

**WASHOE COUNTY BOARD OF COMMISSIONERS  
BOARD OF TRUSTEES  
SOUTH TRUCKEE MEADOWS GENERAL IMPROVEMENT DISTRICT  
WASHOE COUNTY, NEVADA**

TUESDAY

11:00 A.M.

OCTOBER 9, 2012

PRESENT:

**Bob Larkin, Washoe County Commissioner, Board of Trustees, Chairman**  
**Bonnie Weber, Washoe County Commissioner, Board of Trustees,**

**Vice Chairperson**

**John Breternitz, Washoe County Commissioner, Board of Trustees, Trustee**  
**David Humke, Washoe County Commissioner, Board of Trustees, Trustee**  
**Kitty Jung, Washoe County Commissioner, Board of Trustees, Trustee**

The Board of County Commissioners and the Board of Trustees convened at 11:29 a.m. in joint session in the Commission Chambers of the Washoe County Administration Complex, 1001 East Ninth Street, Reno, Nevada. Also present were Washoe County Chief Deputy Clerk Nancy Parent; Washoe County Assistant Manager John Berkich; Washoe County Legal Counsel Paul Lipparelli; and Joe Howard, Water Resources Acting Engineering Manager. The Clerk called the roll and the Boards conducted the following business:

**12-44STM    AGENDA ITEM 2**

**Agenda Subject:** “Public Comment. Comment heard under this item will be limited to two minutes per person and may pertain to matters both on and off the STMGID Board of Trustees agenda. The Commission and Trustees will also hear public comment during individual action items, with comment limited to two minutes per person. Comments are to be made to the Commission and Trustees as a whole.”

There was no response to the call for public comment.

**12-45STM    AGENDA ITEM 3**

**Agenda Subject:** “Approve minutes for the Board of Trustees regular meeting of September 11, 2012.”

There was no public comment on this item.

On motion by Commissioner/Trustee Jung, seconded by Commissioner/Trustee Humke, which motion duly carried, it was ordered that Agenda Item 3 be approved.

**12-46STM    AGENDA ITEM 4**

**Agenda Subject: “Status report on the Washoe County Department of water Resources (DWR) pending merger of the DWR water utility with the Truckee Meadows water Authority (TMWA), with possible direction to staff. (Agenda Item No. 9 on the Washoe County Commission.)”**

Rosemary Menard, Community Services Director, noted that Agenda Items 4 and 5 on the South Truckee Meadows General Improvement District (STMGID) agenda and Agenda Items 9 and 10 on the Board of County Commissioners (BCC) agenda would be heard simultaneously.

Ms. Menard conducted a PowerPoint presentation on the history and context of the Truckee Meadows Water Authority (TMWA) and the Department of Water Resources (DWR) utility consolidation, and the history and implications of the proposed water utility consolidation for STMGID. The presentation highlighted the major milestones on the water utility and consolidation analysis, excerpts from recent staff reports, highlights of STMGID’s history, an overview of STMGID’s work from February 2010 through September 2011, STMGID’s options for the future from focus groups, key focus group results, Local Managing Board (LMB) matrix results, proposal for merging STMGID into DWR as part of the September 2011 budget reductions, STMGID/LMB activities from November 2011 through September 2012, options currently identified and being discussed for the future of STMGID and detailed chronologies related to TMWA/DWR water utility consolidation.

Commissioner/Trustee Humke stated the early years of STMGID were not emphasized, which was what he requested so that newer rate-payers would receive that knowledge. He said there were several failing water companies in the past that had been taken over by DWR, which caused the formation of DWR. Ms. Menard explained an entity was created to provide those services since the County was considered the service provider of last resort. Commissioner/Trustee Humke noted his frustration on the GID model as described in the presentation because the analysis arrived by the professionals for the STMGID reserves was almost equal to the proposed separation costs.

Commissioner/Trustee Jung asked if the consolidation of STMGID was a necessity for TMWA to consolidate with DWR. Ms. Menard replied she had not realized how interconnected the systems were and thought there would be options. During the due diligence, the inter-mingling relationship of the STMGID facilities with DWR became clear. She said there was a report that showed infrastructure-by-infrastructure, facility-by-facility on all the water systems which made the challenge of STMGID clear. As a BCC representative on the TMWA Board, Commissioner/Trustee Jung shared that they were admonished by the TMWA Chair to state that progress was moving backwards and not forward since it became part of the consolidation agreement. Ms. Menard said the Interlocal Agreement had a very short, open-ended paragraph about STMGID that noted consideration to review options pertaining to STMGID.

Commissioner/Trustee Jung questioned the cost comparison and said if TMWA operated STMGID they may increase fees due to the added administrative parties. Ms. Menard said the scenario was placed that the County would retain a contract administrator and STMGID would have a contract of operations with TMWA, but the contract administrator would be the middle person between the LMB or the Trustees and TMWA so that TMWA would never be standing before this Board. Commissioner/Trustee Jung stated a key focus group result stated that customers who used more water should pay higher fees and asked if STMGID customers had meters. Ms. Menard clarified that STMGID customers had meters. She explained that conservation was being discussed and added there was strong support in the focus group about user pay.

Commissioner/Trustee Breternitz asked if there would be a possibility for a joint use agreement with STMGID or certain facilities critical to the isolation of the facility and formulate an agreement with STMGID to share use of the facility. Ms. Menard said it was always feasible to have a wholesale agreement for the sale of water. She said there were options to have a type of interlocal agreement with TMWA for sharing facilities in wheeling water, but was unclear if the TMWA Board would embrace that option. Commissioner/Trustee Breternitz asked if that agreement could be executed before the merger and be an assumption of an agreement that TMWA would agree to as a part of the merger. Ms. Menard stated that had not been considered, but she had been told by TMWA that those types of agreements would not be accepted.

Rew Goodenow, STMGID Legal Counsel, explained he had first been engaged to represent the STMGID Board of Trustees for the proposed merger. Then he had been engaged separately to represent STMGID in advising the LMB to consider the other available alternatives. He said it was important for the Trustees to recognize the history was presented by DWR and not by STMGID and added that the LMB would disagree with some of, or all of, the specifics within the report. Mr. Goodenow stated that STMGID should have a seat at the table during further negotiations and the forward progress of those negotiations between DWR and TMWA to allow the issues to be properly addressed between all the stakeholders. He encouraged the BCC, sitting as Trustees, to consider whether that was necessary and an appropriate reaction to the difficulties pointed out by Commissioner/Trustee Breternitz. With respect to the history of STMGID, Mr. Goodenow commented that the LMB should be afforded an opportunity to provide some comments.

Commissioner/Trustee Breternitz requested that the LMB have the opportunity to make a similar presentation. He thought the last time this discussion occurred, he had asked for representatives from STMGID to have a seat at the table with TMWA and DWR since there could not be an effective dialogue without all parties involved. If that had not occurred, he would be disappointed and that would be a misinterpretation of his intent.

Chairman Larkin said that request was made during the last TMWA Board meeting and would be placed on their October meeting. He said part of this discussion was to authorize DWR staff and the LMB consultants to conduct a presentation to TMWA.

Commissioner/Trustee Breternitz said a presentation to the TMWA Board was important and timely; however, the other half of his intent was that a presentation to the TMWA Board would only be as good as the communications leading up to that presentation. He said their staff was highly regarded in terms of their recommendations to the TMWA Board, and he felt it would be important for that group to arrive at a resolution on some of the recommendations in order to reach a united front before a presentation occurred.

Chairman Larkin asked if there was an opinion on the agreement between DWR and TMWA on behalf of STMGID relative to the stipulations that surround the merger. Mr. Goodenow requested that STMGID be permitted to evaluate the agreement and be provided with a copy of the TMWA existing agreement to better understand the role of STMGID in the proposed transaction between DWR and TMWA. Chairman Larkin asked if Mr. Goodenow was familiar with section 42.9 of NRS Chapter 531 (2007). Mr. Goodenow said in connection with this transaction he had not reviewed that section. Chairman Larkin stated that section 42.9 was the legislation that authorized this discussion, and STMGID was specifically mentioned as a public purveyor as well as DWR and SVGID. He said the law specifically enabled the Western Regional Water Commission (WRWC) to consider all aspects. Since the BCC, acting as the Board of Trustees, found themselves in the peculiar position for a competing water purveyor and was now an adversarial relationship, DWR and the BCC opined they wanted to be out of the water purveyor business and into the water leadership business via the WRWC. He thought STMGID was fully empowered to engage in that discussion. He indicated that part of the agreement included the following specific requirements: dealing with the water bank, dealing with the development agreements, which was in transition; and, a scope or a map of how STMGID fit into the big picture. He said there was some notion that STMGID would merge with DWR prior to the merger of DWR and TMWA. However, the STMGID customers did not want that to occur. The other portion was that the DWR component was moving forward with TMWA. He said the LMB had recommended the Trustees request there be discussion between TMWA staff and TMWA Board members relative to the outcome of STMGID, which had occurred.

Commissioner/Trustee Humke said this had been a two-step process, to consolidate STMGID into DWR and then the planned merger of water purveyor services into TMWA. He wondered if the process could be altered if the LMB was advised that STMGID could change by ordinance such as the BCC being replaced as the Board of Trustees. Mr. Goodenow stated the answer was yes. Because of the adversarial process, Commissioner/Trustee Humke believed that was a possibility the Trustees should entertain and then allow STMGID to fully control their own destiny.

Chairman Larkin said the agreement with TMWA was the Trustees, vis-a-vis the BCC, had a plan for STMGID, but did not specify they should or should not be consolidated, it just stated that TMWA wanted to have a total disclosure of the entire liabilities that DWR had during the process. He said it was critical to have a plan before the next TMWA meeting that articulated the liabilities and benefits. Mr. Goodenow said the statutes did not direct anything particular occur and that was his concern in responding to questions about what it may require. He said it may be difficult to characterize exactly what the agreement required because of the general nature of the statute. He reiterated that STMGID have a seat at the table, with respect to continued negotiations for that agreement, in order to provide their needs in moving forward. Chairman Larkin said that was under consideration, but again they found themselves in a peculiar position because as a BCC member his duty was with DWR, but as a Trustee, he was to look after what STMGID wanted to have accomplished and be part of that discussion with TMWA. The other aspect was if TMWA wanted to engage STMGID which was yet to be decided. He hoped this was a precursor of the presentation and the style of information that would be brought to TMWA. He indicated that TMWA would not give into mediation between STMGID and DWR and that had to be understood. If part of that plan was authorizing STMGID to negotiate with TMWA directly for services that would be an option, but the ordinance would have to be in place at that particular time.

Commissioner/Trustee Breternitz clarified for purposes of the TMWA Board meeting, he felt that STMGID staff should have a seat at the table formulating that presentation so their case could be presented. He believed the plan would put STMGID in a position where they could contract directly for water with TMWA without changing the direction of DWR and the merger. Commissioner/Trustee Breternitz felt it would be good to know sooner rather than later if TMWA had an appetite for that option.

Commissioner/Trustee Weber asked if the LMB had a different take on the history that was presented. Mr. Goodenow stated they did for certain aspects of the history. Commissioner/Trustee Weber said that was an important factor to consider and felt that more information was needed. She was torn since the first responsibility as a Commissioner was for DWR, but also felt she had a responsibility to STMGID as their Trustee. She understood how that would be adversarial, but did not know how to distinguish one over the other. She said that TMWA had already determined they did not want to have anything to do with STMGID. Chairman Larkin commented that had never been opined by the TMWA Board.

In response to Commissioner/Trustee Weber, Mr. Goodenow said the LMB would be willing to make that presentation. He said the concern expressed by Commissioner/Trustee Weber for the conflicting responsibilities as Trustees and Commissioners was appreciated, unfortunately that was unavoidable. In his view, he thought the Trustees' first responsibility at this stage in the proceedings was an obligation to STMGID. Chairman Larkin indicated they were convened as both the Trustees and the BCC. Mr. Goodenow stated he was addressing them as Trustees. He understood that TMWA had effectively given the response that it did not understand why they should be

discussing STMGID. He suggested the appropriate response should be that TMWA needed to deal with STMGID in order to reach a conclusion.

Paul Lipparelli, County Legal Counsel, confirmed that the Board was convened jointly as the Board of Trustees and the BCC and was hearing input from Mr. Goodenow in his role as advisor to STMGID, which was appropriate, and he would answer questions for their BCC capacity.

Mr. Lipparelli said this situation had many overlaps. He agreed with Mr. Goodenow's characterization that the Commissioner's were placed in a peculiar position, but there was a way to have a separate Board of Trustees for STMGID. He said it would place the County in an arms-length position with regard to STMGID and allow those decisions to be made in the best interest of STMGID by people who only had that role. Mr. Lipparelli did not believe the Board failed to act in the best interest of STMGID sitting as their Trustees, and he felt that all the decisions made thus far would hold up to any scrutiny used to examine those decisions. He said individuals were beginning to pick up on the possibility there may come a time where it would be difficult to vote one way on an item as a County Commissioner and potentially be challenged to vote a different way as a Trustee. He said he would meet with staff to build the process needed to separate the Board, if that direction was given.

In the historical information that was presented, Commissioner/Trustee Breternitz said there was a letter from former DWR Director Steve Bradhurst that indicated the formulation of a new STMGID, or changes to the GID, by making the LMB the Trustees. That change would need to be approved by the City of Reno, which could potentially impact the tax cap for the City; therefore, would not likely be received very well. Mr. Goodenow stated he reviewed the letter in question and said there was some indication that establishment of a separate new STMGID would require the dissolution of the existing STMGID and then a re-establishment of a new GID. However, he had not been provided with any opinion to that affect from the District Attorney's Office. He was provided with an opinion from 1993 that stated since the law changing Trustees was unknown, if the Commissioners desired to remove themselves as Trustees and substitute another Board of Trustees, an ordinance may be enacted. He believed the record provided was inconsistent with statements made in the Bradhurst memo.

Commissioner/Trustee Humke said there were a number of questions and a path to merge with an entity that some styled as a "hostile takeover" by a legislative fiat. He referenced a statement on page 31 of the presentation that read, "STMGID community meeting held at Galena High School with 250 people attending. Those attending overwhelmingly favored not merging with the County or TMWA." He said that could be taken as evidence there was never a real and substantial effort to go out to the rate-payers of STMGID to discuss some of the issues. He wondered if the citizens in the DWR system were aware of the changes because there was a fiduciary responsibility to those citizens as well.

Commissioner/Trustee Weber requested the memo mentioned by Commissioner/Trustee Breternitz.

Commissioner/Trustee Breternitz said the upcoming TMWA Board meeting was important because if TMWA was willing to extend further communication or potentially entertain dealing with STMGID then the Board should proceed with the investigation of making them a separate entity. If TMWA refused, it would behoove the Board to sit as Trustees to effectuate, without much battling, moving forward with the DWR/TMWA merger.

Steve Cohen, LMB Chairman, voiced his frustration. He said 10 years ago there was a joint meeting where it was being pushed for the LMB to become the Trustees of STMGID, but it was determined the only way that could occur was to dissolve STMGID and reformat. He said the LMB had been working under that assumption, but now they were being told that an ordinance could be done at any time. He said it was very frustrating that STMGID could have been in a different spot if some of this was enacted earlier. Chairman Cohen stated the options being discussed were the options being discussed a year ago. He indicated there was a time frame given and the LMB had paid a tremendous amount of money for consultants and mailings for the upcoming open houses to provide the residents with an update. He said it would take time to put things together and he proposed a joint meeting between the BCC, the Trustees and the LMB to discuss all the options at once. Chairman Larkin said this had been occurring since the statute was passed in 2007 and said STMGID had been a part of the WRWC and at the table every step of the way. He stated this would either get done or the Legislature would make the decisions during the next session. He stated he was not in favor of any time extensions. Chairman Cohen agreed, but the LMB was being asked questions by the public and could not answer their questions without vetting what the options meant. He said the LMB needed four weeks to review some of the items and were doing their best.

In response to the call for public comment, Malachy Horan said after reviewing the history and context that was presented, he noticed there were no measurable benefits that had been discussed about the DWR/TMWA merger. He said he wished to see measurable performance, financial, operation and quality targets. He said if those were not upfront in mergers, the merge would not be successful. Mr. Horan said it was also mentioned about a single customer base, but he had been informed there would be two distinct rates that would be used and hoped that would be clarified.

Bill Maggiora voiced his frustration that too much time had passed where not enough people knew what was happening. He felt the conclusion would not be good for STMGID customers.

Chairman Larkin said direction needed to be provided to the STMGID consultants and DWR staff for the nature and the style of the presentation that was requested by the BCC as Trustees for the next TMWA Board meeting.

Commissioner/Trustee Humke believed staff should be directed to create a presentation to the TMWA Board that reviewed all the issues discussed. The presentation should include the history of STMGID and incorporated to TMWA before the 2013 Legislative session, and require additional time of approximately six months for continued study.

Chairman Larkin stated that he would not support that direction.

Commissioner/Trustee Weber commented that November 13, 2012 was a good deadline. She said the rate-payers needed the factual information and it would behoove the Board to have a “what if plan” if the November 13th date did not work.

Chairman Larkin said the direction to the STMGID staff and DWR staff was to put the information that was provided at this meeting in the presentation.

Commissioner/Trustee Breternitz stated that a request was made for the LMB to present their history.

Chairman Larkin clarified that DWR would not make the presentation on behalf of STMGID. He said STMGID would make the presentation. Chairman Cohen stated that some things were missing from this presentation, but said he would add what was missing.

As a representative on the TMWA Board, Chairman Larkin questioned if they were free to discuss the potential for separation of STMGID provided it met the standard of an ordinance related to standing up a separate group of Trustees.

Commissioner/Trustee Humke requested an ordinance be prepared. He said it had been suggested for the next BCC/Trustee meeting that they meet jointly with the LMB. Commissioner/Trustee Weber suggested that meeting be conducted between the morning and evening sessions of the October 23, 2012 BCC meeting. She also requested a backup plan for the November 13th deadline. Commissioner/Trustee Humke suggested holding the meeting in the Commission Chambers after 6:00 p.m.

There was no action taken.

**12-47STM AGENDA ITEM 5**

**Agenda Subject: “Presentation on the history of the STMGID’s formation, including the role of the Washoe County Department of Water Resources as the sole provider for all services necessary for the operation of STMGID, which facilities are a component of the South Truckee Meadows water system, with possible direction to staff. (Agenda Item No. 10 on Washoe County Commission Agenda.)”**

Rosemary Menard, Community Services Director, noted that Agenda Items 4 and 5 on the South Truckee Meadows General Improvement District (STMGID)



agenda and Agenda Items 9 and 10 on the Board of County Commissioners (BCC) agenda would be heard simultaneously.

**12-48STM AGENDA ITEM 6**

**Agenda Subject: “County Commission, Trustees, and Staff Comments (limited to announcements, requests for information, statements relating to items not on the agenda or issues for future agendas.)”**

Commissioner/Trustee Humke requested that the District Attorney’s Office work with Rew Goodenow, Legal Counsel for STMGID, to prepare an ordinance for a separate Board of Trustees.

**12-49STM AGENDA ITEM 7**

**Agenda Subject: “Public Comment. Comment heard under this item will be limited to two minutes per person and may pertain to matters both on and off the STMGID Board of Trustees agenda. The Commission and Trustees will also hear public comment during individual action items, with comment limited to two minutes per person. Comments are to be made to the Commission and Trustees as a whole.”**

There was no response to the call for public comment.

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**1:25 p.m.** There being no further business to come before the Board, on motion by Commissioner/Trustee Jung, seconded by Commissioner/Trustee Humke, which motion duly carried, the meeting was adjourned.

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**ROBERT M. LARKIN**, Chairman  
Board of County Commissioners and  
South Truckee Meadows General  
Improvement District

**ATTEST:**

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**AMY HARVEY**, County Clerk,  
Clerk of the Board of County Commissioners  
and Ex-Officio Secretary, South Truckee  
Meadows General Improvement District

*Minutes Prepared by:  
Stacy Gonzales, Deputy County Clerk*