

**Mt. Nebo Water Agency Meeting  
May 16, 2016**

**Board Members:** Chairman Warren Peterson, Vice Chairman Gene Shawcroft, Marty Larsen (alternate), Soren Christensen (alternate), Gary Ellertson, Mike Mendenhall.

**Board Alternates:**

**Technical Committee:** Chris Hansen

**Staff:** S. Junior Baker, Shelley Hendrickson, Steve Clyde, Marcus Faust (via telephone)

**Public present:** Jeremy Sorensen, David Hathaway, Keith Broadhead, Richard Nielson, Darrick Whipple, Bruce Ward, Brent Ventura, Wayne Pullan, Tyler Coon, Norm Beaguey, Bonnie Roos, Davd Tuckett.

Warren Peterson called the meeting to order at 7:35 a.m.

**Public Comment Period**

Warren Peterson invited public comment. There was none.

**Board Action on Adoption of Minutes**

**November 16, 2016**

Marty Larsen **moved** to **approve** the minutes of November 16, 2016 with changes noted in an earlier email from S. Junior Baker. Gene Shawcroft **seconded** and the motion **passed** with all in favor.

**February 22, 2016**

Gene Shawcroft **moved** to **table** the minutes of February 22, 2016. Soren Christensen **seconded** and the motion **passed** with all in favor.

**Technical Committee Report – Chris Hansen & Action on Technical Committee Report On Regional Water Study**

**a. Regional Water Study Report on Progress into Phase II**

Chris Hansen reported that the Technical Committee had been very busy since the last board meeting. He handed out a new cost break down sheet for the regional water study. He said that they had talked to a

few more entities and also found some more literature that would be beneficial to incorporate into phase one of the regional water study. The information has been added but is not quite ready for the Board to review. Richard Nielson and Brent Ventura reported that they had met with the Juab County Board of Commissioners and had received a mixed reception from them. Some of the commissioners feel it is a good idea to be part of the Mt. Nebo Water Agency others are a little more hesitant and wondered membership would benefit Juab County.

Chris Hansen explained the cost break down for phase two of the regional water study. He said that the Agency does not yet have a signed commitment or contract from potential participants in the study. He suggested that the Board would need to enter a memorandum of understanding from entities wanting to participate in phase two of the regional water study and at what level. The Committee suggested a multi-tiered level for participation that has to do with how the entity will benefit from the study and what they have already contributed to the study. He recommended that the Board approve the cost break down subject to solidifying the participation of the entities. He said that he knew that Goshen Town was going to write a letter to the Board asking to become a member of the agency and participate in phase two. Chris Hansen also recommended that the Board authorize additional work from Horrocks Engineering incorporate some more information that the Technical Committee has gathered into the phase one study report.

*\*Mayor Moore arrived at 7:44 a.m.*

Chris Hansen continued in asking the Board how they want to move forward on the scope of work for phase two of the regional water study; whether we negotiate a contract with Horrocks Engineers or put it out to an RFP. He said the Technical Committee's recommendation is for phase two to be put out to RFP. He said that when the Technical Committee evaluated the phase one RFP's they based the analysis solely on the work that needed to be done for phase one. He acknowledged that Horrocks has done amazing good job on phase one of the study. He said that the scope of phase two is so much larger that it would be wise to go to an RFP process.

Larry Ellertson asked about timing on phase one. Chris Hansen said that there were a few little documents to wrap up and his recommendation is to direct Horrocks Engineering to review final paperwork and have a report ready for the Board's June meeting.

Gene Shawcroft asked if the phase one project is within budget. Junior Baker said it was and a discussion was held regarding invoices relative to the work that has been completed, what has been paid, and what work has yet to be billed. Brent Ventura said that Horrocks would stay within the budget.

Soren Christensen asked if the Board had an understanding of Horrocks involvement on phase two. Chris Hansen said that it was very clear in the RFP from phase one that selection of a consultant for phase one could lead to negotiations for phase two. But it also said the Board reserved the right to advertise for an RFP on phase two if they so desired.

Warren Peterson said that there was no motion passed in the last Board meeting giving phase two to Horrocks Engineers. The discussion was whether it had to go out to an RFP or if it could be by direct negotiation.

Gene Shawcroft asked that as we move forward with phase two of the regional water study as the Agency's first project that the participants set up a specific participation agreement. Junior said that he anticipated a participation agreement.

Marty Larsen asked if it would be good to get a commitment, in writing, from each entity by June.

Warren Peterson said that the Board would need a project agreement because of the significant expenditure of funds and the fact that there will be participants inside and outside of the Agency. He said it would be helpful to have a proposed form of agreement by the Board's June meeting. Junior said that he could not have a project agreement ready, but that we ought to have a commitment of who is going to participate so that we can have a draft agreement, and then fine tune it as needed.

Chris Hansen said that the phase two study cost estimate is still fluctuating depending on who decides to opt in or out of the project and whether a project is negotiated with Horrocks or goes out to an RFP.

Warren Peterson said that we should move ahead, knowing interlocal agreements take time, but strongly recommended to the Board that they have a draft project agreement ready for the June 20<sup>th</sup> meeting.

*\*Mike Mendenhall arrived at 7:56 a.m.*

Gene Shawcroft said that he felt the Board could expedite the process by obtaining a letter of commitment from each of the participants suggesting to them that they participate to the level identified in the proposed regional water phase two cost allocation and then the project agreement could be put together rather quickly.

Warren Peterson said that he was not proposing that the draft agreement be reviewed by all of the participants by the June meeting. He was suggesting that a draft template be sent to the participants after initial review by the Agency Board members.

Discussion was held regarding the entities committing to participate with a letter of interest or intent, how the cost allocation schedule was set up (scope of work, infrastructure, water rights, & planning documents, etc.).

Gene Shawcroft asked about the Spanish Fork River water companies and districts and asked whether they have chosen to participate. Chris Hansen said that they had met with the river companies a couple of times but there were some hurt feelings from the past and they are concerned about representation. They feel that they should have a seat on the Board for every company.

Soren Christensen reported that the river companies had met last week and that Chris Thompson made a presentation on behalf of the Mt. Nebo Board.

Warren Peterson asked how the Technical Committee came up with the concept of the participation tiers for the proposed regional water study cost allocation. Chris Hansen said that they took an original breakdown of the member agencies and then included the other entities that they thought might come in and then looked at the anticipated benefit to each one. Some have high costs with their participation because of lack of prior studies, growth capacity, the level at which the entity was willing to participate, size of the community, and ability to pay.

Tyler Coon said that there are some entities that they have talked to that want to be in but do not want to pay anything. The Technical Committee feels that everyone should contribute financially at some level.

Gene Shawcroft suggested changing the regional water study budget amount from \$280,000 to \$300,000.

Discussion was held regarding the anticipated participation level for Utah County .

Warren Peterson noted a number of issues from the Board's discussion. First, Agency legal counsel was asked to have a tentative project agreement template for the Board to review in June. Second, that the report from the Technical Committee and the consultant on phase one be available for the June meeting. Third, a proposed RFP for phase two be prepared for the June meeting. Fourth, that the proposed project budget change from \$280,000 to \$300,000. Five, ask the Technical Committee to contact each entity that is proposing to be part of the study and get a letter of interest from them in advance of the next meeting.

Gene Shawcroft said that he felt the cost allocate for phase 2 should be set by the Board.

Warren Peterson proposed that each entity come back to the June board meeting in June to commit to the number on the sheet or give advance notice and information on why that number should be different.

It was determined that the letters of interest from project participants should be submitted to Chris Hansen.

Gene Shawcroft **moved** to direct the Technical Committee to finish the report on phase one of the regional water study and have it ready for the June meeting. Rick Moore **seconded** and the motion, which **passed** with all in favor.

Gene Shawcroft **moved** to direct the Technical Committee to prepare a request for proposals that would be available for interested firms to move forward with preparation of our phase 2 study of the regional water supply. Soren Christensen **seconded** and the motion, which **passed** with all in favor.

Gene Shawcroft **moved** to request letters of interest from project participants by the June board meeting, in the amounts that are in the percentage shown in the spreadsheet with a total project cost being \$300,000 and also direct the Technical Committee and legal counsel to prepare a draft project participation agreement for the Board's review prior to the June meeting. Warren Peterson commented to the motion that the \$300,000 is simply the budget amount given to the Technical Committee. This motion would not constitute approval of that amount. Gene Shawcroft confirmed that the amount stated was only a budget

amount. Warren Peterson had a second comment to the motion with regard to the preparation of the tentative agreement. He proposed that rather than the Technical Committee taking the lead on the agreement that the legal counsel have the lead with the support of the Technical Committee. Marty Larsen **seconded** and the motion **passed** with all in favor.

### **Action on Technical Committee Report on Regional Water Study**

Included in discussion above.

### **BOR Title Transfer Policy – Wayne Pullan, Provo Office, Bureau of Reclamation**

Wayne Pullan explained Reclamation policies on title transfer. He indicated that Reclamation will facilitate title transfer proposals that meet the published policy guidelines.

Discussion was held regarding the Strawberry Valley Project title transfer proposal and the Provo River Project Transfer Act.

### **BOR Grant Opportunity – Wayne Pullan, Provo Office, Bureau of Reclamation**

Mr. Pullan said that up to \$350,000 in grant money is available for regional water projects through the Provo office for qualified recipients and encouraged Mt. Nebo to apply. He said the local BOR office will help the Agency complete an application that meets all of the criteria to help ensure funding. He said the program calls for a 50/50 cost share. Applications are due on the 22<sup>nd</sup> of June.

### **Action on BOR Grant Application**

- **Ratification of Letter of Interest**
- **Authorization to Proceed with Application**

Larry Ellertson **moved to ratify** the letter of interest submitted by the Board chair for BOR grant funding. Soren Christensen **seconded** and the motion **passed** with all in favor.

Marty Larsen **moved to approve** the preparation and submission of the grant application. Mike Mendenhall **seconded** and the motion **passed** with all in favor.

### **Surface Water to Ground Water Transfers in South Utah County – Randy Brailsford**

Soren Christensen said that Randy Brailsford was unable to attend the meeting and would like this item tabled until June. Soren Christensen **moved to table** this item until June. Larry Ellertson **seconded** and the motion **passed** with all in favor.

### **Action on Surface to Ground Water Transfers**

No further discussion or action was taken.

### 2017 Tentative Budget – Junior Baker

Junior handed out a copy of the tentative budget and explained the budget.

Marcus Faust said that he had contributed the services he provided during the current budget year, so there would be no billings for his services.

Discussion was held regarding the proposed tentative budget.

<i>FY 2017 Administrative Budget (tentative)</i>	
<i>Expenses</i>	
<i>Clerk</i>	<i>\$1,200.00</i>
<i>Washington Counsel</i>	<i>\$6,000.00</i>
<i>Administrative Fee to Spanish Fork</i>	<i>\$ 75.00</i>
<i>Mail Box</i>	<i>\$ 140.00</i>
<i>Meals and Entertainment</i>	<i>\$1,000.00</i>
<i>Publication Expenses for Public Hearings</i>	<i>\$ 50.00</i>
<i>Reserve</i>	<i>\$ 0.00</i>
<i>Total</i>	<i>\$8,465.00</i>
 <i>Revenues</i>	
<i>Member Assessments</i>	<i>\$8,465.00</i>
<i>(If divided equally, \$1,209.29 each)</i>	

Soren Christensen **moved to adopt** the tentative budget. Rick Moore **seconded** and the motion **passed** with all in favor.

Junior handed out the FY 2017 Tentative Project Budget and discussion was held regarding the budget.

<i>Project #1 – Regional Water Study Phase 1</i>	
<i>Expenses</i>	
<i>Regional Water Study</i>	<i>\$5,000.00</i>
<i>Washington Counsel</i>	<i>\$3,000.00</i>
 <i>Total</i>	 <i>\$8,000.00</i>
 <i>Revenues</i>	
<i>Member Assessments</i>	<i>\$8,000.00</i>

(\$1,142.86 each)

*Project #2 – Regional Water Study Phase 2*

*Expenses*

<i>Regional Water Study Phase 2</i>	<i>\$200,000.00</i>
<i>Washington Counsel</i>	<i>\$ 6,000.00</i>

<i>Total</i>	<i>\$206,000.00</i>
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*(If all participate \$29,428.57)*

*(If 6 participate \$34,333.33)*

*(If 5 participate \$41,200.00)*

Gene Shawcroft **moved** to **approve** the tentative budget as presented, but with \$10,000 allocated for the Regional Water Study. Soren Christensen **seconded** and the motion **passed** all in favor.

Soren **moved** to **approve** the tentative budget for phase 2 of the regional water study project in the amount of \$209,000. Mike Mendenhall **seconded** and the motion **passed** with all in favor.

Gene Shawcroft **moved** to set a public hearing on the tentative budget as well as the project budgets for the Agency's June meeting. Rick Moore **seconded** and the motion **passed** with all in favor.

**Public Outreach Committee Report – Randy Brailsford**

**Discussion on Adding New Members – Warren Peterson and Junior Baker**

- **Santaquin City**
- **Strawberry Water Users Association**
- **Spanish Fork River Companies**
- **Others**

Warren Peterson said that Chris Thompson organized and conducted a meeting with representatives of the Spanish Fork River Water Users. He reported that he and Junior Baker also attended the meeting. He said it was mostly a question and answer period with a strong appeal from Chris Thompson that those water users become engaged with the Agency with the intent was that the representatives report back to their respective boards. Chris Hansen reported that the Technical Committee attended a follow up meeting with representatives from the same group of water users. Chris Hansen said that he felt the consensus was the same as the first meeting. He said that there is a lot of hard feelings and sentiment going around but he felt there was a lot of positive discussion about how it would be more effective working together than working against each other.

Warren Peterson said that he failed to note that Strawberry Water Users Association was also represented at the meeting at the fairgrounds and asked if they participated in the meeting with the Technical Committee. Chris Hansen said that they were represented.

Warren Peterson said that the Agency had received a letter from Santaquin City requesting membership. He asked Junior Baker if the Agency had received a letter from Strawberry Water Users Association. Junior said that he did not have a letter but had talked to Jeremy Sorenson, the SWUA General Manager. Their board has taken formal action asking to be a member. Jeremy indicated that a letter had been mailed to the Agency over three weeks ago.

Warren Peterson said that the question of how a private entity, such as Strawberry Water Users or High Line Canal Company, participates in the Agency. The answer is the same way that the High Line Canal Company does which is through one of the public agencies in effect sponsoring that by an agreement on the board representations appointed. Unless the Board has different instructions he said they would use the same formula should Strawberry Water or the Spanish Fork group or some portion of them joined the Agency. He said group because the question is out there whether each company should be a member or the Coalition is the member. That is a separate non-profit agency that could serve as a member.

Marty Larsen asked the Technical Committee that when they met the second time with the river companies they had a concern about wanting three votes or three members or more and asked if Chris Hansen could explain what he felt their intent was. Chris Hansen said that he was not sure. It was a question posed to him without any background. It was a question that was neither answered nor rejected. He just told them that if they want to become part of the Agency that they would need to send a letter to the Board and go from there.

Warren Peterson said that the same question came up at the meeting at the Fairgrounds and that he was very blunt and said it is the old error of curse "may you swiftly be granted every wish of your heart." Be careful what you are asking for because there would be separate membership assessment. There would be expectation that there would be a representation on the Board. So, there is more than just the asking to be involved in membership in the Agency and that would be expected of any member. It is currently expected of any member of the Agency.

Marty Larsen asked what the purpose is of adding new members because he feels that when a group is large and with more voices it is hard to get things accomplished on a Board, yet he recognizes the need to be inclusive.

Warren Peterson said that you can participate in a number of ways with the Agency. First, as the Agency members do now which is a full membership in the Agency, with full representation on the Board, and all the obligations that go with that. The second would be to participate in specific projects. We have contemplated in phase two of the regional water study that there would be participants that are not Agency



members, but in that project or any other project there can be an agreement to participate. A third level would be as many people do now. People and the agencies they represent simply participate in the Board meetings as a member of the public because opportunity is always given there and it creates a forum where discussion can occur. A fourth level is, to participate in committees established by the Agency Board to pull in people from the affected communities. He recommended that we be very generous in that inclusion so that we have that true opportunity for engagement of all stakeholders.

Discussion was held regarding the processes of adding new Agency members, changing the Agency boundaries, and approving additional members.

Warren Peterson proposed that the Board create a three member Board committee to work with legal counsel to come back to a proposal for the Board as to how we go about adding new members and what the structure of the Agency after those new members are added.

Rick Moore **moved** to create a three member committee of the Board with representation from municipalities, irrigators, and regional water agencies to recommend guidelines for adding members to the Agency, with the committee to be made of Board members representing High Line, Central Utah, and Payson. Discussion was held regarding the motion. The motion was amended to allow the Board chairman to appoint a replacement for a committee member, if needed. Larry Ellertson **seconded** and the motion **passed** with all in favor.

### **Discussion on Creating an Irrigator's Committee – Warren Peterson**

Warren Peterson said the Board may want to form an irrigator's committee.

Junior Baker expressed that he felt that was a good idea as there are other irrigation companies that use streams within the Agency boundary.

Warren Peterson said that there was discussion at the meeting with the irrigation companies on water dedication to the cities and the problems presented by Art. XI, Section 6 of the Utah Constitution. He said that once a water right is transferred to a city or town, it can only be traded for a source of supply of equal value. He said cities will often create a metropolitan water district to help facilitate the transfers and raised the question with the Board whether this was a function by which the Mt. Nebo Water Agency could be of assistance to cities that are members of the Agency.

### **Meeting Schedule**

- **Next Meeting: June 20, 2016**

### **Other Business**

Discussion was held regarding staggering the terms of board members. Junior Baker said that he would look at the bylaws and report on this at the next meeting.

Larry Ellertson **moved** to adjourn. Rick Moore **seconded** and the motion **passed** with all in favor at 9:56 a.m.