



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

John W. Hickenlooper
Governor

Mike King
DNR Executive Director

James Eklund
CWCB Director

DRAFT

Summary Minutes and Record of Decisions March 18-19, 2015 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened at the Department of Agriculture, located at 305 Interlocken Parkway, Broomfield, CO 80021. The meeting was called to order by Chair April Montgomery. Nine voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were: Alan Hamel, John McClow, April Montgomery, Ty Wattenberg, Travis Smith, Russell George, Jay Gallagher, and Diane Hoppe. Patricia Wells arrived after agenda item 2, making ten voting members present. *Ex-officio* member Mike King, Department of Natural Resources Director, was present. Non-voting *ex officio* members present or represented were Casey Shpall, Deputy Attorney General for Natural Resources; Dick Wolfe, Colorado State Engineer; Bob Broscheid, Colorado Parks and Wildlife Director; John Stulp, Director of the IBCC; Don Brown, Commissioner for the Colorado Department of Agriculture; and James Eklund, CWCB Director.

On the second day, the meeting was called to order by Chair Diane Hoppe. Nine voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were: Alan Hamel, John McClow, April Montgomery, Ty Wattenberg, Travis Smith, Patricia Wells, Russell George, Jay Gallagher, and Diane Hoppe. Non-voting *ex officio* members present or represented were Casey Shpall, Deputy Attorney General for Natural Resources; Dick Wolfe, Colorado State Engineer; Lauren Ris, Department of Natural Resources, and James Eklund, CWCB Director.

Note: While the Board's consideration of agenda items does not always follow the sequence indicated by the agenda numbers, these minutes are listed in agenda item order for easier reference.



1. Board Reappointment & Election of Officers

Action: Casey Shpall, Deputy Attorney General for Natural Resources swore in incumbent Board members Diane Hoppe, Ty Wattenberg, and John McClow.

A motion to elect Diane Hoppe to Chair was made by Alan Hamel, which was seconded by John McCLow. The motion was approved unanimously (9-0).

A motion to elect Russell George to Vice-Chair was made by Alan Hamel, which was seconded by Travis Smith. The motion was approved unanimously (9-0).

2. Review and Approval of Agenda

Action: James Eklund announced that Senator Sonnenberg would be coming to address the Board around 3:30 - 4:00pm to present on Agenda Item 24 and that Agenda Items 18 & 19 may need to move to Thursday's Agenda. A motion to approve the agenda was made by Ty Wattenberg, which was seconded by Travis Smith. The motion was approved unanimously (10-0).

3. Review and Approval of January 26-27, 2015 Board Meeting Minutes

Action: A motion to approve the minutes was made by Jay Gallagher, which was seconded by Alan Hamel. The motion was approved unanimously (10-0).

4. Approve and/or Remove Consent Agenda Items

Action: Consent Agenda item 4.b. was moved from the Consent Agenda to the Agenda after Item 7. A motion to approve the amended Consent Agenda was made by Travis Smith, which was seconded by Jay Gallagher. The motion was approved unanimously (10-0).

1. **Public Deliberation Officer** *Interstate, Federal & Water Information Section*
 - The Board will be asked to designate Casey Shpall as the RICD "Public Deliberation" Officer in the following case:
 - a. Case No. 5-13CW3109: Application of the City of Glenwood Springs
2. **Approval of Criteria and Guidelines** *Interstate, Federal & Water Information Section*
 - The Board will be asked to approve the Upper Colorado River Basin Fund Memorandum of Agreement Criteria and Guidelines for Prioritization of Projects within Colorado.
3. **New Prequalification Loans** *Finance Section*
 - a. Plum Valley Heights Sub-District of the Roxborough Water and Sanitation District - Water Rights Purchase
 - b. Uncompahgre Valley Water Users Association - Hydroelectric Project
 - c. Lower Poudre Augmentation Company - Water Rights Purchase
4. **Statements of Opposition** *Stream & Lake Protection Section*

- *The Board will be asked to ratify Statements of Opposition that have been filed by staff to protect instream flow and natural lake level water rights in the following water court cases:*

- a. Case No. 1-14CW3176: Application of City of Fort Collins
- b. Case No. 3-14CW3027: Application of Expo, LLC
- c. Case No. 3-14CW3030: Application of Blanca Potato, LLC
- d. Case No. 4-14CW0053: Application of High Cimarron LLC
- e. Case No. 4-14CW3084: Application of Skyland Metropolitan District
- f. Case No. 4-14CW3086: Application of Eric Trommer
- g. Case No. 5-14CW3129: Application of John Zabriskie, Jr. Revocable Trust and Adelaide W. Zabriskie Revocable Trust
- h. Case No. 5-14CW3167: Application of The Town of Gypsum
- i. Case No. 5-14CW3168: Application of Elk Wallow Ranch, LLC
- j. Case No. 5-14CW3176: Application of WCCP1, LLC and WCCP2, LLC
- k. Case No. 5-14CW3179: Application of Maroon Creek Limited Liability Company
- l. Case No. 6-14CW3047: Application of Morrison Creek Metropolitan Water and Sanitation District
- m. Case No. 7-14CW3051: Application of Rio Cabana, LLC

5. Future Board Meeting Dates in 2015

- a. May 20 & 21 Sterling
- b. July 15 & 16 Southwest Colorado
- c. September 16 & 17 Montrose
- d. November 18 & 19 TBD

Action: This was an informational item only. No Board action was required.

6. Directors' Reports

a. Department of Natural Resources Executive Director

Action: Report by Mike King. This was an informational Item only. No Board action was required.

b. Agriculture Commissioner

Action: Report by Don Brown. This was an informational item only. No Board action was required.

c. Interbasin Compact Committee Director

Action: Report by John Stulp. This was an informational item only. No Board action was required.

d. Colorado Water Conservation Board Director

Action: Report by James Eklund. This was an informational item only. No Board action was required.

e. State Engineer

Action: Report by Dick Wolfe. This was an informational item only. No Board action was required.

f. Division of Parks and Wildlife

Action: Report by Bob Broscheid. This was an informational item only. No Board action was required.

g. Water Resource and Power Development Authority

Action: Report by Mike Brod. This was an informational item only. No Board action was required.

7. Wild and Scenic Rivers Update

Interstate, Federal, & Water Information Section

Action: Presentation by Roy Smith, Bureau of Land Management. This was an informational item only. No Board action was required.

8. Request for Authorization to Proceed to Trial in Case No. 1-12CW87 (Application of Eldora Enterprises, LLC and Mountain Lease Enterprises, LLC)

Stream & Lake Protection Section

Action: Presentation by CWCB staff member Kaylea White. A motion to approve an authorization to proceed to trial was made by Patricia Wells, which was seconded by Alan Hamel (9-0).

Staff recommendation: Pursuant to ISF Rule 8j., Staff recommends that the Board authorize Staff to proceed to trial to protect its instream flow water rights in the event that Staff and the Attorney General's Office are unable to reach a settlement with Applicant before trial.

9. Attorney General's Report, Legal Briefing and Executive Session

Action: Presentation by Casey Shpall. This was an informational item only. No Board action was required.

10. Executive Session

Action: Under the Colorado Open Meetings Act, C.R.S. Section 24-6-402(3)(a)(II), a motion was made by Alan Hamel for the Board to go into executive session for the discussion of agenda items 10.a. through 10.f. The motion was seconded by Ty Wattenberg. The motion was approved unanimously (9-0).

- a. Chatfield Reservoir Reallocation Project
- b. Case No. 1-12CW87: Application of Eldora Enterprises LLC and Mountain Lease Enterprises, LLC
- c. Case No. 5-13CW3094: Application of the Town of Breckenridge
- d. Colorado River legal issues
- e. Rio Grande River interstate litigation update
- f. Republican River interstate litigation update

Ty Wattenberg made a motion for the Board to leave Executive Session, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).

11. Report from Executive Session

Action: Deputy Attorney General Casey Shpall reported that the Board went into Executive Session, pursuant to C.R.S. Section 24-6-402(3)(a)(II) for discussion of agenda items 10.a. through 10.f., and that the discussion was limited to those items only, with no action taken.

Clint Evans, NRCS, addressed the Board. This was an informational item only. No Board action was required.

12. Proposed Acquisition of Contractual Interest in Water on the 15 Mile Reach of the Colorado River, Water Division 5

Stream & Lake Protection Section

Action: Presentation by CWCB staff member Linda Bassi. This was an informational item only. No Board action was required.

Staff recommendation: Pursuant to Rule 6b. of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program (“ISF Rules”), the Board’s consideration of this proposal at this meeting will initiate the 120-day period for Board review. No formal action is required at this time. The initial presentation of this proposal provides an opportunity for the Board and the public to identify questions or concerns that Staff will address at this or a subsequent meeting.

13. Notice of Instream Flow and Natural Lake Level Appropriation Recommendations for 2016

Stream & Lake Protection Section

Action: Presentation by CWCB staff member Jeff Baessler. This was an informational item only. No Board action was required.

14. Public Comment on 2015 New Instream Flow and Natural Lake Level Appropriations

Stream & Lake Protection Section

Action: Presentation by CWCB staff member Jeff Baessler. This was an informational item only. No Board action was required.

15. Colorado Climate Action Plan

Water Supply & Planning Section

Action: Presentation by CWCB staff member Taryn Finnessey. This was an informational item only. No Board action was required.

16. Colorado Water Plan Update

Water Supply & Planning Section

Action: Presentation by CWCB staff member Kate McIntire. This was an informational item only. No Board action was required.

17. Water Supply Reserve Account Applications

Water Supply & Planning Section

WSRA Grant Requests			
	Basin	Applicant	Water Activity
a.	<i>Metro/South Platte</i>	<i>Colorado Division of Water Resources</i>	<i>Data Loggers & Telemetry Installation</i>
<p>Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by Patricia Wells, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).</p> <p>Staff Recommendation: Staff recommends approval of up to \$50,000 from the Metro Basin Account, \$103,216 from the South Platte Basin Account, and \$156,432 from the Statewide Account to help fund the project titled: Data Logger/Telemetry Installation Project, South Platte River Basin.</p>			
b.	<i>Metro/South Platte</i>	<i>Elbert County</i>	<i>Elbert County Rural Water Supply Study</i>
<p>Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by Patricia Wells, which was seconded by Ty Wattenberg. The motion was approved unanimously (9-0).</p>			

Staff Recommendation: Staff recommends approval of up to \$40,000 from the Metro Account; \$40,000 from the South Platte Basin Account; and \$40,000 from the Statewide Account to help complete the study titled: Elbert County Rural Water Supply Study.			
c.	Arkansas	Pike's Peak Regional Water Authority	Preliminary Engineering Report: Area 3 Regional Water Supply Infrastructure
Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by Alan Hamel, which was seconded by Travis Smith. The motion was approved unanimously (9-0). Staff Recommendation: Staff recommends approval (refer to <i>Issues/Additional Needs</i> section) of up to \$26,000 from the Arkansas Basin Account and \$100,000 from the Statewide account to help fund the study titled: Regional Water Supply Infrastructure Project: Preliminary Engineering of Area 3 Facilities.			
d.	Arkansas	Lower Arkansas Water Valley Conservancy District	Phase II, Repurposing of Water Supply for Multiple Beneficial Use
Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by Alan Hamel, which was seconded by Patricia Wells. The motion was approved unanimously (9-0). Staff Recommendation: Staff recommends conditional approval (refer to <i>Issues/Additional Need section below</i>) of up to \$25,000 from the Arkansas Basin Account, and \$275,000 from the Statewide Account to help fund the project titled: Phase II, Repurposing of Water Supply for Multiple Beneficial Use.			
e.	Arkansas	Lower Arkansas Water Valley Conservancy District	Arkansas Basin Watershed Collaborative
Action: Presentation by CWCB staff member Craig Godbout. Jay Winter, Lower Arkansas Water Valley Conservancy District, addressed the Board. A motion to approve the staff recommendation was made by Alan Hamel, which was seconded by Jay Gallagher. The motion was approved unanimously (9-0). Staff Recommendation: Staff recommends approval of up to \$25,000 from the Arkansas Basin Account, and \$240,000 from the Statewide Account to help fund the project titled: Arkansas Basin Watershed Collaborative.			
f.	Colorado	Summit County	Swan River Stream Restoration
Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by John McClow, which was seconded by Ty Wattenberg. The motion was approved unanimously (9-0). Staff Recommendation: Staff recommends approval of up to \$48,750 from the Colorado Basin Account, and \$926,250 from the Statewide Account to help fund the study titled: Swan River Stream Restoration.			
g.	Gunnison	Trout Unlimited	Elk Home Ditch Improvement & Steuben Creek Flow Restoration
Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by John McClow, which was seconded by April Montgomery. The motion			

was approved unanimously (9-0).

Staff Recommendation: Staff recommends approval of up to \$60,000 from the Gunnison Basin Account, and \$250,000 from the Statewide Account to help fund the project titled: Elk Home Ditch Improvement, Steuben Creek Flow Restoration.

<i>h.</i>	<i>Gunnison</i>	<i>North Fork Lateral Ditch</i>	<i>North Farmers Ditch Slope Repair & Stabilization</i>
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Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by John McCloy, which was seconded by Jay Gallagher. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends approval of up to \$35,000 from the Gunnison Basin Account to help fund the project/study titled: North Farmers Ditch Slope Repair and Stabilization.

<i>i.</i>	<i>Metro</i>	<i>Metropolitan State University</i>	<i>Water Diplomats: University Students & the State Water Plan</i>
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Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by Patricia Wells, which was seconded by Ty Wattenberg. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends approval of up to \$4,575 from the Metro Account, and \$24,300 from the Statewide Account to help fund the project/study titled: Water Diplomats: University Students & the State Water Plan.

<i>j.</i>	<i>Metro</i>	<i>Plum Valley Heights Sub-District of the Roxborough Water and Sanitation District</i>	<i>North West Douglas County Rural Water Project</i>
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Action: Presentation by CWCB staff member Craig Godbout. Larry Moore, Roxborough Water and Sanitation District, addressed the Board. A motion to approve the staff recommendation was made by Patricia Wells, which was seconded by Travis Smith. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends conditional approval (refer to *Issues/Additional Need section below*) of up to \$50,000 from the Metro Account and \$950,000 from the Statewide account to help fund the project titled: North West Douglas County Rural Water Project.

<i>k.</i>	<i>Rio Grande</i>	<i>Rio Grande Headwaters Land Trust</i>	<i>Campbell-Ridden Property & Dugan Ranch Conservation Easement Projects</i>
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Action: Presentation by CWCB staff member Craig Godbout. Rio de la Vista, Rio Grande Headwaters Land Trust, addressed the Board. A motion to approve the staff recommendation was made by Travis Smith, which was seconded by April Montgomery. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends approval of up to \$20,000 from the Rio Grande Basin Account, and \$130,000 from the Statewide account to help fund the project titled: The Rio Grande Initiative: Campbell-Redden Property and Dugan Ranch Conservation Easement Projects.

<i>l.</i>	<i>South Platte</i>	<i>Central Colorado Water Conservancy District</i>	<i>Water Information Dashboards for Improved Efficiency, South Platte Basin and Statewide</i>
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Action: Presentation by CWCB staff member Craig Godbout. John Rogers, Leonard Rice Engineers,

addressed the Board. A motion to approve the staff recommendation was made by Patricia Wells, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends approval of up to \$20,000 from the South Platte Basin Account, and \$200,000 from the Statewide Account to help fund the project titled: Water Information Dashboards for Improved Efficiency, South Platte Basin and Statewide.

<i>m.</i>	<i>South Platte</i>	<i>Open Water Foundation</i>	<i>Agricultural Land/Water Buffer Feasibility Analysis</i>
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Action: Presentation by CWCB staff member Craig Godbout. Steve Malers, Open Water Foundation, addressed the Board. A motion to approve the staff recommendation was made by Patricia Wells, which was seconded by Travis Smith. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends approval of up to \$20,000 from the South Platte Basin Account, and \$84,954 from the Statewide Account to help fund the project/study titled: Agricultural Land and Water Buffer Feasibility Analysis.

<i>n.</i>	<i>South Platte</i>	<i>Big Thompson Conservation District</i>	<i>Little Thompson Watershed Needs Assessment</i>
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Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by Patricia Wells, which was seconded by Jay Gallagher. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends approval of up to \$60,000 from the South Platte Basin Account to help fund the project/study titled: Little Thompson River Water Supply, Use and Planning Study.

<i>o.</i>	<i>Yampa</i>	<i>Upper Yampa Water Conservancy District</i>	<i>Upper Yampa Water Conservancy District Master Planning</i>
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Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by Jay Gallagher, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends approval of up to \$25,000 from the Yampa/White/Green Basin Account to help fund the study titled: Upper Yampa Water Conservancy District Master Plan Modeling.

Change of Fiscal Agent

	Basin	Approved Fiscal Agent	Name of Water Activity
<i>p.</i>	<i>Colorado</i>	<i>Riverside Ranch Company</i>	<i>Riverside Ranch Irrigation Diversion & River Restoration Project</i>

Action: Presentation by CWCB staff member Craig Godbout. A motion to approve the staff recommendation was made by April Montgomery, which was seconded by Ty Wattenberg. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends approval of change of fiscal agent from Riverside Ranch, LLLP to Trout Unlimited.

18. Spring Climate Outlook

Watershed & Flood Protection, Water Supply & Planning Sections

Action: Presentation by CWCB staff members Taryn Finnessey & Kevin Houck. This was an informational item only. No Board action was required.

19. Flood Affected Watersheds Hydrology Reevaluation Update

Watershed & Flood Protection

Action: Presentation by CWCB staff member Kevin Houck. This was an informational item only. No Board action was required.

Jenifer Gurr, Department of Agriculture, addressed the Board and gave a presentation about the Department of Agriculture building. This was an informational item only. No Board action was required.

20. Basin Director's Report

a. Colorado River (Mainstem) Basin Director's Report

Action: Report by Russell George. This was an informational item only. No Board action was required.

b. San Juan/San Miguel-Dolores River Basin Director's Report

Action: Report by April Montgomery. This was an informational item only. No Board action was required.

c. Gunnison River Basin Director's Report

Action: Report by John McClow. This was an informational item only. No Board action was required.

d. North Platte River Basin Director's Report

Action: Report by Ty Wattenberg. This was an informational item only. No Board action was required.

e. South Platte River Basin Director's Report

Action: Report by Diane Hoppe. This was an informational item only. No Board action was required.

f. Arkansas River Basin Director's Report

Action: Report by Alan Hamel. This was an informational item only. No Board action was required.

g. City and County of Denver Director's Report

Action: Report by Patricia Wells. This was an informational item only. No Board action was required.

h. Rio Grande River Basin Director's Report

Action: Report by Travis Smith. This was an informational item only. No Board action was required.

i. Yampa-White River Basin Director's Report

Action: Report by Jay Gallagher. This was an informational item only. No Board action was required.

21. Developing Agroecology for Agriculture Sustainability in the San Luis Valley
Presentation

Action: Presentation by Sheldon Rockey, Owner of Rockey Farms & Board representative for the San Luis Valley Irrigation District and Sub-district 1 & Judy Lopez, Executive Director of the Rio Grande Conservation and Educations Initiative. This was an informational item only. No Board action was required.

22. Construction Fund and Severance Tax Perpetual Base Fund
Finance Section

a. Projections and Cash Management Report

Action: Presentation by CWCB staff member Kirk Russell. This was an informational item only. No Board action was required.

23. Water Project Loans
Finance Section

a. Bow Mar Water and Sanitation District - Rehabilitation and Replacement of Water Meters

Action: Presentation by CWCB staff member Derek Johnson. A motion to approve the staff recommendation was made by Patricia Wells, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$332,795 (\$329,500 for project costs and \$3,295 for the 1% Loan Service Fee) from the Construction Fund to the Bow Mar Water and Sanitation District for costs associated with design and construction of the Rehabilitation and Replacement of Water Meters Project. The loan terms shall be 10 years at the reduced high-municipal interest rate of 2.65% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

24. CWCB's 2015 Projects Bill Update & Revision

Finance Section

Action: Presentation by Senator Sonnenberg, Chairman of the Senate Agriculture, Natural Resources, and Energy Committee. Ty Wattenberg made a motion for staff to work with Senator Sonnenberg to amend section 2 of the Projects Bill previously approved by the Board, so that \$175,000 remains for weather modification and a new section is created with \$125,000 for South Platte Groundwater recovery and mitigation, including de-watering infrastructure and measurement, that is consistent with recommendations from the technical committee. The motion was seconded by Diane Hoppe. The motion was approved (8-1).

Presentation by CWCB staff member Tim Feehan addressing the previous conversation with Senator Sonnenberg.

25. Severance Tax Operational Fund Grants

Finance Section

Action: Presentation by CWCB staff member Steve Biondo.

Finn Kjome, Norwood Water Commission, addressed the Board about the Severance Tax Operation Fund Proposed Project for Fiscal Year 2015-2016 Project No. 6, Raw Water System Feasibility Study.

CWCB staff member Joe Busto addressed the Board about the Severance Tax Operation Fund Proposed Project for Fiscal Year 2015-2016 Project No. 14, Colorado Dust on Snow Program.

A motion to approve staff recommendations was made by April Montgomery, which was seconded by Alan Hamel. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends that the Board approve the proposed funding for each of the projects from the Severance Tax Operational Fund. Recommended projects are numbered 1 - 25 and projects not recommended are numbered 26 - 35.

Consent Agenda**4.Statements of Opposition***Stream & Lake Protection Section*

b. Case No. 3-14CW3027: Application of Expo, LLC

Action: Dee Greeman, Expo, LLC, addressed the Board. A motion for ratification was made by Travis Smith, which was seconded by Russell George. The motion was approved unanimously (9-0).

Meeting Adjourned

A motion to adjourn the March Board meeting was made by Alan Hamel, which was seconded by John McClow. The motion was approved unanimously (9-0).