

RECORD OF PROCEEDINGS

UPPER YAMPA WATER CONSERVANCY DISTRICT
BOARD OF DIRECTORS MEETING
SEPTEMBER 17, 2020 12:00 PM
ONLINE MEETING:

[HTTPS://ZOOM.US/J/95638113840?PWD=EFHSZVPVS1dFTTc4MNLVC0EYW
MFXDz09](https://zoom.us/j/95638113840?pwd=EFHSZVPVS1dFTTc4MNLVC0EYWmFXDz09)

MINUTES

Chairman Ken Brenner called the meeting to order and declared a quorum present. In addition to Chairman Brenner, the Board members present were Bob Woodmansee, Doug Monger, John Redmond, Ron Murphy, Lyn Halliday, Tom Sharp, and Webster Jones. General Manager Andy Rossi, Communication/Marketing 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 included Kelly Romero-Heaney, City of Steamboat Springs; Matt Rice, American Rivers; Katie Duncan, Jerry Smith and Courtney Gerber.

This meeting was held entirely 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) **12:05 PM** Approval of Agenda for Meeting **Action item**
- (3) **12:10 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.
- (4) **12:15 PM** Consent Agenda; **Action item**
 - a) Approval of the minutes of July 15, 2020 Special Board Meeting, July 16, 2020 and August 20, 2020 Board Meetings
 - b) Financial Reports
 - i) Approval of Disbursement
 - ii) Budget Comparison
- (5) **12:20 PM** Report of General Manager

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- a) Preliminary 2021 UYWCD DRAFT Budget Report
- b) October 2020 Board of Directors' Retreat
- (6) **1:05 PM** Committee Reports
 - a) 2021 Strategic Plan
- (7) **1:15 PM** Report of General Counsel
 - a) Surety Bond Motion **Action item**
- (8) **1:25 PM** District Engineer Report
 - a) Reservoir Water Status
 - b) Capital Projects Update
- (9) **2:00 PM** Communications-Marketing Updates
 - a) Meeting updates
 - b) Publication updates
 - c) Grant program updates
- (10) **2:30 PM** Board Member Reports
 - a) A Resolution in Support of the Colorado River Water Conservation District's November 3, 2020 Ballot Question **Action item**
- (11) **2:45 PM** Pending Water Cases
 - a) Water Resumes **Action item**
 - b) Status of other Water Cases (if any) **Action item**
- (12) **3:00 PM** New Business (Limited to emergency matters that came up during the course of the meeting) **Action item**
- (13) **3:05 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.
- (14) **3:10 PM** Board actions regarding Executive Session
- (15) **3:15 PM** Determination of Next Meeting Agenda
- (16) **3:30 PM** Adjournment.

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

Meeting Agenda Director Monger moved to approve of the agenda. Director Jones seconded the motion which was unanimously approved.

Public Input and Comment Chairman Brenner invited members of the public to comment on items not otherwise scheduled on the agenda. There were no comments.

Consent Agenda Director Woodmansee moved to approve the consent agenda (approval of July 15, 2020 Special Board Meeting, July 16, 2020 & August 20, 2020 Board minutes, cash

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disbursements and budget comparison), Director Monger seconded the motion which was unanimously approved.

Report of General Manager

Preliminary 2021 UYWCD DRAFT Budget Report – General Manager Andy Rossi provided an overview of the budget process and reviewed the preliminary 2021 UYWCD budget and asked for comments/recommendations from the Directors now and going forward to the October Board meeting. He provided some information on the Stagecoach Wetlands Mitigation Reserve and the struggles the District has had with final mitigation efforts. This process is associated with the Stagecoach Reservoir Raise project and is part of the 404 permit with the Army Corp of Engineers. The dynamics of the reservoir have made it difficult for the final mitigation efforts to take. The District is looking into partnering with a third party to assist with this process or to buy credits in the wetlands bank for this purpose. Chairman Brenner noted that the City has a riparian restoration project going on and wondered if we would gain the same credit as we would in a wetlands bank. General Manager Rossi stated that it would be determined by the Army Corp of Engineers. Kelly Romero-Heaney, Water Resources Manager for the City of Steamboat Springs, spoke stating that the City is considering a significant wetlands restoration effort at the confluence of Walton Creek on city owned parcels. She noted that if the District is interested in being a stakeholder or party to the project the City would welcome the District to the table. General Manager Rossi thanked Kelly and noted that the District is interested if the City has $\frac{3}{4}$ of an acre of valid wetlands mitigation area in the project that meets the criteria of the UYWCD Stagecoach mitigation requirements and as long as the Corp of Engineers is involved and can sign off on the Districts permit obligations. These are the criteria that must be met. Kelly suggested that she and General Manager Rossi meet to discuss the implications of getting the Corp involved to buy into the project.

Director Sharp asked about the status of the \$500,000 line item for Routt County Road #14 Contribution in Encumbered Funds. Director Monger noted that he did not foresee the County pursuing this project and stated that the District could remove this line item from the budget. Director Sharp requested that staff pull out the reserves for the Routt County Road #14 Contribution. This direction was provided to staff.

Chairman Brenner asked if there was any public comment regarding the preliminary 2021 draft budget. There were no comments.

October 2020 Board of Director's Retreat – General Manager Andy Rossi reviewed the draft agendas for the Board Retreat and Board of Director's meeting October 15, 2020. Andy is working with Ryan Golten of CBI to help facilitate the Retreat. The Retreat will focus on the Strategic Plan and the Board meeting will focus on Stagecoach Reservoir water pricing. Andy will develop the framework for pricing prior to the meeting. He requested that the Board think about the structure of the pricing program and provide feedback at the October meeting. His proposal will include categories and variables for pricing. Director Sharp requested that the categories include current contracts as a separate category from new water contracts. He stated that it needs to be clear that the pricing negotiated with our current allottees should not be assumed to be the same pricing for new water contracts.

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General Manager Rossi commented that it is his intent to be clear on that distinction. Further, the intent is to come back in November and fill in the specific pricing data based on direction from the Board. He also suggested that pricing should be reviewed annually.

Committee Reports

Strategic Plan – Chairman Brenner noted that a meeting of the Strategic Plan Committee will be scheduled before the October meeting. The purpose is to review the current plan and prioritize items for the District to focus on in the coming year. Chairman Brenner conducted a roundtable for input by the Directors. Chairman Brenner asked if there was any public comment. Kelly Romero-Heaney, Water Resources Manager for City of Steamboat Springs, stated that she would like to set up a “listening session” with the Division 2 representatives (Ken Brenner, Tom Sharp & Webster Jones) as part of the City’s Water Team Meeting and then, ultimately, bring the representatives before the full City Council so the representatives can listen to what the City has been working on and determine if there are opportunities for collaboration.

Report of General Counsel

Surety Bond Motion – General Counsel Weiss presented the draft motion to the Board. Director Sharp moved to accept the bond as presented. Director Woodmansee seconded the motion which was unanimously approved.

District Engineer Report

Reservoir Water Status – General Manager Rossi provided an overview and referenced his previous board communication emails regarding reservoir water status.

Director Sharp moved that the Board should request General Manager Rossi to direct a letter to the River District, Tri-State, Water Trust and the CWCB thanking them for their willingness to release water into the river. Director Halliday seconded the motion. Director Monger requested that there should also be a “Letter to the Editor”. Director Sharp agreed with the amendment. It was further noted that there were more entities involved then noted by Director Sharp and General Manager Rossi will be sure to include all entities that assisted in adding water to the river system. The motion was unanimously approved.

General Manager Rossi reported that the annual FERC inspection of Stagecoach Reservoir will not be conducted due to COVID-19 concerns. However, the FERC will allow the District to submit another dam safety inspection report or self-perform the inspection. The State of Colorado Dam Safety Inspection was conducted on September 16, 2020.

Capital Projects Update – General Manager Rossi reviewed the summary projects efforts for 2020.

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Communications-Marketing Updates

Meeting Updates – Communications/Marketing Manager Kirkpatrick provided an update on the various industry meetings to keep the Board informed on the current issues. Holly highlighted that at the recent YWG BRT meeting, a large portion of the meeting discussed the Basin Implementation Plan update. The Big River Committee is focusing on a statement on demand management. This will play a big part in the update for the Colorado Water Plan. Holly encouraged the Board to submit their comments so that they can be presented to the RT to represent our Board as a whole. Chairman Brenner noted that he felt the Board needed to be cautious on how it moved forward with this draft statement. Director Monger stated that this is an issue that the Board should keep on the agenda to develop a UYWCD position and that those individuals that participate in these meetings can lobby for the District's position.

Publications Update – A publication schedule for UYWCD press releases was provided. The Board asked if links to the articles could be provided in the future.

Grant Program Update – Communications/Marketing Manager Kirkpatrick provided an update on the Diversion Infrastructure Improvement Project.

Board Member Reports

River District Tax Question – Director Monger provided an overview of the River District's tax ballot question No. 7A which requests a property tax mill levy increase on the November 3, 2020 ballot. The UYWCD Resolution endorses and supports the River District's ballot question. Director Sharp moved to adopt the Resolution as presented. Director Woodmansee seconded the motion which was unanimously approved.

Pending Water Cases

Water Resume Review – Special Counsel Grosscup commented there was not anything in Divisions 5 or 6 to bring to the Boards attention.

Status of other water cases – Special Counsel Grosscup provided an update of the current water court cases. Scott noted that on Case No. 19CW3005 a settlement letter from Tri-State was received and the Board will review this in Executive Session. With regard to Case No. 20CW3019 and CW 20CW3020, the District filed statements of opposition. In addition, the Division Engineer and a number of landowners also filed a statement of opposition. Additionally, an application was filed by Catamount for its water/refill rights. This is pending waiting for a consultation report from the Division Engineer.

Special Counsel Grosscup discussed the Abandonment List and noted the process to prepare and file the objection to the list. Director Sharp supports the filing of the statement of objection and requested that in the statement where several augmentation plans are noted, the Morrison Creek plan be included. Director Sharp will provide the data for these cases. Director Sharp moved to authorize the District's Counsel to file the statements of objections to the Decennial Abandonment List with respect to Yamcolo Reservoir First Enlargement Water and Second Enlargement Water. Director Halliday seconded the motion which was unanimously approved.

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New Business There was no new business.

Executive Session At 3:20 PM Director Sharp moved, Director Monger seconded, and it was unanimously agreed to go into Executive Session under provision CRS § 24-6-402(4)(b) to discuss legal issues on Water Resumes, Water Cases, Contract Negotiations and the District's position on the Tri-State case. 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 concerns for the record. No one stated concerns.

Board Actions Regarding Executive Session Director Sharp moved that, with regard to Case No. 19-CW3005, the Board authorize and direct District Counsel to file the appropriate motion to rerefer the case back to the Water Judge to place the case on a trail track and then to advise counsel for Tri-State that the District is willing to enter into mediation efforts to see if the case can be solved satisfactorily for both parties. Director Monger seconded the motion which was unanimously approved.

Determination of next meeting agenda The agenda for the Board Retreat and next Board meeting were reviewed in item 5.b.

Director Woodmansee moved to adjourn the meeting at 4:04 PM. Director Jones seconded the motion which was unanimously approved.

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



Andy Rossi, District Secretary/Manager

Date: Oct 28, 2020

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 Tri-State case constituted a privileged attorney-client communication in the opinion of the undersigned attorney.



ROBERT WEISS (Oct 28, 2020 11:37 MDT)

Robert G. Weiss, Counsel

Date: Oct 28, 2020

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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.

Ken Brenner

Ken Brenner (Oct 29, 2020 09:38 MDT)

Ken Brenner, Chairman

Date: Oct 29, 2020