

MINUTES
NORTHERN NEVADA WATER PLANNING COMMISSION

Wednesday, September 5, 2018

The Northern Nevada Water Planning Commission ("NNWPC") held a regular meeting in the Washoe County Caucus Room, 1001 East Ninth Street, Reno, Nevada, and conducted the following business:

The meeting was called to order by Vice-Chair Wright at 9:10 a.m.

1. Roll Call and Determination of Presence of a Quorum

Voting Members Present: Jon Combs, Michael Drinkwater, Bill Hauck, Danielle Henderson, John Martini, David Solaro, Mervin Wright, John Zimmerman

Voting Members Absent: Michael DeMartini, John Enloe, John Flansberg, Mickey Hazelwood

Non-Voting Members Present: None

Non-Voting Members Absent: Cindy Turiczek, Harry Fahnestock, My-Linh Nguyen, Ron Penrose

Staff Members Present: Jim Smitherman; Chris Wessel; John Rhodes, Legal Counsel; and Jennifer Purgitt

2. Public Comment

None

3. Approval of Agenda (For Possible Action)

COMMISSIONER ZIMMERMAN MADE A MOTION TO APPROVE THE AGENDA, SECONDED BY COMMISSIONER DRINKWATER. THE MOTION CARRIED UNANIMOUSLY WITH EIGHT (8) COMMISSIONERS PRESENT.

4. Approval of Minutes from the August 1, 2018 Meeting (For Possible Action)

COMMISSIONER ZIMMERMAN MADE A MOTION TO APPROVE THE AUGUST 1, 2018 MINUTES, SECONDED BY COMMISSIONER SOLARO. THE MOTION CARRIED UNANIMOUSLY WITH EIGHT (8) COMMISSIONERS PRESENT.

5. Discussion in workshop format and possible recommendation(s) to the Western Regional Water Commission ("WRWC") regarding WRWC strategic priorities, annual meeting schedule, administrative and legal services, overhead and non-staff related operating expenses, existing contracts, and possible budget adjustments; and, possible direction to staff - Jim Smitherman, WRWC Water Resources Program Manager. (For Possible Action)

Jim Smitherman, Water Resources Program Manager, presented the staff report which includes information on the direction given by the WRWC to the NNWPC at their August 14, 2018 concurrent meeting. The report also includes information on the results of the December 2017 NNWPC priority-setting workshop and the development of the fiscal year ("FY") 2018-2019 WRWC budget. The NNWPC discussed these priorities at two additional meetings and developed a ranked project list based on the priority-setting process. The report also includes background and discussion sections for reference during today's workshop.

Commissioner Martini noted that there was some indication of strategic priorities at the joint meeting with the WRWC that line up with the priorities the NNWPC has set. He suggested the idea of having a reserve amount of money on hand to augment some of the research that could potentially be needed.

After some discussion it was clarified that the reserve money suggested would be a project reserve account and not part of the cash reserve for operating expenses.

Commissioner Martini stated that what he got out of the joint meeting is that the WRWC is feeling a little lost with regard to where their focus should be. He discussed the idea of focusing on the projects tied to the top priorities the NNWPC has set and let some of the other contracts run out. He also suggested scheduling another joint meeting where the NNWPC can explain and answer questions from the WRWC about the priorities that have been set.

Chris Wessel, WRWC Water Management Planner, discussed the positive impacts he observed from the joint meeting as the WRWC Commissioners heard explanations from NNWPC Commissioners regarding how important certain programs are and why they are needed. He suggested that there may be value in holding a joint meeting when new WRWC members come on board.

Mr. Smitherman agreed regarding the impact of the joint meeting and suggested that the impact was greater than having staff present reports to the WRWC.

Mr. Smitherman stated that he will take the results from the NNWPC priority ranking along with the professional services contracts budget and re-package that into a chart to present to the WRWC again. He will include the vote totals from the priority ranking and the activities that are underway for each of the priorities.

Mr. Smitherman confirmed after discussion that the NNWPC does not want to make any changes to the priority ranking.

Commissioner Drinkwater discussed the fact that this is a planning commission and he would like to see a policy stating that it does not fund construction projects.

COMMISSIONER SOLARO MADE A MOTION TO PRESENT THE PRIORITY RANKING TO THE WRWC WITH NO CHANGES, AND TO RECOMMEND THAT THE WRWC DISCUSS A POLICY OF NOT FUNDING CONSTRUCTION PROJECTS, AND CONTEMPLATE A PROJECT RESERVE ACCOUNT FOR USE IN PLANNING PROJECTS, SECONDED BY COMMISSIONER DRINKWATER. THE MOTION CARRIED UNANIMOUSLY WITH EIGHT (8) COMMISSIONERS PRESENT.

Mr. Smitherman reported that staff has reviewed the past five years of WRWC and NNWPC meetings to confirm how often they have met. There has been an overall average of six meetings a year for the WRWC and about 11 meetings a year for the NNWPC.

There was discussion regarding the approval authority of the WRWC Water Resources Program Manager. Mr. Smitherman confirmed that quarterly WRWC meetings have not created any problems for keeping contracts up to date. Continuing to bring contracts to the WRWC rather than requesting higher approval authority for the Program Manager will keep the WRWC more involved.

There was discussion regarding coordinating the timing of a joint meeting prior to the draft budget being presented to allow time to discuss priorities with the WRWC. The NNWPC will start working on setting priorities in November, and the budget process for the WRWC will begin in February.

There was discussion regarding opportunities for input by the WRWC so they are more involved in the process. It was suggested that the October WRWC meeting may be an opportunity to provide the WRWC Trustees with a progress report. It was also suggested that meetings can be held at facilities where tours can be scheduled either prior to or after the meeting. Staff recorded a tentative meeting schedule on a wall-mounted white board.

COMMISSIONER SOLARO MADE A MOTION TO APPROVE THE RECOMMENDED MEETING SCHEDULE AS DISCUSSED AND WRITTEN ON THE BOARD, SECONDED BY COMMISSIONER ZIMMERMAN. THE MOTION CARRIED UNANIMOUSLY WITH EIGHT (8) COMMISSIONERS PRESENT.

(The meeting was in recess from 10:25 a.m. to 10:36 a.m.)

Mr. Smitherman reviewed the history of the Legal Services contract. Last October, the WRWC voted to restore the monthly retainer fee back to its original amount, following a voluntary 10% reduction had been in place since 2010, and in smaller increments prior to that. At the joint meeting there was discussion regarding the possible renegotiation of the contract with the goal of reducing costs. Mr. Smitherman included in the staff report a comparison of legal fees for several similar regional agencies where comparable services are provided.

John Rhodes, Legal Counsel, stated that he is willing to go back to the reduced contract amount cutting ten percent off the monthly flat fee. He explained that the contract has always been based on a flat rate retainer to cover all required legal services, except for litigation. It was never intended to include or be based on an hourly rate. He also explained that the WRWC/NNWPC initially proposed to have in-house counsel and that his reduced contract amount is about 65% of what it would cost for in-house counsel with a fully dedicated Deputy District Attorney or Deputy City Attorney. Mr. Rhodes stated that he co-authors the meeting agendas and reviews all staff reports, is available full-time for legal consultation, reviews all meeting minutes, prepares all contracts and keeps them up to date, and reviews the statutes and WRWC Act periodically to ensure both commissions are in compliance with all statutory requirements.

Commissioner Martini stated he does not have a problem with the current fee being charged for legal counsel. If the WRWC has a concern with the contract, that needs to be handled at that level.

Commissioner Drinkwater discussed the legal counsel contract rate and stated that it is well below market for a decent attorney. He suggested making a recommendation back to the WRWC to leave the contract as it is.

There was discussion regarding the lack of specific direction or identification of a specific issue from the WRWC with regard to the legal services contract. The NNWPC discussion included positive feedback on the legal services being provided, and noted that a reasonable rate is being charged.

Mr. Smitherman will convey the above discussion to the WRWC.

Commissioner Solaro suggested bringing the WRWC a detailed list of the services being provided by legal counsel along with the amount of time spent on each task. He also suggested including recommendations on areas that can be cut back: for example, the possibility of doing away with the WRWC Legislative Sub-Committee, and not having legal counsel review staff reports unless there is a legal issue involved.

Mr. Rhodes stated that he is willing to go back to his reduced rate and still provide those services. If the WRWC wants to cut back further, that can be negotiated. He also stated that he can provide a breakdown of his services in general categories but the time spent for each

category will be estimated since the contract was not set up to track itemized activities on an hourly basis.

It was suggested that the NNWPC recommend that the WRWC continue the legal services contract at the ten percent reduction rate that NNWPC recommended last October, along with a list of the services that are being provided.

Mr. Smitherman confirmed that he will let the WRWC know that the NNWPC discussed the legal contract and stands by its October recommendation. He will also show the WRWC the comparison of legal rates included in today's packet, with the addition of a list of legal services currently being provided.

Mr. Smitherman presented information and answered questions regarding overhead costs.

Commissioner Martini suggested there may be some confusion regarding what overhead costs are. He stated that he does not see a big overhead here.

There were no recommendations from the NNWPC for any changes to the professional services budget.

Mr. Smitherman discussed a future opportunity to eliminate one staff position when he retires around February of 2020. He reviewed the history of staff positions and suggested that it may be possible to run this program with one program manager and an administrative assistant again once he retires.

6. Discussion regarding location and possible agenda items for the October 2018 NNWPC meeting, and other future meetings, and possible direction to staff – Jim Smitherman. (For Possible Action)

The next NNWPC meeting will be Wednesday, October 3 at 1:30 in the Washoe County Commission Chambers.

Possible agenda items for the next NNWPC meeting include: amendment for the data instincts contract; report from DRI on cloud seeding; report from the SWPCC on their Watershed Management Plan gap analysis.

No action taken.

7. Commission Comments

None

8. Staff Comments

None

9. Public Comment

None

10. Adjournment (For Possible Action)

The meeting was adjourned at 11:42 p.m.

Respectfully submitted by Christine Birmingham.

Approved by:



Michael DeMartini, NNWPC Chair

APPROVED BY COMMISSION IN SESSION ON Nov. 7, 2018.