

# RECORD OF PROCEEDINGS

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**UPPER YAMPA WATER CONSERVANCY DISTRICT  
BOARD OF DIRECTORS MEETING  
WEDNESDAY JULY 26, 2017 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, Jim Haskins, Ken Brenner, Ron Murphy, Stephen Colby, Tom Sharp, Webster Jones, and General Manager Kevin McBride, District Engineer Andy Rossi, Office Manager Karina Craig, and General Counsel Bob Weiss were also present.

Members of the public present included Erin Light, Division Engineer, Colorado Division of Water Resources; Craig Preston, Stagecoach State Park Manager; Nicole Seltzer, Consultant; Rick Milway; Frank Schaffner; Andy Schaffner; and Jerry Smith. Randy Watkins, Accounting Consultant, from Anton Collins Mitchell, joined part of the meeting by phone.

The following agenda was proposed:

## **AGENDA**

- (1) *1:30 pm* Establishment of Quorum and Call to Order;
- (2) Approval of Agenda for Meeting; action item
- (3) *1:35 pm* Approval of the minutes of the May 17, 2017 Board Meeting, and ratification of the June 23, 2017 Executive Committee Meeting; action item
- (4) *1:40 pm* Public Input and Comment; a) Rick Milway
- (5) *2:00 pm* Nicole Seltzer update;
  - a) Public Survey Questions
  - b) Surveys of Water Conservancy Districts
- (6) *2:30 pm* Financial Report; action item
  - a) Approval of Disbursements
  - b) Budget Comparison
  - c) Audit
  - d) Future Contracting – Issues/Timeline
- (7) *3:00 pm* Executive Session with Bob Weiss, legal Counsel, under CRS § 24-6-402(4)(b) to discuss legal issues regarding Stagecoach Contract Extensions. 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) *3:30 pm* Report of the General Manager;
  - a) Office Space
  - b) External Affairs
  - c) John Fetcher Scholarship

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- d) Misc. Updates
  - i) Morrison Creek W&S District Wastewater Treatment Equipment Application
  - ii) CWC Annual Conference
- (9) 4:00 pm Report from District Engineer;
  - a) Reservoir Water Status
  - b) CWA - Sustaining Colorado Watersheds Conference
- (10) 4:30 pm Report from General Counsel;
  - a) Master Plan Diligence
  - b) Stagecoach State Park Master Plan Agreement action item
- (11) 4:45 pm Executive Session with Bob Weiss, legal Counsel, under CRS § 24-6-402(4)(b) to discuss legal issues on Stagecoach State Park Master Plan Agreement, Morrison Creek Reservoir Property Acquisition and the Office Space Agreement. 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).
- (12) New Business;
- (13) Adjournment.

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

**Meeting Minutes** Director Monger moved to approve the May 17, 2017 Board Meeting Minutes, and ratification of the June 23, 2017 Executive Committee Meeting Minutes. Director Colby seconded the motion which was unanimously approved.

**Public Comment** Rick Milway was present and spoke on behalf of himself and other irrigators in the South Routt Area. He asked about the plans of the District with regard to renewal of the individual irrigators contracts out of Yamcolo. Director Sharp said he would prepare a proposal for the September Board meeting.

Mr. Milway then asked about the rights of the former Stillwater Ditch and Reservoir Company shareholders under the Assignment of Stock and Water delivery agreement with the District regarding usage of the ditch capacity. There was general discussion of use of available space in the ditch, including the method to charge for such use. No conclusions were reached. Manager McBride posed a question to Mr. Milway; when shareholders are not using their space to take water down the Ditch, what would be a good mechanism to collect money from those who are using the Ditch? Should that use and its related cost be included in the price of the Stagecoach water, or should it be separate? Director Monger stated his opinion that it could not be separated. Director Sharp said he would bring something to the September Board meeting to continue this discussion.

### **Nicole Seltzer Update**

Nicole Seltzer sent surveys to 87 special districts in Colorado, 23 of them replied. Ms. Seltzer proceeded to present a document with Sampling Possibilities for the District Survey. A discussion followed.

Different public outreach methods were discussed. The primary public outreach method used by other districts was website content. The next most frequently used methods were presentations at

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other meetings, sponsoring of events and programs, touring of facilities, and web content on local water conditions. K-12 education, and education of local, state and federal elected officials, were other activities.

Ms. Seltzer then spoke about goals: what were the goals of other district's public outreach, and how effective did they think they were in achieving them? Entities reported that the most effective methods were education of local, State, and federal elected officials, K-12 education, grant programs for infrastructure/education, research, website content and presentation at others' meetings. Ms. Seltzer asked the Board to tell her what kind of questions they wanted her to ask these entities, to better understand the data.

Other topics discussed were how entities gave information to their constituents, and how they gained information from their constituents. Methods were reviewed and discussed. Manager McBride noted that the District already performs the top five most frequently used methods for public outreach: web content, presentations, sponsoring others' events, tour of facilities, web content of reporting of local water conditions. Ms. Seltzer recommended that, additionally, the District offer two regularly scheduled annual tours to the District's facilities. Manager McBride stated we could do that once a year. Ms. Seltzer suggested the District could team up with different organizations.

Manager McBride spoke to the Board and stated the Executive Committee had met at an earlier date and reviewed the proposed District's survey and suggested edits. These suggestions had been incorporated into the survey that was now being presented to the Board for review and discussion. It was clarified that surveys would be mailed, and a code would be provided for statistical purposes. Recipients could respond on paper and mail it back, or they could choose to respond online using the code provided. The survey was reviewed and discussed. There were comments and some requests for modifications.

Director Monger stated that non-residents of Routt County who own property in the District, who are registered voters in the State of Colorado, and who own the property in their personal name can participate in this survey.

Ms. Seltzer presented the next steps that would take place: the survey would be finalized, it would be mailed, a reminder card would be sent out the second week, then results would start coming in. Manager McBride suggested that an Executive Committee meeting could be scheduled in August to decide if the District should open the survey up to the general public. Ms. Seltzer stated she would prepare a white paper where she would present results from the survey and recommendations for a multiyear plan.

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### *Financial Report*

Cash Disbursements – The Cash Disbursements were reviewed and discussed. Director Jones moved to approve the Cash Disbursements. Director Monger seconded the motion which was unanimously approved.

Budget Comparison - The budget comparison report was reviewed and discussed. For the month of June, the power house was not producing power, and adjustments were reflected in power income. Director Monger moved to approve the Budget Comparison. Director Sharp seconded the motion which was unanimously approved.

Audit - Chris Catterson presented the audit for the 2016 fiscal year. He then proceeded to update the Board on updates dictated by the Governmental Accounting Standard Board (GASB) for the last fiscal year. There are two changes that were implemented last year; GASB implemented a fair value measure, which does not affect the District. The second new measure pertains to Tax Abatement Agreements, and it does not affect the District either.

Catterson then referred to the Stahl settlement agreement; the removal of encumbrances asset value was recognized in the 2016 fiscal year is shown in the statement of supplemental assets, and a supplemental budget was disclosed in the audit as well.

The statement of net positions, restricted and unrestricted assets, were reviewed and discussed.

Director Sharp moved to accept the audit and to submit the audit to the State auditor. Director Colby seconded the motion which was unanimously approved.

Future Contracting – Issues/Timeline - 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 Haskins. 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 Stagecoach Contract Extensions. 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 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. The Executive Session commenced at about 3:00 PM and concluded at about 4:15 PM.

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

Office Space - Manager McBride updated the Board on the office space. Mount Werner Water (MWW) has reported that they are not in a position to condominiumize the building nor to sell part of the building to the District. MWW is asking the District if it is interested in a long term lease contract. Depending on that, MWW will decide which building improvements they will pursue.

External Affairs - Manager McBride spoke. The Colorado Water Conservation Board is interested in moving forward with projects that have multiple uses for the water and are in line with the Colorado Water Plan. This year's projects bill included \$10M for project grants. We understand that most of this has been applied for. A Morrison Creek project could be eligible for these funds.

The Colorado Water Trust contract was discussed, as well as releases and direct flows. A memorandum was presented regarding a proposed legislative bill that would allow storage releases to be administered by the SEO/DEOs was reviewed and discussed. Director Sharp requested if they could provide the end user some flexibility, that ought to help us. The Board of Directors gave direction to the General Manager to present such position and proposal in future discussions of the proposal.

John Fetcher Scholarship - Colorado Mesa University student, Jacob Park, is this year's recipient of the John Fetcher Scholarship for \$2,000. Manager McBride said he would like to see these funds going to someone within the district if possible. Director Brenner suggested staff write a letter to the Colorado Mountain College Foundation Board at Steamboat Springs.

### ***Misc Updates –***

Morrison Creek W&S District Wastewater Treatment Equipment Application. This item was provided as an informational item; no action was necessary.

CWC Annual Conference. The Conference is going to be held at the Steamboat Grand. Directors were invited to attend and asked to contact the District's Administrative Assistant for arrangements, if they wished to attend.

### ***Report from the District Engineer***

Reservoir Water Status - District Engineer Rossi provided an update on the reservoir storage and usage status. Yamcolo reservoir filled to full capacity this spring and approximately 3,500 AF of storage contracts have been released this season.

Scott Hummer, the new Colorado Division of Water Resources (CDWR) water commissioner for the Bear River has indicated that the water rights administration and water diversion measurement practices for the Bear River need updates. The updates will include orders from the CDWR for water rights holders to replace and/or repair measuring devices. The UYWCD will replace the

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measuring device at the top of the Stillwater/5-Pine Mesa Ditch as part of these efforts. Additional water flow measurement improvements at UYWCD facilities on the Bear River are anticipated.

Stagecoach did not physically fill this year. However, the reservoir did mathematically fill later in the summer when accounting for evaporative losses. The Colorado Water Trust (CWT) began the release of its storage contract from Stagecoach in early July. Yampa River inflows to Stagecoach rebounded in the last 10 days, allowing for an increase in hydropower generation release from Stagecoach and a suspension of the CWT contract release. The CWT storage contract release will resume later in the summer/early fall if Yampa River flows diminish.

Colorado Watershed Assembly (CWA) – Sustaining Colorado Watersheds Conference - Engineer Rossi informed the Board of the 2017 Sustaining Colorado Watersheds Conference, to be held in Avon, Colorado, October 10 - 12, 2017.

### ***Report from General Counsel***

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 and unanimously agreed to go into Executive Session under provision C.R.S. §24-6-402(4) (b) to discuss with counsel legal issues on Stagecoach State Park Master Plan Agreement, Morrison Creek Reservoir Property Acquisition and the Office Space Agreement. 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 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. The Executive Session commenced at about 4:50 PM and concluded at about 5:30 PM.

Director Sharp recused himself and left the Executive Session before the section regarding the Office Space Agreement began.

***Determination of future meetings*** The scheduled date for the next Board meeting was confirmed, being Wednesday September 20, 2017 at 1:30 PM, at the District's office.

The meeting was adjourned at 5:30 PM.

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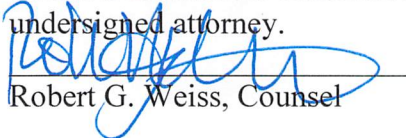
I certify that the foregoing constitutes a true and correct summary of the proceedings at the above referenced meeting.



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 Stagecoach Contract Extensions constituted a privileged attorney-client communication in the opinion of the undersigned attorney.

  
Robert G. Weiss, Counsel

Date: 11-15-2017

### STATEMENT FROM CHAIR OF EXECUTIVE SESSION REGARDING ATTORNEY-CLIENT PRIVILEGE

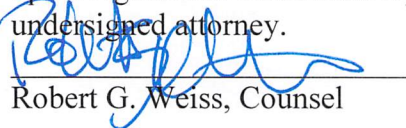
The undersigned chairman hereby attests, pursuant to CRS Section 24-6-402(2)(d.5)(II)(B), that all of the executive session was not recorded and was confined to the topics authorized for discussion in an executive session pursuant to subsection (4) of CRS Section 24-6-402.

  
John Redmond, Chairman

Date: 10/18/17

### STATEMENT FROM ATTORNEY REGARDING ATTORNEY-CLIENT PRIVILEGE

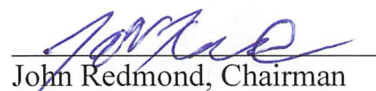
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Robert G. Weiss, Counsel

Date: 11-15-2017

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John Redmond, Chairman

Date: 10/18/17