

Eagle River Water & Sanitation District
Board of Directors Meeting
May 23, 2024
MINUTES

A regular meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held May 23, 2024, at 12:00 p.m., in the Walter Kirch Room of the District, 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the state of Colorado.

ATTENDANCE

The following Directors were present and acting:

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2 Kate Burchenal
3 Dick Cleveland
4 Steve Coyer
5 Sarah Smith Hymes
6 Timm Paxson
7 Rick Pylman
8 Robert Warner, Jr.

Also in attendance were:

9	<u>District Staff</u>	26	Kailey Rosema
10	Justin Allen	27	Jeffrey Schneider
11	Tricia Bancker	28	Brian Thompson
12	Jenna Beairsto	29	Jared Wagner
13	Tom Borawski	30	Brad Zachman
14	Jim Cannava	31	
15	Jason Cowles	32	<u>Consultants</u>
16	Bryan Curtis	33	Steve Bushong, Bushong & Holleman PC
17	Allison Ebbets	34	Kristin Moseley, Somach Simmons & Dunn
18	Tim Friday	35	Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
19	Salma Huque	36	
20	Diane Johnson	37	<u>Public</u>
21	Jennie Koenig	38	Tammy Baker
22	David Norris	39	Zoe Goldstein
23	Chuck Owen	40	Amy Moyer
24	Siri Roman		
25			

DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

The board noted it had received more than 72 hours prior to the meeting certain disclosures of potential conflicts of interest for the following Directors indicating the following conflicts: Director Pylman disclosed that he owns a land planning consulting company doing business in the District's service area that has represented entities that have and may do business with the District. Director Warner disclosed that he is a former Builder/Developer in the District, a Member of the Eagle County Planning Commission and Zoning Board of Adjustment, and President of McCoy Springs at Arrowhead Homeowners Association. Director Burchenal disclosed that she is an employee of Airborne Snow Observatories, Inc., which does not currently do business with the District but there may be a time in the future when they do business with the District or other partners in the District's service area.

CALL TO ORDER

Having determined there was a quorum, Chair Cleveland called the meeting to order at 12:01 p.m.

INTRODUCTIONS

Three new employees were introduced: Mr. Cannava introduced controller Tricia Bancker; Ms. Rosema introduced water systems operator Justin Allen; and Mr. Friday introduced GIS analyst Jared Wagner.

PUBLIC COMMENT

Chair Cleveland called for public comment and there was none.

ORGANIZATIONAL ITEMS

Extending board officer terms– Mr. Thompson presented a memorandum, a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference. He referenced his May 7 email to directors explaining the misalignment between biennial board officer term elections

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1 scheduled by the District bylaws for even-numbered years and regular special district elections, which
2 have statutorily transitioned from even-numbered years to odd-numbered years. He also said the
3 board may extend current officer terms to May 2025 to realign with special district elections. Upon
4 motion duly made and seconded, it was unanimously

5 **RESOLVED** to extend the terms of the current board officers until the first regular board
6 meeting following the 2025 Regular Special District Election.

7 **Designating a Representative to Eagle Park Reservoir Company (EPRC) Board of Directors –**
8 Mr. Thompson said the District must appoint a representative to the EPRC Board prior to the June 25
9 EPRC annual shareholders meeting. He also said having the Board Chair serve as the representative
10 creates important congruence with the other leadership on the EPRC Board. Upon motion duly made
11 and seconded, it was unanimously

12 **RESOLVED** to appoint Chair Cleveland as the representative on the Eagle Park Reservoir
13 Company Board of Directors for the 2025 Fiscal Year.

14 **Updated Bylaws –** Mr. Thompson presented a redlined draft of the amended bylaws, a copy of which
15 is attached hereto as **Exhibit B** and incorporated herein by this reference. Upon motion duly made
16 and seconded, it was unanimously

17 **RESOLVED** to approve and adopt the updated bylaws of the Eagle River Water & Sanitation
18 District, as presented.

19 **Conflicts of Interest –** Ms. Winn presented a memorandum, a copy of which is attached hereto as
20 **Exhibit C** and incorporated herein by this reference. She provided an annual review of conflicts of
21 interest and encouraged directors to update their Potential Conflicts of Interest Questionnaires.

22 **ACTION ITEMS**

23 **Consideration of Minutes –** The minutes of the Apr. 4, 2024, regular meeting were considered.
24 Upon motion duly made and seconded, it was unanimously

25 **RESOLVED** that the minutes of the Apr. 4, 2024, regular meeting be accepted and hereby
26 are approved as presented.

27 **Contract Log –** The board reviewed the contract log, a copy of which is attached hereto as **Exhibit D**
28 and incorporated herein by this reference. Upon motion duly made and seconded, it was unanimously

29 **RESOLVED** that the contract log be accepted and hereby is approved as presented.

30 **INFORMATION REPORTS**

31 Directors reviewed board committees and the February Authority meeting summary, copies of which are
32 attached hereto as **Exhibits E** and **F**, respectively, and incorporated herein by this reference.

33 **BOARD MEMBER INPUT**

34 Director Smith Hymes commended Avon Wastewater staff for producing exceptionally high-quality effluent.

35 **2025 RATE RESTUCTURE ANALYSIS**

36 Mr. Norris and Ms. Ebbets presented a memorandum, a copy of which is attached hereto as **Exhibit G** and
37 incorporated herein by this reference. They also presented a PowerPoint identified as work product and

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1 excluded as a public record pursuant to §24-72-202(6)(a)(II)(A), C.R.S. Mr. Norris discussed the updated
2 billing methodologies on *Individually Metered Residential* and *Irrigation Only* account types that took effect in
3 2024. Staff are continuing these efforts by analyzing the redesign of the remaining account types,
4 *Commercial, Municipal, Multi-Family* and *Mixed-Use*, for implementation in 2025. He also said these
5 proposed changes are necessary to correct fundamental billing flaws and inconsistencies in the current billing
6 multipliers. Ms. Ebbets provided an overview of these account types and discussed how aligning base
7 charges, use rates, and impact fees to meter size, rather than Single Family Equivalent (SFE) units as
8 currently used, will be more equitable, consistent, and aligned with industry standards. Mr. Norris also said
9 these changes will not significantly impact revenue and the potential impacts on base service and use
10 charges will differ between communities. Upon discussion, the board supported the redesigned rate
11 structures as presented and gave direction to incorporate this approach into the 2025 budget. Directors
12 thanked staff for their detailed analysis and efforts to make rate structures more equitable.

POLICY UPDATE INTRODUCTIONS

14 **Digital Accessibility Policy** – Mr. Thompson presented a memorandum and the draft policy, copies
15 of which are attached hereto as **Exhibits H** and **I**, respectively, and incorporated herein by this
16 reference. He reminded the board of the ongoing review and updates of board-adopted policies. He
17 also said the proposed digital accessibility policy articulates the District's and Authority's commitment
18 to providing equitable access to Information and Communication Technology (ICT) in compliance with
19 new state rules. Upon motion duly made and seconded, it was unanimously

20 **RESOLVED** to approve and adopt the Digital Accessibility Policy, as presented.

21 **Sunsetting 2017 Policy for Use-Based Tap Fee Calculation** – Mr. Cowles presented a
22 memorandum and the Policy for Use-Based Tap Fee Calculation, copies of which are attached hereto
23 as **Exhibits J** and **K**, respectively, and incorporated herein by this reference. He recommended the
24 board sunset this policy, which was adopted by the board on Dec. 6, 2017, because it has not been
25 put into practice since its inception and the methodology is no longer necessary. Upon motion duly
26 made and seconded, it was unanimously

27 **RESOLVED** to sunset the 2017 Policy for Use-Based Tap Fee Calculation.

28 **Amended Tap Fee Policy for Public Use Facilities** – Mr. Cowles presented the draft amended Tap
29 Fee Policy for Public Use Facilities, a copy of which is attached hereto as **Exhibit L** and incorporated
30 herein by this reference. He recommended the board amend the original policy, which was adopted
31 by the board on Jun. 26, 2008, by removing the provision by which a developer may defer payment of
32 water and sewer tap fees over a 10-year amortized repayment schedule because no developer has
33 requested this deferral since its inception. He further recommended retaining the provision requiring
34 tap fees for public use facilities to avoid inequities resulting from incongruent boundaries between a
35 public entity and the District. Upon motion duly made and seconded, it was unanimously

36 **RESOLVED** to approve and adopt the amended Tap Fee Policy for Public Use Facilities, as
37 presented.

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GENERAL MANAGER REPORT

Ms. Roman shared her experiences from the 2024 Yampa River Awareness Project trip and thanked the board for supporting her participation. She said she will be co-presenting with Eagle County Commissioner Kathy Chandler-Henry on land use and water supply at the Colorado Counties Inc. Conference in Vail on May 28. She also said the U.S. Senate Energy and Natural Resources Committee will be holding a public lands subcommittee hearing on the Bolts Ditch Act in mid-June. Finally, she said Town of Vail is working with Eagle Valley Trout Unlimited and Colorado Parks and Wildlife on a project to improve fish habitat along Gore Creek using funds from the 2021 Gore Creek fish kill settlement and multiple grants.

Shoshone Water Right Preservation Campaign – Ms. Roman presented a memorandum and referenced the Colorado River Water Conservation District (“River District”) memorandum, copies of which are attached hereto as **Exhibits M** and **N**, respectively, and incorporated herein by this reference. She referenced previous board discussion about the River District’s request for the District and Authority to contribute to the Shoshone water right acquisition, and said staff met with Eagle County about its contribution. She reminded the board of its support of a \$1 million joint contribution between the District and Authority with funding levels based on the proportion of SFEs between the Vail Water subdistrict and the Authority. She also said the Authority board authorized a commitment of 62% of a joint \$1 million contribution, conditioned upon the District board’s commitment of the remaining 38%. Upon motion duly made and seconded, it was unanimously

RESOLVED to authorize a financial commitment in the amount of 38% of a \$1 million joint contribution with the Upper Eagle Regional Water Authority to support the Shoshone Water Right Preservation Campaign, funded from the 2025, 2026, and 2027 annual budgets subject to future appropriations, and conditioned upon the Colorado River District fulfilling its purchase contingencies.

Following this vote, Ms. Moyer, Director of Strategic Partnerships for the River District, thanked both boards for their commitment and support of the Shoshone campaign.

BUSINESS ADMINISTRATION REPORT

Housing update – Mr. Norris presented a memorandum and a PowerPoint, copies of which are attached hereto as **Exhibits O** and **P**, respectively, and incorporated herein by this reference. He provided an update on 2024 rental rates and housing program stipends. He also reported on potential employee housing units available for purchase at Timber Ridge and reviewed funding options. Upon discussion, the board directed staff to pursue the purchase of 4 one-bedroom units and express interest in potentially purchasing two to four additional one-bedroom units.

Quarterly financials – Mr. Cannava presented the report, a copy of which is attached hereto as **Exhibit Q** and incorporated herein by this reference. He said Q1 financials are tracking to budget and both wastewater and water operating revenues, as well as combined operating expenses, are favorable. He also discussed the effects of 2023 net income carryforwards on approved 2024 projects. He also said staff is recommending the issuance of a \$23 million bond to fund Vail Water

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1 projects over the next three years, to be issued in late-2024 and incorporated in 2025 rate packages.

2 **OPERATIONS REPORT**

3 Mr. Zachman presented the report, a copy of which is attached hereto as **Exhibit R** and incorporated herein
4 by this reference. There were no questions regarding the report.

5 **Dowd Junction Lift Station** – Ms. Beairsto presented a PowerPoint, a copy of which is attached
6 hereto as **Exhibit S** and incorporated herein by this reference. She said the Dowd Junction Collection
7 System Improvements Project is substantially complete and the new lift station is fully operational.
8 She discussed the unique challenges related to this project, including procurement delays due to
9 COVID-19 and complex permitting requirements, and highlighted the improvements to system
10 redundancy, automation, alarming, safety, and SCADA implementation. She also said improvements
11 were made to the Eagle Valley Trail, and ECO Trails will host a ribbon-cutting ceremony on June 26.
12 She thanked the board for funding this project and said the total budget ended up lower than the 2020
13 projected budget. Directors congratulated staff for completing this important project.

14 **Recess** – Chair Cleveland called for a brief recess at 3:30 p.m. The meeting and recording resumed at 3:40
15 p.m. During this time, no public business was performed.

16 **Vail Well R7 update** – Mr. Zachman referenced discussion from the Apr. 4 board meeting regarding
17 major damage to Vail Well R7. Ms. Rosema then presented a PowerPoint, a copy of which is
18 attached hereto as **Exhibit T** and incorporated herein by this reference. She said the District
19 contracted with LRE Water to provide a condition assessment of the well and evaluate short-term
20 repair options. She also said these consultants recommended a two-pronged approach, starting with
21 a swage repair by installing a steel sleeve inside the casing to isolate the leak, followed by redrilling
22 the well in two to three years. In response to a question, she said the swage repair is a cost-effective
23 temporary solution to seal the casing that will allow the well to return to operation sooner than other
24 repair alternatives. Upon discussion, the board provided direction for staff to move forward with this
25 recommendation.

26 **ENGINEERING AND WATER RESOURCES REPORT**

27 Mr. Cowles presented the report, a copy of which is attached hereto as **Exhibit U** and incorporated herein by
28 this reference. He had no further items to discuss.

29 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

30 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit V** and incorporated herein
31 by this reference. She said the celebration of life for Rod Slifer is scheduled for June 27 and directors
32 supported rescheduling the board meeting on that day to 11:30 a.m. She also reminded the board of the May
33 29 “State of the River” meeting and briefly discussed upcoming bill signings for legislation sponsored by Sen.
34 Roberts and Rep. Lukens.

35 **WATER COUNSEL REPORT**

36 Ms. Moseley did not have a written report or items to discuss.

37 **GENERAL COUNSEL REPORT**

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1 Ms. Winn did not have a written report or items to discuss.

2 **EXECUTIVE SESSION**

3 Mr. Bushong requested the board move into Executive Session to receive legal advice and discuss matters in
4 negotiation with Colorado Department of Public Health & Environment relevant to future discharge permitting
5 and implementation of water quality standards, pursuant to §24-6-402(4)(b) and (e), C.R.S. Upon motion duly
6 made and seconded, it was unanimously

7 **RESOLVED** to enter into Executive Session at 3:58 p.m. to receive legal advice and discuss
8 matters in negotiation with Colorado Department of Public Health & Environment relevant to
9 future discharge permitting and implementation of water quality standards, pursuant to §24-6-
10 402(4)(b) and (e), C.R.S., with no electronic record created as Mr. Bushong opined the
11 contents of the discussion would contain privileged attorney-client communications.*

12 Ms. Winn requested the board move into Executive Session to receive legal advice regarding Bolts Lake and
13 Battle North/Minturn Case Nos. 21CW3029 and 21CW3030 and matters related to title on property
14 surrounding Bolts Lake, pursuant to §24-6-402(4)(b), C.R.S. Upon motion duly made and seconded, it was
15 unanimously

16 **RESOLVED** to enter into Executive Session at 4:28 p.m. to receive legal advice regarding
17 Bolts Lake and Battle North/Minturn Case Nos. 21CW3029 and 21CW3030 and matters
18 related to title on property surrounding Bolts Lake, pursuant to §24-6-402(4)(b), C.R.S., with
19 no electronic record created as Ms. Winn opined the contents of the discussion would contain
20 privileged attorney-client communications.*

21 Open session resumed at 4:38 p.m. During the executive session, the board did not take any formal action or
22 discuss any matters not enumerated in §24-6-402(4), C.R.S.

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1 **ADJOURNMENT**

2 There being no further business to come before the board at this meeting and upon motion duly moved and
3 seconded, it was unanimously

4 **RESOLVED**, that the signing of the minutes of this meeting shall be deemed to constitute full
5 and complete adoption, ratification, and approval of the business conducted and the
6 resolutions passed; and be it

7 **FURTHER RESOLVED**, that the meeting be adjourned at 4:38 p.m.

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45 *The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion in
46 Executive Session not recorded constituted privileged attorney-client communications.

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50 **Steve Bushong, Water Quality Counsel**

Kathryn Winn, General Counsel