

TRUCKEE MEADOWS WATER AUTHORITY  
**DRAFT** MINUTES OF THE DECEMBER 16, 2015  
MEETING OF THE BOARD OF DIRECTORS

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The Board of Directors met on Wednesday, December 16, 2015, at Sparks Council Chambers, 745 4<sup>th</sup> Street, Sparks, Nevada. Chair Martini called the meeting to order at 8:31 a.m.

1. ROLL CALL

**Members Present:** Jenny Brekhus, Naomi Duerr, Vaughn Hartung, Jeanne Herman\*, Geno Martini, and Ron Smith.

**Member Absent:** Neoma Jardon

A quorum was present.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Jack Byrom, TMWA Supervising Project Manager.

3. PUBLIC COMMENT

There was no public comment.

4. APPROVAL OF THE AGENDA

Member Duerr requested agenda item 9, discussion on the TMWA Board of Directors Rules and Regulations, to be moved to the next meeting.

**Upon motion by Member Duerr, second by Member Smith, which motion duly carried by unanimous consent of the members present, the Board approved the agenda with the amendment to move agenda item 9 to the next meeting.**

5. APPROVAL OF THE NOVEMBER 18, 2015 MINUTES

**Upon motion by Member Smith, second by Member Duerr, which motion duly carried four to one with Member Hartung abstaining, the Board approved the November 18, 2015 minutes.**

*Chair Martini recessed the Board for a closed door legal counsel session at 8:34 a.m.*

*Chair Martini reconvened the Board at 8:58 a.m.*

6. DISCUSSION AND ACTION ON POSSIBLE SETTLEMENT OF DONNER LAKE LITIGATION AND CERTAIN TROA RELATED LITIGATION AND PURCHASE OF TRUCKEE CARSON IRRIGATION DISTRICT'S INTEREST IN THE DONNER LAKE WATER RIGHT AND DONNER LAKE FACILITIES FOR A PURCHASE PRICE OF UP TO \$17,445,000, AND REQUEST FOR BOARD APPROVAL TO AUTHORIZE THE GENERAL MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT FOR SUCH PURCHASE AND DOCUMENTS NECESSARY TO EFFECTUATE SETTLEMENT

Michael Pagni, TMWA Legal Counsel, explained the possible settlement of several pending litigation matters includes a potential approval of purchase sale agreement for Truckee-Carson Irrigation District's (TCID) 50% common tenant interest to certain Donner Lake assets. Mr. Pagni stressed that the proposed settlement terms are a product of many years of effort of both parties. Mr. Pagni also noted that under the Truckee River Operating Agreement (TROA) TMWA is obligated to use its best efforts to acquire TCID's interest in Donner Lake, and to use such assets for drought storage and development of new municipal water supplies. Currently, TMWA owns half of the Donner Lake dam, reservoir and storage water rights, and TCID owns the other half of Donner Lake Assets. The relationship between the two entities has not been without its issues, and has recently led to litigation. For the purposes of satisfying the agreement, TCID has agreed to drop their litigation related to Donner Lake and to drop all of their litigation challenges to the implementation of TROA, and to also convince other parties who are part of the TROA cases to do so as well. He acknowledged members of the TCID Board were in attendance at the TMWA meeting and thanked them for their efforts in facilitating this proposal, and indicated TCID will hold a Board meeting later today to consider this agreement and will bring it to their electors for approval in January.

Member Hartung commended staff for their hard work in achieving this agreement and sees it as an enormous asset to TMWA and the community. Member Duerr agreed.

*Public Comment*

Kathy Brandhorst, Reno resident, provided public comment on the Donner Lake purchase agreement.

Mark Foree, TMWA General Manager, recognized key members who assisted in finalizing the agreement: John Erwin, legal staff, TCID manager Rusty Jardine and TCID Board President Ernie Schank. Mr. Foree stressed this settlement is important for TMWA and the community we serve as it adds another important resource to our water supply portfolio, including additional upstream storage which enhances our drought supplies and provides a critical resource to TMWA's ability to increase our upstream storage.

Chair Martini expressed his gratitude for Mr. Jardine and Mr. Schank who took appropriate steps in order to finalize the agreement.

**Upon motion by Member Smith, second by Member Hartung, which motion duly carried by unanimous consent of the members present, the Board approved the proposed settlement of Donner Lake litigation and various TROA related litigation with the TCID and the purchase of Truckee Carson Irrigation District's Donner Lake assets of the appraised value of \$17,445,000, less credits for various dam improvements previously performed by TMWA on the terms in the proposed purchase and sale agreement and authorize the General Manager to negotiate and execute a purchase agreement on substantially similar terms and related settlement documents to implement such an agreement for such purchase and execute documents necessary to effectuate settlement**

*\*Member Herman arrived at 9:00 a.m.*

7. DISCUSSION AND ACTION ON THE GOLDEN VALLEY ARTIFICIAL RECHARGE PROGRAM AGREEMENT TO PROVIDE WATER SERVICE UNDER THE FIRM STANDBY PARTIAL REQUIREMENTS RATE SCHEDULE

John Enloe, TMWA Operational Strategies Manager, presented the agreement for the Golden Valley recharge program which changes the tariff of their existing service to a different tariff, Firm Standby Partial Requirements. Mr. Enloe explained that during the merger, TMWA entered into an Interlocal agreement with Washoe County (the County) to continue to provide service to the Golden Valley recharge program that serves over 600 residences by providing recharge water that supports their domestic wells. The proposed modified tariff would be non-interruptible which will ensure continued service during drought conditions. It is a relatively a small service providing approximately 80 acre feet (AF) annually, 50 gallons per minute (gpm), and provides recharge year round for domestic well owners. The county approved this agreement last Tuesday.

Member Brekhus asked if this will be an additional cost to TMWA customers. Mr. Enloe replied no.

Member Brekhus inquired about the hydro basins' vacant land which could eventually be developed; and how water service would be established for these new properties. Mr. Enloe replied applicants for new water service would come in for service from TMWA as is the current process. He further explained one of the provisions in this agreement is the water resources dedicated for service would be held for the benefit of the County. Additionally, a water system may be placed into this area if developed, but maintained that these water resources could be applied towards a future water system for the benefit of the residences.

Member Brekhus asked where the existing TMWA water main is in this hydro basin. Mr. Enloe replied there are facilities in the area – as near as Golden Valley High School and along Golden Valley Road.

Member Brekhus referred to the 2035 Water Resource Plan (WRP), and stressed the need in this region to stop expansion of domestic wells which can aggravate the problem in an area that is somewhat removed from TMWA's service area, stating that nothing prohibits subdivision of larger lots in this area.

Mr. Enloe replied that may happen, but they would have to extend water service from TMWA to service those lots.

Member Brekhus remarked that TMWA is being sensitive in helping these 600 residences, but it is counterproductive if more development is allowed to occur in the area. She elaborated some contingencies should have been made to the County to prevent resource use that is not consistent with TMWA services and stressed that it is the responsibility of this Board to encourage the County not to develop in this particular area nor allow for land splits. She requested someone from the County to speak to the development processes in this area and urged the Board to delay voting on this agreement.

Dwayne Smith, Washoe County Engineering Capital Projects, clarified this agreement converted TMWA's terms of service from an existing interruptible service to a non-interruptible service and did not consider new development. For example, the area just north of the Golden Valley High School will be developed and conditioned to be a TMWA water service customer. The program under consideration is recharge for the existing 600 domestic wells in that area and is a continuation of a very successful program that helps with the groundwater depletion in that basin. Over time, this program is going to see a decrease in the number of domestic wells in the area. As the area is being conditioned, there are going to be water lines placed in the streets, and once this happens, if there is an issue with a well the State requires a domestic well owner to connect to a municipal line rather than drilling a deeper well. Mr. Smith thanked TMWA staff for working with the County to convert the interruptible service to a non-interruptible service and will continue to see opportunities in the future for conversion of domestic wells to a municipal service.

Member Duerr inquired if there was a specific distance from a municipal line requiring a domestic well owner to connect rather than deepen their well. Mr. Smith replied he does not think there is a set number that identifies a minimum distance. Mr. Foree confirmed Mr. Smith is correct; if there is a water main in the street the State Engineer will not let you deepen the well, but there is no set distance.

Member Duerr asked about AB54, which provides grants and loans to citizens to connect to a municipal line whose wells were failing. Mr. Smith replied yes the program still exists and the County took the lead on this program to help residences. Through the merger process, TMWA and the County were successful in identifying a strategy to allow for future customers in the TMWA service territory to continue to apply through the loan process with the County which is then given to TMWA to complete.

Discussion took place regarding the failing wells in the area, new development, the terms of service and the situation being similar to the Mt. Rose Fan area. Concern was expressed regarding the County's parcel map process under existing land-use and the need to enforce prevention policies, and the possibility of a new small private water system. Mr. Smith noted that is a possibility, but this is not the purpose of this program; which is to provide non-interruptible water service, approximately 80 AF/yr to 620 residents, who will pay the County \$22.66 per property per month for this program. The recharge program is a benefit to the aquifer and this was recognized through the merger and research. The County is responsible for the program that will pay for the operation, maintenance and support and in turn will pay TMWA for the water service.

Member Duerr asked Mr. Foree if TMWA has wells in this area. Mr. Foree replied no.

Member Brekhus asked staff to consider potential land use development within this particular hydro basin if more wells are to be created and provide suggested language to the Board to mitigate future problems.

Member Hartung inquired regarding the possibility of drilling a well without owning water rights or obtaining a permit. Mr. Foree replied it is possible to drill a domestic well and pump up to 2 AF/yr and new parcels have to be a minimum of 5 acres in size if on a septic system, but Mr. Enloe added domestic wells would not be allowed if there is a water system available.

Chair Martini asked Member Brekhus if she could clarify her amended motion. Member Brekhus replied she would like to see a parcel based map of all the lot sizes within the Golden Valley area and indicating the possibility of well connections.

Mr. Enloe replied he could produce a map, but if there was potential for new development with their own wells or private water system, how would the Board like to proceed.

Member Brekhus added a request to the County to conduct land use changes to their maps which do not allow for a subdivision unless it is on the TMWA system. Mr. Enloe replied that it would be difficult because this agreement is for water service for a recharge program, not a land use agreement.

Member Brekhus pointed out, for the past year, she has been raising the issue of whether TMWA is just going to be “quality delivered” or expand into preserving the resource sustainably for the region. She stressed her desire to see this addressed in the 2035WRP.

Member Duerr confirmed the State Engineer’s requirements for connecting to a municipal line. She is supportive of helping the residences on the Mt. Rose Fan and helping well owners, but does not want to see a proliferation of the same problem in the future and would like to see it corrected now.

Mr. Enloe reiterated this is a water service agreement and consulted Mr. Pagni to see if there an alternate approach to address Member Brekhus’ request to have the land use entitlement issue addressed. Mr. Pagni replied a decision cannot be made at this meeting because he does not believe the Board has the ability to impose conditions on someone else’s property, but to the extent that kind of approach could be possible, it would be outside of the terms of this agreement. The arrangement would have to come through an ordinance not through an agreement because Member Brekhus is requesting to change to county ordinance and to property rights of third parties that are not present today. It would have to begin with an ordinance that the County is willing to change. Mr. Pagni pointed out it is not a contractual obligation the Board can impose through this agreement.

Chair Martini noted this Board is not a land use body, it is a water body.

Mr. Foree added if the Board did not take action, possibilities for development exist today.

Member Duerr added Member Brekhus is reaching out to the County Commissioners sitting on the TMWA Board who are aware of the challenges they face. She stressed each member has to be willing to go back to their individual body to begin addressing these problems and not just be in a reactive mode.

**Motion by Member Brekhus, second by Member Duerr, to not approve changes to staff’s proposed Golden Valley Artificial Recharge Program Agreement to provide water service under the Firm Standby Partial**

**Requirements Rate Schedule. Motion failed 2 to 4, with Chair Martini, and Members Hartung, Herman and Smith opposed.**

Member Duerr made a second motion.

**A motion was made by Member Duerr to approve staff's recommendation, second by Member Smith, for the Golden Valley Artificial Recharge Program Agreement to provide water service under the Firm Standby Partial Requirements Rate Schedule. Chair Martini called for discussion.**

Member Brekhus stated she does not support the motion. She clarified a point Mr. Foree made regarding the inevitability of development, which she does not believe is accurate because the ability to parcel out any property is based upon the wells capacity which is being improved by this agreement.

Member Hartung supports the need to limit additional wells in the region; he stressed staff and Mr. Smith to consider alternative efforts to stop new wells being drilled. He fully agrees TMWA should be the only entity to drill wells for municipal service. However, the decision before the Board today is providing recharge for which service these customers are already paying.

Member Brekhus accepted Member Hartung's argument, reconsidered stating she now supports the agreement. Chair Martini called for a vote.

**By unanimous consent of the members present, the Board approved the Golden Valley Artificial Recharge Program Agreement to provide water service under the Firm Standby Partial Requirements Rate Schedule.**

8. DISCUSSION AND ACTION ON APPOINTMENT OF TMWA BOARD MEMBER TO THE WESTERN REGIONAL WATER COMMISSION TO FILL THE TERM ENDING ON MARCH 31, 2017 FROM THE FOLLOWING LIST OF ELIGIBLE PERSONS: NEOMA JARDON AND JENNY BREKHUS

Mr. Pagni stated under the Western Regional Water Commission (WRWC) Act, the TMWA Board of Directors can appoint three members from its membership who are not already serving on the WRWC. The vacancy to be filled today must be filled by the TMWA Board member who is also a member of the Reno City Council. For the purposes of today, the Board has two members who are eligible: Member Jardon or Member Brekhus, of which only one can be appointed to the WRWC.

*Public Comment*

Ms. Brandhorst provided comment how people are having difficulty in paying their water bills.

Member Duerr recognized Member Jardon's tenure on the WRWC, but recommended appointing Member Brekhus to the WRWC to represent TMWA.

**Upon motion by Member Duerr, second by Member Smith, which motion duly carried by unanimous consent of the members present, the Board approved the appointment of Member Jenny Brekhus to the Western**

**Regional Water Commission for the remainder of the term ending March 31, 2017.**

10. REPORT REGARDING OMBUDSMAN ACTIVITIES FROM DECEMBER 2014 THROUGH NOVEMBER 2015 AND REQUEST FOR BOARD DIRECTION AND POSSIBLE AUTHORIZATION FOR THE GENERAL MANAGER TO RENEW THE OMBUDSMAN CONTRACT WITH JOANNE STRALLA FOR CALENDAR YEAR 2016

Andy Gebhardt, TMWA Customer Service Manager, provided a brief overview of the contract work performed by Joanne Stralla, TMWA's Ombudsman.

Member Brekhus asked if Ms. Stralla reports to the TMWA Board of Directors or General Manager and if this position was inherited from Sierra Pacific. Mr. Foree replied the Board hires the Ombudsman who then works with staff, but ultimately reports to the Board. Mr. Gebhardt replied that the position was not inherited rather it was recommended by TMWA's Standing Advisory Committee.

Member Duerr has heard Ms. Stralla has done a great job and is very happy TMWA has an ombudsman.

**Upon motion by Member Hartung, second by Member Smith, which motion duly carried by unanimous consent of the members present, the Board accepted the report of Ombudsman activities from December 2014 through November 2015 and authorized the General Manager to renew the Ombudsman Contract with Joanne Stralla for Calendar Year 2016.**

11. DISCUSSION AND ACTION REGARDING REAPPOINTMENTS TO THE STANDING ADVISORY COMMITTEE OF MEMBERS WHOSE TERM EXPIRES DECEMBER 31, 2015 FROM THE FOLLOWING LIST OF CANDIDATES: (1) FRED SCHMIDT, WHOLESALE CUSTOMER REPRESENTATIVE; (2) JONNIE PULLMAN, MULTI-FAMILY RESIDENTIAL CLASS REPRESENTATIVE; (3) RON TURNER, PRIMARY REPRESENTATIVE, RESIDENTIAL CLASS 1; (4) BANN APPOINTMENT: COLIN HAYES, PRIMARY REPRESENTATIVE; (5) BANN APPOINTMENT: JIM SMITH, ALTERNATIVE REPRESENTATIVE; AND (6) RENO-SPARKS CHAMBER APPOINTMENT, BRUCE GESCHIEDER, PRIMARY REPRESENTATIVE

Sonia Folsom, TMWA Standing Advisory Committee Liaison, presented the staff report.

Member Brekhus requested to have additional information such as when the SAC members were first appointed and if there are term limits in the rules. She would like to encourage opportunities for new people to sit on the SAC. She conveyed her respect for the Reno-Sparks Chamber and other public organizations represented on the SAC, but expressed the difficulty she is having with private entities

represented on public boards. She also requested if members' credentials were periodically checked. Ms. Folsom replied yes.

Member Brekhus inquired who has served the longest of those whose terms were expiring. Ms. Folsom replied Ron Turner and Mr. Foree added Mr. Turner has served for about seven years.

Member Brekhus asked if staff advertised for applicants and how long the positions for the Northern Nevada Water Planning Commission (NNWPC) and Consumer Advocacy positions have been vacant. Ms. Folsom replied they receive letters on an ongoing basis and did not advertise this time. The positions for the NNWPC have been vacant in the last year and the positions for the Consumer Advocacy have been vacant for a number of years.

Member Brekhus did not oppose, but would like to consider changing the process appointing members to the SAC during TMWA's Strategic Planning Workshop.

Mr. Pagni confirmed the motion did not include the alternate appointment by the Reno-Sparks Chamber which could be brought back at the next Board meeting. Member Hartung confirmed that is correct.

**Upon motion by Member Hartung, second by Member Herman, which motion duly carried by unanimous consent of the members present, the Board reappointed: (1) Fred Schmidt, Wholesale Customer Representative; (2) Jonnie Pullman, Multi-Family Residential Class Representative; (3) Ron Turner, Primary Representative, Residential Class 1; (4) BANN appointment: Colin Hayes, Primary Representative; (5) BANN appointment: Jim Smith, Alternative Representative; and (5) Reno-Sparks Chamber appointment, Bruce Gescheider, Primary Representative; whose terms otherwise would expire December 31, 2015.**

## 12. DISCUSSION AND ACTION REGARDING MEETING TIMES AND DATES FOR 2016

Mr. Foree stated the standard meeting day and time has been effective and recognizes that the City of Reno Council moved their meeting start times to 12:00 p.m. for 2016 in those instances where their meeting is held on the same day as the TMWA Board meeting.

Member Duerr pointed out the Reno Council agreed to move their meetings in consideration to TMWA Board meetings and requested for potential consideration from the TMWA Board to consider the three meetings that occur on the same day start earlier at 9:00 a.m.

**Upon motion by Member Duerr, second by Member Hartung, which motion duly carried by unanimous consent of the members present, the Board approved the Board meeting dates for 2016 with the changed start time of 9:00 a.m. for the June, July and November meetings.**

## 13. GENERAL MANAGER'S REPORT

Mr. Foree reported that the Comprehensive Audit Financial Report (CAFR) for FY2015 will be presented at the January Board meeting. The delay is due to the extensive work with respect to the utility consolidation and potential material subsequent event of disclosure related to the Donner Lake acquisition. TMWA applied for and extension was granted by the Nevada Department of Taxation. Mr. Foree added TROA operations began on December 1 and as of yesterday 1,243 AF has been captured and stored in upstream reservoirs that could never before have been done at this time of year. The community is already seeing the benefits and if it continues, we will be able to store as much as 14,000 AF this season that we otherwise would not have able to store before TROA. Currently, the snowpack is 120 percent of average for this time of year in the Tahoe Basin and 112 percent of average in the Truckee Basin. Lastly, the past year has been incredible for TMWA: the water consolidation was completed successfully, TMWA was able to sell 2,747 AF of water rights to the Pyramid Lake Paiute Tribe (PLPT) to expedite TROA implementation, TROA has now been implemented and TMWA has agreed to purchase TCID's half of Donner Lake. He congratulated TMWA's management team, attorney's and Board for an outstanding job in accomplishing these things in the last 12 months.

Member Brekhus requested that the Board receive the CAFR as soon as possible. Mr. Foree replied they will send it out as soon as it is ready.

#### 14. PUBLIC COMMENT

Ms. Brandhorst mentioned the continued issue with homelessness in the area.

#### 15. BOARD COMMENTS AND REQUESTS FOR FUTURE AGENDA ITEMS

Member Brekhus requested, once the acquisition of TCID's half of Donner Lake is finalized, to have a discussion about understanding how TROA describes the usage of those water rights and any other policy options associated with those water rights that may be at the Boards' discretion.

Member Brekhus requested to have the State Engineer introduce himself to the Board at the next meeting and clarify how his office operates, his authority, and his working relationship with TMWA.

#### 16. ADJOURNMENT

With no further discussion, Chair Martini adjourned the meeting at 10:07 a.m.

Approved by the TMWA Board of Directors in session on \_\_\_\_\_.

Sonia Folsom, Recording Secretary

***\*Members Herman was present for agenda items 6 thru 16 only.***