

MEETING MINUTES
REGULAR MEETING
BOARD OF DIRECTORS
MIDDLE PARK WATER CONSERVANCY DISTRICT

By Zoom Video Conference:

<https://us02web.zoom.us/j/88219350794?pwd=REFOSHR0QmJaa0VTdDdSVVM2c2xKQT09>

To Join by Phone, Dial (719) 359-4580
Meeting ID 882 1935 0794, Passcode 067425

October 11, 2023, 1:00 p.m.

Directors:

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

Others Present:

MPWCD Water Resources Consultant & Hydrologist Kristina Wynne
MPWCD Attorney Kent Whitmer
MPWCD Attorney Katie Randall
MPWCD Attorney Clay Culbreath
Timothy Ritschard, Division 5 Water Commissioner
Katie Nicholls, Columbine Lake Water District
Allison Ulmer, Columbine Lake Water District
Jennifer DiLalla, Columbine Lake Water District
Ron Jones

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 September 13, 2023 Minutes

- **A motion was made by Stan Cazier and seconded by Sean Flanigan that the minutes be approved as presented. Motion carried unanimously.**

2. BOARD ADMINISTRATION

A. Proposed 2024 Meeting Dates

- i. Discussion regarding in-person vs. virtual meetings for 2024
- The proposed schedule of regular meetings of the Board of Directors of Middle Park Water Conservancy District for 2024 is as follows: 1:00 PM on January 10, March 6, April 10, May 29, July 10, September 11, and October 9. **Sean Flanigan made a motion to approve the 2024 meeting dates as presented, seconded by Tom Long. Motion carried unanimously.** The Board then determined that the January meeting will be held via Zoom only, and the March meeting will be in person with a Zoom option available.

B. Board Appointments:

- i. Jack Buchheister and Tom Long's terms ending January 2024
- The terms for two Board seats are set to end in January 2024: District No. 1 (Grand County) and District No. 5 (Summit County). Notice will be published and applications received for the new terms as required by statute.

3. CONTRACTS / REQUESTS

A. Request to approve Three Lakes Water & Sanitation District Assumption of Columbine Lake Water District Water Contracts

- Katie Nicholls, Jennifer DiLalla, and Allison Ulmer attended the meeting on behalf of Columbine Lake Water District (CLWD). Kent Whitmer provided a brief summary of the request: CLWD currently holds two Windy Gap water contracts with MPWCD. CLWD is contemplating dissolving and being absorbed by the Three Lakes Water & Sanitation District and has asked for Board approval to transfer its MPWCD water contracts to Three Lakes as part of this dissolution process. In the course of discussions between MPWCD and CLWD, it became apparent that there is a discrepancy between the amount that CLWD believes it has been contracted, and the amount that MPWCD records reflect for these two contracts. Further research will be necessary to resolve this discrepancy. To avoid unnecessary delays while this discrepancy is sorted, Kent suggested that the Board could approve CLWD's request contingent on determination and agreement by counsel for CLWD and MPWCD about the actual amount that has been contracted. Stan Cazier noted that he previously represented CLWD and would abstain from voting on this matter. Board discussion followed, and Jennifer DiLalla (counsel for CLWD) fielded questions. Kristina Wynne noted that BBA has worked with CLWD for many years, and Kristina fielded questions as well. **Following discussion, a motion was made by Tom Long and seconded by Mike Eytel to approve Columbine Lake Water District's request to transfer and assign its MPWCD water contracts to Three Lakes Water & Sanitation District in connection with the proposed dissolution of Columbine Lake Water District. The motion is made contingent upon counsel for MPWCD and Columbine Lake Water District reaching an**

agreement as to the specific amount of the contracts to be assigned, and upon approval by counsel for MPWCD as to the form of the assignment agreement. The Board further clarified that no precedent will be created by this approval. Additional Board discussion followed. **Motion carried, with Stan Cazier abstaining.** The representatives for CLWD left the meeting at this time.

B. Contract Extension Requests: Watts, Hill Industries, Spurlin

- Kent Whitmer explained that these three contract requests were previously approved by the Board at the January and March 2023 meetings. These contractees are still making their way through Water Court and have requested an extension of their contract approval for another nine months. Additional details about the extension requests are included in the meeting materials. **Stan Cazier made a motion to approve the contract extension requests for Watts, Hill Industries, and Spurlin. Motion was seconded by Jim Lenzotti and carried unanimously.**

4. REPORTS

A. **Financial/Banking:**

- Included in the meeting materials were the following financial reports: Profit & Loss Budget vs. Actual (January 1, 2023 through September 28, 2023), Balance Sheet (September 30, 2023), Check Register (January 1, 2023 through September 28, 2023), and Accounts Receivable Aging Summary (September 28, 2023). There is nothing unusual of note in the Check Register or Accounts Receivable Aging Summary. Kent invited questions from the Board. **Following discussion, Jim Lenzotti moved to approve the financial reports including check register, seconded by Tom Long. Motion carried unanimously.**
- Authorization of Kent Whitmer for Bank Account Transfers: Kent, Katie and Jack provided the background to this request and the need to streamline procedures to allow staff to handle some of the banking transactions of the District. Board discussion followed. **A motion was made by Tom Long, seconded by Sean Flanigan, to allow Kent Whitmer to process banking transactions on behalf of MPWCD, up to \$250,000 with prior written consent in the form of an email from either the President or Treasurer or both.** Stan Cazier noted that the necessary insurance changes to implement these procedural changes have already been reviewed and approved by Stan and Jack, and are in the process of being finalized. **Motion carried unanimously.**

B. **Budget:**

- The Board reviewed and discussed the proposed budget for 2024. Katie Randall reported that notice of the budget has been published and a copy of

the proposed budget has been available for public inspection at Kremmling Town Hall; no public comments have been received. **Stan Cazier made a motion to approve the proposed 2024 budget as included in the meeting materials. The motion was seconded by Tom Long and carried unanimously.** Next, the budget resolutions were reviewed and discussed. **Tom Long moved to approve the Resolution to Adopt Budget, the Resolution Designating Excess to General Reserve, the Resolution to Set Mill Levies, and the Resolution to Appropriate Sums of Money. Motion was seconded by Sean Flanigan and carried unanimously.**

- C. **Attorney:** The Attorney's Report and Action Items Status List were included in the meeting materials. 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. The Board discussed the oral arguments in the Green Mountain Reservoir appeal that took place before the Supreme Court on September 20.
- D. **BBA Report:** Kristina Wynne presented the following updates since the BBA Report was provided:
- Basin Hydrology: Kristina reported that not much has changed since the memo that was included in the meeting materials. The Cameo call is still on; releases are being made out of Wolford Mountain Reservoir. The three-month outlook issued by NOAA now shows equal chances of above and below average temperatures and precipitation, so it's anyone's guess what the next three months have in store. The Windy Gap ISF right is not currently calling even though flows are below 90 c.f.s. The Board discussed available options for MPWCD operations should the ISF call come on, and potential impacts of the Windy Gap Connectivity Channel coming on line.
 - Kristina also reported that MPWCD staff is going to try to plan this year's annual meeting with the Division Engineer in December to go through accounting and talk through questions.

5. LONG TERM PLANNING

- A. Ron Jones: Kent Whitmer provided a summary of the feasibility report and estimate of probable cost that were submitted by WaterVation and included in the meeting materials. Kristina Wynne provided additional details about the feasibility of the proposed work and whether it would be viable to line the ponds and use them as sources of augmentation supply. There is nothing in the WaterVation report that would suggest that these ponds could not be lined and used for augmentation purposes. The Board evaluated the various storage volume options presented in the WaterVation report and cost estimates associated with these options. Kent noted the following matters for Board consideration: first, the cost per acre-foot is dependent on the amount of storage ultimately constructed. MPWCD would need to secure external funding and set potential contract rates for this project to be viable.

Furthermore, MPWCD does not currently have staff dedicated to operate the ponds if they are improved and used as sources of augmentation supply. Kristina noted that this project will also likely incur Water Court costs to secure a decree to use the new ponds as proposed. Ron Jones then provided his input on the WaterVation report and cost estimate, and noted discrepancies in the report that will need to be addressed and clarified. Mr. Jones clarified his intentions and goals for this project: to not dry the ponds entirely so as to keep wet water in the ponds for his family, and to aid the community by meeting a demonstrated need. After reading the report, Mr. Jones is on board with moving forward with the project. Board discussion about staffing and budgetary considerations ensued. After discussion, the Board directed MPWCD staff to move this project forward; Kristina was asked to clarify some of the numbers in the WaterVation report and Kent and Katie were asked to investigate next steps for potential Water Court action and researching funding sources. MPWCD staff will look into these issues and will report back to the Board. Mr. Jones left the meeting at this time.

- B. Sunset Ridge Pond: Kent provided an update on SRPOA and MPWCD's efforts to secure funding for the improvements to the pond. MPWCD's application to the Windy Gap Environmental Fund was denied. MPWCD and SRPOA are in communication with Fund representatives to learn more about why the application was denied and to potentially improve chances of approval for future applications. Russ Knight from SRPOA is working to submit an application to the River District to fund this project.
- C. Colorado River Compact Monitoring: Katie included a report from the River District Annual Seminar in the meeting materials. Kent reaffirmed that he and Katie will reach out to Summit and Grand County Commissioners and River District representatives to re-establish relationships.
- D. Global Augmentation Plan (Placeholder)
- E. Purchase / Long-Term Lease of GCWSD#1 Augmentation Pond Water (Placeholder)
- F. Expansion and Participation in GCWSD Reservoir (Placeholder)
- G. Pole Creek Meadows (Placeholder): Kristina has continued conversations with Jeff Clark in her office about the status of this project. There may be a chance that the parties will have excess water available in the Reservoir beyond what is needed in their augmentation plans. If this is the case, the parties could be open to holding discussions with MPWCD about potential deals of mutual benefit. Questions remain about the work and associated costs that would be required to repair leaks in the dam.
- H. Grand County Mutual Ditch and Reservoir Company (Placeholder)

- I. Little King Reservoir (Placeholder)
- J. Bunte Highline (Placeholder)
- K. Funding Sources for Water Rights Development (Placeholder)
- L. Open Discussion and Direction to Staff: Stan Cazier noted that UCRC Commissioner Becky Mitchell is now the chair of the IBCC, taking over the role from Dan Gibbs. Stan also reported that a summit of all Colorado Roundtables will be held in November.

6. DILIGENCE APPLICATIONS

- A. Troublesome Project – 17CW3136 Due November 2023: Kent reported that Kristina is finishing up her analysis that will be included as part of the diligence application due in November. With regard to Circle C, Kent has been in communication with their attorneys and engineers following the meeting with irrigators this summer. Kent hopes to have a substantive update at the January meeting. **Following discussion, Stan Cazier made a motion authorizing MPWCD staff to file a diligence application to maintain the conditional Troublesome Project water rights. Motion was seconded by Mike Eytel and carried unanimously.**

7. OTHER BUSINESS

- A. Colorado River Water Users Association – 2023 Conference in Las Vegas:
 - Stan Cazier explained MPWCD’s historic practices regarding compensation for the MPWCD attorney to attend this conference. Typically travel expenses were reimbursed but Stan would not bill his time to attend. Kent Whitmer expressed his understanding of the value of attending this meeting, but also noted the opportunity cost of being asked to attend a meeting without being able to bill for it. Kent proposed a compromise; perhaps the Board would be willing to pre-approve a certain amount that could be billed each day, or a prorated billing rate for time spent attending the meeting. Board discussion ensued. Following discussion, the Board directed Kent to send a specific proposal of reasonable compensation for Board comment and approval.
- B. Document Retention:
 - Kent explained that his firm first looked into the issue of a document retention policy a year and a half ago, and really couldn’t come to any comfortable conclusion about the best practice for management of the District’s old paper files. In the last year, the Colorado General Assembly passed legislation that has clarified best practices in this regard. Included in the meeting materials is a memorandum summarizing this recent legislation and recommendations for next steps for the District. All of MPWCD’s paper records have been digitized, and are currently housed in Laserfiche format. The paper files are still stored in

a storage unit rented by the District. The State Archives will store MPWCD's records if they are converted from Laserfiche to PDF format; MPWCD will have exclusive access to the records and confidentiality will be maintained. With the blessing of the State Archives, once the files are converted and transferred, MPWCD could shred the paper records and close out the storage unit. The Laserfiche database will be maintained separately on the Whitmer Law Firm premises, and the State Archives database will be periodically updated as new documents are generated. The Board asked questions about the proposed document retention practices. Following discussion, the Board directed MPWCD Staff to move this initiative forward: secure pricing and details about the conversion and transfer process, and outline specific next steps for the District. MPWCD Staff will report to the Board at the January meeting.

8. **ADJOURNMENT:** There being no other business before the Board, the meeting was adjourned. The next meeting will take place on January 10, 2024 by Zoom.

A handwritten signature in blue ink, appearing to read "Jack Buchheister", written over a horizontal line.

Jack Buchheister, President