

**Southwest Kansas Groundwater Management District No. 3  
Minutes of the Regular Meeting of the Board of Directors  
May 10<sup>th</sup>, 2017**

**MEETING CALLED TO ORDER**

The May 10th, 2017 Board of Directors meeting of the Southwest Kansas Groundwater Management District was called to order by President Kirk Heger at 9:03 a.m. The meeting was held in the Board Room of Southwest Kansas Groundwater Management District NO. 3.

**Directors Present**

Kirk Heger, President, Stevens County Representative

Mike O'Brate, Treasurer, Gray County Representative

Mike McNiece, Board Secretary, Industrial Representative

Clay Scott, Grant County Representative

Steve Stone, Finney County Representative

Kent Dunn, Seward County Representative

Zachary Gale, Hamilton County Representative

Randy Hayzlett, Surface Water Representative

Douglass Fox, Meade County Representative

Fred Claassen, Morton County Representative

Fred Jones, Municipal Representative

Hal Scheuerman, Kearny County Representative

**Directors Absent with Notice**

Jeff Reinert, Ford County Representative

Bret Rooney, Vice President, Haskell County Representative

Seth Nelson, Stanton County Representative

**District Staff Present**

Mark Rude, Executive Director

Jason Norquest, Assistant Manager

Patty Stapleton, Office Administrator, absent with permission

Chris Law, Director, Field Services

Trevor Ahring, Engineer

Brandi Sneath, Office Assistant

**Others in Attendance**

Mike Meyer, Water Commissioner, Division of Water Resources, Garden City, KS

Armondo Zarco, Garden City KDA/DWR

Jonathon Aquilar, KSU Research

Brownie Wilson, KGS

Kelly Warren, Water Right Consultant

Dale Fjel, Kansas Corn Comm

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Dave Brenn, Kansas Water Congress

Dwane Roth, KFL

Greg Graff, KWA

Todd Shepard, Rutter Cline Insurance

**APPROVE AGENDA**

President Heger asked for consideration of the meeting Agenda. After some discussion, Randy Hayzlett made a motion to approve the agenda as presented. Hal Scheuerman seconded. The motion was approved with all in favor.

**APPROVAL OF MINUTES & GENERAL MONTHLY FINANCIAL REPORT**

President Heger drew the attention of the Board to consider April 12, 2017 draft minutes. Mike McNiece moved to approve the April 12, 2017 minutes, as presented. Mike O'Brate seconded the motion. The motion was approved with all in favor.

President Heger next drew the attention of the Board to review the April 2017 financial report documents. Doug Fox noted that it appears an item noted as a budget account related to payroll indicated too high percentage exceedance of budget and that there is a need to verify the spreadsheet and QuickBooks software records. Staff clarified it was a non-budget operational calculation in the software relating to the timing of payroll withholding and remittance to the state. Clay Scott made a motion as follows: Approve the financial reports and payments for the month of March as presented at this meeting, and to submit them for the annual audit subject to clarification of the budget sheet. Kent Dunn seconded the motion. The motion was approved with all in favor.

President Heger signed and submitted the financial documents.

The board noted with respect the absence of Patty Stapleton due to the passing of her father and funeral services being held today. The Board thought it was appropriate to convey their condolences.

Mark presented the bronze Telly Awards trophy that was awarded for last summer's documentary "Feast and Famine" that staff and board representation worked on in cooperation with the Garden City Coop and Skyland Grain.

**President's Report, President Kirk Heger**

**Water Commissioner's Report, Mike Meyer**

Mike Meyer reported that rainfall for the year is looking good and above average.

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The previous night's KFL public meeting went well and their office has been receiving questions from producers in the area.

Brownie Wilson is getting the index well groundwater monitoring gage set up and will be putting in 4 more sites without the real time telemetry to get good data to show the effects of the LEMA, if one is formed.

Interviews took place last week for a vacancy at the field office and hope to have someone hired soon.

May 22nd is a scheduled hearing for the proposed amendments to rules KAR 5-14-10 and KAR 5-15-12 providing fines structure for water right compliance violations. The hearing will start at 10am and the public is welcome to come to the field office as a participation post to be a part of the hearing through a teleconference.

Revised rules will be coming on the new proposed consumptive use map calculations hopefully in late July or so. This goes back to the proposed statewide map that shows a percentage to per county use for limiting annual quantities being changed from irrigation to other consumptive uses as presented several months ago.

WCA interest is still growing, now up to 11 approved in the State. More negotiations are taking place with others. Technology Farms are up to 5 officially now. Nick Hatcher has submitted a proposal for a Tech Farm and also a WCA, which is required to be eligible for Tech Farm state support. The proposed Hatcher WCA was submitted to GMD3 last Friday, but errors were found in the GMD3 review of the document.

Mike Meyer handed out an updated copy with corrections made and asked that the board review it if agreeable. Mike expressed he considers the 45 day comment period to have started with the first agreement submittal and the clock is ticking. President Heger asked if there were any staff concerns. Mark Rude point out that the Hatcher WCA agreement was straight forward and involved only one well and water right with elements that Mr. Hatcher can accomplish on his own without a WCA, but for the state WCA requirement to receive state water technology support. Mark stated that aside from suggested changes to the structure of the document to more clearly convey actual corrective controls, it was ok. However, he said for future reference, if substantive changes are made during the GMD3 review or prior to issuance of the order, like changing the agreed upon conservation goal from 10% to 4.7%, the statutory clock must restart under a new proposal review.

Mike described that the area is seeing 2ft/year declines even though it shows 100+ years of estimated life, and said their calculation indicated there would need to be a 1% reduction to meet a 40/25 standard. Mr. Meyer stated that they would like to get this approved so budgets can be set and everyone can push forward with the tech farm development.

Clay Scott inquired when will some of the these 5% conservation plans not be enough for the state to accept as a WCA? Mr. Meyer replied that there is no set percentage right now, but they would expect that with more flexibility there would be more conservation expected. Violations for WCA violations will be part of the May rules hearing.

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Kent Dunn moved that the Board give staff the ability to move ahead with submitting comments if the proposal is as straight forward as described. Steve Stone wasn't sure if it was a good idea for a motion without staff having time to fully review the proposal. Clay Scott seconded, motion passed.

A question was raised about the river and flow. Mr Meyer indicated it is now to the western edge of Garden City. Mark briefly discussed a possible proposal for cost share to fill the river bank breach to the pit east of Holcomb so more of the water can flow down. Discussion occurred whether to spend the money to close one pit so that it might just continue a short ways downstream and fill another pit or not really make it much further downstream. Mark stated it is difficult to put a price on more distributed recharge, but could be done. Consensus was to see what the preliminary bids would be and if we could get accepted for a cost share grant. The idea would be to use the damage funds and possible other partners if a successful grant award occurs.

**Board Position, Ford County**

Mark discussed past staff conversations with Jeff Reinert and how it has become difficult for him to attend the meetings like he would like. Staff has discussed the option for him to resign if we could find a replacement, which Jeff agreed. David Casterline has had conversations with staff and has indicated he would be interested in the position. Discussion occurred on the need to have notice to the public before filling an unexpired Board term. It was determined that notice was not needed.

**LEMA Groundwater Conservation**

Mark gave a briefing on GMD4 district wide LEMA plan that has been submitted to the Chief Engineer to be established. The proposal is based off recent acres irrigated and allotments based on a per acre limit and rate of declines by township. Mike Meyer stated that there is no flexibility allowed and a 5 year use cap. If a producer wants more flexibility, they would need to file an individual WCA. Mike O'Brate asked who initiated the LEMA, which in this case the GMD4 Board brought the plan to public meetings, not a local group asking adoption by the board. Greg Graff stated that once they had public meetings there was some opposition and suggestion to the plan, but ultimately they went back to original plan and had majority support on the board. It was about a 2 year process. They are using historic acres from aerial photos to determine what was watered. There is still a possibility that past conservation has to be considered under the new law, but they feel since just lowering cap and not a percentage reduction that past conservation is not an issue. Mr. Graff said a proposal like this allows vested rights to be brought in because you are not cutting them, just implementing a cap. Mike O'Brate stated that if this is a long process, shouldn't we consider guiding the staff to start looking into options. It would be a harder task in GMD3 due to the variability throughout the District.

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Discussion on draft GMD3 board guidelines for requesting that a LEMA be formed was handed out. In the first portion of the draft it was thought best to change "voters" to "members". We need to make sure that the actual voters or input is from members that are effected and not someone that doesn't really have a stake in the decisions. It was decided to bring a corrected draft back for action at the next Board meeting. Maybe try to get legal opinion .

Mr. Dwane Roth, representing the KFL steering committee, made comments on the current proposed LEMA activity. They are trying to keep the original conservation goal in mind, but realize that the timeline may need to be adjusted. They presented the three options during the previous night's public meeting. The steering committee is waiting on the results from a survey form provided in the Board packets. He stated that a few of the producers in the area are looking at the option to start with an individual WCA this year and then hope to work into a LEMA. maybe have more board members attend some of the core meetings. An idea of setting a cap limit using something like the net irrigation requirement for corn was discussed. Mr. Roth stated that a local economic development team has stated that new industry is looking at what conservation is going on in the area when considering the region. Zach Gale stated that we need to look at the District in a local sense. If there is water available in the area to expand, we should encourage it. All felt that there is a need to get a plan settled on so there is less confusion. GMD3 may help with a full list for mailings to ensure that notice is given to all members concerned.

**Rutter Cline Presentation, 11 am**

In order to meet the time scheduled for Insurance discussion, the item was moved up in the agenda. Todd Shepard, representative of Rutter Cline, was present to talk about the insurance and coverage that the District has. The policy covers The District and Board in case a lawsuit brought about due to an action taken by the Board. Employees are also covered, such as if we have a claim for wrongful termination or not hiring someone. Currently we have million dollar coverage. Discussion followed about trying to determine if that enough coverage in this day and age. It was asked if there a red flag in the coverage? Mr. Shepard stated that if we know there is an issue, it would be in the District's best interest to make sure they get it documented and notifications done at the start of an issue.

The Board then returned to the agenda.

**Committee Reports**

**Policy and Legal: March 28<sup>th</sup>**

**Joint meeting with DWR on Draft Management Program, May 2<sup>nd</sup>**

Discussion on the Management Program. President Heger briefed the board on the meeting with DWR and committee members. Good document. One question right now is do we stick with current plan or take out policy statements as suggested by DWR and have them in a separate document? Mark Rude compiled review slides and will to Board members for review. Mike McNiece thought another key part of the discussion was that they wanted more specific

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goals determined. Maybe highlight 3 or so as the main ones and others more for future or ongoing.

President Heger hoped to get comments back from directors.

**Old Business**

No old business to discuss.

**New Business**

No new business was brought to the Board.

**Executive Director Report, Mark Rude**

**Rutter Cline Presentation, 11 am**, Presented earlier in the meeting notes

**GMD GIS Mobile app**

Mark updated the Board that staff is testing the latest version of the mobile field application/software. Staff also has purchased 2 new tablets that have the needed operating software to run the app. Staff will keep the Board informed.

**NWRA Groundwater Task Force, Dallas, TX Meeting, April 20<sup>th</sup>**

Clay and Mark attended the meeting and provided a briefing. They discussed federal agency and key litigation issues such as WOTUS and how the NWRA groundwater task force and staff activities are involved. Information included a briefing of key concerns in each state represented on the task force. Clay also mentioned that Fish & Wildlife Service has activities ongoing with groundwater issues nationally, much like the impairment complaint currently being dealt with by GMD5 and Quivira Refuge. With all the water issues locally and in other states that can affect Kansas, Clay emphasized that NWRA is an organization that GMD3 needs to continue to be involved and active. The issues being dealt with are not just groundwater, but also surface water, just as GMD3 has along the river.

**Kansas Water Authority Meeting, Garden City, May 17-18**

Mark directed attention to the agenda for the Kansas Water Authority meeting coming up later this month. There will be an area tour prior to the meeting. GMD3 and the Kansas Aqueduct Coalition will be sponsors of an evening reception.

**GMDA Summer Conference, Albuquerque, NM May 24-26**

Registration and hotel reservation have been made for the GMDA summer conference. A copy of the current agenda is in the Board packets. Jason will have a segment discussing LEMAs in Kansas.

**Kansas Water Congress Summer Conference, Garden City, July 27-28**

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Dave Brenn informed the Board that due to scheduling conflicts with Garden City Community College, the Kansas Water Congress summer conference will now be held at the Clarion Inn. Some of the main topics will be discussions on conservation tools currently in place and further discussion on water transfers. Final preparations are being completed and hoped that all could attend.

**Governor's Water Conference, Manhattan, Nov 8-9**

Staff has reserved several rooms for staff and Board wishing to attend.

**Monthly Western Water Conservation Projects Fund Business**

Mark Rude drew the attention of the board to the financial documents of the Western Water Conservation Projects Fund and activity of the advisory committee. After some discussion of the Board, Hal moved to accept the December financial report and payments as presented and submit them for annual audit. Steve Stone seconded. Motion passed with all in favor.

**Board Member Report**

No reports given

**Public Forum**

No comments made.

**Executive Session**

Mike McNiece made the motion for executive session to discuss personnel issues with Mark Rude for five minutes. Doug Fox seconded and the Board went into executive session at 12:27pm. The session ended at 12:33pm with no action taken.

**ADJOURNMENT**

Fred Jones made a motion to adjourn the meeting. Fred Claassen seconded. The meeting was adjourned at 12:35p.m. and a lunch was served.

Respectfully Submitted,



Mike McNiece  
GMD3 Board Secretary