

Southwest Kansas Groundwater Management District No. 3
Minutes of the Regular Meeting of the Board of Directors
July 14h, 2023

DRAFT

MEETING CALLED TO ORDER

President McCormick called to order the July 14, 2023, Board of Directors meeting of the Southwest Kansas Groundwater Management District at 9:10 am. The meeting was in the GMD3 Board Room.

Directors Present in Person

Chad McCormick, President, Industrial Representative
Randy Hayzlett, Vice-President, Surface Water Representative
Mike O'Brate, Treasurer, Finney County Representative
Clay Scott, Grant County Representative
Fred Jones, Municipal Representative
Zachary Gale, Hamilton County Representative

Directors Present by Phone or Zoom

Kent Dunn, Seward County Representative
Garrett Love, Secretary, Gray County Representative

Directors Absent with Notice

Ben Amerin, Meade County Representative
Bret Rooney, Haskell County Representative
Dave Casterline, Ford County Representative
Harrison Krey, Morton County Representative
Kyle Maddux, Kearny County Representative
Matt Johnson, Stevens County Representative
Seth Nelson, Stanton County Representative

District Staff Present

Mark Rude, Executive Director
Jason Norquest, Assistant Manager
Patty Stapleton, Office Administrator
Chris Law, Director, Field Services
Trevor Ahring, Civil Engineer
Joselyn Monarrez, Intern

Others in Attendance

Mike Meyer, Water Commissioner, Division of Water Resources, Garden City, KS
Chris Beightel, Water Management Services Program Manager, Kansas Dept. of Agriculture
Earl Lewis, Chief Engineer, Kansas Dept. of Agriculture
Tom Adrian, Legal Counsel for GMD3
Frank Mercurio, Syracuse Dairy
Luke Ratzlaff, Intern with Tom Adrian
Kevin Salter, DWR
Keadron Pearson, KWO
David Walker, Producer
Tom Stiles, KDHE

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Minutes of the Regular Meeting of the Board of Directors
July 14h, 2023

DRAFT

APPROVE AGENDA

President McCormick asked for consideration of the July 14th meeting agenda. Mark Rude requested to add a Copier Machine proposal under Old Business 9A. **Fred Jones made a motion to approve the agenda as revised. Clay Scott seconded. The motion passed.**

APPROVAL OF MINUTES & GENERAL MONTHLY FINANCIAL REPORT

President McCormick drew the attention of the Board to consider the June 14, 2023, draft minutes. **As presented, Randy Hayzlett moved to approve the June 14, 2023, minutes. Mike O'Brate seconded the motion. Motion passed.**

President McCormick next drew the attention of the Board to review the June 2023 financial report documents. Mark added that staff checks are now electronically deposited. **Clay Scott made a motion: Approve the financial reports and payments for June 2023 as presented at this meeting and submit them for the annual audit. Randy Hayzlett seconded the motion. Motion passed**

President McCormick signed and submitted the financial documents.

Correspondence / Recognitions / Public Comments

None

Management Program: Reports and Recommendations

Water Commissioners Report, Mike Meyer, DWR

Water Commissioner Mike Meyer reported that business is as usual, and in-office traffic has slowed. They are getting many questions about MYFA's adding that this would be a good year to start an MYFA in case we are in a drought situation again. With this being a wet year and you could bank some water.

Hamilton County Update, President McCormick-Awaiting AG Opinion

President McCormick recapped the Executive Committee discussion regarding Hamilton County's request to leave the district. The Attorney General has not responded to the letter from Legal Counsel Tom Adrian, and the Board will not decide, even though the timeline was July until a response is received from the Attorney General. Zach Gale questioned why the hold-up, believing the two issues, breaking KOMA law and Hamilton County getting out of the district, are unrelated. Legal Counsel Tom Adrian first introduced Luke Ratzlaff, an intern with them who attends Emory University College and is from Moundridge, KS. Mr. Adrian went on and advised that he had talked to a representative from the AG office who thought a response from the AG would happen concerning Zach's appearance in an executive session was advisory and appropriate. Mr. Adrian explained that the issue of being allowed in the Executive Session and being a representative of Hamilton County is highly intertwined. For example, if a board meets with an attorney in an executive session, you are duty-bound not to reveal that discussion outside the Board, which would put Zach in a difficult situation. Zach asked who had read 82A-1033. Clay Scott, Mark Rude, and Randy Hayzlett said they read 82A-1033. Zach stated that it easily explains adding and subtracting a territory from the district.

Southwest Kansas Groundwater Management District No. 3
Minutes of the Regular Meeting of the Board of Directors
July 14h, 2023

DRAFT

Mr. Adrian added that the statute states that the Board decides to allow a territory to leave or enter the district. There have to be facts to make a decision one way or another. President McCormick stressed it is not an easy decision when testimony was provided in the legislative discussion that we had a possible high-priority area that wants out of the district. Dave Walker, a producer from Stanton County, stated that from his perspective, GMD3 is wrong, excluding Seth Nelson and Zachary Gale from the executive session. Doing this creates an advisory position, and everyone he has spoken to also believes that GMD3 was wrong. Clay Scott recapped that it was well documented that there was a possibility that the members of Hamilton County could take legal action. As board members, we spoke with the lawyer to see what that meant. If you are a signee or party that would sue the Board, it doesn't make sense to be in on the executive session. No action has been taken on this, and there was only one meeting when the signees were dismissed from the Executive Session. Zachary Gale stated he has no intention of suing the district; he has no groundwater or owns ground inside the district that is a part of the lawsuit. "The team" that Zach refers to is his father and himself. Fred Jones appreciates people coming to the meeting(s); however, it seems like there is a division, and we need to figure out how to handle the situations and not be so adversarial. Tom Adrian added that they have not found any AG opinion addressing this issue. There is no answer out there for this unique situation. The AG representative said they would be talking to DWR and people of interest, and most likely, the League of Municipality will be addressed. He also stated that the aquifer does not respect county lines, so your duty as an individual board member is to represent the aquifer, not your county, even though you are a county representative.

Kent Dunn suggested tabling this discussion until an Attorney General's opinion is received.

*******Board Meeting recessed at 10:05 am to hold the 2024 Budget Hearing.*******

President Chad McCormick called the 2024 Budget Hearing to order at 10:05 am.

"A GMD3 budget hearing is necessary and proper, according to state policy, to fund our organized groundwater area program activities under the GMD Act of the Kansas legislature. Specifically, KSA 82a-1030 provides for the funding of the GMD3 through an annual water user fee per acre-foot against the water right amount not to exceed \$2.00 and an annual land assessment not to exceed 5 cents per acre for owners of tracts of land 40 acres or more in size. The purposes of GMD3 are long-standing in the history and practices of Southwest Kansas water administration and our water-use-driven economy. This budget hearing is held in accordance with state statute to receive comments on the proposed 2024 budget. Hearing announcements were published in the district newspapers in compliance with State Law, and a draft budget was presented to members at the Annual Meeting, which was held this past March, with the same budget copies posted on our website and available today with minor heading changes based on feedback."

Treasurer Mike O'Brate commented, "The proposed General Budget of \$1,219,827.00 is funded by land assessments at 5 cents per acre and water assessments at 16 cents per acre-foot of groundwater. There are also four special budget accounts: Water Right Retirements, Arkansas River Western Water Conservation Projects (WWCP), Kansas Aqueduct Project and Federal Proceeds." All but the WWCP fund have a current balance of zero. "

President McCormick opened the floor to public comments. Seeing no remarks, the budget hearing was closed at 10:08 am.

Southwest Kansas Groundwater Management District No. 3
Minutes of the Regular Meeting of the Board of Directors
July 14h, 2023

DRAFT

I-CARE Project Update

Mark announced that the I-CARE Project reports were mailed. Along with the report, GMD3 provided a letter inviting producers to attend I-CARE and ICED TEA meetings on July 19 in Garden City, Lakin, and Johnson, and then on the 20th in Montezuma, Sublette, and Hugoton.

Committee Reports

Policy and Legal

Chairman of Policy and Legal Clay Scott reviewed what they discussed at the meeting that was July 7 and 1:00 pm. There were no reviews or WCAs to work through. They did discuss the Haskell County Impairment; it is status quo with no changes. The committee discussed HB2279 regarding the timeline to submit annual written reports to the legislature. The committee suggested that President McCormick and the Chairman of Research and Development, Fred Jones, and Clay, get together and discuss who will manage specific areas of the timelines. The committee requested to rearrange the budget line items to better represent the allocation of funds. Clay asked all GMD3 Directors if they had any changes to the Management Program to bring them to the Board Meeting in August. The committee discussed a request to the Chief Engineer on WaterTAP rules and what it takes for folks to qualify for payments. There has been good progress with the Democratic and Republican Senators over the IRS Tax code opinion strategy on the GIVE Project. The Farm Bill Groundwater Conservation Easement Program is also receiving good support. The Farm Bill is hardly ever on time; there will probably be an extension this year. The committee discussed the Program Promotion Phase and will present resolutions later in the meeting.

Research and Development

Chairman Fred Jones reported that the committee met on July 11 and discussed how the water modeling proceeded—discussing the request for Kansas-only RCPP proposals of \$25 million. One is a state conversation and maybe one just for SW Kansas that GMD3 would administer to help our producers fund temporary or permanent conservation, forgoing their pumping.

Old Business

Copier Replacement

Mark reviewed the copier bid from Century. The proposed copier is similar to what we have now. If we pay upfront, the cost is \$6,790.29, and \$131.78 monthly for maintenance and support. If we finance the copier, we will pay \$311.72 per month. **Fred Jones moved to purchase the copier outright at \$6,790.29 and enter into a monthly support contract of \$136. Clay seconded. Motion passed.**

New Business

Ratify Support for the Voluntary Groundwater Conservation Act of 2023

Mark brought to the table for review Resolution 2023-1, Resolution by the Board of Directors of the Southwest Kansas Groundwater Management District NO. 3 to recognize and support the voluntary groundwater conservation act of 2023. **Clay moved to adopt Resolution 2023-1. Randy Hayzlett seconded. Motion passed.**

**GMDs Master Irrigator budget approval for USDA Grant Proposal
Resolution 2023-2**

Trevor Ahring reviewed the Master Irrigator budget. **Fred Jones moved to adopt Resolution 2023-2 in support of in-kind cost-sharing funding for the Creation of a Master Irrigator Program in Kansas. Clay Scott seconded. Motion passed.**

Travel- August 1-3, NWRA Western Water Seminar, Medora, ND.

Mark requested travel to attend the NWRA Western Water Seminar in Medora, ND. **Clay Scott moved to approve travel to the NWRA Western Water Seminar in Medora, ND. Mike O'Brate seconded. Zachary Gale opposed. Motion passed.**

Travel-August 22, Colorado Water Congress Interstate Panel, Steamboat Springs

Mark was asked to participate in a panel discussion at the Colorado Water Congress Interstate Panel in Steamboat Spring, Colorado. The panel is a discussion with water managers from neighboring states, Wyoming, New Mexico, Nebraska, and Kansas.

Fred Jones asked if we are progressing on making the KWC more active. Fred has stressed his concern about getting more active membership/relationships for water policies.

Clay Scott moved to approve travel for Mark Rude to attend the Colorado Water Congress in Steamboat Springs, Colorado. Mike O'Brate seconded. Motion passed. Zachary Gale opposed.

Executive Director Report, Mark Rude

Report of the GMDA Summer Conference, Santa Fe, NM

Mark updated everyone on this week's GMDA Summer Conference in Santa Fe, New Mexico. Randy Hayzlett, Jason Norquest, Patty Stapleton, and Mark all attended. Mark your calendars to attend the Winter Conference in Nashville, Tennessee, around January 22.

Western Water Conservation Projects Fund Business

Financial Report

Mark Rude drew the Board's attention to the June Financial documents of the Western Water Conservation Projects Fund and the activity of the advisory committee. **After discussing with the Board, Randy Hayzlett moved to accept the June 2023 Financial Reports and payments as presented and submit them for annual audit. Clay Scott seconded. Motion passed.**

Agency Reports

KWO

Keadron Pearson provided the following upcoming dates to remember:

- ✓ Cimarron RAC will be July 24th at 9:00 a.m. at the Seward County Ag Building, Liberal, KS
- ✓ Upper ARK RAC will meet on July 27 at 2:30 pm at the Finnup Center, Garden City, KS

Keadron reported that virtual attendance is an option at both meetings. Each RAC will discuss Budget recommendations.

- ✓ KWA will meet on August 23, possibly in McPherson.

K.S.A. 82a-1033. Extension or reduction of district territory by chief engineer, upon petition; hearing; filing of order. (a) The chief engineer shall have the power, upon proper petition being presented by the Board for that purpose, to extend or reduce the territory of any groundwater management district organized and incorporated under the provisions of this act.

The petition to extend or reduce the territory of any groundwater management district shall be addressed to the chief engineer and shall: (1) Describe the territory to be annexed or removed by township, range and section numbers and fraction thereof and other platted areas as appropriate. (2) Have a map attached thereto as an exhibit, and incorporated therein by reference, showing the district and the lands proposed to be annexed or removed. (3) Show that the proposed extension or reduction of territory has been recommended by the district concerned by resolution duly adopted by its Board. (b) The chief engineer shall fix a time for a hearing upon the petition and the district shall give notice thereof for three (3) consecutive weeks in a newspaper or newspapers of general circulation within the district, the first publication to be at least twenty-eight (28) days before the day fixed for the hearing. The notice shall state the name and general location of the district and describe the lands proposed to be annexed or removed. It shall state that a hearing will be held on whether the petition of the district should be approved. It shall state the day, hour, and place of the hearing, which shall be at a suitable location, and that all persons may appear before the chief engineer at the hearing and be heard. If, after the hearing, the chief engineer finds that the area proposed to be annexed or removed meets other requirements as prescribed for the organization of a district, he or she shall approve the petition and fix the time when the annexation or reduction of territory shall become effective. A certified copy of his or her order approving the petition shall be sent to the Board of directors and to the secretary of state. The Board of directors shall file a copy of the order for record in the office of the register of deeds of each county in which the district, as modified, or any part thereof lies.

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Minutes of the Regular Meeting of the Board of Directors
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KDHE

Tom Stiles announced that the Watershed Management Group is participating in the Upper Arkansas Watershed Group and looking at ways to bring in Water Quality resources.

Board Member Reports

Jason Norquest reported that he and Chris Law went to Gina Gigot's farms and helped her get set up with VandWater technology.

Chad McCormick is also setting up a meeting with VandWater.

President McCormick would prefer to schedule committee meetings for the rest of the year. If a meeting is not needed, then cancel it. After some discussion, the board agreed to leave it up to the Chairman of the committees.

Public Forum


Frank Mercurio, Syracuse Dairy, discussed the letter from Syracuse Dairy responding to Mark's email to some legislatures. It seemed like Syracuse Dairy had allegations made against them, and they took offense to it. They want to be open, address concerns, and not go to the legislature.

ADJOURNMENT

Zachary Gale made a motion to adjourn the meeting. Clay Scott seconded.

The meeting was adjourned at 12:09 p.m.

Respectfully Submitted,


Garrett Love
GMD3 Board Secretary