

DRAFT
December 23, 2003

STATE OF COLORADO)
)
COUNTY OF CROWLEY)
)
TOWN OF SUGAR CITY)

The Board of Trustees of the Town of Sugar City, Colorado, met in regular session in full conformity with law and the ordinances and rules of the Town, at the Town Hall, 205 Colorado, Sugar City, Colorado, on Wednesday, the 25 day of February, 2004 at 6:00 P.M.

Upon roll call the following were present, constituting a quorum:

Mayor:	Frank Ritter
Mayor Pro Tem:	Helmuth Geringer
Trustees:	Robert Brunch
	Sandy Geringer
	Deborah Hyers
	Carl Mitchell
	Lorin Selby

Also present:

Town Clerk:

Brenda McCracken
~~Kathy Cunningham~~

Absent: None

Thereupon Trustee ^{Mayor} Frank Ritter introduced, and there was read in full, the following Ordinance:

ORDINANCE _____

**AN ORDINANCE OF THE TOWN OF SUGAR CITY,
COLORADO, ESTABLISHING THE "TOWN OF SUGAR
CITY WATER ENTERPRISE" UNDER THE PROVISIONS OF
TITLE 37, ARTICLE 45.1, COLORADO REVISED
STATUTES; REPEALING ALL ORDINANCES OR OTHER
ACTS IN CONFLICT HEREWITH.**

WHEREAS, the Town of Sugar City, Colorado (the "Town"), is a statutory town and political subdivision of the State of Colorado, duly organized and operating under the constitution and laws of the State of Colorado; and

WHEREAS, pursuant to the provisions of Title 37, Article 45.1, Colorado Revised Statutes (the "Water Activity Law"), state and local governmental entities which have their own bonding capacity under applicable law are authorized: (i) to establish or continue to maintain water activity enterprises for the purpose of pursuing or continuing water activities, which includes the construction, operation, repair and replacement of water facilities; and (ii) to issue or reissue bonds, notes, or other obligations payable from the revenues derived or to be derived from the function, service, benefits, or facility or from any other available funds of the enterprise, the terms and conditions of such bonds or other obligations to be as set forth in the resolution authorizing the same; and

WHEREAS, in order to qualify as a water enterprise under the Water Activity Law, the enterprise must consist of a government water business owned by a governmental entity such as the Town, which enterprise receives under 10% of its annual revenues in grants from all Colorado state and local governments combined, and which is authorized to issue its own revenue bonds; and

WHEREAS, the Town has heretofore determined and undertaken to acquire and develop certain properties and facilities for the collection, treatment, transmission, and disposition of water, which facilities are operated and maintained as a single public utility and income-producing project (the "System"); and

WHEREAS, the System has been and continues to be operated as a "water enterprise" within the meaning of the Water Activity Law; and

WHEREAS, it is the intent of the Town to continue the operation of the System as a water enterprise, and to formally establish the "Town of Sugar City Water Enterprise" under the Water Activity Law;

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF
SUGAR CITY, COLORADO:**

Section 1. Establishment of Enterprise. There is hereby established, pursuant to the terms and provisions of the Water Activity Law, Title 37, Article 45.1, Colorado Revised Statutes, the "Town of Sugar City Water Enterprise" (the "Enterprise"). The Enterprise shall consist of the System which is the business represented by all of the Town's water facilities and properties, now owned or hereafter acquired, whether situated within or without the Town boundaries, including all present or future improvements, extensions, enlargements, betterments, replacements, or additions thereof or thereto. The Enterprise shall have all of the authority, powers, rights, obligations, and duties as may be provided or permitted by the Water Activity Law and the Colorado Constitution, and as may be further prescribed by ordinance or resolution of the Town.

Section 2. Governing Body. The governing body of the Enterprise (the "Governing Body") shall be the Board of Trustees of the Town, and shall be subject to all of the applicable laws, rules, and regulations pertaining to the Board of Trustees. Whenever the Board of Trustees is in session, the Governing Body shall also be deemed to be in session. It shall not be necessary for the Governing Body to meet separately from the regular and special meetings of the Board of Trustees, nor shall it be necessary for the Governing Body to specifically announce or acknowledge that actions taken thereby are taken by the governing body of the Enterprise. The Governing Body may conduct its affairs in the same manner and subject to the same laws which apply to the Board of Trustees for the same or similar matters; provided that in accordance with §37-45.1-104(2), C.R.S., the Governing Body may authorize the issuance of bonds by adoption of a resolution.

Section 3. Maintenance of Enterprise Status. The Enterprise shall at all times and in all ways conduct its affairs so as to continue to qualify as a "water enterprise" within the meaning of §37-45.1-102, C.R.S., and as an "enterprise" within the meaning of Article X, Section 20, Colorado Constitution. Specifically, but not by way of limitation, the Enterprise is not authorized, and shall not, receive 10% or more of its annual revenue in grants from all Colorado state and local governments combined.

Section 4. Issuance of Bonds. The Enterprise is authorized to issue bonds, notes, or other obligations payable from the revenues derived or to be derived from the System, in accordance with the Water Activity Law. The Board of Trustees may also authorize the issuance of such bonds, notes, or other obligations in accordance with the laws of the State of Colorado, and in so doing shall be deemed to be acting as both the Governing Body and the Board of Trustees.

Section 5. Water Enterprise Fees and Charges. The Board of Trustees shall adopt by resolution for and on behalf of the Enterprise the following rates, fees, and charges:

- a. minimum and sufficient water rates;

- b. plant investment fees; and
- c. other fees and charges as the Board of Trustees deems necessary to cover the cost of inspection, testing fees for engineering design review, operations, maintenance, and extensions of the System.

Section 6. Water Enterprise Annual Budget. The Board shall adopt an annual budget for the Enterprise, separate from the Town's general fund budget.

Section 7. Water Revenue Fund Established. There is hereby established an enterprise fund, to be known as the "Water Revenue Fund", in which shall be deposited all revenues from water billing and other revenues related to the System. All funds received from the water rates shall be used only for the operation, maintenance, debt service, replacement of and additions to the system. All amounts on hand in such fund shall be invested by the Board of Trustees in investments proper for public funds.

The Enterprise may pledge all or any portion of the Water Revenue Fund, including revenues anticipated to be collected, to the payment of principal, interest, premium, if any, and reserves for revenue bonds or any other obligations lawfully issued or otherwise contracted for by the Enterprise for the payment or other financing of costs of the System, or for the purpose of refunding any obligations issued or otherwise contracted for such purpose.

Section 8. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the Town and the members of the Board of Trustees, not inconsistent with the provisions of this Ordinance, relating to the operation or creation of the Enterprise, are hereby ratified, approved, and confirmed.

Section 9. Repealer. All orders, bylaws, ordinances, and resolutions of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

Section 10. Severability. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 11. Recording and Authentication. Upon adoption hereof, this Ordinance shall be recorded in a book kept for that purpose and shall be authenticated by the signatures of the Mayor and the Town Clerk.

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INTRODUCED, READ AND PASSED AS AN ORDINANCE at a regular meeting of the Board of Trustees on the 25th day of FEB, 2004, and ordered published in accordance with the provisions of Section 31-16-105, C.R.S.

(SEAL)

Frank Ritter
Mayor

ATTESTED:

Brenda McCracken
Town Clerk

It was thereupon moved by Trustee HYERS and seconded by Trustee M. GERRARD that the foregoing Ordinance, introduced at this meeting as aforesaid, be passed and adopted as an ordinance.

The question being upon the adoption of the motion, the roll was called with the following result:

Those voting YES:

Mayor:	Frank Ritter
Mayor Pro Tem:	Helmuth Geringer
Trustees:	Robert Brunch
	Sandy Geringer
	Deborah Hyers
	Carl Mitchell
	Lorin Selby

Those voting NO: None.

Seven (7) members of the Board of Trustees having voted in favor of said motion, such number being at least three-fourths of the members of the Board of Trustees, the presiding officer thereupon declared the motion carried and that the Ordinance was passed and adopted as an ordinance.

Thereupon, after consideration of other business to come before the Board, the meeting was adjourned.

(SEAL)

Frank Ritter
Mayor

ATTESTED:

Brenda McCracken
Town Clerk

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December 23, 2003

STATE OF COLORADO)
)
COUNTY OF CROWLEY)
)
TOWN OF SUGAR CITY)

I, ~~Kathy Cunningham~~, Town Clerk of the Town of Sugar City, Colorado, do hereby certify that the foregoing pages numbered 2 to 5, inclusive, constitute a full and correct copy of the record of the proceedings of the Board of Trustees of the Town, taken at a regular meeting thereof, held on Wednesday, the 25th day of Feb, 2004, at the Town Hall, 205 Colorado, Sugar City, Colorado, so far as said minutes relate to an Ordinance of the Town of Sugar City, Colorado, Establishing the "Town of Sugar City Water Enterprise" under the Provisions of Title 37, Article 45.1, Colorado Revised Statutes; Repealing All Ordinances or Other Acts in Conflict Herewith; that said Ordinance has been duly authenticated by the signatures of the presiding officer of the Board of Trustees and myself, as Town Clerk of the Town, sealed with the corporate seal of the Town and the Resolution recorded in the Book kept for that purpose in my office.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Town, this 25th day of Feb, 2004

(S E A L)

Brenda McCracken
Town Clerk