

**OKLAHOMA WATER RESOURCES BOARD
OFFICIAL MINUTES**

May 11, 2004

1. Call to Order

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Secretary Ervin Mitchell at 9:30 a.m., on May 11, 2004, in the Board Room of the OWRB Offices, located at 3800 N. Classen Boulevard, Oklahoma City, Oklahoma. The meeting was conducted pursuant to the Oklahoma Open Meeting Law with due and proper notice provided pursuant to Sections 303 and 311 thereof.

Mr. Mitchell explained that an unusual situation had occurred; the previous Chairman's term, Mr. Grady Grandstaff, expired on May 14 and he was absent today. The Vice Chairman, Mr. Glenn Sharp, had resigned. He said that according to the Robert's Rules of Order it was necessary for the Board members present to elect a "Chairman Pro Tempore."

Mr. Duane Smith explained that this situation had not occurred before, that the rules instruct that the Secretary open the meeting, and open the floor for the nomination by the Board for the election of a temporary chairman, who would then appoint a secretary. Mr. Smith suggested that the election be for both the May and June Board meetings when the annual elections of officers are conducted in June.

Mr. Mitchell then opened the floor for the nomination of Chairman Pro Tempore.

Mr. Mr. Nichols nominated Mr. Mitchell as Chairman Pro Tempore, and Mr. Keeley seconded. There were no other nominations.

Mr. Mitchell called for the vote.

AYE: Currie, Farmer, Keeley, Mitchell, Nichols, Secret

NAY: None

ABSTAIN: None

ABSENT: Grandstaff, Sevenoaks

Mr. Mitchell thanked the members saying he had now served twenty years on the Board as of today. He also welcomed everyone in attendance for their participation and support of the Board.

A. Invocation

Member Harry Currie gave the invocation.

Following the invocation, Mr. Mitchell introduced the newest nominee to the Board, Mr. Rudolf Herrmann from Tulsa. Governor Henry had just very recently appointed Mr. Herrmann, and the Senate had not held a confirmation hearing on the appointment as yet. He was in attendance as an observer.

B. Roll Call

Board Members Present

Ervin Mitchell, Secretary
Harry Currie
Lonnie Farmer
Jack Keeley
Mark Nichols
Bill Secrest
Richard Sevenoaks

Board Members Absent

Grady Grandstaff

Staff Members Present

Duane A. Smith, Executive Director
Dean Couch, General Counsel
Jim Schuelein, Chief, Administrative Services Division
Joe Freeman, Chief, Financial Assistance Division
Mike Mathis, Chief, Planning and Management Division
Derek Smithee, Water Quality Programs Division
Mary Lane Schooley, Executive Secretary

Others Present

Ann Keeley, Ada, OK
D.C. Anderson, Broken Arrow, OK
Paul Hodge, Marlow/Henryetta; Edmond, OK
Jim Barnett, Kerr Irvine Rhodes Ables, Oklahoma City, OK
Steve Cesar, Marlow, OK
Cheryl Dorrance, Oklahoma Municipal League, Oklahoma City, OK
Jo Montana, Grand Gateway Economic Development Authority, Big Cedar, OK
Karen Weehurst, GIT Inc., Oklahoma City, OK

C. APPROVAL OF MINUTES

Chairman Mitchell stated the draft minutes of the April 13, 2004, Regular Meeting have been distributed. He said he would entertain a motion to approve the minutes unless there were additional changes.

Mr. Nichols moved to approve the minutes of the April 13, 2004, Regular Meeting, and Mr. Farmer seconded.

AYE: Currie, Farmer, Keeley, Nichols, Secrest, Sevenoaks, Mitchell
NAY: None
ABSTAIN: None
ABSENT: Grandstaff

D. EXECUTIVE DIRECTOR'S REPORT

Mr. Duane Smith, Executive Director, greeted the members and said that Board Member Mark Nichols was confirmed on May 6, and was confirmed to fill the unexpired term of Richard McDonalds, and also an addition full seven-year term. He said that Senator Laughlin from Woodward had requested a report from Mr. Nichols on the Palo Duro situation. Mr. Smith said the OWRB believes the State of Texas allowed a reservoir to be built in the Texas panhandle, that keeps water from flowing into Oklahoma. He said he has met with the Attorney General and it is an expensive proposition to go to the Supreme Court and file a lawsuit, and a full account will be made to Senator Laughlin on Mr. Nichols' behalf. He also noted that Mr. Glenn Sharp had resigned his position for family and personal reasons, and wished him well in the future. He mentioned Mr. Herrmann's appointment, Mr. Farmer's reappointment and said he looked forward to the new activities going on, although there is still one vacancy on the Board.

Mr. Smith stated he had met with Secretary Scott Meacham about the Board's Financial Assistance program. He said that for several of the last Board meetings he has talked about the need to get more money infused into the program; the Billion dollar mark was celebrated recently, and the loan to Bartlesville – the largest at \$17 million -- was closed recently, and in order for future continued success, there needs to be cash put into the program. He said Mr. Joe Freeman and his staff have designed a strategy on how to continue the financial assistance programs, and that entails \$50 million dollars, and there are several options, for example, the selling of bonds. He said he was optimistic about an upcoming meeting with Secretary Meacham and was hopeful that a plan can be taken to the House and Senate Leadership.

Mr. Smith stated we are now "in the fourth quarter" regarding the legislative session, and he asked Mr. Mike Melton, Assistant to the Director, to provide an update on current legislation. Mr. Melton distributed a written report on the legislative measures, and briefly updated the members on the pertinent bills.

Following the report, Mr. Smith reiterated the provisions proposed in Senate Bill 903, the Statewide Water Planning Bill. He said staff helped to draft the original bill with Senator Crutchfield and Representative Hilliard. He said the original bill patterned water planning after the State of Texas, which designed the development of regional water planning areas in the state. He said the plan details how cities and rural water districts plan for development. He said that 1.3 million people planned to move to Oklahoma within the next twenty years, primarily in the metropolitan areas, and primarily in northeast Oklahoma. He said planning for the future development in the state is critical to Oklahoma's growth, and the plan will identify not only how to use the water resources, but also evaluate the environmental impacts and financial feasibility, so when the cities come to the OWRB for loans and grants the Financial Assistance Division actually implements the Water Plan, and thereby will be assisting the cities in implementing their water plan for the future. Every community, every rural water district ought to have a plan for the next 50 years on how to obtain and use water supplies, projecting populations and economic development, and how to plan for the infrastructure to support it. He said this is what Senate Bill 903 is really about. He said it has gotten caught up at the Legislature; everyone wants a water plan if they can write the legislation, so environmental groups, farm groups, industrial groups, and municipal groups, have contributed to the discussion. The OWRB wants to make sure that the State Regional Planning Committee is balance, and is not over weighted by one interest or the other. Some of the amendments in the bill have taken the OWRB out of the lead in the water planning aspects, so the effort is now to get the OWRB back in. Mr. Smith likened it to the state developing an agriculture plan without having the State Department of Agriculture involved, or an oil and gas plan without having the Corporation Commission involved. He anticipated there would be some improvements made in the committee work; so far there have been 22 amendments. He said the focus should be how the cities are going to

get water, and what is the local impact to that. He said he is hopeful that the bill will come forth agreeable to everyone. He said it is an important piece of legislation for Oklahoma.

Mr. Sevenoaks asked about the funding; Mr. Smith responded \$6.5 million has been requested, based upon \$26 million in the Texas plan. Mr. Currie asked how long it would take to develop the plan, and what is the time span of the plan? Mr. Smith replied he anticipated it would take about 2-3 years to develop the plan that at a minimum would be a 50-year plan; he said he preferred 100 years. Mr. Currie asked if there would be a component in the plan for selling water; Mr. Smith answered that no, this plan is not about selling water, and he said that absolutely there would be so discussions about selling water; however, transferring water within the state may be considered. He said some discussions at the Capitol have been whether the Regional Planning Group in southeast Oklahoma stated in their plan that no water would be transferred to another part of the state, his reply has been that the plan is about how cities and rural water districts plan for their future, its not about a group of people in one part of the state saying "this is my water, and I'll sell or transfer if I want to, or won't if I don't want to." The plan is to look at the resources in an area, assess the needs in an area and not putting stipulations on water above and beyond what is needed. Mr. Sevenoaks made a few comments about the importance of planning for supply and infrastructure and economic growth. Mr. Smith added that the OWRB has always embrace regionalization, and the plan will look at whether that may be good in some areas of the state or not. He said it made sense to him for cities and rural water districts to plan for the future and look to the Board to help with the financing, and take a proactive look at the water resources in the State, and not always be in a reactive mode. Mr. Keeley mentioned continuity in the water planning legislation, and Mr. Smith responded that is a big issue now, to get the 11 regions to be on the same page in water planning. It will be the OWRB's job to develop rules and regulations on how the plans are carried out, and that is where this Board will be involved.

Mr. Smith concluded his report saying that he and Mark Nichols had attended the Red River Compact Commission meeting in Texas. He said the big issue is Sweetwater Creek and that Texas won't let Oklahoma, through the Compact, develop rules that would allocate the water out of the reach because they want to take all of the water out of Sweetwater Creek and give Oklahoma water out of the North Fork of the Red, where the quality is worse and there could be a negative impact to Altus Lugert. Now Texas says they want the rules to be developed on the mainstem of the Red River on Texoma because they have additional uses in north Texas for that water. He said now we have some leverage, and the good thing that happened at this meeting is that Art Theis of Louisiana agrees with Oklahoma that the initial breakdown of the water ought to be a 60-40 split between the states, not one state taking all the water from one with the trade off of getting 100% from another. He said a policy is now being drafted that would be set up through the committees about how rules would be developed. He said he was very encouraged at this meeting that more progress was made on Oklahoma's behalf than has been done in the past. He said Lake Texoma and the mainstem will be looked at fairly with the State of Texas.

Before proceeding with the agenda, Mr. Mitchell asked Mr. Bill Secret to act as Secretary this month and next month, until the annual elections of officers.

2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Loan for Henryetta Municipal Authority, Okmulgee County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the Board that this item is for the consideration of a \$1,965,000.00 Clean Water SRF Small Community Loan request for the

Henryetta Municipal Authority. He said Henryetta is requesting the loan to refinance a loan they received from Rural Development in 1997. He said the original loan was for wastewater system improvements inclusive of expansion and modification of Henryetta's wastewater treatment plant. Mr. Freeman noted provisions of the refinancing loan agreement. He said that it was estimated that by refinancing through the OWRB, HMA would save approximately \$873,000.00, or \$1.18 per tap per month. Staff recommended approval of the loan amount.

Mr. Kent Pharaoh, City Manager, and representatives of their financial advisors, Municipal Finance Services, were present in support of the request.

Mr. Nichols moved to approve the loan to the Henryetta Municipal Authority, and Mr. Keeley seconded.

AYE: Currie, Farmer, Keeley, Nichols, Secrest, Sevenoaks, Mitchell
NAY: None
ABSTAIN: None
ABSENT: Grandstaff

B. Consideration of and Possible Action on a Proposed Order Approving Loan for Marlow Municipal Authority. Recommended for Approval. Mr. Freeman stated that Marlow is requesting the loan for the construction of two new water wells, a 400,000-gallon water storage tank, repair and paint of an existing 300,000-gallon water storage tank, install 23,000 feet of distribution lines, and restore two existing clear wells. In addition, Marlow will be making wastewater system improvements inclusive of one mile of 8" sewer line, upgrade a lift station, and force main. Mr. Freeman noted provisions of the loan agreement. It is estimated that by obtaining the loan through the OWRB, Marlow will save approximately \$560,000 or \$.93 per tap per month. Staff recommended approval.

Representing Marlow as Janice Cain, City Administrator, Steve Cesar, Engineer, and representatives of their financial advisor.

Mr. Currie asked about whether this is a new well field and the amount of the storage tank. Mr. Sevenoaks asked about the combining of financing for the two different projects.

Mr. Currie moved to approve the loan to the Marlow Municipal Authority, and Mr. Secrest seconded.

AYE: Currie, Farmer, Keeley, Nichols, Secrest, Sevenoaks, Mitchell
NAY: None
ABSTAIN: None
ABSENT: Grandstaff

C. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Bluejacket Public Works Authority, Craig County. Recommended for Approval. Mr. Freeman stated that the Bluejacket Public Works Authority had made a request for an emergency grant in the amount of \$6,630.00. He said Bluejacket experienced a total failure of both lift stations following a recent lightning strike. The emergency grant funds will allow the BPWA to repair and replace damaged electrical gear, pumps, and related appurtenances. The total project will cost approximately \$7,800, with funding provided by \$1,170.00 in local funds, and the \$6,630.00 OWRB emergency grant.

Ms. Jo Montana, Grand Gateway Economic Development Authority, was present in support of the emergency grant request.

Mr. Secrest moved to approve the emergency grant to the Bluejacket Public Works Authority, and Mr. Farmer seconded.

AYE: Currie, Farmer, Keeley, Nichols, Secrest, Sevenoaks, Mitchell
NAY: None

ABSTAIN: None
ABSENT: Grandstaff

Mr. Smith commented that the loans for Henryetta and Marlow saved Oklahoma citizens \$1.4 million. And, he added that Bluejacket called Ms. Montana, and Senator Littlefield called him on Friday, and he in turn called Nate Ellis of the OWRB FAD staff. Mr. Ellis helped them to complete an application, and they jumped to the top of the priority list because of the emergency. So, from Friday to Tuesday, the OWRB was able to help the community; this type of situation is exactly what the Emergency Grant Program is designed to do—help the small communities get their job done. Mr. Mitchell responded that it makes him feel good to be a part of this Board that is able to help small communities, as well as large cities such as Tulsa.

3. SUMMARY DISPOSITION AGENDA

Chairman Mitchell stated that any item listed under this Summary Disposition Agenda may, at the request of any member of the Board, the Board's staff, or any other person attending this meeting, be transferred to the Special Consideration Agenda. Under the Special Consideration Agenda, separate discussion and vote or other action may be taken on any items already listed under that agenda or items transferred to that agenda from this Summary Disposition Agenda.

A. Requests to Transfer Items from Summary Disposition Agenda to the Special Consideration Agenda, and Action on Whether to Transfer Such Items.

There were no requests to transfer items; however, Mr. Schuelein asked that agenda item 3.D.1., Consideration of Agreement with the GRDA for Water Quality Work at Grand Lake, be withdrawn from the Board's consideration at this time. He said GRDA has requested additional work on the agreement.

Mr. Sevenoaks asked about 3.J.1., the Tenkiller Utilities Authority's application for a regular stream water permit. Mr. Mathis responded that this application is part of the regional water system project this group and staff has been working together on for some time. He said it is an association of several communities and small rural water systems in that area; there are about 22 entities member group. Most are very small systems that are struggling and needing to come together into a regional system, and right now they do not supply to anyone. The OWRB staff has provided assistance through the Planning Assistance to the States program through the U.S. Corps of Engineers to do engineering work and to come up with options to serve water in that region. This application is for 12,800 acre-feet of water. Mr. Sevenoaks asked if Tenkiller is fully allocated. Mr. Mathis responded that it is fully allocated in the water supply pool; however, there is a very large hydropower pool and it is possible to reallocate parts of that pool.

Mr. Herrmann asked about 3.N.1. regarding Batavia Development Company. Mr. Mathis responded that this item is for consideration of development on state owned property. He said staff looks at the application strictly from the floodplain aspect of the project, i.e., how does the project affect the floodplain.

B. Discussion, Questions, and Responses Pertaining to Any Items Remaining on the Summary Disposition Agenda and Action on items and Approval of Items 3.C. through 3. N.

There were no other questions pertaining to items on the Summary Disposition Agenda. Mr. Currie moved to approve the Summary Disposition Agenda as amended, and Mr. Nichols seconded.

AYE: Currie, Farmer, Keeley, Nichols, Secret, Sevenoaks, Mitchell
NAY: None
ABSTAIN: None
ABSENT: Grandstaff

4. QUESTIONS AND DISCUSSION ABOUT AGENCY WORK AND OTHER ITEMS OF INTEREST.

There were no items for discussion.

5. SPECIAL CONSIDERATION

For INDIVIDUAL PROCEEDINGS, a majority of a quorum of Board members, in a recorded vote, may call for closed deliberations for the purpose of engaging in formal deliberations leading to an intermediate or final decision in an individual proceeding under the legal authority of the Oklahoma Open Meeting Act, 25 O.S. 2001, Section 307 (B)(8) and the Administrative Procedures Act, 75 O.S. 2001, Section 309 and following.

A majority vote of a quorum of Board members present, in a recorded vote, may authorize an executive session for the purposes of CONFIDENTIAL COMMUNICATIONS between the public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct the pending investigation, litigation, or proceeding in the public interest, under the legal authority of the Oklahoma Open Meetings Act, 25 O.S. 2001, Section 307(B)(4).

A. Consideration of items transferred from the Summary Disposition Agenda, if any. There were no items transferred from the Summary Disposition Agenda

6. PRESENTATION OF AGENCY BUDGET REPORT.

Mr. Jim Schuelein, Chief, Administrative Services Division, began his report saying the Legislature is in the "fourth quarter" and the staff is winding down ten months of the twelve-month cycle. He said the budget-to-actual report reflects that the agency's spending is well within the limits set by the Legislature and the Governor. He encouraged the members to contact him if they have any questions.

Mr. Sevenoaks asked if the agency anticipated any budget cuts this year; Mr. Smith stated that while the legislation is not completed, he is being told that the budget is fairly "stand still" from last year, plus some projects i.e., North Fork of the Red River, continued work on Lake Wister, algal bloom sampling and vegetation work at Grand Lake, and the Arbuckle-Simpson study. He added that he has been telling the Legislature that when the OWRB asks for money, in actuality we are asking for state money to be used with local funds to match with federal money, maximizing the benefit of the dollar.

There were a few questions by the Board members regarding federal funding splits, and the status of "culturally significant waters" language in the water quality standards.

7. CONSIDERATION OF SUPPLEMENTAL AGENDA, IF ANY.

There were no Supplemental Agenda items for the Board's consideration.

8. NEW BUSINESS

Under the Open Meeting Act, this agenda item is authorized only for matters not known about or which could not have been reasonably foreseen prior to the time of posting the agenda or any revised agenda.

There were no new business items for the Board's consideration.

9. ADJOURNMENT

There being no further business, Chairman Mitchell adjourned the regular meeting of the Oklahoma Water Resources Board at 10: 45 p.m. on Tuesday, May 11, 2004.

OKLAHOMA WATER RESOURCES BOARD

_____/s/_____
Chairman Pro Tempore Mitchell

(Vacant) Vice Chairman

_____/s/_____
Harry Currie

_____/s/_____
Lonnie Farmer

_____/Absent_____
Richard Sevenoaks

_____/s/_____
Rudolf J. Herrmann

_____/s/_____
Jack W. Keeley

_____/s/_____
Jess Mark Nichols

ATTEST:

_____/s/_____
Bill Secret, Secretary

(SEAL)