

# RECORD OF PROCEEDINGS

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**UPPER YAMPA WATER CONSERVANCY DISTRICT  
BOARD OF DIRECTORS MEETING  
WEDNESDAY, MARCH 16, 2022 (12:00 PM)  
MOUNTAIN VALLEY BANK COMMUNITY ROOM  
2220 CURVE PLAZA, STEAMBOAT SPRINGS, CO  
ONLINE MEETING:**

<HTTPS://US06WEB.ZOOM.US/J/88075697458?PWD=TGZ1A0V5EELLZE5RUUPOANPHDWNvQT09>

## MINUTES

Chairman Doug Monger called the meeting to order and declared a quorum present. In addition to Chairman Monger, the Board Members present were Ken Brenner, 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; Scott Hummer, Colorado Division of Water Resources; Sherry Villafane, ColoTrust; Brent Turner, ColoTrust; Julie Baxter, City of Steamboat Springs; Jon Synder, City of Steamboat Springs; Frank Alfone, Mt. Werner Water; Alyson Gould, Colorado Water Trust

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) **12:00 PM** Establishment of Quorum and Call to Order
- (2) **12:00 PM** Approval of Agenda for Meeting **Action item**
- (3) **12:05 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
- (4) **12:10 PM** Consent Agenda **Action item**
  - a. Approval of the January 19, 2022, Board of Directors Meeting and February 16, 2022, Special Board of Directors Meeting minutes
  - b. Financials
    - i. Approval of Disbursements
    - ii. Budget Comparison
- (5) **12:15 PM** Report of General Manager
  - a. Financial Audit Update
  - b. ColoTrust Presentation
  - c. 2022 Budget Amendment (Town of Oak Creek Funding Adjustment) **Action item**

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- d. Board Member Appointment Recognition
- e. Stagecoach Reservoir Water Storage Contracts
  - i. Municipal Contracts
    - a. Existing Municipal Contract Amendment **Action item**
    - b. New Municipal Contract Pricing **Action item**
- (6) **2:00 PM** District Engineer Report
  - a. Update on Reservoir Water Status
- (7) **2:30 PM** Public Information Updates
  - a. Grants Update
- (8) **2:45 PM** Board Member Reports
- (9) **3:00 PM** Report of General Counsel
- (10) **3:10 PM** Pending Water Cases
  - a. Water Resumes
  - b. Status of Other Water Cases
- (11) **3:30 PM** New Business (Limited to emergency matters that came up During the course of the meeting) **Action item**
- (12) **3:35 PM** Executive Sessions:
  - a. Executive session under CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, Contract Negotiations and \_\_\_\_\_(insert description) . 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.
  - b. 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.
- (13) **4:35 PM** Board Actions in Regard to Executive Session
- (14) **4:45 PM** Determination of Next Meeting(s) Agenda(s)
- 4:55 PM** Adjournment.

Chairman Monger established a quorum and called the meeting to order at 12:06 PM.

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

**Public Input and Comment.** Chairman Monger invited members of the public to comment on items not otherwise scheduled on the agenda. There was no comment.

Erin Light, Division Engineer for the Division of Water Resources provided an update on the Water Diversion Measurement Rules for Division Six and public comments received and discussed the next steps in the measurement rules process.

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

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

**Financial Audit Update.** Chief Accountant Karina Craig provided an update on the financial audit and noted that the audit is going as scheduled. The final audit will be presented at the May 18, 2022, Board meeting.

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ColoTrust Presentation. Sherry Villafane and Brent Turner of Colotrust provided an update on the structure and organization of Colotrust and gave a presentation on the new EDGE fund being offered through Colotrust. The Board directed staff to further investigate the varied holdings with Colotrust and to provide the Board with a recommendation as to whether or not the District should allocate funds into the EDGE product.

2022 Budget Amendment. The Board reviewed the amendment. Director Sharp moved to approve the proposed March 16, 2022, Budget Amendment and attached Resolution 2022-2. Director Seltzer seconded the motion which was unanimously approved.

Board Member Appointment Recognition. General Counsel Bob Weiss and General Manager Andy Rossi noted that Directors Murphy, Redmond, and Sharp have been reappointed to the Upper Yampa Water Conservancy Board. Their new term is 2022 to 2026.

Stagecoach Reservoir Water Storage Contracts - Existing Municipal Contract Amendment. General Manager Rossi provided a review of the status of the acceptance of the proposed contract amendment by municipal contract holders. Additionally, the Board reviewed and discussed questions submitted by the City of Steamboat Springs. Further, General Manager Rossi noted that any outstanding offers to the proposed contract amendment will need to be determined soon as, due to the terms of the existing contracts, the District will be issuing invoices for water storage contracts based on the payment terms in the original existing contract documents in July. Therefore, the May meeting is the last chance for the Board to consider any requested changes to a contract amendment before payment for 2022 is requested. General Manager Rossi commented that if the District does not hear from the remaining contract holders by May 1, 2022, he recommends that the District rescind the offer of contract amendments and continue with the existing contract.

Director Brenner moved to authorize the signature of the approved amendments to the existing Stagecoach Reservoir water storage contracts for Agate Creek (when received), Alpine Mountain Ranch, Dakota Ridge (when received), Town of Hayden and Tree Haus. Director Redmond seconded the motion. General Counsel Weiss noted that the Board has an approved amendment form. However, if the Board is still having conversations on proposed changes to the amendments after May 1, 2022, this complicates the Board position to have “across the board” identical contract amendments. He wanted the Board to be aware of this and suggested the issued be discussed in Executive Session. Director Brenner amended his motion to be tabled until after the Executive Session. Director Redmond accepted the amended motion, which was unanimously approved.

Director Sharp moved to table the recommendation to direct staff to inform Stagecoach Reservoir municipal contract holders that all outstanding offers of the proposed contract amendment will be terminated on May 1, 2022, if no explicit acceptance or rejection of the proposed contract has been received by the District until after the Executive Session. Director Brenner seconded the motion, which was unanimously approved.

Stagecoach Reservoir Water Storage Contracts - New Municipal Contract Pricing. General Manager Rossi reviewed the three staff recommendation items regarding new municipal water storage contracts out of Stagecoach Reservoir. Director Sharp notified the Board that he is the General Counsel for Mount Werner Water (MWW) and that he does not perceive a conflict of interest in discussing or acting on staff recommendation #1 to set the price per-acre foot for new municipal contracts out of Stagecoach Reservoir or item #2 to direct staff to provide the Board with a recommendation on the Town of Hayden’s request for modification to the new Stagecoach Reservoir municipal contract as these are policy matters. However, he will recuse himself from any discussion or action on item #3 regarding MWW’s request for modifications to the new

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Stagecoach Reservoir municipal water contract. Chairman Monger asked the Board is there were any concerns with Director Sharp's participation in items # 1 & #2. The Board had no concerns.

The Board reviewed and discussed MWW's request for modifications to the new Stagecoach Reservoir municipal water contract form as three separate items. Following this discussion, on question #1 – Terms of Contract, the Board directed General Counsel Weiss to work with MWW to prepare proposed language for Section 4.1 that will address both parties concerns and for Section 4.2 the Board does not want to extend beyond "the right to request" and staff will need to look into clarifying "so long as the Reservoir remains in operation" language. On question #2 – Pricing Adjustment, the Board did not agree with the proposed amendment from MWW. On question #3 – Reduction in Contracted Amount, the Board suggested that the timeframe for adjustments in volume be at the end of the initial Term of the contract (40 years maximum initial term) in lieu of every fifth year. Frank Alfone, General Manager, Mount Werner Water, stated he would bring this to his Board for consideration.

The Board reviewed and discussed the Town of Hayden's request for modification to the new Stagecoach Reservoir municipal contract. The Board agreed to adding a TABOR clause in the new municipal contract form and specifying the clause relates to governmental allottees.

Director Sharp moved to increase the price per acre-foot of stored water in Stagecoach Reservoir for new municipal water storage contracts by 5.22% and set the price as indicated in the Stagecoach Reservoir 2022 New Water Contract Pricing table. Director Redmond seconded the motion, which was unanimously approved.

***District Engineer Report.*** District Engineer Emily Lowell provided an update on the reservoir water status and discussed the reservoir inflow forecasting.

***Public Information Updates.*** Public Information and External Affairs Manger Holly Kirkpatrick provided an update on the Diversion Infrastructure Improvement Project Grant Report and Community Grant Funding Report. The Board reviewed the draft Community Grand Fund Project Guidelines and Application Packet and provided feedback and suggested revisions. The Board directed staff to implement the recommended revisions by the Board and to publish the guidelines and application to the District's website without further review by the Board.

***Board Member Reports.*** There were no Board Member reports.

***Report of General Counsel.*** There was no report from General Counsel.

***Pending Water Cases.***

***Water Resumes.*** Special Counsel Grosscup noted there was nothing unusual with the resumes for January and February and nothing needs to be filed.

***Status of Other Water Cases.*** Special Counsel Grosscup provided an update on the water court cases in which the District is an Applicant or Opposer. Additionally, he provided an overview and update on the District's conditional water rights and reviewed the Water Table listing the District's conditional water rights. General Manager Rossi stated he will provide the Board with a strategic schedule on how to address each of the water rights. Further, the Board directed staff to engage with consultants to begin the process.

***New Business.*** Director Sharp asked General Manager to give thought to how the District can proceed with the Little Morrison diversion ditch.

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**Executive Session.** At 4:34 PM Chairman Monger moved, Director Redmond 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 and Contract Negotiations. 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.

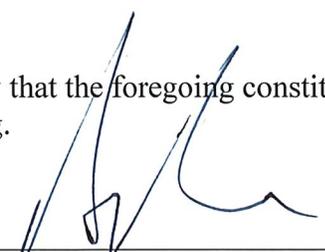
The Chairman then announced that if any person who participated in the executive session believed that any substantial discussion of any matters not included in the motion to go into executive session occurred in the executive session, or that any improper action occurred during the executive session 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 Manager Rossi noted that the Board provided direction to staff on existing Stagecoach Reservoir municipal water storage contract amendments, continued conversation with legal representatives of the Stahl family on their municipal contracts, Board authorization for General Manager to sign approved amendments to the existing Stagecoach Reservoir water storage contracts for Agate Creek (when received), Alpine Mountain Ranch, Dakota Ridge (when received), Town of Hayden, and Tree Haus promptly following the May 18, 2022, regular Board meeting, and the offer of Stagecoach Reservoir municipal contract amendments will be rescinded on May 1, 2022, if there is no explicit acceptance or rejection of proposed contract has been received by the District by the contract holders. Director Sharp noted that he is abstaining regarding any action on items that he has a previously noted a conflict of interest.

**Determination of Next Meeting Agenda.** The agenda for the May 18, 2022, Board Meeting was reviewed. The Board requested a status update on the conditional water rights.

Director Brenner moved to adjourn the meeting at 5:23 PM. Director Redmond seconded the motion which was unanimously approved.

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: 6/14/22

### 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 contract negotiations constituted a privileged attorney-client communication under CRS Section 24-6-402(4)(b).

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

Date: 6-14-2022