

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**August 24, 2023**  
**MINUTES**

A special meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held August 24, 2023, at 1:00 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>	25	Micah Schuette
Jason Cowles	26	Shane Swartwout
Bryan Curtis	27	Brian Thompson
Allison Ebbets	28	Ivy Todd
Tim Friday	29	Jane Tucker
Jesse Hooker	30	Brad Zachman
Salma Huque	31	
Robyn Janssen	32	<u>Consultants</u>
Diane Johnson	33	Kristin Moseley, Somach Simmons & Dunn
Toby Kline	34	Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
David Norris	35	
Chuck Owen	36	<u>Public</u>
Siri Roman	37	James Dilzell, Eagle River Watershed Council
Kailey Rosema	38	Zoe Goldstein, Vail Daily
Jeff Schneider	39	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 Board Member of Arrowhead Metropolitan District, 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 1:30 p.m. He said this meeting was starting later than the noticed start time because the preceding joint meeting with the Authority board ran longer than scheduled.

**INTRODUCTIONS**

Chair Cleveland welcomed members of the public, including Eagle River Watershed Council executive director James Dilzell, who presented later in the meeting, and Vail Daily reporter Zoe Goldstein. Three new employees were introduced: Ms. Ebbets introduced water conservation analyst Salma Huque; Mr. Friday introduced plan review engineer Ivy Todd; Mr. Swartwout introduced seasonal facilities technician Toby Kline. Mr. Zachman also recognized Kailey Rosema, who was recently promoted to water systems manager.

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## PUBLIC COMMENT

Chair Cleveland called for public comment and there was none.

## ACTION ITEMS

**Consideration of Minutes** – The minutes of the Jul. 27, 2023, regular meeting were considered. Upon motion duly made and seconded, it was unanimously

**RESOLVED** that the minutes of the Jul. 27, 2022, regular meeting be accepted and hereby are approved as presented.

**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.

## INFORMATION REPORTS

Directors reviewed the development report, board committees, and Authority July meeting summary, copies of which are attached hereto as **Exhibits B, C, and D**, respectively, and incorporated herein by this reference. Regarding board committees, Ms. Roman said assigning a backup member to each committee will help staff schedule meetings if a primary committee member is unavailable. Discussion ensued regarding backup committee member assignments. Upon motion duly made and seconded, it was unanimously

**RESOLVED** that the board committees, as provided in Exhibit B, be amended to assign the following backup committee members to serve in the absence of a primary committee member: Chair Cleveland to Retirement; Treasurer Coyer to Water Quality; Director Smith Hymes to Budget, Audit, and Water Conservation; Director Pylman to Rules and Regulations; Director Paxson to Organizational Development; and Secretary Warner to Housing.

## BOARD MEMBER INPUT

Director Smith Hymes discussed wildfire mitigation that occurred near Metcalf Creek. She also asked about water quality testing on individual taps, to which Mr. Zachman said lead and copper testing is regularly conducted and customers may request additional testing on their taps. She also asked about updates regarding Eagle River Village Mobile Home Park (ERVMHP), to which Ms. Roman said any update would be directed to the Authority board because if the ERVMHP requested service, the Authority would address the matter. Chair Cleveland said a bench will be installed behind the Edwards Drinking Water Facility in memory of Shelley Simmons, the late wife of former District board chair and Authority director Bill Simmons, as Shelley walked on the path behind the facility daily. Finally, Chair Cleveland referred to the Authority board's request for a preliminary meeting about potential water lease options; he said this ad-hoc meeting was postponed so the full District board could discuss in executive session before representatives from both boards meet.

## EAGLE RIVER WATERSHED COUNCIL FUNDING REQUEST FOR FY 2024

Mr. Dilzell presented a letter to the chairs of the Authority and District boards and a PowerPoint, copies of which are attached hereto as **Exhibits E and F**, respectively, and incorporated herein by this reference. He thanked the District board for its long-standing support and provided an overview of ERWC programs.

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1 Specifically, he said the Water Quality Monitoring & Assessment Program (WQMAP) provides additive data to  
2 the sampling conducted by the Authority and District from a broader section of the Eagle River watershed. For  
3 FY 2024, ERWC is requesting the District board consider the same funding levels as FY 2023: \$25,000  
4 towards WQMAP and \$25,000 towards ERWC's general administration. Following Mr. Dilzell's presentation,  
5 Chair Cleveland said this funding request will be considered during the development of the FY 2024 budget.

### **GENERAL MANAGER REPORT**

7 Ms. Roman said she and Ms. Johnson were invited to meet with Rep. Neguse on Aug. 6 when he visited East  
8 Vail to discuss wildfire, forest remediation, and the impacts of wildfires on water supply. In response to a  
9 question, Mr. Zachman discussed the District's biosolid testing and said there is little evidence of PFAS-  
10 related risks. He also said staff will increase public outreach regarding the District's biosolid giveaway  
11 program. In response to another question, Ms. Moseley provided a brief update on federal wildfire legislation.  
12 Ms. Roman then reported on attending the Colorado Water Congress (CWC) summer conference and  
13 recognized Governor Polis and Colorado's congressional delegation for discussing collaborative approaches  
14 to water issues. Also at CWC, the District was invited to appoint a representative to serve on the state's  
15 Urban Landscape Water Conservation Task Force; Becky Mitchell, Colorado's Commissioner to the Upper  
16 Colorado River Commission, expressed interest in presenting about Colorado River issues; and staff from  
17 Sen. Bennet's office expressed interest in touring Bolts Ditch to learn more about the Bolts Lake project and  
18 relevant legislation. Ms. Roman also said she will facilitate a forum on water issues at the 2023 Special  
19 District Association Annual Conference in September; Chair Cleveland and Mr. Norris will present at a  
20 session highlighting the District as a case study for successful workforce housing programs.

### **BUSINESS ADMINISTRATION REPORT**

22 Mr. Norris did not have a written report or verbal updates other than the irrigation-only rate restructure  
23 analysis below.

24 **Irrigation-only rate restructure analysis** – Mr. Norris presented a memorandum and a PowerPoint,  
25 copies of which are attached hereto as **Exhibits G** and **H**, respectively, and incorporated herein by  
26 this reference. He also presented a functional spreadsheet constituting work product as defined by  
27 § 24-72-202(6.5)(a), C.R.S. He noted that the proposed restructure was reviewed and supported by  
28 the joint board Water Conservation committee.

29 Mr. Norris then referred to the board's direction from the Jan. 26 meeting to evaluate current  
30 rate structures to address inequities and make progress towards the District's water conservation  
31 goals. He also referred to the board's discussion at the Jul. 27 meeting affirming the strategy to  
32 modify rate methodologies on two of the six account types in 2023 – *Individually Metered Residential*  
33 and *Irrigation-Only* – and to analyze the remaining account types in 2024 (*Commercial, Multi-Family,*  
34 *Municipal, and Mixed Use*). Upon reminding the board of its support of the restructure on *Individually*  
35 *Metered Residential* accounts, Mr. Norris said he was seeking similar direction regarding *Irrigation-*  
36 *Only* accounts as developing the FY 2024 budget is predicated on rate methodologies.

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1 In presenting the proposed restructure, Mr. Norris said there are 383 *Irrigation-Only* accounts,  
2 primarily attributed to Homeowner, Condo, and Townhome Associations. While these are only 3.8%  
3 of the total accounts, they constitute 60.55% of the total consumptive use by all customers because  
4 *Irrigation-Only* accounts are exclusively outdoor use. Currently, there are three rate structures within  
5 the *Irrigation-Only* account type: Irrigation, Sprinkler, and Coverage Based. The proposed restructure  
6 would consolidate these accounts into one Coverage Based structure using a multiplier based on  
7 acres of irrigated area. Mr. Norris said this structure would be more consistent and equitable than the  
8 current tripartite system. He also said the proposed restructure would add year-round base rates to  
9 align with other account types. The current five-tiered Coverage Base allotment and pricing structure  
10 would be modified, with tiers 1-4 anchored to targeted percentages of water needed during peak  
11 season to supplement precipitation for irrigation. Any customer in Tier 5 would be overusing  
12 regardless of conditions.

13 Discussion ensued regarding community-specific irrigation data and the associated impacts  
14 of the restructure. In response to a question, Mr. Norris said customers would not experience  
15 significant cost increases in water rates if they avoid being in Tiers 4 and 5 by implementing  
16 reasonable changes to their outdoor watering in alignment with the water need analysis. In response  
17 to another question, he said staff will communicate these changes to the customers that will be most  
18 affected so that Associations can plan their 2024 budgets and irrigation practices accordingly. Further  
19 discussion ensued regarding community education on the purposes of the desired water savings,  
20 which include building resiliency to mitigate against the impacts of a warming climate. The board gave  
21 direction to incorporate this approach into the District's FY 2024 budget and thanked staff for their  
22 thoughtful data-driven work.

## 23 OPERATIONS REPORT

24 Mr. Zachman presented the report, a copy which is attached hereto as **Exhibit I** and incorporated herein by  
25 this reference. In response to a question, he provided a brief update on a recent emergency repair in Vail.

## 26 ENGINEERING AND WATER RESOURCES REPORT

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

29 **Colorado Green Business Network (CGBN) Gold Level Status** – Mr. Friday presented a  
30 memorandum, a copy of which is attached hereto as **Exhibit K** and incorporated herein by this  
31 reference. He said the District completed the requirements to achieve CGBN's gold level status and  
32 recognized former sustainability specialist Kira Koppel for leading this effort. He also said the  
33 preliminary results of the greenhouse gas (GHG) inventory recognized the District's operational  
34 efficiencies, including the reduction of GHG emissions by 3,121 metric tons over the past five years.

## 35 COMMUNICATIONS AND PUBLIC AFFAIRS REPORT

36 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit L** and incorporated herein  
37 by this reference. She had no further items to discuss.

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## WATER COUNSEL REPORT

Ms. Moseley had no items to discuss in open session.

## GENERAL COUNSEL REPORT

The board noted Ms. Winn's privileged written report. She had no items to discuss in open session.

## RECESS

Chair Cleveland called for a recess at 3:38 p.m. The meeting and recording resumed at 3:48 p.m. During this time, no public business was performed.

## EXECUTIVE SESSION

Mr. Norris requested the board move into Executive Session to discuss the purchase and sale of real property. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to enter into Executive Session at 3:48 p.m. to discuss the purchase and sale of real property pursuant to §24-6-402(4)(a), C.R.S., with an electronic record created and retained pursuant to §24-6-402(2)(d.5)(II)(E), C.R.S.

Ms. Moseley requested the board move into Executive Session to receive legal advice of counsel related to potential water lease options. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to enter into Executive Session at 4:37 p.m. to discuss matters related to potential water lease options pursuant to §24-6-402(4)(b), C.R.S., with no electronic record created as Ms. Moseley opined the contents of the discussion would contain privileged attorney-client communications.\*

Ms. Winn requested the board move into Executive Session to receive legal advice of counsel related to questions on land use powers. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to enter into Executive Session at 5:18 p.m. to discuss matters related to questions on land use powers pursuant to §24-6-402(4)(b), C.R.S., with no electronic record created as Ms. Winn opined the contents of the discussion would contain privileged attorney-client communications.\*

The open session resumed at 5:20 p.m. During the executive session, the board did not take any formal action or discuss any matters not enumerated in §24-6-402(4), C.R.S.

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

Ms. Winn referred to board discussion in executive session regarding the potential acquisition of office space and the economic savings from this purchase compared to the continued long-term leasing of the Traer Creek office space. As the current Traer Creek lease expires in Aug. 2024, staff requested direction for the General Manager to negotiate with the owner of the property located at 101 Eagle Road, Unit D, in EagleVail, for the purposes of entering into a purchase contract. Ms. Winn further noted the board's support of pursuing this acquisition under certain terms discussed during executive session. Upon motion duly made and seconded, it was unanimously

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1           **RESOLVED** to authorize the General Manager to enter into a purchase contract for the  
2           property located at 101 Eagle Road, Unit D1, in EagleVail, under the terms directed by the  
3           board.

## 4 5 **ADJOURNMENT**

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

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

11               **FURTHER RESOLVED**, that the meeting be adjourned at 5:24 p.m.

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16   Secretary to the Meeting  
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44 \*The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion in  
45 Executive Session not recorded constituted privileged attorney-client communications.  
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**Kathryn Winn, General Counsel**

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**Kristin Moseley, Water Counsel**