

**Southwest Kansas Groundwater Management District No. 3
Minutes of the Regular Meeting of the Board of Directors
January 13th, 2021**

MEETING CALLED TO ORDER

President Rooney called to order the January 13th, 2021 Board of Directors meeting of the Southwest Kansas Groundwater Management District to order at 9: 09 a.m. The meeting was held at the GMD3 Board Room.

Directors Present in person, zoom or by phone

Bret Rooney, President, Haskell County Representative
Mike O'Brate, Treasurer, Finney County Representative
Fred Jones, Vice President, Municipal Representative
Mike McNiece, Board Secretary, Industrial Representative
Hal Scheuerman, Kearny County Representative
Randy Hayzlett, Surface Water Representative
Fred Claassen, Morton County Representative
Clay Scott, Grant County Representative
Kent Dunn, Seward County Representative
Kirk Heger, Stevens County Representative

Directors Absent with Notice

Douglass Fox, Meade County Representative
Seth Nelson, Stanton County Representative
Dave Casterline, Ford County Representative
Garrett Love, Gray County Representative
Zachary Gale, Hamilton County Representative

District Staff Present

Mark Rude, Executive Director
Jason Norquest, Assistant Manager
Patty Stapleton, Office Administrator
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
Earl Lewis, Chief Engineer, Division of Water Resources
Dave Brenn, Kansas Water Congress
Keadron Pearson, Kansas Water Office, Water Resource Planner
Kevin Salter, Division of Water Resources
Sean Miller, Capital Strategies
Susan Metzger, Senior Executive Administrator to the Dean
Jonathon Aquilar, KSU
Ian Lyle, NWRA

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APPROVE AGENDA

President Rooney asked for consideration of the January 13th, 2021 meeting agenda. President Rooney noted updates to the agenda: Item B under President's report strike Reid Petty and change to Ian Lyle with NWRA, Sean Miller will get on at approximately 9:30 and add Executive Session after Public Forum. **Fred Jones made a motion to approve the agenda as revised. Mike O'Brate seconded. The motion passed.**

APPROVAL OF MINUTES & GENERAL MONTHLY FINANCIAL REPORT

President Rooney drew the attention of the Board to consider the December 10th, 2020 draft minutes. **Clay Scott moved to approve the December 10th, 2020 minutes, as presented. Mike O'Brate seconded the motion. Motion passed.**

President Rooney next drew the attention of the Board to review the December 2020 financial report documents. **Randy Hayzlett made a motion as follows: Approve the financial reports and payments for the month of December 2020 as presented at this meeting and submit them for the annual audit. Hal Scheuerman seconded the motion. Motion passed**

President Rooney signed and submitted the financial documents.

President's Report, President Rooney

KDA/DWR Water Commissioner Report

Mike Meyer reminded everyone that it is Water Use Report season. Keep an eye out for an envelope and not a cardstock postcard. At this point 1,800 reports have been received, which equals approximately 400 water rights. Static Water level measuring with KGS is complete. Brownie Wilson will more than likely give an update at the annual meeting. Chief Engineer Lewis signed order of decision for the GMD1 LEMA in Wichita County. Mr. Meyer also alerted everyone that a fraudulent water use sight was found on the web. Stressing to use the official DWR site for reports.

Ian Lyle with NWRA,

Ian Lyle with NWRA first talked about the end of year for 2020 In Washington DC and the two major federal bills that NWRA worked on: Water Resource Development Act of 2020 and Western Water Title. Those bills ended up moving the last 2 weeks in congress. Mr. Lyle also pointed out the top ten key water issues in the 117th Congress: Infrastructure funding, Clean water Act, COVID 19 relief, ESA, Forest and Grassland Health, Invasive Species, NEPA, GW Supply augmentation / development (GMD3, GMDA and Kansas Water Congress are good resources), PFAS, Tax Code (advanced refunding of bonds). A power shift with President Elect Joe Biden and Vice President Elect Harris will occur. Democrats will retain the majority with 222 Democrats and 213 Republicans and one person at NY 22nd not yet certified.

Kansas Legislature, Sean Miller, Capitol Strategies

Sean Miller, Legislative Liaison for GMD3 with Capitol Strategies was on zoom to talk about the Kansas Legislature. Entirely new legislature, all house and senate were up for election or re-election. The Republican caucus will have a super majority in both houses. Because of COVID 19 not sure how long they will be in session. Several dozen legislatures have had COVID in the past months and several are out today with the virus. 165 scattered across the state, could just be a matter time before an

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outbreak occurs. Work on high ticket items first and continue working with business as usual. Two issues for sure will rise to the top: Tax Reform and the Value Them Both Amendment.

Sean stated as of today no outside group can reserve a space in the Capitol. Social Calendar has zero events listed for the year. The only way to be allowed in the Capitol is having direct legislative business.

House Water committee met today. Goal is to bring in every possible local water agencies that touch water in any way. Have them describe budget, describe their mission and work chart and structure. A comprehensive work chart would then be built to learn what every piece of state and federal agencies does to evaluate the best and most efficient way to partner for those missions to be accomplished.

Legislative Retreat

Consensus of the board was to postpone 2021 Topeka retreat for a year and get with Dillon House to move deposit and reserve date for 2022.

Annual Meeting

Mark announced that Liberal, Kansas is not allowing gatherings due to COVID 19. Grant County Civic Center is available for March 10th if the board wishes to move the annual meeting and continue with the original date of March 10th, 2021. Mark also listed the Board of Directors whose terms are expiring:

- Mike McNiece, Industrial Representative (will not re-run)
- Kirk Heger, Stevens County Representative, (has moved and will not re-run)
- Doug Fox, Meade County Representative (will not re-run)
- Kent Dunn, Seward County Representative (will re-run)
- Fred Claassen, Morton County Representative (will re-run)

Nominations need to be in 30 days prior to annual meeting.

Kirk Heger moved to have annual meeting at the Grant County Civic Center on March 10th at 9a.m. Fred Jones seconded. Motion passed.

Committee Reports

Policy and Legal

Mark Rude led the discussion on Multi-Year Flex Account DWR draft legislation response that the Policy and Legal committee reviewed, Tuesday, January 12, 2021. Stockwater, limited transfers draft legislation was first discussed. Mark reminded everyone project term permits as implemented are to provide a project flexibility for water rights of feed lots and dairies. DWR has been working on the policy to underwrite the need for the industry flexibility. Mark read through a concerning area of the Draft legislation 82a-743 (2) (C) (1-3) noting that it seems pretty broad and may suggest you qualify if you really are not complying with the water appropriation act. The committee discussed how to respond with the draft legislation. Last month the consensus of the board was to continue working to improve the legislation. Much discussion occurred and the consensus of the board was to oppose the legislation and continue to work with the agency to meet needs.

Policy and Legal also reviewed the Multi-Year Flex Account draft legislation. A decision memo was handed out to the board for the board to review. Mark read the background of the 82a-736. The DWR draft legislation was received on December 18th, 2020. The water commissioners seek to allow

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newer water rights to participate and to clarify how the base average use should be calculated when there is zero use during a calendar year in the period of record. They also wanted the ability to approve shorter account terms than five years in special circumstance, such as integrating water rights under the GMD4 LEMA. There is some dialog in the GMD3 Management Program for Water Rights Assistance, but not much under MYFA. Three alternatives were discussed by the Policy and Legal Committee:

1. *By action of the governing body, seek to allow a further revision of the MYFA bill to provide eligibility of all lawful water right participants to develop a MYFA management tool except where impairment concerns exist.*
2. By consensus, indicate a desire to draft GMD3 specific rules to the appropriate agencies needed to implement the draft revised Management Program and assure members that MYFAs will not harm non-participants.
3. Indicate by vote or consensus to not respond to the proposed legislation.

After review of the decision memo and discussion regarding DWR proposed MYFA Appropriation legislation to reform K.S.A. 82a-736, Fred Jones suggested to not develop any rules within our organization until the Management Program is completed. Simply because it pushes back the process of it being completed and approved. Fred Jones moved to recommend option 1. Kirk Heger seconded. Motion passed with all in favor.

Lastly, Mark turned the boards attention to the decision memo regarding DWR Proposed WCA Rules. He highlighted the sections (d) (h) & (m) of K.S.A 82a-745 and reviewed the suggested edits. Policy and Legal provided three alternatives:

1. *By action of the governing body, authorize the above feedback to the draft WCA rules to include the objection to the improper interpretation and omissions and to recommend alternative language more in line with provisions of law for GMDs.*
2. By consensus, direct staff to work with KDA/DWR and other appropriate agencies to draft GMD3 specific rules to further implement the draft revised Management Program to limit water risk to all members, including water quality decline and re-allotments of "paper water" to the pumping wells to the peril of all.
3. Indicate by vote or consensus to not provide feedback from the governing body.

Mike McNiece moved to recommend alternative one. Fred Claassen seconded. Motion passed.

Finance

Finance Committee needs to hold a meeting to discuss the budget for 2022. Mark turned the boards attention to the annual budget carryover chart that Brandi handed out. This chart reviews the audited ending amounts that are carried over. Currently water assessments are at 14 cents per acre foot. Mark would like to see a two-cent increase, but this is a matter of discussion. A larger carryover would be ideal to withstand any storm that may come to bay. Fred Jones asked why was the 2020 "amount under budget" so much less than "amount under budget" in 2019.

Old Business

There was no old business to take off the table.

New Business

There was no new business to take to the table.

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**Executive Director Report, Mark Rude
Management Program Revision**

The Management Program is still under state review for approval. Mark believes the Chief Engineer will provide a response in the near future.

Cimarron River Public Water Meeting, January 8th, 5pm, Elkhart, KS

Cimarron River Public Water Meeting was held January 8th, 2021 at 5pm. There were approximately 34 participants. Wes McKinley discussed new appropriations on the Cimarron Valley Ranch that is up for sale for 39.8million dollars.

Federal Grants

Preferred Interstate Supply Evaluation

Still in que. Waiting for the request of proposal from Bureau of Reclamation.

WaterSMART Drought, Water use and Climate.

WaterSMART grant was completed and submitted.

Upper Ark Watershed Group, Res. 2021-1

Mark brought to the table Resolution 2021-1. Resolution 2021-1 supports the proposal "Creation of a Watershed Management Group to Address Concern in the Upper Arkansas River Basin, Kansas. Hal Scheuerman moved to pass Resolution 2021-1. Randy Hayzlett seconded. Motion passed.

Associations:

Kansas Water Congress

Kansas Water Congress have been active in hosting policies discussions.

GMDA

GMDA held a zoom annual conference yesterday.

NWRA

Leadership Conference started last week and will continue on the 14th of January and the 12th of February.

Monthly Western Water Conservation Projects Fund Business

Mark Rude drew the attention of the board to the December 2020 Financial documents of the Western Water Conservation Projects Fund and activity of the advisory committee. **After some discussion of the Board, Hal Scheuerman moved to accept the December 2020 Financial Report and payments as presented and submit them for annual audit. Mike McNiece seconded. Motion passed.**

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Update of Projects

Change Order:

There is a sand trap across the front of the river gates. The original design was to continuously kick the water out back to the river through the gutter. Mark discussed with the engineer to put a gate there on the discharge. Shortly after, Rodney Kirchoff submitted a change order for the Headgate Improvement for Finney County Water Users. The change order would increase the current contract price by \$3,860.00. Mark said he will have to take the change order to the Projects Committee to discuss increasing the amount of the project by the \$3,860.00 to cover the change order. If it comes down to it GMD3 may have to pay the amount due to the conversations Mark had with the engineer.

KWO/ KWA / RAC's

KWO

Keadron Pearson, reported that Connie Owens is the new Director of KWO. Looking at scheduling RAC meetings soon. A Futures Project webinar is tomorrow at 2pm, check out the KWO website for more details. They are in the final stages of drafting state water plan.

KWA

Kansas Water Authority had no report.

RAC

RAC's have not held a meeting but planning to in the near future.

Board Member Report

There were no Board Member Reports.

Public Forum

Jonathon Aquilar with Kansas State announced that Dan Devlin is the new interim head of Western Kansas Research and Extension. The Center Pivot Survey will continue and hopefully will be wrapping it up the end of February. Finney and Scott counties are completely done. A final report will be released when all done, but as of now 37% were natural gas and 83% have nozzles below 4 feet.

Executive Session

Randy Hayzlett moved to hold an Executive Session for 5 minutes to discuss non-elected personal issues. Kirk Heger seconded.

Regular Session was called back to order.

Clay Scott moved to give Executive Committee authority to conclude raise for Executive Director. Kent Dunn seconded. Motion passed.

ADJOURNMENT

Hal Scheuerman made a motion to adjourn the meeting. Kirk Heger seconded.

The meeting was adjourned at 12:32 p.m.

Respectfully Submitted, Mike McNiece, GMD3 Board Secretary

