



MEMORANDUM
JANUARY 4, 2018

TO: BOARD OF DIRECTORS

FROM: ANDY MUELLER, INCOMING GENERAL MANAGER

SUBJECT: RIVER DISTRICT HIRING PRACTICES

ACTION: *Direction Only At This Time*

STRATEGIC INITIATIVE(S): *1.A. Outreach and Advocacy*
11.B. Quality of River District Staff Resources

I. Framework for Discussion

The Board asked that we initiate a Board discussion and review of the District's current hiring practices.

The District's organic statute (C.R.S. § 37-46-101 et. seq.) at section 104(a) states that, the District "*shall be managed and controlled by a board of fifteen directors.*" Section 106 further provides: "*The board of directors of said district shall appoint a secretary and a treasurer. The same individual may at the election of the board hold both of said offices. The board shall likewise hire such other employees, including engineers and attorneys, as may be required to properly transact the business of the district, and said board is authorized to provide for the compensation of the secretary and treasurer and other appointees.*"

In order to effectively serve its constituents and successfully meet its mission, the River District has intentionally evolved into a complex, multifaceted organization with both governmental and business operations and budgets. As set forth in the District's organic statute, the Board meets regularly every quarter and usually holds several additional special meetings every year. From the inception of the District, the Board recognized the need to hire highly qualified staff to implement the mission of the District on a day-to-day level with policy guidance and oversight from the Board. As with most governments and businesses of a comparative size and complexity, the Board has consciously decided to exercise its management and control mandate in the form of a "policy governance" board. The Board has consciously decided to hire a Secretary/General Manager and a General Counsel as the Board's direct employees and to delegate to those employees the day-to-day management and operation of the District, including the hiring and management of River District staff.

This strategy is reflected in the River District's Bylaws, which provide in pertinent part that:
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- *“As General Manager, the Secretary shall have charge of and authority over the office of the District and of all employees thereof except for the District's attorneys and legal staff.” Bylaws at Article V.3.a.*
- *“The Secretary/General Manager may designate a Chief Engineer for District, including its Enterprise....” Bylaws at Article VIII.*
- *“The General Counsel shall have charge of and authority over any District staff attorneys and other District legal staff.” Bylaws at Article IX.*

The Board's most recent policy level pronouncement on the hiring and retention of staff can be found in the Strategic Plan under Initiative 11:

11. River District Staff Resources: *For the River District to successfully fulfill its mission and meet strategic initiatives of the organization, it is imperative to attract and retain a highly qualified staff. The River District values each employee and their contributions and recognizes that the success of the organization depends heavily on the success of its employees.*

...

11. B. *The River District will have an excellent workforce that is talented and adaptable. The District will focus on effective hiring for new employees, professional development for existing employees and management to ensure that the proper expertise and leadership attributes are maintained and developed in all staff positions.*

II. Current Hiring Practices and Procedures

The River District's Employee Policy and Procedural Guidelines, as approved by the Board, provides the following:

2.06 EMPLOYMENT PROCEDURES Positions may be approved for staffing as part of the annual budget, as vacancies require replacements or as recommended by the Secretary or General Counsel and approved by the Board. When such positions become available and no current employee is designated to assume the position as part of their career progression within the District, qualified applicants will be solicited. The District may consider internal applicants at the same time external applications are being solicited through various recruiting activities. All employment recruitment, screening and selection practices are based upon job-related factors. Employment selection decisions are made in a non-discriminatory manner as defined by the District's Equal Employment Opportunity Policy.

The District's current Employment Procedure language in the Employee Policy reflects the Board's delegation of hiring to the General Manager (and General Counsel where appropriate). Specifically, the above cited language in the Manual indicates that positions may be created or filled in the following three ways:

1. positions may be approved [by the Board] for staffing as part of the annual budget process;
2. as vacancies require replacements; or
3. as recommended by the Secretary or General Counsel and approved by the Board.

Thus, consistent with the River District's Bylaws and the Employee Policy the Board approves the "staffing" or creation of a position and the Secretary or General Counsel is responsible for hiring to fill the positions so approved and/or in need of replacement.

The Board-approved Employee Policy provides direction to the Secretary and General Counsel regarding the factors to be considered in the hiring process, "*The District may consider internal applicants at the same time external applications are being solicited through various recruiting activities. All employment recruitment, screening and selection practices are based upon job-related factors. Employment selection decisions are made in a non-discriminatory manner as defined by the District's Equal Employment Opportunity Policy.*

In practice, during the twenty-two years Eric Kuhn served as General Manager, the District has generally implemented the following hiring process:

- The advertisement for any open position in the appropriate media and other locations;
- The establishment of a hiring committee of staff members from several departments;
- The screening of the applicant's resume's and cover letters by the committee;
- Interviews by the committee of appropriate, qualified applicants;
- The recommendation to hire an individual or continue to look for an appropriate person by the committee to the Secretary/General Manager (or where appropriate the General Counsel);
- The verification of the recommended applicant's references and background; and
- The extension of an offer of employment contingent upon verification of certain eligibility requirements.

The makeup of the staff committee varies depending upon the nature and level of the open position. The focus of the staff committee and the Secretary has always been on the applicant's possession and demonstration of "job-related requirements," as set forth in the Employee Policy. The staff and Secretary look at the applicant's experience to assess the person's skill level, educational background and success in his or her given field. The staff and Secretary examine the applicant's past experiences and education solely to determine whether he or she is likely able to accomplish the requirements of the applicable position. In certain circumstances, the hiring process has been modified when necessary for strategic, efficiency, and/or competitive reasons.

As part of my process of preparing for being appointed to the position of Secretary/General Manager of the District, I met individually with almost every employee of the District. I can

confirm that the process in place with respect to the hiring and retention of employees has resulted in an excellent work force of highly qualified, hardworking and motivated employees.

I am aware of the dialogue regarding the District's recent hire and while I believe that it is reasonable for the Board and the District to review the hiring practices in light of this discourse, it is important to recognize that the Bylaws and process that have been followed for more than twenty years have, in my opinion, resulted in the District's hiring and retention of an excellent, dedicated workforce. I believe it is important for the Board to evaluate whether the current Bylaws and practices are actually in need of modification and/or revision, as well as to weigh the potential benefits and disadvantages of changing them.

III. Potential Modifications to the Process for Consideration by the Board

We recommend that the Board discuss the issues and provide initial direction to staff at the January Board meeting but that formal action, if any, be taken at the River District's Second Quarterly meeting in April. The range of possible Board direction to staff is quite broad (depending on whether the Board wishes to change the River District Bylaws). For example, the Board could consider the following:

1. Require Board or Executive Committee approval for all staff hires, or for all Department Head hires (effectively making the Board or Executive Committee responsible for such hires).
2. Require approval of the Board President and Vice-President for all staff hires.
3. Maintain the current Bylaws and hiring practices for all positions.
4. Modify the hiring practices for Department Head level employees by broadening the hiring committee to include one or two members of the Board of Directors.
5. Modify the hiring practices for Department Head level employees by broadening the hiring committee to include one or more relevant outside "stakeholders."
6. Modify the hiring practices for Department Head level employees by requiring the Secretary to inform the Board President and Vice-President prior to extending any formal offer of employment and invite the President and Vice-President to provide input regarding the preferred candidate.
7. Provide other direction to the Secretary and General Counsel.

I respectfully suggest that the Board should consider the following questions in its discussion:

- What are the added benefits to the District of having Board and/or stakeholder involvement in the hiring process?
- What are the relative merit of Board member vs. stakeholder involvement?
- How are Board members and/or stakeholders who would be involved selected and by whom?
- If the Board decides to go with the stakeholder involvement model, how do we insure diversity of stakeholders both in terms of geographic and type of water user interest (i.e. agriculture, environmental, industrial, urban, recreation)?

- Would Board-level participation on the staff hiring committee have an unintended chilling effect on meaningful staff feedback and input in the hiring process?
- Would the staff defer to the Board member(s) present and not feel free to express opinions contrary to a Board member?
- Would Board-level participation imply Board “approval” of the hiring of a staff member, and potentially impact the ability of the General Manager and/or General Counsel to independently manage (and, if necessary, terminate) the “approved” staff member?
- Different Board members or stakeholders have different perspectives. Will the inclusion of one or two board members be an effective tool for providing the perspective of the entire Board or, in the case of stakeholders the perspective the majority of our constituents?
- Would Board-level participation in staff hiring risk creating potential conflict amongst the Board member(s) that participate in the hiring process and the remainder of the Board?
- Will bringing Board members and/or outside stakeholders into the process make the process slower, more costly and more cumbersome (with the potential associated risk of losing a preferred candidate)?
- Would restricting the General Manager and General Counsel’s currently-delegated authority affect their ability to select candidates that meet unidentified but important “intangible” job criteria (e.g., personality “fit” with other River District staff).
- Would stakeholder/Board member involvement raise confidentiality concerns for applicants that will be harder to manage with stakeholder/Board member involvement, especially if three or more directors are involved (which would trigger public notice and open meeting requirements)?