

CERTIFIED RECORD
OF
PROCEEDINGS OF
TOWN OF HUDSON
WELD COUNTY, COLORADO
RELATING TO
CREATION OF ITS
WATER ACTIVITY ENTERPRISE

STATE OF COLORADO)
)
COUNTY OF WELD)
)
TOWN OF HUDSON)

The Board of Trustees of the Town of Hudson, Weld County, Colorado, met in regular session in full conformity with law and the ordinances, resolutions, and policies of the Town at the Town Hall at 557 Ash Street, Hudson, Colorado on Wednesday, the 23rd day of August, 1995 at the hour of 7:30 P.M.

The following members of the Board of Trustees were present, constituting a quorum:

Mayor:	Judith Parker
Mayor Pro Tem:	Francis Duvall
Trustees:	Diana Maher
	Terry Heckard
	Ed Rossi
	Steve Straten
	George Roskop

Also present:

Town Clerk:	Judy Larson
Town Administrator:	C. Robb Fuller, Jr.

Thereupon there was introduced the following Ordinance, copies of which had been distributed previously to each Trustee, whereupon the Ordinance was read as follows:

ORDINANCE NO. 95-20

AN ORDINANCE ESTABLISHING A WATER ACTIVITY ENTERPRISE UNDER STATE LAW WITHIN THE TOWN OF HUDSON, COLORADO; ACKNOWLEDGING THAT SUCH WATER ACTIVITY ENTERPRISE HAS THE AUTHORITY TO ISSUE ITS OWN REVENUE BONDS UNDER STATE LAW; MAKING CERTAIN FINDINGS WITH RESPECT TO SUCH ENTERPRISE; PROVIDING OTHER DETAILS IN CONNECTION THEREWITH; AND DECLARING AN EMERGENCY.

WHEREAS, the the Town of Hudson, Weld County, Colorado (the "Town") desires to establish a water activity enterprise (the "Enterprise") under state law; and

WHEREAS, the members of the governing body of the Town (the "Board") are willing and intend to act as the governing body of the Enterprise; and

WHEREAS, pursuant to Title 37, Article 45.1, Part 1, Colorado Revised Statutes, (the "Act"), the establishment of water activity enterprises within or by entities of state and local government is critical to the health and welfare of the people of the State of Colorado; and

WHEREAS, the Act defines a "water activity enterprise" to include any water activity business owned by a district, which enterprise receives under ten percent of its annual revenues in grants from all Colorado state and local governments combined and which is authorized to issue its own revenue bonds pursuant to this article or any other applicable law; and

WHEREAS, "district" is defined in the Act to include municipalities; and

WHEREAS, "water activity" is defined in the Act to include but not be limited to the diversion, storage, carriage, delivery, distribution, collection, treatment, use, reuse, augmentation, exchange, or discharge of water as well as the provision of wholesale or retail water or wastewater or stormwater services and the acquisition of water or water rights; and

WHEREAS, "grant" in the context of the Act means a cash payment of public funds made directly to a water activity enterprise by the state or a local governmental entity or a district, which cash payment is not required to be repaid; and

WHEREAS, the Town is a district under the Act which under Title 31, Article 35, Part 4, Colorado Revised Statutes, has its own revenue bonding authority and which will be the sole owner of the Enterprise; and

WHEREAS, the Town's water activity, until now known as the water enterprise fund, at present receives under ten percent of its annual revenues in grants from all Colorado state and local governments combined and the Town intends to insure that the water activity enterprise will continue to receive under ten percent of its revenues from such grants; and

WHEREAS, the Act provides at Section 37-45.1-104, Colorado Revised Statutes, that each water activity enterprise, through its governing body, may issue or reissue revenue bonds in accordance with and through the provisions of Section 37-45.1-104(2), Colorado Revised Statutes; and

WHEREAS, the Board has determined that it is in the best interest of the Town to designate its water enterprise fund and its water activities as a "water activity enterprise" pursuant to the Act and Article X, Section 20 of the Colorado Constitution (the "Amendment"); and

WHEREAS, all capitalized words and terms used in this enterprise ordinance (the "Enterprise Ordinance") shall have the meanings set forth therefor in these recitals;

THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HUDSON,
WELD COUNTY, COLORADO:

Section 1. Establishment of the Enterprise. The Town hereby establishes the Enterprise as an agency of the Town and formally designates it as the "Town of Hudson, Water Activity Enterprise". It shall be the purpose of the Enterprise to pursue or continue all of the Town's water activities as defined in the Act, including water acquisition or water project or facility activities, including the construction, operation, repair, and replacement of water or wastewater facilities, using revenues and income generated by and earned or acquired in connection with such water activities and held and managed in the Town's water enterprise fund. As between the Town and the Enterprise, all water activities will be deemed done and furnished by the Enterprise.

Section 2. Enterprise Excluded from the Provisions of the Amendment. Pursuant to and in accordance with the Act, the Enterprise shall be excluded from the provisions of the Amendment and shall be entitled to impose rates, fees, tolls, and charges; collect and spend revenues; issue revenue bonds; and construct, operate, and maintain facilities and provide water services; all without reference or regard to the limitations contained in the Amendment.

Section 3. Governing Body. The members of the Board shall serve as the governing body of the Enterprise and shall be known collectively as the Board of Directors of the Enterprise (the "Enterprise Board"). Acting as the Enterprise Board, the Board may exercise the Town's legal authority relating to water activities as defined in the Act. The Enterprise Board hereby is directed to take all actions necessary to cause the Enterprise to comply with all applicable laws.

Section 4. Powers of the Enterprise. The Enterprise shall have all powers and authority granted to water activity enterprises by the provisions of the Act, including but not limited to the power to conduct and continue water activities as defined in the Act; the power to contract with any person or entity, including other districts as defined in the Act and other water activity enterprises as defined in the Act; and the power to issue and reissue revenue bonds through its governing body in accordance with and through the provisions of Section 37-45.1-104(2), Colorado Revised Statutes.

Section 5. Enterprise Obligations and Town Obligations. In consideration of the Enterprise's commitment to provide water services for which the Town actually is obligated and to collect and spend revenues from rates, fees, tolls, and charges imposed by the Town, the Town hereby agrees to continue to provide administrative services for the Enterprise and its activities, to continue to hold title to and own all

of the assets currently owned by the Town and necessary to the operation of the Enterprise, to levy taxes for and pay debt service on general obligation bonds of the Town issued in the past to finance the acquisition of water rights and the construction and installation of water facilities and improvements, and to impose all rates, fees, tolls, and charges for water activities. The relationship between the Town and the Enterprise with respect to the administration of the Enterprise, the operation of the water activities, and the duties and responsibilities of each party shall be as may be delineated and clarified from time to time in a joint resolution of the Board and the Enterprise Board which may be adopted at any time when this Enterprise Ordinance is in full force and effect ("Joint Resolution").

Section 6. Transactions in the Name of the Town. Any and all transactions of the Enterprise may be done in the name of the Town or in the name of the Enterprise and neither this Section 6 nor any transaction entered into pursuant to it shall alter or abrogate the relationship of the Town and the Enterprise as established in Section 5 of this Enterprise Ordinance and as may be further clarified from time to time in a Joint Resolution.

Section 7. Findings of the Board. The Board hereby makes the following findings with respect to the establishment of the Enterprise:

- (a)The Town's water enterprise fund, water rights, water facilities, and appurtenances all shall comprise the Enterprise which shall be and is the water activity business owned by the Town.
- (b)The Enterprise shall be and is an agency of the Town for the purpose and within the meaning of the following:
 - (i)Title 24, Article 10, Part 1, Colorado Revised Statutes, the "Colorado Governmental Immunity Act;
 - (ii)Title 29, Article 1, Part 6, Colorado Revised Statutes, the "Colorado Local Government Audit Law";
 - (iii)Title 29, Article 1, Part 1, the "Local Government Budget Law of Colorado"; and
 - (iv)all other local, state, and federal laws, rules, and regulations.
- (c)The establishment of the Enterprise is necessary to provide a secure water supply for domestic use by the inhabitants of the Town and other domestic customers of the Enterprise; to continue to provide water for agricultural use; to supply water for power, milling, manufacturing, mining, metallurgical, fish, wildlife, recreational, and all other beneficial uses; to treat, reclaim, conserve, recharge, augment, exchange, or reuse water supplies; and to provide wholesale and retail water supply and wastewater services.
- (d)The Town has the authority to conduct water activities as defined in the Act and is the sole owner of the Enterprise as required by the Act. The Town has revenue bonding authority for water activities pursuant to Title 31, Article 35, Part 4, Colorado Revised Statutes, all as required by the Act.

(e)The Enterprise receives under ten percent of its annual revenues in grants (as defined in the Act) from all Colorado state and local governments combined, having received (as the Town's water enterprise fund) none of its revenues for the 1994 fiscal year from all state and local grants and expecting to receive none of its revenues for the 1995 fiscal year from such sources.

(f)Pursuant to the Act, the Enterprise is authorized to issue its own revenue bonds.

(g)The Enterprise does not and shall not levy any tax whatsoever, nor shall any rates, tolls, fees, or charges collected and spent by the Enterprise ever be deemed to be taxes for any purpose under any law, rule, or regulation, whether local, state, or federal.

Section 8. Termination. The Enterprise shall remain in existence at the will of the Board and in accordance with law. In the event that the Enterprise is terminated by operation of law or by act of the Board, any and all assets of the Enterprise, immediately and without the need for further action, shall be deemed to be and shall be assets of the Town.

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

Section 10. Severability. If any section, paragraph, clause, or provision of the Enterprise 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 Enterprise Ordinance, the intent being that the same are severable.

Section 11. Effective Date; Recording and Authentication. This Enterprise Ordinance shall be effective immediately upon its adoption. This Enterprise Ordinance shall be recorded in a book kept for that purpose, shall be authenticated by the signature of the Mayor and attested by the Town Clerk, and shall be published in accordance with law.

Section 12. Emergency Provisions. By reason of the facts that: (1) the Town and its inhabitants must be properly and adequately supplied with water and it is necessary to issue bonds immediately to finance the costs and expenses of extending and improving the water facilities and (2) it is necessary to document the enterprise status of the Enterprise before such bonds may be issued; it is hereby declared that an emergency exists, that this Enterprise Ordinance is necessary to the immediate preservation of the public peace, health, and safety, and that it shall be in full force and effect upon adoption and publication according to law.

INTRODUCED, APPROVED, AND FINALLY PASSED AS AN EMERGENCY ORDINANCE BY THE AFFIRMATIVE VOTES OF THREE-QUARTERS OF THE MEMBERS OF THE BOARD this 23rd day of August, 1995.

(SEAL)

Mayor

ATTEST:

Town Clerk

It was thereupon moved by Trustee _____ and seconded by Trustee _____ that the foregoing Enterprise Ordinance be finally passed and adopted.

Those voting AYE:

Those voting NAY: None

Not less than three-quarters of the members of the Board having voted in favor of the motion, the presiding officer thereupon declared the motion carried and the Enterprise Ordinance finally passed and adopted as an emergency ordinance.

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

(SEAL)

Mayor

ATTEST:

Town Clerk

STATE OF COLORADO)
)
COUNTY OF WELD)
)
TOWN OF HUDSON)

I, **Judy Larson**, Town Clerk of the Town of Hudson, Weld County, Colorado, do hereby certify that the foregoing pages numbered 1 to 8, inclusive, constitute a true and correct copy of that portion of the record of proceedings of the Board relating to the final passage and adoption of an emergency ordinance of the Board establishing the Town's Water Activity Enterprise, all at the regular meeting of the Board held at the Town Hall at 557 Ash Street in Hudson, Colorado, on **Wednesday**, the **23rd** day of August, 1995 at the hour of 7:30 P.M., as recorded in the official record of proceedings of said Town kept in my office; that the proceedings were duly had and taken; that the meeting was duly held; that the persons therein named were present at said meeting and voted as shown therein; all in accordance with law.

WITNESS my hand and the seal of said Town this **23rd** day of August, 1995.

(SEAL)

Judy Larson
Town Clerk

(Attach Proof of Publication)