

MEETING MINUTES  
MIDDLE PARK WATER CONSERVANCY DISTRICT  
April 11, 2018 Board of Directors Meeting  
Kremmling Town Hall; Kremmling, CO

Directors present:

Jack Buchheister - President  
Sean Flanagan – Vice President  
Jim Lenzotti - Secretary  
Richard Doucette - Treasurer  
Mike Eytel  
Gary Bumgarner  
Tom Long

Others present:

Summit County Commissioner Karn Stiegelmeier  
MPWCD Engineer Kristina Wynne  
MPWCD Attorney Stan Cazier  
MPWCD Attorney Kent Whitmer  
MPWCD Associate Attorney Andrew Moore  
DWR/Water Commissioner Neil Misbach  
DWR/Water Commissioner Bill Thompson  
DWR/Water Commissioner Sue Ayre  
Grand County Commissioner Kristen Manguso  
Manager of 440-808, LLC Tama Funk  
Deanna and Doug Zook

The meeting was called to order at approximately 1:00 p.m. by Vice President Sean Flanagan. The Board generally followed the agenda, and the following topics and resolutions

were discussed and passed, as the case may be, during the meeting (a copy of the agenda is attached):

- Dick Doucette moved to nominate, vote for, and elect new officers.
  - Jack Buchheister for President, Sean Flanagan for Vice President, Jim Lenzotti for Secretary, and Richard Doucette for Treasurer.
  - The motion was seconded by Mike Eytel. All officers were voted for and were unanimously approved. The motion carried unanimously.
- Jim Lenzotti moved and Richard Doucette seconded to approve the Minutes from the January 10, 2018 meeting. Gary Bumgarner abstained because he hadn't been appointed at that time. Motion was unanimously approved.
- Kent provided the following portions of the attorney report:
  - Many items have been covered in correspondence to the Board (attorney client privilege) and are not repeated in these Minutes.
  - Housekeeping items
    - Future report will be detailed since the Board appreciated the detail due to the amount of time in between meetings.
    - Kent will not repeat everything in the detailed report at each meeting but will instead only highlight important items, provide updates and present action items to the Board.
  - Windy Gap Firing Approval Application, and Participation in Bypass
    - Northern and River District are asking for comments from opposers to be included in a proposed decree. These comments will then be incorporated into the proposed decree. Northern will continue to work with the opposers, with the hope of eventually getting everyone on-board with the proposed decree. At the most recent status conference, Northern said it is making progress but is not quite there yet. Another status conference is set for May 22<sup>nd</sup>.
  - Learning By Doing (“LBD”)
    - LBD is an unincorporated association of people and entities. To carry out its mission, it needs to have a legal entity as a vehicle thru which to operate. To this end, LBD wants to form LBD, Inc., which will be controlled exclusively by the management committee of LBD via a memorandum of understanding. The Board discussed Kent’s authority to approve LBD’s articles of incorporation and memorandum of understanding (“MOU”) between the anticipated LBD, Inc. and LBD the association.
    - Financials
      - Gary Bumgarner asked about the financial obligations Middle Park owed LBD. Jack said that sending an attorney was a cost, but no additional money had been contributed to the cause. Kent said there is an obligation to contribute resources to LBD’s mission per the Colorado River Cooperative Agreement and associated

intergovernmental agreement where Middle Park is a signatory. However, other than sending personnel to the meetings to participate, no money has been committed yet by Middle Park.

- Gary Bumgarner moved and Richard Doucette seconded a motion to give Kent authority to act on the formation of LBD's legal entity, and to approve the final form of the Articles and MOU. Motion was unanimously approved. Kent shall send final Articles of Incorporation and MOU to the Board upon finalization.
- Colorado River Cooperative Agreement Permanency Meetings
  - Kent requested approval to execute Amendment No. 3 to the Common Interest and Cost Sharing Agreement on behalf of MPWCD.
  - Sean Flanagan moved and Jim Lenzotti seconded the motion to approve Kent's authority to execute the amendment. The motion carried unanimously.
- Stan Cazier joined the meeting.
- Board Direction re: Staff Attendance at Various Water Meetings
  - Kent asked the Board for guidance on his attendance at various water meetings.
  - LBD Meetings
    - Mike Eytel and Kristina Wynne will attend LBD meetings. Kent's attendance is unnecessary. Mike Eytel said there are no current problems with his attendance at LBD meetings on behalf of MPWCD and he agrees to share any conflicts with MPWCD, if any arise. Mike Eytel will have the authority to vote on behalf of MPWCD at the management committee meetings whenever Kent is not present at these meetings.
    - Without formal action, the Board agreed that Kent shall not attend LBD meetings, unless necessary, but shall monitor its activities by continuing to review meeting materials sent out to members. There were no objections from the Board.
  - Wild and Scenic Meetings
    - Jack Buchheister moved to approve Kristina Wynne and Mike Eytel as MPWCD's alternative representatives who shall vote on behalf of MPWCD, when Kent is not present at these meetings. The motion carried unanimously.
    - Kent shall continue to read the meeting minutes and stay updated on the meetings, but Kent shall not attend future meetings, unless necessary. Kristina shall provide the Board with a bullet summary of these meetings.
  - Kent will continue to attend other water meetings.
- Diligence—Ranch Creek and Fraser Valley
  - There are two projects. One is owned by Middle Park, and the other is subject to an MOU between MPWCD, River District, and Grand County.

Both are up for diligence in 2019. A strategy session for the diligence application will be held in the near future among Stan, Kent, the water attorney for Grand County, and counsel and engineers for the River District. No meeting has been set, but one will happen in the future.

- Middle Park can utilize Sunset Ridge HOA pond with Fraser Valley water rights pursuant to agreement. MPWCD attempted to use this year but couldn't. Engineers will continue to work on.
- Mike Eytel said the River District will discuss this issue at its next meeting.
- Laserfiche
  - Laserfiche will be taken from Stan's computer and placed on server in Kent's office on or around April 16th and moving forward.
- New Meeting Approach
  - Board shall review the board packet on their own and the Board will not be updated on every item. Board shall bring questions on items not discussed to the next meeting.
- Banking Issues
  - Approval of Switching to Citywide Bank from US Bank
    - Board discussed whether the amount of transactions the District does justifies switching banks. Kent said the primary reason for the desire to switch banks was based on the ability to do on-line deposits and to be able to check on distributions from the county treasurers and other bank account information in real time. Citywide is user friendly and the best online product according to Kent. The Board will save by not having to physically take deposits to the bank or have to write all checks.
    - Kent confirmed that he and Tina Whitmer shopped around for a proper bank to satisfy MPWCD's operations.
    - Mike Eytel moved and Richard Doucette seconded motion to approve banking with Citywide Banks rather than US Bank for only the operating account. Motion carried unanimously. Other funds like CD's and CSafe money will remain with their current depositories.
  - Credit Card Payments
    - Kent said there are around 130 users / contractees, mostly individuals and small users with \$300-\$400 payments, which justify credit card payments.
    - Costs are placed on customers if they decide to use this service and MPWCD does not incur costs in these transactions.
    - Gary Bumgarner moved and Jim Lenzotti seconded motion for MPWCD to accept credit card payments. Motion carried unanimously.
- Establishment of New Water Rates

- With the exception of the application charge for new contracts, the proposed water rates were established according to the terms and conditions of the water contracts and the costs associated with acquiring water from the River District.
  - With respect to the application charge for new contracts, Kent recommended increasing that charge from \$400 to \$750.
  - Sean Flanagan moved and Jim Lenzotti seconded motion to approve new water rates and \$750 new contract application fee. The motion carried unanimously.
  - A copy of the new water rates is attached to the Minutes.
- Spring Request for Wolford Mountain Water
  - Kristina Wynne estimated that the District would need, at the most, to order 500 acre feet of water from the River District, which is about double the amount that is actually expected to be utilized.
  - The budget line item for this water (\$15,000) allows for the purchase of 428 acre feet at \$35 per acre feet, however, if 500 acre feet is purchased there are available funds to cover the shortfall in other areas of the budget for such a contingency.
  - Gary Bumgarner moved and Sean Flanagan seconded motion to approve and pay for 500 acre feet of water for next year. The motion carried unanimously.
- Policy on Non-Payment
  - Yes, there is a policy in the bylaws and in the contracts, as well as for reinstatement.
- Wolford Mountain / Windy Gap Contract Requests and Issues (most applications were in board packet)
  - Zook
    - Zooks own land with irrigation water rights, but not domestic or outdoor landscape irrigation water rights. Zooks applied for augmentation plan to obtain desired water rights.
    - Mike Eytel moved and Tom Long seconded motion to approve Zooks' contract in standard form for domestic water use and outdoor landscape irrigation. Jim Lenzotti voted against the Zooks' request. The motion carried.
  - Polacsek
    - Request for 0.2 acre feet on advice of Stan. Kent approved this because less than 1 acre foot for domestic use, which Kent can approve unilaterally. Richard Doucette moved and Gary Bumgarner seconded ratification of Kent's decision to approve the 0.2 acre feet of water request. The motion carried unanimously.
  - DiBello
    - DiBello has not been paying bills.
    - Stan has sent numerous letters to DiBello advising that his contract will be terminated if payment is not received. Further, Kent's legal

assistant, Cindy Cappello, pulled a newspaper notice stating that DiBello is being foreclosed, so there will probably not be a water bill payment.

- Kent suggests board take action to consider contract termination.
- Richard Doucette said there are procedures MPWCD must follow to terminate contracts.
- Richard Doucette moved, and Gary Bumgarner seconded motion to terminate the DiBello contract for nonpayment. Jack Buchheister abstained from voting because he recommended DiBello contract with MPWCD. The motion carried unanimously.
- Harrington
  - Request for short term lease of water every year and it was granted in the past.
  - Jim Lenzotti moved and Richard Doucette seconded motion to approve short term water lease. Motion carried unanimously.
- 440-808
  - Frosty Acres lot requesting 1/10 of an acre foot of water.
  - Kent has not administratively approved of this request, however, this is typically approved.
  - Tama Funk said the property was recently purchased and that the well situation is messed up and that they are trying to fix this.
  - Mike Eytel moved and Tom Long seconded approval of ratification of the water request. The motion carried unanimously.
- James Johnson (not in Board packet)
  - Request for 0.5 acre feet of water for augmentation for 2018 irrigation season.
  - Richard Doucette moved and Jim Lenzotti seconded motion to approve of the ratification of this request. Motion carried unanimously.
- Kent shall provide the entire Board with matrix for contracts with how much water is available for future contracts and where the water comes from and the fees.
- After discussion, the July 2018 Meeting was rescheduled to Monday July 9<sup>th</sup> at the Kremmling Town Hall at 1:00pm.
  - Regular Board meetings shall be kept for the remainder of the year.
- Agenda Items After Creation of the Board Packet
  - NISP Program – Northern Integrated Supply Project
    - Northern Conservation District plans to build reservoir on East Slope and capture native Poudre River Water. Northern wants to use allotted contract water from Big Thompson project (20,000 acre feet) for initial fill. In a recent conference call that Kent participated in, the River District quizzed Eric Wilkinson, Northern’s Manager, on what assurances the West Slope has that NISP would not result in additional trans-basin diversions. Wilkinson provided satisfactory assurance that this would not happen. Northern is willing to consider signing an agreement that

memorializes the West Slope's understanding of how NISP will work, in reality, and that it will not be harmful to their interests.

- State of the River Meetings
  - May 2<sup>nd</sup> in Summit County at 6pm at Silverthorne Pavilion in Silverthorne, CO.
  - May 3<sup>rd</sup> 5:30 pm at Inn at Silvercreek in Granby, CO.
- Windy Gap Pumping Status
  - Bureau of Reclamation says that as much as 12,000 acre feet may be available to be pumped from Windy Gap into Lake Granby. However, recent snow storms may have changed this estimate. Northern hopes to pump, but not pump and then spill. This all depends on the weather that will occur over the next couple of months.
- The engineers have been working with the Division Engineer.
- Kristina Wynne provided the following portions of the engineer's report (See Report in Board Packet):
  - Kristina shall stay in touch with Mike Sayler and he can help as needed.
  - Updated basin hydrology from yesterday: Denver Water 84%; Green Mountain 41-42%; Granby under 80% full; Snowpack 80% Upper Colorado as of Thursday and things are looking better but still warm; South Platte 93% of median as of yesterday.
  - Senior Shoshone call that has been on the Colorado River since mid-October came off on 4.10.18.
  - Instream flow call below Windy Gap was released March 15, 2018, so no releases are presently being made with no calls relative to Middle Park uses.
  - Northern may be pumping again but not sure.
  - Wolford will be drawn down mid-July for maintenance, but that won't affect Middle Park's allocation at all; the River District will drop the water level 10-14 feet in order to remove insoles on dam face.
  - Water was released from Wolford to satisfy the main-stem call until 4.10.18.
  - Tried to release Sunset Ridge Pond water to satisfy this winter's instream flow call at Windy Gap, but it didn't work because the outlet was frozen. We worked with Grand County Water and Sanitation District and reached an agreement for 2.5 acre feet to be released at \$600 per acre foot - same price in past. Total \$2,520 for that water. Bill Steinmiller, Sunset Ridge HOA President, has no ideas on how to resolve this problem. Instream flow calls are becoming more and more prevalent. Jack Buchheister says next Board meeting needs to better understand ramifications of being unable to release MPWCD water from Sunset Ridge Ponds because it is a strategically located water right and freezing needs to be avoided and part of Fraser Valley Project.
  - Kent and Kristina Wynne shall put together a summary of this situation. Jim Lenzotti wants pictures.
  - New Accounting Forms to Customers

- Kyle Whitaker from the Division came to the last meeting and wants Middle Park to track monthly and then to get better handle on monthly releases required for use. MPWCD requests information from customers when MPWCD submits bills in July.
- Kristina says she has drafted the content of the form and the responses will be returned to Kent's office and then Kent can send the information to Kristina's firm, so that they can process the information. Neil Misbach offered to send letters too since they have the power to require responses.
- Jack Buchheister said that no budget supplemental is needed or required.
- The Board decided to move forward with a new accounting form and cover letter. This has *high priority* to be done by Kristina.
  - Windy Gap firming – nothing to discuss here
  - Wild and Scenic
    - Kent and Kristina will update MPWCD on Wild and Scenic Meetings with a summary.
  - Learning by Doing
    - Kristina attends technical committee meetings.
    - Fraser flats ceremony will be held on May 16 at 4pm. There is an LBD meeting that day as well.
  - Green Mountain Reservoir Users
    - Kristina will talk with Mike Sayler on this.
- Review and Approval of Financial Report
  - The format for the Financial Report has changed. There will be a quarterly actual vs. budget report, along with a year to date vs. actual report presented. This is still a work-in-process and will be refined as we move forward.
  - Counsel expense and engineering expense are over expended per budget
    - Easily explained with new law firm.
    - Engineering is a timing issue, as the budget is yearly in nature and there is more work to do early in the year.
  - Construction item is an excess money account and not for a specific project.
  - The Board and Stan discussed TABOR and Gallagher's effects on MPWCD's finances.
  - Tom Long moved and Gary Bumgarner seconded motion to approve financial report. The motion carried unanimously. (A copy of the Financial Report is attached to the Minutes).
- No Other Business
- Meeting adjourned at 3pm.



Jack Buchheister, President