



Monthly Meeting Minutes

January 21, 2021

5 -7 p.m. – Via Zoom

Council Members Present: Mark Easton, Dick Ewing, Mike Fort, Andy Hover, Greg Knott, Soo Ing-Moody, Jeff Sarvis, Ashley Thrasher, Bill Tackman

Others in Attendance: Chris Allen, Lee Bernheisel, John Crandall, Candis Graff (ECY), Alyssa Jumars (MWF), Natalie Kuehler, Curtis Koger, Craig McDonald (MWF), Deanna Melton, Jasmine Minbashian (MVCC), Melanie Rowland (MVCC), Hans Smith (Yakama Nation), Lorah Super (MVCC), Travis Thornton, Jeanne White (MC), Jan Young

Minutes recorded by: Sarah Lane, Administrative Assistant

Non-Procedural Motions

Motion #	Short Title	Yeas	Nays	Abstain
1.21-01	Officer elections to be held in February 2021	7	0	0
1.21-02	Staff to continue work with Resilient Methow	7	0	0
1.21-03	Recommendations to IG's for Council positions 1,2 and 4: Greg Knott, Mike Fort, and Alyssa Jumars	6	0	1

1. Call to order

The meeting was called to order by Ashley Thrasher at 5:00 PM

2. Agenda – Review and Approval

Andy moved to approve the Agenda as amended; Jeff seconded. The agenda was approved.

3. Minutes – Review and Approval

It was noted that the motion, including motioner and second, to approve George Schneider as the strategic plan facilitator was not recorded, but was approved unanimously. Greg moved to approve the November 19, 2020 minutes as amended with this note and Andy seconded. The minutes were approved.

4. Report from the Chair

Ashley reported that due to Strategic Planning, she would like to move elections of MWC officers to February. Andy clarified that the date of elections is specified in bylaws

Andy made a motion to move the officer elections to February. Jeff seconded the motion, and the motion passed unanimously.

Ashley updated the Council about a subpoena received by Sarah on behalf of the attorney for a plaintiff suing Edelweiss water board. They were seeking water data that had been shared with Mike as part of the water metering project. That information was provided to the attorney.

No news was available on the status of a CRM.



Reminder to attend the Strategic Planning session on Wednesday January 21, 2021, at 12:00PM.

5. Ecology Report

Candis Graff said that she did not know the specifics about the AG opinion provided to the County, but that if members or public had specific questions, they could contact Trevor Hutton at Ecology. She would be able to help facilitate that communication.

6. MWF Report

The MWF met last week, and opened nominations for officer positions. Elections will be in February.

7. Initiating Government Reports

Town of Twisp-

No Report

Town of Winthrop-

No Report

Okanogan County-

Due to cyber-attack, Andy has not been able to get email for over a week. The rest of his report will be covered in Agenda item 1.21-04

8. Sub-Committee Reports

Technical Review Committee, Chair – Tackman/Fort

Mike is working on communication with Senator Hawkins regarding additional funding for the metering project. Additional meters are scheduled for installation beginning February 10, and will be charge on a time and material basis, rather than the original bid, which was high.

Aspect is waiting on data from the County to update the database. The parcel database was updated in November. Soo asked Mike if he could provide the name of the person he's been working with in the senate office, and Mike said he would send that out.

9. Outreach and Education Committee, Chair – Knott

Sarah reported that the most recent newsletter provided information on various water tools- USGS hydrographs snow water, and etc. Upcoming articles will include ag water rights basics and a presentation with Curtis Koger on aquifer recharge.

10. Resilient Methow – Lane

Sarah asked the Council to consider whether it would want to play a lead role in an Action team working to implement recommendations in the climate action plan. This discussion will be continued at the Strategic Planning session.

Mike asked if the comments provided by, he and Greg had been applied to the draft CAP. Sarah noted that the copy of the CAP provided to the meeting was not the updated version and that she would follow up to ensure they were included. Soo asked Sarah to provide Mikes and Greg's comments to the Council.



Sarah asked for approval to stay involved in the CAP group as work on developing teams continues. Greg said that it would make sense to do so until a natural breaking point occurs, perhaps in a few months, or as the action teams take over the work. Greg moved that Sarah will continue working with the Resilient Methow group until action teams get underway. Mike seconded the motion and the motion was approved unanimously.

11. Agenda Item 1.21-01: Council Positions 1,2 and 4.

Mike and Greg both indicated they are willing to continue in their positions. Alyssa Jumars submitted a letter of interest for Position 4, vacated by Travis. If the Council recommends these individuals for these positions, the recommendation will be forwarded to IGs for approval. Dick moved that the MWC recommend to the IGs, Greg, Mike and Alyssa for positions 1,2, and 4. Bill seconded the motion, and motion passed. Andy abstained.

12. Agenda Item 1.21-03: Discussion: Out of Basin Transfer Prohibition Draft Legislation and MWC Letter of Support

Lorah Super reported on the draft legislation she and Mary McCrea have been working on with Rep. Goehner.

- The bill is limited to the seven watersheds upstream of Wenatchee.
- Out of basin transfers would be prohibited until August 2022, during which time a water bank managed by the Conservation District would be set up to manage water transfers.
- The bill allows upstream transfers.

Lorah and Mary told Rep. Goehner that upstream transfers are difficult and should be addressed separately from this bill. It is still unclear what the final bill will look like. They are looking into a proviso to fund local water banks. The group working on this legislation would appreciate MWC support when the time is right.

Dick asked about what the vision for a water bank is. Lorah said as of now likely the Conservation District or Office of Farmland Preservation would administer a water bank. Dick asked if another group could form a water bank. Lorah said that in general, yes, that competition is good and could lead to better pricing. At one point in the work on the bill there was a right of first refusal for a local water bank. Dick said this would allow competing offers to be matched, allowing sellers the best deal. Lorah asked if folks in the Okanogan basin are supportive, and Dick said yes. Dick said he had some concern with losing rights downstream. He also mentioned potential water projects and how that would relate to selling water. Lorah said that is why CD's were initially identified to work out the details of how a water bank would work with those kinds of questions. Dick asked if fees would be included in sales to fund water bank administration. Lorah said yes. Lorah thinks Ecology has the authority to approve water banks by statute currently. Water banks can be unique to each watershed.

The Council discussed how to comment on the legislation. Soo asked Lorah to keep Council in the loop with changes and proposals. Due to legislators meeting remotely, not as many bills will be finalized for consideration.



Mike noted the concept of upstream transfers is confusing. Lorah agreed and supports removing that section.

Andy said that this legislation affects the entire Okanogan County and so he would not vote on a letter without the other two commissioners voting yes. If Council thinks the IGs should support the bill, Council should make that recommendation for IGs to take to their boards.

Greg asked if all agree that expressing support for keeping water in the basin generally. Dick added support for having a local water bank. Greg and Ashley will monitor progress and draft a letter.

13. Agenda Item 1.21-04: Discussion- Attorney General response to Ordinance 2020-06

Andy reported that from what the AG says, that on any subdivision post 2002, the County cannot allow a building permit. This applies to about 235 parcels. The County is working on getting a list of these parcels out to real estate agents. Additionally, any subdivision, even from one lot with a house to two, creates a group use situation, and exempt well cannot be used. Commissioners will be discussing this next week. Water banking and storage are probably the best options for the near term. Andy is not sure how a rule change will be received. The County needs to determine what level of development the valley can sustain.

Dick asked what option is available for using the 2 cfs. Andy said lots created prior to 2002 only, as any subdivision subdivided water. Dick asked if that means Campbell and Gwinn can override the MWP. Andy said yes.

Bill asked for a definition of subdivision. Andy said that subdivision is defined under RCW 58.17, excluding exempt segregations.

Mike said that the way he understands Campbell and Gwinn (CG), when someone subdivides without developing the parcels, then it shouldn't be subject to CG.

Andy said that state law provides that lots over 5 acres are exempt segregations. In Okanogan County, code is 20 or more acres. If someone is going to subdivide, they need to say how the water will be provided.

Melanie said that it doesn't matter if the subdivision is under 58.17 or exempt segregation. The issue is single domestic vs. group use, and under the 2 cfs reserve, subdivisions are not entitled to SFD because it becomes a group use. She said that the County must determine, under 58.17, if there is legal water at the time of subdivision. The County can allow exempt segregation, but can't allow water from the 2cfs for it later. Melanie believes that is implicit in the way the letter is written and if the County interprets in another way it will make more issues. Melanie said the issue now is if the effect of the determination will be applied by the County to some lots and not others.

Dick said his opinion is that when the Rule was written, the intent was to make the 5000 gallons per day redundant, and it's changed the definition of it. He asked, what was the intention of the 2 cfs reservation and the definition of single domestic use when it was written, and didn't get the answer.



Melanie said that the AG's opinion meant it limited the use to SD use, and that it would prevent use on subdivided lot, as the intent of the rule.

Andy said he disagreed, and pointed out an exception for water that is not hydraulically connected to the main stem. Andy believes the intent was there would be exceptions. In 1991, when rule was reopened and exempt wells were included, when it was realized that all water is hydraulically connected, Andy believes that it was an oversight that single domestic was written about surface water – there was no group use of surface water.

The County is doing everything they can to safeguard investments, but it will be slow.

Natalie asked Andy how the County is treating lots subdivided post 2002, without a building on them, and one exempt water use, how does that get divided up. Andy said that if he (speaking for himself), his opinion is that a person could do a parcel consolidation and have legal water. On lots without a building, subdivided post 2002, the AG's opinion is what they have to work with. Natalie said the assumption then is the lots are unbuildable unless they are reconsolidated or had title restrictions. Andy thought yes, title restrictions could be put on the other lots, and show that one of the lots is the parent lot. Again, this is Andy's opinion and has not been tested.

Lee commented that the 1991 reopening of the rule was based on how much of the 2cfs was left. The determination was that there was no water left in the 2cfs to give out. A pilot study was formed to look at the WAC. They looked at a water bank to solve the water problem and it was rejected. Then came the MBPU. It's not just subdivisions causing problems, it's any development.

Natalie asked if there was any thinking at the County that pending subdivisions would be approved, or is this a hard stop. Andy said that it's not the subdivision, but whether or not they can build a house on it. The County will inform people requesting subdivision of the AG's opinion. The County needs more review time before they will know how they will handle it.

Ashley asked, to be clear, if parcels still get subdivide, will a building permit not be issued? Andy said, per the AG's opinion, and subdivided lot post 2002, does not have legal water. You could possibly put the title restrictions on the other lots and have one water use.

Dick said that this and CG basically restricts the idea of exempt use and makes it non usable. Andy said the County used to put title restriction on subdivided lots to divide the exempt use. McKenna told the County to not do that anymore. Ecology actually jointed the County in a lawsuit against that, and the County won. Dick believes that this force uses to all be group domestic, and changes the law through the courts, and doesn't believe its just.

14. Agenda items for next meeting

1. Elections of Officers
2. Strategic Plan Update



15. Public Comment

Lorah reported on the application from Crown Columbia for a new water right and an amended trust water right. The new right would be an area wide permit that would include all water in hydraulic continuity to the Columbia. Purpose is irrigation, domestic and municipal. It is for 49.9 cfs, or 99 AF/day, 6000 AF/yr. Application materials are vague and insufficient. MVCC intends to object and is seeking signatories.

Deanna Melton asked for a clarification regarding the AG opinion, if it's a subdivision prior to 2002, or one piece of land, would a building permit be issued? Andy said to imagine the parcel map prior to 2002, and those lots are buildable.

16. Adjournment

The meeting adjourned at 6:39 P.M.

Ashley Thrasher, Council Chair

Approved at the February 18, 2021 Council meeting.