

RECORD OF PROCEEDINGS

**UPPER YAMPA WATER CONSERVANCY DISTRICT
BOARD OF DIRECTORS MEETING
NOVEMBER 20, 2019 1:30 PM
MOUNTAIN VALLEY BANK COMMUNITY ROOM
2220 CURVE PLAZA, STEAMBOAT SPRINGS, CO**

MINUTES

Chairman Ken Brenner called the meeting to order and declared a quorum present. In addition to Chairman Brenner, the Board members present were Bob Woodmansee, Jim Haskins, John Redmond, Doug Monger, Ron Murphy, Stephen Colby, and Webster Jones. General Manager Kevin McBride, District Engineer Andy Rossi, Office Manager Karina Craig, Marketing and Communications Manager Holly Kirkpatrick, Administrative Assistant Barbara Wilson, and General Counsel Bob Weiss were also present.

Members of the public present included Scott Hummer, Colorado Division of Water Resources; Rick Milway; Andi Shaffner; Gerry Smith; Arie Hoogendoorn, Shellsteve, LLC; David Hunter, Steamboat Ski & Resort Corp.; Joe Haines, Yampatika; Kelly Romero-Heaney, City of Steamboat Springs; and Craig Preston, Colorado Parks & Wildlife.

Scott Grosscup, Balcomb and Green; Randy Watkins, Anton Collins Mitchell; and Ryan Golten, Consensus Building Institute; attended parts of the meeting by phone.

The following agenda was proposed:

AGENDA

- (1) 1:30 pm Establishment of Quorum and Call to Order;
- (2) Consent Agenda;
 - a) Approval of Disbursements
 - b) Budget Comparison
- (3) Approval of Agenda for Meeting; action item
- (4) 1:40 pm Public Input and Comment;
- (5) 2:10 pm Report of the General Manager;
 - a) Grant Items
 - i) Keller Ditch Grant
 - ii) Yampatika Grant Application
 - b) Reserves / Cost accounting / Financial Planning (Randy Watkins/ACM)
 - c) 2020 Budget action item
 - d) Retreat Priorities and Minutes Approval action item
 - e) Governance and Approval of By-Law Amendments action item
 - f) 2020 meeting schedule action item
 - g) Christmas party

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- h) 2020 Board appointments
- i) Report from District Engineer
 - i) Reservoir water status
 - ii) Capital Projects update
- (6) 4:40 pm Report from General Counsel;
 - a) Water Resumes action item
 - b) Status of other Water Cases, if any
 - c) Contract negotiation action item
- (7) 4:55 pm December Work Session Agenda;
- (8) Board Member Reports;
- (9) 5:00 pm Executive Session with Bob Weiss, legal Counsel, under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, and Contract Negotiations. 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).
- (10) New Business;
- (11) Adjournment.

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

Public Comment

Rick Milway representing the Individual Irrigators spoke. After an introduction where Mr. Milway expressed that he was not comfortable bringing the latest offer from the District to the irrigators due to missing items and limitations that were added, he asked the Board to please discuss the Individual Irrigators offer of \$9/share. Director Brenner stated that this is on the agenda and will be discussed later in the meeting.

Kelly Romero-Heaney, Water Resources Manager with the City of Steamboat Springs (City), commented on the Draft strategic plan. Ms. Romero-Heaney thanked the District for embarking on this project and the City will be providing a formal reply in writing. She suggested that the District has some very ambitious goals and the District might want to consider consolidating some. Also, she suggested that transparency be integrated into every goal.

Andi Shaffner representing the Stillwater Ditch (SW) irrigators provided feedback on the current status of the SW Ditch acquisition and their efforts involved in the negotiations. In the next two days, another redlined contract will be sent to District Counsel Weiss. She asked the Board to take a close look at the draft proposal the District has made. The irrigators feel that the District is not giving up enough control for them to be able to take care of the Ditch.

Scott Hummer, Water Commissioner for Colorado Division of Water Resources (CDWR) spoke in lieu of Erin Light who was not able to attend. Mr. Hummer stated the agency recently participated in a Yampa/White/Green Basin Roundtable (Basin Roundtable) meeting where they presented the status of the approximately 575 orders issued to appropriately administer diversions. If the Board would like a similar presentation in the future, please let them know.

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Consent Agenda

Director Jones made a motion to approve the consent agenda. Director Redmond seconded the motion which was unanimously approved.

Director Brenner inquired about some disbursements, discussion followed. Director Redmond recommended consistency between the use of “5 Pines Ditch” and “Stillwater Ditch” since they are the same Ditch.

Report of the General Manager

Grant Items – Keller Ditch Grant - Marketing and Communications (M/C) Manager Kirkpatrick introduced Arie Hoogendoorn, the representative for the owners of the Keller Ditch. The owners of the ditch are repairing an inoperable measuring device per orders from the CDWR and are requesting 50% reimbursement from the District through its grant program.

General Manager McBride explained that this grant would fall under the Super Mini-Grant that the District is moving towards. In the future, the Super-Mini Grant, known as the Diversion Infrastructure Improvement Project, will offer up to 50% reimbursement from the District for up to \$5,000 for entities/individuals to comply with CDWR water diversion orders. Amounts above \$5,000 will go through the Natural Resources Conservation Service (NRCS) program which will require engineering analysis. The District and the Colorado Water Conservation Board will supplement the NRCS funds. M/C Manager Kirkpatrick pointed out that the District does not reimburse individuals for their own labor. Director Monger thought the Keller Ditch flume should be about a \$500 project. Director Woodmansee stated that the Board needs to have a discussion about how much the District is going to pay for a project.

Director Monger moved to approve the Keller Ditch Diversion grant request not to exceed \$1,500. Director Haskins seconded the motion which was unanimously approved.

Yampatika Grant Application – M/C Manager Kirkpatrick introduced Joe Haines with Yampatika to answer questions. Mr. Haines explained Yampatika has a three year grant from the Basin Roundtable for a K-12 water education program. This grant requires matching funds so Yampatika is requesting funds from the District. Mr. Haines would appreciate additional partnerships and Director Brenner asked him to collaborate with M/C Manager Kirkpatrick.

Director Colby moved to approve the Yampatika grant request of \$15,000; \$5,000/year for three years. Director Woodmansee seconded the motion which was unanimously approved.

Reserves / Cost accounting / Financial Planning (Randy Watkins/ACM) – Randy Watkins with Anton Collins Mitchell joined by phone. General Manager McBride reviewed that the District restructured the budget a few years ago to account for the cost of operating its reservoirs. The District hired Mr. Watkins to help with this and the District did an internal rate study approximately five years ago. The 2020 budget reflects the funds to do an additional rate study. Manager McBride added the staff has recommendations for emergency capital reserves and long-term operation reserves. He is requesting a

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motion to set reserves and to discuss other non-discretionary reserves the Board may want to add, such as trans-mountain diversion legal reserves.

District Engineer Rossi reviewed the Recommended Reserves memo from staff. Emergency Reserves are the estimate of cost if the three facilities: Yamcolo dam, Stillwater Ditch, and Stagecoach Reservoir, become inoperable. The Capital Maintenance Reserves are based on the 30 year maintenance plan for the facilities. Discussion followed. Director Brenner requested an agenda item in the future on the budget reserves designation.

Director Murphy pointed out that the schedule for Yamcolo Reservoir has “Stillwater Pipeline ditch”. Mr. Rossi said this is an error and should be Yamcolo.

Manager McBride believes the Executive Committee or the full board needs to have a thorough discussion of the budget and what should be done with the reserves. Discussion followed. Mr. Watkins brought up the concept of Generational Equity. By building up the reserves you are asking the current generation to pay for the future generation. Relevant questions are: who should pay to fund these reserves and another question is what will be the capacity of the District to borrow money? Director Monger inquired about what happens next year to this emergency reserve? Mr. Watkins replied that you don’t want to make dramatic changes from year to year. But the closer you get to the 30th year the more accurate you should be. If significant changes come to light next year you can change it but otherwise probably not. He also suggested that the District could add CPI based on the last 30 years, not just the current CPI. A Tabor reserve should be looked at every year and should be listed separately.

2020 Budget – General Manager McBride reviewed the Draft 2020 Budget and reminded the Board that this version was created prior to the new strategic plan. Discussion followed. Director Monger requested a RFP for a salary review since it has been five years. Director Brenner requested a memo with the actual costs of the District office moving to the new location sometime in the future. It was pointed out that the District does not pay property tax on the Morrison Creek property so this should be removed from the Budget.

The funds for CBI consulting should be moved to the Board of Directors budget. Director Monger suggested doing a supplemental budget request for any additional CBI funds if needed so the budget numbers presented today can be approved.

M/C Manager Kirkpatrick made a recommendation to add a line item in the future for “sponsorship”.

Director Monger asked if the District should add the \$50,000 of Basin Roundtable Water Supply Reserve Funds (WSRF) to the budget? This should be recorded as \$50,000 in revenue and \$50,000 in grant expenses in the budget. M/C Manager Kirkpatrick noted that CWCB will not approve the allocation of the WSRF until their January meeting so the District will need to do a supplemental budget upon approval. Ms. Kirkpatrick asked that the Board consider ways for the District to allow for spending UYWCD funds allocated for 2021 grants in 2020 if the need arises. The current Diversion Infrastructure Improvement Project designates \$100,000 of UYWCD funds and \$100,000 of Basin Roundtable and

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WSRF funds, pending approval, to conduct a two-year pilot project starting in 2020. The District currently has \$50,000 of UYWCD funds budgeted in 2020 and \$50,000 in 2021 for the Diversion Infrastructure Improvement Project. Ms. Kirkpatrick is concerned that with Division Engineer orders being sent this fall, there could be a significant number of applicants and, if needed, could we use 2021 grant funds to complete projects in 2020?

Office Manager Craig explained the budget layout and cost accounting. Typically the Board approves the budget resolutions knowing the numbers will change slightly when the District receives the final property tax numbers approximately December 10th.

Director Monger moved to approve the Resolution to Adopt Budget and Salary Range Schedule with the minor adjustments as discussed when the final property tax numbers arrive in December. Director Woodmansee seconded the motion which was unanimously approved.

Director Monger moved to approve the Resolution to Appropriate Sums of Money. Director Redmond seconded the motion which was unanimously approved.

Director Monger moved to approve the Resolution to Set Mill Levies, specifically 1.82. Director Colby seconded the motion which was unanimously approved.

Retreat Priorities and Minutes Approval - M/C Manager Kirkpatrick reported that the Draft Strategic plan has been distributed to the public for comment. She will present the comments to the Strategic Planning Committee November 26, 2019.

Director Woodmansee moved to approve the Retreat Summary/Minutes. Director Colby seconded the motion which was unanimously approved.

Manager McBride reviewed the retreat notes and based on his analysis, the Environmental/Recreational uses and Pricing are the highest priorities. He suggested the Board make a work session out of these for the February Board meeting.

Governance and Approval of By-Law Amendments - District Counsel Weiss discussed the proposed By-law amendments. Counsel Weiss said Director Sharp has a concern that "New Business" was omitted from the proposed Agenda. Director Brenner suggested that having "Board Member Report" covered this. Counsel Weiss was OK with having both of the above on the agenda.

Director Monger moved to approve the By-laws as presented. Director Woodmansee seconded the motion which was unanimously approved.

Counsel Weiss said broader questions about how the Board operates with the public, self, and staff needs to be addressed outside the Bylaw changes. Consultant Ryan Golten found a more comprehensive Board policy, the East Valley Water District Board of Directors Handbook. Discussion followed. There was general agreement to not make the Board of Directors Handbook too complicated by inadvertently

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making additional rules that could appear to be mandatory. Director Colby mentioned that the Special District Association (SDA) has a good Board of Directors handbook. Consultant Golten reminded the Board that there were a number of actual issues that came up early in the 360 review process that the East Valley Handbook addresses. She thinks this document is thoughtful in addressing things that are controversial and she encourages the District to look at this. Director Brenner said the East Valley document will go back to the Strategic Planning Committee to vet based on the suggestions just heard.

Counsel Weiss looked into laws about Conflict of Interest in Colorado. He has a form available to the Board if anyone wants to fill one out and file it with the State. Director Brenner stated that it is considered a “best practice” and he is going to fill one out.

2020 Meeting Schedule - Director Woodmansee moved to adopt the Alternative 2020 Board Calendar. Director Haskins seconded the motion which was unanimously approved.

Director Brenner cannot attend the January 15, 2020 meeting; Director Monger will chair the meeting.

Christmas Party - The Annual Holiday party will be December 11, 2019 6:00 pm at Aurum Food & Wine.

2020 Board Appointments – Directors Haskin, Brenner, and Colby’s terms are up. Counsel Weiss will place ad in the paper as required by state law. If only one person applies per vacancy, he files a motion, which is approved by the Judge without the necessity of a hearing. . If more than one person applies for a Board position, then a hearing is necessary Counsel Weiss will send out applications to the incumbents. He pointed out that the Board has never commented on Director applicants but it nothing prevents such a recommendation. It was requested that a map of the District boundaries be added to the website.

Report from District Engineer-

Reservoir Water Status - No additional updated information was presented about the Reservoir water status. General Manager McBride informed the Board that it has been proposed that Stagecoach Reservoir be placed on the 303(d) impaired water list.

Capital Projects update – No additional information was presented.

Report from General Counsel

Water Resumes - Director Monger moved to authorize to enter into a stipulation consenting to form of proposed ruling in the Mount Werner Water & Sanitation District case. Director Redmond seconded the motion which was unanimously approved.

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Status of other Water Cases, if any - Counsel Weiss recommended continued monitoring of Tri-State Generation and Transmission pending case.

Contract negotiation – Counsel Weiss reviewed that all draft proposals are in the hands of the contractees at this time. The Individual Irrigators and Yamcolo Irrigators Association have expressed concern with the price proposed. Counsel Weiss reminded the Board that the Stagecoach municipal contracts will need to be dealt with soon. Manager McBride recommended that the Board do the District financial plan first. Director Brenner reminded the Board that the District said it would meet regularly with the City of Steamboat Springs and it has been over a year since the last meeting. Also, Director Brenner mentioned that he had been contacted by representatives from both the City of Steamboat Springs and Tri-State Generation and Transmission regarding an October 2017 memo from Randy Watkins about a water rate study. The City and Tri-State thanked the District for its transparency regarding a January 5, 2017 memo from District consultant Randy Watkins addressed to General Manager McBride and the Board which included the following statement in reference to operating costs and calculated reserves for Stagecoach Reservoir. “\$28.90/acre-foot, averaged rate based on 2016 budgeted costs. (Not including capital expenditures, nor a reserve or project firming costs).”

December Work Session Agenda

Director Monger asked to add Water Pricing to the proposed December meeting agenda. There was general agreement to target the February Board meeting for water pricing discussions such as a policy on assignment of indirect costs, what to subsidize, and does the Enterprise fund model work. Director Brenner said the Board needs an Executive Committee meeting first on this and then a detailed February agenda should be presented during the January Board meeting. Director Woodmansee stated it is good to inform the public in advance on the February agenda.

December agenda:

Change “360 review” to “Strategic Planning Committee”

Add “Update on the Stagecoach Reservoir 303(d) Impairment List”

Add “Update on the Draft Strategic Plan”

Board Member Reports: Director Monger: Routt County is undertaking to update their Master Plan.

Director Haskins: The Colorado River District summer seminar videos are good. Manager McBride agreed and said the videos would be good prep for the Board to watch prior to the December Board meeting. Director Brenner requested a reminder to the Board about this.

Director Colby: Morrison Creek Water & Sanitation District has a grant to study the replacement of their waste water treatment plant, or other options.

Director Woodmansee: The algae problem is a bigger scare than what the District thought a year ago and it’s a trend everywhere.

Director Brenner: The Conservation District and the Legacy Group are both trying to re-form. Also, the General Manager’s review will be in the spring of 2020.

There was no Executive Session.

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Determination of future meetings The scheduled date for the next Board meeting was confirmed, being Wednesday December 18, 2019 at 1:30 PM, at Mountain Valley Bank Community Room, 2220 Curve Plaza, Steamboat Springs, CO.

The meeting was adjourned at 5:23 PM.

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



Date: 1/17/2020

Kevin McBride, District Secretary/Manager