

RECORD OF PROCEEDINGS

**UPPER YAMPA WATER CONSERVANCY DISTRICT
SPECIAL BOARD OF DIRECTORS MEETING
APRIL 20, 2016 1:30 PM
3310 CLEAR WATER TRAIL, STEAMBOAT SPRINGS**

MINUTES

Chairman John Redmond called the meeting to order and declared a quorum present. In addition to Chairman Redmond, the Board members present were Bob Woodmansee, Doug Monger, Ken Brenner, Ron Murphy, Stephen Colby, Tom Sharp, and Webster Jones. General Manager Kevin McBride and Office Manager Karina Craig were also present. Members of the public present included Craig Preston, Manager, Stagecoach State Park and Joe Messina, Consultant to the District.

Joining the meeting by phone were Bob Weiss, General Counsel for the District, Weiss & Van Scoyk, LLP; Scott Fifer, President and Ashley Moffat, P.E., Resource Engineering, Inc.; David Hallford and Ben Johnston, Attorneys, Balcomb & Green, PC; and Rudy Verner, Attorney, Berg Hill Greanleaf Ruscitti, LLP.

The following agenda was proposed:

AGENDA

- (1) Establishment of Quorum and Call to Order;
- (2) Approval of Agenda for Meeting; action item
- (3) Master Planning;
- (4) Stahl Litigation; action item
- (5) Yamcolo Irrigators Association (YIA) negotiations;
- (6) Miles/Lay Property; action item
- (7) Executive Session with Bob Weiss, legal Counsel, under CRS § 24-6-402(4)(b) to discuss legal issues on Pending Water Rights Applications, Stahl Litigation, YIA negotiations, and the Miles/Lay Property. Mere presence or participation of an attorney at an executive session of the local politic body is not sufficient to satisfy the requirements of this subsection (4).
- (8) Adjournment.

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Meeting Agenda General Manager McBride proposed moving item (4) Stahl Litigation up in the agenda list to item (3) to accommodate the schedule of parties in attendance. There was general agreement.

Stahl Litigation

Director Monger asked for a status update from Counsels Weiss and Verner, before the board reviewed documentation related to the Stahl matter in executive session. Counsels Verner and Weiss spoke. Following the Board's request at a previous meeting, they confirmed that they had verbally communicated the Board's position to Colorado Parks and Wildlife (CPW) on the major issues raised by CPW. First, that the District would be willing to change the short term termination of 180 days in the Stagecoach lease to a default termination, and secondly, that the District would be willing to agree to not making land available for marina purposes, during the term of the lease. However the District was not in a position to enter in to new lease negotiations, either as a condition of the agreement or before the lease term ends.

A written response from CPW was presented and reviewed. CPW proposed extending the lease term by 17 years, through 2041, and continuing the \$35,000 annual subsidy during that term. They further stated the continuation of the subsidy is crucial to them because their expenditures exceed their revenues. Counsel Verner said the District could counter-propose on the terms of the lease agreement.

Craig Preston, Manager of Stagecoach State Park, spoke. Mr. Preston stated CPW updated the Stagecoach State Park master plan four years ago. A redevelopment plan is being created to address capital improvements, to update current facilities and to possibly add new ones, since the current facilities are approximately 30 years old. Director Brenner inquired about how the District's \$35,000 will be used in the redevelopment plan. Mr. Preston stated he was not able to provide a specific future use, but explained the CPW process of capital fund allocation, which is administered to individual parks by a higher level within the organization.

The current agreement with CPW was discussed, including a one year carry over provision allowing incurred capital expenditures not reimbursed in a fiscal year to be carried over for reimbursement into the following fiscal year.

Executive Session under CRS § 24-6-402(4)(b) to discuss legal issues on Stahl Litigation.

Robert Weiss, as counsel for the District, stated that in his opinion discussion of the matter announced to go into executive session constitutes a privileged attorney/client communication. He was therefore recommending that no further record be kept of the executive session.

Director Sharp made a motion to go into Executive Session; it was seconded by Director Brenner. It was unanimously agreed to go into Executive Session under provision C.R.S. §24-6-402(4) (b) to discuss with counsel legal issues relating to the Stahl negotiations and YIA contract negotiation. Mere presence or participation of an attorney at an executive session of the local public body is not sufficient to satisfy the requirements of this subsection (4). The Executive Session commenced at approximately 2:00 PM. and concluded at approximately 2:30 PM.

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The Chairman then announced that if any person who participated in the executive session believed that any substantial discussion of any matters not included in the motion to go into executive session occurred in the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, that such person state their concerns for the record. No one stated concerns.

Yamcolo Irrigators Association (YIA) negotiations

Director Sharp stated the District hired Balcomb & Green Attorney Ben Johnston as legal counsel for the YIA contract negotiations. Mr. Johnston joined the meeting by phone and a discussion on a draft arbitration agreement followed.

Different aspects of the agreement and Yamcolo reservoir management were discussed; possible requirements of agricultural water leases being in place, contractee requirements, water storage pricing, and other contract conditions. Manager McBride mentioned that the original agreement stipulations provided that 4,000 AF of agricultural water was to be delivered through exchange with Stagecoach.

Other provisions specific to the YIA agreement were discussed; possible geographical distribution of YIA members; inability to resell the water storage outside of YIA membership, delivery point of water being at the Yamcolo reservoir, requirement that the agricultural water be used within District boundaries.

Executive Session under CRS § 24-6-402(4)(b) to discuss legal issues on YIA Contract.

Robert Weiss, as counsel for the District, stated that in his opinion discussion of the matter announced to go into executive session constitutes a privileged attorney/client communication. He was therefore recommending that no further record be kept of the executive session.

Director Sharp made a motion to go into Executive Session; it was seconded by Director Woodmansee. It was unanimously agreed to go into Executive Session under provision C.R.S. §24-6-402(4) (b) to discuss with counsel legal issues relating to the YIA contract negotiations. Mere presence or participation of an attorney at an executive session of the local public body is not sufficient to satisfy the requirements of this subsection (4). The Executive Session commenced at approximately 3:00 PM. and concluded at approximately 3:45 PM.

The Chairman then announced that if any person who participated in the executive session believed that any substantial discussion of any matters not included in the motion to go into executive session occurred in the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, that such person state their concerns for the record. No one stated concerns. Pending water cases and the Miles/Lay Property were not discussed in this executive session or the executive session concerning the Stahl litigation.

Possible arbitrators for the YIA contract negotiations were discussed. Manager McBride mentioned Dan Crabtree and Dan Birch as possible arbitrators in representation of the District. The arbitration clause in the lease was discussed.

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Director Monger moved to appoint Dan Birch, Deputy General Manager, Colorado River Water Conservation District, as our representative arbitrator and reimburse him for reasonable fees and expenses. Director Sharp seconded the motion which was unanimously approved.

Master Planning

Scott Fifer presented the District's Water Supply and Water Right Master Plan's draft. Multiple charts with a variety of water shortage scenarios and resulting reservoir performance were presented, reviewed and discussed in detail. The modelling is based upon the State of Colorado's StateMod model for the Yampa River. It is a water allocation model used to evaluate hydrology and water administration in a river basin. Hydrology was based on the direct paleo record previously discussed with the board and demands on the Statewide Water Supply Initiative (SWSI) report by the CWCB.

Mr. Fifer stated when modelling how Stagecoach operated to meet demands, it was found that, during a succession of dry years, storage elevations continued to drop in successive years as releases were made to modeled demands. In the driest period the water elevation went down close to the 3,000 AF storage elevation. Since the last meeting an additional period was modeled in order to show some statistics on recurrence intervals of droughts. A drought with a 1/100 chance, based upon 5 year running average, still shows significant draw down of the reservoir. A draw down well into the remainder pools.

Mr. Fifer stated multiple variables were reviewed and it was found that Stagecoach reservoir can meet modeled demands in the District's boundaries, but in droughts it moves into the remainder pools. Use of water for the modeled municipal non-consumptive flow in addition to the SWSI demands reduces reservoir levels further. The addition of Morrison Creek reservoir provides an additional water source that keeps shortages in the basin lower and Stagecoach Reservoir levels higher in all modeled situations.

The performance of Stagecoach Reservoir with and without Municipal non-consumptive flows and with and without Morrison Creek was discussed.

Mr. Hallford stated that the District is entitled to rely on present demands, and reasonable anticipated future demands, in our basin. The municipal non-consumptive demands of the City of Steamboat Springs fit within the legal framework that we are entitled to address. A variety of projected needs in regards to the District's Master Plan were discussed.

Director Sharp expressed his opinion that with some modifications the draft report was a very good report. Director Monger expressed his agreement and his opinion that the report shows diligence on part of the District in regards to its water rights.

Mr. Fifer concluded his presentation by stating there is still editorial work to do to finalize the District's report and stated more updates would be available at the next regularly scheduled Board meeting.

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Miles/Lay Property

General Manager McBride informed the Board that the Miles/Lay property is for sale again and asked Directors whether or not the District may be interested in pursuing the purchase of the property.

Director Brenner moved to resubmit the offer previously submitted for the Miles/Lay property, with the same terms and conditions. Director Sharp seconded the motion which was unanimously approved.

Determination of future meetings The scheduled date for the next Board meeting was confirmed, being Wednesday May 18, 2016 at 1:30 PM, at the District's office.

The meeting was adjourned at 5:45 PM.

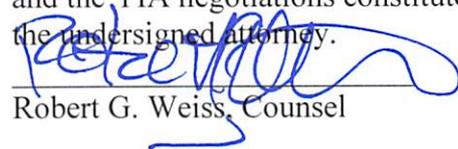
I certify that the foregoing constitutes a true and correct summary of the proceedings at the above referenced meeting.



Kevin McBride, District Secretary/Manager

STATEMENT FROM ATTORNEY REGARDING ATTORNEY-CLIENT PRIVILEGE

The undersigned Robert G. Weiss hereby attests, pursuant to CRS Section 24-6-402(2)(d.5)(II)(B), that the portion of the executive sessions that was not recorded and which related Stahl Litigation and the YIA negotiations constituted a privileged attorney-client communication in the opinion of the undersigned attorney.



Robert G. Weiss, Counsel

Date: 6-24-2016

STATEMENT FROM CHAIR OF EXECUTIVE SESSION REGARDING ATTORNEY-CLIENT PRIVILEGE

The undersigned chairman hereby attests, pursuant to CRS Section 24-6-402(2)(d.5)(II)(B), that all of the executive session was not recorded and was confined to the topics authorized for discussion in an executive session pursuant to subsection (4) of CRS Section 24-6-402.



John Redmond, Chairman

Date: 7/27/16