

Minutes: Northwest Kansas Groundwater Management District 4 November 1, 2018 Board Meeting

1. OPEN MEETING, ATTENDANCE AND AGENDA

The November 1, 2018 board meeting was opened at the GMD 4 office in Colby, Kansas by President, Brent Rogers

Board members present for some or all of the meeting were:

Brent Rogers, Karen Flanagin, Nate Emig, Shane Mann (left at 11:00 am),
Lynn Goossen, Mitchell Baalman, Monty Biggs, and Ted Nighswonger

Board members absent: Jeff Deeds, Scott Maurath, & Roger Zweygardt

Others present for some or all of the meeting were: Ray Luhman, Shannon Kenyon, Jody McCain and Dan Simmering – GMD 4 staff; Adam Dees – GMD 4 attorney; Kelly Stewart & Steven Walters– DWR; Armando Zarco – KWO; Darvin Strutt – Strutt Insurance, David Brenn – Kansas Water Congress, Keith McCall, Brownie Wilson – KGS; Rob Aiken – K-State

Monty Biggs moved to appoint Lynn Goossen as Acting Secretary. The motion was seconded by Mitchell Baalman and passed unanimously by voice vote (no “nay” votes).

2. CONSENT AGENDA

Brent Rogers asked if there were any concerns over the consent agenda, consisting of the August 2nd, 2018 Minutes and the August, September, and October Expenditures. An updated October financials was distributed. Receipt of the August, September, & October financial reports were distributed showing monthly expenditures totaling \$31,460.79 in August, \$34,012.27 in September and \$30,801.30 in October were approved.

Ted Nighswonger moved the minutes for August and expenditures for August, September, and October be accepted. The motion was seconded by Mitchell Baalman and passed unanimously by voice vote (no “nay” votes).

3. OPEN FORUM

No comments were made.

4. MANAGER’S REPORT

The Governor’s Water Conference is coming up November 13th and 14th. Board members were invited to attend.

Ray Luhman reported on the meeting in St. Francis concerning the settlement money from the Republican River Compact. He noted that all three states had a representative and that they are moving forward to cooperate in the future. Bonnie Reservoir was discussed as well as handling vegetation as possible funding.

Shannon Kenyon gave a report on the Upper Republican RAC meeting that was held. A State of the Resource document was distributed for reference.

Ray Luhman also gave the board a copy of the Status of the High Plain Aquifer booklet published by KGS.

The Christmas party will be after next month's board meeting. After discussion we will do the same thing as last year at City Limits.

5. UNFINISHED BUSINESS:

a. District LEMA

Updates to the two lawsuits were discussed. The case involving the intervenors is being headed by DWR. They had a conference with the judge to set a timeline and should have an answer from district court in early to mid-next year. The Carpenter case has filed preliminary motions. Not much progress forward in this case.

Lynn Goossen moved to go into executive session for 15 minutes with the board, staff, attorney, & Keith McCall to protect trade secrets. The motion was seconded by Shane Mann and passed unanimously by voice vote (no "nay" votes).

Lynn Goossen moved to go into executive session for another 10 minutes with the board, staff, attorney, & Keith McCall to protect trade secrets. The motion was seconded by Shane Mann and passed unanimously by voice vote (no "nay" votes).

After the executive session expired, Mitchell Baalman moved to leave Keith McCall's LEMA allocation as is and direct staff to compose a letter with explanation to Keith McCall. The motion was seconded by Monty Biggs and passed unanimously by voice vote (no "nay" votes.)

b. Model Discussion

Brownie Wilson from KGS was in attendance to give a presentation on the model to be developed. The new model will allow staff to run simple scenarios. He discussed what a model is, showed the good and bad data involved, and provided a timeline. KGS would like for GMD 4 to develop a model committee.

6. NEW BUSINESS

a. GMD 4 Insurance

Darvin Strutt of Strutt Insurance presented the insurance policy for GMD 4 to the board of directors. Several changes are on-going with the workers compensation. A different quote was handed to them than previously submitted and that number will most likely change as well. Darwin is searching for cheaper workers compensation through other companies.

b. Kansas Water Congress – David Brenn

David gave a presentation on the importance of the Kansas Water Congress. He emphasized what the Kansas Water Congress does and how local government is important to it.

c. Voting Protocol

After the confusion of the 2018 annual meeting, Ray Luhman and Adam Dees have been reviewing the Groundwater Management District Act, attorney general opinions, and consulting other groundwater management districts to draft language defining the election procedure. Adam discussed the “nuts and bolts” with the board.

Lynn Goossen motioned to approve the following resolution for the voting protocol and to add a link to the website and mail postcards:

Whereas K.S.A. 82a-1021 defines an “Eligible Voter” as any person whom is 18 years old and older, or a public or private corporation, municipality or any other legal or commercial entity that 1) owns 40 or more contiguous acres within the boundaries of the Northwest Kansas Groundwater Management District No. 4 (GMD 4) and outside the corporate limits of a municipality, provided the land has not been voluntarily excluded from GMD 4 assessments, or 2) withdraws or uses at least one acre-foot (325,851 gallons) of groundwater per year from within the GMD 4.

Whereas K.S.A. 82a-1021 continues to say that each tract of land and each quantity of water use can only be represented by one eligible voter, and if the land is held by lease, an estate for years, under a contract, or otherwise, the deed holder is the person or corporation who is presumed to be the eligible voter unless an agreement to the contrary has been reached by the parties involved. Furthermore, if the land is held jointly or in common, the majority of interest determines which person or corporation can vote. If equal interests exist, only one voter can be selected; and

Whereas K.S.A. 82a-1021 continues to state each eligible voter may cast only one vote except that person who is the duly authorized representative for an estate, a trust, a municipality, or a corporation who may cast an additional vote for each one of these entities that he or she represents; and

Whereas K.S.A. 82a-1021(b) does not authorize proxy voting; and

Whereas it is in the best interest of GMD 4 to provide a procedure by which to identify Eligible Voters to ensure legal voting during any GMD 4 voting.

Be it resolved that the Northwest Kansas Groundwater Management District No. 4

(GMD 4) Board adopts the following as GMD 4 election policy:

1. **District Eligible Voter List.** *Annually from its records, the GMD 4 will prepare an Eligible Voter List for use during all voting events of all known eligible voters based on land ownership and permitted water use.*

2. **Special Circumstances.** *Annually by 5:00pm central time at least seven (7) days before a voting event, any person requesting a ballot under the following special circumstances must provide the following additional written evidence of eligibility to vote:*
 - 2.1. **Estate.** *A person requesting a ballot on behalf of an estate must furnish written evidence that he or she is an executor of the estate.*
 - 2.2. **Trust.** *A person requesting a ballot on behalf of a Trust must furnish a signed and notarized Certificate of Trust declaring that person as a Trustee of the Trust.*
 - 2.3. **Business.** *A person requesting a ballot on behalf of a joint venture, partnership, limited partnership, corporation, limited liability company, or other private or public entity must provide written evidence that the person is an officer of that entity.*
 - 2.4. **Municipality, Governmental, or other Public Entities.** *A person requesting a ballot on behalf of a municipality, governmental, or other public entity must be an Elected Official of that entity. Only one Elected Official may vote on behalf of the municipality, governmental, or other public entity.*
 - 2.5. **Tenant.** *A tenant requesting a ballot on behalf of a landlord, or multiple landlords, must provide a written lease that includes a legal description of the real estate being leased and written authorization from the landlord to vote on the landlord's behalf. A tenant may only cast one ballot on behalf of one landlord even if the tenant is leasing multiple acres from multiple landlords.*
 - 2.6. **Annual Water use in Excess of One (1) Acre Foot per year.** *A person requesting a ballot based on water use in excess of 325,851 gallons of non-permitted water use will furnish written confirmation of such use consisting of:*
 - 2.6.1. *Water utility receipt(s) showing total annual use from the previous calendar year;*
 - 2.6.2. *Energy and pumping records from the previous calendar year;*
or
 - 2.6.3. *Other documentation sufficient to support such use within the previous calendar year.*

3. *No proxy voting. Nothing in this Resolution will be interpreted to allow proxy voting and proxy voting is disallowed.*
4. *Elections Officer. Annually, the GMD 4 Board will appoint an Elections Officer to oversee the process of voting at the Annual Meeting. The Elections Officer will use the Eligible Voter List, supplemented by the additional evidence of eligibility to vote, to distribute ballots to those Eligible Voters at the Annual Meeting.*
5. *Severability. If any part of this Resolution is for any reason held to be unenforceable, the rest of it remains fully enforceable.*

This resolution will become effective November 1, 2018, and will remain in effect until amended or rescinded.

Mitchell Baalman seconded the motion which passed via voice vote (no “nay” votes).

d. Kansas State University – Rob Aiken

Rob Aiken discussed the Representative Corn Evapotranspiration report as a possible information resource for GMD 4 that could be another source of evapotranspiration rate information.

e. Nathan Hendricks Survey

A proposed study on the LEMA has a questionnaire made by Nathan Hendricks of K-State. A copy of the survey was distributed to board members for review as Nathan would like to know if the board is ok with him distributing the survey. There was discussion on advantages and disadvantages of the survey. Most board members thought the survey to be too long and confusing. Considering the recent activity of getting the LEMA into place and the continued education needed the board thought that maybe in year four or five of the LEMA may be a better time to distribute this survey.

Karen Flanigan moved to not agree with mailing the survey. The motion was seconded by Lynn Goossen and passed unanimously by voice vote (no “nay” votes.).

7. Agency Reports

Kelly Stewart reported that KDA is considering a \$20 per water right charge for anyone choosing to use the paper version of the WUR. This was not received well by the board of directors. He also stated they are going through over-pump settlement conferences. Most of those are not within GMD 4. Those that did not file a 2017 WUR are suspended as of August 17th until the WUR is submitted. Those orders have been sent and if they violate those order, the fine is \$1000 per day pumped capped at \$10,000 and a 5 year suspension. Feedlot and municipalities that over-pumped have not been given reductions for next year.

Steven Walters reported that the Townsend WCA is being crafted and those that have had acres in CRP need to get their LEMA acres finalized.

Armondo Zarco informed the board of the Governor's Water Conference coming up. He also stated that the next KWA meeting is December 18th and 19th in Wichita. Tracy Streeter's retirement is December 14th and Earl Lewis will be interim director. There was a news release for anyone interested in Water Technology Farms. Anybody interested should contact Armando.

8. OPEN SESSION-Public Questions/Comments:

Discussion was had about David Brenn's presentation on the Kansas Water Congress. The board of directors were not interested in rejoining at this time.


9. Scheduling Future Meetings:

A board meeting was scheduled for December 6th @ 1:30 pm.

10. ADJOURNMENT

With no other business and no objections, Karen Flanigan moved to adjourn the meeting. The motion was seconded by Mitchell Baalman and passed unanimously by voice vote (no "nay" votes).

Respectfully submitted:



Lynn Goossen, Acting Secretary