

MT NEBO WATER AGENCY
BOARD MEETING
Salem City Offices, 30 West 100 South, Salem UT 84653
Monday, May 8, 2023

CONDUCTING Richard Nielson, Chairman

BOARD MEMBERS ABSENT - David Pitcher, Central Utah Water Conservancy Dis.
Marty Larson, Genola City
Wes Quinton, Goshen Valley Local District (online)
Brett Christensen, Payson City
ABSENT - Seth Sorensen, Salem City
David Hathaway, Santaquin City
Kevin Oyler, Spanish Fork City
Boyd Warren, Strawberry Highline Canal Co
Richard Nielson, Utah County

ALTERNATE BOARD MEMBERS Gerard Yates, Central Utah Water Conservancy Dis.
ABSENT - Neil Brown – Genola City
ABSENT - Paul Munns – Goshen Valley Local District
David Tuckett, Payson City
ABSENT - Kelly Peterson, Salem City
ABSENT - Lynn Mecham, Santaquin City
Chris Thompson, Spanish Fork City
Glen Tanner, Utah County

TECHNICAL COMMITTEE ABSENT - Roger Pearson, Central Utah Water Conservancy Dis.
ABSENT - Chris Steele, Genola City
ABSENT - Melanie McVicker, Goshen Valley Local District
Travis Jockumsen, Payson City
Bruce Ward, Salem City
Norm Beagley, Santaquin City
Chris Thompson, Spanish Fork City
Richard Nielson, Utah County

STAFF Kim E. Holindrake, Payson City Recorder

OTHERS Steven Clyde, Clyde Snow
John Waters, Spanish Fork City
Sterling Brown, Strawberry Water Users Association
Kent Jorgensen, Goshen Valley Local District

1. Call to Order

Chairman Richard Nielson called this meeting of the Mt Nebo Water Agency Board to order at 7:30 a.m. The meeting was properly noticed.

2. Swear in New Board Members
a. Dave Pitcher – CUWCD
b. Gerard Yates – CUWCD

Kim Holindrake administered the oath of office to Gerard Yates with Central Utah Water Conservancy District. Gerard Yates stated he is the Deputy General Manager for CUWCD, has worked for CUWCD for over 36 years, and has lived in Spanish fork for about 27 years. He grew up in Mona where his dad is a farmer. Water and all things water have been in his blood since he was little.

3. Public Comment Period

No public comments.

4. Approval of Minutes – May 8, 2023, Meeting

MOTION: Kevin Oyler – To approve the meeting minutes of May 8, 2023. Motion seconded by Marty Larson. Those voting yes: Those voting yes: Gerard Yates, Marty Larson, Wes Quinton, Brett Christensen, David Hathaway, Kevin Oyler, Boyd Warren, Richard Nielson. The motion carried.

5. Technical Committee Report and/or Action

- a. Update on Groundwater Management Plan
d. Resolution - Phase II Groundwater Management Plan Scope and Estimate Task Order

Chris Thompson reported the Groundwater Management Plan was started back when a large number of change applications were applied for in the south end of Utah County, which Mt Nebo Water Agency (MNWA) protested. MNWA and the applicant, Goshen Valley Local District (GVLD), agreed to work on a groundwater management plan to submit to the state before MNWA would be comfortable with change applications. Since then, phase 1 of the Groundwater Management Plan was completed. The Technical Committee proposed that Hansen, Allen & Luce (HAL) scope out the next phase of the Plan and give an estimated cost. It's important to get a good handle on how much safe yield can be taken out of the ground. If the groundwater is treated like a reservoir, over time there could be a five-year safe yield so more water could be taken out if not used in previous years. This is part of the impetus of a groundwater management plan. This will also get ahead of the state engineer. If MNWA doesn't create its own groundwater management plan, the state engineer will eventually see the groundwater declining in the area and impose a groundwater management plan. This gives MNWA control of how the water is managed. HAL gave a proposal of \$22,488.00 for this next step. A detailed scope needs to be done in order to understand the next step. Phase 1 of the Groundwater Management Plan was shared as a project with CUWCD paying 50% and the other entities about 7%. The Technical Committee voted unanimously to approve the proposal.

Dave Tuckett stated the percentages are the same as Project 4, Groundwater Management Plan.

Wes Quinton questioned if the study would look at the transmissibility of water between the lake and groundwater, which was the intent.

Richard Nielson clarified HAL would write the scope for the groundwater study RFP.

Chris Thompson stated this board would influence what is included in that scope. HAL will include an estimate and make a recommendation for an RFQ or RFP. Doing this step first allows MNWA to budget appropriately and get a time frame.

MOTION: Brett Christensen – To approve Resolution No. 06-12-2023-B for the Phase II

Groundwater Management Plan Scope and Estimate Task Order as outlined. Motion seconded by Kevin Oyler. Those voting yes: Those voting yes: Gerard Yates, Marty Larson, Wes Quinton, Brett Christensen, David Hathaway, Kevin Oyler, Boyd Warren, Richard Nielson. The motion carried.

b. Update on WaterSMART Banking Grant Project

Chris Thompson stated this WaterSMART Banking Grant was to explore using the new law for water banking. The law encouraged entities to try this new concept of water banking, which was used successfully in other states. There are some great advantages once a groundwater management plan is in place to pump water back into the ground, share water rights, and bank water rights. There are many reasons that can help the area, especially with river water and stored water. It's an easier way to transfer water that would allow other things to happen. Westwater Research reported to the Technical Committee about the different water rights and how to create some general transfer water areas. The change applications needed by the state engineer would already be in place.

c. Resolution - Ground Water Monitoring Task Order

Chris Thompson noted this has been discussed since MNWA started and goes with the groundwater management plan. Currently, there are very complex models of how the groundwater works, which are only as accurate as the calibration data given them. Back to this concept treating the groundwater as a reservoir. If there were a five-year safe yield, then a drought year, then a couple normal years and the groundwater keeps going down, then know the models weren't exactly accurate so the five-year safe yield would be lowered. If it holds, then the yield is raised. For this to work, there needs to be fairly comprehensive tracking and history of the groundwater based on pumping and where the groundwater levels are holding. North Utah County cities had CUWCD created software to self-report. The key is to have someone ensuring people are reporting and tracking the reporting in order to keep it going. CUWCD can provide this software for MNWA to use. It's really good to keep going, collect data, and keep the history going. The Technical Committee proposed a task order with HAL for \$4,250 to help transfer to the new software and hopefully everyone will self-report. HAL would follow up and make sure data is useable and make decisions on where to set the safe yield level.

Richard Nielson stated the cost would come from the administrative fund and not a new member assessment.

Chris Thompson noted this is not really a project according to the Technical Committee. It would just come from the administrative budget. It is valuable data to fine tune the models and make decisions. The software is free.

Dave Tuckett stated the administrative budget is very healthy. There would be no member assessments for this item.

MOTION: Brett Christensen – To approve Resolution No. 06-12-2023-A for the Ground Water Monitoring Task Order. Motion seconded by Dave Hathaway. Those voting yes: Gerard Yates, Marty Larson, Wes Quinton, Brett Christensen, David Hathaway, Kevin Oyler, Boyd Warren, Richard Nielson. The motion carried.

e. Other

No other items were addressed.

6. Finance Report

Dave Tuckett reviewed the finance memo noting that since the last meeting three invoices were paid to Westwater Research (\$5,715.00), State of Utah (\$25.00), and Column Software PBC (\$20.33). Revenues included interest of \$11.56. Account balances include the reserve account - \$5,000, administrative account - \$30,478.13, Capital Projects Project 4 account - \$6.24, and Project 5 \$13,503.96 for a total of \$48,988.33. The current balance of Project 5 – Grant is \$44,000.

7. Public Hearing/Resolution – Proposed Final Budget for Fiscal Year 2023-2024

Dave Tuckett reviewed the proposed Fiscal Year 2023-2024 budgets. The administrative budget totals \$7,050.00 with the ongoing groundwater monitoring coming from this budget and no member assessments. The Project budget includes Project 4 with a balance of \$6.24, which will be moved to the administrative budget and then closed out. Project 5 includes the WaterSMART grant of \$44,000, member assessments of \$27,920 and in-kind participation of \$16,080. The current balance of Project 5 is \$73,583.96. He, Gerard Yates, and Dave Pitcher will work on getting access to the grant funds since Chris Hansen left. Project 6 was just voted on for \$22,488, which will be funded by member assessments with CUWCD at 50%, Genola at \$3.31% and the remaining entities at 6.67%. He reviewed the three years of budgets, which the state auditor's office requires.

MOTION: Marty Larson – To open the public hearing. Motion seconded by Brett Christensen. Those voting yes: Gerard Yates, Marty Larson, Wes Quinton, Brett Christensen, David Hathaway, Kevin Oyler, Boyd Warren, Richard Nielson. The motion carried.

Public Hearing:
No public comments.

MOTION: Marty Larson – To close the public hearing. Motion seconded by Brett Christensen. Those voting yes: Gerard Yates, Marty Larson, Wes Quinton, Brett Christensen, David Hathaway, Kevin Oyler, Boyd Warren, Richard Nielson. The motion carried.

MOTION: Marty Larson – To approve Resolution No. 06-12-2023-C for Fiscal Year 2023-2024 Budget. Motion seconded by Brett Christensen. Those voting yes: Gerard Yates, Marty Larson, Wes Quinton, Brett Christensen, David Hathaway, Kevin Oyler, Boyd Warren, Richard Nielson. The motion carried.

8. Review of State Auditor's Fraud Questionnaire

Dave Tuckett stated MNWA is required by the state auditor to complete a fraud risk questionnaire. Points are received for what the entity is doing. The points total 265 and put MNWA in the high-risk area so we have some work to do. MNWA missed out on 20 points for the annual statement of ethical behavior, which is required annually. This is a new requirement this year so a form will be created and implemented for next year along with formal policies. Twenty points were also missed on the state auditor's training, which most have done. There are just a few board members that haven't completed the training. There are no penalties, but there could be in the future if state auditor puts pressures.

9. Review of State Auditor's Self-Evaluation Form

Dave Tuckett reviewed the state auditor's self-evaluation form. Several items just follow state law. The auditor's training is missing again.

10. Discussion regarding Participation Agreement with Strawberry Water Users Association

Steve Clyde stated this board has been talking for some time about how to integrate Strawberry Water Users Association (SWUA) into this organization. He and Dave Tuckett took a detailed look at the interlocal agreement statute. While it does not expressly prohibit the participation of a nongovernmental (NGO) entity, it clearly defines a member as a governmental entity; and most of the powers afforded to the Board are governmental in nature. This made it somewhat difficult to even bring on Strawberry Highline Canal Company (SHCC). We got creative in creating this organization and concluded an NGO could serve as a participant with the organization by contract, provided that if a board decision included exercising those express powers (revenue bonds or fees), reserved to governmental entities, the participating entity would recuse itself from voting on that item to avoid the appearance of vesting an NGO with governmental powers. The recusal would be for the purpose of that vote only.

The statute is vague, which is helpful. Nothing says an NGO can't participate. In terms of overall participation, no one thought it was a major concern, as any proposal to spend money would be under project specific contracts with any participants, which resolves any potential stigma. Having SWUA come in under the same basis as SHCC would work if they are interested. The other option would be to change the structure of MNWA and create one of the 12 special districts. It could be done, but he believes MNWA would lose local control. The entity would be created under Utah County and leave the Utah County Commission as the governing board. A local administrative board would be appointed, but ultimate control would remain at the county level. His advice is not to pursue this and retain local control. SUWA's best option is to participate in the same manner as SHCC with a participation agreement and buy in or start fresh. This Board needs to negotiate with SWUA on that issue if the decision is to move forward.

Boyd Warren noted the difficulty of SHCC member appointment with Utah County. Three names are submitted to serve; and if the County doesn't like those names, they send them back. SHCC felt it was far reaching for the County to say who can or can't serve.

Steve Clyde stated generally appointments are made this way, because local districts are creatures of statute, and the law gives the power of appointment to a single authority who has the power to accept or reject a suggested appointee. We can explore whether or not this is something that can be addressed through the participation agreement. The Board has already signed and each member entity's board has

approved the second amendment to the Interlocal Agreement providing for SWUA's participation. What is needed now is to complete negotiations on the Participation Agreement with SWUA and bring that to the Board at its next meeting for action. The SWUA participation agreement can be addressed at the next meeting. We may need to look at amendments to the SHCC participation agreement as well. An entity can always withdraw after dealing with debts, etc.

Sterling Brown stated the SWUA Board has discussed this over the last year with several items coming up such as Boyd's comment. At this point, he would be the primary board member recommendation with Lynn Swenson as alternate. There are pros and cons to having CUWCD make the appointments for SWUA. He questioned if MNWA would want one entity to appoint both or spread it over two entities. There is an argument for both sides. As discussed, SWUA is comfortable having CUWCD appointing SWUA members. He questioned if CUWCD doesn't like those names, what does SWUA do. Is there a rebuttal process? Finally, if SWUA is allowed to participate, what is the financial requirement? He would describe his relationship with each of the current board entities as good to great. SWUA would be a good addition for the coming years.

Dave Tuckett noted when Santaquin came on, they paid into the administrative budget, which was around \$4,000. The project side is dependent on who is participating. He and Steve Clyde will work on the participation agreement amenable to SWUA and address it at the August meeting.

11. Other Business

a. Information/Discussion Items for Future Meetings

SWUA participation agreement.

Possible SHCC participation agreement amendments.

b. Other

Sterling Brown recognized Steve Clyde who will be retiring.

Richard Nielson recognized the many years of service to MNWA and getting it off the ground. He asked if he would be around or out of the picture completely.

Steve Clyde stated he has some good water lawyers with experience that he would like to transition into MNWA. He will be available in the background to help and doesn't want to walk away from the organization. It has been very interesting and gratifying to see it all come together and wants to see it through.

12. Election of Officers

Richard Nielson stated the chair and vice chair are elected every year and asked for nominations.

a. Chair (yearly)

MOTION: Marty Larson – To appoint Richard Nielson as Chair. Motion seconded by Kevin Oyler. Those voting yes: Gerard Yates, Marty Larson, Wes Quinton, Brett Christensen, David Hathaway, Kevin Oyler, Boyd Warren, Richard Nielson. The motion carried.

b. Vice Chair (yearly)

MOTION: Brett Christensen – To appoint Marty Larson as Vice Chair. Motion seconded by Dave Hathaway. Those voting yes: Gerard Yates, Marty Larson, Wes Quinton, Brett Christensen, David Hathaway, Kevin Oyler, Boyd Warren, Richard Nielson. The motion carried.

13. Next Meeting – August 14, 2023

14. Adjourn

MOTION: Marty Larson – To adjourn. Motion seconded by Brett Christensen. Those voting yes: Gerard Yates, Marty Larson, Wes Quinton, Brett Christensen, David Hathaway, Kevin Oyler, Boyd Warren, Richard Nielson. The motion carried.

This meeting was adjourned at 8:26 a.m.