

MEETING MINUTES

ENMWUA Regular Board Meeting

DATE: Thursday, November 19, 2020
LOCATION: Elida Community Center
704 State Street, Elida, NM 88116

Please Note:

Due to the COVID-19 concern, the Office of the Attorney General's Open Government Division (OGD) advises all public entities subject to the OMA to first and foremost follow guidance of the Department of Health and other health officials to ensure the health and safety of both members of the entity and the public. Accordingly, the most prudent thing to ensure compliance with OMA would be to postpone/cancel a public meeting. If, however, a board or commission had a time-sensitive matter to attend to, it may proceed with virtual meeting, provided its notice of meeting contains detailed information (password, phone number, etc.) about how members of the public may attend and listen via telephone, live streaming or other similar technologies.

-Office of the New Mexico Attorney General

1 **1. Call to order**

2 The meeting was called to order by Chairman Lansford at 3:04 PM

3 **2. Roll Call**

4 Roll was called. The following ENMWUA Board Members were in attendance: Chairman Lansford, Vice-Chair
5 Jackson, Member Lucero, and Member Dixon. Secretary Bryant and Member Garza attended via phone.

6 **3. Approval of Agenda**

Result: Approved by Vote (6-0)

Motion:
Jackson

Second:
Garza

Ayes:

Nays:

7 **4. Approval of Minutes**

8 a.) A motion to approve the minutes from the regular Board Meeting held on Thursday, October 22nd, 2020 at 3:00
9 pm at the Portales Memorial Building.

Result: Approved by Vote (6-0)

Motion:
Lucero

Second:
Garza

Ayes:

Nays:

10

11 **5. Public Input**

12 Chairman Lansford addressed anyone on the phone participating to state their name for the record, the following
13 participants were identified; James Ridling with Curry County, Kevin Wilson with Eastern New Mexico News, Chet
14 Spear, Curry County Commissioner, Mike Morris, Mayor for the City of Clovis, Erik Harrigan with RBC Capital, and
15 Ray Campbell.

16 **6. Monthly Financials**

17 a.) Approval of Monthly Financials for the Month ending October 31st, 2020-Ortega. Mr. Ortega reviewed the past
18 month's financials beginning with the revenues for the month totaling \$676,307.78. This amount included USBR
19 funds of \$676,268.47 and Authority bank interest in the amount of \$39.31. Total expenditures for the past month
20 were \$828,695.09. Mr. Ortega also updated the Board that the Authority is still in transition of moving bank
21 accounts to the Citizens Bank of Clovis. Mr. Ortega stated that one account will remain at New Mexico Bank and
22 Trust, it is for a FW2 property owner, Philip Chavez for the purchase of an easement.

Result: Approved by Vote (6-0)

Motion:

Dixon

Second:

Jackson

Ayes:

Nays:

23 **7. New Business Items**

24 a.) Review/Recommendation for Approval of ENMWUA 2020 Finance Plan and Resolution 2020-009 Adopting
25 the 2020 Finance Plan. -Ortega, Harrigan.

26 Mr. Ortega introduced Mr. Erik Harrigan with RBC Capital via phone conference. He gave a quick recap of the
27 original Finance Plan and the updates since. One comment that was made by Mr. Harrigan is that the
28 membership contributions over the next 5-6 years has little change from the 2018 Finance Plan that was
29 previously presented to the Board. The original Finance Plan addressed the distribution of funds with 75%
30 coming from the Federal government, 15% from state, and 10% from local sources, resulting with the project
31 estimated completion in FY2035. The original plan also covered costs of operation and maintenance expenses,
32 Ute Lake related fees that included reservation fees, water cost and annual Interstate Stream Commission
33 Reservoir fees. The Authority's debt service is comprised of Water Trust Board Loans and funding to maintain a

34 renewal and replacement fund. With the original plan it was also based on current dollar analysis with no
35 inflation assumptions.

36 The updated 2020 Finance Plan is an expenditure input driven model that utilizes utility finance best practices
37 and are in line with the industry and rating agency standards. The 2020 Plan addresses the Ute Lake Intake
38 project, the Interim Ground Water Project, and the remainder of the Eastern New Mexico Rural Water System.
39 Funding contributions will remain the same but will be tracked separately and independently. Operation and
40 Maintenance expenses are also factored into the updated plan. The Authority's debt service that include Water
41 Trust Board loans and long-term bonds. The Authority will be maintaining a minimum of 150 times the debt
42 service coverage, meaning the revenues minus the expenses is 150% of the annual debt service. This is the
43 industry's best practices for utilities, providing a renewal and replacement into the Authority's system to allow
44 for reinvestment. This model will extend to FY2044. The Authority should fund and maintain a rate reserve which
45 will allow for an annual inflation adjustment of 3% for the O & M and capital costs. This finance model is designed
46 to track both future and present costs of operating expenses, capital expenditures and water cost per 1,000
47 gallons.

48 Source assumptions beginning with revenue sources generated to cash flow the project is dependent upon the
49 expenditures to provide sufficient cash flow to meet the ongoing needs of the utility system. Assumption of
50 ground water sales beginning in 2026 upon completion of the IGWP and surface water sales beginning in 2036
51 upon completion of the project. Membership contributions will continue to grow by 3% until 2026 and then by
52 4% until they are gradually phased out starting in 2037 once surface water sales begin. The federal, state, and
53 local funding will continue at similar levels. The future Water Trust Board loans assume an average of 3.5%
54 interest with a 20-year final maturity. This is significantly above the current WTB loans at a 0.25% annual
55 administrative fee and a 20-year maturity. Continuation of the low cost WTB loans after 2021 will result in lower
56 interest costs and lower revenue requirements. The assumption from a construction standpoint in the Interim
57 Ground Water Project would be that the IGWP would be complete prior to the full completion of the ENMRWS.
58 Pre-construction and construction contributions would be collected from the local membership dollars
59 throughout the IGWP and remaining project construction to reduce large annual revenue impacts once the
60 project is completed. A separate renewal and replacement fund and capital balance is used every 5 years for
61 reinvestment in the plan. The rate reserve fund is created to offset the sizable rate fluctuations. The assumptions
62 for the annual operation and maintenance expenses is projected at approximately \$690,000.00, growing at a 3%
63 increase per year with two major changes in the future. These changes include the completion of the Interim
64 Ground Water Project at which the expenses would increase to account for the delivery of the interim ground
65 water. The other major change would be the completion of the full Eastern New Mexico Rural Water System,
66 delivering treated surface water and ground water to the member communities. The operation and maintenance
67 expenditures represent the largest expense component to the Water Authority after completion of project. After
68 operation and maintenance expenses and payment of debt service, the funds deposited to a renewal and
69 replacement fund will continue to be a permanent reinvestment. This fund is expected to grow at an average
70 \$1.7 million annually after the construction of the Eastern New Mexico Rural Water System project. The Ute
71 water fee of \$25 per acre foot and the ISC Reservoir fee of \$92,120 will begin in 2037 when the Rural Water
72 System is complete, and water can be transmitted through the pipeline. We are also targeting a minimum ending
73 fund balance of 3/12th of the operating expenditures maintained throughout the life of the Finance Plan, so the
74 Authority will have enough operating funds on hand.

75 Sources of revenue are broken into three components, the member contributions, interim ground water sales,
76 and surface water sales. As previously stated, as the surface water sales begin the member contributions will be
77 phased out over an 8-year period. The cost per 1,000 gallons of water delivered includes all water sales and
78 member contributions. This expenditure model is an expense driven model and the expenses discussed include
79 the pre- and post-delivery of the Ute water. A motion was made to approve and adopt the 2020 Finance Plan
80 and Resolution 2020-009.

Result:	Approved by Vote (6-0)
Motion:	
Jackson	
Second:	
Garza	
Ayes:	
Nays:	

81

82 b.) Recommendation/Action for Approval of Amendment #25 under the 2010 Engineering Services Contract with
83 Ch2M/Jacobs for the Partial De-Booking of Task Order 1, Removal of a Portion of Scope of Work for Task Order 2,
84 De-Booking of Task Order 3, Partial De-Booking of Task Order 4, and De-Booking of Task Order 5. Contingent upon
85 Approval by NMED-CPB. -Ortega. Mr. Ortega presented Amendment #25 to the Board and stated that this
86 Amendment #25 will close the 2010 Engineering Services Contract with Jacobs. The items in the task orders that
87 are active will transfer to the new 2020 Engineering Services Contract and the items that are not active will be
88 closed in this Amendment. It was recommended to the Board for approval.

Result:	Approved by Vote (6-0)
Motion:	
Dixon	
Second:	
Lucero	
Ayes:	
Nays:	

89

90 c) Review/Recommendation for Approval of updated ENMWUA Easement Acquisition Plan. -Ortega, Barnett. Mr.
91 Ortega inform the Board the last time this Easement Acquisition Plan was revised was back in September of 2015.
92 The plan has had some minor adjustments made to the language under the property and easement acquisition
93 phase on received property owner counteroffer and supporting documentation. This language supports the
94 property owner to allow for submission of documentation for their counteroffer. The language as proposed states
95 that if the property owner does not agree to the offer, the property owner may provide supporting documentation
96 within 60 days after rejecting the ENMWUA's offer to support a counteroffer value for the property. Mr. Ortega
97 listed the supporting documentation that would be sufficient to provide the Authority for a property owner's
98 counteroffer. Other changes that were made to this plan included updates to charts and titles as well as updating

99 the Authority's address. Mr. Barnett explained to the Board that the added language was to give the benefit to
100 the property owner in providing the additional documentation for a counteroffer if they were to reject the
101 ENMWUA's easement offer for their property. It also allows for a better structure and efficient way to accomplish
102 easement acquisition. A motion was made for approval of this item.

Result:	Approved by Vote (6-0)
Motion:	
Bryant	
Second:	
Garza	
Ayes:	
Nays:	

103

104 d.) Review/Recommendation for Approval of updated ENMWUA Asset Management Plan. -Ortega, Bowens. Mr.
105 Ortega explained to the Board that the Asset Management Plan was developed in 2014/2015 and finalized in 2019
106 and is being presented today with updates. Ms. Bowens gave a presentation to the Board on all encompassed
107 aspects of the Asset Management Plan. The purpose of this plan is to enable the Authority to keep an inventory
108 of infrastructure assets, the condition of these assets, and appreciation/depreciation of all assets. This plan is
109 important for oversight and record keeping maintenance and to expand the longevity of the Authority's assets.
110 With this plan the Authority can development and maintain an effective and efficient operation and maintenance
111 plan along with the ability to budget accordingly. This Asset Management Plan supports the commitment the
112 Eastern New Mexico Water Utility Authority has in preserving the investment of Federal and State grant funds,
113 and local member funds. The changes proposed include incorporating an inventory of the FW2 and Cannon Lateral
114 assets. Also updates to the Asset Management Team which includes the Development and Policy Committee
115 members, Chairman Lansford, Vice-Chair Jackson and Secretary Bryant. Other updates to the plan included
116 eliminating all outdated information to reflect the new House Bill 76, and updated evaluation that noted the
117 current condition and inventory of the Intake Facility. A motion was made for approval.

118

Result:	Approved by Vote (6-0)
Motion:	
Dixon	
Second:	
Jackson	
Ayes:	
Nays:	

119

120 e.) Request for Approval of Expenditures for Legal and Professional Services with Peter D. Nichols of Berg Hill
121 Greenleaf Ruscitti LLP Related to Development of Land Trust Structures involving the REPI Program and
122 Groundwater Acquisition for the ENMWUA with Costs not to exceed \$60,000.00. -Lansford Chairman Lansford
123 gave an update to the current events regarding REPI. The REPI application is continuing to move forward and

124 information passed along to us from Jeff Davis is that the Office of the Secretary of Defense stated this application
125 is in the top 3 in the country and there has been discussion about the REPI application could be awarded \$15
126 million in Federal funding. Right now, the Central Curry Soil and Water Conservation District has agreed to become
127 the eligible entity for this REPI application. Through the Department of Agriculture, the Natural Resource and
128 Conservation Service there is grant funding with the RCPP. The Regional Conservation Partnership Program (RCPP)
129 is working to apply for matching funds to REPI and are hopeful to be requesting an additional \$15 million to follow
130 with this effort. Also, there is funding through a program called (ACEP) Agricultural Conservation Easement
131 Program that could also be utilized in these efforts, whether that is for conservation easements or water rights
132 acquisition. The Chairman believes that the Authority is in the position to help develop a Land Trust in order to
133 hold these conservation easements in perpetuity. The dual purpose of the Land Trust is not only hold these
134 easements but to educate the public and to expand its range of conservation in the Paleo Channel and throughout
135 the entire two county region to utilize its services in obtaining a groundwater supply. The Chairman gave his
136 opinion to the Board that the Authority should help fund the creation of this Land Trust because the CCWSCD
137 does not have the funding to do so. The Chairman stated that Mr. Nichols would like to come to town and be
138 present to discuss, educate and answer questions from all stakeholders that would be involved. The Chairman
139 made his recommendation to the Board to hire Peter Nichols to develop this Land Trust for the amount listed
140 above.

141 A question was posed if these grant funds allow only the purchase the conservation easements. It was stated that
142 REPI funds allow for the purchase of water rights, and not just limited to conservation easements. Mr. Ortega
143 stated the concerns of the cost of the groundwater, is it feasible for the Authority to be involved if the water is
144 not at an affordable price. Also, a question about who would be responsible for converting wells for municipal use
145 or drilling new wells and meeting the environmental requirements of NMED standards for well protection for
146 potable water use as well as constructing the infrastructure laterals that will connect to the Authority's
147 transmission. Chairman Lansford that the request for Peter Nichols is only for education and development of a
148 Land Trust structure. It was stated by Mr. Nichols in the October Board meeting that the cost of structuring and
149 education with regard to the Land Trust would be in the realm of \$20,000.00 to \$30,000.00. Conversation of a
150 Memorandum of Agreement with Curry County was brought up to the Board to discuss the funding to stay within
151 reason. With Curry County previously approving \$30,000.00, towards hiring Peter Nichols, and the Authority
152 already approving \$2,000.00. Mr. Ortega posed a concern about following procurement law with commingling
153 funds that exceed \$60,000.00. He recommended that the funds not exceed \$60,00.00 total, and that an
154 Intergovernmental Agreement be put in place as well as determining who a lead agency would be in this effort. A
155 motion was made to approve up to \$58,000.00, with prior Board approval of \$2,000.00, for a total of \$60,000.00
156 for legal and professional services with Peter Nichols related to the education and development of a Land Trust
157 structure involving the REPI program and ground water acquisition contingent upon approval of an
158 intergovernmental agreement with Curry County not to exceed a total \$60,000.00, excluding tax.

Result: Approved by Vote (6-0)

Motion:
Jackson

Second:
Dixon

Ayes:

Nays:

159

160 **8. Unfinished Business**

161 a) Update on Renewal of Ute Reservoir Water Contract- Jackson, Barnett Vice-Chair Jackson informed the Board
162 that the ICS contract did get approved this afternoon with the increase with cost for O & M. Final agreement was
163 made to keep the reservation fee and purchase rate fee the same. The contract will be renewed for additional ten
164 years. Language was also added to protect the Eastern New Mexico Water Utility Authority. In the old Joint Powers
165 of Agreement it was stated that if the Ute Water Commission dissolved that the water allocation would go back
166 to the Interstate Stream Commission. With the new contract, the following language was added for the ENMWUA.
167 If the Ute Water Commission's JPA ceases to exist in the future, then the Authority would still be able to purchase
168 water and keep their allocation. Mr. Ortega added that the ISC delegated the authority to Director Rolf Schmidt-
169 Petersen to complete final negotiations for the renewal of the ISC contract with the Ute Water Commission.

170 **9. Report from Board Members and Staff**

171 a) Project Development Activities -Jacobs-(Jim Honea) Mr. Honea updated the Board to the ongoing activity over
172 the past month. The only remaining items for the Finished Water 2 project include paperwork from the contractor,
173 O & M manuals, submittals and closing documentation.

174 For FW3A, we are planning to deliver review documents of the final construction package to the Authority by
175 December 11th. Once approval is received by both the Authority and NMED-CPB, we are looking at going out to
176 bid in February of 2021, with construction beginning in May 2021.

177 The FW1 horizontal alignment has been finalized and we have been continuing to update drawings and
178 specification for the 90% design of this project. We have completed a property boundary survey check and
179 environmental supplement review was completed to satisfy the Bureau of Reclamation. Schedule for delivery of
180 the drawing/specification documents to the ENMWUA and stakeholders is scheduled for mid-February 2021. The
181 delivery of the cost estimates review documents is scheduled for mid-March 2021.

182 Texico Lateral - Yesterday Jacobs conducted a scoring meeting with the Development and Policy Committee of the
183 Authority as well as member from the City of Texico for the Texico Alignment Study. Scoring was conducted for
184 non-cost factors. A meeting is being arranged to include the USBR to complete a non-cost scoring as well, which
185 will probably be complete around the beginning of December.

186 b) ISC Report-Stall Mr. Stall was on the phone and gave a briefing of the past month's activity at the Intake
187 Facility. He reviewed with the Board a few pictures from the site. Mr. Stall also went over the ISC Ute Reservoir
188 Chart.

189 c) State Activities- Mr. Joe Thompson with Thompson Consulting, LLC Mr. Thompson gave an overview of
190 the past month's activities. In the State of New Mexico there is a lot of change occurring and there is the
191 approaching special session to be held the 24th & 25th of this month in Santa Fe. In the state there is potential that
192 the legislative session may not happen in January due to the changes. Mr. Thompson stated that he thinks the
193 Board needs to continue to be flexible with the new and potential changes for the state of New Mexico.

194 d) Federal Activities- John Ryan Mr. Ryan stated that Appropriations Bill is still at a standstill. Because of the
195 dispute over the presidential election, things are uncertain right now. There is still a chance for a
196 COVID/Infrastructure Bill that could be presented at the end of November or early December timeframe. Recently
197 a conference call was conducted with the Bureau of Reclamation, that included Orlando and Mr. Ryan in which an
198 update was given on the project and discussed was held about the federal budget. The budget is still up in the air
199 at this time. Mr. Ryan mentioned retiring Senator Tom Udall and Representative Deb Haaland as those to be
200 thinking about, as they have been discussed as possible candidate for a Cabinet Secretary positions for the
201 Department of Interior. It has been awhile since the New Mexico has held a position in the Dept of Interior. The
202 Department is very influential with New Mexico having a lot of public lands. The Bureau of Reclamation is under
203 the Department of Interior which could be beneficial to the Authority. We will need to be thinking of additional
204 requests that we can make to help push this project along. Letters were also drafted to Senator Udall, Senator
205 Heinrich, ad Congressman Ben Ray Lujan to thank them for their continued support of the Eastern New Mexico
206 Rural Water System project.

207 e) Report from the Chair- Lansford The Chairman stated to the Board that Peter Nichols did make note that he
208 preferred to work with both the ENMWUA and Curry County but did not want to work with each entity
209 individually. Chairman stated he has spoken with Jeff Davis about the FW3 easements and those documents are
210 being pushed through to their legal team at Cannon and once they clear their final review the Authority should be
211 receiving the easement documents soon.

212 f) Report from the Administrator-Ortega Mr. Ortega updated the Board on the Authority's activities for the
213 past month beginning with working to complete the FW2 closeout and project completion. Mr. Ortega and staff
214 have gathered and begun the closeout process of these documents that need to be completed for the closure of
215 this project. There is continued work for the FW3 easement activities to secure those easements as soon as
216 possible. The staff is completing reporting on time and staying on task with all projects. Mr. Ortega stated upon
217 the advice of the Development & Policy Committee that he was going to participate in the next Council meeting
218 at the City of Texico which is scheduled for Dec. 8th to give an update to the Texico Alignment Scoring and be open
219 to any questions or concerns from the City of Texico.

220 **10. Future Agenda Items**

221 a) Next Regular Meeting, Location, Date, and Time: December 17th, 2020 at 3:00 p.m. at ENMWUA Meeting Room,
222 Located at 801 Pile Street, Clovis, NM 88101.

223 **11. Public Input-N/A**

224 **12. For the Good of the Order N/A**

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229 **14. Adjournment**

230 Meeting adjourned officially at 5:02 PM.

231 X 

232 David Lansford
233 Chairman

X 

Chris Bryant
Secretary