

Upper Eagle Regional Water Authority

Board of Directors Meeting

May 23, 2024

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held May 23, 2024, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation District
3 (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the
4 state of Colorado.

ATTENDANCE

The following Directors were present and acting:

8 Geoff Dreyer, Arrowhead Metropolitan District
9 George Gregory, Berry Creek Metropolitan District
10 Joanna Kerwin, Edwards Metropolitan District
11 Tamra Underwood, Town of Avon
12 Kim Bell Williams, EagleVail Metropolitan District

The following Director was absent and excused:

14 Kevin Hillgren, Beaver Creek Metropolitan District

Also in attendance were:

16 <u>District Staff</u>	26 Chuck Owen
17 Jim Cannava	27 Siri Roman
18 Jason Cowles	28 Jeffrey Schneider
19 Bryan Curtis	29 Brian Thompson
20 Allison Ebbets	30 Jane Tucker
21 Salma Huque	31 Brad Zachman
22 Robyn Janssen	32
23 Diane Johnson	33 <u>Consultants</u>
24 Jennifer Morales	34 Kristin Moseley, Somach Simmons & Dunn
25 David Norris	35 Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC

DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

36 The board noted it had received more than 72 hours prior to the meeting certain disclosures of potential conflicts of interest for the following
37 Directors indicating the following conflicts: Director Gregory disclosed that he occasionally undertakes minor development and construction
38 activities within the Authority's service area. Director Bell Williams disclosed that she is the Housing Director for Eagle County and works
39 with the Eagle County Housing and Development Authority Advisory Committee. Director Kerwin disclosed that she is a board member of
40 Mountain Recreation Metropolitan District, Mountain Recreation Foundation, Homestead Court Club Homeowners Association, Homestead
41 Owners Association, and Homestead Valley Association. Director Underwood disclosed that she was elected on Nov. 8, 2022, to a four-
42 year term on the Town Council of the Town of Avon, which is a member entity of the Authority.
43

CALL TO ORDER

44 Having determined that quorum was established, Chair Gregory called the meeting to order at 8:30 a.m.

PUBLIC COMMENT

46 Chair Gregory called for public comment and there was none.

ORGANIZATIONAL ITEMS

49 **Extending board officer terms** – Mr. Thompson presented a memorandum, a copy of which is
50 attached hereto as **Exhibit A** and incorporated herein by this reference. He referenced his May 7
51 email to directors explaining the misalignment between biennial board officer term elections
52 scheduled by the Authority bylaws for even-numbered years and regular special district elections,
53 which have statutorily transitioned from even-numbered years to odd-numbered years. He also said
54 the board may extend current officer terms to May 2025 to realign with special district elections. Upon
55 motion duly made and seconded, it was unanimously

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

3 **Designating a Representative to Eagle Park Reservoir (EPRC) Company Board of Directors** –
4 Mr. Thompson said the Authority must appoint a representative to the EPRC Board prior to the June
5 25 EPRC annual shareholders meeting. This item was tabled to later in the meeting so that directors
6 could discuss relevant issues in executive session.

7 **Updated Bylaws** – Mr. Thompson presented a redlined draft of the amended bylaws, a copy of which
8 is attached hereto as **Exhibit B** and incorporated herein by this reference. Director Underwood
9 proposed additional revisions that were accepted by the Board. Upon motion duly made and
10 seconded, it was unanimously

11 **RESOLVED** to approve and adopt the updated bylaws of the Upper Eagle Regional Water
12 Authority, incorporating the additional revisions as accepted by the Board.

13 **Conflicts of Interest** – Ms. Winn presented a memorandum, a copy of which is attached hereto as
14 **Exhibit C** and incorporated herein by this reference. She provided an annual review of conflicts of
15 interest and encouraged directors to update their Potential Conflicts of Interest Questionnaires. In
16 response to a question, she explained the process for filing disclosures with the Secretary of State. In
17 response to another question, she said board meeting minutes cite potential conflicts of interest
18 disclosed at least 72 hours prior to the meeting.

19 **ACTION ITEMS**

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

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

24 **INFORMATION REPORTS**

25 Directors reviewed board committees, draft April meeting summary, and contract log, copies of which are
26 attached hereto as **Exhibits D, E, and F**, respectively, and incorporated herein by this reference.

27 **BOARD MEMBER INPUT**

28 Chair Gregory called for board member input and there was none.

29 **2025 RATE RESTUCTURE ANALYSIS**

30 Mr. Norris and Ms. Ebbets presented a memorandum, a copy of which is attached hereto as **Exhibit G** and
31 incorporated herein by this reference. They also presented a PowerPoint identified as work product and
32 excluded as a public record pursuant to §24-72-202(6)(a)(II)(A), C.R.S. Mr. Norris discussed the updated
33 billing methodologies on *Individually Metered Residential* and *Irrigation Only* account types that took effect in
34 2024. Staff are continuing these efforts by analyzing the redesign of the remaining account types,
35 *Commercial, Municipal, Multi-Family* and *Mixed-Use*, for implementation in 2025. He also said these proposed
36 changes are necessary to correct fundamental billing flaws and inconsistencies in the current billing multipliers. Ms.

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1 Ebbets provided an overview of these account types and discussed how aligning base charges, use rates,
2 and impact fees to meter size on these accounts, rather than Single Family Equivalent (SFE) units as
3 currently used, will be more equitable, consistent, and aligned with industry standards. Mr. Norris also said
4 these changes will not significantly impact revenue and the potential impacts on base service and use
5 charges will differ between communities. Upon discussion, the board supported the redesigned rate
6 structures as presented and gave direction to incorporate this approach into the 2025 budget. Directors
7 thanked staff for their detailed analysis and efforts to make rate structures more equitable.

POLICY UPDATE INTRODUCTIONS

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9 **Digital Accessibility Policy** – Mr. Thompson presented a memorandum and the draft policy, copies
10 of which are attached hereto as **Exhibits H** and **I**, respectively, and incorporated herein by this
11 reference. He reminded the board of the ongoing review and updates of board-adopted policies. He
12 also said the proposed digital accessibility policy articulates the District’s and Authority’s commitment
13 to providing equitable access to Information and Communication Technology (ICT) in compliance with
14 new state rules. The board will consider the adoption of this policy at the June 27 board meeting.

15 **Sunsetting 2017 Policy for Use-Based Tap Fee Calculation** – Mr. Cowles presented a
16 memorandum and the Policy for Use-Based Tap Fee Calculation, copies of which are attached hereto
17 as **Exhibits J** and **K**, respectively, and incorporated herein by this reference. He recommended the
18 board sunset this policy, which was adopted by the board on Dec. 6, 2017, because it has not been
19 put into practice since its inception and the methodology is no longer necessary. The board will
20 consider sunsetting this policy at the June 27 board meeting.

21 **Amended Tap Fee Policy for Public Use Facilities** – Mr. Cowles presented the draft amended Tap
22 Fee Policy for Public Use Facilities, a copy of which is attached hereto as **Exhibit L** and incorporated
23 herein by this reference. He recommended the board amend the original policy, which was adopted
24 by the board on Jun. 26, 2008, by removing references to “Plant Investment Fee.” He further
25 recommended retaining the provision requiring tap fees from public use facilities to avoid inequities
26 resulting from incongruent boundaries between a public entity and the Authority. The board will
27 consider this amended policy at the June 27 board meeting.

GENERAL MANAGER REPORT

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

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

9 **RESOLVED** to authorize a financial commitment in the amount of 62% of a \$1 million joint
10 contribution with the Eagle River Water & Sanitation District to support the Shoshone Water
11 Right Preservation Campaign, funded from the 2025, 2026, and 2027 annual budgets subject
12 to future appropriations, and conditioned upon the Colorado River District fulfilling its
13 purchase contingencies, and further conditioned upon the Eagle River Water & Sanitation
14 District authorizing a financial commitment for the remaining 38% of the joint contribution.

15 **BUSINESS ADMINISTRATION REPORT**

16 Mr. Norris did not have a written report or further items to discuss.

17 **Quarterly financials**– Mr. Cannava presented the report, a copy of which is attached hereto as
18 **Exhibit O** and incorporated herein by this reference. He said Q1 financials are tracking to budget and
19 operating revenues are favorable despite a decrease in consumption. He also discussed variances in
20 emergency service repair expenses and the effects of 2023 net income carryforwards on approved
21 2024 projects.

22 **OPERATIONS REPORT**

23 Mr. Zachman presented the report, a copy of which is attached hereto as **Exhibit P** and incorporated herein
24 by this reference. He had no further items to discuss.

25 **ENGINEERING AND WATER RESOURCES REPORT**

26 Mr. Cowles presented the report, a copy of which is attached hereto as **Exhibit Q** and incorporated herein by
27 this reference. Mr. Cowles discussed the “CMC Student Housing Building 3” project in the Development
28 Report and said staff is reviewing Berry Creek’s water rights to determine the necessary dedication. Director
29 Underwood thanked staff for the expanded information in the Development Report and requested it be
30 updated to reflect the unannexed status of the State Land Board parcel. Mr. Cowles also said he is serving on
31 the advisory committee for Eagle County’s land use code reform project and provided an update on the
32 process. Director Kerwin thanked him for serving on this important committee. Finally, Mr. Cowles said the
33 Bolts Lake program manager, Black & Veatch, is developing a project schedule, a Request for Proposals
34 (RFP) for the Final Design Team, and a purpose and need statement for permitting.

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1 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

2 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit R** and incorporated herein
3 by this reference. She reminded the board of the May 29 “State of the River” meeting and briefly discussed
4 upcoming bill signings for legislation sponsored by Sen. Roberts and Rep. Lukens. She also provided updates
5 on relevant legislation, including HB24-1463, Restrictions on Tap Fees, which was heavily amended and
6 passed in the House and Senate. Ms. Moseley said Ms. Johnson provided effective testimony in opposition to
7 this bill. Finally, Ms. Johnson discussed outreach campaigns to raise awareness of rate changes and
8 conservation efforts.

9 **WATER COUNSEL REPORT**

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

11 **GENERAL COUNSEL REPORT**

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

13 **EXECUTIVE SESSION**

14 Ms. Moseley requested the board move into Executive Session to receive legal advice regarding Water Court
15 Case No. 23CW3205, pursuant to §24-6-402(4)(b), C.R.S. Upon motion duly made and seconded, it was
16 unanimously

17 **RESOLVED** to enter into Executive Session at 10:52 a.m. to receive legal advice regarding
18 Water Court Case No. 23CW3205, pursuant to §24-6-402(4)(b), C.R.S., with no electronic
19 record created as Ms. Moseley opined the contents of the discussion would contain privileged
20 attorney-client communications.*

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

25 **RESOLVED** to enter into Executive Session at 10:58 a.m. to receive legal advice regarding
26 Bolts Lake and Battle North/Minturn Case Nos. 21CW3029 and 21CW3030 and matters
27 related to title on property surrounding Bolts Lake, pursuant to §24-6-402(4)(b), C.R.S., with
28 no electronic record created as Ms. Winn opined the contents of the discussion would contain
29 privileged attorney-client communications.*

30 Open session resumed at 11:17 a.m. During the executive session, the board did not take any formal action
31 or discuss any matters not enumerated in §24-6-402(4), C.R.S.

32 **ACTION AS A RESULT OF EXECUTIVE SESSION**

33 The board continued discussion on appointing a representative to the EPRC Board of Directors. Ms. Moseley
34 said having the Board Chair serve as the representative creates important congruence with the other
35 leadership on the EPRC Board. Upon motion duly made and seconded, it was unanimously

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

ADJOURNMENT

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

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

FURTHER RESOLVED, that the meeting be adjourned at 11:17 a.m.

Respectfully submitted,

Secretary to the Meeting

**MINUTES APPROVED, FORMAL CALL, AND
NOTICE OF MEETING WAIVED**

Arrowhead Metropolitan District

Town of Avon

Beaver Creek Metropolitan District

Berry Creek Metropolitan District

EagleVail Metropolitan District

Edwards Metropolitan District

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

Kristin Moseley, Water Counsel

Kathryn Winn, General Counsel