

MINUTES – SEPTEMBER 18, 2023
BIG BEND GROUNDWATER MANAGEMENT DISTRICT #5
MEETING OF THE BOARD OF DIRECTORS

The monthly board meeting of the Big Bend Groundwater Management District #5 was held at the District Office in Stafford, Kansas on Thursday September 18, 2023. Board members present were Tom Taylor, Fred Grunder, John Janssen, Marlyn Spare, Kerry Froetschner, Craig Zwick, Gary Hornbaker, Darrell Wood, and Joe Schlessiger. District staffs present were Orrin Feril, John Hildebrand (zoom), and Vanessa Marks. The guests present were Pat Janssen, Jim Stanford, Justin Bremer, Ned Marks, and Hans Fritzemeier. Guests present via Zoom were Micah Schwalb, Jeff Crispin, Lynn Preheim, Aimee Davenport, Kent ?, and Josey Mestagh, and Chris Smith.

The September regular board meeting was called to order at 7:00 p.m. by Tom Taylor.

John Janssen moved, and Gary Hornbaker seconded at 7:05 p.m. that the Board go into executive session for legal advice regarding on the status of the USFWS discussion with an attorney for the public body and District manager which would be deemed privileged in the attorney-client relationship pursuant to the attorney consultation exception under KOMA, and the open meeting will resume in the meeting room at 7:35 p.m. Motion carried 9-0. The board came out of executive session at 7:15 p.m.

Darrell Wood moved, and John Janssen seconded at 7:35 p.m. that the Board go into executive session for legal advice regarding on the status of the USFWS discussion with an attorney for the public body and District manager which would be deemed privileged in the attorney-client relationship pursuant to the attorney consultation exception under KOMA, and the open meeting will resume in the meeting room at 7:55 p.m. Motion carried 9-0. The board came out of executive session at 7:55 p.m.

Craig Zwick moved, and John Janssen seconded to approve the August minutes as presented. Motion carried 9-0.

Orrin Feril provided the board and public with the September treasurer's report and highlighted the unique items for further board review. Kerry Froetschner moved, and John Janssen seconded to accept the September treasurer's report as presented. Motion carried 9-0.

The District's signature card for the safe deposit box at Prairie Bank of Kansas needs to be updated to better reflect current staff. Darrell Wood moved, and Kerry Froetschner seconded to have Fred Grunder, Marlyn Spare, Gary Hornbaker, Vanessa Marks, and Orrin Feril represented on the signature card. Motion carried 9-0.

The District's hunting lease request for proposal deadline wrapped up recently. Three distinct bids were received and summarized in a table to limit personally identifying the bidder. Following a brief discussion provided by the RFP subcommittee, Marlyn Spare moved, and Joe Schlessiger seconded to accept bidder #2 as identified in the summary table for a lump sum of \$23,500 for parcels 2 through 6. Motion carried 9-0. Marlyn Spare moved, and Kerry Froetschner seconded for the hunting lease with bidder #2 be for a single year starting September 1, 2023, and expiring on June 1, 2024. Motion carried 9-0.

Consideration of the existing farm leases was continued from the previous month. A brief memo from legal counsel was provided to the board as well as a sample of a proposed farm lease agreement. The existing farm leases were entered into prior to the enactment of HB 2279 (August 1, 2020). The land subject to the existing leases is actively being farmed and the existing leases do

not provide a contractual mechanism to terminate prior to expiration on July 31, 2024. The District has prepared a request for proposals packet in order to be in compliance with HB 2279. Marlyn Spare moved, and Fred Grunder seconded to honor existing farm leases and at 90 days prior to expiration start the Request for Proposals process. Motion carried 8-0-1 (Gary Hornbaker abstained).

Orrin Feril and the Rattlesnake Creek subcommittee provided a thorough update on recent activities regarding Quivira NWR. Recently, a portion of the Rattlesnake Creek subcommittee met in Washington DC with USFWS Director Martha Williams along with technical advisors and legal counsel. Chief Engineer Earl Lewis also joined this meeting virtually with legal counsel. A few questions were answered from the public mostly relating to questions of the draft EIS plan. No additional action was taken by the board.

Orrin Feril discussed staff activities for the past few weeks and upcoming months. In the Audubon of Kansas v Chief Engineer District Court case, the court was scheduled to hear the District's motion to intervene earlier this afternoon. However, this hearing was postponed in order to be held in conjunction with the Chief Engineer's motion to dismiss the case. The Chief Engineer's motion to dismiss is not yet fully briefed so it is not ready to be heard by the Court. Within the last week, the District was alerted to an oil spill in the Rattlesnake Creek channel upstream from the Zenith gage station. John coordinated with state and federal agencies in the clean up and has taken several water samples for the record.

Pat Janssen, WaterPACK, noted a briefing to the House Committee on Water highlighting the economic impact of KDA-DWR's proposed administration to the Rattlesnake Creek region. He stated that he had recently met with Audubon of Kansas to determine if there was a course forward that did not include litigation. He also highlighted a need for a public meeting on the Rattlesnake Creek issue in the near future to dispel rumors and inform the public about current activities.

In other business, Orrin Feril took a few minutes to address recent comments regarding perceived mismanagement of the region by the District. No additional action was taken by the board.

Craig Zwick made the following motion at 8:57 p.m.: "I move that the board go into executive session for 15 minutes for the purpose of discussion of personnel matters of non-elected personnel exception under KOMA to a conduct performance review, and the open meeting will resume here in the meeting room at 9:12 p.m." Fred Grunder seconded. Motion carried 9-0. The board came out of executive session at 9:12 p.m.

Fred Grunder moved, and John Janssen seconded to accept the manager's recommendations for salary changes for District staff effective October 1, 2023. Motion carried 9-0.

The next District board meeting was tentatively set for October 12, 2023, at 7:00 p.m. at the District office.

With no further items to discuss the board adjourned at 9:15 p.m.

Attest by:  Dated 11-9-23