

MINUTES OF THE EXECUTIVE WATER FINANCE BOARD

Tuesday November 5, 2019

9:00 a.m.

Utah State Capitol, 350 N. State Street, Room 450

Members Present:

Phil Dean, Chair

Laura Briefer

Evan Curtis

Jon Bronson

David Damschen

Eric Millis

Juliette Tennert

Marie Owens

Erica Gaddis

Staff Present:

Miranda Jones Cox, Board Staff

1. Call to Order

Chair Phil Dean called the meeting to order at 9:10 a.m.

Phil stated that the Governor's executive order has been revised to include additional members of the board, and that Erica Gaddis and Marie Owens would be new members of the board.

Marie introduced herself to the board, highlighting her experience as Director of the Utah Division of Drinking Water, and her specialization in water quality.

Erica Gaddis introduced herself to the board, noting her experience as Director of the Utah Division of Water Quality with experience and focus in protecting streams, lakes, aquifers, and rivers.

Phil asked Miranda to assist with officially reconstituting the board.

Miranda administered the oath of office to all board members and welcomed the new members to the board.

a. Approval of minutes

Jon noted a few minor technical corrections.

Laura Briefer moved to approve the minutes of the October 1st meeting with the corrections. The motion passed unanimously.

2. Water banking and water markets in Utah

Phil introduced state Senator Jani Iwamoto to the board to present on water banking efforts in Utah.

Senator Iwamoto explained that the process for her water banking bill started with extensive stakeholder engagement, support from different entities like the Bureau of Reclamation, and engagement with various legislators. She stated that in the 2019 General Legislative Session, a resolution was passed to support smart water grants, and there was an appropriation of \$400,000.

Senator Iwamoto introduced water attorneys Nathan Bracken and Emily Lewis to present on the water banking efforts.

Nathan noted that the Governor's recommended water strategy supports water banking, and that the practice is a way to provide water for future growth, help improve agricultural water markets, and conserve water resources.

Nathan referenced water banking examples from other states, such as the lower Arkansas Valley where urban demand for water increased and water shareholders transferred buy and dry shares to convert from farm use to urban use. He highlighted that water banking makes sense because it provides a flexible tool in allocation while also allowing share-holders to maintain their rights.

Nathan stated the importance of local suppliers to be able to provide spot markets, which allows local suppliers and shareholders to be able to provide temporary contracts, rather than permanent 'buy and dry' arrangements. He also mentioned that these arrangements may not work everywhere in the state but will be helpful in certain geographical areas.

Emily explained that the collective efforts of stakeholders are to prepare a bill for the 2020 legislative session. She defined the objectives of water banking in Utah as optimal use of water, transparency and access to water markets, temporary flexible low-cost transactions, ongoing support of agricultural community, and addressing water quality standards.

Emily also explained that much of the efforts are to address existing legal barriers to water markets and set up the procedural infrastructure so locals can set up a water bank.

Treasurer Damschen asked for clarification around the word 'banking' and stated some confusion given that water rights are permanent, and these would be temporary arrangements. Emily responded by stating that individuals can maintain ownership of their water rights, while also facilitating the usage of their water right through the bank. She also clarified that this is intended to be an experimental policy which will take further review and revision.

Nathan Daus, general manager of the Cache Water District, addressed the board by sharing the importance of water banking to Cache Valley so the local water district isn't the only entity helping meet future growth needs.

Senator Iwamoto introduced Steve Clyde who explained that water banking is not an idea limited to Utah, but that it has been successful in other western states and voiced his support for water banking efforts.

Erica Gaddis expressed her thanks to the group and their efforts as it relates to water quality needs. She asked which entities in the state are most likely to become involved with this. Nathan and Emily both stated that there is a lot of general support thus far, but expressed interest is preliminary and changing.

Marie Owens asked if there is protection from low quality water sources being transferred to a higher quality source. Nathan noted that the existing change application process to address that issue is what's currently in the bill, and Steve noted that there are existing protections against that. Marie followed up by asking if Erica's division could comment on the change application, even if they don't have ownership of the water right, to which Emily said that they could.

Marie also asked them to elaborate on the difference in oversight between contract water banks and statutory banks. She also asked if ten years is enough time to get the water banks in place and understand how they are working.

Nathan said that contract agreements include public entities that are already subject to various public oversight. Statutory water banks, however, operate more like an irrigation company and are not subject to existing public laws. As for the timing, Nathan explained that some of this is already being done in other states like Oregon, Washington, and Nevada and that Utah can continue to learn from their examples. Emily noted that though 10 years seems like a short amount of time to put this system in place, that the conversation is ripe and individuals and entities are willing to engage.

Evan asked how they define ‘local’ and ‘temporary use’ and asked if temporary water going to permanent use causes any problems. Emily stated that banks are not supposed to be permanent suppliers, and that local users could have very long-term leases. She clarified that temporary means that leases have a term dictated by the bank, which can be short or long term.

Laura Briefer also shared her thanks for the group and their work. She noted that this would fit well in an integrated water management plan for the Salt Lake valley. She shared the sentiment for the group to focus on how this is regulated.

Jon Bronson shared how impressed he is, but was curious how much of urban growth is variable demand and if there would be any price collusion. Nathan responded that it will vary by city, but that it could be particularly helpful for industrial use, and less so for residential use. He also noted that collusion wouldn’t happen any more under this new model than it currently does.

Juliette shared her support and was curious how water quality is facilitated through this process. Erica stated that though its complicated, that dilution impacts quality.

Eric Millis asked if 10 years for a pilot is too generous, and if the Board of Water Resources would be involved. Nathan responded that in other states it has taken 10-20 years to set up. It will likely take 3-4 years to create the infrastructure and then take 5-6 years to observe and review. The Board would provide oversight.

Phil asked if they have any additional anticipated budget requests to get the project up and running. Senator Iwamoto stated that there likely needs to be a project manager and that additional funding may be needed in future years. Nathan also stated that ultimately, a self-funded program is ideal with indirect support from state agencies.

Phil also clarified if they would try to run their draft bill in the 2020 General Legislative Session, to which Senator Iwamoto confirmed that they would.

Phil asked about water right adjudication and if there is certainty about rights. Steve affirmed that this is solved through the change application. Nathan stated that the state engineer’s office will be helpful in approving the validity and building that into the process.

Phil asked if this model was conducive to conservation and quality issues with invasive species. Steve said that the current model does not allow for that, but that they would like to work towards those discussions. Phil followed up that the Board is tasked to look at market driven ideas to help use existing resources and asked if they have any thoughts going into legislative session, to reach out for support. Emily and Nathan asked that if the board wanted to further engage, to directly reach out.

3. Utah Foundation

Phil introduced Chris Collard from Utah Foundation to present on their 4-series report, *Getting Clear on Water: Practical Considerations in the Tax Versus Fee Debate*.

Chris explained the methodology behind the data collection of the report, including gathering water rate data, analyzing CAFR's, using data from the Division of Water Resources public data portal, and reaching out directly to providers and municipalities.

Chris explained that there is a strong correlation between use conservation and rates, but less of a correlation with imposed taxes and conservation. He explains that how the water retailer decides to set their rates, has an impact on use.

Phil asked if he looked at how much revenue comes from the user's fixed rate, but Chris noted that while they didn't look at that, research from the AWWA has indicated that when water providers charge fixed costs, that they have a lower base price than covers their fixed costs so they impose tiers.

They found in their research that a majority of the time, individuals showed conservation behavior when they had to pay more for the water they used. They also looked at revenue stability, and Chris stated that although property tax is an extremely stable revenue source (because of its hold harmless provision due to truth in taxation), but that it can create a market distortion.

Phil asked if they looked at the tax base, or if they strictly looked at revenues, citing significant declines in the base due to the Great Recession, which were made up due to an adjusted rate.

Chris highlighted the key talking points of the report to be the following:

- While water rate revenues are not as stable as property taxes, they are among the most stable relative to other possible revenue streams commonly used to support revenue bonds.
- Rainy day funds and decoupling of water rates from sales volume can help address budget volatility.
- While it stands to reason that property tax revenues might help push credit ratings higher and thereby make the overall cost of water cheaper, it is only likely to be the case to a marginal degree.
- Market distortions created by using property taxes for wholesale water may increase the overall cost of water.
- A mix of revenue sources allows for more local flexibility by allowing water providers to use the property tax as needed and to counterbalance drawbacks in water rates.
- A full reliance on water rates tends to provide stronger cost transparency because consumers can turn to a single source of information for their use and cost: monthly water bills.

Laura commented on his statement that conservation can reduce the cost for water user and delay demand for additional supply. She was curious if they looked at repair and replacement, but Chris responded that they did not look at that specifically. Laura followed up by asking if they have taken this report to rate setting bodies to help educate them, and Phil asked if they had taken it to the League of Cities and Towns. Chris verified that he would bring this information to them.

Erica mentioned that there are other charges that sit in water rates, including sewer, and was curious how they play into the discussion. Chris stated that generally, the higher the base rate is, the more it may impact consumption. However, he stated that the best way to conserve is through steeply tiered marginal rates.

Marie asked if conservation efforts by consumers would be impacted by decoupling rates. Chris referenced that when California was in a historic drought, consumers changed their behavior and water providers were negatively impacted. Chris continued to recommend transparency in water rates to users.

Marie followed up by stated that the report mentioned ways to address affordability without using property taxes and asked Chris to explain. He mentioned using water budgets which are set by household characteristics.

Treasurer Damschen commented on Chris's mention of the Idaho Bond Bank. He said that it may be difficult for bond banks to compete with the state's revolving loan funds, and Jon Bronson agreed. Chris stated that it was mainly a product from large water providers that are worried they have limited access to property tax, and that he wanted to drive home the point that there are options.

Phil commented that there are limits to what state taxpayers can afford and believes there's an opportunity to leverage existing funds and the private market better.

Erica agreed with the others that revolving loan funds are limited, and that they have cash flow issues with extensive project needs and wants to pursue avenues that will leverage funding better and allow for sharing between funds.

Treasurer Damschen mentioned that the state recapitalizes loan funds very rarely, and only happens roughly every 15 years. He offers this as a potential mechanism.

Chris Collard concludes with no additional comments.

4. Public Comment

Richard Bay, General Manager of Jordan Valley Water Conservancy District stated his support of the research from Utah Foundation. He stated that the report discusses per capita water use and the role of water providers well in his opinion. He also stated the belief that that there is an identified and defined use for property tax in water financing, and part of that ties into using the state's allocation of the Colorado River.

5. Other items/adjourn

Eric explained that he will be retiring from his state position mid-December. Phil extended his gratitude to Eric for his perspective, and work given to the board and his dedication to the state as a whole. He also noted that Richard Bay will also retire next year, and thanked Richard for his service.

Treasurer David Damschen moved to adjourn the meeting. The motion passed unanimously. The meeting adjourned at 11:45 a.m.