

RECORD OF PROCEEDINGS

**UPPER YAMPA WATER CONSERVANCY DISTRICT
BOARD OF DIRECTORS MEETING
SEPTEMBER 18, 2019 1:30 PM
MOUNTAIN VALLEY BANK COMMUNITY ROOM
2220 CURVE PLAZA, STEAMBOAT SPRINGS, CO**

MINUTES

Chairman Ken Brenner called the meeting to order at 1:30 pm and declared a quorum present. In addition to Chairman Brenner, the Board members present were Bob Woodmansee, Doug Monger, Jim Haskins, Ron Murphy, Stephen Colby, Tom Sharp, and Webster Jones. General Manager Kevin McBride, District Engineer Andy Rossi, Marketing and Communication Manager Holly Kirkpatrick, Office Manager Karina Craig, and General Counsel Bob Weiss were also present.

Members of the public present included Joe Haines, Yampatika; Kent Vertrees, President of Friends of the Yampa; Lyn Halliday, Upper Yampa Watershed Group; and Kelly Romero-Heeney, City of Steamboat Springs; Greg Hamilton, Mountaintown Film Collective; Chris Catterson, Catterson CPA; Craig Preston, Colorado Parks and Wildlife; and Gerry Smith.

Consent Agenda

Disbursements, minutes, tax income were consent items. Director Sharp requested to pull 2(a) out of the consent agenda re: 2020 Estimated Tax Income.

Director Jones moved to approve consent agenda, minus 2(a). Director Woodmansee seconded the motion which was unanimously approved.

Director Sharp thanked Manager McBride and Office Manager Craig for pulling the information and calculating the tax revenues, broken down by energy sources. 20% of income is being generated by energy sources. The Hayden plant sources power for YVEA and local power in our region. Director Sharp stated that if all energy property taxes sources go to zero, we'd lose a large amount of income, but it would not be a disaster. We would lose 20% of income. Its valuable information for us to know as we move forward, said Director Monger. Having the information makes us more prepared as we move forward.

Director Sharp made a motion to approve the tax item 2(a). Director Colby seconded the motion which was unanimously approved.

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Meeting Agenda

The following Agenda was presented:

- (1) 1:30 pm Establishment of Quorum and Call to Order;
- (2) Consent Agenda; action item
 - a) Financial Memo
 - i) 2020 Estimated Tax Income
 - ii) Approval of Disbursements
 - iii) Budget Comparison
 - b) Approval of the minutes of the July 24, 2019 and August 22, 2019 Board Meetings
 - c) Stagecoach Firming Resolution
- (3) Approval of Agenda for Meeting; action item
- (4) 1:40 pm Film Series Proposal – Greg Hamilton; action item
- (5) 1:55 pm 2018 Fiscal Year Audit; action item
- (6) 2:10 pm Colorado Parks and Wildlife Proposed Capital Projects; action item
- (7) Public Input and Comment;
- (8) 2:30 pm Report of the General Manager;
 - a) 2020 Draft Budget
 - b) 360 Review Staff and Board Governance
 - c) ERC Contracts
 - d) Y/W/G Roundtable Grant Application action item
 - e) Annual Retreat action item
- (9) 3:10 pm Report from District Engineer;
 - a) Reservoir Water Status
- (10) 3:15 pm Report from General Counsel;
 - a) Water Resumes
 - b) Status of other Water Cases, if any
 - c) Contract Negotiations
- (11) 3:35 pm Executive Session under CRS § 24-6-402(4)(e) for Instructions to Negotiators for Water Contracts. 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) 4:20 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).
- (13) Other Unfinished Business, New Business;
- (14) 4:50 pm Board Member Reports;
 - a) Proposition DD – Director Brenner
- (15) Determination of Future Meetings;
- (16) New Business;
- (17) Adjournment.

The following changes to the agenda were proposed:

Item 7 (public comment) was moved to the next item (item 4) and the remaining items renumbered accordingly. Manager McBride also moved 8(c) to 8(e), so they are right after the 360 review, and the remaining items were reordered accordingly.

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Director Woodmansee moved to approve the revised agenda. Director Colby seconded the motion which was unanimously approved.

Public Comment

Kent Vertrees attended on behalf of Friends of the Yampa. He thanked the Board for their financial support and attendance at events organized by Friends of the Yampa. He spoke of the fly fishing community, and the Upper Yampa Watershed Group. He spoke of multiple water related groups, and the possible organization of an event where each group could present what they've done and what they plan to do in the future. Some groups are unaware of what other groups are doing, and there seems to be some redundancy. He gave some examples. He wanted to plant the seed with the Board today. They are trying to figure out who would lead the group, who would fund it, etc. Friends of the Yampa believes there is a need. The process is just beginning including multi-organization sharing of information. Director Sharp asked if the Roundtable is doing that or is that inadequate in terms of the number of participants. Kent Vertrees said those meetings are already consumed by full blown agendas. What he is proposing is an annual meeting, where every entity can present for about 15 minutes, since there are about 10-15 entities involved with water in the local basin.

Director Woodmansee thinks it's a great idea. What is missing is more communication, and it's hard to grasp what all is going on, and to figure out what meeting to go to and it would be nice to have a coordinating body that could collect all the information to see what overlapping efforts there are. Director Sharp suggested we should see if the Roundtable could make changes to produce what is being described, as it is already a multi-organization group. It seems to him the most obvious entity to do this is the Roundtable. Kent Vertrees said he would send a request to be added to the Roundtable agenda.

Joe Haines, of Yampatika, stated they served 2700 youth from Walden to the Utah border, with environmental and water education. He wants to introduce a partnership opportunity for the Board to consider. Last year the round table approved a three-year grant for Yampatika. The next step in the process is for them to submit it to CWCB at the state level, securing additional support from other entities to match that three-year educational program. The program focuses on the importance of the use of water, be it agricultural, recreational and for other uses. Their education program is tailored to the individual school District needs and local water uses. He is here to ask to be added to the November Board meeting, to ask the Board for \$15K grant, \$5K per year for three years. There was general agreement in the Board that reviewing the application that Yampatika submitted to the Roundtable would suffice and no further documentation needs to be presented by Mr. Haines. He also thanked the Board for releasing water from Stagecoach which benefited the whole community. There is a river fund kick-off event tomorrow, Thursday September 19. He invited the Board and staff to attend.

Kelly Romero-Heaney with the City of Steamboat Springs spoke. The City in conjunction with Mount Werner Water (MWW) has been doing quite a bit of master planning. The City Council and the MWW Board approved and adopted a master plan, which is now available on their website. It includes the Fish Creek wildfire assessment plan. Ms. Romero-Heaney will send an electronic version to the Board, and she was hoping this plan fits with the District's long term planning as well.

No further public comment was made.

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Director Sharp requested that the retreat include a water fund discussion topic. Nancy Smith with The Nature Conservancy would be a contact person for such a discussion.

Film Series Proposal – Greg Hamilton

Greg Hamilton described a film project and funding that he has received. The series is moving forward. They need to line up any additional sponsors before the episodes are released at the end of the year. A proposal was submitted. He was offering the District an opportunity to be recognized as a sponsor for one of the episodes, exclusively. The name of the film is “Your Water Table”, and the hope is to get more people involved in the subject. Director Woodmansee asked if the content is already scripted and ready to go, or not. Mr. Hamilton said as a sponsor we would definitely have input.

Director Sharp moved to approve the request for the \$4K grant, on the condition that whatever particular film that we are going to have our name attached to, that said video is reviewed by our staff before its release, to make sure the content aligns with the District values. Director Murphy seconded the motion which was unanimously approved.

Doug Monger said the Roundtable has reviewed the content. His question to Director Sharp is what type of content it would take for the District to not support the film. Director Sharp responded he wants to make sure there isn't content that is clearly inconsistent with what the Board believes in. For example, if there were support of transbasin transfers, which the Board is clearly against, then we ought to have a say, either to remove our name from it, or to change that content. Mr. Hamilton said the staff would get to see a rough cut of the content, and staff can provide feedback, which would be considered in editing. The District would also be involved in what specific questions are asked in the film.

2018 Fiscal Year Audit

Chris Catterson described GAP and GASB accounting. There were no adjustments on the accounting and financial statements. This is as clean as you can get in accounting. We also have internal controls that provide checks and balances. His job is to try and find common errors or what might be misreported, or if there is fraud. Clearly most of the time we spend time trying to find fraud. Overall the District has very low risk as far as the transactions the District has. An example is income by taxes. As far as expenditures, expenses below \$10K are the higher risk, as they are not reviewed at a higher level. A fair sized sampling resulted in no concerns. Capital expenditures are going to be considerable somewhere down the line. He referred to a 12 year time ratio of reserves towards capital expenditures. He referred to the three financial statements. In the past few years we've added 50% to 70% of tax revenues towards reserves. Director Sharp asked about restricted assets. Manager McBride explained the reserve is for wetlands mitigation. This is needed for the 404 permit. We hope that 2020 might be the last year that we must have that reserve. The second question Director Sharp had was in regards to the road, that was not pursuant to a contract, but pursuant to a motion of the Board. Mr. Catterson responded that restricted in the audit includes only those restrictions triggered by external obligations, not by internal motions. Mr. Catterson said we can disclose this in the management letter. Director Monger talked about restricted, unrestricted and designated reserves. There is a variety of alignments in that regard. He thinks the Board should come up with some reserves, in the capital fund

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reserves. He said we should investigate that as we move forward. For example, the county does that, a “slow down” reserve if the economy slows again, and for other things that they have identified. We might do the same as the strategic plan proceeds. Director Sharp commented that staff has provided for that in the 2020 draft budget.

Director Monger moved to accept the audit. Director Sharp seconded the motion which was unanimously approved.

Colorado Parks and Wildlife Proposed Capital Projects

District Engineer Rossi updated the Board on several proposed projects including the Colorado Parks and Wildlife (CPW) proposed facilities electrical upgrades. Mr. Rossi described zoning changes and other details in regard to the proposed projects. Director Monger, Routt County Commissioner, disclosed he was abstaining from the vote on this item. Maps, property owned by the District, the FERC boundary, a permit by Routt County, and other details were reviewed and discussed. Director Sharp expressed his opinion that zoning of lot 2 should not be changed. His opinion was that removing the residential status of the lot would devalue the property. Otherwise, he agreed and in favor of approving the proposal.

Director Sharp moved to approve to authorize signature of the project on behalf of our tenant, Colorado Parks and Wildlife, to be submitted to Routt County for the lot improvement project subject to not changing the zoning of residential use of Lot 2. Director Murphy seconded the motion. All Board members were in favor, with exception of Director Brenner. Director Monger abstained.

Proposed electrical upgrades. Craig Preston, Colorado Parks and Wildlife, explained there are a couple of opportunities to prepare for future visitors, and the electrical components need to be upgraded for continued functioning. An easement with YVEA would be required, to bring in the appropriate power lines. District Engineer Rossi said staff needs to receive some direction from the General Counsel on how to proceed, once the initial surveying is carried out. Director Colby asked if underground had been considered. Mr. Preston said the budget is not adequate for undergrounding. Director Sharp was in support of the electrical upgrade to the lines in the campground, and other capital investments. For example he'd like to see the roads paved. He is aware CPW is still working on a long-term capital proposal. Mr. Rossi asked if there was an initial cost estimate. Mr. Preston thinks the allocation is about \$180K for the project as a whole. Director Monger asked who owns the power lines once they are installed. Mr. Preston said YVEA owns the line until the transformer. CPW is paying to have it extended. Mr. Rossi clarified the lines are being surveyed. Mr. Preston will send documentation to Mr. Rossi, who will review and forward to General Counsel for review and to continue moving forward in this project.

Report of the General Manager

2020 budget preliminary draft-

The 2020 Budget preliminary draft was presented by Manager McBride, including reserves for each facility. Director Brenner asked that there be a specific agenda item for allocation of designated and undesignated reserves. There was a discussion on encumbered funds for each facility, and how they were calculated. Mr.

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McBride said we can elaborate more at the future budget meeting. Director Brenner asked if we had considered an emergency operating fund. The Board asked staff to send a memo with the breakdown of the calculations. Revenues were discussed. Director Sharp described the changes in water revenues. The ditch revenues in this draft are not representative of contractual stipulations, where revenues are based on cost. Director Sharp asked that interest income be reduced a quarter to half a point. He expects interest at Colotrust to go down by that amount. Director Brenner asked about an “over or under” number. District Engineer Rossi said it would be an off year for large capital projects; it would be a year more for planning than carrying out big projects.

Manager McBride shared that Administrative Assistant Barbara Wilson has resigned as a half time employee of the District. He was seeing the need to increase that position to full time position. He will suggest a change in the job description. He might ask for an Executive Committee meeting to discuss the organizational structure of the District as a position is filled. Legal services were also discussed.

Director Monger asked that a memo explain what is included in each line of the budget.

Luke Fitzgerald, Elk River Water Commissioner, was present and spoke. He wanted to share with the Board that the Elk River went into administration two weeks ago. Director Sharp asked if we’ve had any applicants for the Elk River augmentation plan. Manager McBride said that our new marketing manager will be handling these applications. Three have been received recently. There was discussion about non-exempt wells. There are non-exempt wells in the Elk River valley that fall outside of the District augmentation plan. Those properties might have to truck their water, as the District is unable to service them

360 Review Staff and Board Governance- A draft of the 360 Review was provided in the packet. The intent at this meeting was to provide the most recent draft to the Board, and to defer further discussions to the annual retreat in October. All Board members are invited to the committee meeting. Manager McBride is asking to have Ryan Golten as the facilitator for the retreat in October. He was informing the Board that Barbara Wilson was willing to help with the retreat and the location would be Catamount. Director Brenner commented that Mr. McBride, Ms. Golten and himself would further work on the draft agenda for the retreat. Mr. Brenner said they’ve arrived to a point where staff can review it and provide feedback. A draft of the strategic plan would be open for public comment, and it would be brought before the Board for adoption at the December meeting.

Annual Retreat- The Retreat agenda draft was presented and reviewed. Director Sharp indicated he would be out of state during the Retreat. He asked if he could participate by phone. Counsel Weiss made a comment on process. There was an email that Mr. Sharp sent to the Board in advance of the meeting which should be made part of the record of the meeting and attached to the Board materials.

ERC Contracts – Manager McBride presented a memo. He spoke of possible mechanisms for pricing ERC water. Counsel Weiss suggested to table the subject until after the Executive Session.

Director Sharp moved to amend the agenda to table item 8c to 16, after the Executive Session. Director Colby seconded the motion which was unanimously approved.

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Y/W/G Roundtable Grant Application - Marketing and Communications (M/C) Manager Kirkpatrick is working with Lyn Halliday who is consulting with the District on the grant application.

Ms. Kirkpatrick explained that the application submitted will be presented at the Roundtable at the November 13th meeting, and pending approval, this would go before Colorado Water Conservation Board (CWCB) at the January 2020 meeting. Approved funds could be disbursed as early as February. The program could be marketed in the spring, before irrigation turns on next summer. Director Monger asked about the reimbursement, how are we working with CWCB? The funds are reimbursement only. We need to make sure we communicate this to our applicants; support is given through reimbursement applications. Director Monger asked about the mechanisms of payment for the grants. Manager McBride said that the District would reimburse Tier 1 of the project the same as our current mini-grant system: after the project is completed, accepted for use by the water commissioner and receipts are submitted to the District. For Tier II projects, the Natural Resources Conservations Service (NRCS) process would be followed. M/C Manager Kirkpatrick said we reduced our request to the Roundtable/CWCB for overall funding from \$175K to \$100K, per Craig Godbout, at the CWCB's request. That will simplify the administration of those funds from CWCB. Ms. Kirkpatrick described the process. Director Monger said he'd like to see that on paper as the process she described is very atypical. Manager McBride said that based on a motion last year, we have \$50K per year, for two years, and that will be in the budget for grants, for 2020 and 2021 budgets. We've always had \$100K in that line, and next year in 2020, \$50K of the \$100K will be set aside for the super mini-grant program.

Director Monger moved to approve the General Manager's signature on the grant application. The motion was seconded by Director Woodmansee and unanimously approved.

Report from the District Engineer The water year was discussed. District Engineer Rossi presented a graph. At Yamcolo, stored water was released during most of the irrigation season, most of it through the Five Pine Mesa Ditch. Stagecoach Reservoir, similarly, filled. The District released water during the Labor Day weekend to both the City and Tri-State contracts. In Stagecoach, inflows continue to drop, and are currently at high twenties cfs. The situation will be reassessed in the next two weeks.

Report from General Counsel

Water Resumes and Status of other Water Cases - Counsel Weiss asked if there were any questions on water resumes. There is a memo from Scott Grosscup that was sent to the Board. There were no questions.

Contract negotiations - Counsel Weiss provided a memo to the Board. He wanted to discuss the "snap-back" issue and negotiations. He asked if there were any questions to discuss in open session. There were none.

Executive Session- Instructions to Negotiators for Water Contracts

Director Sharp made a motion to go into executive session. It was seconded by Director Monger and unanimously agreed to go into Executive Session under provision CRS § 24-6-402(4)(e) for Instructions to Negotiators for Water Contracts, to be recorded electronically. Mere presence or participation of an attorney

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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 4:15 PM and concluded at about 5:00 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.

There was no additional Executive Session.

Board Member Reports

Director Sharp moved to authorize a letter from the District to State Representative Dylan Roberts in support of proposing legislation to be added to the substitute water supply planning section of the water statutes, limited only to the Yampa basin if that is what it takes to alleviate concerns from elsewhere in the state, that expressly provides that a water user who owns both a direct flow water decree and a water storage ownership or contract right may choose to call for and take the storage water in lieu of available direct flow under its direct flow right, and bypass downstream the stream flow it would be entitled to take in priority, if it notifies the DEO that its election to curtail diversion of its direct flow water right is intended to improve the natural environment of the stream below its point of diversion, and specifies the flow rate of its curtailment of its right and flow rate of the substitute storage water rate it elects to take. Director Monger seconded the motion which was unanimously approved.

Director Sharp moved to support Proposition DD. Director Woodmansee seconded the motion which was approved, with Directors Jones and Murphy opposing.

Determination of future meetings The scheduled date for the Board Retreat was confirmed for Wednesday October 23, 2019 at 8:30 am, at Lake Catamount, Steamboat Springs, CO.

The meeting was adjourned at approximately 5:00 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

Date: 11/17/2020