

MEETING MINUTES
REGULAR MEETING
BOARD OF DIRECTORS
MIDDLE PARK WATER CONSERVANCY DISTRICT
Kremmling Town Hall

Zoom Video Conference Option:

<https://us02web.zoom.us/j/87072691726?pwd=Y1VDSXF0COGI5SnZ3OVVBbU1qRHhpUT09>

To Join by Phone, Dial (719) 359-4580
Meeting ID 870 7269 1726, Passcode 798408

April 12, 2023, 1:00 p.m.

Directors:

Jack Buchheister – President
Sean Flanigan – Vice President (present by Zoom)
Jim Lenzotti – Secretary
Stan Cazier – Treasurer
Mike Eytel
Gary Bumgarner
Tom Long (not present)

Others Present:

MPWCD Water Resources Consultant & Hydrologist Kristina Wynne
MPWCD Attorney Kent Whitmer
MPWCD Attorney Katie Randall
Neal Misbach, Division 5 Water Commissioner (present by Zoom)
Sue Avre, Division 5 Water Commissioner (present by Zoom)

Jack Buchheister called the meeting to order. 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):

1. CALL TO ORDER

A. Approval of March 1, 2023 Minutes

- **A motion was made by Gary Bumgarner, seconded by Mike Eytel, that the minutes be approved as presented. Motion carried unanimously.**

2. BOARD ADMINISTRATION

A. Remaining 2023 Meeting Dates (May 31, July 12, September 13, and October 11).

- The Board decided that the May 31 meeting will be by Zoom only.
- Proposed date for Budget & Long-Term Planning Workshop: September 13

B. Officer Elections

- President: Jack Buchheister
- Vice-President: Sean Flanigan
- Secretary: Jim Lenzotti
- Treasurer: Stan Cazier

Gary Bumgarner moved to elect all Officers to their current positions as listed above, Mike Eytel seconds. Motion carries unanimously.

3. REPORTS

A. Financial/Banking:

- Included in the meeting materials were the following financial reports: Profit & Loss Budget vs. Actual (January 1, 2023 through March 31, 2023), Balance Sheet (March 31, 2023), Check Register (January 1, 2023 through March 31, 2023), and Accounts Receivable Aging Summary (March 31, 2023). Stan Cazier provided a summary of the reports and invited questions from the other Directors. For this time of year, the finances appear to be in order. **Following discussion, Gary Bumgarner moved to approve the financial reports including check register, seconded by Jim Lenzotti. Motion carried unanimously.**
- **Acceptance of 2022 Audit:** The 2022 audited financial statements were included in the meeting materials and were discussed. **Jim Lenzotti made a motion to accept the 2022 audit, seconded by Mike Eytel. Motion carried unanimously.**

B. **Attorney:** The Attorney's Report and Action Items Status List were included in the Board packet materials. Kent Whitmer provided an update on the Green Mountain Reservoir appeal; briefing is still underway. The U.S. Attorney's appellate division has drafted a joint response brief for appellees. Kent has reviewed the draft brief and is comfortable with its contents. When the brief is finalized, it will be circulated to the Board for review. **Following discussion, Stan Cazier made a motion to authorize Kent Whitmer to approve the joint response brief on behalf of the District. Motion was seconded by Gary Bumgarner and carried unanimously.** Kent had no other news to report beyond what was included in the attorney's letter and what will be covered elsewhere in the Agenda. He invited questions and discussion from the Board.

C. **BBA Report:** Kristina Wynne presented the following updates since the BBA Report was provided:

- Basin Hydrology: the hydrology update has not changed since the report. Snow is melting quickly, and increased flows at Dotsero have allowed the ShOP to be lifted. Based on conversations with Northern, it is possible that

Granby may spill this summer, in which case Windy Gap water would not be available to MPWCD contractees. BBA will continue to monitor the situation.

- HUP/Slot Group: Kristina has a call scheduled with Division Engineer James Heath to discuss this issue in more detail. Kristina has been in communication with Don Meyer at the River District regarding analysis that was completed several years ago. Don proposed that he, Kristina, and James have a meeting in the next few weeks to discuss the analysis that was already completed, and whether that analysis could be helpful in the present Slot Group inquiry. Board discussion followed.
- Troublesome Project: Kristina reported that the updated yield analysis for the Troublesome Project water rights will fit within the 2023 budget for BBA. Work will begin on this update soon.

4. ESTABLISHMENT OF 2024 WATER SERVICE AND USE FEES

- Kent Whitmer discussed the suggested rates that will be established for 2024, which are in line with the 5% yearly increase provided under the District's contracts. The River District's O&M charges are increasing this year, from \$35 to \$41.25 per acre-foot. Kent also discussed the increased frequency of requests for short-term water contracts. The approval process is more formal and time-intensive due to changes in administration by the Division Engineers, and these requests take more time for MPWCD Staff to process than in the past. MPWCD Staff recommends that the Board institute an application fee to cover District's expenses associated with processing these requests. First-time approval takes longer than renewal of previously-approved requests; accordingly, Staff recommends a tiered fee structure for short-term contract applications. Following discussion, the Board decided to charge a \$750 application for first-time requests for short-term contracts, and \$375 for subsequent renewal requests. **Gary Bumgarner moved to approve the 2024 Water Service and Use Fees as amended, seconded by Sean Flanigan. Motion carries unanimously.** The new rates will go into effect for the bills sent out in July 2023 for water provided in 2024.

5. WOLFORD MOUNTAIN REQUEST AND PAYMENT CRWCD

- Kristina Wynne explained that last year MPWCD ordered 560 acre-feet of water from Wolford Mountain Reservoir, which was double the estimated depletions plus the additional release obligations that were contemplated under the operation of the East Troublesome SWSP. For 2024, if MPWCD were to double the expected depletions it would need 530 acre-feet. No additional water is needed for SWSP releases, as operation of that plan has been discontinued. The Board discussed the available options and considerations that affect the amount of water to order, including budgetary considerations and the possibility of Granby spilling. **Following discussion, Gary Bumgarner made a motion to authorize MPWCD Staff to order up to 530 acre-feet of water from Wolford Mountain Reservoir or a lesser amount in Staff's discretion if Granby is not projected to spill, and to**

authorize MPWCD Staff to make payment to the River District for the amount of water ultimately ordered. Motion was seconded by Jim Lenzotti and carried unanimously.

6. CONTRACTS / REQUESTS

A. Ratification of Van Stelle Short-Term Supply Request *

- The Board discussed Van Stelle's request for a short-term contract in the amount of 0.5 acre-feet, to be provided from Wolford or Windy Gap supplies. The request was administratively approved by MPWCD Staff in keeping with the District's Bylaws. **Following discussion, Sean Flanigan made a motion to ratify approval of this request, seconded by Jim Lenzotti. Motion carries unanimously.**

7. LONG TERM PLANNING:

- A. **Ron Jones:** Kent Whitmer provided an update of recent conversations with Mr. Jones regarding potential collaboration in operation of ponds located on his property in Tabernash. Mr. Jones has requested certain assurances and terms to be in place before he commits to spend money on a feasibility study. The specific terms and assurances were discussed. Following discussion, the Board directed MPWCD Staff to contact Mr. Jones, and inform him that MPWCD is willing to move forward with a feasibility study, with costs split 50/50 between Mr. Jones and the District up to a maximum expenditure of \$10,000 for MPWCD. If for any reason construction of the ponds does not move forward, the District is under no obligation to meet any further conditions proposed by Mr. Jones. No credit will be extended to Mr. Jones for engineering work already completed on the property. Regardless of the outcome of the feasibility study, there would be no obligation for either party to move forward with construction of the ponds as contemplated. **A motion approving this direction to Staff was made by Mike Eytel, seconded by Gary Bumgarner, and carried unanimously.**
- B. **Sunset Ridge Pond:** The Board then discussed the status of improvements to the Sunset Ridge Pond. The Board directed MPWCD Staff to continue to monitor these improvements and bring any issues to the Board. Kristina Wynne will touch base with Russell Knight to ensure that the pond is filled during free river conditions, and to confirm that SRPOA does not have plans to draw down the pond in connection with these proposed improvements.
- C. There was no further discussion regarding the remaining long-term planning topics included in the agenda.

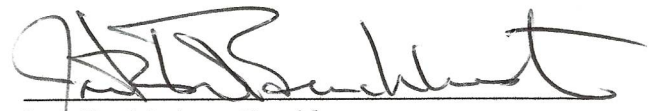
8. DILIGENCE APPLICATIONS

A. Troublesome Project – 17CW3136 Due November 2023

- The Board expressed its intention to enter into executive session pursuant to C.R.S. §24-6-402(4)(e) to discuss recent conversations with Circle C Ranch regarding the Troublesome Project rights. Kent Whitmer is the attorney providing legal advice, and stated his opinion that the advice given is subject to the attorney-client privilege. As such, no electronic recording will be taken during this executive session. **A motion was made by Gary Bumgarner, seconded by Sean Flanigan, to enter into executive session pursuant to C.R.S. §24-6-402(4)(e) to discuss recent conversations with Circle C Ranch regarding the Troublesome Project rights. Motion carried unanimously.**
- **Stan Cazier made a motion to exit executive session, seconded by Gary Bumgarner. Motion carried unanimously.**
- **Following the executive session, Jim Lenzotti made a motion to authorize MPWCD Staff to move forward with deal negotiations with Circle C Ranch, seconded by Mike Eytel. Motion carried unanimously.** Gary Bumgarner will provide an update of non-privileged information to the East Fork Mutual Irrigation Company at its meeting on Saturday.

9. OTHER BUSINESS: None.

10. ADJOURNMENT: There being no other business before the Board, the meeting was adjourned. The next meeting will take place on May 31 via Zoom videoconference.



Jack Buchheister, President

Attorney's Opinion Required by C.R.S. § 24-6-402(2)(d.5)(II)(B): I, Kent Whitmer, as attorney for Middle Park Water Conservancy District, am of the opinion that the entire discussion in the executive session at the regular meeting of the Board of Directors on April 12, 2023, constituted a privileged attorney-client communication. As such, the executive session was not electronically recorded. The executive session was convened to discuss recent conversations with Circle C Ranch regarding the Troublesome Project rights, as authorized by C.R.S. § 24-6-402(4)(e).



Kent Whitmer

NOTICE OF MEETING AND AGENDA
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 - i. Proposed date for Budget & Long-Term Planning Workshop: September 13
- B. Officer Elections *

 - i. President
 - ii. Vice-President
 - iii. Secretary
 - iv. Treasurer

3. REPORTS

- A. Financial/Banking
 - i. Profit & Loss Budget vs. Actual (1/1/23 through 3/31/23)
 - ii. Balance Sheet (3/31/23)
 - iii. Check Register (1/1/23 through 3/31/23)
 - iv. Accounts Receivable Aging Summary (3/31/23)
 - v. Approve Financials *

* Denotes an action item.

- vi. Acceptance of 2022 Audit *
- B. Attorney
- i. Attorney's Report
 - ii. Action Items Status List
 - iii. Additions since Attorney's Report or Action Items Status List
- C. Hydrologist
- i. BBA Report
 - ii. Additions since BBA Report
4. ESTABLISHMENT OF 2024 WATER SERVICE AND USE FEES *
5. WOLFORD MOUNTAIN REQUEST AND PAYMENT CRWCD *
6. CONTRACTS / REQUESTS
- A. Ratification of Van Stelle Short-Term Supply Request *
7. LONG TERM PLANNING
- A. Ron Jones *
 - B. Sunset Ridge Pond
 - C. Global Augmentation Plan (Placeholder)
 - D. Purchase / Long-Term Lease of GCWSD#1 Augmentation Pond Water (Placeholder)
 - E. Expansion and Participation in GCWSD Reservoir (Placeholder)
 - F. Pole Creek Meadows (Placeholder)
 - G. Grand County Mutual Reservoir and Ditch Company (Placeholder)

* Denotes an action item.

- H. Little King Reservoir (Placeholder)
- I. Bunte Highline (Placeholder)
- J. Funding Sources for Water Rights Development (Placeholder)
- K. Open Discussion and Direction to Staff

8. DILIGENCE APPLICATIONS

- A. Troublesome Project – 17CW3136 Due November 2023 *
Executive session to discuss recent conversations with Circle C Ranch regarding the Troublesome Project rights. The executive session is authorized pursuant to C.R.S. §24-6-402(4)(e)

9. OTHER BUSINESS

10. ADJOURNMENT