

DRAFT

Summary Minutes and Record of Decisions

March 15 & 16, 2023 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened at the Steamboat Grand Hotel in Steamboat Springs and virtually on zoom. The meeting was called to order by Chair Jaclyn Brown. 10 voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were: Robert Sakata, Paul Bruchez, Greg Felt, Lorelei Cloud, Steven Anderson, Barbara Vasquez, Jessica Brody, and Nathan Coombs, and ex-officio voting member Dan Gibbs, Executive Director of the Department of Natural Resources. Non-voting ex officio members present or represented were: Phil Weiser, Attorney General; Robert Harris, Colorado Parks and Wildlife; Kate Greenberg, Department of Agriculture; Kevin Rein, State Engineer, and Rebecca Mitchell, Colorado Water Conservation Board Director. Counsel to the Board, Jen Mele, was also in attendance.

On the second day, the meeting was called to order by Vice Chair Greg Felt. 8 voting members were present at the call to order, so a quorum was present (at least 6 required). The voting members present were: Paul Bruchez, Jessica Brody, Steven Anderson, Robert Sakata, Barbara Vasquez, Greg Felt, Lorelei Cloud, and Nathan Coombs; Jaclyn Brown arrived at 8:45a.m.; and Kelly Romero Heaney sat in for, Executive Director of the Department of Natural Resources. Non-voting ex officio members present or represented were: Robert Harris, Colorado Parks and Wildlife; Kevin Rein, State Engineer, and Lauren Ris, Colorado Water Conservation Board Asst. Director. Counsel to the Board, Jen Mele, was also in attendance.

Wednesday, March 15, 2023

The first day of the March board meeting was held jointly with the Colorado Department of Agriculture’s Board.

1 CWCB Board Appointments

Lorelei Cloud was appointed to the Board as the San Juan/San Miguel-Dolores River Basin Director, Barbara Vasquez was appointed to the Board as the North Platte River Basin Director, and Nathan Coombs was appointed to the Board as the Rio Grande River Basin Director.

2 Review /Approve Agenda

A motion to approve the agenda was made by Jessica Brody, which was seconded by Lorelei Cloud. The motion was approved unanimously (9-0).

3 Review and Approve January 23 & 24, 2023 Board Meeting Minutes

A motion to approve the January 2023 Board minutes was made by Jessica Brody, which was seconded by Greg Felt. Lorelei Cloud, Barbara Vasquez, and Nathan Coombs abstained from the vote. The motion was approved unanimously (6-0).

6 Directors’ Reports

6a. DNR Executive Director/IBCC Director - Dan Gibbs

6b. CWCB Director - Rebecca Mitchell

6c. Agriculture Commissioner – Kate Greenberg

6d. State Engineer - Kevin Rein

6e. Colorado Parks and Wildlife Director – Robert Harris

6f. Water Resource and Power Development Authority – Keith McLaughlin

7 CWCB Basin Directors’ and CDA District Commissioners’ Reports

7a Arkansas River Basin Director’s Report – *Greg Felt*

7b City and County of Denver Director’s Report – *Jessica Brody*

- 7c Rio Grande River Basin Director's Report – *Nathan Coombs & AG Commissioner Segundo Diaz*
- 7e Colorado River (Mainstem) Basin Director's Report – *Paul Bruchez & AG Commissioner Brant Harrison & Kathryn Bedell*
- 7f San Juan/San Miguel-Dolores River Basin Director's Report – *Lorelei Cloud & AG Commissioner Simon Martinez*
- 7g Gunnison River Basin Director's Report – *Steve Anderson*
- 7h North Platte River Basin Director's Report – *Barbara Vasquez*
- 7i South Platte River Basin Director's Report – *Robert Sakata & AG Commissioners Colleen Pepler, Nick Trainor, David Blach, and Roberta Meza*
- 7d Yampa-White River Basin Director's Report – *Jackie Brown*

8. Table Topic Discussion

Spring Climate Forecast

Action: Report by CWCB staff members Kat Weismiller and Kevin Houck.

Colorado Water Plan Agriculture Actions

Action: Report by CWCB staff member Russ Sands. Cindy Lair and Kristen Boysen with CO Dept. of Agriculture (CDA) reported on CDA action support and direction. Retta Bruegger reported on drought advisors and program success. Greg Peterson reported on Ag Innovation and Todd Doherty reported on CWSA advancements and opportunities.

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

Action: Report by Attorney General staff member Phil Weiser and Counsel to the Board, Jen Mele. A motion to go into Executive Session was made by Jessica Brody, which was seconded by Greg Felt. The motion was approved unanimously (8-0).

10. Executive Session

- 10a Executive Session to receive advice from legal counsel on matters related to SCPP

Report from Executive Session

Action: Report by Counsel to the Board, Jen Mele. A motion to come out of Executive Session was made by Greg Felt, which was seconded by Jessica Brody. The motion was approved unanimously (8-0).

12 Approval of the Upper Colorado River Commission's System Conservation Pilot Program Projects as Water Conservation Projects Subject to C.R.S. 37-92-103(2) and 37-92-305 Interstate, Federal, and Water Information Section

Action: Report by CWCB staff member Amy Ostdiek. Ed Millard, David Harold, Peter Fleming, and Beth VanVurst addressed the Board during public comment and Jackie Brown read a public comment from James Eklund. A motion to approve the staff recommendation was made by Greg Felt, which was seconded by Nathan Coombs. The motion was approved unanimously (9-0).

Staff Recommendation: Staff recommends the Board approve the Upper Colorado River Commission's System Conservation Pilot Program as a State-Approved Water Conservation Program subject to C.R.S. 37-92-103(2) and 37-92-305.

Thursday, March 16, 2023

14 Approve and/or Remove Consent Agenda Items

A motion to approve the Consent Agenda Items CA1a – 1, 2a-g, & 3a-k was made by Jessica Brody, which was seconded by Paul Bruchez. The motion was approved unanimously (6-0).

1. Statements of Opposition

Stream & Lake Protection Section

Staff recommends the Board ratify CWCB's filing of the following Statements of Opposition:

- a. Case No. 22CW3185 (Water Division 1): Application of City of Aurora, Colorado, acting by and through its Utility Enterprise
- b. Case No. 22CW3049 (Water Division 3): Application of The Colorado Division of Parks and Wildlife and The Parks and Wildlife Commission
- c. Case No. 22CW3091 (Water Division 4): Application of Quartz Creek Land Company
- d. Case No. 22CW3044 (Water Division 5): Application of Patrick T. Lally and Valerie Lally and George I. Hodor and Ellen Hodor and EWG Aspen, LLC
- e. Case No. 22CW3125 (Water Division 5): Application of Richard C. Blum Family Partnership, L.P.
- f. Case No. 22CW3128 (Water Division 5): Application of Mainland Ranch P3 LLC
- g. Case No. 22CW3129 (Water Division 5): Application of Sopris Mountain Ranch Homeowners' Association, Inc.
- h. Case No. 22CW3130 (Water Division 5): Application of Mainland Ranch P1 LLC
- i. Case No. 22CW3131 (Water Division 5): Application of Mainland Ranch P2 LLC
- j. Case No. 22CW3132 (Water Division 5): Application of Too Well Ranch, LLC
- k. Case No. 22CW3049 (Water Division 7): Application of Bootjack Ranch, LLC
- l. Case No. 22CW3050 (Water Division 7): Application of The Colorado Division of Parks and Wildlife and The Parks and Wildlife Commission

2. Water Supply Reserve Fund Grants

	Basin	Applicant	Name of Water Activity
a.	Arkansas	Beaver Park Water Inc	Upper Canal Automated Diversion Headgate Project
b.	Gunnison	Pilot Rock Ditch Company	Pilot Rock Piping Project

c.	Rio Grande	Colorado Rio Grande Restoration Foundation	Anaconda Ditch Improvement Project
d.	South Platte	Open Water Foundation	River Basin Information Websites for Big Thompson River, Saint Vrain Creek
e.	Yampa/White/Green	Upper Yampa Water Conservancy District	Yampa River Dashboard
f.	Yampa/White/Green	Yampatika	Youth & Community Water Education
g.	Metro & South Platte	Agricultural Ditch & Reservoir Company	Water System Upgrade Planning & Implementation

3. Water Plan Grants

	Water Plan Grant Category	Applicant	Project
a.	Watershed Health & Recreation	Year One, Inc. DBA Mile High Youth Corps	Tejon Street Wetland Riparian Restoration
b.	Watershed Health & Recreation	Colorado Rio Grande Restoration Foundation	Rio Grande National Forest Wet Meadows Restoration Project
c.	Watershed Health & Recreation	City of Steamboat Springs	Bear River Park Trailered River Access Design and Engineering Project
d.	Engagement & Innovation	River Science	Next Generation Water Leaders Program
e.	Conservation & Land Use Planning	Town of Mountain Village	Advanced Water Meter Replacement, Phase 1

f.	Conservation & Land Use Planning	Grand Junction, City of	Grand Junction Graywater Education and Incentive Program
g.	Conservation & Land Use Planning	Eagle County Conservation District	Efficient Irrigation System Program
h.	Conservation & Land Use Planning	Arapahoe County	County Irrigation Water Conservation Study, Planning, and Implementation
i.	Conservation & Land Use Planning	Town of Avon	Avon's Benchmark Reservoir Conservation Project: New Irrigation System and Demonstration Gardens (Design Phase)
j.	Agriculture	High Desert Conservation District	High Desert Drought Concern Gathering
k.	Agriculture	Watershed Center	Flow Monitoring at Gold Lake and Left Hand Park

15 Public Comment on 2023 Instream Flow and Natural Lake Level Appropriations in Water Divisions 1, 4, 5, and 6

Stream and Lake Protection Section

Action: Report by CWCB staff member Rob Viehl and Brandy Logan.

This is an informational item with no Board action required.

16 Public Notice of 2024 Instream Flow and Natural Lake Level Recommendations

Stream and Lake Protection Section

Action: Report by CWCB staff member Rob Viehl and Brandy Logan.

This is an informational item with no Board action required.

17 Request to Form Intent to Appropriate ISF Water Rights in Water Division 4 on Cottonwood Creek, Monitor Creek, and Potter Creek (Montrose & Delta Counties)

Stream and Lake Protection Section

Action: Report by CWCB staff member Rob Viehl and Brandy Logan and virtual presenters Katie Birch with CPW, Jordan Dimick, Kim Riddle with SGM, Laura Belanger, and Roy Smith with BLM . David Cooper addressed the Board during public comment. A motion to approve the staff recommendation was made by Steve Anderson, which was seconded by Barbara Vasquez. The motion was approved unanimously (8-0).

Staff Recommendation: Staff recommends that, pursuant to ISF Rule 5d. of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program, 2 CCR 408-2 (hereinafter, “ISF Rules”), the Board;

1. Declare its intent to appropriate an instream flow (ISF) water right on each stream segment listed in Table 1, including the development allowance described in this memo, and direct staff to publicly notice the Board’s declaration of its intent to appropriate.
2. Establish the modified schedule in Table 2 for the notice and comment procedure.

Table 1. ISF water rights proposed in Water Division 4. These water rights would only be in effect April 1st through September 30th when the specified flow conditions are met.

Stream	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus
Cottonwood Creek (increase)	Lower Gunnison	Delta, Montrose	23.3	Hawkins Ditch headgate	confluence Roubideau Creek
					ISF protection initiates at 183 cfs and protects all unappropriated streamflow until flow rates recede to the existing 3.6 cfs ISF rate or 9/30, whichever occurs first.
Monitor Creek (increase)	Lower Gunnison	Montrose	8.29	confluence Little Monitor Creek	confluence Potter Creek
					ISF protection initiates at 111 cfs and protects all unappropriated streamflow until flow rates recede to the pending ISF of 4.6 cfs (4/1 – 5/31), 3.6 cfs (6/1 – 6/30) or 3.6 cfs if outside of these times or 9/30, whichever occurs first.
Potter Creek (increase)	Lower Gunnison	Montrose	8.10	USFS property boundary	Confluence Monitor Creek
					ISF protection initiates at 177 cfs and protects all unappropriated streamflow until flow rates recede to the existing ISF of 4 cfs (4/1 - 6/15), 1.8 cfs (6/16 - 7/31), 1.4 cfs (8/1 - 2/29), or until 9/30, whichever occurs first.
Potter Creek (increase)	Lower Gunnison	Montrose	1.72	Confluence Monitor Creek	confluence Roubideau Creek
					ISF protection initiates at 225 cfs and protects all unappropriated streamflow until flow rates recede to the existing ISF of 4 cfs (4/1 - 6/15), 1.8 cfs (6/16 - 7/31), 1.4 cfs (8/1 - 2/29), or until 9/30, whichever occurs first.

Table 2. Modified schedule for the notice and comment procedure pursuant to ISF Rule 5.

Date	Action
May 17-18, 2023	Public comment at CWCB Meeting
May 31, 2023	Notice to Contest due
June 9, 2023	Deadline for notification to the ISF Subscription Mailing List of Notices to Contest (no notification if none received)

June 30, 2023	Notices of Party Status and Contested Hearing Participant Status due
July 19-20, 2023	If necessary, staff informs Board of Parties and Participants; Board sets the hearing date; and the Board may take final action on any uncontested ISF appropriations
November 2023	If necessary, ISF Contested Hearing conducted in conjunction with CWCB Meeting

18 Proposed Acquisition for Instream Flow Use

Stream and Lake Protection Section

Action: Report by CWCB staff member Pete Conovitz.

Proposed 5-year Water Use Agreements with the Ute Water Conservancy District and Garfield County to lease Ruedi Reservoir Water for Instream Flow Use on the 15-Mile Reach, Water Division 5 (1st Meeting)

No Board action required at this time

19 Water Plan Grants

Action: Report by CWCB staff members Anna Mauss, Ashley Garrison, Andrea Harbin-Monahan, Kevin Reidy, and Matt Stearns. John Berggren addressed the Board on item 19l and Craig Robinson addressed the Board on item 19p. A motion to approve the staff recommendations 19a-x was made by Barbara Vasquez, which was seconded by Jessica Brody. The motion was approved unanimously (9-0). A motion to approve the staff recommendation 19y was made by Nathan Coombs, which was seconded by Jessica Brody, Paul Bruchez recused himself from the vote. The motion was approved unanimously (8-0). Nathan Coombs disclosed on 19i that his employer is an in kind partner on the project. Greg Felt disclosed on 19r that he serves on the Board with the District and on 19k he serves as a County Commissioner. Paul Bruchez disclosed on 19w that he serves on the Board.

Staff Recommendation: Staff recommends the Board approve grants as listed in the following table regarding Colorado's Water Plan Grant Program funding.

	Water Plan Grant Category	Applicant	Project	Grant Request Amount	Staff Recommendation
a.	Watershed Health & Recreation	Trout Unlimited Denver	Halo Ranch Aquatic Habitat Enhancement	\$149,500.00	\$149,500.00
b.	Watershed Health & Recreation	Coalition for the Poudre River Watershed	Lower Cache la Poudre Priority Reach Design Project	\$114,740.50	114,740.50

c.	Watershed Health & Recreation	Montezuma County	Montezuma County Non-Native Phreatophyte Removal Project	\$295,253.25	\$125,000.00
d.	Watershed Health & Recreation	Trout Unlimited Montrose	Middle Colorado AG Collaborative	\$375,000.00	\$375,000.00
e.	Watershed Health & Recreation	RiversEdge West	Grand Valley River Corridor Initiative – River Planning Project	\$145,413.50	\$145,413.50
f.	Watershed Health & Recreation	RiversEdge West	Uncompahgre and White River Riparian Restoration Project	\$100,502.77	\$100,502.77
g.	Watershed Health & Recreation	Coalition for the Upper South Platte	Lake George Diversion Structure Removal and River Restoration	\$350,000.00	\$350,000.00
h.	Watershed Health & Recreation	Fountain Creek Watershed Flood Control and Greenway District	Southmoor Drive Channel and Floodplain Restoration	\$700,000.00	\$700,000.00
i.	Watershed Health & Recreation	Rocky Mountain Bird Observatory dba Bird Conservancy of the Rockies	Conejos River Restoration	\$101,179.00	\$101,179.00
j.	Watershed Health & Recreation	Colorado Open Lands	Riparian Reconnect Riverscape Restoration	\$351,120.00	\$351,120.00
k.	Watershed Health & Recreation	Chaffee County Community Foundation	Chaffee County Fourmile Creek Multi Benefit Restoration Project	\$114,610.00	\$114,610.00
l.	Conservation & Land Use Planning	Western Resource Advocates	Reducing Non-Functional Turfgrass in New Development Through Smart Land Use Planning	\$125,462.00	\$125,462.00
m.	Conservation & Land Use Planning	Multiplier	Advancing High Impact Water Efficiency Solutions in Colorado Communities	\$184,720.00	\$184,720.00

n.	Conservation & Land Use Planning	Alliance for Water Efficiency	Understanding Water Use in Mobile Homes	\$225,188.00	\$225,188.00
o.	Conservation & Land Use Planning	University of Colorado Boulder	Modeling and analysis of the effects of centralized rainwater harvesting on streamflow	\$173,326.00	\$173,326.00
p.	Conservation & Land Use Planning	City of Steamboat Springs	Steamboat Springs Smart Irrigation Central Control System	\$300,000.00	\$300,000.00
q.	Conservation & Land Use Planning	The Regents of the University of CA, Univ of CA San Diego	Enhancing Soil Moisture Observations to Support Water Resource Management in the Upper Yampa River Basin	\$560,400.00	\$560,400.00
r.	Storage & Supply	Upper Arkansas Water Conservancy District	Trout Creek Intra-ditch Exchange Project Well and Pipeline	\$484,154.00	\$484,154.00
s.	Storage & Supply	Eagle River Water and Sanitation District	Bolts Lake Reservoir Preliminary Design	\$250,000.00	\$250,000.00
t.	Storage & Supply	Handy Ditch Company	Welch Expansion Feasibility Study	\$210,525.00	\$210,525.00
u.	Storage & Supply	South Metro Water Supply Authority	South Platte Regional Opportunities Water Group (SPROWG) - Outreach Phase	\$120,407.50	\$120,407.50
v.	Storage & Supply / Water Sharing	American Whitewater	Quantifying recreational impacts and identifying enhancement opportunities	\$183,437.50	\$183,437.50
w.	Storage & Supply / Water Sharing	Colorado Water Trust	Little Cimarron River Fish and Flow Bypass Dam Retrofit	\$203,240.00	\$203,240.00
x.	Agriculture	Grand Valley Water Users Association	Government Highline Canal UL-18 Lining Project	\$800,080.00	\$600,000.00

y. Agriculture	Trout Unlimited	Intermountain West Alternative Forages Project – Phase I	\$337,714.00	\$287,885.00
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Financial Matters – Construction Fund and Severance Tax Perpetual Base Fund

20 *Finance Section*

a. Financial Projections and Cash Management Report

Action: Report by CWCB staff member Kirk Russell.

This is an informational item with no Board action required.

21 Water Project Loans

Finance Section

Board of Water Works of Pueblo

21a

Action: Report by CWCB staff member Cole Bedford. Alan Ward addressed the Board. A motion to approve the staff recommendation was made by Jackie Brown, which was seconded by Paul Bruchez. The motion was approved unanimously (8-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$9,847,500 (\$9,750,000 for project costs and \$97,500 for the 1% service fee) to the Board of Water Works of Pueblo for costs related to the Southside Diversion Dam Improvement Project, from the Severance Tax Perpetual Base Fund. The loan term will be 20 years at an interest rate of 2.25% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5. Additionally, staff recommends the following supplemental condition to be included in the loan contract:

1. This loan shall receive a second-lien priority on the Board of Water Works of Pueblo’s net revenues to existing Water Revenue Bond Series 2019 obligations.

Colorado City Metropolitan District – Lake Beckwith Dam Modifications

21b

Action: Report by CWCB staff member Joshua Godwin. Jim Eccher addressed the Board. A motion to approve the staff recommendation was made by Paul Bruchez, which was seconded by Jackie Brown. The motion was approved unanimously (8-0).

Staff Recommendation: Staff recommends the Board approve a loan not to exceed \$3,333,000 (\$3,300,000 for project costs and \$33,000 for the 1% service fee) to the Colorado City Metropolitan District, acting by and through its water enterprise, for costs related to the Lake Beckwith Dam Modifications, from the Severance Tax Perpetual Base Fund. The loan term will be 30 years at an interest rate of 2.00% per annum. Security for the loan shall be in compliance with CWCB Financial Policy #5.

22 Revisions to Easement Guidelines for the South Platte Downstream Channel Improvement Project

Watershed and Flood Protection Section

Action: Report by CWCB staff member Andrea Harbin-Monahan. A motion to approve the staff recommendation was made by Jessica Brody, which was seconded by Barbara Vasquez. The motion was approved unanimously (8-0).

Staff Recommendation: Staff recommends Board approval of the revisions to the easement guidelines for the South Platte Downstream Channel Improvement Project.

23 South Platte River- DISH Network Easement

Water Supply Planning Section

Action: Report by CWCB staff member Andrea Harbin-Monahan and Bryan Morrow, Candy Ergen, Doug Baer, and Brian Stephens-Hotopp with DISH Network. A motion to approve the staff recommendation was made by Jessica Brody, which was seconded by Paul Bruchez. The motion was approved unanimously (8-0).

Staff Recommendation: Staff recommends Board approval (with minor modifications) of the Easement Agreement (EA) for DISH, dependent on 408 certification of the project by the U.S. Army Corps of Engineers and issuance of a CLOMR by FEMA. The EA would be signed once these two authorizations are received.

24 Water Supply Reserve Fund Applications March 2023

Water Supply Planning Section

Action: Report by CWCB staff member Ben Wade. A motion to approve the staff recommendation 24 a-h, j-m was made by Greg Felt, which was seconded by Paul Bruchez. The motion was approved unanimously (8-0). A motion to approve the staff recommendation 24i was made by Greg Felt, which was seconded by Paul Bruchez. The motion was approved unanimously (7-0), Nathan Coombs recused himself from the vote.

Staff Recommendation: A summary of staff’s recommendation for each WSRF application are provided in the first component of the attached table. Favorable recommendations may be contingent on providing the CWCB with additional information, clarifications, or modifications in the scope of work. Please refer to the Water Activity Summary Sheets contained within this agenda item to find a summary of staff’s review and any conditions associated with each recommendation.

	Basin	Applicant	Name of Water Activity	Amount Granted
a.	Arkansas	Arkansas River Watershed Collaborative	The Upper Arkansas Comprehensive Watershed Restoration Project	302,650.00
b.	Arkansas	Colorado Springs Utilities	Landscape Transformation Grant Project	250,000.00
c.	Colorado	Grand Valley Water Users Association	Grand Valley Water Users Association's Headworks Replacement Project	1,000,000.00

d.	Gunnison	Crawford Clipper Ditch Company	Upper West Lateral Pipeline & Water Optimization Project	225,000.00
e.	Gunnison	Uncompahgre Valley Water Users Association	UVWUA Drought Mitigation & Response Plan	158,000.00
f.	Metro	City of Lakewood	Residential Outdoor Water Conservation Program	100,000
g.	Metro	South Metro Water Supply Authority	South Metro Water Supply Authority Regional Aquifer Storage Recovery (ASR) Groundwater Model	103,026.00
h.	Metro	Coalition for the Upper South Platte	Inaugural Airborne Snow Observations Surveys in the Upper South Platte Basin	141,070.35
i.	Rio Grande	Conejos Water Conservancy District	Phase 1 - Radar Based Snowpack Estimation	112,800.00
j.	South Platte	St Vrain & Left Hand Water Conservancy District	2023 Northern Front Range Airborne Snow Observation Flights	349,000.00
k.	Southwest	Mancos Conservation District	Diversion Improvements for Fish & Irrigators - Phase 4	406,013.00
l.	Southwest	Town of Pagosa Springs	Pagosa Gateway Project	775,000.00
m.	Yampa/White/Green	White River Conservation District	White River Integrated Water Initiative Phase 3	149,410.00

13 Colorado River Updates

Interstate, Federal, and Water Information Section

Action: Report by CWCW staff members Amy Ostdiek and Michelle Garrison.

This is an informational item with no Board action required.

ADJOURN

A motion to adjourn the March 2023 Board meeting was made by Greg Felt, which was seconded by Barbara Vasquez. The motion was approved unanimously (8-0).

