



BIG PLAINS WATER SPECIAL SERVICE DISTRICT MEETING

BOARD OF DIRECTORS, REGULAR MEETING

1777 N Meadowlark Dr, Apple Valley

Wednesday, October 11, 2023 at 6:00 PM

MINUTES

Chairman | Barratt Nielson

Board Members | Frank Lindhardt | Harold Merritt | Ross Gregerson | Andy McGinnis |

CALL TO ORDER- Chairman Nielson called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

PRAYER- Prayer offered by resident Britta Nielson.

ROLL CALL

PRESENT

Chairman Barratt Nielson

Board Member Frank Lindhardt

Board Member Harold Merritt

Board Member Ross Gregerson

ABSENT

Board Member Andy McGinnis

DECLARATION OF CONFLICTS OF INTEREST

None declared.

WATER OPERATOR REPORT

Chairman Nielson excused the Water Operator Trevor due to being out of town.

DISCUSSION AND POSSIBLE ACTION

1. Discussion on adding a water level monitoring system to the million-gallon tank.

Board Member Gregerson discussed a manual tank level that has been installed on the million-gallon tank in Cedar Point. As the Board we agreed on an electronic monitoring level system running on solar. This gives the backup that would be confirmed with the manual reading, as well as level redundancy. Discussion only.

2. Order from the State Engineer.

District Attorney Ben Ruesch commented agenda item is referencing the change application that was approved by the Order of State Engineer in the Cinder Knoll area. He continued; the District had protested the change application. On the last page or second to last page of the order, you will see that while the State Engineer's office did approve the change application, they opposed several conditions on the approval. One of the biggest concerns the District had was that the change application reported to convert the water to municipal water rights but it listed a private entity for municipal water that did not exist. The State Engineer did recognize that and the conditions were imposed, including that if they do want to prove up on that water, they must submit proof through a public water supplier which would be the District. He wanted to make sure the Board was aware and he commented the applicant could under that change application could try to create a separate public water supplier for that area. He confirmed for now it looks like they want to work with the District, as that is what their attorney said at the change application hearing.



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Board Member Merritt asked the district attorney on item 6 of their conditions regarding that they will be responsible to monitor the wells and to guarantee the static levels are maintained and any allocation of this water for the project would have to be monitored by them. He continued, who would be deciding whether they can allocate X number of acre feet of water being appointed diversion of their choosing and recommendation. The attorney responded that he does not have all the details but does remember different points of diversion. He does not know what the process is going to be or the timeline for that project but obviously they will have to work with the Town on all the approvals. Board Member Merritt commented he would like to clarify who oversees making the decisions and further discussion may be needed. District attorney Ben Ruesch commented that he thinks some of that will happen through the approval process with the Town. Chairman Nielson commented on the multiple diversion points. The district attorney commented to the best of his knowledge, that Trunorth is not a public water supply company. He continued, the biggest reason to be on the agenda to make sure the Board is aware of all the issues surrounding the change application and can be monitored accordingly. He does not know of any approval for a new public water supply company. The Board is concerned with another public water supplier within the District's boundary. Board Member Lindhardt asked if another water supplier could be approved in our district. The attorney commented that was brought up as part of the protest. Board Member Gregerson along with Board Member Merritt discussed being involved with monitoring and what is going on with the water in our District. District Attorney Ben Ruesch commented he believes the district could file for judicial review if they do not like the Order of the State Engineer. He continued; he does not feel the District should do that based on the representations made by the developers' attorney at the change application hearing. It does not seem like they have the intention to create this private water company. He thinks the Town can control to a certain extent; with whatever development they propose. Board Member Lindhardt asked the attorney if we leave the order if this implies directly or indirectly that they have the right to have their own water company in our district. He continued, if that is the case, we need to find out what we can do to appeal this. The Board discussed amending the change application with the applicant. District Attorney Ben Ruesch commented based on my research that he will have to double check; I do not think you can have two public water suppliers in the same service area and will verify that information. He continued, on that order there are other conditions imposed, he asked if the Board had any other questions about those. No other questions from the Board. He will get back to and communicate with Chairman Nielson on the Order of the State Engineer.

MOTION: Board Member Merritt motioned that we table the Engineers report we just discussed, until the information we need is available and then we put it on the agenda again.

SECOND: The motion was seconded by Board Member Lindhardt.

VOTE: Chairman Nielson called for a vote:

Board Member Merritt - Aye

Board Member Gregerson - Aye

Board Member Lindhardt- Aye

Chairman Nielson - Aye



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The vote was unanimous and the motion carried.

3. Consider Approval of Knollwood RV agreement.

Chairman Nielson commented that 4-acre feet of water of municipal water was deeded to the District. The water rights agreement was calculated by Sunrise Engineering and approved by our District Attorney. The agreement was pulled up on the screen for the public and presented to the Board.

MOTION: Board Member Lindhardt motioned that we approve the Water Rights Agreement between Knollwood85 LLC and the Water District as presented with the change on page number two, Table 2.03, that it changed to read behind the gallons per day will write, "averaged over one billing period."

SECOND: The motion was seconded by Board Member Merritt.

VOTE: Chairman Nielson called for a vote:

Board Member Merritt - Aye

Board Member Gregerson - Aye

Board Member Lindhardt- Aye

Chairman Nielson - Aye

The vote was unanimous and the motion carried.

4. Consider Approval of Trade of SSD F-250 and Town F-450 Trucks.

Board Member Lindhardt asked if we got the information requested. It was confirmed that the utility bed cannot be swamped. The SSD F-250 4-wheel drive is necessary for the location of wells, especially in weather conditions. The Board is not in favor of the trade.

MOTION: Board Member Merritt motioned that we leave things as they are as far as the trucks are concerned.

SECOND: The motion was seconded by Board Member Lindhardt.

VOTE: Chairman Nielson called for a vote:

Board Member Merritt - Aye

Board Member Gregerson - Aye

Board Member Lindhardt- Aye

Chairman Nielson - Aye

The vote was unanimous and the motion carried.



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5. Consider Approval of Amending the Employee Handbook, Resolution-BPW-R-2023-12.

Board Member Gregerson commented this is specific about who can use the truck and it didn't mention Water Board Members. The Board discussed adding to the motion that Board Members are also authorized to operate vehicles.

MOTION: Board Member Lindhardt motioned that we approve the proposed changes to the Employee Handbook, Resolution-BPW-R-2023-12, with the addition of "Board Members are also authorized to drive the vehicles."

SECOND: The motion was seconded by Board Member Gregerson.

VOTE: Chairman Nielson called for a Roll Call vote:

Board Member Merritt - Aye

Board Member Gregerson - Aye

Board Member Lindhardt- Aye

Chairman Nielson - Aye

The vote was unanimous and the motion carried.

6. Consider Approval of Cedar Point Water System Users Get-Together.

Chairman Nielson discussed with Town Administrator Jauna McGinnis on a local get together for the Cedar Point water system users. A get together pancake breakfast was discussed to show the community we as the Board are there for the community. We are setting a date today, Saturday, November 18th at 9am at the Cedar Point Roundabout. This will be put on by the Board and the Board will be responsible for the details. Discussion only.

APPROVAL OF MINUTES

7. Minutes: September 13, 2023.

Chairman Nielson commented on one typo "swamp" should be "swap".

MOTION: Board Member Gregerson motioned that we approve the minutes of September 13, 2023 Big Plains Water Special Service District.

SECOND: The motion was seconded by Board Member Merritt.

VOTE: Chairman Nielson called for a vote:



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Board Member Merritt - Aye
Board Member Gregerson - Aye
Board Member Lindhardt- Aye
Chairman Nielson - Aye

The vote was unanimous and the motion carried.

CONSENT AGENDA

8. Disbursement Listing for September 2023.
9. Budget Report for Fiscal Year 2023 through September 2023.
10. September 2023 Water Usage Comparison.

The Board discussed solar for the wells and working with grants. Board Member Gregerson to check into the cost of solar panels.

MOTION: Board Member Lindhardt motioned that we approve the three items that are on the consent calendar, Disbursement Listing for September 2023, Budget Report for Fiscal Year 2023 through September 2023, and September 2023 Water Usage Comparison.

SECOND: The motion was seconded by Board Member Gregerson.

VOTE: Chairman Nielson called for a vote:

Board Member Merritt - Aye
Board Member Gregerson - Aye
Board Member Lindhardt- Aye
Chairman Nielson - Aye

The vote was unanimous and the motion carried.

Chairman Nielson updated and discussed a statement from the district because people were having real estate issues with the Cedar Point water crisis. He continued, the attorney and himself completed the letter and it has been sent out. He read it aloud.

(Attachment A)

"October 11, 2023

After consulting with our legal counsel, we feel it necessary to revise our previous letter/statement as to the status of the Cedar Point system. This letter replaces the one sent out previously.



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We stated that the system is back to the way it was prior to the Cedar Point system having multiple failures on or around Sept 18, 2023.

While that statement is true, we are still not at the level of production that is required for this system. Refer to the Master Plan (Impact Fee Study) that was completed in July and presented in our August meeting for the exact details. The Cedar Point system needs to produce 140 gpm to sustain the normal usage as well as proper fire protection for that area. We were at about 85 gpm prior to Sept 18th when the wells stopped producing for various reasons, of which we are still trying to determine the cause and what that means moving forward. We are currently producing about 45 gpm. One of the wells is producing at 100% what it was before but the other one is producing about 15% what it was previously as it is not recharging at the same rate as before.

The water table seems to have dropped significantly, the amount we are still trying to determine by gathering data from all the companies that have serviced the wells over the last several years. We have ordered some diagnostic equipment to make our jobs easier to perform our own in-house data verifications and gathering so that we will be able to see the trends and help us plan better for the future as we continue to work on upgrading our sources.

We are still working on getting the other well back online, waiting for the proper test results to come back to meet the State's requirements before turning it back into service. We are also in the process of getting the approvals and protections in place to get our new well up and running. All of this takes time waiting for test results and paperwork to be completed, reviewed, and approved.

We advise all people to conduct their own due diligence regarding your property rights. To the maximum extent permitted by applicable law, in no event shall the district or its personnel be liable for any consequential, incidental, direct, indirect, special, punitive, or other damages of any kind whatsoever, arising out of or in any way related to the use of the information provided in this letter. Whether based on contract, tort, negligence, strict liability or otherwise. Even if the district or any personnel has been advised of the possibility of such damages. This exclusion of damages shall be effective even if any remedy fails in its essential purpose.

Thank you. Respectfully, Barratt Nielson Chairman Big Plains Water Special Service District"

Board Member Lindhardt commented he has spoken with the manager, Zach Renstrom from the Washington County Water Conservancy District (WCWCD) about the issues with the aquifer being lower. He continued, they offered and have received board permission from the WCWCD to do more studies in Apple Valley. He can spend up to \$100,000 on geological studies. Our biggest problem is we simply don't have the money to do all the things that we should and can do.

REQUEST FOR A CLOSED SESSION

No request.

ADJOURNMENT



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MOTION: Board Member Merritt motioned to adjourn the meeting.

SECOND: The motion was seconded by Board Member Gregerson.

VOTE: Chairman Nielson called for a vote:

Board Member Merritt - Aye

Board Member Gregerson - Aye

Board Member Lindhardt- Aye

Chairman Nielson - Aye

The vote was unanimous and the motion carried.

The meeting was adjourned at 7:01 p.m.

Date Approved: 11-8-23

Approved BY: [Signature]
Chairman | Barratt Nielson

Attest BY: [Signature]
Recorder | Jenna Vizcardo





Big Plains Water Special Service District
1777 N. Meadowlark Dr, Apple Valley, Utah 84737
Phone: 435-877-1190 Fax: 435-877-1192
www.applevalleyut.gov

Chairman Barratt Nielson
Board Member Frank Lindhardt
Board Member Harold Merritt
Board Member Ross Gregerson
Board Member Andy McGinnis

October 11, 2023

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We advise all people to conduct their own due diligence regarding your property rights. To the maximum extent permitted by applicable law, in no event shall the district or its personnel be liable for any consequential, incidental, direct, indirect, special, punitive, or other damages of any kind whatsoever, arising out of or in any way related to the use of the information provided in this letter. Whether based on contract, tort, negligence, strict liability or otherwise. Even if the district or any personnel has been advised of the possibility of such damages. This exclusion of damages shall be effective even if any remedy fails in its essential purpose.

Thank you.

Respectfully,

BARRATT NIELSON (Oct 11, 2023 16:40 MDT)
Barratt Nielson
Chairman
Big Plains Water Special Service District

Attachment A