

STATE OF COLORADO

COUNTY OF SAGUACHE

TOWN OF MOFFAT

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The Board of the Town of Moffat, Saguache County, Colorado, met in regular session in full conformity with law and rules and ordinances of the Town, at the Moffat Town Hall, Moffat, Saguache County, Colorado, on Tuesday, the 19th day of December, 2023, at 6:00 p.m.

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

Mayor: Jon Lopez

Trustees: Mr. Skoglund
Mr. Studinski
Mr. Reichwald (Remote)
Mr. Knicker

Also present: Matt Litrenta, Interim Town Clerk

Absent: ~~None~~ Mr. Berger, Mrs. Lopez

Thereupon Trustee Studinski introduced, and there was read in full, the following Resolution:



RESOLUTION NO. ~~2023-02~~ 2023-02

A RESOLUTION OF THE TOWN OF MOFFAT, SAGUACHE COUNTY, COLORADO, ESTABLISHING THE “MOFFAT WATER ACTIVITY ENTERPRISE” UNDER THE PROVISIONS OF TITLE 37, ARTICLE 45.1, COLORADO REVISED STATUTES; REPEALING ALL ORDINANCES, RESOLUTIONS OR OTHER ACTS IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Town of Moffat, Colorado (the “Town”), is a statutory town, 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 and/or wastewater and sanitary sewer 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 activity enterprise under the Water Activity Law, the enterprise must consist of a government 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 and/or wastewater, which facilities are operated and maintained as a public utility and income-producing project (the “System”); and

WHEREAS, it is the intent of the Town to operate the System as a Water Activity Enterprise, and to formally establish the “Moffat Water Activity Enterprise” under the Water Activity Law;

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MOFFAT, SAGUACHE COUNTY, 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 “Moffat Water Activity Enterprise” (also referred to herein as the “Enterprise”). The Enterprise shall consist of the System which is the business represented by all of the Town’s water and or wastewater and sanitary sewer 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 resolution or ordinance 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 Activity 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 Activity 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 reasonable water and or wastewater 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 Activity Enterprise Annual Budget. The Board shall adopt an annual budget for the Enterprise, separate from the Town's general fund budget.

Section 7. Water Activity Revenue Fund Established. There is hereby established an enterprise fund, to be known as the "Water Activity Revenue Fund," in which shall be deposited all revenues from water and or wastewater billing and other revenues related to the System. All funds received from the water and or wastewater 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 Activity 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 Resolution, relating to the operation or creation of the Enterprise, are hereby ratified, approved, and confirmed.

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

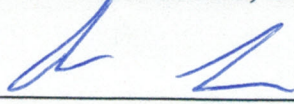
Section 10. Severability. If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution,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

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

Section 12. Effective Date. This resolution shall become effective immediately from and after its passage and after publication as may be required by law.

INTRODUCED, READ AND PASSED AS A RESOLUTION OF THE TOWN BOARD at a regular meeting of the Board of Trustees on the 19th day of December, 2023.

TOWN OF MOFFAT, COLORADO



Jon Lopez, Mayor

ATTESTED:



Matt Litrenta, Interim Town Clerk



It was thereupon moved by Trustee Stankinski and seconded by Trustee Skoglund that the foregoing Resolution, introduced at this meeting as aforesaid, be passed and adopted as a resolution of the Town.

The question being upon the motion to adopt the Resolution, the roll was called with the following result:

Those voting YES:

Mayor: Lopez

Trustees: Stankinski Reichwald
Kunkler
Skoglund

Those voting NO: None

4 () members of the Board of Trustees having voted in favor of said motion to adopt the Resolution, such number being at least three-fifths of the members of the Board of Trustees, the presiding officer thereupon declared the motion carried and that the Resolution was passed.

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

TOWN OF MOFFAT, COLORADO



Jon Lopez, Mayor

ATTESTED:



Matt Litrenta, Interim Town Clerk



STATE OF COLORADO

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COUNTY OF SAGUACHE

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TOWN OF MOFFAT

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I, Matt Litrenta, Interim Town Clerk of the Town of Moffat, Saguache County, Colorado, do hereby certify that the foregoing pages numbered 2 to 6, inclusive, constitute a full and correct copy of the record of the proceedings of the Board of Trustees of the Town of Moffat, taken at a regular meeting thereof, held on 19th day of December, 2023, at the Moffat Town Hall, Moffat, Saguache County, Colorado, so far as said minutes relate to a resolution of the Town of Moffat Colorado, establishing the "Moffat Water Activity Enterprise" under the provisions of Title 37, Article 45.1, Colorado Revised Statutes; repealing all ordinances, resolutions or other acts in conflict herewith; that said Resolution has been duly authenticated by the signatures of the Mayor and myself, as Interim Town Clerk, sealed with the corporate seal of the Town and the Resolution recorded in the book kept for that purpose.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Town, this 19th day of December, 2023.

(SEAL)



Matt Litrenta, Interim Town Clerk

