

Yampa Valley Electric Association, Inc.

Conclusion of Recessed Regular Meeting of the Board of Directors from Prior Month
and Regular Meeting of Board of Directors

Thursday, July 21, 2016
2211 Elk River Road
Steamboat Springs, Colorado

The Board of Directors of Yampa Valley Electric Association, Inc., reconvened at 2211 Elk River Road, Steamboat Springs, Colorado at 11:00 a.m. on July 21, 2016. Chairman Dean Brosious reconvened the recessed meeting of June 16, 2016. Upon calling roll, it was reported that the following Directors were present: Dean Brosious, Pat McClelland, Frank Roitsch, Russell Garrity, Mike Brinks, Scott McGill, Larry Ellgen and Glynda Sheehan. Also present were General Counsel, Tom Sharp, General Manager, Diane Johnson, and Board Secretary Larissa Wilson. After the Chairman declared that the Recessed Meeting was re-opened, there was no further business. The Chairman declared that all business of the Recessed Meeting was concluded and called for a motion to adjourn. Upon motion being made, duly seconded, and passed unanimously, the Recessed Meeting was adjourned.

1. Call to Order

Upon calling roll, it was reported that the following Directors were present: Dean Brosious, Pat McClelland, Frank Roitsch, Russell Garrity, Mike Brinks, Scott McGill, Larry Ellgen and Glynda Sheehan. Also present were General Counsel, Tom Sharp, present until 3:53 p.m.; General Manager, Diane Johnson; Chief Operating Officer, Steve Johnson; Manager of Accounting Services and Warehouse and Facilities, Amy Mahon; Board Secretary Larissa Wilson; Human Resources Manager, Randi Owens; Member Relations Manager, Kathy Bertrand; Communications and Public Relations Manager, Tammi Strickland; Key Accounts Representative, Megan Moore-Kemp and Engineering Supervisor, Jason Hall, were present until 1:35 p.m.; member-owner, Jeff Troeger, was present until 1:15 p.m.; guests Eric Blake and Jeff Wernert from The Prime Group, LLC.

2. Executive Session

After the Chairman declared the meeting open, a motion was made, duly seconded, and passed unanimously that the board of directors go immediately into an executive session under “new business” to consider documents and testimony given in confidence, and the general topics of such executive session will be to discuss and consider pending and potential property acquisitions, personnel matters, contract negotiations, pending or threatened litigation, and consultations with special counsel regarding pending member bankruptcies. Board members, Diane Johnson, General Manager, and Larissa Wilson, Board Secretary, were in attendance during such executive session. Such executive session convened at approximately 11:00 a.m., and the board ended the executive session and returned to its public meeting session at approximately 1:00 p.m.

3. Approval of Minutes

A motion approving the minutes from the Recessed Meeting (other than the reconvened portion of such meeting this day) was made, duly seconded, and passed unanimously.

4. Member-Owner Comment

There were no member-owner comments.

5. Director Comments

Mr. Brinks noted he received a capital credit check question from a member. Ms. Bertrand explained that capital credit amounts of \$50.00 and under should be a credit to the member's bill, however it was discovered that if the member showed no balance due at the time the credit was to be applied, the system did issue a check to the member, so a few members may receive a check for \$50.00 or less.

Mr. Garrity and Mr. Roitsch noted the CoBank conference held in July was an enjoyable conference.

Directors discussed making improvements to future annual meetings of the Association.

ACTION ITEMS

6. Resolution 16-02: In Consideration of Bylaw Change: Mail Voting and Counting of Mailed Ballots

RESOLUTION APPROVING AMENDMENTS TO BYLAWS

WHEREAS, the Board of Directors for Yampa Valley Electric Association, Inc. ("YVEA") is empowered pursuant to Section 1 of Article XIV of the Bylaws of YVEA to alter or amend certain of such Bylaws by the affirmative vote of a majority of the Directors at any regular or special meeting of the Board of Directors, provided that the notice of such Board of Directors meeting shall have contained a copy of the proposed Bylaw alteration or amendment; and

WHEREAS, the Board of Directors of YVEA now desires to alter and amend certain provisions of the Bylaws as noted and stated below.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors hereby alters and amends the Bylaws of YVEA as follows:

1. **DELETE** all of the following wording from all of Section 8 of Article II of the Bylaws:

"Each member of the Association shall be entitled to vote in the election of Directors except with respect to the filling of vacancies under Section 4 of Article III, and shall also be entitled to vote in the removal of Directors under Section 7 of Article I. In either case, a member may vote either at a meeting of the members of the Association called for such purpose, or by mail as provided in this Section 8. Mail voting shall be in writing on ballots and envelopes provided by the Association. The mail ballot shall be voted by the member, placed in a special ballot envelope provided for the purpose so as to conceal the marking on the ballot and, which must be signed and sealed by the voting member, and such signed and sealed ballot envelope containing the mail ballot must be mailed back to the Association in a separate mailing envelope provided by the Association. The signed ballot envelopes containing mail ballots shall remain sealed and uncounted until the meeting held for the purpose of electing the board of directors. The Board of Directors, from time to time, shall establish procedures for the distribution, preservation of confidentiality, return and counting of ballots cast by mail."

2. **INSERT** the following new Section 8 and Section 9 of Article II of the Bylaws, in lieu of the deletion described in Paragraph 1 above:

"Section 8. Mail Voting.

Each member of the Association shall be entitled to vote in the election of Directors except with respect to the filling of vacancies under Section 4 of Article III, and shall also be entitled to vote in the removal of Directors under Section 7 of Article I. In either case, a member may vote at the annual meeting of members, or at a meeting of the members of the Association called for such purpose, or by mail as provided in this Section 8. Mail voting shall be permitted for members in any election of Directors. Mail voting shall be in writing on ballots provided by the Association, and the Association shall accompany such ballot with a sealable inner envelope or secrecy sleeve provided by the Association for the purpose of concealing the marking on the ballot (the "Ballot Envelope"), into which the ballot may be inserted, and shall also accompany such ballot with a separate return mailing envelope (the "Mailing Envelope"). The Mailing Envelope shall include a designated location for the signature of the voting member. The mail ballot shall be voted by the member, should be placed in the Ballot Envelope, and such signed and sealed Ballot Envelope containing the completed mail ballot shall be inserted in the Mailing Envelope, the voting member shall sign such Mailing Envelope, and the signed Mailing Envelope containing the mail ballot shall be mailed to the Association or to an independent third party with whom the Association has contracted for the storage and counting of ballots in accordance with Section 9 of Article II below. If a Mailing Envelope is not signed by the voting member, the marked mail ballot within the unsigned Mailing Envelope shall be void and not counted. A mail ballot received in a signed and returned Mailing Envelope but without a Ballot Envelope is nonetheless valid and shall be counted.

Section 9. Counting of Mail Ballots.

The board of directors shall, when practicable, arrange for an independent third party to oversee the storage and counting of mail ballots. If this is not practicable, then ballots shall be collected and stored by the Association in a manner that protects the privacy of their content. All candidates for the board of directors shall be given the opportunity to be present to observe the counting of the mail ballots and their tabulation, except that if the Association has contracted with an independent third party to collect and count mail ballots, the mail ballots must be delivered to the Association under seal promptly after the count and, upon the request of any candidate, made available to the candidate for inspection. The Board of Directors may, from time to time, establish procedures not inconsistent with Sections 8 and 9 of this Article II for the distribution, preservation of confidentiality, return, and counting of ballots cast by mail."

Mr. Sharp noted that this amendment brings Association Bylaws into conformity with the revised statutes of the state that will go into effect on August 1, 2016. Mr. Sharp clarified that the ability to now count ballots before the annual meeting does not preclude members' ability to vote at the annual meeting, nor does it affect the ability of the candidate to witness the counting of the ballots.

A motion approving and adopting Resolution 16-02 amending the Bylaws of the Association was made by Mr. McClelland, duly seconded by Ms. Sheehan, and the motion passed with a unanimous vote.

7. Resolution 16-03: In Consideration of Bylaw Change: "Married Couple" or two partners in a civil union under the Colorado Civil Union Act

RESOLUTION APPROVING AMENDMENTS TO BYLAWS

WHEREAS, the Board of Directors of Yampa Valley Electric Association, Inc. ("YVEA") is empowered pursuant to Section 1 of Article XIV of the Bylaws of YVEA to

alter or amend certain of such Bylaws by the affirmative vote of a majority of the Directors at any regular or special meeting of the Board of Directors, provided that the notice of such Board of Directors meeting shall have contained a copy of the proposed Bylaw alteration or amendment; and

WHEREAS, in order to comply with the decision of the United States Supreme Court in *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015), the Board of Directors of YVEA now desires to alter and amend certain provisions of the Bylaws as noted and stated below.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors hereby alters and amends the Bylaws of YVEA as follows:

1. **AMEND** the second and third paragraphs of Section 1 of Article I of the Bylaws, which is entitled “Members - Qualifications and Obligations,” to read as follows (additions are in bold, and deletions are in strikeout):

“A married couple or two partners in a civil union under the Colorado Civil Union Act may jointly become a member and their application for a joint membership may be accepted in accordance with the foregoing provisions of this Section, provided the married couple or both partners in such civil union comply jointly with the provisions of the above Subdivisions (a), (b), and (c).

Any natural person who becomes a member or joint member is hereinafter sometimes called an “Individual Member.” Any firm, corporation, body politic or other legal entity which becomes a member is hereinafter sometimes called an “Entity Member.” An Individual Member’s non-residential electric account may be in a business name, but the written application for membership shall identify, and the membership shall be vested in, the Individual Member. Except for a joint membership of a married couple or two partners in a civil union under the Colorado Civil Union Act, no membership shall exist for multiple Individuals and/or Entities on an electric account, but each electric account (other than a joint membership account) shall be in the name of only one (1) member.”

2. **AMEND** subsections (b) and (c) of Section 6 of Article I of the Bylaws, which is entitled “Transfer of Membership,” to read as follows (additions are in bold, and deletions are in strikeout):

Section 6. Transfer of Membership.

....

“(b) A membership may be transferred by a member to himself or herself and his or her spouse or partner in a civil union under the Colorado Civil Union Act, as the case may be, jointly upon written request of such member and the compliance by such married couple or both partners in a civil union jointly with the provisions of Subdivisions (b) and (c) of Section 1 of this Article. Such transfer shall be made and recorded on the books of the Association, and the membership certificate may be surrendered by the transferor and the certificate may be reissued to and in the name of such joint members.

(c) When a membership is held jointly by a married couple or by both partners in a civil union, upon the death of either person, such membership shall be deemed to be held solely by the survivor with the same effect as though such membership had been originally issued solely to him or her, as the case may be, and the joint membership certificate may be surrendered by the survivor and upon the recording of such death on

the books of the Association the certificate may be reissued to and in the name of such survivor; provided, however, that the estate of the deceased shall not be released from any membership debts or liabilities to the Association. Upon the dissolution of marriage of joint members or judicial dissolution of a civil union or declaration of invalidity of a civil union, the joint membership shall terminate and either or both of the parties may apply for a new membership as herein provided. Such termination shall not release either party from debts or liabilities to the Cooperative.”

3. **AMEND** Section 5 of Article II of the Bylaws, which is entitled “Voting,” to read as follows (additions are in bold, and deletions are in strikeout):

Section 5. Voting.

“Each Entity Member shall designate one person who is an officer, director, partner, manager, trustee, or other similar management individual, to vote on behalf of such Entity Member. The married couple of a joint membership, or both partners in a civil union under the Colorado Civil Union Act holding a joint membership, shall jointly designate one of them to vote on behalf of both such joint members. Each Individual Member and each Entity Member shall be entitled to only one (1) vote upon each matter submitted to a vote at a meeting of the members. The married couple of a joint membership, and both partners in a civil union holding a joint membership, are collectively entitled to only one (1) vote upon each matter submitted to a vote at a meeting of the members. If an Entity Member or Individual Member has more than one electric account with the Association, such Member shall nevertheless be entitled to cast only one (1) vote upon each matter submitted to a vote at a meeting of the members. If either spouse in a joint membership, or either partner in a civil union holding a joint membership, has any other electric account in his or her name or in a business name in the Association, such spouse or partner in a civil union shall nevertheless not be entitled to cast a separate vote by reason of such other account but shall be limited to the one (1) vote allocated to the joint membership, regardless of which spouse or which partner in a civil union is designated to vote on behalf of both joint members. At all meetings of the members at which a quorum is present, all questions and motions shall be decided by a vote of the members present, and the vote of a majority of the votes cast by members present on any question or motion, other than a Member Sponsored Bylaw Amendment Motion or a Governing Motion as described in Section 7A of Article II below, shall constitute the decision of the membership of the Association for all purposes, except in the election of Directors and except that the procedure for final adoption for a Member Sponsored Bylaw Amendment Motion or a Governing Motion shall be as described and set forth in Section 7A of Article II below. For the election of each Director of the Association, and for the ultimate passage and adoption of a Member Sponsored Bylaw Amendment Motion or a Governing Motion as described in Section 7A of Article II below, the election shall be decided by the collective votes cast by the members present at the next succeeding annual meeting of members and the votes cast by mail as permitted under Section 8 of this Article II. For the election of each Director of the Association, the nominee receiving the highest number of votes cast for such director position (collectively, in person and by mail) shall be elected as Director.

4. **AMEND** the last two sentences of Section 2 of Article III of the Bylaws, which is entitled “Qualification and Tenure,” to read as follows (additions are in bold, and deletions are in strikeout):

Section 2. Qualification and Tenure.

“ When a membership is held jointly by a married couple or jointly by two partners in a civil union under the Colorado Civil Union Act, either one, but not both, may be elected a Director; provided, however, that neither one shall be eligible to become or remain a Director or to hold a position of trust in the Association, unless both shall meet the qualifications hereinabove set forth. Nothing in this Section contained shall, or shall be construed to, affect in any manner whatsoever the validity of any action taken at any meeting of the Board of Directors.”

Mr. Sharp noted that in Section 1 Article 1, two paragraphs which include the term “non-residential” should also be amended to instead use the term “business”. A motion to amend Resolution 16-03, provided that in Section 1 Article 1, the word “non-residential” is replaced with the word “business”, was made by Mr. Ellgen, duly seconded by Mr. McClelland, and passed unanimously. A motion was then made to approve and adopt Resolution 16-03 as amended by Mr. Brinks, duly seconded by Ms. Sheehan, and the motion passed with a unanimous vote.

8. Acceptance of the Financial and Statistical Reports for June

Ms. Mahon provided highlights from the financial and statistical reports for the month of June. Mr. Garrity requested that various distribution system reliability indices be added to future statistical reports. Ms. Mahon acknowledged that future reports will include these indices. A motion accepting the financial and statistical reports for June was made by Mr. McClelland, duly seconded by Ms. Sheehan, and carried with a unanimous vote.

9. Election of Officers

Chairman Dean Brosious was re-elected for the year by secret ballot. Mr. Larry Ellgen was elected by secret ballot to serve as Vice Chairman. Mr. Brosious then proposed the current slate of officers be re-elected for the year. The motion electing the current slate of officers for the year was made by Ms. Sheehan, duly seconded by Mr. McClelland, and the motion passed with a unanimous vote.

PENDING APPROVAL ITEMS

10. Rate Recommendations

Mr. Larry Feltner, Mr. Steve Seelye, and Mr. Jeff Wernert from The Prime Group, LLC, provided board and staff with an update to the cost of service study presented at last month's board meeting. The Prime Group provided detailed information on the Association's cost to provide service and their recommendations for board consideration. Questions and discussion followed, including initial calculations for each rate class and how the initial recommendations would impact each class. The board gave direction to The Prime Group on matters concerning: the target rate of return to be used for determining rates; the maximum percentage increase for any rate class; rate reclassification of various rate classes; and the customer charge level for various reclassified rate classes.

INFORMATION ITEMS

11. Staff Reports

Staff reports were waived this month. Discussion was held to questions only.

A. Finance

There were no questions.

B. Operations

I. Safety

There were no questions.

II. Operations

There were no questions.

III. Engineering

There were no questions.

IV. IT

There were no questions.

C. Human Resources

There were no questions.

D. Communications & PR

There were no questions.

E. Member Relations

There were no questions.

F. Facilities and Warehouse

There were no questions.

12. Green Power Program

Ms. Megan Moore-Kemp and Mr. Jason Hall presented a proposal to develop a program that would provide interested members with two options for supporting local renewables and green market development. Discussion was held around the logistics of the program as well as developing and monitoring critical success factors for the program. A poll was taken and the consensus was to move forward with developing the program.

13. Building Update

This item was tabled until the August board meeting.

14. AMI

This item was tabled until the August board meeting.

15. CREA

This item was tabled until the August board meeting.

16. Western United

This item was tabled until the August board meeting.

17. CEC

This item was tabled until the August board meeting.

DISCUSSION ITEMS

18. Open Director Discussion

There was no Open Director Discussion.

OTHER ITEMS

19. Unfinished Business

a. Approval of Amendment to Board Policy 5-5: Membership List Dissemination

This item was tabled until the August board meeting.

b. Scholarship Fund for Unclaimed Capital Credits

This item was tabled until the August board meeting.

c. NCB Fiber Project

This item was tabled until the August board meeting.

d. Xcel Wind Farm

This item was tabled until the August board meeting.

20. New Business

There was no New Business.

21. Recess

A motion to recess this regular meeting of the directors of Yampa Valley Electric Association, Inc., until 11:00 am on Thursday, August 18, 2016 was made, duly seconded, and passed unanimously. The Chairman then declared this regular meeting recessed at 5:52 p.m.

Chairman of the Board

Dated: August 18, 2016

Secretary of the Board

Dated: August 18, 2016