

RECORD OF PROCEEDINGS

**UPPER YAMPA WATER CONSERVANCY DISTRICT
BOARD OF DIRECTORS MEETING
JANUARY 15, 2020 1:30 PM
MOUNTAIN VALLEY BANK COMMUNITY ROOM
2220 CURVE PLAZA, STEAMBOAT SPRINGS, CO**

MINUTES

Vice President Doug Monger called the meeting to order and declared a quorum present. In addition to Director Monger, the Board members present were Bob Woodmansee, Jim Haskins, John Redmond, Ron Murphy, Stephen Colby, Tom Sharp, and Webster Jones. General Manager Kevin McBride, District Engineer Andy Rossi, Communications and Marketing Manager Holly Kirkpatrick, Office Manager Karina Craig, Administrative Assistant Barbara Wilson, and General Counsel Bob Weiss were also present.

Members of the public present included Gerry Smith; Frank Alfone, Mount Werner Water; Scott Hummer and Erin Light, Colorado Division of Water Resources; Rick Milway, Andi Shaffner, and Gary Clyncke, water contract holders; Kelly Romero-Heaney, Jon Snyder, and Gary Suito; City of Steamboat Springs.

The following agenda was proposed:

AGENDA

- 1) *1:30 pm* Establishment of Quorum and Call to Order;
- 2) Consent Agenda; action item
 - a) Approval of Disbursements
 - b) Budget Comparison Report
 - c) Approval of the minutes of the September 18, 2019;
 - i) November 20, 2019; and December 18, 2019 Board Meetings
 - d) Resolution approving Posting Place
- 3) Approval of Agenda for Meeting; action item
- 4) Public Input and Comment;
- 5) *2:00 pm* Report of the General Manager;
 - a) Kelly Romero-Heaney City of Steamboat Springs
 - b) Governance Discussion and Strategic Plan adoption action item
 - c) Price Notification for YIA Contract 2020 action item
 - d) Business Planning Next Steps
- 6) *3:10 pm* Election of Officers; action item
- 7) *3:25 pm* Report from General Counsel;
 - a) Water Resumes and Status of other Water Cases, if any
 - b) Contract Negotiations (YIA, Individual Irrigators, Tri-state,
 - i) Stagecoach Municipal, Peabody) action item
 - c) Stillwater Ditch action item
 - d) Individual Irrigators Contract Renewal Process action item
 - e) Director Appointments

RECORD OF PROCEEDINGS

- 8) 4:00 pm Report from District Engineer;
 - a) Reservoir Water Status
 - b) Grazing Lease action item
 - c) Capital Projects
- 9) 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).
- 10) 4:45 pm Board Member reports
- 11) 5:00 pm Next meeting agenda
- 12) Adjournment.

Consent Agenda

Approval of Disbursements- Director Woodmansee made a motion to approve the Disbursements. Director Redmond seconded the motion which was unanimously approved.

Budget Comparison Report- Director Monger would like to see the how much the medallion ski pass is being used and have a report presented to the Board.

Approval of the Minutes - Director Jones made a motion to approve the September 18, 2019; November 20, 2019; and December 18, 2019 Board meeting minutes. Director Haskins seconded the motion which was unanimously approved.

Resolution Approving Posting Place - Director Sharp made a motion to approve the Resolution Approving the Posting Place. Director Colby seconded the motion which was unanimously approved.

Meeting Agenda Director Sharp requested to add “New Business” after item 10 of the agenda.

Public Comment No comments from the public at this time.

Report of the General Manager

Kelly Romero-Heaney City of Steamboat Springs - Kelly Romero-Heaney and Jon Snyder with the City of Steamboat Springs updated the Board on City water matters. Ms. Romero-Heaney asked the Board to keep in mind during the discussion where the District would like input. Topics from the City's Long-Term Water Planning PowerPoint presented included the 2019 Water Supply Master Plan, 2020 Water Conservation Plan, 2019 Fish Creek Critical Community Water Protection Plan, Yampa River health Assessment and Streamflow Management Plan, Yampa River Water Fund, and the Wastewater Treatment capital improvements. Ms. Romero-Heaney invited feedback on the 2020 Water Conservation Plan that is on the City’s website: www.engagesteambot.net/savewater.

Frank Alfone, General Manager of Mount Werner Water District (MWW), thanked the Board for working with MWW so they can start their new Filtration Gallery this fall.

RECORD OF PROCEEDINGS

Gary Sutor, Steamboat Springs City Manager, expressed that he is impressed with on-going Yampa basin water matters and thanked the Board for scheduling update from the City.

Governance Discussion and Strategic Plan adoption - Communication and Marketing Manager Kirkpatrick updated the Board on the Strategic Plan progress and discussion followed. Director Jones requested that a copy of the Strategic Plan be included in every Board Packet for the Board meetings.

Director Woodmansee made a motion to approve the Strategic Plan. Director Haskins seconded the motion which was unanimously approved.

Price Notification for YIA Contract 2020 - Director Sharp made a motion to adopt the calculated price for the Yamcolo Irrigators Association (YIA) contract for 2020 at \$22.58 AF and that such number and calculation sheet be transmitted by the end of the month to the YIA. Director Woodmansee seconded the motion which was unanimously approved.

Business Planning Next Steps - General Manager McBride made a presentation . The Long Term Best Practices government memo was reviewed. The memo is a good outline as a starting point for the February Board meeting agenda. Director Jones stated that it is up to the Board to decide on a contract pricing and that maybe the Board should take the previous price and adjust by CPI. Director Monger suggested we need to have a philosophical discussion on why we charge what we charge. Director Jones said we need to accept we have some bad contracts and don't worry about philosophy; figure out a price as a Board. Discussion followed. There was general agreement that directors Jones and Monger will assist manager McBride .

Election of officers Director Sharp proposed the Board change the Bylaws to rotate the Board President every two years. Discussion followed.

Director Sharp made a motion to table item 6, Election of Officers, until the February Board meeting and add this as an agenda item. Director Redmond seconded the motion which was unanimously approved.

Report from General Counsel

Water Resumes and Status of other Water Cases, if any - General Counsel Weiss said there was nothing to report and the item will be deferred to next month.

Director Sharp thinks it will be worthwhile to look at the implications of the 60cfs Tri-state case and how it affects the District's Four Counties water rights. Counsel Weiss will do this for the February Board meeting.

RECORD OF PROCEEDINGS

Contract Negotiations (YIA, Individual Irrigators, Tri-state, Stagecoach Municipal, Peabody) - Counsel Weiss reviewed the January 8, 2020 'Yamcolo/Stagecoach contracting update' Board Communication form included in the Board packet.

Stillwater Ditch -

Andi Shaffner representing the Stillwater Ditch (the Ditch) irrigators explained that the District needs a signature by February 7, 2020 and they were not prepared to do this. Ms. Shaffner thanked everyone for their hard work and said maybe we can re-visit this in 3-5 years. The irrigators have some areas of concerns: they would like to be able to use any Yamcolo water in their original space, they would like to be consulted on capital improvement to the ditch, and the pricing.

YIA Contract Renewal Process - Gary Clyncke with the Yamcolo Irrigators Association spoke. He said we've been battling over pricing for the last 9 years. Director Sharp believes we are very close to an agreement and if the irrigators want some changes, he suggested they get an attorney and propose the exact wording the irrigators want. Counsel Weiss suggested the Ditch language be specified by the YIA in their contract.

Director Sharp made a motion to authorize the passage to YIA of the latest draft of the YIA amendment with the District Engineers two exhibits included and authorize the signature by the District. Director Colby seconded the motion which was unanimously approved.

Director Sharp made a motion to authorize staff to reimburse YIA for legal fees, not to exceed \$2,000, to evaluate the District's contract proposal and propose any changes. Director Woodmansee seconded the motion which was unanimously approved.

Individual Irrigators Contract Renewal Process - Rick Milway representing the Individual Irrigators, thanked General Counsel Weiss. Mr. Milway thinks they would be ready to sign if it was \$10 AF and if the Ditch wording was removed. He also proposed a new idea of exchange water for the Board to consider. Director Sharp said the District may be able to tweak the Ditch wording. He also proposed they get specific wording from their lawyer for any requested changes.

Director Sharp made a motion to confirm the pricing that the District provided in a prior motion; that it starts at \$11AF with the 500 AF clawback of one dollar less. Director Haskins seconded the motion which was unanimously approved.

Director Sharp made a motion to authorize the most recent draft of the Individual Irrigators form be approved and delivered to the representatives of the Individual Irrigators for acceptance as soon as possible. Director Jones seconded the motion which was unanimously approved.

RECORD OF PROCEEDINGS

Director Sharp made a motion to reimburse the Ditch owners, Jeff Houpt legal fees to transfer the Ditch up to \$11,000. Director Haskins seconded the motion which was approved. Director Redmond recused himself.

Director Sharp made a motion to approve the “Resolution establishing a process for the grant of allotment contracts for Yamcolo Reservoir water for irrigation and stock water purposes from the Individual Irrigators pool” with the blank lines in page 2 to be replaced with “Sleeping Lion Ranch LLC” and “2,400 AF”. Director Murphy seconded the motion which was unanimously approved.

Director Appointments - Counsel Weiss pointed out the February 7, 2020 deadline for the incumbents to re-apply. Director Colby will not be seeking reappointment.

Report from the District Engineer

Reservoir Water Status – District Engineer Rossi updated the Board on the current Yamcolo and Stagecoach Reservoir water status.

Grazing Lease – Engineer Rossi presented an updated set of documents for the Sickles Place Grazing Lease. Updates to these documents were performed by Mr. Rossi and General Counsel Weiss. Director Murphy stated that an initial one-year lease with the option of up to five total years of leases would be acceptable. Director Monger disclosed that he leased the adjoining property from the Hagenbuch family in 2019. CPW and the District are partnering to complete the fencing repairs in the area for 2020. There are three springs on the Sickles Place property. The District has a water right on only one of the three springs. Options for management of the three springs were discussed.

Director Sharp made a motion to postpone the approval of the Grazing Lease Agreement until after the Executive Session. Director Redmond seconded the motion which was unanimously approved.

Capital Projects - There were no questions from the Board on the Capital Improvements information presented.

Executive Session

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 Monger moved, Director Sharp seconded, and it was unanimously agreed to go into Executive Session under provision C.R.S. §24-6-402(4) (b) to discuss with counsel Water Resumes, Water Cases, and Contract Negotiations. 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 5:00 pm. and concluded at about 5:30 pm.

RECORD OF PROCEEDINGS

District Engineer Andy Rossi, General Manager Kevin McBride, and General Counsel Bob Weiss were included in the Executive Session.

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 Sharp made a motion to authorize the General Manger and General Counsel to amend the offer to Peabody for a water contract for a term of four years at the same pricing language as used for the Steamboat Ski and Resort Corporation. Director Haskins seconded the motion which was unanimously approved.

Director Sharp made a motion for the District to reimburse up to \$2,000 to the Individual Irrigators group for attorney fees in connection to their review of their approved form of the contract. Director Haskins seconded the motion which was unanimously approved.

Next meeting agenda There was no discussion at this time.

Determination of future meetings The scheduled date for the next Board meeting was confirmed, being Wednesday February 12, 2020 at 1:30 PM, at Mountain Valley Bank Community Room, 2220 Curve Plaza, Steamboat Springs, CO.

The meeting was adjourned at 5:35 PM.

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

Kevin McBride

Date: May 6, 2020

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 Water Resumes, Water Cases, and Contract Negotiations constituted a privileged attorney-client communication in the opinion of the undersigned attorney.

Robert G. Weiss

Date: May 11, 2020

Robert G. Weiss, Counsel

RECORD OF PROCEEDINGS

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.

Douglas B. Monger

Date: May 11, 2020

Doug Monger, Vice-President

Signature: 
Kevin McBride (May 6, 2020)

Email: kmcbride@upperyampawater.com

Signature: 
Robert Weiss (May 11, 2020)

Email: bweiss@wvsc.com

Signature: 
Douglas B. Monger (May 11, 2020)

Email: dmonger@co.routt.co.us












2020 0115 Board Meeting Minutes FINAL

Final Audit Report

2020-05-11

Created:	2020-05-06
By:	Deb Bastian (dbastian@upperyampawater.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAyugbS-anus77KNZufAUBS33Aj1-4HSp

"2020 0115 Board Meeting Minutes FINAL" History

-  Document created by Deb Bastian (dbastian@upperyampawater.com)
2020-05-06 - 4:25:07 PM GMT- IP address: 63.224.69.143
-  Document emailed to Kevin McBride (kmcbride@upperyampawater.com) for signature
2020-05-06 - 4:26:32 PM GMT
-  Email viewed by Kevin McBride (kmcbride@upperyampawater.com)
2020-05-06 - 5:19:28 PM GMT- IP address: 63.224.69.143
-  Document e-signed by Kevin McBride (kmcbride@upperyampawater.com)
Signature Date: 2020-05-06 - 5:27:22 PM GMT - Time Source: server- IP address: 63.224.69.143
-  Document emailed to Robert Weiss (bweiss@wvsc.com) for signature
2020-05-06 - 5:27:26 PM GMT
-  Email viewed by Robert Weiss (bweiss@wvsc.com)
2020-05-11 - 6:37:22 PM GMT- IP address: 71.202.10.241
-  Document e-signed by Robert Weiss (bweiss@wvsc.com)
Signature Date: 2020-05-11 - 6:45:00 PM GMT - Time Source: server- IP address: 71.202.10.241
-  Document emailed to Douglas B Monger (dmonger@co.routt.co.us) for signature
2020-05-11 - 6:45:01 PM GMT
-  Email viewed by Douglas B Monger (dmonger@co.routt.co.us)
2020-05-11 - 7:04:55 PM GMT- IP address: 45.41.142.49
-  Document e-signed by Douglas B Monger (dmonger@co.routt.co.us)
Signature Date: 2020-05-11 - 7:09:56 PM GMT - Time Source: server- IP address: 63.151.67.118
-  Signed document emailed to Kevin McBride (kmcbride@upperyampawater.com), Deb Bastian (dbastian@upperyampawater.com), Robert Weiss (bweiss@wvsc.com), and Douglas B Monger (dmonger@co.routt.co.us)
2020-05-11 - 7:09:56 PM GMT