

# OKLAHOMA WATER RESOURCES BOARD OFFICIAL MINUTES

June 9, 2009

## 1. Call to Order

The regular monthly meeting of the Oklahoma Water Resources Board was called to order by Chairman Mark Nichols at 9:30 a.m., on June 9, 2009, in the Board Room of the Oklahoma Water Resources Board, 3800 N. Classen Boulevard, Oklahoma City, Oklahoma.

The June meeting was conducted pursuant to the Oklahoma Open Meeting Law with due and proper notice provided pursuant to Sections 303 and 311 thereof. The agenda was posted on June 2, 2009, at 3:00 p.m. at the Oklahoma Water Resources Board's offices.

### A. Invocation

Prior to proceeding with the meeting, Chairman Nichols recognized that Mr. Lonnie Farmer has passed away suddenly following the May Board meeting. He recognized Mr. Farmer's achievements while serving on the OWRB, as well as his contributions to Oklahoma rural water.

Chairman Mark Nichols asked Mr. Ed Fite to provide the invocation.

### B. Roll Call

#### **Board Members Present**

Mark Nichols, Chairman  
Rudy Herrmann, Vice Chairman  
Linda Lambert, Secretary  
Ford Drummond  
Ed Fite  
Jack Keeley  
Kenneth Knowles  
Vacant

#### **Board Members Absent**

Richard Sevenoaks

#### **Staff Members Present**

Duane A. Smith, Executive Director  
Dean Couch, General Counsel  
Joe Freeman, Chief, Financial Assistance Division  
Monte Boyce, Comptroller

Julie Cunningham, Chief, Planning and Management Division  
Derek Smithee, Chief, Water Quality Programs Division  
Mary Lane Schooley, Executive Secretary  
Mike Melton, Executive Administration Division

**Others Present**

Josh McClintock, McClintock Associates, Oklahoma City, OK  
Mark Daniels, City of Norman, OK  
Joel Cantwell, City of Norman, OK  
Anthony Francisco, City of Norman, OK  
Ben Oglesby, Municipal Finance Services, Edmond, OK  
Chris Wolfe, Municipal Finance Services, Edmond, OK  
Erin Boeckman, eCapitol, Oklahoma City, OK  
Charlie Swinton, BancFirst, Oklahoma City, OK  
Larry Roach, CH Guernsey, Oklahoma City, OK  
Tom Liu, Bank of America/Merrill Lynch, New York City, NY  
Tim Peterson, First Southwest Co., Oklahoma City, OK  
Gena Dickerson, Union City, OK  
Joseph Bosler, Union City, OK  
Michael McCort, Union City, OK  
Mike Wofford, Doerner Saunders Daniel & Anderson, Oklahoma City, OK

C. APPROVAL OF MINUTES

Chairman Nichols stated the draft minutes of the May 12, 2009, Regular Meeting had been distributed. He stated he would accept a motion to approve the minutes. Ms. Lambert moved to approve the minutes, and Mr. Knowles seconded.

AYE: Lambert, Fite, Herrmann, Drummond, Keeley, Knowles, Nichols  
NAY: None  
ABSTAIN: None  
ABSENT: Sevenoaks

D. EXECUTIVE DIRECTOR'S REPORT

Mr. Duane Smith, Executive Director, welcomed the members and provided an update about the activities of the Legislature since the May meeting. The Legislature passed, and the Governor has signed, HB 1483, which Mr. Smith believed to be the single most significant piece of water legislation for as long as he had been at the OWRB. He distributed the final version of the bill, and explained that it is now the Board's responsibility to interpret the statute. Over the next months, staff will be hosting meetings and will propose rules and regulations that will interpret the statute to be presented to the Board for consideration. The measure sets out an even-handed way in which out-of-state permits will be processed. There will be an assessment of whether compact violations have occurred, an assessment of compacted water and non-

compacted water according to the four compacts, and interpretation through rulemaking the compact. Mr. Smith said he had met with Governor Henry on this matter and he was well versed on the information and took a personal interest, understanding this needed to be done now, and without his leadership there would likely not have been successful legislation. He said in the Hugo case and in the Tarrant case, those petitions have been updated to say this is unconstitutional. He said the Board members played a special role and assumed a leadership role in the policy implementation in the state. And the House and Senate conducted several meetings and there was only five House votes against, and the Senate was unanimous. He said, now the real work starts.

Ms. Lambert suggested the Board express its appreciation to the Governor and Legislators. Chairman Nichols complimented Mr. Smith and Mr. Couch for their diligent work on the issue. Mr. Keeley asked if the moratorium had been removed; Mr. Smith said that would be one interpretation, and there could be another interpretation as well. He said that clearly there is still legislative oversight. Mr. Drummond asked about the inclusion of the "New Mexico" language; Mr. Smith said that it is, and he explained the language as it appeared on page two and three (section 2, number 1); he said the Board will get a chance to decide what the language means, along with meetings with the public and technical and water plan involvement. Mr. Keeley asked about the effect (of the legislation) on the Tarrant case, and Mr. Smith said there have been some motions made and to the extent the case is altered or dismissed there are ongoing meetings with the Attorney General's office and with Chuck Dumars to determine the state's legal position, but at this time he did not know the result would be.

Mr. Smith informed the members of the activities of the recent meeting of the National Drinking Water Advisory Council that met in Seattle, of which he is a member. He said this meeting focused on small systems, and how EPA is going to deal with small systems. Roughly, there is the same percentage of small systems in America that is in Oklahoma: 90% of the systems under 10,000 population serve 10% of the population; therefore 10% of the systems serve 90% of the population. He said the problem is how to move forward in rural Oklahoma, rural America, and meet drinking water standards and infrastructure requirements. One element for consideration is an affordability rule in meeting requirements, i.e., can small systems claim they can't afford treatment and get out of a particular drinking water standard, but this is very controversial--do we want rural populations to have less quality drinking water than urban populations, yet at the same time how do we deal with the reality that if we want a vibrant rural Oklahoma, its going to cost money. The EPA is trying to develop a "toolbox" of tools that can be used by small communities, but clearly full cost pricing and the costs of water and wastewater in rural Oklahoma is going up, and there will not be enough stimulus money and grant money to fill those needs. We are at a crisis stage with small systems in Oklahoma, so this needs to be a major focus in the Oklahoma Comprehensive Water Plan. He suggested organizing meetings across rural Oklahoma to discuss with the rural systems and learn firsthand what their issues are and to come up with better ideas and better approaches, and this will be a major focus. He added that Rep. Don Armes has requested an interim study to look at water resources in southwest Oklahoma and asked the OWRB to put together some tour ideas in southwest Oklahoma.

Ms. Lambert asked with the community needs fluctuating, is it possible to have different solutions for different communities. Mr. Smith said that the process of the water plan is by watershed and then by community so that every community has a 50-year water plan, which could include regionalization. What will be considered is the current infrastructure, needs over

the next 50 years, population projections, other types of needs the community may have and then what is the gap between what is current and 2060, and then look at potential solutions. Chairman Nichols mentioned the Rural Development money available, and Mr. Smith said that timeline is different and he would get an update on the status of that funding. Mr. Smith added there is a lot of overtime required on the part of the OWRB and DEQ, but the work will get done and the money will be distributed.

Mr. Smith said he had been invited to Henderson, Nevada, to talk to the leadership of the Bureau of Reclamation and the Corps of Engineers at their annual Leadership Collaborative Workshop. The key portion of the program Mr. Smith addressed concerned state plans and how the Bureau and Corps can better interact with states. This has come from efforts by the Western States Water Council and the state water planning, and Mr. Smith said we are now known as the "Oklahoma Model." The COE, BOR, and EPA are looking at how Oklahoma is setting up the model to include the federal agencies in our state planning process. Oklahoma is the only state that is taking this type an approach by matching federal dollars, setting priorities and federal technical expertise and funding to fulfill the plan. He said he believed that what Oklahoma is doing in its plan is critically important, and critically important to do it right; there is no opportunity for us to not have an AAA water plan, we cannot settle for less. He said people are watching what we are doing and we are being invited to speak at these types of organizational meetings and it is unacceptable to not have a top-notch plan. He said that everything that we do, every division the agency has, every employee we have, and every report we publish, is going to talk about the water plan. The management team will be meeting on June 11 and discussing what the water plan may look like in two years and be focused on those activities. He distributed and EPA news release that focused on activities in the OWRB comprehensive plan, and part of the stimulus money, another \$191,880.00 in economic recovery funds to improve water quality--the activities to be funded through the OWRB were listed, including the triennial review of the water quality standards, update of the water quality monitoring strategy (data collection requirements that are necessary in order to the foundation underpinnings for good quality decision-making) , water level mass measurement program and development of BMPs for sensitive water supplies, and the Garber Welling aquifer study (quantity and quality components). He complimented J.D. Strong for his support as the Secretary of Environment. Mr. Keeley pondered how we could use the comprehensive water plan to promote Oklahoma, and Mr. Herrmann suggested a stronger alliance with the Department of Commerce. Mr. Smith discussed how the agency has been building relationships with federal agencies and possibilities for funding the water plan. He said that as part of the stimulus package, \$6 million will be available for "green projects" and EPA is expected to consider some of the projects as "green" and provide grants to the Conservation Commission, the Wildlife Department, GRDA, fellow state partners for improvements to water quality to take streams and lakes off the 303(d) listing to improve water quality in Oklahoma and show these agencies this isn't about the OWRB, its about Oklahoma! Mr. Smith noted many activities the agency's divisions are involved in that bring attention to the high level of work product and involvement in their areas of expertise.

Mr. Smith said the first round of planning workshops was very well received, and there is more strategic thinking to do. The annual OWRB picnic and golf tournament will be held on June 12.

## 2. FINANCIAL ASSISTANCE DIVISION

A. Consideration of and Possible Action on a Proposed Order Approving Emergency Grant for Salina Public Works Authority, Mayes County. Recommended for Approval. Mr. Joe Freeman, Chief, Financial Assistance Division, stated to the members this first item is a \$69,700.00 grant request by the Salina Public Works Authority located in Mayes County. Heavy rainfall earlier this spring resulted in extensive damage to Salina's water treatment plant equipment and controls. It is estimated it will cost approximately \$82,000.00 to replace the damaged equipment and return the plant to full service for the Authority's approximate 800 customers. The project will be funded with \$12,300.00 in local funds, and \$69,700.00 OWRB emergency grant. Staff recommended approval.

Salina Mayor Darrell Blalock was present in support of the application.

Mr. Fite moved to approve the emergency grant in the amount of \$69,700.00 to the Salina Public Works Authority, and Ms. Lambert seconded.

AYE: Lambert, Fite, Herrmann, Drummond, Keeley, Knowles, Nichols

NAY: None

ABSTAIN: None

ABSENT: Sevenoaks

B. Consideration of and Possible Action on a Proposed Order Approving Funding Application for Norman Utilities Authority, Cleveland County. Recommended for Approval. Mr. Freeman stated this item is an \$8,675,000.00 funding request by the Norman Utilities Authority. He said the funds will be utilized to increase the existing pump station capacity to 6 MGD, eliminate five pump stations and enlarge the existing flow equalization basin to a 4.8 MGD storage capacity. In addition, the project will include an emergency generator, yard piping and electrical and instrumentation improvements. The project will be funded with Clean Water SRF loan funds, and other funds made available for an amount not less than 20% project costs, with a targeted goal of 30%. Mr. Freeman noted provisions of the loan agreement; ARRA funds will be in the form of principal forgiveness. Norman water and sewer connections have increased by approximately 20% over the past 10 years. Norman has been a long-time excellent loan customer of the Board, and currently has two outstanding loans with a principal balance of \$3.5 million. The debt-coverage ratio stands at approximately 2.4-times. Staff recommended approval of the loan request.

Mr. Anthony Francisco, finance director; Mark Daniel, Joel Cantwell, and Financial Advisor Rick Smith were present in support of the loan application.

Mr. Herrmann moved to approve the loan request to the Norman Utilities Authority, and Mr. Knowles seconded.

Mr. Herrmann asked if the debt forgiveness for the ARRA funds is at the outset or as the loan is serviced. Mr. Freeman said that staff is "learning as it goes along", but will start principal forgiveness in the beginning and as the process moves along and loan funds are drawn up and it is seen how the money is "shaking out", the loan funds will be reduced trying to get up to the 30%. Mr. Herrmann said there is a \$2 million cap no matter what, and Mr. Freeman answered that is correct.

There being no further questions, Chairman Nichols called for the vote.

AYE: Lambert, Fite, Herrmann, Drummond, Keeley, Knowles, Nichols  
NAY: None  
ABSTAIN: None  
ABSENT: Sevenoaks

C. Consideration of and Possible Action on Selection of Investment Banker(s) in Connection with the Issuance of Obligations to Provide Funding for the Clean Water State Revolving Fund and Drinking Water State Revolving Fund Loan Programs. Mr. Freeman stated to the members that this item is for the selection of investment bankers in conjunction with the State Revolving Fund Loan program. He said he anticipated that later this year the Board would consider a new debt issue in the \$100-million range. He said request for proposals were sent to approximately 35 firms; ten firms submitted proposals for senior manager, and eight firms submitted proposals for co-manager, which he named. The proposals were reviewed by staff and the Board's financial advisors from First Southwest Company looking at the firms' relative experience, marketing and distribution capabilities and quality of the proposed financing plan. Based upon the review, a recommendation was made to the Board's Finance Committee and interviews were conducted with JP Morgan, Bank of America Merrill Lynch, and Morgan Stanley. The Board's Finance Committee, composed of Mr. Mark Nichols, Mr. Rudy Herrmann, Mr. Ford Drummond, and Mr. Ed Fite met on July 8, 2009.

Mr. Herrmann commented that the municipal bond market has been through more than a bit of a turmoil as the Committee needed to learn who the investment bankers are working for now and what bank is owned by whom and how much the government owes, etc. He said it was very clear from all the presenters that the municipal bond market and tax bond market are functioning well, and the Board's well-managed program over the years and the AAA rating will be a real plus as the next bond package goes to market. He said while there are many changes and new players, and its been five years since the OWRB has been to market, this will be very important, and the recommendations the Finance Committee has made will reflect a strong marketing component for this issue.

Mr. Herrmann stated that in the matter of the underwriters to the Board for the proposed series 2009 Revolving Fund Revenue Bond debt issuance, the Finance Committee recommends and he so moved the Board select the underwriting firm of Bank of America Merrill Lynch to serve as Senior Managing Investment Banker to the Board, and that the Board select the underwriting firm of BOSC and its subsidiary BOK Financial, Capitol West and Wells Nelson Associates to serve as co-managing underwriters to the Board. Mr. Drummond seconded the motion.

Ms. Lambert asked the size of the bond issue, and Mr. Freeman answered request for proposals were for the range of \$75 million to \$125 million. He said staff is also looking at the loans involving ARRA. Ms. Lambert asked if there would be staggered maturity, and Mr. Freeman answered, yes.

There were no other questions and Chairman Nichols called for the vote.

AYE: Lambert, Fite, Herrmann\*\*, Drummond, Keeley, Knowles, Nichols  
NAY: None  
ABSTAIN: None  
ABSENT: Sevenoaks

\*\*Mr. Herrmann recused himself from voting on BOSC and its subsidiary BOK Financial.

**3. SUMMARY DISPOSITION AGENDA ITEMS**

Any item listed under this Summary Disposition Agenda may, at the requested of any member of the Board, the Board’s staff, or any other person attending this meeting, may 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 from the Summary Disposition Agenda to the Special Consideration Agenda.

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

Ms. Julie Cunningham, Chief, Planning and Management Division, asked that items M. 2. And M.3., (page 5) for dam and reservation construction be removed due to publishing errors.

Mr. Freeman noted that C.1., Union City Municipal Authority representatives were present at the meeting today.

There being no further questions or discussion regarding items on the Summary Disposition Agenda, Chairman Nichols asked for a motion.

Ms. Lambert moved to approve the Summary Disposition Agenda as amended, and Mr. Herrmann seconded.

- AYE: Lambert, Fite, Herrmann, Drummond, Keeley, Knowles, Nichols
- NAY: None
- ABSTAIN: None
- ABSENT: Sevenoaks

**The following items were approved:**

**C. Consideration of Approval of the Following Applications for REAP Grants in Accordance with the Proposed Orders Approving the Grants:**

<b>REAP</b>				<b>Amount</b>
<b><u>Item No.</u></b>	<b><u>Application No.</u></b>	<b><u>Entity Name</u></b>	<b><u>County</u></b>	<b><u>Recommended</u></b>
ACOG				
1.	FAP-08-0018-R	Union City Municipal Authority	Canadian	\$70,223.00
COEDD				
2.	FAP-05-0027-R	Rural Water District #5	Hughes	85,000.00
EODD				
3.	FAP-08-0005-R	Rural Water District #12	Cherokee	70,000.00
GGEDA				
4.	FAP-08-0035-R	Delaware Public Works Authority	Nowata	79,999.00

5.	FAP-08-0012-R	Fairland Public Works Authority	Ottawa	99,999.00
KEDDO				
6.	FAP-07-0003-R	Rural Water District #4	Pittsburg	140,000.00
NODA				
7.	FAP-06-0017-R	Rural Water, Sewer & Solid Waste Management District #1	Major	99,999.00
SODA				
8.	FAP-05-0043-R	Roff Public Works Authority	Pontotoc	70,000.00

D. Consideration of and Possible Action on Contracts and Agreements, Recommended for Approval:

1. Memorandum Agreement between OWRB, USGS and Hardage Site Remedy Corporation for water monitoring and data collection.
2. Memorandum Agreement between OWRB, USGS and Lugert-Altus Irrigation District for water monitoring and data collection.
3. Memorandum Agreement between OWRB, USGS and The City of Moore for water monitoring and data collection.
4. Memorandum Agreement between OWRB, USGS and The City of Ada for water monitoring and data collection.
5. Memorandum Agreement between OWRB, USGS and Central Oklahoma Master Conservancy District for water monitoring and data collection.
6. Memorandum Agreement between OWRB, USGS and Fort Cobb Master Conservancy District for water monitoring and data collection.
7. Memorandum Agreement between OWRB, USGS and Grand River Dam Authority for water monitoring and data collection.
8. Memorandum Agreement between OWRB, USGS and Foss Master Conservancy District for water monitoring and data collection.
9. Memorandum Agreement between OWRB, USGS and The City of Lawton for water monitoring and data collection.
10. Memorandum Agreement between OWRB, USGS and Oklahoma 4-H Foundation for the OWRB/4-H speech contest and recognition program.
11. Amendment of Joint Funding Agreement with USGS to increase funding and extend end date for the project "Streamflow Duration Statistics Web Application for Oklahoma".
12. Amendment of Joint Funding Agreement with USGS to increase funding for the project



“Garber-Wellington Aquifer Management, Central Oklahoma”.

13. Amendment of Joint Funding Agreement with USGS to increase funding for the project “The continuance to investigate the water resources of the Arbuckle-Simpson Aquifer Special Studies, South Central Oklahoma”.
  14. Catering Event Agreement with the Oklahoma City Zoo for OWRB Management Retreat.
  15. Interagency Agreement with the Oklahoma Department of Environmental Quality regarding the Drinking Water State Revolving Fund.
  16. Renewal of Professional Services Agreement with Charles Dumars.
- E. Applications for Temporary Permits to Use Groundwater:
1. Iva Ruth Cooper Trust, Major County, #2009-507
  2. Beulah Wall, Dewey County, #2009-512
- F. Applications to Amend Temporary Permits to Use Groundwater:  
None
- G. Applications for Regular Permits to Use Groundwater:
1. B C Operating, Inc., Okfuskee County, #2008-597
  2. Mark & Pam Harbin, Hughes County, #2009-508
  3. Southern Oklahoma Water Corp., Love County, #2009-510
- H. Applications to Amend Regular Permits to Use Groundwater:
1. Kasey Lynn & Heather Damron, Beckham County, #1992-601
  2. Dean & Twylah Simmons, Texas County, #2001-582
- I. Applications to Amend Prior Rights to Use Groundwater:
1. Bryan Kroeker, Kingfisher County, #1968-416
- J. Applications for Regular Permits to Use Stream Water:
1. Paul Knapp Anderson, Choctaw County, #2009-004
  2. Johnny R. & Dana D. McElroy, Tillman County, #2009-008
- K. Forfeitures of Stream Water Rights:
1. O.T. & Gale Moss, Caddo County, #1972-510
  2. Bennie Wilkerson, Caddo County, #1980-182
  3. J.C. Addington, Custer County, #1954-020
  4. Roger Stockton, Custer County, #1969-025
  5. Mr. & Mrs. Earl G. Smith, Custer County, #1971-304
  6. Marvin Bischel, Custer County, #1987-028
  7. Peggy Blakely, Caddo County, #1958-280
  8. Lloyd Mogg, Caddo County, #1989-016

9. Frank Bryson, Caddo County, #1978-087
10. Rayburn & Lottie Teeter, Caddo County, #1982-066
11. Harlan Lockey/Treva Gale, Caddo County, #1973-182
12. Paul West, Kiowa County, #1973-108
13. William Troub/Jim Troub, Kiowa County, #1958-205
14. Elnora Higgins, Kiowa County, #1964-284
15. Darlene Cox, Dewey County, #1954-188A
16. Darlene Cox, Dewey County, #1954-189
17. Darlene Cox, Dewey County, #1958-273
18. Gary Pierce/Equitable Variable Life Insurance, Washita County, #1952-600
19. Gary Pierce/Equitable Variable Life Insurance, Washita County, #1964-600
20. Equitable Variable Life Insurance, Washita County, #1985-016
21. Kevin Geis, Washita County, #1987-016
22. Ricky Davis, Washita County, #1980-060
23. Richard K. Young, Comanche County, #1994-035

L. Well Driller and Pump Installer Licensing:

1. New Licenses, Accompanying Operator Certificates and Activities:
  - a. Licensee: Sesco DPC-0751
    1. Operator: Larry Kelly OP-1678
    - Activities: Cathodic protection wells only
  - b. Licensee: LPS DPC-0773
    1. Operator: William J. Looper OP-1700
    - Activities: Pump installation

M. Dam and Reservoir Construction:

1. Garfield County Conservation District, Garfield County, #DS-09-02
2. *Adair County Conservation District, Adair County, #DS-09-03 Item withdrawn*
3. *Adair County Conservation District, Adair County, #DS-09-04 Item withdrawn*

N. Permit Applications for Proposed Development on State Owned or Operated Property within Floodplain Areas:

1. Oklahoma Department of Transportation, Woods County, #FP-09-10

O. Applications for Accreditation of Floodplain Administrators:

Names of floodplain administrators to be accredited and their associated communities are individually set out in the June 9, 2009 packet of Board materials

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

- A. Update Report on Oklahoma Comprehensive Water Plan Activities. Mr. Mike Langston, Oklahoma Water Resources Research Institute, updated the members about the first in a series of three planning workshops that was held on June 4 at the Springlake MetroTech

Center in Oklahoma City. He said being the first meeting not everything went the way that staff had wanted but it went very well overall, and he thanked those Board members who attended for coming as well as OWRB staff. There were 220 attendees, and two sessions: one in the morning and one in the afternoon. There were five different workgroups at each session each covering a different topic, and participants were only allowed to be in one workgroup. Each workgroup was facilitated by a professional facilitator who was trained; OWRB staff was present as were other members of academic community and other state agency personnel. Each workgroup produced three strategies to deal with a specific theme; there was no time for detail, just general development of a strategy. The August 13 workshop will be more specific. It was anticipated greater detail would be needed in order for CDM to run these strategies through its model. He said staff would be tapping CDM, other professionals and OWRB staff to address the technical issues. Information will be available on the OWRRI/OCWP website. He added that Mr. Smith's vision for the OCWP as addressed in the Executive Director's report is what he sees happening as these issues came up at the workshop. Mr. Langston said that comments/feedback will be provided to the group participants.

Mr. Herrmann said he felt that the Board needed to be very careful at this part of the process to properly manage expectations of the participants in the planning workshops. He said that just because a group of people have a particular theme to discuss, doesn't mean that will be a part of the Plan; it is this body's responsibility to ultimately sort out which of the ideas are workable and which are not feasible. Its unlikely that 240 people will have their ideas in the water plan and he didn't want the participants to be disappointed in the process. Mr. Langston added that explanation to the participants about the Town Hall meeting would be helpful.

## **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. In the Matter of Stream Water Right No. 1966-196 of Glen O. Russell, Jr., Stream System 1-8-3, Kiowa County, Oklahoma:**

1. Summary – Ms. Julie Cunningham, Chief of the Planning and Management Division, said this item is the cancellation of a stream water right in Kiowa County for Glen Russell. She

said that staff reviewed the water right and determined no water use report had been returned since 1997, and notification was sent and staff received a letter from Mr. Russell's son stating the permittee had passed away in 1997. A show-cause hearing was offered and Mr. Russell attended and requested a 30-day extension to provide additional evidence; however, no evidence was received. Staff recommended cancellation of the water right due to nonuse. Cancellation of the water right does not preclude the filing of an additional application.

2. Discussion and presentation by parties. There were no parties present at the meeting.
3. Possible executive session. The Board did not vote to enter executive session.
4. Vote on whether to approve the proposed order as presented or as may be amended, or vote on any other action or decision relating to the proposed order.

Ms. Lambert moved to approve the cancellation of water right 1966-196, and Mr. Herrmann seconded.

AYE:	Lambert, Fite, Herrmann, Drummond, Keeley, Knowles, Nichols
NAY:	None
ABSTAIN:	None
ABSENT:	Sevenoaks

B. In the Matter of Stream Water Right Nos. 1950-249 and 1967-202 of O. Dwight Whitworth, Stream System 1-8-3, Caddo County, Oklahoma:

1. Summary – Ms. Cunningham said this item is consideration of a proposed reduction of two stream water rights in the name of Dwight Whitworth in Caddo County in the Washita River basin. She said that a review of the records showed no water use had been reported since 1993; a show-cause hearing was held on March 29. The claimant presented evidence that irrigation had occurred and also asked that the hearing record be held open until April 23 at which time the claimant provided water use reports for use and reason for nonuse for 2007-2008. The hearing examiner considered all the information and recommended reduction of the water right 1950-249 to seven acre-feet which is the maximum amount used, and water right 1967-202 be reduced to four acre feet. Staff recommended approval.

2. Discussion and presentation by parties. There were no parties present at the meeting
3. Possible executive session. The Board did not vote to enter executive session.
4. Vote on whether to approve the proposed order as presented or as may be amended, or vote on any other action or decision relating to the proposed order.

Mr. Herrmann moved to approve the staff recommendation, and Ms. Lambert seconded.

AYE:	Lambert, Fite, Herrmann, Drummond, Keeley, Knowles, Nichols
NAY:	None
ABSTAIN:	None
ABSENT:	Sevenoaks

C. Items transferred from Summary Disposition Agenda, if any. There were no items transferred from the Summary Disposition Agenda for further consideration.

**6. PRESENTATION OF AGENCY BUDGET REPORT.**

Mr. Monte Boyce, OWRB Comptroller, addressed the members and stated that the agency had received notification there would be a reduction to the FY2009 appropriation from the June allocation; for operations that means a reduction of \$5,200, REAP grants \$2,700 less and ORWA \$300 less, or 1.21% of the June allocation.

Mr. Smith interjected this was the first month the agency had received a reduction. He anticipated that July--the first month of the fiscal year--would also see a reduction. He said the agency is budgeting 10% of state dollars to make sure there is some plan for further reduction in state funding. He explained the appropriation for FY2010 was reduced 7% from last year, coupled with reduction in fees of \$100,000, an increase in rent of \$78,000, health insurance costs and retirement cost increases, totaling an 18% difference. He added the Financial Assistance Division is not taking any cuts as it does not receive state appropriated dollars, as we understand the importance of the management of the program and maintaining the AAA rating.

Mr. Boyce said the state appropriates 95% of the expected income for the agency, and in FY'09 the agency had a 5% cushion. He noted the monthly report saying the agency had completed 92% of the fiscal year, expended and obligated 92% of the budget, and collected 88% of the budget.

**7. CONSIDERATION OF SUPPLEMENTAL AGENDA ITEMS, IF ANY**

Chairman Nichols stated there is a Supplemental Agenda for the Board's consideration.

**A. Contracts and Agreements Recommended for Approval.**

1. Consideration of Joint Funding Agreement with USGS for the project "Garber-Wellington Aquifer Management, Central Oklahoma". Ms. Julie Cunningham said this item is for the consideration of a joint funding agreement with the USGS on a joint project on the Garber Wellington study. She said the USGS is able to provide a \$50,000 match to continue the study for one year.

Mr. Herrmann moved to approve the Supplemental Agenda item as presented and Mr. Drummond seconded.

AYE: Lambert, Fite, Herrmann, Drummond, Keeley, Knowles, Nichols  
NAY: None  
ABSTAIN: None  
ABSENT: Sevenoaks

**8. Election of Officers (for 2009--2010)**

**A. Office of Chairman.**

Mr. Jack Keeley stated that he believed that the next two-four years there are potential problems coming before the Board: the water plan will be completed, legal issues are on the horizon, and the Arbuckle Study will be completed. He said his reflection is that the leadership provided by Mr. Herrmann and Mr. Nichols has been exceptional -- not diminishing the

capability of other Board members -- but he would suggest that the next few years the experience of Rudy and Mark be taken into the future.

Mr. Keeley nominated Rudy Herrmann as Chairman. There was discussion of the two-year term for Chairman. Mr. Drummond seconded. There were no other nominations.

Chairman Nichols said he would entertain a motion to elect Rudy Herrmann as Chairman by acclamation. Mr. Fite so moved and Ms. Lambert seconded.

AYE: Lambert, Fite, Herrmann, Drummond, Keeley, Knowles, Nichols  
NAY: None  
ABSTAIN: None  
ABSENT: Sevenoaks

#### B. Office of Vice Chairman

Mr. Drummond moved to nominate Mark Nichols as Vice Chairman, and Mr. Fite seconded. There were no other nominations.

Chairman Nichols said he would accept a motion to elect Mr. Nichols as Vice Chairman by acclamation. Mr. Fite so moved and Mr. Drummond seconded.

AYE: Lambert, Fite, Herrmann, Drummond, Keeley, Knowles, Nichols  
NAY: None  
ABSTAIN: None  
ABSENT: Sevenoaks

#### C. Office of Secretary

Mr. Fite moved the Board elect Linda Lambert as Secretary, and Mr. Keeley seconded. There were no other nominations.

Mr. Herrmann moved to elect Ms. Lambert as Secretary by acclamation, and Mr. Knowles seconded.

AYE: Lambert, Fite, Herrmann, Drummond, Keeley, Knowles, Nichols  
NAY: None  
ABSTAIN: None  
ABSENT: Sevenoaks

### 9. **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. Chairman Nichols stated that Mr. Herrmann would be absent at the July meeting and he would preside. He said Committee assignments would be made by the July meeting, and he suggested members contact Mr. Herrmann. Mr. Smith and Chairman Nichols noted Mr. Farmer had served as Chairman of the Audit Committee. The members talked about the process for the Governor's appointment to fill Mr. Farmer's position.

The members thanked Mr. Nichols for his service as chairman.

**10. ADJOURNMENT**

There being no further business, Chairman Nichols adjourned the meeting of the Oklahoma Water Resources Board at 10:55 a.m. on Tuesday, June 9, 2009.

**OKLAHOMA WATER RESOURCES BOARD**

\_\_\_\_\_/Absent\_\_\_\_\_  
Rudolf J. Herrmann, Chairman

\_\_\_\_\_/s/\_\_\_\_\_  
Jess Mark Nichols, Vice Chairman

\_\_\_\_\_/s/\_\_\_\_\_  
Edward H. Fite

\_\_\_\_\_/s/\_\_\_\_\_  
Richard Sevenoaks

\_\_\_\_\_/Absent\_\_\_\_\_  
Jack W. Keeley

\_\_\_\_\_/s/\_\_\_\_\_  
Kenneth K. Knowles

\_\_\_\_\_/Absent\_\_\_\_\_  
F. Ford Drummond

\_\_\_\_\_  
Vacant

**ATTEST:**

\_\_\_\_\_/s/\_\_\_\_\_  
Linda P. Lambert, Secretary  
(SEAL)