

# RECORD OF PROCEEDINGS

---

---

**UPPER YAMPA WATER CONSERVANCY DISTRICT  
BOARD OF DIRECTORS MEETING  
WEDNESDAY, JANUARY 19, 2022 (10:30 AM)  
MOUNTAIN VALLEY BANK COMMUNITY ROOM  
2220 CURVE PLAZA, STEAMBOAT SPRINGS, CO  
ONLINE MEETING:**

<HTTPS://US06WEB.ZOOM.US/J/84010651148?PWD=RZHQY2owMi9OUW5PZDVSRXJSYTFpdz09>

## MINUTES

Chairman Ken Brenner called the meeting to order and declared a quorum present. In addition to Chairman Brenner, the Board Members present were Doug Monger, Jim Haskins, John Redmond, Ron Murphy, Lyn Halliday, Tom Sharp, Webster Jones and Nicole Seltzer. General Manager Andy Rossi, District Engineer Emily Lowell, Public Information and External Affairs Manager Holly Kirkpatrick, Business Manager Deb Bastian, Chief Accountant Karina Craig, General Counsel Bob Weiss and Special Counsel Scott Grosscup were also present. Members of the public present for some portion of the meeting included Erin Light, Colorado Division of Water Resources; Alyson Gould, Colorado Water Trust, Andrea Fasen, W.W. Wheeler; David Torgler, Town of Oak Creek; Tom Holliday, Town of Oak Creek.

This meeting was held in person and by videoconference utilizing Zoom. The meeting agenda included instructions to the public describing the process to participate in the meeting and comment on agenda items.

The following agenda was proposed:

## AGENDA

- (1) **10:30 AM** Establishment of Quorum and Call to Order
- (2) **10:30 AM** Approval of Agenda for Meeting **Action item**
- (3) **10:35 AM** Board Member Reports
  - a. Results of Director's Self Evaluation Survey
  - b. UYWCD GM Annual Review
- (4) **11:05 AM** Executive Sessions:
  - a. Executive session under CRS § 24-6-402(4)(f)(l) concerning personnel matters except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting. This executive session concerns the annual review of General Manager Andy Rossi who has not requested an open meeting. This session will be recorded, and a copy of the recording maintained for not less than 90 days.
- (5) **12:00 PM** Public Input and Comment

The Board will make no decision nor take action, except to direct the General Manager. Those addressing the Board are requested to identify themselves by name, organization, if any, and address. Comments shall not exceed three (3) minutes.

  - a. Update from Erin Light
- (6) **12:10 PM** Consent Agenda **Action Item**
  - a. Approval of the Minutes of November 17, 2021, Board Meeting

## RECORD OF PROCEEDINGS

---

---

- b. Financials
  - i. Approval of Disbursements
  - ii. Budget Comparison
- (7) **12:15 PM** Report of General Counsel
  - a. UYWCD Bylaws Review
- (8) **12:20 PM** Pending Water Cases
  - a. Water Resumes
  - b. Status of Other Water Cases
- (9) **12:35 PM** Executive Sessions:
  - a. Executive session under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, Contract Negotiations, Water Horse case in Utah and Yamcolo water rights. Mere presence or participation of an attorney at an executive session is not sufficient to satisfy the requirements of CRS § 24-6-402(4)(b). Executive sessions to discuss legal matters are not recorded.
- (10) **1:05 PM** Report of General Manager
  - a. Election of Officers, Determination Committees, and Selection of industry meeting(s) UYWCD participants
    - i. Election of Officers and Determination of Committees **Action Item**
    - ii. Water Industry UYWCD Representation **Action Item**
  - b. Board of Directors Appointments
  - c. Town of Oak Creek: Sheriff Reservoir Rehabilitation Design Funding Request **Action Item**
  - d. Stagecoach Reservoir Water Storage Contracts
  - e. 2022 UYWCD Water Pricing **Action Item**
  - f. Coal Creek Diversion Project Update and Scheduling of Special UYWCD BOD Meeting
  - g. Financial Audit Schedule
  - h. Resolution to Approve Posting Place **Action Item**
- (11) **3:30 PM** District Engineer Report
  - a. Update on Reservoir Water Status
- (12) **3:45 PM** Public Information Updates
  - a. UYWCD Grant Program
  - b. UYWCD Annual Report
- (13) **4:00 PM** New Business (Limited to emergency matters that came up **Action Item**  
During the course of the meeting)
- (14) **4:05 PM** Executive Sessions:
  - a. Executive session under CRS § 24-6-402(4)(e)(I) for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators with respect to \_\_\_\_\_(insert brief description). This session will be recorded, and a copy of the recording maintained for not less than 90 days.
- (15) **4:15 PM** Board Actions in Regard to Executive Session
- (16) **4:20 PM** Determination of Next Meeting(s) Agenda(s)
- (17) **4:30 PM** Adjournment.

Chairman Brenner established a quorum and called the meeting to order at 10:33AM.

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

# RECORD OF PROCEEDINGS

---

---

## ***Board Member Reports.***

Results of Director's Self Evaluation Survey. The Board reviewed and discussed the results of the self-evaluation survey.

UYWCD GM Annual Review. The Board will conduct the General Manager's review in Executive Session.

***Executive Session.*** At 11:21 AM Director Jones moved, Director Murphy seconded, and it was unanimously agreed to go into Executive session under CRS § 24-6-402(4)(f)(1) concerning personnel matters except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting. This executive session concerns the annual review of General Manager Andy Rossi who has not requested an open meeting. This session will be recorded, and a copy of the recording maintained for not less than 90 days.

***Board Action Regarding Executive Session.*** Director Sharp moved to increase General Manager Andy Rossi's 2022 annual salary by 9.5%. The amount reflects a 4.5% CPI adjustment and a 5% merit increase to bring the salary to about 65% - 70% of the CPI adjusted salary range which has been previously reviewed by the Board. Director Jones seconded the motion. Director Sharp commented that economic statistics for 2021 in the Colorado area show various rates of 12-month CPI increases occurring over the year period, ranging from below 3% early in the year to above 7% in December. The CPI rate increased steadily month-to-month in the last quarter of 2021. But Director Sharp stated his belief that the 4.5% CPI adjustment is a reasonable rate number to be considered for the CPI change for the year as a whole and should be the rate to be used to adjust salaries for CPI increases going into 2022. Chairman Brenner noted that the proposed 9.5% increase would move General Manager Rossi's annual salary to \$164,250. The motion was unanimously approved.

***Public Input and Comment.*** Erin Light of the Division of Water Resources provided an update on over appropriation, the status of the measurement rules and the abandonment list. Chairman Brenner invited other members of the public to comment on items not otherwise scheduled on the agenda. There was no further public comment.

***Consent Agenda.*** Director Jones moved to approve the consent agenda as presented. Director Monger seconded the motion which was unanimously approved.

## ***Report of General Counsel***

UYWCD Bylaws Review. General Counsel Weiss commented to the Board that there are no recommendation that the Bylaws be amended at this time.

## ***Pending Water Cases.***

Water Resumes. Special Counsel Grosscup referred the Board to his Water Resume memo for November regarding the filing of a diligence application by Tri-State, Case No. 21CW3046, for the Craig Station Ditch and Pipeline. He recommends that the District file a statement of opposition to the application as this case is similar to the previous Tri-State application where they were seeking diligence on the Wessels Canal water rights that they ultimately decided to abandon. Special Counsel Grosscup stated that subsequent to his memo the December Water Resumes were released, and he commented there may be two new cases that may be of interest to the District.

1. South Routt Cemetery District (Case No. 21CW23) has filed an application for an appropriative right of exchange to use the water it obtains from the Yamcolo Irrigators Association from Yamcolo Reservoir to exchange water up Watson Creek to the Cemetery District. Special Counsel Grosscup noted the

## RECORD OF PROCEEDINGS

---

---

District has entered into water court applications in the past where its water rights are in use to assure nothing applied.

2. Dean & Jim Rossi (Case No. 21CW3053) own property on Watson Creek and want to move some water rights from Powell Ditch 1 to Laramore Ditch and the allegation is that there is not a change in place of use. Special Counsel Grosscup did comment that in any type of change case there is concern there may be increased irrigation or diversions that would not have otherwise occurred under the water rights as previously decreed. The result would be a potential the change would increase uses there by decreasing the flows into Stagecoach Reservoir during the 2<sup>nd</sup> fill or irrigation season.

Director Sharp commented regarding the Cemetery District that the District has historically been involved in water cases in which District contracted water is proposed to be used to protect against greater use of the water than is permitted in our allotment contract or underlying water rights and moved to authorize Special Counsel Grosscup to enter a statement of opposition for Case No. 21CW3046 (Tri-State Generation and Transmission Association, Inc.), Case No. 21CW23 (South Routt Cemetery District) and Case No. 21CW3035 (Dean & Jim Rossi). Director Murphy seconded the motion which was unanimously approved.

Status of Other Water Cases. Special Counsel Grosscup commented that Public Service would like to have a meeting with the District to understand the District concerns and to try to reach a resolution. Additionally, he reviewed the letter of response from Erin Light, Division Engineer Water Division 6, to the Districts statement of objection regarding the partial abandonment of Yamcolo Reservoir 1<sup>st</sup> and 2<sup>nd</sup> enlargement water rights. He also noted that during this process they have uncovered some irregularities with respect to water rights that were decreed for Yamcolo Reservoir. It is proposed that counsel and staff bring a course of resolution of these matters and evaluate how this will operate with Districts existing contracts and uses of Yamcolo Reservoir to the Executive Committee at a February meeting and have full recommendation of the course of action on the abandonment of Yamcolo Reservoir water rights to the Board at the March meeting. Further, Special Counsel Grosscup recommended that the Board file an application for finding of reasonable diligence by the end of January 2022 for Yamcolo Reservoir 2<sup>nd</sup> filling conditional on the amount of 7,066 AF to prevent the cancellation of the water rights. Director Sharp moved to authorize counsel and staff to file for due diligence with respect to Yamcolo Reservoir 2<sup>nd</sup> filing water rights that is due by the end of January 2022 and conditional in the amount of 7,066 AF. Director Halliday seconded the motion which was unanimously approved.

***Executive Session.*** At 1:11 PM Director Jones moved, Director Sharp seconded, and it was unanimously agreed to go into Executive session under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, Contract Negotiations, Water Horse case and Yamcolo water rights. Mere presence or participation of an attorney at an executive session is not sufficient to satisfy the requirements of CRS § 24-6-402(4)(b). Executive sessions to discuss legal matters are not recorded.

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 concern for the record. No one stated concerns.

***Board Action Regarding Executive Session.*** General Counsel Weiss stated there was no action required.

### ***Report of General Manager***

Election of Officers and Determination of Committees. Director Sharp nominated Director Jones for Board President. Director Jones declined the nomination for President due to current commitments but would accept a nomination for Vice President. Director Sharp then nominated Director Monger to serve as Board President.

## RECORD OF PROCEEDINGS

---

---

Director Monger accepted the nomination. Chairman Brenner asked if there were any other nominations for President. There were none. Director Sharp moved to cast a unanimous ballot for Director Monger to be the Chairman of the Board for the ensuing term. Director Jones seconded the motion which was unanimously approved. Director Sharp nominated Director Jones to serve as Vice President to the Board for the calendar year. Chairman Brenner asked if there were any other nominations for Vice President. There were none. Director Sharp moved to cast a unanimous ballot for Director Jones to serve as Vice President to the Board for the calendar year 2022. Director Murphy seconded the motion which was unanimously approved. The Board reviewed the list of the current Executive Committee members. Chairman Brenner asked if there were any other nominations for the Executive Committee. There were none. Director Sharp moved to appoint the existing Executive Committee member for calendar year 2022 that were in place in 2021 – Ken Brenner, Doug Monger, Tom Sharp, John Redmond and Webster Jones. Director Murphy seconded the motion which was unanimously approved.

Water Industry UYWCD Representation. General Manager Rossi reviewed the list of UYWCD industry meeting/committee representatives. The Board reviewed and requested staff to include, on the Industry Meetings & Committee Involvement list, Director Brenner for the Yampa White Green Roundtable and Director Brenner and General Manager Rossi for the IWMP efforts. Director Brenner noted that there is an opening on the Colorado Water Congress Board of Directors and if there are no one else interested from the District Board, he would like to submit his application for the vacancy. Director Sharp moved to approve that the individuals listed on the January 5, 2022, UYWCD Industry Meetings & Committee Involvement document, with the addition of Director Brenner for the Yampa White Green Roundtable and the IWMP efforts and General Manager Rossi for the IWMP efforts, are the authorized representatives to speak on behalf of the District at the industry meetings/committees and to be reimbursed for expenses and per diem. Director Monger seconded the motion which was unanimously approved.

Board of Directors Appointments. General Manager Rossi provided an update on the status of the appointment process. General Counsel Weiss stated that the deadline for applications is February 7, 2022, and that, in case of a contested application, he has scheduled the appointment hearing for February 16, 2022, at 9:00 AM. This will take place via WebEx with the court if needed and not in person.

Town of Oak Creek: Sheriff Reservoir Rehabilitation Design Funding Request. General Manager Rossi provided an overview of the Sheriff Reservoir repairs and request for financial assistance. David Torgler and Tom Holliday from the Town of Oak Creek and Andrea Fasen from W.W. Wheeler provided a review of the scope of work and budget estimate for the Board's consideration. Director Sharp moved to authorize expenditure up to \$80,000 for a grant to the Town of Oak Creek for utilization in its engineering of the potential solution to the rehabilitation required by the state for Sheriff Reservoir. Director Murphy seconded the motion. General Counsel Weiss disclosed that he is the town attorney for Oak Creek and will be recusing himself from this topic. However, he stated that the District should include some type of appropriate contract for this grant and that the process will be handled by Special Counsel Scott Grosscup. Director Sharp amended his motion to include that the grant approval must be documented by a contract between the Town of Oak Creek and the Upper Yampa Water Conservancy District and that the contract provide that the grant funds be distributed pro-rata along with other grant funds that they receive. Director Murphy accepted the amendment to the motion which was unanimously approved.

Stagecoach Reservoir Water Storage Contracts. General Manager Rossi provided an update on the status of the Stagecoach Reservoir water storage contract process. Director Sharp noted that he is the General Counsel for Mt. Werner Water and will need to recuse himself from any discussion regarding Mt. Werner Water. General Counsel Weiss stated that staff is collecting all comments regarding the amendment form and will present,

## RECORD OF PROCEEDINGS

---

---

collectively, at the March Board meeting. The expectation is that the Board will be consistent with how the requests for modification are handled as opposed to separate negotiations with each party. General Manager Rossi provided an overview of the current the application process for the loan of Stagecoach water storage water rights to the CWCB for release to maintain and improve the instream flow reach of the Yampa River.

2022 UYWCD Water Pricing. General Manager Rossi reviewed the current water contract pricing process. Director Monger moved to accept staff recommendation to adjust the categories of new water contracts out of Stagecoach Reservoir for industrial, environmental/recreational and agricultural, Yamcolo Reservoir for municipal and agricultural and large & small non-commercial & large & small commercial for the Yampa River and Elk River augmentation plans by the CPI amount of 5.22% and to table the determination of new municipal water contract pricing out of Stagecoach Reservoir. Director Sharp seconded the motion which was unanimously approved.

Coal Creek Diversion Project Update and Scheduling of Special UYWCD BOD Meeting. General Manager Rossi provided an update on the project and schedule a special Board meeting in February to discuss the findings of the technical analysis and engineer's costs estimate. Staff will arrange a meeting for the Board on Wednesday, February 16, 2022, starting at 10:00 AM.

Financial Audit Schedule. Chief Accountant Karina Craig provided an overview of the audit process and the proposed schedule for the financial audit.

Resolution to Approve Posting Place. The Board reviewed the proposed Resolution to Approve Posting Place. Director Sharp moved to approve the resolution as presented. Director Murphy seconded the motion which was unanimously approved.

***District Engineer Report.*** District Engineer Emily Lowell provided an update on the reservoir water status.

### ***Public Information Updates.***

UYWCD Grant Program. Public Information and External Affairs Manger Holly Kirkpatrick provided an update on the grant program disbursements. Holly reviewed the proposed guidelines for the 2022 Community Grant Funding Project and requested feedback from the Board. A final proposal will be presented at the March Board meeting.

UYWCD Annual Report. Public Information and External Affairs Manger Holly Kirkpatrick provided a preview of the 2020-2021 annual report and requested feedback from the Board.

***New Business.*** Director Brenner asked if the Board would provide a letter or recommendation for his application to the Board of Directors for the Colorado Water Congress. Director Sharp moved to authorize General Manager Rossi to prepare a letter of recommendation on behalf of the UYWCD Board of Directors to appoint Ken Brenner as a member of the Colorado Water Congress Board of Directors. Director Halliday seconded the motion which was unanimously approved.

***Determination of Next Meeting Agenda.*** The agendas for the February 15, 2022, and March 16, 2022, Board Meetings were reviewed. The Board requested that the meeting date be changed to February 16<sup>th</sup>.

Director Sharp moved to adjourn the meeting at 4:24 PM. Director Brenner seconded the motion which was unanimously approved.

## RECORD OF PROCEEDINGS

---

---

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



\_\_\_\_\_  
Andy Rossi, District Secretary/Manager

Date: Mar 17, 2022

### STATEMENT FROM ATTORNEY REGARDING ATTORNEY-CLIENT PRIVILEGE

The undersigned Robert G. Weiss, legal counsel for the District, 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 the Water Horse case and Yamcolo water rights constituted a privileged attorney-client communication under CRS Section 24-6-402(4)(b).



\_\_\_\_\_  
Robert G. Weiss, Counsel

Date: Mar 29, 2022

# 0119 2022 Minutes-Final

Final Audit Report

2022-03-29

Created:	2022-03-17
By:	Deb Bastian (dbastian@upperyampawater.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAjZlJzrMmbwslxYTEJMaKPljPjG3FmANC

## "0119 2022 Minutes-Final" History

-  Document created by Deb Bastian (dbastian@upperyampawater.com)  
2022-03-17 - 4:53:36 PM GMT- IP address: 63.224.69.143
-  Document emailed to a r (arossi@upperyampawater.com) for signature  
2022-03-17 - 4:55:02 PM GMT
-  Email viewed by a r (arossi@upperyampawater.com)  
2022-03-17 - 4:58:19 PM GMT- IP address: 63.224.69.143
-  Document e-signed by a r (arossi@upperyampawater.com)  
Signature Date: 2022-03-17 - 4:58:31 PM GMT - Time Source: server- IP address: 63.224.69.143
-  Document emailed to ROBERT WEISS (bweiss@wvsc.com) for signature  
2022-03-17 - 4:58:33 PM GMT
-  Email viewed by ROBERT WEISS (bweiss@wvsc.com)  
2022-03-29 - 6:08:06 PM GMT- IP address: 71.202.10.241
-  Document e-signed by ROBERT WEISS (bweiss@wvsc.com)  
Signature Date: 2022-03-29 - 6:10:14 PM GMT - Time Source: server- IP address: 71.202.10.241
-  Agreement completed.  
2022-03-29 - 6:10:14 PM GMT