

**Upper Gunnison River Water Conservancy District  
Annual Meeting Minutes of the Board of Directors  
June 26, 2023 at 5:30 p.m.**

The Board of Directors of the Upper Gunnison River Water Conservancy District (UGRWCD) conducted its annual meeting on Monday, June 26, 2023 at 5:30 p.m. in the District office, 210 West Spencer Avenue, Suite B, Gunnison, CO, 81230 and via Zoom video/teleconferencing.

Board members present: Rosemary Carroll (via Zoom), Joellen Fonken, Rebie Hazard, Stacy McPhail, Julie Nania (via Zoom), Bill Nesbitt, John Perusek, Michelle Pierce, Mike Rogers, Don Sabrowski and Andy Spann.

Others present:

Sonja Chavez, UGRWCD General Manager

Kathleen Curry, Colorado River Water Conservation District Board Member

Cheryl Cwelich, UGRWCD Water Resource Specialist II

David Gardner, City of Gunnison Public Works Director

John McCLOW, UGRWCD General Counsel

Luke Mecklenburg, Colorado Attorney General's Office (via Zoom)

Sue Uerling, UGRWCD Admin. Asst/Communications Support Specialist

**1. Call to Order**

Board President Michelle Pierce called the meeting to order at 5:30 p.m.

**2. Agenda Approval**

**Director Stacy McPhail moved and Director Joellen Fonken seconded approval of the agenda. The motion carried.**

**3. Consent Agenda Items**

**Director Bill Nesbitt moved and Director Joellen Fonken seconded approval of the consent agenda items. The motion carried.**

President Michelle Pierce asked the Board for their thoughts about having all of the detailed receipts and invoices of the expenses included in the Board packet. She noted that for the packets that are sent Priority Mail, this detail often makes the packets too large to fit in the envelopes.

After some discussion, it was proposed that the expense detail be included in a separate email or separate PDF file when the Board Packets are emailed. For those Directors who prefer to receive their packets in hard copy, if they have a question about a particular invoice or receipt, they can email staff (Sonja) or they can come into the office to review the master printed version of this detail. The consensus of the Board was that a separate PDF or email would be a good solution.

#### **4. Legal and Legislative Matters**

John reviewed the legal opinion in the packet regarding the Colorado Supreme Court case of “State vs. Hill.” John noted that Hill lacks standing to pursue a declaratory judgment that a river segment was navigable for title at statehood and belongs to the State. John said that Mr. Hill was also denied for a re-hearing on the matter and that he will keep the Board posted of any other such cases.

#### **Bylaws Amendments**

John referred to the proposed Bylaws amendments that were circulated at a previous Board meeting and asked for approval from the Board to increase the maximum allowable annual compensation for board meeting attendance to \$2,400 which requires a petition to the judge to make this change. Director Nesbitt asked if this could be discussed in August when the Board begins to review the budget for the next year. The consensus was that there was no reason to delay voting on the matter now and that this would enable staff to move forward on a comprehensive update to the District’s financial policies and internal controls which will be reviewed by the District’s auditor and CPA firm.

**Director Stacy McPhail moved and Director Rebie Hazard seconded approval of the Bylaws amendments previously circulated and petitioning the judge to increase the maximum annual Director compensation for Board meeting attendance to \$2,400. The motion carried.**

#### **5. Treasurer’s Report**

Treasurer Bill Nesbitt reported that the feds did not raise the discount rate again at their June 13<sup>th</sup> meeting. He said it was reported that inflation is down and that they are seeing some response from the previous 10 interest rate increases. He noted that at the Fed’s November meeting, they may increase rates again by another 25 basis point bump. Director Nesbitt noted that he thinks the purchase of Suite A next door will end up providing a good return to the District of somewhere between six and a half and eight percent annually, which makes it a wise investment.

General Manager Chavez said that for now she is leaving \$1.2 million in the Colorado Trust Plus account, which earned five percent last month. This provides liquidity for the District. If she sees this rate dropping, Sonja said she would work with Treasurer Nesbitt on purchasing a different investment.

#### **6. General Manager’s Report**

**Finance Committee** - Sonja reported that the committee met with auditor Paul Miller and Tom Stoeber and Alisha Jackson from Thomas N. Stoeber CPA on June 8, 2023. Sonja appreciated having all of the parties at the table and noted that there were many suggestions made that will eventually become part of the financial policies. She said much of the discussion focused on internal controls, especially having multiple sets of eyes on transactions and having the Board review the financials. She said in the internal controls, the District should be using position titles and not names for the individuals responsible for actions. Paul suggested that all bank transfers or movement of funds should be reviewed/initialed on a monthly basis and that there should be an email between the General Manager and Treasurer identifying such transfers and their approval.

With respect to grants, Sonja said the District needs to get prepared for a Single Audit which is required when an organization expends \$750,000 or more in federal funding in a single year. Also, as part of reimbursement for staff technical assistance on grants or recouping time for management of the federal grant(s), Paul noted that an actual “timesheet” will need to be provided, so Sonja is looking into timesheet applications or other options, such as using QuickBooks. The auditor also noted that when the District applies a de minimus federal indirect cost rate (e.g., 10%) to the grants that we manage, we need to have the background for the applied rate.

Director Nesbitt asked if the District was to rent space to another conservation entity under a federal grant, how would this be detailed in indirect costs? Sonja said that rent would fall under the direct costs.

At times, granting entities may want to disburse funds in advance of expenditures to get these funds off of their books. Auditor Paul Miller cautioned that the District does not want to have large amounts of funds sitting in a District interest bearing account without quick turnaround in use. Paul noted that the District may want to open a separate non-interest-bearing account for such funds if this occurs again.

Sonja noted that there was discussion about separating out the audit expenses from accounting expenses on the budget as Director Hazard had suggested at the last meeting. In addition, the District will revise the budget in the future using a chart of account numbers versus project names to help prevent misclassification of expenses. It was noted that the staff and Board could have a detailed budget with subaccounts to more closely monitor expenditures, but that that for DOLA or the counties where we are required to provide our budget, the District can just provide the summary budget without subaccounts.

It was also recommended that the District create a separate line item in the budget called “vehicle rental income” if we are going to be annually renting District vehicles to the Wet Meadows Program.

It was also recommended that the Spencer Business Park Condominium Association be dissolved and the bank account for this at Wells Fargo be closed since the District now owns the entire building.

Sonja said that she will be looking into a phone application called Expensify that allows staff to take a cell phone photo of a receipt immediately upon getting one which then can be coded, saved, and uploaded to the proper account in QuickBooks. This should help prevent issues around lost credit card receipts and allows for better day-to-day tracking.

There was also discussion about the District not having online access/viewing of its bank accounts at Bank of the West (BOW), as well as the high fees BOW charges for credit cards. It was suggested at the Finance Committee meeting that the District look into possibly moving its operating accounts to a bank that is easier to work with. There were also some suggestions for other banks that have reasonable fees for credit cards, easier on-line access, etc.

**Director Bill Nesbitt motioned for the approval of the Finance Committee’s recommendation to have staff research other banking options. The motion carried.**

**Waters of the United States** – General Manager Chavez referred to her memo noting the court case of *Sackett vs. EPA* where the landowners, the Sacketts, filled an area on their property which was deemed wetlands by the EPA under the “Clean Water Act”. The Supreme Court unanimously sided with the Sacketts that the area they had filled was jurisdictional wetland, but the court was split 5 to 4 over the court’s conservative majority “new test” for determining if adjacent wetlands have a “continuous surface connection”. The majority exception was Justice Kavanaugh who sided with the court’s three other more liberal justices on the “new test”. Sonja said there has been long standing uncertainty and decades of litigation and agency action by the U.S. Army Corps of Engineers (Corps) and the United States Environmental Protection Agency (EPA) around the meaning of “the waters of the United States” or WOTUS. The definition of WOTUS has also changed under different presidential leadership further complicating things. Per Sonja, the court’s opinion created a new definition of “waters” that ignores the hydrologic connection between groundwater and surface water; requiring that in order for an adjacent wetland or body of water to be a WOTUS, it must be consistent with the definition of WOTUS, which they say is a relatively permanent body of standing or continuously flowing water connected to traditional interstate navigable waters.

The Colorado Water Quality Control Division (WQCD) began the development of draft policies in 2022 in anticipation of this Sackett ruling which would leave state “gap waters” (waters outside of federal CWA jurisdiction) unprotected while the Army Corps and EPA were developing official statements of rule or policy in response to the Sackett ruling. Sonja noted that the WQCD public input period was only two weeks and via Zoom which provided very little opportunity for discussion and input from stakeholders. She said while the District supports the position that clarity is needed to ensure that wetlands created by irrigation not be considered jurisdictional waters, staff are concerned that wetlands in Colorado that don’t have a “relatively permanent” and visible continuous surface connection to ‘navigable waters’ (e.g., streams, rivers, lakes, oceans) are now left unprotected by federal law, creating “gap waters”. This leaves the potential for degradation of perennially or groundwater fed wetlands which may

result in the loss of areas important to water quality improvement, flood flow attenuation and habitat. She is concerned how the interim draft dredge and fill policy might affect the Wet Meadows projects.

**Standard Mine Superfund Site:** General Manager Sonja Chavez attended the EPA Standard Mine Superfund site update meeting on June 8th in Crested Butte. The Standard Mine is an abandoned hard rock mine (silver, lead, copper and zinc) located in Gunnison County Colorado near Crested Butte. It was listed on a National Priorities List in 2005 due to elevated levels of cadmium, lead, and zinc. Phase 1 clean-up included installation of a flow control bulkhead to control the flow of water discharging from the mine. The current status of the project includes EPA's proposed full closure of the bulkhead within a few days following the above meeting with continued monitoring in this high-water year.

Director Julie Nania added that the purpose of the bulkhead was to try to eliminate interaction of air (oxygen) with the water in hopes this will reduce the mobilization of heavy metals that leech into the water. Julie noted that in previous years the EPA has wanted to test a full closure of the bulkhead but were unable to backfill behind it due to low water conditions during the year. Julie agreed that they are being conservative with the amount of water stored behind the bulkhead and that they will be testing any water getting beyond the bulkhead for heavy metals content. Sonja noted that if the Board was interested in hearing more about the Standard Mine Superfund site, she could contact the woman who led the meeting to give an update to the Board.

**7. Presentation by David Gardner and Mike Rogers, City of Gunnison, Water Treatment Plant Update**

David Gardner, public works director, and Mike Rogers, water and wastewater superintendent, both of the City of Gunnison, gave a Power Point presentation on the conceptual plans and need for development of a water treatment plant. They began the presentation by outlining Gunnison's water history, including the appropriation of a town pipeline for 15 c.f.s. of water in 1883, water shortages in the dustbowl 1930's, the construction of Taylor Park Dam and Reservoir in 1935 and the drilling of 10 wells for the City from 1960 to 1999. Of special note, the City purchased the VanTuyl Ranch in 1993 specifically for water purposes to protect and preserve the City's domestic water supply and aquifer, to provide for future development of municipal water wells and their delivery system, to utilize irrigation for the City's beneficial uses of existing and future water rights, and for future water storage as 450 acre-feet were decreed for storage.

In 2021 and 2022, the Gunnison Water Master Plan and Source Water Protection Plan were developed respectively. After reviewing several potential sites for the proposed plant, it was determined that the best location would be at the VanTuyl Ranch headquarters thanks to its adjacent water source, available piping, city electric grid proximity, being near storage and its connection to the city water main. From these plans, the following water system improvements have been proposed: construction of a water treatment plant (as the city does not currently have one); an infiltration gallery and pump station; a groundwater well manifold for current wells 7-9; construction of new wells 11-13; burying pipelines and dry utilities; development of a future raw water reservoir; construction of a water shop building, and the addition of a rooftop array of solar panels and possible geothermal system. If the VanTuyl Ranch location

is ultimately approved for the site, the project could also cover trail improvements and trail access to the reservoir, as well as new public facilities such as restrooms, a pavilion and recreation areas. David and Mike reiterated that the plant would be designed to coexist with the surrounding environment and existing habitat management plan, including preserving the active cattle ranch and agricultural use of the area while enhancing access and recreation opportunities.

David and Mike pointed out that if these improvements are not done soon, Colorado Department of Public Health & Environment (CDPHE) could require the City to install full treatment at each well and impose hefty daily fines for violating this requirement, which is what happened to the Town of Ouray. In addition, they explained that a new plant will allow the city to remove harmful contaminants from the City's water supply, instead of just using chlorination for disinfection, which is the current process. They also noted that many of the City's current wells are located in the middle of the street increasing the risk of potential contamination and that chlorine is combustible.

David and Mike explained that the timeline is for a public hearing with the City Council on July 11<sup>th</sup> and a possible Van Tuyl Management Plan update with potential approval by the Council. July 25<sup>th</sup> would be the next Council meeting for a possible second reading of the Planned Unit Development (PUD) amendment. David and Mike said that the City will be seeking grant funding from a variety of sources, including BIL, DOLA and the CWCB, totaling \$13,460,000.

Director John Perusek asked if one of the wells was abandoned due to contamination. David and Mike replied that Well One was decommissioned and capped off and that they would be utilizing the newer northern wells in the future due to the fact that they are newer, more productive, meet current standards and are in closest proximity to the new plant location.

Director Nesbitt asked what would happen to the current storage holding tanks behind Western's Campus? Mike and David replied that the City plans to erect new concrete holding tanks in a later phase that will be used for storage of treated water from the new plant.

Director Joellen Fonken asked how much of the VanTuyl Ranch will be used to house the water treatment plant. David and Mike replied that the overall footprint of the plant will be under two acres, and that the complex itself will not look like a traditional concrete and metal plant but will be made to blend with the existing land use and will look like a ranch barn.

Joellen noted that with her involvement with Gunnison Nordic, the group has witnessed wildlife and cattle drink from the warm water section near the ranch headquarters during the winter since it does not freeze over. She presumes the City will want to be cognizant of wildlife and herds utilizing these open water sources. Director Nesbitt also asked about whether the City will review the area for sage grouse habitat. David answered that all of these types of issues will be addressed through required environmental assessments.

**8. Administration of Oath of Office**

Steven Patrick, Gunnison County District Court Judge, administered the oath of office for Board members Michelle Pierce, Rebie Hazard, Joellen Fonken and Rosemary Carroll, all of whom submitted applications to renew their Board terms. In addition, Judge Patrick administered the oath of office for new Board member, Mike Rogers, who will fill the remaining term for Division 8, City of Gunnison, vacated by Sara Bergstrom.

**9. DINNER BREAK with Basin Water Supply Update**

General Manager Chavez reviewed the Basin Water Supply update included in the packet. At the time the memo was written on June 15th, both Blue Mesa Reservoir and Taylor Park Reservoir had filled to 84 percent of capacity. (As of the meeting date, Blue Mesa was at 92 percent and Taylor was at 95 percent of capacity.)

Director Bill Nesbitt asked if the District had received the results of the algal bloom study conducted at Blue Mesa Reservoir last summer. Sonja replied that the data collected by the USGS is still being analyzed. Katie Walton-Day will be giving a preliminary presentation to the Central Arizona Project tour group coming through the area on Wednesday. Katie did mention to Sonja that she would like to do a follow-up sediment study to try to understand any correlation between the algal blooms and sediment.

Sonja said she also got a call from a former intern and now Western graduate student who worked with the National Park Service (NPS) on the algal bloom study. She was wondering if the Board would support a funding request for her to work with CPW on a study looking at the effects of algal blooms on the kokanee salmon population. Sonja encouraged her to come back with a formal 2024 grant proposal.

**10. Election of Officers**

The current officers of the UGRWCD are President Michelle Pierce, Vice President Stacy McPhail; Secretary John Perusek; and Treasurer Bill Nesbitt. President Michelle Pierce asked for nominations from the floor. None were offered. All current officers agreed to continue to serve in their present roles for 2023.

**Director Joellen Fonken moved and Director Andy Spann seconded approval of the re-election of the current slate of officers for 2023. The motion carried.**

**11. Consideration of Resolution Appointing Financial Officers**

Resolution 2023-04 was included in the Board Packet. President Michelle Pierce asked if there were any questions. None were raised.

**Director Rebie Hazard moved and Director Bill Nesbitt seconded the adoption of Resolution 2023-04 appointing the financial officers for the District. The motion carried.**

**12. Re-authorization of Standing Committees**

A copy of the current committees and members of each committee was distributed in the Board Packet. President Pierce asked if there were any changes or additions to committees and/or committee members. Director Mike Rogers noted that he would like to be a member of the Projects Committee, Water Administration Committee, Watershed Management Planning Committee, and the Education and Outreach Committee. All other Board members chose to stay on the committees on which they are currently serving.

**Director Bill Nesbitt moved and Director Andy Spann seconded approval of the re-authorization of Board committees and committee members for 2023-2024 with the changes noted above. The motion carried.**

**13. General Manager, Committee and Staff Updates (continued)**

**SFA -** General Manager Sonja Chavez will be serving on the Watershed Function Science Focus Area (SFA) Advisory Board and requested consensus from the Board that they were in support of her spending a limited amount of time to serve on this Board. The purpose of the Science Advisory Board is to provide advice, guidance, and constructive feedback on SFA strategy, scientific relevance, team expertise, quality of achievements, and task priorities as needed to continuously improve the SFA. Sonja feels it is important that UGRWCD staff share our watershed knowledge, provide helpful input and be actively engaged with scientists working to further our understanding of climate impacts on our watershed, watershed characteristics that influence water retention and loss, as well as watershed response to, for example, disturbance from fire or vegetation management. The GM has been participating in Watershed Science SFA webinars when presentations are applicable and has attended the annual SFA retreat in Crested Butte as part of her general duties. Sonja said there will likely be a few additional video conferences she will need to attend.

Director Bill Nesbitt asked if Sonja will need to excuse herself from potential grant application that may come before the SFA. Sonja said this group does not provide grant funding. Director Rosemary Carroll, who is active in the SFA, said that Sonja may be asked to listen to candidates do a dry run on potential funding proposals and that as she is coming on, there will be increased work load as several projects are kicking off. She said the workload would be front-loaded but that she feels it will be beneficial to the District to have Sonja be on the advisory board and part of the process.

**POWR Act -** – The Protection Opportunities for Workers Rights Act (POWR) (SB23-172) was signed by Governor Polis on June 8, 2023. POWR does several things including redefining the standard employees must provide to establish workplace harassment claims, new requirements for non-disclosure



agreements and recordkeeping, making marital status a protected class, and for claims of discrimination no longer require showing an employee's disability has a significant impact on the job. Sonja said she and General Counsel John McClow will review the District's employee policies to see if there needs to be any changes made in order to comply with the POWR Act. If any changes are necessary, Sonja said these would be presented at the July Board meeting.

**UVWUA Drought Contingency Planning Meeting** - Uncompahgre Valley Water Users Association (UVWUA) held their first Drought Contingency Planning (DCP) meeting on June 5, 2023. UGRWCD (Sonja) attended as a stakeholder. UGRWCD relayed that our stakeholder interest would likely be related to any discussions associated with Taylor Park Reservoir.

**Watershed Management Planning Committee** – Sonja reported that the committee is wrapping up and is working on getting its last contract in place, which is for the Wetlands Assessment. She said the group did not formally meet in June. Unfortunately, Sonja said the District did hear from a funder that the funds awarded were not available for this wetland planning project, so staff will redirect the funding and move forward on additional fundraising to cover the cost of the assessment.

**Drought Contingency Plan Update** – Sonja reported that Water Resources Fellow Alana Nichols has been reading up on a variety of studies and research conducted around drought. Sonja said that due to upcoming vacations for herself and other members of the task force, the group elected to hold off on their formal kick-off meeting until the end of August.

**Wet Meadows Program Update** – Water Resource Specialist Cheryl Cwelich referred to her memo included in the packet and noted that the final application for the \$5M America the Beautiful grant to support wet meadows restoration and cheatgrass control is due on July 20<sup>th</sup>.

**Taylor Local User's Group Update** – Sonja noted that the Four Parties meeting, which includes the UGRWCD, US Bureau of Reclamation, Colorado River Water Conservancy District and the Uncompahgre Valley Water Users Association, will hold a meeting on July 5, 2023 at 2 p.m. to discuss the Taylor Operations for 2023.

TLUG Chair Don Sabrowski said it has been nice to have plenty of water this year, which makes flow recommendations very easy. So far, the reservoir conditions and runoff have matched the models, so there have been no difficult decisions to make as has been the case in the past. The next meeting is Monday, July 10 at noon.

**Education and Outreach** – Sonja noted the many events that staff have participated in as part of the Education and Outreach effort.

**Scientific Endeavors** – Director Rosemary Carroll reported that the Department of Energy has awarded two University grants for studies in the East River Basin in collaboration with the SFA (mentioned earlier). Jessica Lundquist will be leading the team for one of these grants, which will run for a three-

year period. From these studies, snow and hydrologic models will be produced with the purpose of addressing how seasons have memories and how snowmelt affects the summer runoff.

Sonja noted that the USGS will also be visiting on Wednesday and Thursday to review the Tomichi Creek, Taylor River, Ohio Creek and East River to develop a scope of work for the proposed Water Budget and Irrigation Return Flow Study.

**Gunnison River Festival** – Director Cheryl Cwelich reported that there were 55 participants in the race and thanks to the high water, it went really fast. She acknowledged former Director Joellen Fonken for the amount of time and effort she put into all of the festival events over the years. Cheryl said the Paddle Film Festival was this week on Wednesday evening, June 28<sup>th</sup>, in Crested Butte, SUP Event at Lake San Cristobal on July 29<sup>th</sup> and the SunniGunni Costume float on August 26<sup>th</sup>.

Sonja noted that arrangements were made for two boats with bilingual interpreters which would carry local Spanish speaking immigrants and educate them about the watershed. She appreciates the support of the Board for this important outreach.

**STOR Committee** – Sonja reported that she was not able to attend the last meeting so Cheryl attended in her place and wrote a memo for the packet. Since STOR is still in the middle of Strategic Planning she said there was not a lot to report.

#### **14. Miscellaneous Matters**

**Current Gunnison River Spreadsheet** – included in the packet for review

**Colorado Water Congress Conference** – August 22-24, 2023; a preliminary agenda was included in the packet and Board members were encouraged to let staff know as soon as possible if they were interested in attending as the rooms in the Steamboat Grand tend to sell-out fast.

**Suite A Update** – Sonja reported that Eric Kowal stopped by earlier in the day to meet with her and John McClow to do a walk through on the proposed renovations to Suite A. Eric said he would get a proposal with estimated costs back to the District in the next few weeks and that his crew would not be able to start construction until January 2024. Sonja said she is still waiting for a final report from Keenan's in Montrose on their review of the HVAC system, but it does look like one unit will need to be replaced. Finally, Sonja said she hopes that by the next meeting we will have our new roof or at least be started on construction.

#### **13. Citizens Comments**

Kathleen Curry, the Gunnison County Representative on the Colorado River Water Conservancy District wanted to update the Board that at their June 20<sup>th</sup> meeting Andy Mueller and Kathy Chandler Henry represented the Board on the Colorado River Drought Resiliency Task Force and that she was happy that there would be two representatives from this area to attend the meetings over the next several months before the Task Force report is due to the General Assembly in early December. She noted that there will

be a lot that needs to be done in a very short period of time to meet these requirements. She said these meetings will be led by a facilitator who has not yet been selected.

Kathleen said that the Board has been very busy reviewing Community Funding Partnership applications and noted that there have been more requests than there is monies available.

Kathleen also thanked the District for the several representatives that attended the Gunnison County Stockgrowers Association meeting, as she feels this is a very important collaboration for the District.

Finally, she said the City of Gunnison would be sending representatives to talk about the proposed new Water Treatment plant at the next Gunnison Basin Roundtable meeting.

**14. Future Meetings** – these were listed in the Board Packet

**15. Summary of Meeting Action Items**

General Manager Sonja Chavez will see about getting a speaker on the Superfund Site clean-up for a future Board meeting.


General Counsel John McCLOW and Sonja will review personnel policies to see if any changes will be required with respect to the POWR Act.

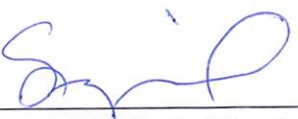
John and Sonja will continue to work on reviewing the recommendations from the Finance Committee meeting to update the Financial Policies & Bylaws accordingly.

**16. Adjournment**

Board President Michelle Pierce adjourned the Annual Meeting on June 26, 2023, at 7:56 p.m.

Respectfully submitted,

  
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John Perusek, Secretary

  
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Stacy McPhail, Vice President