

MT NEBO WATER AGENCY
BOARD MEETING
Salem City Offices, 30 West 100 South, Salem UT 84653
Monday, June 13, 2022

CONDUCTING Richard Nielson, Vice Chairman, Marty Larson, Chairman

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

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

TECHNICAL COMMITTEE Chris Hansen, Central Utah Water Conservancy District
ABSENT - Chris Steele, Genola City
ABSENT - Melanie McVicker, Goshen Valley Local District
ABSENT - 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
Sterling Brown, Strawberry Water Users Association
Dave Pitcher, Central Utah Water Conservancy District (on line)
Rachel Musil, Central Utah Water Conservancy District (on line)
Jared Hansen – Central Utah Water Conservancy District (on line)
Braden Shepherd, GVLD/Farmland Reserve (on line)

1. Call to Order

Vice Chairman Richard Nielson called this meeting of the Mt Nebo Water Agency Board to order at 7:31 a.m. The meeting was properly noticed.

2. Public Comment Period

No Public Comments.

3. Approval of Minutes – May 9, 2022 Meeting

Correction - Chris Thompson was in attendance and needs to be added to the motions.

MOTION: Chris Hansen – To approve the minutes of the May 9, 2022, meeting. Motion seconded by Boyd Warren. Those voting yes: Wes Quinton, Brett Christensen, David Hathaway, Boyd Warren, Richard Nielson, Chris Hansen, Chris Thompson. The motion carried.

4. Membership Action and/or Report

a. Discussion and possible action on New Membership - Strawberry Water Users Association

Dave Tuckett stated if the Board is in favor, the interlocal agreement will need to be amended at the next meeting to allow Strawberry Water Users Association to join. A motion in favor is needed at this meeting to move forward. Each member entity will need to adopt the amended interlocal agreement. It would be good to have them on the Board.

Sterling Brown stated he has been with Strawberry Water Users Association (SWUA) a relatively short time. He has been told a number of different ways, times, and from different people that there is a rich history about this topic and this Board. He doesn't know all the reasons. Last summer, there was a number of growing issues within SWUA. Under his recommendation to the SWUA Board of Directors, a subcommittee was formed with four SWUA members, a number of Mt Nebo Water Agency (MNSWA) board members, Marty Larson, and himself. This subcommittee began meeting last December and have met about 10 times to tackle a laundry list of issues. A number of other issues have been addressed but not resolved. At some point, some discussion surfaced as to whether it was time for SWUA to join the MNSWA Board. These discussions led to the letter to join MNSWA.

Wes Quinton questioned under what area would SWUA be admitted or is it a nonmember contracting entity. The agreement allows for some differences.

Steven Clyde stated Wes Quinton is probably right. Because it's an interlocal agency, it has to be made up of the governmental agencies involved. The agreement has a provision for non-governmental agencies to be involved. He will look at the agreement, which will have to go back to the individual members to pass the amendment.

Chris Hansen stated the existing bylaws give Utah County two seats and that's where they were able to contract with Strawberry Highline Canal Company. Can this be amended to three seats?

Steven Clyde stated yes, it probably could.

Dave Tuckett noted either Utah County can have an additional seat or another governmental entity can have SWUA get on the board. If the Board is in favor, he will get together with Utah County, Steven Clyde, and Chris Hansen to amend the agreement and bring it back to the Board.

Richard Nielson stated he doesn't see why Utah County wouldn't be willing to add SUWA.

Chris Hansen noted SWUA would submit a name to Utah County, and Utah County would make the appointment.

(Marty Larson in attendance 7:43 a.m.)

Dave Tuckett stated previously, Utah County wanted three names and then made the decision, which can be done or something different.

Marty Larson clarified there are two decisions to make. First, accept the applicant, and second change the interlocal agreement to fit the membership.

MOTION: Chris Hansen – To accept Strawberry Water Users Association as an applicant to the Board and instruct legal counsel to draft the changes to the bylaws to make that happen. Motion seconded by Richard Nielson. Those voting yes: Marty Larson, Wes Quinton, Brett Christensen, David Hathaway, Boyd Warren, Richard Nielson, Chris Hansen, Chris Thompson. The motion carried.

5. Technical Committee Action and/or Report

Chris Hansen stated the groundwater work is moving forward with Hansen, Allen & Luce, which are still under the direction of gathering data with a couple thousand dollars left on the contract. Once spent, this Board will need to make a decision as to whether we want a final report or amend the contract for them to continue to move forward. The Technical Committee could take over. The other item that falls under the Technical Committee are the water protests that Rachel Musil has been directed to handle for the Agency.

Bruce Ward stated we see water rights coming out and the Central Utah Water Conservancy District (CUWCD) has graciously taken the task of evaluating those and sending recommendations as to whether to protest or not. We either protest as a group or take it upon ourselves to protest as an individual entity. A few have come up. One it particularly of interest to Salem; it's a developer. Arrive Homes is building a large development on the north end of Salem. The questions came up, do we want to protest where Salem is not particularly an applicant but Salem is listed on the application as an interested party. The reason for protest is it appears to be an expanding of the water right. One piece of land is irrigated, and the larger remainder of land is less value and not irrigated the same. It appears to be an expansion of the water right. Salem is okay to protest because water rights are turned over to the cities. If a water right is being expanded that currently isn't being used, Salem has an interest to protest as would any other entity. Even though it's in Salem, this Agency should still protest it because it appears to be an expansion of the water right. On the other end of the spectrum, the State Engineer may say less water may be transferred to Salem. Salem would then move forward with the developer stating the water right is X.

Rachel Musil stated that's a good summary. In the original resolution that was passed for this protest, it mentioned if the application was where one of the cities was an owner or part owner, that MNWA couldn't protest. But in this sense, because MNWA is listed as an interested party and Arrive Homes is the applicant, it is still appropriate to protest as a group.

Bruce Ward concluded there may be times when a city may be the applicant because water rights get turned into a city's name, and a change application is done. Whatever the State Engineer approves is what the developer gets credit for. If MNWA is not interested in protesting, then it pushes back to the individual entities to protest.

Rachel Musil clarified CUWCD represents MNWA on a protest and pays the cost, which CUWCD is willing to do.

Chris Hansen explained the process is guided and input given through the Technical Committee. Rachel Musil is tasked by MNWA to do the work, she works for CUWCD, and none of the time is charged back to the entities. She sends the information to the Technical Committee asking if there is support or not, and then moves forward. The Board has given the Technical Committee authority to make the decision to protest or not.

Rachel Musil noted she has done several hearings representing MNWA. In a lot of instances, she has also protested as CUWCD. The cost is no different because she is representing CUWCD. Melanie McVicker represents Goshen Valley Local District on the Technical Committee, and she responds to the emails.

Steven Clyde stated there is a very interconnected groundwater system in the area and a lot of money has been spent looking at the various groundwater resources and what is available. It is in every city and entity's interest to make sure the water rights are not being enlarged because that works to the detriment of all those cities and entities that are looking to continue to grow. We have to live within the available resource. If water rights are brought forward that have been forfeited or sitting idle for many years and trying to revive those, it is a detriment to every entity involved. It has been the collective decision of the group to protest those. When legal work is needed, he or Emily Lewis with his firm attend the hearings with Rachel Musil to protect the interest of the parties.

Marty Larson stated he likes that the assignment is given to the Technical Committee; but made sure that if any member of the Agency didn't want to participate, the Agency didn't participate.

Chris Hansen stated it has to be unanimous for the Agency to participate. If not unanimous, then each entity can protest individually.

6. Water Banking Grant Project
a. Update

Chris Hansen stated the Water Banking Grant Project is moving forward.

b. Resolution - Assistance Agreement with the United States Department of the Interior, Bureau of Reclamation

Chris Hansen stated the process for the final agreement with the Bureau of Reclamation does not require a signature. The Bureau's policy is if funds are drawn, the Agency is in agreement. There is a resolution to approve/ratify the final agreement. He read the proposed resolution.

Resolution No. 06-13-2022-A. A resolution accepting the United States Department of the Interior Assistance Grant. Whereas, Mt. Nebo Water Agency is an interlocal cooperation agency consisting of

members made up of cities, a county, and special districts; and whereas, the Agency applied for and received grant funding through the United States Department of the Interior, for a Water Banking Strategy Project; and whereas, the award of grant is a 50% matching grant. Now, therefore, be it resolved by the Board of Directors of the Mt. Nebo Water Agency that Mt. Nebo Water Agency accepts the grant from the United State Department of the Interior pursuant to the terms of the Assistance Agreement. This resolution is approved and adopted this 13th day of June, 2022.

Wes Quinton proposed delaying this until after the budget adoption that includes the cost sharing.

Marty Larson stated the grant has been received and is in place so this should be adopted now.

Chris Hansen stated if an entity isn't comfortable or doesn't want to participate, it will just change the percentages for the remaining entities. This resolution, agreement, and moving forward doesn't change. The cost sharing percentages have been out for months for entities to make comment.

MOTION: Richard Nielson – To adopt the resolution. Motion seconded by Brett Christensen. Those voting yes: Marty Larson, Wes Quinton, Brett Christensen, David Hathaway, Boyd Warren, Richard Nielson, Chris Hansen, Chris Thompson. The motion carried.

c. Other

No other items to discuss.

7. Update and/or Finalize Groundwater Management Plan

Chris Hansen noted as stated in item 5, the Technical Committee will continue to work with Hansen, Allen and Luce on the groundwater database, which will transition on the path the Agency chooses. The database collection has given a better understanding of the aquifer and can now start the formal Groundwater Management Plan.

8. Finance Report

Dave Tuckett reviewed the finance memo noting since the last meeting two invoices were paid for the entity registration and public hearing notice and revenues included interest of \$2.02. Account balances include reserve account - \$5,000, administrative account - \$30,837.78, and Capital Projects Project 4 account - \$2,287.30 and Project 5 \$2,237.04 for a total of \$40,362.12. There have been no member assessments in recent years for administration.

9. Public Hearing/Resolution – Proposed Final Budget for Fiscal Year 2022-2023

Dave Tuckett reviewed the proposed administrative of \$2,750; there are very few expenses. The members will not be assessed because there is quite a large balance. The projects budget includes Project #4, which includes funds to finish the Groundwater Management plan. Project #5, Water Banking Grant Project is a matching grant with \$27,920.00 to be assessed to the members. These percentages have been calculated with Goshen Valley Local District having paid a portion of the grant application, which will be included in the assessment to the members. Once the final budget is approved, assessments will be sent out.

MOTION: Chris Hansen – To go into public hearing for the Mt. Nebo Water Agency’s proposed budget for 2022-2023. Motion seconded by Marty Larson. Those voting yes: Marty Larson, Wes Quinton, Brett Christensen, David Hathaway, Boyd Warren, Richard Nielson, Chris Hansen, Chris Thompson. The motion carried.

Public Comments:
No public comments.

MOTION: Chris Hansen – To close the public hearing for the 2022-2023 Mt. Nebo Water Agency’s budget. Motion seconded by Richard Neilson. Those voting yes: Marty Larson, Wes Quinton, Brett Christensen, David Hathaway, Boyd Warren, Richard Nielson, Chris Hansen, Chris Thompson. The motion carried.

Board Discussion:

Discussion that the projects budget is adopted including Project #5 assessments so the members know their assessment. If a member decides not to participate or if another entity wants to join in, the budget can be amended. SWUA has decided not to participate in Project #5 at this time. SWUA understands there will be an administrative fee when they join the Agency.

MOTION: Brett Christensen – To adopt the (resolution) the proposed final budget for Fiscal Year 2022-2023 including the projects budget. Motion seconded by Wes Quinton. Those voting yes: Marty Larson, Wes Quinton, Brett Christensen, David Hathaway, Boyd Warren, Richard Nielson, Chris Hansen, Chris Thompson. The motion carried.

10. State Auditor’s Fraud Risk Questionnaire

Dave Tuckett stated this is a requirement by the State Auditor each year that gives points toward how compliant the Agency is according to the State Auditor. There are a few members who have not taken the training. Kim Holindrake explained the Agency does pretty well on the points; there are questions that don’t pertain to the Agency. Question #5 is the state auditor’s training and is worth 20 points. Three members have not taken the training. If those three members take the training, we can count the points. Currently, the three members are Seth Sorensen, Neil Brown, and Lynn Mecham. Each board and alternative board member are required to take this training. The link to the training has been sent several times; Kim will send it again. Once completed, the questionnaire is sent to the State Auditor.

11. Other Business

a. Information/Discussion Items for Future Meetings

- i. Amend Interlocal Agreement for Joint and Cooperative Action Creating Mt. Nebo Water Agency
 - Changes will be made to the agreement for adoption by the Agency and each member will need to have their governing board adopt the changes. A draft will be sent out to each member for review.
- ii. Update on the South Utah County/Juab County Plan Formulation Effort
 - This is a request by Dave Pitcher who gives periodic updates.

iii. Request to open a discussion with the Division of Water Resources or Division of Water Rights on what is happening outside the Agency's boundary in south Utah County with regards to a persistent drought. What state or national forces are out there that could or would impose their will upon south Utah County as water levels drop? What discussions are at play? What authorities do other entities have or may think they have that would impact south Utah County. The drought contingency plan work with the Colorado River would be of interest to this Agency. Someone from the Division of Water Rights would be good. Steven Clyde explained the State Legislature did some work on water right priorities with regards to the drought. The existing statute states that at times of water shortage, domestic use is first, then livestock, then irrigation, and then others. The statute was amended a few years ago because it didn't really indicate how it would be exercised from an economic loss standpoint if someone's use is curtailed. A compensation approach was added if that happens including a declaration from the Governor and actual and consequential damages. It is still a very inadequate statute. Is there condemnation or do you have to go to court? This year water for power generation was discussed to be added. It has become a big talking point, but no one knows where it's going. A draft committee is working with the Legislature to amend the statute or repeal it all together. The market is probably a better place to allow those things to occur. At the end of the day a solution will be found. He will work on someone who can talk about the issue. The Technical Committee will work on a panel that would have some relative information.

b. Other

No other business.

12. Election of Officers

a. Chair

b. Vice Chair

Marty Larson stated the chair and vice chair are elected every year and asked for nominations.

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

MOTION: Chris Hansen – To appoint Marty Larson as Vice Chair for the 2022-2023 year. Motion seconded by Richard Nielson. Those voting yes: Marty Larson, Wes Quinton, Brett Christensen, David Hathaway, Boyd Warren, Richard Nielson, Chris Hansen, Chris Thompson. The motion carried.

13. Next Meeting – August 8, 2022

14. Adjourn

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

This meeting was adjourned at 8:32 a.m.