

RECORD OF PROCEEDINGS

UPPER YAMPA WATER CONSERVANCY DISTRICT BOARD OF DIRECTORS MEETING JULY 27, 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, Jim Haskins, Ken Brenner, Ron Murphy, Stephen Colby, Tom Sharp and Webster Jones. General Manager Kevin McBride, District Engineer Andy Rossi, Office Manager Karina Craig, and General Counsel Bob Weiss were also present.

Others present included Erin Light, Division Engineer, Colorado Division of Water Resources; Chris Catterson, Auditor, Catterson & Company, PC.; Kelly Heaney, Water Resources Manager, City of Steamboat Springs; John Diniscolas, Stagecoach Property Owners Association member; Scott Sober; Don McLean; and Frank Schaffner.

Director DougMonger attended the meeting by phone for the financial section. David Hallford and Scott Grosscup, Balcomb & Green PC, Special Counsel to the District attended the meeting by phone for the agenda items pertaining to Master Planning/Water Rights Master Plan/Diligence case and Elk River Augmentation Plan/ISF on Willow Creek.

The following agenda was proposed:

AGENDA

- (1) 1:30 pm Establishment of Quorum and Call to Order;
- (2) 1:35 pm Approval of Agenda for Meeting; action item
- (3) 1:40 pm Approval of the minutes of the May 18, 2016 Board Meeting; action item
- (4) Public Input and Comment;
- (5) New Board Member;
- (6) 1:50 pm Financial Report;
 - a) Approval of Disbursements action item
 - b) Budget Comparison/Supplemental Budget (Stahl and Facilities) action item
 - c) Audit action item
- (7) 2:15 pm New Budget Outline;
 - a) Fund Accounting
 - i) SOQ Status
 - b) Preliminary Draft Budget proposal
- (8) 3:00 pm Report of the General Manager;

RECORD OF PROCEEDINGS

- a) Master Planning/Water Rights Master Plan/Diligence case (D. Hallford)
 - b) Elk River Augmentation Plan/ISF on Willow Creek (D. Hallford) action item
 - c) Retreat Planning/Strategic and 5 yr. planning efforts/Staffing and facilities plan
 - d) Misc. updates
 - i) Yamcolo/Bear Reservoir Administration
 - ii) Ski Company Four Counties Lease
 - iii) CRD Compact Modeling/BRT/IBCC
 - iv) CWC Summer Conference
 - v) Morrison Creek Upper Diversion action item
- (9) 4:00 pm Report from District Engineer;
- a) Reservoir Water Status
 - b) Stagecoach Maintenance
 - c) Grazing Lease
- (10) 4:20 pm Report from General Counsel;
- a) Stahl / FERC Letter
- (11) New Business;
- (12) Adjournment.

Meeting Agenda Director Jones moved to approve of the agenda. Director Woodmansee seconded the motion which was unanimously approved.

Meeting Minutes Director Sharp moved to approve the May 18, 2016 Meeting Minutes. Director Colby seconded the motion which was unanimously approved.

Public Comment There were no comments from members of the public at this time.

Manager McBride introduced the District's new Board Member, Jim Haskins. Manager McBride stated he met with director Haskins earlier in the week and updated the new Director with the most recent developments at the District.

Financial Report The financial report was reviewed and discussed.

Approval of Disbursements –

Office Manager Karina Craig presented the Disbursements Report.

Disbursements pertaining Stagecoach Reservoir were discussed. Engineer Rossi updated the Board on Stagecoach expenditures to date. He presented a review of and an update on the stem guide repairs. Engineer Rossi explained the transfer trip repair expenditures.

Director Sharp asked about water temperature agreements with Colorado Parks and Wildlife (CPW) and how we accommodate these temperature requirements. Engineer Rossi explained how the Dam Operators manage the water to meet the requirements of the Federal Energy Regulatory Commission (FERC) and CPW. Director Sharp concluded that it appears as if the repair work was very critical, and he said he was glad it was repaired.

RECORD OF PROCEEDINGS

Director Colby moved to approve the Disbursements and Budget Comparison report presented. Director Murphy seconded the motion which was unanimously approved.

Audit- Auditor Chris Catterson presented the preliminary 2015 Audit. He reviewed and discussed different aspects and sections of the audit, and referred to Generally Accepted Accounting Principles (GAAP).

Monies disbursed for the Stahl settlement and the release of existing encumbrances by the Property Contribution Agreement (PCA) were discussed. Proper and most appropriate accounting of such disbursements was discussed. Capitalization due to a release of encumbrances, and expensing the value representative of the settlement amount was discussed. Appropriateness of future depreciation was discussed as well.

There was general agreement among Directors that a part of the disbursements related to the release of PCA encumbrances should be capitalized, while other settlement amounts should be expensed.

Mr. Catterson clarified that expenses would be recognized in the 2015 fiscal year, as an extraordinary item, and the capital expenditure would be recognized in 2016 in agreement with the actual settlement date.

Mr. Catterson continued reviewing the audit and described audit objectives and processes. He then spoke of his findings, referred to District internal control processes, operating and non-operating revenues, restricted and unrestricted funds. He concluded by stating his opinion that the financial books were in great shape, good control systems are in place, and by stating there was no fraud nor other concerns to report.

Manager McBride presented and reviewed the Management's Discussion and Analysis.

Director Brenner moved to table the final review and approval of the audit until the next board meeting, and to file for an audit extension. Director Woodmansee seconded the motion, which was unanimously approved.

New Budget Outline - Manager McBride presented a memo with proposed new categories for the budget restructuring. The categories proposed were preliminary and they were based on the District's filing system, which is by department. Discussion followed.

Director Sharp moved to defer the engagement of a budgeting restructuring contractor, to be carried out by staff and the Executive Committee as needed. Director Brenner seconded the motion which was unanimously approved.

RECORD OF PROCEEDINGS

Report of the General Manager

Master Planning/Water Rights Master Plan/Diligence case – Manager McBride, along with Attorney David Hallford updated the Board on the Status of the Water Rights Master Plan filed in May.

Elk River Augmentation Plan/ISF on Willow Creek – Attorney David Hallford of Balcomb & Green, representing the District, joined the meeting by phone. Mr. Hallford presented a contract for augmentation water at the Elk River with proposed changes. It was reviewed and discussed. Instream flows related to the Elk River were also discussed. Mr. Hallford stated that in moving forward the Elk River Augmentation Plan, the next necessary step would be for CPW to present to their Board the preliminary contract he was proposing, if the District's board so approved.

Director Sharp moved to approve the preliminary contract as proposed, subject to CPW approval as well. Director Brenner seconded the motion, which was unanimously approved.

Misc. Updates –

Yamcolo Bear River Administration – Manager McBride made reference to the previous Board meeting, in which Directors had given direction to staff to draft a letter agreeing to releases from Yamcolo this year to replace Bear Reservoir evaporation, pending a more formal process being developed.

Division Engineer Erin Light was present and was invited to speak. Ms. Light Erin stated she had been in communication with Dick Wolf, of CDWR, regarding water administration at the Bear Reservoir above and near Yamcolo Reservoir; and regarding an exchange she was proposing to facilitate administration. Ms. Light spoke of a possible adjudication of the exchange, something her office was recommending.

Director Sharp questioned how the District would do an adjudication as Ms. Light was proposing, with the water fully contracted. Director Sharp noticed that a short time arrangement and adjudicating water long term would not be the same, and stated his opinion an adjudication would not be feasible.

Manager McBride stated his understanding that the District would account for its water as being stored in Bear Reservoir, therefore not affecting the contracted amount. Mr. McBride discussed future re-contracting, and agreed that the District could not lease water, since the water is already fully contracted.

Director Sharp reflected on contracted water and past requests for water releases, commenting on frequency of requests received by the District to release M&I water and agricultural water; the latter being released at a high frequency. He further stated that the District wants to help the basin and to help ease administration, as long as there is no injury to the District.

RECORD OF PROCEEDINGS

Ms. Light spoke of an administrative exchange that has been in place of 30 years, and she thought it would be appropriate to adjudicate it. Director Sharp asked Ms. Light why she may feel a year to year agreement would not be enough. Ms. Light stated she was not adverse to an MOU, however she felt adjudication was the way to go. Several scenarios were discussed, including exchanges and the possibility of water being replaced in the event a M&I water could not be met.

There was agreement among Directors to proceed developing the MOU for immediate use as approved by the Board at the previous Board Meeting.

Ski Company Four Counties Lease – Attorney Scott Grosscup of Balcomb & Green, representing the District, joined the meeting by phone. Counsel Grosscup stated that the case has been proceeding. The Colorado Water Conservation Board (CWCB) and the Division Engineer's office have responded regarding the use of a portion of the Four Counties water rights. The primary analysis from CWCB and the Division of Engineer's office concerns the season of use of this water. There will be discussion with CWCB and Division Engineer's office regarding the case to see if there is some common ground.

Morrison Creek Upper Diversion – This water rights master plan and diligence application was discussed. The Stahls were opposed and they have withdrawn their opposition. Terms of the application and related water rights were discussed; Mr. Grosscup expressed his opinion that if the Morrison Creek reservoir were built, this diversion would not be needed at its current location.

Director Sharp stated his opinion that as this subject pertained to a lawsuit and related matters, the discussion should continue under executive session. Counsel Weiss agreed and recommended to defer further discussion to the Executive Session later in the meeting.

Mr. Grosscup provided other updates to the Board: The District had filed a diligence application regarding the existing umbrella augmentation plan. Statements of opposition that had been filed have been withdrawn. He stated the Elk River Augmentation Plan application was now with the referee, pending entry for a final decree. Some of the opposers to the Elk River Augmentation Plan were mentioned, and included the State and CWCB, Tristate, and City of Steamboat Springs.

CWC Summer Conference – Manager McBride informed Directors that the Colorado Water Congress (CWC) Summer Conference will be held in Steamboat Springs this year, and invited Directors to attend.

Kelly Heaney, Water Resources Manager, City of Steamboat Springs invited the board to participate in the CWC conference activity she is leading.

Retreat Planning/Strategic and 5 yr. planning efforts/Staffing and facilities plan-
Manager McBride suggested topics of discussion for the annual retreat, including future staffing needs, future direction, and office location.

RECORD OF PROCEEDINGS

Director Brenner suggested additional topics, including public outreach.

The date of October 12, 2016 was agreed for the full day retreat. Director Jones asked Manager McBride if he had thought about professional facilitation. Mr. McBride said he had and mentioned a couple of names including MaryLou Smith, but he stated he is open to recommendations.

Report from the District Engineer

Reservoir Water Status – Engineer Rossi provided an update on storage at the District’s Reservoirs. Stagecoach reservoir is full. Yamcolo reservoir storage is 5588 AF.

Stagecoach Maintenance – Stagecoach maintenance was discussed earlier in the meeting.

Grazing Lease – The District has an agreement with CPW to manage the grazing lease. Bruce Enever of the Green Creek Ranch was awarded the lease.

Report from General Counsel

Counsel Bob Weiss updated the Board on the Stahl case and stated the case is now settled. The full set of settlement documents are available to Board members to view electronically. Counsel Weiss continued, and said the PCA was terminated; the Stahl cases against the District were dismissed with prejudice, the Stahl’s opposition to the District’s water cases were withdrawn, the Stahls agreed to not file further opposition cases; and a legal description of the common boundary was agreed upon.

Counsel Weiss reviewed a letter to FERC written by Engineer Rossi. FERC previously approved a non-project use of land, the marina, and also the adjustment of the boundary. Since the District will not pursue a marina with the Stahls, the District wants to reverse those two requests to the FERC, which would otherwise carry residual obligations.

Director Sharp moved to authorize the sending of the proposed letter to FERC. Director Jones seconded the motion which was unanimously approved.

New Business

Public Comment - Frank Schaffner inquired about the process to submit a grievance; he was directed to present any complaints he may have to the General Manager first, and then to the Board.

RECORD OF PROCEEDINGS

Executive Session

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 Colby and 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 a pending water diligence case regarding Morrison Creek reservoir. 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). Counsel Scott Grosscup joined the meeting by phone. The Executive Session commenced at about 4:10 PM and concluded at about 5:00 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.

Determination of future meetings The scheduled date for the next Board meeting was confirmed, being Wednesday September 21, 2016 at 1:30 PM, at the District's office.

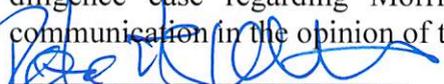
I certify that the foregoing constitutes a true and correct summary of the proceedings at the above referenced meeting.



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 session that was not recorded and which related to a pending water diligence case regarding Morrison Creek reservoir constituted a privileged attorney-client communication in the opinion of the undersigned attorney.



Robert G. Weiss, Counsel

Date: 9-21-2016

RECORD OF PROCEEDINGS

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: 9/21/16