

TRUCKEE MEADOWS WATER AUTHORITY
MINUTES OF THE JUNE 17, 2015
MEETING OF THE BOARD OF DIRECTORS

The Board of Directors met on Wednesday, June 17, 2015, at Sparks Council Chambers, 745 4th Street, Sparks, Nevada. Vice Chair Jardon called the meeting to order at 8:32 a.m.

1. ROLL CALL

Members Present: Jenny Brekhus*, Naomi Duerr*, Vaughn Hartung, Jeanne Herman, Neoma Jardon, and Ron Smith.

Member Absent: Geno Martini

A quorum was present.

**Member Duerr arrived at 8:33 a.m.*

**Member Brekhus arrived at 8:34 a.m.*

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Member Smith.

3. PUBLIC COMMENT

Cecilia Vohl explained to the Board what her new business can do for the community. For her full public comment, please see *Attachment A*.

4. APPROVAL OF THE AGENDA

Member Duerr requested action-required agenda items 9, 10, and 11 be heard ahead of any non-action agenda items because there was a conflict with the City of Reno Council meeting that required Reno Council Members to leave by 10:00 a.m.

**Upon motion by Member Brekhus, second by Member Duerr,
which motion duly carried by unanimous consent of the
members present, the Board approved hearing Agenda Items
#9, #10, and #11 after #5.**

5. APPROVAL OF THE MAY 21, 2015 MINUTES

**Upon motion by Member Hartung, second by Member Duerr,
which motion duly carried by unanimous consent of the
members present, the Board approved the May 21, 2015
minutes.**

9. DISCUSSION OF APPROPRIATION AND DIVERSION OF WATER IN NEVADA FOR DOMESTIC WELLS OR MUNICIPAL PURPOSES

John Erwin, TMWA Director of Natural Resources, provided an overview of the staff report. Member Duerr, who requested this agenda item, thanked Mr. Erwin.

Discussion followed regarding infrastructure, as well as the Public Utility Commission of Nevada (PUCN) process for review of any applications for a new water system as well as the process of water applications submitted to the Nevada State Engineer (“NSE”). Monthly, TMWA monitors the NSE applications, to ensure TMWA’s rights and interests in its water rights are protected, and if a potential conflict exists, the applications can be protested. TMWA can also file protest with the PUCN on any filing with the PUCN by a potential water utility for a Certificate of Public Convenience and Necessity. Any action that would significantly impair TMWA’s rights requiring serious legal intervention, staff would escalate to the Board as to what action to consider, the basis of the protests and the issues involved, and a recommended course of action for the Board to consider.

Member Brekhus asked if the land use permitting outside the cities was under the Washoe County Commission (WCC) and she would like to see policies in place that domestic wells are a right under the water permitting, but not a land use entitlement. Mr. Erwin replied yes, the land use permitting is under the WCC.

Member Smith confirmed that subject to State Engineer approval a property owner has the right to drill a well if it does not impact the water level of their neighbors well and TMWA would not typically get involved in the land use approval process, rather it would be the responsibility of the Cities of Sparks and Reno and Washoe County. Mr. Erwin replied that is correct.

Member Smith asked for clarification of the term “Truckee Meadows basin”. Mr. Erwin referred to page four of the staff report and stated the Truckee Meadows basin, also called the Truckee Meadows hydrographic basin, includes the land principally occupied by the cities of Reno and Sparks which is surrounded on all sides by the mountain ranges to the north, south, east and west of Reno and Sparks. It is a hydrographic basin established by the State Engineer.

Upon motion by Member Duerr, second by Member Herman, which motion duly carried by unanimous consent of the members present, the Board accepted the staff report.

10. DISCUSSION AND POSSIBLE ACTION ON PROCESS AND GENERAL MANAGER DELEGATED AUTHORITY REGARDING ANNEXATIONS INTO AUTHORITY RETAIL SERVICE AREA

Mark Foree, TMWA General Manager, provided an overview of TMWA’s service area boundaries under Rule 9, TMWA’s annexation authority under Rule 5, the delegated authority to the General Manager by the TMWA Board in 2001, and the Truckee Meadows Service Area (TMSA) established by the Regional Planning Commission.

Vice Chair Jardon recessed at 8:59 a.m. to facilitate a meeting request of the Western Regional Water Commission.

Vice Chair Jardon reconvened at 9:00 a.m.

Member Brekhus thanked Mr. Foree for the staff report. She stated she does not have an issue with the status quo, but may have questions regarding annexation while she becomes familiar with the process and the area.

Michael Pagni, TMWA Legal Counsel, asked for clarification, prior to a motion, regarding the General Manager's authority since the 1996 service agreement referenced in the existing policy is now obsolete with the merger. Based on Board discussions to maintain the status quo, Mr. Pagni suggested a motion could indicate the General Manager has the authority to approve annexations and maintain annexation agreements for properties located within the TMSA or properties adjoining the TMWA service area. Please see the revised agreement, *Attachment B*.

Upon motion by Member Hartung, second by Member Herman, which motion duly carried by unanimous consent of the members present, the Board approved the General Managers delegated authority to approve annexations and maintain annexation agreements for properties located within the TMSA or adjoining the TMWA service area.

11. DISCUSSION AND POSSIBLE DIRECTION TO STAFF REGARDING PREFERENTIAL RATE TREATMENT FOR OWNERS OF PROPERTIES LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES OR THE NATIONAL HISTORIC LANDMARKS PROGRAM REGISTRY.

Vice Chair Jardon opened public comment.

Dan and Melinda Gustin provided public comment.

The Board engaged in discussion concerning allowing for a subsidy, reduced rate or mitigated program to have the lowest possible rate for water for properties that are National Historic Landmarks, including inquiring as how other states treat such properties.

Member Brekhus requested staff to research how water utilities in other states treat special customer classes.

Mr. Pagni asked for clarification. He stated the request and concerns are not related to reduced water usage, rather the discussion taking place has to do with water rates. He asked for clarification as to whether what staff is being asked to research is whether a property on the National Historic Landmarks list is entitled to pay a different rate than what other residential customers pay. He indicated that as a general rule utilities are prohibited from giving preferential rates between customers in the same class or type of service. He stated in order for a governmental entity to discriminate there is a rational nexus test that can be conducted between the governmental purpose and the discriminatory, or preferential, treatment being asked. He

indicated that based on prior research, he believed there were legal issues with TMWA providing a preferential rate to owners of National Historic Landmarks, given the limited governmental purposes of TMWA were related to developing and managing water resources rather than furthering the preservation of historic properties.

Member Hartung and Member Smith expressed their lack of support for this request.

Member Jardon requested staff research whether other properties have received federal subsidies for similar cases.

Member Smith voiced his concerns regarding the constant requests for staff to do research and conduct analyses that have no impact on TMWA's purpose. Member Duerr agreed that the onus should be put on the Gustin's to do the research, and if anything of substance is discovered they can bring it back for the Board's consideration.

No action was taken.

6. REPORT ON THE RESULT OF THE 2015 LEGISLATIVE ACTIVITIES AND BILLS

Steve Walker, TMWA Lobbyist, provided an overview of the final status of the bills on which TMWA had a position. Mr. Walker reviewed the following bills:

- AB198 – Passed approving for an interim committee study of water supply. Mr. Walker will be attending these meetings and if the Board has any input, he can provide those comments during the meetings;
- AB332 – Passed with two amendments requiring all entities to pay tax on construction materials with the exception for specialty materials for which the organization can request an exemption; and
- AB106 - Passed

Member Brekhus requested a copy of the minutes for AB198. Mr. Walker replied he can provide a summary when they are available.

Mr. Walker expressed his gratitude in working with TMWA staff and the Board.

No action was taken on the report.

Member Jardon asked for Board consideration to defer agenda items #7 and #8 to the next TMWA Board meeting.

Upon motion by Member Smith, second by Member Jardon, which motion duly carried by unanimous consent of the members present, the Board approved to postpone agenda items #7 and #8 to the next meeting and hear the remaining agenda items.

12. GENERAL MANAGER'S REPORT

Mr. Foree provided an update on the water supply to the Board. He explained how the recent rains experienced in the area in May increased river flows and have: allowed staff to avoid running groundwater wells in TMWA's pre-merger service area until June 16, extended aquifer storage and recovery until May 26, and avoided use of any upstream drought reserves to date. He further explained the conjunctive use program TMWA has implemented as a result of the merger. Through this program, TMWA was able to keep 15 former Washoe County and South Truckee Meadows General Improvement District (STMGID) wells offline until early June, a total of approximately five months. This equates to about 1.1 billion gallons, or 3,300 acre feet, of saved groundwater which is approximately the same amount of groundwater injection into the aquifers.

Member Brekhus inquired about the development mentioned in the annexation report. Mr. Erwin replied it is in Spanish Springs, and the annexed area was already approved with the resources dedicated, but its development was most likely delayed due to the economic downturn.

Member Jardon noted the outstanding community response in the request to cut 10 percent which has resulted in 19 percent conservation in May and commended staff on all the customer outreach.

13. PUBLIC COMMENT

There was no public comment.

14. BOARD COMMENTS AND REQUESTS FOR FUTURE AGENDA ITEMS

Member Brekhus requested a report regarding the Vidler Agreement.

15. ADJOURNMENT

With no further discussion, Vice Chair Jardon adjourned the meeting at 9:59 a.m.

Approved by the TMWA Board of Directors in session on Wednesday July 15, 2015.

Respectfully submitted,
Sonia Folsom, Recording Secretary

****Member Brekhus and Member Duerr were present for Agenda Items 2 through 15.***

Hi, my name is Cecilia Vohl, and I am here to inform the board of my new business, The Drought Buster, a professional applicator of Moisture Manager. Our website address is www.thedroughtbuster.com. Our phone number is (775) 376-5970.

I am here just to let Truckee Meadows Water Authority know of this new business and that it will be offered to residents of the Truckee Meadows to help in the conservation of water.

To let you know what this service provides, let me explain the process of how our service of applying the Moisture Manager product will conserve water, save consumers money, and empower people to actually do something about their water consumption, and help people support Truckee Meadows Water Authority conserve our water.

Most of the water that you put on your lawn is lost to evaporation. The Drought Buster will treat people's landscaping and lawns with Moisture Manager, which is a plant-based product that captures moisture vapor before it escapes back into the atmosphere or is drawn down past the root structure, then converts it back to liquid water, passing it on to the plants' roots. The Moisture Manager effect is scientifically proven to reduce the watering requirements of plants up to 50% or more. 50%. That's five-zero.

Moisture Manager biodegrades harmlessly into the soil in about three months, so treatments are done every three months during our watering season, which here in the Truckee Meadows is from April until November.

Moisture Manager treatments will also increase the efficiency of fertilizers and pesticides, reducing runoff and pollution, saves the consumer money in outdoor watering costs, and gives people more control over water waste in a drought situation, like we have here.

I did bring flyers, pamphlets for those who wish to have more information on this new water-saving business. I will be sticking around if anyone has any questions of me. Thank you for listening.

TRUCKEE MEADOWS WATER AUTHORITY
FINAL POLICY REGARDING DELEGATED AUTHORITY
OF GENERAL MANAGER FOR CERTAIN MATTERS

Adopted by TMWA Board, June 27, 2001
Amended by TMWA Board, June 17, 2015

1) Acquisition and Disposal of Facilities, Real Property and Water Rights:

Subject to the provisions of the Nevada Revised Statutes, the general manager or his authorized representative shall have the authority to:

- a. Enter into agreements to secure or grant rights of way and easements.
- b. Sell assets in the ordinary course of business that are replaced or that are not needed for the operation of TMWA or the Authority's other functions.
- c. Purchase and sell water rights and water resources, within budgeted amounts and consistent with the Board approved Rule 7 and state law.
- d. Lease or purchase real property in the ordinary course of business, within budgeted amounts, provided that any commitment for any single lease or purchase in excess of \$100,000 shall first be submitted to the Board for approval.
- e. The general manager shall provide monthly reports to the Board regarding the foregoing activities.

2) Execution of Documents in furtherance of the negotiation of the Truckee River Operating Agreement

The general manager shall have the authority to execute documents and interim agreements in furtherance of negotiations of TROA and shall direct legal counsel in negotiations of TROA, provided that the final agreements shall be submitted to the Board for approval.

3) Legal matters:

The general manager shall have the authority to initiate, pursue, settle, and defend administrative, civil or criminal actions necessary to protect the assets and operations of TMWA, provided that any such action that will potentially require legal expenditures in excess of \$25,000 shall be submitted to the board for approval prior to its initiation, and further provided that any settlements with a cash equivalent value in excess of \$25,000 shall be submitted to the board for approval.

4) Clarification of authority regarding annexation:
(revised June 17, 2015)

The General Manager shall have the authority to approve annexation of property located within the Truckee Meadows Service Area, as established and modified by the Regional Planning Commission from time to time, and areas adjoining TMWA's retail service area into TMWA's retail service areas and enter annexation agreements. All other annexations into TMWA's retail service area will require Board approval.

5) General limitations:

Except as set forth above, these guidelines are not intended to limit the scope of the General Manager's authority under paragraph 21 of the Cooperative Agreement. Notwithstanding the foregoing, the general manager shall not authorize or undertake any actions inconsistent with the Cooperative Agreement.