

**Minutes from the Meeting of the
Yellow Jacket Water Conservancy District
Friday, February 8, 2013
Rio Blanco County
Commissioners' Meeting Room
200 Main Street, Meeker, CO 81641**

Call to Order

The meeting was called to order at 3:35 p.m.

Roll Call

Directors Present:

David Smith, Vice-President

Mike Brennan

Kelly Sheridan

Benjamin Rogers

Walter Proctor

Others Present:

Scott Grosscup, General Counsel

Forrest Nelson

Ben Franklin

Tom Kourlis

Appointment of Chairman

By unanimous consent, Director Sheridan was appointed chairman of the meeting.

Appointment of Secretary

Scott Grosscup, General Counsel, was appointed Secretary of the meeting.

Approval of Minutes

Director Smith moved to approve the December 6, 2012 minutes as presented. Director Brennan second, all in favor.

White River Highland Ditch Company

Scott Grosscup reported that he had contacted the White River Highland Ditch Company concerning payments for past due amounts. He sent a letter and invoice in December of last year for \$3,048, which included use of the water for four years in which payment was not received. The Highland Ditch Company then sent a check in the amount of \$762 for use of the Highland Ditch water right in 2012.

He also indicated that the Town of Meeker's potential interest in this water right referenced in other documents does not appear to exist. Working with the Town's attorney, Scott could not locate an agreement between the YJWCD and Town requiring the YJWCD to deliver a portion of this water right to the Town. Scott said that the YJWCD acquired its interest in the Fourth Enlargement from Rio Blanco County in 1972. As part of the acquisition of this water right, the YJWCD and County entered into an agreement that provided the Town of Meeker, or Meeker community, would have "preferred standing" for the domestic and municipal uses of this water right. It also provided that the Town would be charged to be determined rate for this water. While no agreement between the YJWCD and Town was entered, records do indicate past discussions about conveying a portion of the water rights to the Town, possibly as much as 10 cfs of this water right.

Discussion followed concerning the next steps toward generating a new revised agreement with the White River Highland Ditch Company for its use of its water right. Representatives from the

Ditch Company discussed its use and need of this water right. Questions concerned the appropriate amount to be charged for use of this water right and the status of prior agreements.

Director Proctor moved that counsel be directed to draft a new contract for consideration by the parties for the Ditch Company's continued use of the Highland Ditch water right, Director Brennan second, all in favor. Directors Smith and Rogers recused themselves from voting.

A brief recess was taken from 4:15 to 4:20.

Attorneys Report

As directed from the prior meeting, Scott Grosscup reported on the process whereby the property could be excluded from the District's boundaries. First, the individual landowner files a petition for exclusion with District with description of land and deposit of money to pay costs of exclusion proceedings. Then notice of hearing is published once a week for three consecutive weeks of the hearing. Finally, the Board holds a hearing and determines whether such lands should be excluded. While relatively simple, the process requires the landowner to take the action, it cannot be a unilateral action by the board.

Mr. Kourlis asked about the benefits of a District, specifically with respect to the Moffat County residents. Discussion followed concerning the process for excluding lands and whether all of Districts 8 and 9 could be excluded, at what cost, and the potential impacts to the YJWCD as a whole should the two districts be excluded. Director Proctor indicated that he would do further investigations into the number of tax payers in Districts 8 and 9 and property descriptions.

Scott Grosscup next discussed the location for where meeting notices should be posted in 2013. Director Brennan moved that meeting notices be posed at the Post Office in Meeker, at the Rio Blanco County Commissioner's room, and with the Moffat County Administration building, director Proctor second, all in favor.

Scott Grosscup indicated that he increased his billing rate for 2013 to \$100.00 per hour.

Executive Session

At 5:10 p.m. Director Brennan moved that the Board go into Executive Session pursuant to C.R.S. §§ 24-6-402(4)(b) and (e) to confer with its attorney for the purpose of receiving legal advice on a specific legal question and determining positions relative to matters subject to negotiations, Director Rogers second, all in favor.

At 5:25 p.m. the Executive session concluded. The participants in the executive session included those directors present and above counsel. No party who participated in the Executive Session raised any objection to the matters discussed therein, or stated that any improper action occurred during the Executive Session in violation of the Open Meetings Law.

Treasurer's Report

Director Brennan described activities of cashing in last CD and the transactions that were approved at the last meeting. He indicated that after those accounts were paid, the District had a balance of \$5,366 in the District's checking account and held a CD in the amount of \$4,999.

The Board discussed payment for workers' compensation insurance. Scott Grosscup stated that because the District does not have any employees, and because the directors do not receive payment, that state law does not require the District to have workers' compensation insurance. Rather such insurance is elective in nature.

Director Proctor moved that the District cancel its workers' compensation insurance plan and request a refund, Director Smith second, all in favor.

Director Proctor then provided and discussed end-of-year budget sheets, attached.¹ The first describes the status of accounts as of December 31, 2012; the second is the end-of-year balance as a result of bills and revenues received in 2013 for 2012; and the third considers bills and revenues for 2013 based upon the updated budget format. Discussion of the documents followed.

Director Proctor moved that he be directed to initiate an audit of the District's finances through Colorado CPA and request for exemption from audit, director Brennan second, all in favor.

Director Proctor then moved that counsel and he be authorized to finalize and submit any necessary data to the Department of Local Affairs concerning the District's finances for 2012, Director Brennan second, all in favor.

Director Proctor then moved approval of the accounts payable in operating expenses and to Balcomb and Green, Director Brennan second, all in favor.

The meeting adjourned at 6:05 p.m.

Read and approved this ___th day of _____, 2013.

Signed: _____

Attest: _____

¹ The attached budget sheets were updated after the meeting to correct input errors, and which corrected budget sheets are adopted as the official record of these proceedings.