

AGENDA
UPPER YAMPA WATER CONSERVANCY DISTRICT
SPECIAL/EMERGENCY BOARD MEETING
MARCH 27, 2020 (2:00 PM)

ONLINE MEETING: [HTTPS://BLUEJEANS.COM/296566042](https://bluejeans.com/296566042)

NOTICE: Due to the COVID-19 Pandemic the General Manager of the District has determined that an emergency exists and that this meeting will be conducted entirely by video conference as a special and emergency meeting under the Bylaws of the District. Members of the public desiring to attend the meeting and/or make public comment on items on the agenda should contact should Deb Bastian for instructions to join the meeting by video conference at dbastian@upperyampawater.com.

- (1) Call to Order;
- (2) Approval of Meeting Agenda;
- (3) Bylaw Amendment (emergency adoption)
- (4) Discussion of General Manager's proposal for employment during transition
- (5) General Manager selection process
- (6) Adjournment.

BOARD COMMUNICATION FORM

Special/Emergency Meeting, March 26, 2020
(Not attorney-client privileged Communication)

From: Bob Weiss, Legal Counsel

Date: March 25, 2019

Item: Bylaw Amendments

DIRECTION
 INFORMATION
 MOTION
 RESOLUTION

I. Request/Issue and Background Information: As a result of the COVID-19 pandemic, it appears likely that meetings of the Board and Committees of the District may need over the next several months to be held entirely by video/teleconference or other electronic means with no person physically present in the District offices or Board Room. The Bylaws already provide for special meetings entirely by telephone and for Directors to participate individually in regular Board meetings by telephone. However, the Bylaws do not specifically address regular Board meetings held entirely by video/teleconference or other electronic means.

II. Summary and Alternatives: The proposed changes are:

- Allow regular Board meeting to be held entirely by video/teleconference or other electronic means
- Allow posting on the District's website of the agenda of the meeting to be sufficient without requiring physical posting at the District's designated posting location.
- Make other conforming changes shown on the attached redline.

III. Staff Recommendation: Staff recommends that the Board consider the proposed Bylaw amendments and adopt them as the Board deems appropriate.

MOTION: Approve Bylaw amendments on an emergency basis under Article III, Section 12 of the Bylaws.

IV. Legal Issues: The Bylaws require that amendments be distributed to the Board 10 days in advance of the meeting in which they will be considered. However, the Bylaws allow emergency actions to be taken necessary for the immediate protection of the public health, safety and welfare; provided that any action taken at an emergency meeting shall be effective only until the

next regular meeting. Therefore I think the Board can adopt these Bylaw amendments on an emergency basis this week and ratify them at the April 8, regular meeting.

V. Consistency with Board Goals and Policies: The Board should consider whether the proposed Bylaw amendments are consistent with Board Goals and Policies.

VI. Fiscal Impact: None of the proposed Bylaw amendments appear to have a significant financial impact.

**BYLAWS OF THE
UPPER YAMPA WATER CONSERVANCY DISTRICT
(Effective March __, 2020)**

PREAMBLE

For the purpose of providing for the orderly conduct and carrying on of the business, objects and affairs of the UPPER YAMPA WATER CONSERVANCY DISTRICT, the Board of Directors of said District hereby makes, publishes and declares these Bylaws.

ARTICLE I - DEFINITIONS

When used herein, the following words, terms and phrases shall have the following meaning, to-wit:

1. The term “Water Conservancy Act” or “Act” shall mean the act as set forth in C.R.S. §37-45-101 et seq., as amended.
2. The term “District” shall mean the UPPER YAMPA WATER CONSERVANCY DISTRICT, a Colorado water conservancy district.
3. The term “Open Meetings Law” shall mean C.R.S. § 24-6-401 et seq., as it may be amended from time to time.
4. The term “Open Records Act” shall mean C.R.S. § 24-72-201 et seq., as it may be amended from time to time.
5. The term “Decree” shall be the decree entered in Civil Action No. 3825 creating the District dated March 8, 1966, as the same may be amended from time to time.

ARTICLE II - BOARD OF DIRECTORS

SECTION 1 - Number, Qualifications, Power, Duties.

The number of Directors shall be nine (9). They shall be appointed and have the qualifications as provided in the Act. There shall be 3 separate divisions within the District, as described in the Decree, and 3 directors shall be appointed from each such division for 4-year terms. Such appointments shall be staggered, with one director from each district being appointed each year except every fourth year when no director terms expire. The powers and duties of the Directors are specifically provided for in the Water Conservancy Act, and the provisions of the Act concerning such matters are hereby made a part of these Bylaws. The following provisions are supplementary to said provisions.

SECTION 2 - Vacancies on the Board of Directors.

Vacancies in the Board of Directors shall be filled as provided in the Act.

SECTION 3 - Powers, Approval of Certain Matters by Board of Directors.

The Board of Directors shall have all of the powers granted it by the Water Conservancy Act and other provisions of Colorado and federal law applicable to the District; and said Board shall have such ancillary and incidental powers as may be proper, necessary or convenient for the full effectuation of the purposes, powers and objectives of the District. Except as set forth in Article VI, Section 3, all plats, deeds, other instruments encumbering the real property of the District, any contract or instrument authorizing or evidencing debt of the District, intergovernmental agreements, any document accepting the terms of any grant, loan, license, permit or other governmental authorization, any settlement of litigation to which the District is a party, applications for water rights and statements of opposition to water rights filings, any sale, lease, or other disposition of the use of water by term contracts or contracts for the perpetual use of such water and any instrument required by these Bylaws or law to be approved by the Board of Directors, shall be approved or ratified by the Board of Directors.

SECTION 4 - Compensation.

The compensation to be paid to the District's Directors shall be \$100.00 per meeting attended, in addition to their actual traveling and transportation expenses when away from their respective places of residence on District business. "Attending a meeting" to qualify for such \$100 compensation means preparation for, travel for, attendance at, or participation in: (1) in-person or video/teleconference or other electronic meetings of the Board and Board Committees, regardless of whether the Director is a member of the Committee; and (2) the following if the Director is representing the District on a matter related to the District's business: meetings of or discussions with state, county, local, and federal officials and District constituents; educational and policy presentations and seminars; meetings or negotiations with District staff or third parties; and judicial or administrative hearings or proceedings. Notwithstanding the foregoing, the maximum annual compensation (excluding travel and transportation expenses) which may be paid to any Director shall be \$2,400.00 pursuant to the Act.

SECTION 5 - Performance of Duties.

A Director of the District shall perform all duties of a Director, including duties as a member of any committee of the Board upon which the Director may serve, in good faith, in a manner which the Director reasonably believes to be in the best interests of District, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. In performing the Director's duties, the Director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by persons and groups listed in subparagraphs (a), (b), or (c) of this Section 5. The Director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause such reliance to be unwarranted.

A person who so performs the Director's duties shall not have any liability by reason of being or having been a Director of the District. Those programs and groups upon whose information, opinions, reports, and statements a Director is entitled to rely are:

- (a) One or more officers or employees of the District whom the Director reasonably believes to be reliable and competent in the matters presented;
- (b) Counsel, public accountants, or other persons as to matters which the Director reasonably believes to be within such persons' professional knowledge or expertise; and
- (c) A committee of the Board upon which the Director does not serve, duly designated in accordance with the provisions of the Bylaws, as to matters within its designated authority, which committee the Director reasonably believes to merit confidence.

ARTICLE III - MEETINGS OF THE BOARD OF DIRECTORS

SECTION 1 - Regular Meetings.

Meetings of the Board of Directors shall be held no less often than required by the Act. The scheduled time, date, and place of such regular meetings shall be established by the Board of Directors at the last meeting of each year for the following year and shall not be varied except with the majority vote of the Directors.

SECTION 2 - Special Meetings.

A special meeting of the Board of Directors shall be held upon call of the President, Vice President or General Manager or three (3) or more Directors.

SECTION 3 - Place of Meetings and Remote Access to Meetings.

(a) 2220 Curve Plaza, Suite 201, Steamboat Springs, Routt County, Colorado, is hereby designated as the place where the principal office of the District shall be maintained. All regular meetings of the Board of Directors shall be held at the Mountain Valley Bank community room adjacent to the principal office of the District, unless a different location is determined by the President of the Board or the General Manager, and except as otherwise herein provided. Special meetings may be held at any location proper and appropriate pursuant to the Act. .

(b) If the General Manager in consultation with the Board President or Vice President determines in his discretion that emergency circumstances exist where it is not in the best interest of the Board, District Employees or the public to be physically present at the designated meeting location, a regular meeting of the Board of Directors may be held entirely by video/teleconference or other electronic means. Special meetings of Board and meetings of any Committee may be held entirely by video/teleconference or other electronic means without a finding of emergency circumstances.

(c) In all meetings held by entirely by video/teleconference or other electronic means (a) the meeting location shall be deemed to be the District's physical office, (b) all voting shall be by roll call and (c) the General Manager shall make and give reasonable notice of arrangements for the public to monitor the entirety of the meeting (except for executive session items) and comment on agenda items in the normal fashion.

SECTION 4 - Notice of Meetings.

(a) Not less than three (3) and not more than fifteen (15) days prior to the date of any regular meeting, and no less than twenty-four (24) hours prior to a special meeting, the General Manager shall notify all Directors of the time, date, and place of such meeting, and (if a special meeting), the purpose for which it is called. Such notice may be by writing delivered in person, by FAX machine, by telephone, or by the US mails, or may be by email communication. In addition, the District shall post written notice of the meeting on the District's public website with specific agenda information if available and in the designated posting place of the District no less than 24 hours prior to holding of the meeting, except that posting in the designated posting place shall not be required if the General Manager of the District determines in his discretion that emergency circumstances exist where it is not in the best interest of the District employees or the public that the meeting notice be physically posted . All meeting notices shall be directed to Directors at the address, FAX number, and/or email address which he or she has provided to the General Manager. It is the Directors' responsibility to provide and revise their address, FAX number, and email address to the General Manager of the District as and when changed.

(b) Where possible, notices of all meetings shall include or be accompanied by an agenda stating the specific items of business expected to be considered. If a consent agenda is to be utilized at the meeting, a copy of the consent agenda shall be included with the notice.

(c) Notice of all regular and special meetings also shall comply with the Open Meetings Law.

SECTION 5 - Quorum.

A quorum of the Board of Directors shall consist of a majority of the members thereof. Less than a quorum shall have power and authority to adjourn any regular or special meeting at which less than a quorum shall be present or to continue their meeting and to fix the time and place of the holding of the continued meeting. Once a quorum is established, a quorum shall be deemed to be present for the remainder of the meeting and any adjournment of that meeting notwithstanding the absence or recusal of any Board member initially counted to establish a quorum. Whether or not a meeting is noticed and held as a video/teleconference or other electronic means meeting, a Director participating in a regular or special meeting by video/teleconference or other electronic means shall be counted in determining the existence of a quorum, provided that such participation is through equipment in which all other Directors may hear the Director participating by video/teleconference or other electronic means at the same time.

SECTION 6 - Voting.

Directors must be physically present or must participate by video/teleconference or other electronic means in order to vote at any regular or special board meeting. Voting by proxy shall not be allowed.

SECTION 7 - Actions at Meetings.

The Board shall not act at any regular meeting on any matter which has not been described by general reference in the notice (agenda) for that meeting except for new items brought up by the Manager or any Director under New Business on the agenda, or unless the President determines that such matter should be acted upon because of necessity for prompt or immediate action thereon, or unless the Board first votes to modify the agenda. A consent agenda, consisting of a list of routine action items to be considered collectively by the Board, may be utilized at any regular or special meeting. Items shall be removed from the consent agenda and addressed separately at the request of any Director.

SECTION 8 - Order of Business.

Unless otherwise provided in the agenda for the meeting, the business of all regular meetings of the Board shall be transacted, as far as practicable, in the following order:

- (1) Establishment of Quorum and Call to Order;
- (2) Approval of Agenda for Meeting;
- (3) Public Input and Comment;
THE BOARD WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE GENERAL MANAGER. THOSE ADDRESSING BOARD ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES AND SHOULD BE ADDRESSED TO ISSUES NOT ON THE MEETING AGENDA.
- (4) Consent Agenda, including minutes, financial report, disbursements, and other consent items;
- (5) Report of General Manager;
- (6) Committee Reports;
- (7) Report of General Counsel;
- (8) District Engineer Report;
- (9) Consideration/Action on District Projects;
- (10) Board Member Reports;
- (11) Determination of next meeting Agenda; and
- (12) Adjournment

SECTION 9 - Meeting Procedures.

Regular and special Board meetings shall be conducted generally in conformance with Robert's Rules of Order, Newly Revised, 10th Edition. Meeting procedures may be modified by the President as necessary to ensure the fair and efficient conduct of Board meetings.

Each and every action of the Board necessary for the governance and management of the affairs of District, for the execution of the powers vested in District, and for carrying into effect the provisions of the Water Conservancy Act, shall be taken by the passage of motions or resolutions.

Within a reasonable time after passage, all resolutions, motions and minutes of Board meetings shall be recorded in a book kept for that purpose and shall be attested by the Secretary/Treasurer. Minutes of regular sessions shall be available for public review as soon as practicable following acceptance of the minutes by adoption of a motion therefor by the Board. Minutes of executive sessions shall be kept separate from minutes of regular sessions as described in Article III, Section 9 of these Bylaws and shall not be open to the public except as required by law. Proposed minutes shall be sent to all Directors at least 3 days prior to the next meeting of the Board of Directors.

One or more members of the Board or of any committee designated by the Board may participate in a meeting of the Board or committee by video/teleconference or other electronic means by which all persons participating in the meeting, including the public, can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

If the directors of the Board become deadlocked with respect to resolution of any matter which by Colorado law or these Bylaws may be decided by a simple majority vote of directors, so that an equal number of director votes are cast in favor of and in opposition to a proposition, then no decision shall be deemed to have been made and such matter shall automatically be tabled to the next regular or special meeting of the Board.

At each Board meeting the tentative agenda for the next Board meeting shall be reviewed and approved by the Board. The General Manager shall finalize the tentative agenda and prepare for each meeting in consultation with the Board President and shall include any item on the final agenda distributed in advance of the meeting specifically requested by the Board President or by at least two (2) Directors.

SECTION 10 - No Informal Action by Directors/Executive Sessions.

All official business of the Board shall be conducted at regular or special meetings. Executive sessions may be called at regular or special meetings, and conducted according to the following guidelines:

(a) Calling the Executive Session. The topic for discussion in the executive session shall be announced in a motion, and the specific statute that authorizes the executive session shall be cited. The matter to be discussed shall be described in as much detail as possible

without compromising the purpose of being in executive session. An affirmative vote of two-thirds of the quorum present shall be required to go into executive session.

(b) Conducting the Executive Session. No adoption of any proposed policy, position, resolution, rule, regulation, or formal action shall take place in an executive session. The discussion in executive session shall be limited to the reasons for which the executive session was called. A record of the actual contents of the discussion in the executive session, using the same manner and media as are used to record minutes of regular sessions, shall be used. If handwritten notes of the executive session are kept, minutes of the executive session shall be created and shall contain a signed statement by the President that the minutes substantially reflect the substance of the discussion during the executive session. No record is necessary to be kept for any portions of the discussion which the District's attorney reasonably believes constitute attorney-client privileged communication. If minutes of the executive session are otherwise electronically recorded, the attorney shall state on the record when any portion of the executive session is not recorded as an attorney-client privileged communication. If minutes of the executive session are otherwise recorded in writing, then the attorney shall sign a statement to the same effect when any portion of the written Minutes is not recorded in writing as an attorney-client privileged communication.

(c) After Executive Session. The record of any executive session shall be retained by the District for ninety (90) days and then destroyed or erased. Minutes or recordings of the executive session shall not be released to the general public for review under any circumstances, except as required by law.

SECTION 11 - Adjournment and Continuance of Meetings.

When a regular or special meeting is for any reason continued to another time and place, notice need not be given of the continued meeting if the time, date and place of such meeting are announced at the meeting at which the continuance is taken, except as required by law. At the continued meeting, any business may be transacted which could have been transacted at the original meeting.

SECTION 12 - Emergency Meetings.

Emergency meetings of the Board of Directors may be called by the President or Vice President or General Manager in the event of an emergency that requires the immediate action of the Board in order to protect the public health, safety and welfare of the persons or property of the users, customers, or electors of the District, without notice if notice is not practicable. If possible, notice of such emergency meeting may be given to the Board by e-mail, telephone or whatever other means are reasonable to meet the circumstances of the emergency. At such emergency meeting, any action within the power of the Board that is necessary for the immediate protection of the public health, safety and welfare may be taken; provided, however, that any action taken at an emergency meeting shall be effective only until the first to occur of (a) the next regular meeting, or (b) the next special meeting of the Board at which the emergency issue is on the public notice of the meeting. At such subsequent meeting, the Board may ratify any

emergency action taken. If any emergency action taken is not ratified, then it shall be deemed rescinded as of the date of such subsequent meeting.

ARTICLE IV - OFFICERS

SECTION 1 - Designation.

The officers of the District shall be a President, Vice-President, and Secretary/Treasurer, and such other officers as may be authorized from time to time by Board resolution. The officers shall serve in their capacities for the District in the conduct of all of its affairs.

SECTION 2 - Qualification and Election of Officers.

The President and Vice-President shall be members of the Board of Directors. The Board of Directors shall elect a President and Vice-President at the first regular Board meeting of each year. The General Manager shall be appointed by the Board of Directors from time to time, to serve at the pleasure of the Board. The General Manager shall also be the ex officio Secretary/Treasurer of the District, but shall not be a member of the Board of Directors.

SECTION 3 - Term of Office of Officers.

The President and Vice-President shall serve for a term of one (1) year, and shall hold their offices until their successors shall have been elected. The term of consecutive service by the President of the Board in such President position shall not exceed six (6) consecutive years. A Director may again be elected to serve as President after a break in service of at least 2 years. The Vice-President and Secretary/Treasurer are not subject to any term limitations.

ARTICLE V - DUTIES OF OFFICERS

SECTION 1 - President.

The President shall be the Chairman of the Board of Directors and shall preside at all meetings of the Board. Except as otherwise provided herein or by Board action, the General Counsel for the District shall approve as to form and the President shall sign all documents required to be approved by the Board of Directors under Article II, Section 3 hereof.

SECTION 2 - Vice-President.

The Vice-President shall act, in all things, and shall possess all of the powers and be subject to all of the duties of the President in the event of the latter's absence from any meeting of the Board of Directors, or his/her inability to act.

SECTION 3 - Secretary/Treasurer.

(a) The Secretary/Treasurer shall be the secretary of the Board of Directors and all special and standing committees of the Board of Directors. The Secretary/Treasurer, or a designee working under his/her direction and control, shall keep a record of all meetings of the Board of Directors and all special and standing committees of the Board of Directors, except that the meeting minutes may initially be prepared by a recording secretary so designated by the Board of Directors from time to time.

(b) The Secretary/Treasurer shall have custody of the Seal of the District and shall attest the signatures of the President or Vice-President upon all instruments and other documents signed by such officer.

SECTION 4 - Assistant Secretary/Treasurer.

The Board may designate an Assistant Secretary/Treasurer, subject to confirmation by the Board of Directors, who shall discharge the duties of the Secretary/Treasurer in his/her absence or inability to act.

SECTION 5 - General Manager.

(a) The General Manager shall be an employee of the District. The General Manager of the District shall receive an annual salary as determined annually by the Board of Directors, and shall also receive such benefits as are provided to any other employees of the District, and such additional benefits not offered generally to the other employees the District as the Board of Directors may authorize, including (but not limited to) payment by the District of the cost of health/hospitalization/dental insurance premiums for the General Manager and his spouse. The General Manager shall have charge of and is delegated authority over the office of the District and of all employees thereof except for the District's attorneys, including the authority to hire, discipline and remove employees of the District. Except for the purposes of inquiry, the Board and its members shall deal with the subordinate employees of the General Manager through the General Manager, and neither the Board nor its members shall give orders to subordinate employees of the General Manager.

(b) The General Manager shall have authority to make contracts for goods and services and to approve purchase orders and expenditures for the administrative operations of the District, subject to the Board's budgeting and appropriating funds for such expenditures. The General Manager shall have authority to authorize expenditures in excess of budgeted line items provided that expenditures in excess of general categories of expenditures shown on the summary page of the adopted budget of the District shall not be exceeded without prior Board authorization.

(c) Notwithstanding anything to the contrary set forth in Article II, Section 3, the General Manager shall have the authority, without approval by the Board of Directors, to enter in to contracts for inclusion in area-wide augmentation plans decreed to the District for all applications which may be approved without the requirement that notice be given to persons who filed statements of opposition, other than the State and division engineers, in the water cases in which such plan of augmentation was decreed.

(d) The General Manager as Treasurer shall be the custodian of the funds of the District and shall deposit those funds in a bank, or banks, as authorized by the Board. The General Manager shall at all times keep an accurate and correct record of the funds of the District, including the amounts and sources of all receipts and amounts and purposes of all disbursements. The General Manager shall cause an audit of the books of the District to be made on behalf of the Board annually in compliance with Colorado governmental audit law or at such other times as the Board may direct by motion or resolution.

(e) The General Manager shall sign all warrants, checks or other instruments disbursing funds of the District in amounts less than \$10,000 and all checks for District employees' compensation from the District's "payroll" account. All warrants, checks or other instruments disbursing the funds of the District in amounts equal to or exceeding \$10,000 shall additionally require the signature of a member of the Executive Committee. At each regular meeting of the Board of Directors, the General Manager shall provide a listing of the check number, payee, and amount of each check issued on District funds for the period of time since

the last listing for the last regular meeting, including all such checks in the month prior to the month of the regular meeting for ratification by the Board.

(f) The General Manager shall give notices of regular and special meetings of the Board of Directors and of all special and standing committees of the Board of Directors as required by these Bylaws, by the Act or by the Open Meetings Law, and the District shall retain such notices or appropriate evidences thereof as part of the District's permanent records.

(g) In addition to the powers and duties stated herein, the General Manager shall do and perform any and all acts required by the Board of Directors.

(h) At each regular meeting, the General Manager shall deliver in writing to the Directors a Treasurer's Report including a list of investments held by the District and the yield being earned on such investments, a list of significant contracts not yet approved by the Board of Directors and executed by the District since the General Manager's last report, a current income statement, income comparison to budget, and balance sheet, and including identification of any recommended changes to policies and/or accounting procedures, instances of non-compliance, and similar matters.

(i) The General Manager, as Treasurer, shall work with the District's auditor to ensure that accounting transactions comply with final audit requirements.

(j) In the fall and in accordance with Colorado law, the General Manager, as Treasurer, shall prepare the draft of a proposed budget for the District for the ensuing year, and shall prepare upon request of the Board updates to the 5-year long-term capital plan of the District.

(k) The General Manager, as Treasurer, shall assist with implementing changes adopted by the Government Accounting Standards Board and recommend revisions to accounting procedures and policies in order to maintain compliance.

(l) Before entering upon his duties as Treasurer, the General Manager shall give a good and sufficient surety bond in such sum as the Board shall, from time to time, fix by motion or resolution, conditioned upon and for the honest and faithful discharge of his/her duties, and the full and complete accounting by him/her for all funds and properties of the District which shall come into his/her hands, which bond, and the surety or sureties thereon, before becoming effective, shall be approved by the President of the District. The cost of such bond shall be a District expense.

ARTICLE VI - COMMITTEES

SECTION 1 - Executive Committee.

An Executive Committee is hereby created in order to more efficiently and economically carry out and effectuate the express powers of the District set forth in the Water Conservancy Act, including operation of the District as an Enterprise.

SECTION 2 - Executive Committee Membership and Selection.

The Executive Committee shall consist of five (5) persons, all of whom shall be members of the Board of Directors selected in the following manner:

(a) The President shall be a member and chairman of the Executive Committee. The Vice President shall also be members of the Executive Committee.

(b) The remaining members of the Executive Committee shall be selected by the vote of the Board of Directors on an annual basis.

Appointment and selection of members of the Executive Committee shall be made at the first regular meeting of the Board of Directors in each year.

SECTION 3 - Powers and Duties of Executive Committee.

The Executive Committee shall have the following powers and duties, to-wit:

(a) To act on behalf of the Board as directed by the Board of Directors at any regular or special meeting of the Board of Directors.

(b) Between regular meetings of the Board of Directors, the Executive Committee shall have power and authority to make contracts and agreements for the development and implementation of the District's policies, provided that no one such contract shall involve the expenditure or disbursement of more than \$50,000.

(c) To direct the General Manager and General Counsel for the District to perform such duties and functions as are deemed necessary for the carrying on of the business and affairs of the District, until the next regular or special meeting of the Board of Directors.

(d) To authorize, subject to Board of Directors, ratification, statements of opposition in water cases and settlement of litigation.

(e) To act on behalf of the Board in an emergency.

SECTION 4 - Creation of Special Committees.

Special committees may be created upon motion or resolution adopted at any meeting of the Board of Directors. The number of members of such committees shall be provided in the motion or resolution creating the committee. The Directors who shall serve thereon shall be selected by vote of the Board of Directors, or, in default of such selection, shall be determined and appointed by the President. Authority of any such committee to act on behalf of or bind the Board shall only be delegated by Board motion or resolution. Any such committees can be dissolved by the Board. The President shall be an ex-officio member of all such committees and shall vote on committee actions only if necessary to break a tie vote of the other committee members or if there is a quorum only because of the President's attendance. The General Manager shall be an ex-officio member of each special committee, but shall have no vote thereon.

SECTION 5 - Meeting of Committees.

All Board members shall receive notice of committee meetings and information required by the Open Meetings Law. Locations and notices of such committee meetings shall conform with the requirements of Article III, Section 4. All directors are entitled to attend committee meetings, but only committee members may vote.

SECTION 6 - Conduct of Committee Meetings.

The provisions and requirements of Article III concerning quorum, voting, actions and procedures at Board meetings shall apply to committee meetings, subject to the provisions of this Article. The ex-officio member of such committees shall not be counted in determining the existence of a quorum.

ARTICLE VII - FINANCIAL ADMINISTRATION

SECTION 1 - Fiscal Year.

The fiscal year of the District shall commence on January 1 of each year and end on December 31.

SECTION 2 - Preparation of Budget.

On or before October 15th of each year, the General Manager shall prepare and submit to the Board of Directors a proposed budget for the ensuing fiscal year. Such proposed budget shall be based on policy and direction established by the Board at a regular meeting prior to preparation by the General Manager and shall be accompanied by a statement which shall describe the important features of the budget plan and by a general summary wherein shall be set forth the aggregate features of the budget in such manner as to show the balanced relations between the total proposed expenditures and the total anticipated income or other means of financing the proposed budget for the ensuing fiscal year, as contrasted with the corresponding

figures for the last completed fiscal year and the current fiscal year. It shall be supported by explanatory schedules or statements classifying the expenditures contained therein by services, subjects and funds. The anticipated income of the District shall be classified according to the nature of receipts.

SECTION 3 - Adoption of Budget.

On the day set for consideration of such proposed budget, the Board shall review the proposed budget and revise, alter, increase or decrease the items as it deems necessary in view of the needs of the District and the probable income of the District. The Board shall then adopt a budget setting forth the expenditures to be made in the ensuing fiscal year. The Board shall provide for sufficient revenues to finance expenditures in the budget with special consideration given to the proposed property tax levy.

SECTION 4 - Levy and Collection of Taxes.

On or before December 15th of each year, unless an election for an increased operating tax levy is held, the Board shall certify to the Board of County Commissioners of the Counties of Routt and Moffat the mill levy established for the ensuing fiscal year, in order that, at the time and in the manner required by law for the levying of taxes, such Commissioners will levy such tax upon the assessed valuation of all taxable property within the District.

SECTION 5 - Filing of Budget.

On or before January 30th of each year, the Board shall cause a certified copy of such budget to be filed with the Division of Local Government in the State Department of Local Affairs.

SECTION 6 - Appropriating Resolution.

At the time of adoption of the budget, the Board shall enact a resolution establishing the District's mill levy and shall also enact a resolution making appropriations for the ensuing fiscal year. The amounts appropriated thereunder shall not exceed the amounts fixed therefor in the adopted budget. The income of the District, as estimated in the budget and as provided for in the tax levy resolution and other revenue and borrowing resolutions, shall be allocated in the amounts and according to the funds specified in the budget for the purpose of meeting the expenditures authorized by the appropriation resolution. The Board may make an appropriation to and for a contingent fund to be used in cases of emergency or other unforeseen contingencies.

SECTION 7 - No Contract to Exceed Appropriation.

The Board shall have no authority to enter into any contract, or otherwise bind or obligate the District to any liability for payment of money for any purposes, for which provision is not made in appropriation resolution, including any legally authorized amendment thereto, in excess of the amounts of such appropriation for that fiscal year. Any contract, verbal or written,

contrary to this Section shall be void ab initio, and no District funds shall be expended in payment of such contracts, except as provided in Sections 8 and 9 below.

SECTION 8 - Contingencies.

In cases of emergency caused by a natural disaster, public enemy, or other contingency which could not reasonably have been foreseen at the time of the adoption of the budget, the Board may authorize the expenditure of funds in excess of the budget by resolution duly adopted by at least five Directors. Such resolution shall set forth in full the facts concerning the emergency and shall be included in the minutes of such meeting. If so enacted, a copy of the resolution authorizing additional expenditures shall be filed with the Division of Local Government in the State Department of Local Affairs and shall be published in compliance with statutory requirements.

SECTION 9 - Payment of Contingencies.

If there is unexpended or uncommitted money in funds other than those to which the emergency relates, the Board shall transfer such available money to the fund from which the emergency expenditure is to be paid. To the extent that transferable funds are insufficient to meet the emergency appropriation, the Board may borrow money through (a) the issuance of tax anticipation warrants, to the extent that the mill levy authority of the District is available as provided by law, or (b) the issuance of bond anticipation notes payable from future bond proceeds or operating revenue, or (c) any other lawful and approved method.

SECTION 10 - Annual Audit.

The Board shall cause an annual audit to be made at the end of each fiscal year of all financial affairs of the District through December 31st of such fiscal year. In all events, the audit report must be submitted to the Board within six months of the close of such fiscal year. Such audit shall be conducted in accordance with generally accepted auditing standards by a registered or certified public accountant, who has not maintained the books, records and accounts of District during the fiscal year. The auditor shall prepare, and certify as to its accuracy, an audit report, including a financial statement and balance sheet based on such audit, an unqualified opinion or qualified opinion with explanations, and a full disclosure of any violation of State law pursuant to statutory requirements. A copy of the audit report shall be maintained by the District as a public record for public inspection at all reasonable times. A copy of the audit report shall be forwarded to the State Auditor or other appropriate State official pursuant to statutory requirements.

ARTICLE VIII - GENERAL COUNSEL

The Board may retain an attorney licensed to practice law in the State of Colorado to act as General Legal Counsel for the District, including its Enterprise. Such General Counsel shall report to and be responsible to the Board and its committees and shall conduct legal affairs on

behalf of the District subject to requirements of laws and rules governing the attorney-client relationship and with the assistance of such special legal counsel as the Board may authorize.

ARTICLE IX - PUBLIC RECORDS

SECTION 1 - General Procedures.

The Secretary/Treasurer, as custodian of the District's records, shall make the District's nonconfidential records available for inspection by the public during normal District office hours and provide copies of such documents to the public without the need for formal requests pursuant to the Open Records Act. The Secretary/Treasurer shall determine whether such records are confidential and therefore not available to the public by reference to the provisions of the Open Records Act concerning denial of inspection of public records and, as he/she deems appropriate, after conferring with the District's General Counsel. The Secretary/Treasurer also shall implement the procedures of the Open Records Act when requests for records are made by the public pursuant to that statute.

SECTION 2 - Requests for Board Meeting Information.

The Secretary/Treasurer shall provide copies of all nonconfidential documents which are provided to the Directors in connection with regular and special Board meetings to members of the public who request the same and agree to pay the costs thereof determined in accordance with the Open Records Act. In providing copies of documents to members of the public pursuant to this Section, the Secretary/Treasurer shall charge the amount allowed by statute.

ARTICLE X - CONFLICTS

SECTION 1 - Protection of Privileges.

At times Directors may be associated with other entities which have interests which are adverse to the interests of the District. Such Directors shall not disclose or use confidential information received as a District director contrary to the District's interests without approval of the Board. If a District director acts or intends to act for another entity on a matter in which there are or reasonably are expected to be adverse interests between that entity and the District, he/she shall recuse himself/herself from participating in the District's confidential discussions of that matter and decline to receive confidential District information about that matter. Such director also shall not vote on Board actions affecting the matter. In such a situation, the director shall promptly notify the District's General Counsel, or General Manager of his/her decision or intention to act on behalf of the adverse or potentially adverse entity, and General Counsel, and the General Manager thereafter shall not provide confidential information to such director about the matter.

SECTION 2 - Code of Ethics.

District directors, officers and staff shall comply with the Colorado Code of Ethics law which is codified at C.R.S. § 24-18-101 et seq., as it may be amended from time to time.

SECTION 3 - Disclosure of Conflicts.

District directors, officers and staff shall comply with C.R.S. § 18-8-308 concerning disclosure of conflicts of interest.

ARTICLE XI - SEAL

The Seal of the District shall consist of two concentric circles within the word "SEAL" and the name of the District within said circle.

ARTICLE XII - INDEMNIFICATION OF DIRECTORS,
OFFICERS AND EMPLOYEES

The District shall defend, hold harmless and indemnify any Director, officer, agent, or employee, whether elective or appointive, against any tort or liability, claim or demand, without limitation, arising out of any alleged act error or omission occurring during the performance of official duty, as more fully defined by law or by an indemnification resolution. The provisions of this Section shall be supplemental and subject to and, to the extent of any inconsistency therewith, shall be modified by the provisions of the Colorado Governmental Immunity Act, 24-10-101, et seq., C.R.S.

ARTICLE XIII - BIDDING AND CONTRACTING PROCEDURES

Except in cases in which the District will receive aid from a government agency, a notice shall be published for bids on all construction contracts for work or material, or both, involving an expense of \$25,000 or more of District funds. The Board may reject any and all bids, and if it appears that the District can perform the work or secure material for less than the lowest bid, it may proceed to do so in accordance with law. All other constitutional and statutory requirements relating to sole source contracts performance bonds, retainage, and similar matters shall also be complied with.

ARTICLE XIV - AMENDMENTS

These Bylaws may be amended by the affirmative vote of a majority of the entire Board of Directors. A copy of any amendments to these Bylaws proposed to be made shall be mailed by the General Manager to each member of the Board of Directors not less than ten (10) days prior to the meeting of the Board at which such amendment is to be considered.

CERTIFICATE OF SECRETARY

I hereby certify that the foregoing Bylaws were approved by the Board of Directors of the Upper Yampa Water Conservancy District effective as of November 20, 2019.

By _____
Kevin McBride, General Manager
and Secretary/Treasurer

UPPER YAMPA WATER CONSERVANCY DISTRICT BYLAWS INDEX

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BOARD COMMUNICATION FORM

From: _ Kevin McBride_____

Date: __March 26, 2020_____

Item: __GM transition agreement_____

x_____ DIRECTION
_____ INFORMATION
_____ MOTION
_____ RESOLUTION

I. Request/Issue and Background Information:

See attached memo

II. Summary and Alternatives:

N/A

III. Staff Recommendation:

N/A

IV. Legal Issues:

N/A

V. Consistency with Board Goals and Policies:

Seccession planning 10.1

Attachments:

3/26 Memo from Kevin McBride

March 3 Letter from Kevin McBride



MEMORANDUM

TO: UYWCD Board of Directors
FROM: Kevin McBride, GM
DATE: March 26, 2020
RE: McBride retirement timeline

Dear BOD,

In my letter to you announcing my retirement I gave May 31 as my retirement date and offered additional time during a transition (See attached letter). This was before the scope of the COVID-19 pandemic was known. I would like to follow up on the BOD's desire, or not, for an agreement so I can plan for healthcare and schedule.

I propose an agreement that works with your timeframe for hiring a new general manager, not quite knowing what that is. For discussion purposes I propose remaining full time through the end of June and half time July and August on the payroll. The district would provide the current healthcare coverage through the end of September when be eligible for Medicare. This schedule would anticipate you having a new person on by mid-July. Obviously, my role as General Manager would end as soon as the new person would start.

I have discussed this with your general council Bob Weiss who indicated such an agreement was not unusual and could be drafted easily upon Board Direction.

March 3rd 2020 retirement letter attached.



Date, March 3, 2020

Board of Directors
Upper Yampa Water Conservancy District
2220 Curve Plaza Suite 201
POB 772592
Steamboat Springs, CO 80477
Hand and email delivered

RE: Retirement

Dear Board of Directors,

I am writing to let you know of my decision to retire from the full time General Manager position, effective May 31 of this year. I would be willing to work through a transition with the new General Manager over the following three months. For example, $\frac{3}{4}$ time in June, $\frac{1}{2}$ in July, and $\frac{1}{4}$ in August could work for me, should that help. I am flexible on this schedule, at a current pay rate, if health care is included through September.

It is an excellent time for a transition for both me and the District. Should your search include someone with a family, early summer is a good time to consider a move. The District will hopefully be finished with most of the current contract negotiations and there will be a new strategic plan and board manual to implement. My plan to is stay involved in water after a short sabbatical, however as some have joked, it's too late to retire early. For me this decision is based solely on the desire for some additional free time with family and friends.

Over the last nearly fourteen years working at the District we have accomplished many things. Completed the enlargement of Stagecoach Reservoir, freed the District from cumbersome past agreements with landowners, and created a master plan that explores the scientific, legal, and engineering realities of the District. We obtained diligence of the Districts portfolio of water rights and used those water rights to benefit customers, both consumptive and non-consumptive. We continue to be involved in discussions at the local and State level on the future water in Colorado, and importantly our District. We eliminated debt, gave and received grants, explored enterprise

Mailing Address
P.O. Box 775529
Steamboat Springs, CO 80477-5529

Location
Fish Creek Filtration Plant
3310 Clear Water Trail

Telephone
(970) 871-1035
Fax (888) 519-3464



business planning and use of tax revenues, and made great headway in renegotiating many of the District's water allotment contracts. Internally we improved Board reporting from "scrap paper" agendas to electronic packets and notifications to the public, all while developing a staff with the expertise to take the District into the next decade of challenges.

It is in the spirit of the new strategic plan that I inform you of my decision to retire. The Board will need some time to discuss a job description, advertise, interview and hire a new GM. Again, my offer is to help with this succession should you want. I plan to be out of the full-time position by June 1 of this year and would be willing to help in some agreed upon capacity, if necessary, beyond that time.

Being your General Manager has been the job of a lifetime and a spectacular experience for me personally.

Regards,

Kevin

Kevin McBride, P.E.
General Manager
Upper Yampa Water Conservancy District
P.O. Box 775529
Steamboat Springs, CO 80477
kmcbride@upperyampawater.com
970-871-1035



BOARD COMMUNICATION FORM

From: Ken Brenner, Board President_ _____

Date: 2/26/2020 _____

Item: General Manager Search _____

DIRECTION
_____ INFORMATION
 MOTION
_____ RESOLUTION

I. Request/Issue and Background Information:

Kevin McBride, General Manager for the Upper Yampa Water Conservancy District (UYWCD), has tendered his resignation effective May 31, 2020. Kevin is the main employee of the UYWCD and we will need to replace him as soon as possible. At the March UYWCD monthly meeting the Board decided to use a search firm to assist the Directors in finding Kevin's replacement. I reached out to seven firms who perform this kind of work and all seven have expressed interest in submitting a General Manager Search proposal to the directors.

At our 3/27/2020 Emergency Board Meeting, we will need to approve a Request for Proposals (RFP) document and decide to whom we wish to send the RFP. We will need to decide when the RFPs are due and what process we will use to evaluate the RFPs. The evaluation, interviews and search firm recommendation to the Board should be completed before the April 8th UYWCD Board meeting, if at all possible. If all of this happens, then we will have an agenda item for our 4/8 Board meeting where we will select the search firm that will assist us. Finally, we should meet with the new search firm, as soon as possible after our 4/8 meeting, to finalize the search process, provide any input on our preferences for the new hire and agree to a timeline for completion of the search.

II. Summary and Alternatives:

(1) Develop and approve a Request for Proposals (RFP) for Search Firms looking to assist UYWCD with the General Manager Search. We have a template for the RFP to guide us, thanks to Deb Bastian. We need to decide if we want to send the RFP to all seven firms that have expressed interest and if/where we post the RFP for any one else?

(2) Set a timeline for receipt of RFP proposals (Monday, April 6?)



(3) We should develop a process to review the RFPs, decide on how many interviews we might need and if we want to make a recommendation for hiring of Search Firm at the April 8th UYWCD meeting. The interviews could take place on Tuesday April 7th or the morning of April 8th. How long should the interview be and how will we score/compare the applicant firms in order to provide a recommendation to the Board for hiring?

(4) In order to keep the process moving, we should promptly schedule an interview with the selected Search Firm to refine/finalize General Manager search process, parameters, timeline, interaction with Board of Directors...etc.

III. Staff Recommendation:

N/A

IV. Legal Issues:

General Counsel, Bob Weiss, will provide any direction as to legal issues.

V. Consistency with Board Goals and Policies:

N/A

Attachments: