

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**July 27, 2023**  
**MINUTES**

A regular meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held July 27, 2023, 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:**

Kate Burchenal  
Dick Cleveland  
Steve Coyer  
Sarah Smith Hymes  
Timm Paxson  
Rick Pylman  
Robert Warner, Jr.

**Also in attendance were:**

<u>District Staff</u>	27	Micah Schuette
Michael Beardsley	28	Hazel Selander
Tom Borawski	29	Dan Siebert
Jim Cannava	30	Tony Tawiah
Megan Cook	31	Brian Thompson
Jason Cowles	32	Mike Thompson
Allison Ebbets	33	Brad Zachman
Tim Friday	34	
Chris Giesting	35	<u>Consultants</u>
Robyn Janssen	36	Kristin Moseley, Somach Simmons & Dunn
Diane Johnson	37	Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
Jennie Koenig	38	
Niko Nemcanin	39	<u>Public</u>
David Norris	40	Tammy Baker
Chuck Owen	41	Rickie Davies
Siri Roman	42	James Dilzell
Jeffrey Schneider	43	Cliff Thompson

**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 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 12:00 p.m.

**INTRODUCTIONS**

Chair Cleveland welcomed Eagle County senior staff engineer Rickie Davies and other members of the public. Mr. Zachman introduced long-standing wastewater treatment supervisor Hazel Selander. Four new employees were then introduced: Mr. Zachman introduced wastewater treatment manager Chris Giesting; Ms. Selander introduced wastewater treatment operators Megan Cook and Tony Tawiah; Mr. Friday introduced GIS coordinator Jennie Koenig.

**PUBLIC COMMENT**

Chair Cleveland called for public comment and there was none.

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## ACTION ITEMS

**Consideration of Minutes** – The minutes of the Jun. 22, 2023, regular meeting were considered. Upon motion duly made and seconded, it was

**RESOLVED** that the minutes of the Jun. 22, 2022, regular meeting be accepted and hereby are approved as presented, with Director Pylman abstaining as he was not present at the meeting.

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

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

**Resolution Authorizing the Sale of Real Property, Granting Temporary Easement, and Entering into an Intergovernmental Agreement with Eagle County** – Mr. Schneider presented a

memorandum and the Resolution with its Exhibits A and B, copies of which are attached hereto as **Exhibits B** and **C**, respectively, and incorporated herein by this reference. He said the District and Eagle County negotiated an agreement whereby Eagle County would acquire a small parcel of right of way and a temporary easement in order to construct a new roundabout at the intersection of U.S. Highway 6 and Hillcrest Drive in west Edwards. In response to a question, he said this agreement will not affect the District's access to the Edwards wastewater facility. Upon motion duly made and seconded, it was unanimously

**RESOLVED** that Resolution 2023-07, Authorizing the Sale of Real Property, Granting Temporary Easement, and Entering into an Intergovernmental Agreement with Eagle County, with its Exhibits A and B, be approved and accepted as presented.

## INFORMATION REPORTS

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

## BOARD MEMBER INPUT

Chair Cleveland said a publicly noticed joint work session with the Authority board was held on Jun. 29 for a field visit of the Bolts Ditch diversion structure and the Bolts Lake site; Director Paxson attended on behalf of the District. Ms. Roman proposed scheduling another hike for interested directors.

## GENERAL MANAGER REPORT

Ms. Roman said the Authority board met earlier that day and requested a meeting between two Authority board members and two District board members to discuss a potential water lease. Upon consenting to this preliminary meeting, the board appointed Chair Cleveland and Director Smith Hymes to represent the District. Discussion of this topic resumed after executive session.

## BUSINESS ADMINISTRATION REPORT

**Quarterly financials** – Mr. Cannava presented the second-quarter financial report, a copy of which is attached hereto as **Exhibit G** and incorporated herein by this reference. He said that revenue and expenses from the first half of FY23 are tracking to budget, with water revenue slightly under budget

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1 due to a wet June. In response to a question, Mr. Norris said Eagle Master Lease expenses are  
2 greater than revenue due to sublease vacancies.

3 **Wildfire preparedness** – Mr. Siebert presented a PowerPoint, a copy of which is attached hereto as  
4 **Exhibit H** and incorporated herein by this reference. He reported on District wildfire mitigation  
5 protocols and highlighted achievements in staff training, community partnerships, and risk and  
6 resiliency assessment. Ms. Moseley then presented a memorandum with an attached draft bill from  
7 the Senate Legislative Counsel, a copy of which is attached hereto as **Exhibit I** and incorporated  
8 herein by this reference. She said Senator Bennet’s office informed District staff that a proposed  
9 Emergency Forest Watershed Program bill has been drafted to assist with wildfire response; the bill  
10 includes language consistent with what the Authority and District negotiated into the 2016 No Name  
11 and Spraddle Gulch wilderness bills. The board gave direction to communicate that the District  
12 supports the concepts of the proposed legislation.

13 **Rate restructure analysis** – Mr. Norris presented a PowerPoint, a copy of which is attached hereto  
14 as **Exhibit J** and incorporated herein by this reference. He also presented a functional spreadsheet  
15 constituting work product as defined by § 24-72-202(6.5)(a), C.R.S. He noted that the District’s  
16 representatives on the joint Water Conservation committee, Director Burchenal and Treasurer Coyer,  
17 supported the rate restructuring as presented at their Jul. 20 meeting.

18 In presenting the rate restructure analysis, Mr. Norris said per board direction in January,  
19 finance and water conservation staff have been evaluating the Authority and District’s current rate  
20 structure, particularly concerning the amount of water allocated in each billing tier and the inequity of  
21 multiplying the tier allotments by the customer account’s Single Family Equivalent (SFE), which  
22 results in homes with greater than 1 SFE that use water above Tier 1 paying less per 1,000 gallons  
23 than smaller homes for the same amount of water use. As such, analysis has focused on eliminating  
24 the SFE multiplier from the usage tiers used for billing and redesigning the tier allotments with a per  
25 1,000-gallon price to align with volumetric thresholds. He reminded directors that the SFE multiplier  
26 would continue to apply to fixed (base) rates, as larger homes require more infrastructure so those  
27 accounts would continue to pay more for monthly base rates than smaller homes.

28 With analysis complete for one of the six account types within the District and Authority’s  
29 billing system – *Individually Metered Residential* – Mr. Norris was seeking direction on the suggested  
30 rate methodology as rates are foundational to developing the proposed 2024 budget, which the board  
31 will review this fall. He then reviewed the District and Authority’s goal of reducing water use by 400  
32 acre-feet by 2026 and said a key component is permanent reductions by accounts using the  
33 proportionally highest amounts.

34 His comments then focused solely on the variable (usage) rate structure for *Individually*  
35 *Metered Residential* accounts; there are 8267 accounts of this type, which represent 82.8% of the  
36 total accounts, 37.8% of the total water SFEs, and 36.7% of the 2022 total billed consumption. He  
37 reviewed the number of SFEs, water use, and revenue in each community area, along with potential

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1 financial impacts of the new rate structure – particularly in larger homes with disproportionately high  
2 use. Homes with 2 or more SFEs are about 10% of this account type. Mr. Norris also highlighted that  
3 4,664 of these accounts (56.4%) are 1 SFE or smaller, so removing the SFE multiplier from tier  
4 allotments would have no effect on these accounts. He stated the importance of implementing an  
5 equitable rate structure, with stable revenues.

6 Upon discussion, the board supported the redesigned rates as presented and gave direction  
7 to incorporate this approach into the proposed 2024 budget. Mr. Norris said the joint Water  
8 Conservation committee will meet in August to review the analysis of *Irrigation Only* accounts and he  
9 will present a similar rate restructure analysis to the full board concerning those accounts. The  
10 remaining account types – commercial, multifamily, municipal, and mixed use – will be addressed in  
11 future iterations.

### 12 **OPERATIONS REPORT**

13 Mr. Zachman presented the report, a copy which is attached hereto as **Exhibit K** and incorporated herein by  
14 this reference. He said the Colorado Department of Public Health & Environment (CDHPE) issued a  
15 compliance advisory notice regarding the Jun. 10 sanitary sewer overflow in East Vail. He also said this notice  
16 is not a violation and staff has provided responses to CDHPE.

17 **Lions Ridge Loop water main break** – Mr. Nemcanin presented a PowerPoint, a copy of which is  
18 attached hereto as **Exhibit L** and incorporated herein by this reference. He reported on the Jul. 13  
19 water main break and said the main was repaired within 24 hours without any customers losing  
20 service or access to their property. He also recognized District and Town of Vail staff who worked  
21 collaboratively to close the intersection and isolate the break. In response to a question, Mr.  
22 Nemcanin said the cause of the break has not yet been determined. Directors thanked operations  
23 and communications staff for their quick responses.

### 24 **ENGINEERING AND WATER RESOURCES REPORT**

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

### 27 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

28 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit N** and incorporated herein  
29 by this reference. She provided a brief update on the Colorado River Drought Task Force and local drought  
30 monitoring.

### 31 **WATER COUNSEL REPORT**

32 Ms. Moseley presented a memorandum with the attached federal bill H.R. 4297, a copy of which is attached  
33 hereto as **Exhibit O** and incorporated herein by this reference. She said Reps. Neguse and Lamborn  
34 introduced H.R. 4297 into the U.S. House of Representatives and Sens. Bennet and Hickenlooper introduced  
35 S. 2156 into the U.S. Senate; the bills would amend the 2019 John D. Dingell, Jr. Conservation, Management,  
36 and Recreation Act to allow the District and Authority to use, maintain, and repair Bolts Ditch and its  
37 associated headgate within Holy Cross Wilderness. The Dingell Act currently applies exclusively to the Town

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1 of Minturn; this amendment is necessary to further the District and Authority's Bolts Lake project. Ms. Moseley  
2 said this legislation will likely be incorporated into an omnibus bill. She also provided an update on Bolts Lake  
3 water court cases, highlighting the stipulation with Town of Gypsum and comments from the Colorado Water  
4 Conservation Board.

### 5 **GENERAL COUNSEL REPORT**

6 The board noted Ms. Winn's privileged written report. She did not have any items for open session.

### 7 **EXECUTIVE SESSION**

8 Ms. Winn requested the board move into Executive Session to receive legal advice of counsel and discuss  
9 matters in negotiation related to Stillwater design and construction issues. While still in open session, Director  
10 Pylman said he was the planning and entitlement consultant on the Stillwater employee housing project, to  
11 which Ms. Winn said was not a legal conflict at this point. Upon motion duly made and seconded, it was  
12 unanimously

13 **RESOLVED** to enter into Executive Session at 2:43 p.m. to discuss matters related to  
14 Stillwater design and construction issues pursuant to §24-6-402(4)(b) and (e), C.R.S., with no  
15 electronic record created as Ms. Winn opined the contents of the discussion would contain  
16 privileged attorney-client communications.\*

17 The open session resumed at 3:18 p.m. During the executive session, the board did not take any formal  
18 action or discuss any matters not enumerated in §24-6-402(4), C.R.S.

### 19 **ACTION AS A RESULT OF EXECUTIVE SESSION**

20 The board did not take any action upon the resumption of open session. Directors continued to discuss the  
21 Authority board's meeting request that was raised during the General Manager's report. In response to a  
22 question, Ms. Roman said this preliminary meeting will be scheduled prior to the Aug. 24 board meetings.  
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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 3:24 p.m.

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Secretary to the Meeting

\*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.

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**Kathryn Winn, General Counsel**