

Minutes: _____ Northwest Kansas Groundwater Management District 4 February 17, 2010 Board Meeting

1. OPEN MEETING, ATTENDANCE AND AGENDA

The February board meeting was opened at 10:10 A.M. CST, February 17, 2010 in the Elks Lodge, Hoxie, KS by President Scott Maurath.

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

Lon Frahm	Scott Maurath	Roger Zwegardt
Shane Mann	Mitch Baalman	Dave Rietcheck
Brent Rogers	Monty Biggs	Doug David
Jeff Deeds		

Board Members absent were: Jon Friesen

Others present for some or all of the meeting were: Wayne Bossert, Ray Luhman, Rita Wade – GMD 4 staff; Scott Ross – DWR and Jeff Mason – GMD 4 Attorney.

President called for any additions, corrections or deletions from the published agenda. Staff indicated there were two agenda additions: Under agenda item 5. New Business: d. Approve 2009 audit report; and e. GMDA support of Nebraska NRD lawsuit against FSA.

2. CONSENT AGENDA

Jeff Deeds moved for approval of the consent agenda including: 1) the January 14, 2010 minutes as presented; and 2) receipt of the January, 2010 financial reports including the January, 2010 expenditures totaling \$31,509.73. Shane Mann seconded the motion which passed unanimously.

3. MANAGER'S REPORT

Manager briefly covered the items already stated in the board packet and stood for any questions. Mitch Baalman asked where we were with the proposed new GMD 4 regulation KAR 5-24-12? Staff responded that it has been submitted to DWR, and DWR staff have proposed specific language which the board reviewed last meeting. At that time the board asked that the proposed regulation be held up until one more look could be given to it. Staff had not yet contacted DWR staff about this decision. Manager noted that this needed to be done and indicated that it would be taken care of.

4. UNFINISHED BUSINESS: None

5. NEW BUSINESS

d. Approve 2009 Audit Report: *Following review of the audit report provided by Adams, Brown, Beran & Ball Shane Mann moved to accept the report. Mitch Baalman seconded the motion which passed unanimously.*

a. AWEP Discussions/Questions: Manager indicated that this agenda item was included in case there were policy issues regarding the developing AWEP application that came up during the HPA discussions. There being none so far, this agenda item is for AWEP questions only. Staff covered once again the concepts of the developing program as has been discussed by the board previously. There were no additional policy issues offered by the board.

b. Legislation Discussions: Staff covered the status of 4 legislative items:

1) SB 510: A new law creating a new beneficial use type called “conservation use” is now in the Legislature but is rapidly being worked – meaning the version we have now is not likely to stay this way for long – especially following its hearing in the Senate today. Staff covered the issues of the bill and handed out the testimony all 5 GMDs jointly provided in the absence of board discussions and direction. The board gave staff no alternative direction on this bill and the issues within it.

2) HB 2565: This bill was introduced by Representative Powell and makes nonuse of water a due and sufficient cause in areas of the state that are closed to new appropriations as long as the well is properly maintained. Like all the other water legislation in the stew at this time it is a moving target. It was learned yesterday that it was placed into a gutted bill (House substitute for SB 316) and is expected to have some balloon language amended into it that addresses the issues of closed areas and lawfully maintaining the well. Staff passed out copies of the testimony provided on this bill (also provided with no board discussion or direction due to timing). The board gave staff no alternative direction on this bill and the issues within it.

3) Senator Morris’ Impairment Bill (not yet numbered): Staff covered language of a new bill introduced by Senator Morris dealing with impairment complaints. The bill amends the chief engineer’s authority to promulgate rules and regulations by specifically authorizing him or her to do regulations regarding impairment complaints. The first version of this bill authorized the chief engineer to recover costs incurred by any impairment investigation under certain situations, but this language has been pulled. The current version deals only with non-domestic impairment complaints made by a groundwater right owner. If within a GMD, it requires the GMD to conduct a meeting between the parties to try and resolve the complaint before it becomes a formal complaint. If not resolved it goes on the chief engineer as a formal complaint or ceases to exist if the complainant does not participate in the GMD resolution meeting(s). Senator Morris indicates he’ll discuss issues further with the GMDs and other stakeholders but that a bill will be introduced next week. Staff indicated the pros and cons of the current bill language. The board gave staff no alternative direction on this bill and the issues within it.

4) Draft Language for a GMD bill regarding a new, Multi-year Conservation Term Permit: As an alternative to the conservation program (WRCP replacement effort) being proposed by DWR under the authority being proposed by SB 510, the GMDs are interested in offering water right owners an alternative conservation program that addresses all the issues we feel are important to a successful program(also requiring the passage of SB 510) – certainty in the nature and extent of the water right when it comes out of conservation use; available only in closed areas where conservation is most appropriate; a limited and controlled time period a water right can be in a conservation use program; restrictions on the ability of a conservation use water right to call for administration of junior rights; and being fee funded as a fiscal issue to insure its continuation. The board agreed to these issues and by consensus gave staff the nod to continue working for the alternative program.

e. GMDA Support for Nebraska NRD lawsuit against FSA: Staff reported that at the Charleston, SC GMDA conference the GMDA board decided to poll all the district members about pledges toward a \$10,000.00 cost to file an amicus brief in the case. Should the voluntary pledges not reach this amount, no action would be taken by GMDA. As such, GMD 4 needs to re-consider a financial contribution (in the form of a monetary pledge) toward this lawsuit. The pledge would not be contributing toward the NRD’s cost of the lawsuit directly, but toward GMDA entering the lawsuit in support of the NRD. ***Following discussion, Shane Mann moved that GMD 4 not pledge any money toward the amicus brief process, but continue to support the lawsuit as approved***

during the January 14, 2010 board decision. Brent Rogers seconded the motion which passed unanimously.

[The February 17, 2010 board meeting was temporarily adjourned at 12:00 P.M. for lunch and the conduct of the 35th annual meeting.]

[The February 17, 2010 board meeting was re-convened at 2:00 P.M.]

c. Election of Board Officers: President Maurath opened the floor to nominations for board president for the upcoming year. *Mitch Baalman moved that all current officers be elected for another year. Lon Frahm seconded the motion which passed unanimously.*

6. DWR REPORT

None.

7. OPEN SESSION - PUBLIC QUESTIONS/COMMENTS

None.

8. SET NEXT MEETING DATE AND CONSIDER FUTURE AGENDA ITEMS

The full year board meeting schedule was set as follows: February 17; March 4; April 8; May 6; June 3; July 1; August 12; September 2; November 4 and December 16.

9. ADJOURNMENT

With no other business and no objections, President Maurath declared the February 17, 2010 board meeting adjourned at 2:10 P.M., CST, February 17, 2010.

Respectfully submitted:

Jeff Deeds, Secretary