

RECORD OF PROCEEDINGS

UPPER YAMPA WATER CONSERVANCY DISTRICT BOARD OF DIRECTORS MEETING WEDNESDAY NOVEMBER 15, 2017 12:00 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 Doug Monger, Jim Haskins, Ken Brenner, Ron Murphy, Stephen Colby, and Webster Jones. General Manager Kevin McBride, Administrative Assistant Barbara Wilson, and General Counsel Bob Weiss were also present.

Members of the public present were Erin Light, Division Engineer, Colorado Division of Water Resources;; Lou and Kari Dequine, property owners in Morrison Creek; Claire Sollars, Attorney, Cantafio Hammond representing the Dequines, Frank Alfone, General Manager, Mount Werner Water; Craig Preston, Stagecoach State Park Manager; Frank Schaffner, Andy Schaffner, and Rick Milway; members of the Yampa Irrigators Association; Scott Hummer, Water Commissioner, Colorado Division of Water Resources, Kelly Romero-Heaney, Water Resources Manager, City of Steamboat Springs; and Jason Lacy, Steamboat Springs City Council President.

Scott Grosscup, Attorney, Balcomb & Green, special counsel to the District, joined part of the meeting by phone.

The following agenda was proposed:

AGENDA

- (1) 12:00 pm Establishment of Quorum and Call to Order;
- (2) 12:05 pm Review of the General Manager
- (3) Executive Session:
The specific citation to the provision of C.R.S. §24-6-402, subsection (4) that authorize(s) the UYWCD Board of Directors to meet in an executive session is set forth below. The topic of the executive session identifies the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized.
 - a) Evaluation of District Manager §24-6-402(4)(f)(I). "Personnel matters except if the employee who is 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."
- (4) 1:30 pm Approval of Agenda for Meeting; action item
- (5) 1:35 pm Approval of the minutes of the September 20, 2017 Board Meeting and the October 18, 2017 Board Meeting and Retreat; action item
- (6) 1:40 pm Public Input and Comment;
- (7) 1:45 pm Stagecoach Fill and Release Policy Review with City of Steamboat Springs;
- (8) 2:00 pm Financial Report; action item
 - a) Approval of Disbursements
 - b) Budget Comparison
 - c) 2018 Budget
- (9) 2:45 pm Report of the General Manager; action item
 - a) 2018 Board Meeting Calendar
 - b) Holiday Party
 - c) Board Member Appointments

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- d) Public information
- e) External Affairs
- f) Misc. Updates
 - i) Office Update
 - ii) Office Phone
- (10) 3:00 pm Report from District Engineer
 - a) Reservoir water status
 - b) Project updates
 - c) Bear River Administration
 - d) BLM access thru Park
- (11) 4:00 pm Report from General Counsel;
 - a) Stagecoach Pricing
 - b) Case Status
 - c) Master Plan Diligence 16CW3016 Settlement with DeQuine; action item
- (12) 4:15 pm Executive Session with Bob Weiss, legal Counsel, under CRS § 24-6-402(4)(b) to discuss legal issues on Master Plan Diligence 16CW3016, Stagecoach Pricing, and Mount Werner Water Office Lease. 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).
- (13) New Business;
- (14) Adjournment.

Director Monger made a motion to go into executive session. It was seconded by Director Brenner and unanimously agreed to go into Executive Session under CRS § 24-6-402(4)(f)(1) for evaluation of the District Manager. Manager McBride has not asked to have his review in open session. The Executive Session commenced at about 12:15 PM and concluded at about 1:30 PM. The Executive Session was electronically 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 concerns for the record. No one stated concerns.

Meeting Agenda Counsel Weiss corrected the Executive Session wording of item (3) on the agenda. Manager McBride asked for item (11) c to be moved to after item (7) to accommodate members of the public present.

Director Monger moved to approve the agenda as changed. Director Jones seconded the motion which was unanimously approved.

Meeting Minutes Director Colby requested the September 20, 2017 Board Meeting Minutes be changed for clarification. Page 6 of the minutes: "Director Colby stated the absolute amount that could be built in all the lots that were platted, is about 550 homes." Recommended change to be: "Director Colby stated that the amount of homes that can be built in the unserved subdivisions on well and vault is approximately 550."

Director Monger moved to approve the September 20, 2017 as changed by Director Colby and approve the October 18, 2017 Meeting Minutes. There was general agreement, which was unanimously approved.

Public Comment Scott Hummer, Water Commissioner invited the District to the annual Bear River water users meeting December 9th. Manager McBride stated that a member of the District was planning on attending.

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Ms. Schaffner proposed representatives of the District meet with some of the members of the Yamcolo Irrigators Association to give a general indication of what the Board is planning for the future pricing of “Stagecoach” from Yamcolo water. She also thanked Manager McBride for making Board Meeting notebooks available to members of the public.

Stagecoach Fill and Release Policy Review with City of Steamboat Springs

Kelly Romero-Heaney and Jason Lacy were present. Mr. Lacy explained that the City of Steamboat Springs (City) would like to improve communication and collaboration in the future. Recently there was a missed opportunity due to communication during this summer’s releases. A joint release request by the City and the Colorado Water Trust asked for an additional 21 cfs and they were under the impression that the river would get to 76cfs below Stagecoach Reservoir. The releases were 61cfs instead. Nothing illegal occurred but Mr. Lacy and Ms. Romero-Heaney want to make sure the City and the District work collaboratively in the future.

Director Monger stated he understands the concerns of the City and the desire for better communication. Director Monger explained that the District went thru a long extended Federal Energy Regulatory Commission (FERC) permitting process which included the District release requirements, and the District has to adhere to that. Also, the District’s priority is storing water.

Director Jones pointed out that our policy includes some flexibility around the September 1st date so he asked if this needs to be reevaluated.

Manager McBride reviewed the event which led the City to a misunderstanding and discussed a number of charts developed by the District’s engineer. The District permit states it must release 40 cfs or natural inflow to the reservoir down to a lower limit of 20cfs during this time period. It can store water when flows are above 40 cfs, thus when flows are above that number the District may store water under its water rights and pass only 40 cfs. 40 cfs plus the 21 cfs requested equals 61 cfs. In review of actual daily records, it turns out that on the date of the requested release, Aug 29th inflow was 42cfs that day. In subsequent days flows dropped to below 40 in which case the District would normally release only the inflow amount. The District continued to release 61 and thus essentially “donated” extra flow to the river. Manager McBride wants people to understand the process before policy changes are discussed. Manager McBride offered to discuss the process in great detail. Director Monger reminded everyone of the 2002 release for Tri-state which resulted in a stream loss of almost a 100%. Releases from Stagecoach Reservoir does not mean the water will make it to the 5th street bridge. The City needs to understand the administrative process.

Director Jones asked should a formal mechanism be created for contracts to keep communication going with the City?

Director Monger asked Mr. Lacy and Ms. Romero-Heaney if City Council would like the District to make a presentation to the Council at future meeting about the District facilities, operations and master planning. Mr. Lacy confirmed for 2018.

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Report from General Counsel

Master Plan Diligence 16CW3016 Settlement with DeQuine-

Lou and Kari Dequine were present. Claire Sollars, Attorney representing the Dequine family, reviewed the past process with the District. The Dequines understand that the District is not in a position for a long-term commitment nor in the position to commit to any “operational issues”. The Dequines want a reasonable opportunity to move forward for the next 6 years. There are a lot of options for the Dequine family but they want to have a conservation easement. A proposed lease agreement was discussed.

Director Jones asked for clarification; Ms. Sollars explained that ideally, the 320 acre parcel would be in one conservation easement. The easement would be unique in part because of the future use of the 200 acres of the Morrison Creek Reservoir area. The net result would be a 200 acre area with no residential development. Director Monger stated Routt County does not take into account if the land is covered by water and that the 1:35 acre development requirements exist whether under water or not and that acreage under water can be considered in the number of properties that can be approved.

Director Monger suggested the District create a team to work with the Dequines. Ms. Sollars stated that it is frustrating to only have discussions every two months so a small team that met more often would be good. The Dequines immediate goal is to get an application in to the Purchase of Development Rights Advisory Board (PDR) by May, 2018.

Financial Report

The cash disbursements were reviewed and discussed.

Director Monger moved to approve the cash disbursements through October 31, 2017. Director Brenner seconded the motion which was unanimously approved.

Manager McBride presented the 2018 Budget and distributed a budget details packet to the Board. Mr. McBride does not expect to have to ask the Board for an amendment. Discussion followed.

Director Jones inquired if the District should be less conservative and be closer to actual numbers or stay as conservative as the District has been? Mr. McBride stated he has plans to hire a Business Consultant to review the District’s financial policies and this question will be raised and reviewed with the Board at that time.

Manager McBride presented the 2018 salary proposal including COLA and merit increases. Discussion followed.

Director Jones moved to approve the 2018 budget with the salary’s discussed, to set the mill levy at 1.82 and to appropriate funds as budgeted. Director Monger seconded the motion which was unanimously approved.

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Report of the General Manager

Board Meeting Calendar – Manager McBride reviewed the 2018 Board Meeting calendar and discussion followed including adding scheduled Executive Committee meetings during the off-months.

Director Brenner moved to approve the 2018 Board Meeting Calendar with the addition of scheduling an Executive Committee meeting during the months that there are no regular Board Meetings. Director Jones seconded the motion which was unanimously approved.

Holiday Party – The annual Holiday party will be December 7th at 6:00 pm at the Aurum Restaurant.

Board Member Appointments – Director Redmond's term expires as President. Directors Sharp, Murphy, and Redmond terms expire March 2018. Counsel Weiss reviewed the appointment process.

Public Information – Manager McBride presented Nicole Seltzer's memo. Director Monger inquired about the \$50,000 Ms. Seltzer proposed for GIS and information development. Manager McBride did not include this in the budget. He stated that before Public Information money is spent, it will be presented to the Board. Director Monger reiterated that the Board needs to be informed on the projects as the money is being spent which may mean an increase in the number of meetings.

External Affairs – Manager McBride reviewed the status of the Interbasin Compact Committee (IBCC) and the Statewide Water Supply Initiative (SWWSI) and the District's involvement.

Misc. Updates-

Office updates - Manager McBride hired an architect to review the Fox Creek Park office space and the architect deemed the space as too small. The architect suggested a minimum 2,000 sq. ft. for the District's needs. The Board is supportive of a boardroom within the office space if the District purchases an office.

Office phones – Manager McBride informed the Board that the District office will be changing the phone system to be on auto-answer so a staff member will no longer be answering each call. The callers will immediately get an automated menu system when they call. There was general agreement from the Board.

Report from the District Engineer

Reservoir Water Status – Manager McBride presented the Reservoir water status.

Bear river Administration – The meeting invite was previously presented by Scott Hummer.

BLM Access thru Park - Craig Preston, Stagecoach State Park Manager, presented the Stagecoach State Park BLM Connector Trail Proposal.

Historically there has been access to approximately 1000 acres of BLM land through the South Shore subdivision at Stagecoach. Stagecoach Park Owner's Association (SPOA) has approximately 2.5 feet of

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common area in the current access location that SPOA has recently fenced off to end public access. SPOA now has private access. The proposed Connector Trail would ensure public access to the BLM land, preserve wildlife habitat, and prevent illegal trail construction.

The Park proposes a parking lot on Stagecoach State Park property leased from the District. Proposal is for the trail to be open for seasonal hunting with ATV access. The remainder of the year the area would be non-motorized. In addition, Colorado Parks and Wildlife proposes winter closure for elk habitat. A connecting trail to create a loop through land owned by Tri-state is also proposed.

The District will notify FERC if this project proceeds. The BLM is very supportive.

Director Haskins' opinion is that if this access gets built, mountain bikes will try to develop it for winter and summer riding like the trail system at Emerald Mountain which will affect the elk habitat. Director Haskins is very familiar with the area and said the habitat is unique. He stated it is a great resource and it should remain unmotorized.

Report from General Counsel

Bob 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 Monger made a motion to go into executive session. It was seconded by Director Colby and 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 the Master Plan Diligence 16CW3016, Stagecoach Pricing, and Mount Werner Water Office Lease. 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 Executive Session commenced at about 4:10 PM and concluded at about 4:50 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

Director Monger made a motion for Counsel Weiss to send a letter to Stagecoach municipal contract owners for a two-year extension at the existing price. Director Brenner seconded the motion which was unanimously approved.

Director Monger made a motion to re-refer case 16cw3016 to the water court. Director Colby seconded the motion which was unanimously approved.

Director Brenner moved to give direction to staff to make an agenda item for the January Board meeting to initiate permitting for the Morrison Creek Reservoir. Director Colby seconded the motion which was unanimously approved.

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Director Jones inquired about Andy Schaffner's request to have a meeting with the District to get a general feel for which direction the Board is headed for the future "Stagecoach" water delivered from Yamcolo pricing. Counsel Weiss reviewed her request. It was agreed to have this as an agenda item in the January Board meeting.

New business

Rick Milway said that the meeting with Andy Schaffner, District Engineer Rossi, General Manager McBride, and himself about water pricing was very productive. Mr. Milway would like to present something to the Yamcolo Irrigators Association (YIA) about the future "Stagecoach" water delivered from Yamcolo pricing. The concern is timing; the irrigators need to make alternate plans in advance, they can't wait until the fall of 2018 or 2019 because it will be too late for them to make any adjustments. There was general agreement by the Board to make this an agenda item for the January Board meeting.

Determination of future meetings The scheduled date for the next Board meeting was confirmed, being Wednesday January 31, 2018 at 1:30 PM, at the District's office.

The meeting was adjourned at 5:10 PM.

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 Master Plan Diligence 16CW3016, Stagecoach Pricing, and Mount Werner Water Office Lease constituted a privileged attorney-client communication in the opinion of the undersigned attorney.

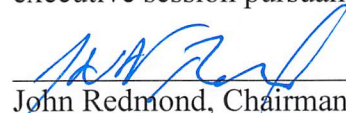


Robert G. Weiss, Counsel

Date: 1/31/2018

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: 1/31/18