schmidt, Richard Burke, Jim Doane, and Marilyn McWilliams  
(Jim Duggan was absent)

### Management

Staff: Mark Knudson, Legal Counsel, Clark Balfour, Patty Rupp, and Amy Heinlen

Note: Unless otherwise indicated, the words "Motion carried" mean the action of the Board of Commissioners was unanimous.

\*\*\*\*\*

President Schmidt called the Special Meeting to order at 6:05 p.m.

### APPROVAL OF CHIEF EXECUTIVE OFFICER EMPLOYMENT AGREEMENT

Human Resources Director, Amy Heinlen explained that the contract for the employment of Chief Executive Officer (CEO), Mark Knudson, was before the Board for consideration and approval. She explained one minor change in Section 11, Fringe Benefits, third sentence: "The CEO will be granted four (4) weeks of vacation and eighty (80) hours of management leave per calendar year."

She indicated that the wording in a previous version sent to the Board stated "10 days of management leave," which payroll pointed out as incorrect. She noted that Mark Knudson approved this change. She indicated that this was a collaborative effort between the Board, Mr. Knudson, Legal Counsel, Clark Balfour, and Akin Blitz of Bullard Law firm, and the HR Director.

Commissioner Burke moved to approve the employment contract for Mark Knudson and Commissioner Doane seconded the motion. Motion carried.

### UPDATES

Mr. Knudson provided a review of several updates.

- Cancellation of the June work session due to the annual AWWA conference.
- Staff recommendation to reschedule the July work session from July 2 to July 9 at 6 p.m.
  - Commissioner Doane stated that he would be out of town.
  - All other Commissioners acknowledged they would attend.
- The schedule for the AWWA ACE13 conference events would be available later in the week.

- An agreement has been reached with the Joint Water Commission (JWC) partners to lease JWC water treatment plant capacity in the amount of six million gallons a day (mgd).
  - One year agreement at a cost of approximately \$287,000.
  - This lease is in lieu of taking interruptible water from Portland
    - Amount is more than interruptible water; however, it will save more in the long term and staff agrees that it is a prudent investment.
  - A JWC Executive Committee would be held on Friday, May 31 with President Schmidt representing TVWD.
- Staff recently received two requests for individual commissioner’s TVWD email addresses:
  - One customer requesting information on a billing issue
  - One customer with a backflow issue
  - Protocol is that staff gives a customer the [Board@tvwd.eomorg](mailto:Board@tvwd.eomorg) address.
  - Messages are relayed to commissioners through a Thursday memo.
    - Sharing email messages with the Board allows staff to put all information together and provide additional clarification on any issue relieving the Board of responding directly to each email
    - The Board was queried on this process and the consensus of the Board was that protocol should continue.
- Mr. Knudson asked the Board if they wish to continue televising the regular Board meetings.
  - The consensus of the Board was to continue the past practice.
- Oregon Business magazine announced that TVWD is one of the best 12 green employers in Oregon.
- Mr. Knudson reviewed his schedule for the weeks of June 3 and June 10, noting that Todd Heidgerken as AIC the week of June 3 and Dale Fishback as AIC the week of June 10.

**ADDITIONAL COMPENSATION FOR AIC/CEO (DISCUSSION)**

Commissioner Doane explained that while Todd Heidgerken (Todd) and Mark Knudson (Mark) were the acting CEO, they received their salary plus 5%. Commissioner Doane reported that Mark’s salary is higher than Todd’s and to be equitable for doing the same job they should be paid the same amount. Commissioner Doane proposed either they are both paid what CEO DiLoreto was making, or move Todd to what Mark was making to resolve the equity issue.

Commissioner Burke moved to adjust Todd’s compensation retroactively by \$2,927.00 to recognize the fine work he did during his term as AIC/CEO and to be level with what was paid to Mark. Commissioner McWilliams seconded the motion. The motion carried.

**ADJOURNMENT**

There being no further business, President Schmidt adjourned the Special meeting at 6:25 p.m.

BOARD OF COMMISSIONERS  
TUALATIN VALLEY WATER DISTRICT

BY \_\_\_\_\_ BY \_\_\_\_\_  
President, \_\_\_\_\_ Secretary, \_\_\_\_\_

Date Approved: July 17, 2013

## CHIEF EXECUTIVE OFFICER EMPLOYMENT AGREEMENT

**PARTIES:** Tualatin Valley Water District (a public body) (hereinafter "District")  
and

Mark Knudson, Chief Executive Officer (hereinafter "CEO")

**RECITALS:**

1. The District desires to employ Mark Knudson as CEO and to establish by this Agreement the terms and conditions of employment of the District's CEO.
2. Mark Knudson desires to accept employment as CEO.
3. The parties desire an agreement which provides an inducement for the CEO to remain in employment, to establish regular process for evaluating performance, and to provide a just means for ending the employment relationship at such time as the CEO should become unable to discharge duties due to an intervening event or condition or because the District desires to end the employment relationship for any reason.

**IT IS AGREED:**

1. Duties. The District employs Mark Knudson as CEO, to perform the functions and duties of CEO as specified in the policies and procedures, rules and regulations of the District, and as hereinafter set forth, and as prescribed or assigned by the Board of Commissioners of the District periodically. The Board of Commissioners vests in the CEO the day-to-day operational control of District operations, and reserves to the Board of Commissioners sole policy making authority and exclusive control over fiscal policy, budget and financial matters.

The authority of the CEO, consistent with state law, shall include, but not be limited to, overall management, administration and direction of District operations; the hiring, supervising, disciplining and discharging of District employees and volunteers; the execution and administration of District policies within budget appropriations according to District policy and pursuant to ordinance or resolution; policy advice to the Board of Commissioners and open communication with the community so as to foster responsive and courteous public service. The CEO will:

- A. Initiate, administer and supervise the functions, activities and programs of the District;
- B. Supervise the maintenance and upkeep of any facilities and equipment owned or maintained by the District, and to recommend to the Board the acquisition of new or sale of used equipment and facilities;
- C. Keep and maintain proper fiscal records for the District;

- D. Hire, supervise and fire all personnel necessary to carry out the business of the District subject to the limitations of Oregon law, District policies, and any applicable contract;
- E. Do and perform all things necessary to be done to completely and fully administer said District and/or as otherwise directed by the Board of Commissioners of the District; and
- F. Provide assistance or services to other units of government when within the District's purposes and objectives to the extent reasonable and practical, which is encouraged but not required.

In doing so, the CEO shall be bound by all the rules, regulations and policies now in existence or hereafter adopted by the Board of Commissioners of the District and shall administer the affairs of the District in accordance therewith and pursuant to the laws of the State of Oregon.

The Board of Commissioners agrees to the principle that effective and efficient administration of District policy established by the Board of Commissioners is best achieved by the CEO and the CEO's exercise of judgment as to implementation and that ordinarily the authority of Commissioners is exercised in meetings of the Board as a whole. The Board agrees that when individual Commissioner questions or suggestions related to services or operations arise outside of meetings of the Board, in order avoid misunderstandings of the role and responsibility of the CEO in relation to elected Commissioners and District employees, Commissioners ordinarily will refrain from communicating desires, suggestions or requests except to and through the CEO or during a meeting of the Board of Commissioners. When Commissioners do communicate with District employees, for example to convey compliments and appreciation or to direct an information question to the employee with the expertise or responsibility, a copy of such communications will be directed to the CEO or the Commissioner will keep the CEO contemporaneously and fully apprised.

2. Term of Agreement. The term of this Agreement is indefinite. Unless the District notifies the CEO to the contrary in writing at least thirty (30) days before the start of the next agreement year, it shall be deemed that the District has renewed this Agreement for one (1) additional year. Unless the CEO notifies the District to the contrary in writing at least thirty (30) days before the start of the next agreement year, the CEO agrees to accept renewal of this Agreement. If the term of the Agreement has not been extended in a particular year, it shall be allowed to reach its existing effective ending date.

a. The terms of this Agreement shall apply to the CEO's employment on and become fully effective on June 29, 2013 based on the parties' desired date for the CEO appointment and shall be considered to be applicable to the "second half" of the January 1 to December 31, 2013 agreement year. The "agreement year" as used herein refers to a calendar year. Absent notice as provided above to the contrary, the Agreement shall automatically renew annually for the succeeding agreement year, which shall extend from January 1 to December 31, 2014, and during like period each year thereafter.

b. Nothing in this Agreement shall grant the CEO a property right in the position, nor prevent, limit, or otherwise interfere with the right of the District to

terminate the services of the CEO at any time, with or without cause, subject only to the provisions of this Agreement pertaining to termination and severance pay.

c. The CEO may resign at any time, subject only to the provisions of this Agreement relating to Notice.

d. In the event the CEO is incapacitated or otherwise unable to perform his duties for a period which extends beyond protected leave periods that apply, the CEO will provide a written medical opinion by a physician of the CEO's choosing evaluating the CEO's ability to perform his assigned duties. If, in the opinion of the physician, the CEO will be able to resume his duties following a period of convalescence, or in the event reasonable accommodations are identified in an interactive process, the District may suspend some terms of this Agreement or the Agreement *in toto* until the CEO is able to return to work. If, in the opinion of the physician, the CEO is permanently incapacitated or will be unable to return to his assigned duties, the District may terminate this Agreement; however, the District shall not do so in a manner which deprives the CEO of the value of earned leave entitlements or rights protected by Oregon or federal law.

3. Outside Employment. As a general rule or expectation, the CEO ordinarily will devote at least forty (40) hours per week to administrative and executive work for the District. Other compensated employment shall not interfere with the CEO's ability to effectively discharge the assigned duties and responsibilities. The CEO is a salaried employee with discretion to set his hours of work. The CEO will seek approval by the Board of any compensated outside employment prior to accepting such employment and will keep the Board informed at least annually of any continuing compensated employment.

4. Termination and Severance.

a. Termination Without Cause. This Agreement may be terminated either by the District or the CEO for any reason whatsoever upon the giving of thirty (30) days written notice to the other party.

b. Termination For Cause. This Agreement may be terminated immediately in the sole discretion of the District upon the occurrence of any one of the following events:

1. CEO willfully and continuously fails or refuses to comply with the policies or Board established standards and expectations as may be established and communicated formally by the Board as written policy, resolution, ordinance or other communication periodically;

2. CEO has committed acts of fraud, dishonesty, misappropriation of funds, intentional deception of the Board or other authority, embezzlement, or other crimes or misconduct which reflect poorly on the CEO or the District in relation to the rendering of District services as a public body;

3. CEO shall fail or refuse to perform faithfully or diligently any of the duties provided for in this Agreement.

c. Severance Upon Termination Without Cause. In the event the CEO is involuntarily terminated without cause by the District during such time as the CEO is willing and able to perform the duties of CEO, then in that event the District agrees to pay the CEO a lump sum computed as (number of months of service as CEO) multiplied by (monthly base salary) to a maximum of the value of twelve (12) months of salary at the rate in effect at the time of the termination. If such termination occurs during the first twelve (12) calendar months of CEO's employment as CEO, then the severance amount shall be determined and paid on a graduated basis. The District will pay a graduated severance payment equal to the value of one (1) month's salary or a portion thereof, for each month (or portion(s) thereof) of completed service to the District as the District's CEO. For example, if the CEO's termination without cause is effective at the conclusion of four (4) months, he would receive four (4) months' salary as severance. This right begins as of June 29, 2013. The maximum severance payment the CEO may accrue is payment equal to the monetary value of twelve (12) months' salary (computed based upon current annual base salary in effect on the date of termination). If the CEO is terminated for cause under paragraph 4(b) of this Agreement, then the District shall have no obligation to provide for or pay any severance payment.

d. Severance Under Other Circumstances. If the District reduces the salary or financial benefits of the CEO, or if the District refuses a written request that the District comply with any terms of this Agreement benefiting the CEO, or if the CEO resigns following public suggestion that he do so whether formal or informal by a majority of the Board of Commissioners, then the CEO may, at the CEO's option, declare the Agreement to be involuntarily terminated and the severance pay provision under subparagraph (c) of this section shall apply from the date of such declaration.

e. Voluntary Resignation. If the CEO voluntarily resigns employment and thereby terminates this Agreement before the expiration of the agreement year, then in order to resign in good standing the CEO shall give the District at least 30 days' notice in advance. If the CEO resigns voluntarily and not under circumstances described in subsection (d) of this section of this Agreement, then he shall not be entitled to severance as defined in 4(c).

f. Vacation Payoff. Upon termination of this Agreement in good standing, the CEO shall be entitled to a lump sum payment equivalent to the value of CEO's accrued vacation balance computed at CEO's then current rate of pay.

5. Salary. Commencing on the effective date, the District shall pay the CEO for services rendered an annual salary of one-hundred eighty five thousand three hundred dollars (\$185,300.00). The District will review the base salary and other benefits of the CEO at the CEO's annual performance review which will be conducted in December 2014, and in December of each year thereafter. The District's ability to increase compensation is limited by availability of funds for that purpose.

6. Hours of Work. The parties recognize that the CEO must devote a great deal of time outside of normal office hours to District administration when required. The CEO shall determine CEO's hours of work so as to be available to the public, employees and the Commissioners on a predictable and regular basis and so as to accomplish the goals and tasks directed by the Board of Commissioners. The CEO is entitled to take management time off to

such an extent as the CEO deems appropriate and proper during business hours, provided that absences due to such time off do not interfere with the performance of the CEO's duties and important needs of the District. The CEO is salaried and shall not be entitled to overtime compensation.

7. Automobile. The CEO shall receive a taxable automobile allowance of \$600.00 per month in lieu of mileage reimbursement for automobile travel within the state of Oregon and Southwest Washington, including Pacific, Wahkiakum, Cowlitz, Clark, Skamania and Klickitat counties. Automobile travel to destinations outside of the state of Oregon and Southwest Washington shall be reimbursed for the entire distance of the trip and shall be paid at the published IRS rate in effect at the time of the trip or at the lowest published fare for available commercial air travel, whichever is less.

8. General Expenses. The District shall reimburse the CEO for reasonable expenses of a non-personal and generally job-related nature which are incurred, upon receipt of expense vouchers, receipts, statements or a personally written justification or request. The CEO is authorized to expend District funds in the execution of District business and in representing the District at conferences and otherwise, to purchase materials for recognition of employees or volunteers, and to incur travel and lodging expenses in the conduct of District business. The CEO is exempt from per diem expense limits of the District.

9. Dues and Subscriptions. The District will reimburse the CEO for professional dues and subscriptions appropriate for full participation in appropriate associations and organizations necessary and desirable for professional participation, growth and advancement, and to improve performance of duties as CEO. The CEO shall report to the Board of Commissioners on each professional organization for which the District pays dues and subscription services.

10. Professional Development. In accordance with District policy, the District shall budget and pay registration, travel and subsistence expenses of the CEO for professional and official travel, meetings, and occasions deemed necessary or desirable to continue the executive development of the CEO and to pursue official functions of the District. The CEO shall make periodic reports to the Board of Commissioners on such activities.

11. Fringe Benefits. The CEO shall receive the fringe benefits which the District provides and may hereafter provide to regular fulltime District employees. These include holiday and sick time off and accrual and caps to the same extent as provided for in District policies, health, dental, vision, disability, HRA and life insurance benefit plans and plan documents/descriptions, VEBA, 401 (k) and PERS retirement benefit plan documents as provided and as revised periodically. The CEO will be granted four (4) weeks of vacation and eighty (80) hours of management leave per calendar year. The CEO will be subject to the accrual caps and carry over as defined in the District policy based on accrual of four (4) weeks of vacation per year and eighty (80) hours of management leave per year. The CEO will pay the portion of any benefit premium(s) due in an amount equal to what is required of other fulltime District employees and the District will contribute an amount equal to that provided for other fulltime District employees. CEO benefits shall be governed by the District policies which establish them.

Effective June 29, 2013, CEO shall be credited with paid time off banks, including vacation, sick leave and management leave, equivalent to those maintained and in effect at the close of business on June 28, 2013 for him in his position as Chief Engineer as a regular District employee not subject to an employment agreement. The intent and effect of this paragraph is that CEO loses no benefit accrual by reason of his appointment as CEO under this Agreement. CEO's appointment does not entitle him to a payment of the value of paid time off accruals.

12. Cell Phone/Computer. Because official or job related needs require immediate access to elected officials, managers and key individuals as identified by the District, the District requires the CEO use a cellular phone for work related communications. The District will pay the CEO the maximum amount afforded to other District employees to enable the CEO to purchase and maintain such cellular phone services and equipment and to receive and send telephone emails and texts in order to fulfill the CEO duties and responsibilities. The CEO will be responsible for tax consequences, if any, of this telephone stipend. The CEO must complete and sign the District's stipend request form.

The District will furnish the CEO a District-owned laptop computer for use in connection with his employment. The CEO may use the computer for both District and incidental personal uses not inconsistent with the District computer and internet policies. Upon cessation of employment, the laptop computer shall be returned to the District.

13. Annual Goal Settings and Performance Evaluation. The Board of Commissioners will periodically identify its concerns, if any, to the CEO either by informal discussions with the CEO or by more formal means during executive sessions. The Board of Commissioners shall meet with the CEO at least semi-annually for the purpose of setting District goals and priorities starting December 2013. The Board of Commissioners and the CEO shall meet at least annually to evaluate and assess the performance of the CEO in meeting or progressing toward the goals formally adopted by the Board of Commissioners.

In the event the District determines that the performance of the CEO is unsatisfactory in any respect or needs significant improvement in any area, the Board of Commissioners will endeavor to describe these concerns in writing and in reasonable detail or with specific examples as to be objective and helpful to CEO's diligent and good faith efforts to meet or exceed the Board's expectations. However, this section 13 relating to annual goal setting and performance evaluation shall not be construed or applied as a limitation or condition for Board action terminating the CEO's employment either for cause or without cause. As provided in section 5 of this Agreement relating to salary, the CEO's salary shall be reviewed at least annually after the performance evaluation has been communicated by the Board or its sub-committee or designated Board-member representative. The evaluation shall be based on the CEO's performance of duties as described in paragraph 1, any adopted position description or Board stated expectation(s) and the following:

- A. Ability to cooperate with the Board, staff, community citizens and leaders, peer organizations and neighboring towns, districts, and the County;
- B. Ability to effectively communicate;
- C. Effective leadership attributes in leading District employees;



- D. Good work habits as an example to employees;
- E. Full and efficient use of all District services;
- F. Management skills necessary to maximize the services to be made available to the District and minimize the cost to the rate payers; and
- G. Performance measured against the strategic plan as developed by the Board and revised periodically.

14. Amendments. Amendment to this Agreement shall be in writing and signed by both parties.

15. General Provisions. This Agreement shall be binding upon and inure to the benefit of the heirs-at-law and executors of the CEO. If any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement shall be deemed severable and shall not be affected but shall remain in full force and effect.

16. Effective Date. This Agreement shall be effective commencing on June 29, 2013, and shall continue in full force and effect according to the terms stated herein.

DATED this \_\_\_\_ day of May 2013.

**TUALITAN VALLEY WATER DISTRICT**

\_\_\_\_\_  
Mark Knudson, CEO

\_\_\_\_\_  
Richard Schmidt, President

**ATTEST:**

\_\_\_\_\_  
James Doane, Secretary