

Upper Eagle Regional Water Authority

Board of Directors Meeting

December 7, 2023

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held December 7, 2023, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation
3 District (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes
4 of the 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 Kevin Hillgren, Beaver Creek Metropolitan District
11 Tamra Underwood, Town of Avon
12 Kim Bell Williams, EagleVail Metropolitan District

The following Director was absent and excused:

14 Mike Trueblood, Edwards Metropolitan District

The following Alternate Director was present and acting:

16 Joanna Kerwin, Edwards Metropolitan District Alternate

Also in attendance were:

18 <u>District Staff</u>	29 Shane Swartwout
19 Jim Cannava	30 Brian Thompson
20 Jason Cowles	31
21 Sarah Crawford	32 <u>Consultants</u>
22 Tim Friday	33 Kristin Moseley, Somach Simmons & Dunn
23 Justin Hildreth	34 Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
24 Robyn Janssen	35
25 Diane Johnson	36 <u>Public</u>
26 David Norris	37 Eric Heil, Town of Avon Alternate
27 Chuck Owen	38 Mike Towler, Beaver Creek Metropolitan Authority Alternate
28 Siri Roman	

DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

41 The board noted it had received more than 72 hours prior to the meeting certain disclosures of potential conflicts of interest for the
42 following Directors indicating the following conflicts: Director Gregory disclosed that he occasionally undertakes minor development and
43 construction activities within the Authority's service area. Director Bell Williams disclosed that she is the Housing Director for Eagle
44 County and works with the Eagle County Housing and Development Authority Advisory Committee. Director Dreyer disclosed that he is a
45 board member and secretary of Bachelor Springs Homeowners' Association.

CALL TO ORDER

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

PUBLIC COMMENT

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

UPDATES ON PER- AND POLYFLUOROALKYL (PFAS) CLASS ACTION SETTLEMENT EXCLUSIONS

52 Ms. Roman recapped the Nov. 30 special joint meeting with the District board in which each board opted out
53 of certain PFAS class action settlements. She reported that the Authority has not received a ruling on its
54 objections and the Authority's exclusion affidavits have been filed.

ACTION ITEMS

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1 **Consideration of Minutes** – The minutes of the Oct 26, 2023, regular meeting and the Nov. 30,
2 2023, special joint meeting with the District board were considered. Upon motion duly made and
3 seconded, it was unanimously

4 **RESOLVED** that the minutes of the Oct. 26, 2023, regular meeting and the Nov. 30, 2023,
5 special joint meeting with the District board be accepted and hereby are approved as
6 presented, with Director Underwood and Alternate Director Kerwin abstaining on the
7 consideration of the Nov. 30 minutes as they were absent from this meeting.

8 **Resolution to Adopt 2024 Water Dedication Policy** – Ms. Moseley presented a memorandum and the
9 Resolution with an attached exhibit, copies of which are attached hereto as **Exhibits A and B**,
10 respectively, and incorporated herein by this reference. Discussion ensued regarding the water dedication
11 process and the nexus between the updated cash-in-lieu price and the anticipated construction costs of
12 Bolts Lake Reservoir. Upon motion duly made and seconded, it was unanimously

13 **RESOLVED** to approve and adopt Res. 2023-10, Adopting the 2024 Water Dedication Policy,
14 with its Exhibit A, as presented.

15 **Consideration of Fund Balance Policy** –Mr. Cannava and Mr. Norris presented a memorandum
16 and the policy, copies of which are attached hereto as **Exhibits C and D**, respectively, and
17 incorporated herein by this reference. A draft of this policy was presented to the board for review at
18 the Oct. 26 meeting. In response to a question, Mr. Norris said the six-month floor encompasses
19 three months of operating expenses to cover bond covenants and an additional three months
20 dedicated to operating reserves, which aligns with industry standards. Upon motion duly made and
21 seconded, it was unanimously

22 **RESOLVED** to approve and adopt the Fund Balance Policy, as presented.

23 **INFORMATION REPORTS**

24 Directors reviewed board committees and October meeting summary, copies of which are attached hereto as
25 **Exhibits E and F**, respectively, and incorporated herein by this reference. Chair Gregory said there was no
26 contract log to review as there were no new Authority contracts.

27 **BOARD MEMBER INPUT**

28 Discussion ensued regarding holding fewer board meetings in 2024 and scheduling board site visits. Chair
29 Gregory said former Authority chair Bill Simmons expressed appreciation for the dedication of the bench at
30 the Edwards Drinking Water Facility in honor of his late wife, Shelley.

31 **GENERAL MANAGER REPORT**

32 Ms. Roman presented the report, her letter to Avon Town Council (“Avon”) and Eagle Board of County
33 Commissioners (“BOCC”) dated Nov. 3, 2023, and a memorandum from Kathryn Winn dated Oct. 31, 2023,
34 copies of which are attached as **Exhibit G, H, and I**, respectively, and incorporated herein by this reference.
35 She discussed the recent work session with Avon and BOCC, which reinforced that the Authority cannot
36 make land use decisions and focused on collaboration to align planning decisions with water considerations.

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1 Director Underwood, Alternate Director Heil, and Alternate Director Kerwin said the meeting was productive
2 and commended staff for their informative presentation, particularly related to the disparity in water needed for
3 development in the Edwards Gap. Ms. Roman also provided updates on community presentations regarding
4 rate restructuring, and she thanked directors for their continued support.

5 **BUSINESS ADMINISTRATION REPORT**

6 Mr. Norris provided updates on the water conservation program, highlighting the individualized billing reports
7 and expanded WaterSmart alerts. Mr. Cannava provided updates on the enterprise water bond that was
8 approved by the board at the Oct. 26 meeting. In response to a question, he said the preliminary rating
9 indicators are positive and the anticipated closing date is Jan. 30, 2024. Mr. Norris also reported on the
10 District's purchase of office space in EagleVail and transition from its lease at Traer Creek.

11 **Draft Investment Policy** – Mr. Cannava and Mr. Norris presented a memorandum and the policy
12 draft, copies of which are attached hereto as **Exhibits J** and **K**, respectively, and incorporated herein
13 by this reference. Mr. Cannava said this draft is an update from the board policy originally adopted on
14 Aug. 25, 1994. He also said Chandler Asset Management updated the policy's legal requirements
15 and guiding principles. Directors requested additional language that clarifies certificates of deposit are
16 eligible only to the extent of each institution's FDIC insurance coverage. Directors also requested the
17 advising institutions be cited in the policy. Upon discussion, Mr. Norris requested the board consider
18 this policy for adoption at the next board meeting.

19 **OPERATIONS REPORT**

20 Ms. Roman presented the report, a copy of which is attached hereto as **Exhibit L** and incorporated herein by
21 this reference. She reported on repairs to a service line leak on Elk Horn in Bachelor Gulch. She also reported
22 on staff preparation for the triennial Compliance Evaluation Inspection of the District's wastewater program.

23 **Backflow Prevention and Cross- Connection Control (BPCCC) program update** – Mr. Swartwout
24 presented a PowerPoint, a copy of which is attached hereto as **Exhibit M** and incorporated herein by
25 this reference. He discussed the District's compliance with Colorado's BPCCC rule (Section 11.39 of
26 Regulation 11), which includes conducting hazard surveys on all non-single family residential
27 connections and extensive auditing by the Colorado Department of Public Health & Environment. He
28 also discussed the significant progress in the District's compliance, including surveying 100% of
29 compliance accounts and 95% of assemblies tested in 2023. He further highlighted improvements in
30 customer communication, process automation, data management, and penalty enforcement. The
31 board commended staff for being industry leaders in developing a model BPCCC program. Alternate
32 Director Kerwin recognized staff for their responsiveness and care in responding to a recent BPCCC
33 issue.

34 **ENGINEERING AND WATER RESOURCES REPORT**

35 Mr. Cowles presented report, a copy of which is attached hereto as **Exhibit N** and incorporated herein by this
36 reference. In reviewing the development report, he highlighted the new water service request by Gracious

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1 Savior Church and said staff is researching the property's history to determine the water dedication
2 requirement for the increased use. He also said the Authority's projected unallocated in-basin storage
3 includes the recent purchase of Eagle Park Reservoir Company stock equating to 25 acre-feet; this projection
4 will be updated when the lease with the Colorado River Water Conservation District is complete. He also
5 provided updates on the Authority's participation in the Shoshone Outage Protocol and on the development of
6 an updated Water Scarcity Plan. In response to a question, he and Alternate Director Heil discussed ongoing
7 considerations regarding water dedication on State Land Board parcels. In response to another question, he
8 provided a brief update regarding Edwards River Park.

9 **Bolts Lake Update** – Mr. Cowles and Mr. Hildreth presented a memorandum, with its attached project
10 schedule and grading plan, and a PowerPoint, copies of which are attached hereto as **Exhibits O** and **P**,
11 respectively, and incorporated herein by this reference. Mr. Hildreth provided updates on preliminary design,
12 program manager submissions, and groundwater modeling. He also reported on the firm yield analysis
13 supporting two points of diversion- from the Eagle River and from the existing diversion at Cross Creek.

14 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

15 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit Q** and incorporated herein
16 by this reference. She reported on the concurrent planning of Colorado River operations during the interim
17 period through 2026 as well as post-2026. She said the Bureau of Reclamation released its revised draft
18 Supplemental Environmental Impact Statement (draft SEIS) on Oct 25. The draft SEIS responds to last
19 winter's favorable hydrology and designates the Lower Basin plan, where they committed to conserve at least
20 1.5 million acre-feet of water by the end of 2024 and planned to conserve the rest of the 3 million acre-feet by
21 2026, as its proposed action. In response to the revised proposal, public comments may be submitted until
22 Dec.11, after which the BOR will release its final plan. She also said the Colorado River Drought Task Force
23 concluded its meetings on Dec. 1 and will publish its final report on Dec. 15. Finally, she reported on the
24 upcoming retirement of state engineer Kevin Rein.

25 **Proposed 2024 Regular Board Meeting Schedule** – Mr. Thompson presented a memorandum, a
26 copy of which is attached hereto as **Exhibit R** and incorporated herein by this reference. The board
27 supported condensing the schedule to ten regular meetings. A final regular board meeting schedule
28 will be included as an exhibit in the annual notice resolution that the board will consider at the Jan.
29 25, 2024, regular meeting.

30 **WATER COUNSEL REPORT**

31 **Eagle Park Reservoir Company Stock Transfer** – Ms. Moseley presented a memorandum with
32 attachments, a copy of which is attached hereto as **Exhibit S** and incorporated herein by this reference. She
33 reported on the completed transfer of 250 shares of Class A, Series 2, stock in the Eagle Park Reservoir
34 Company (EPRC) from the District to the Authority. She noted that staff and counsel thoroughly reviewed
35 historical records of EPRC stock certificates and EPRC's transfer requirements as this was the first stock
36 transfer in several years. She also said the EPRC board was informed of the transfer at its Dec. 5 quarterly

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1 meeting. She also reported on the pending lease of 50 acre-feet with the Colorado River Water Conservation
2 District and discussed the submission of an augmentation plan and other relevant water court processes.

3 **Non-Functional Turf Bill** – Ms. Moseley presented a memorandum and a draft bill “Concerning the
4 Conservation of Water in the State Through the Prohibition of Certain Landscaping Practices”, copies of
5 which are attached hereto as **Exhibits T** and **U**, respectively, and incorporated herein by this reference. Upon
6 discussion, directors unanimously agreed to take a position in support of the bill as the commercial turf
7 removal provisions align with the Authority’s landscape transformation efforts.

8 **GENERAL COUNSEL REPORT**

9 Ms. Winn recognized project manager Carter Keller for working with customers on amicable solutions to
10 easement concerns.

11 **EXECUTIVE SESSION**

12 Ms. Moseley requested the board move into Executive Session to receive legal advice regarding the status of
13 active water court cases. Upon motion duly made and seconded, it was unanimously

14 **RESOLVED** to enter into Executive Session at 10:24 a.m. to discuss matters regarding the
15 status of active water court cases pursuant to §24-6-402(4)(b), C.R.S., with no electronic
16 record created as Ms. Moseley opined the contents of the discussion would contain privileged
17 attorney-client communications.*

18 Ms. Moseley requested the board move into Executive Session to receive legal advice regarding Colorado
19 River Cooperative Agreement matters. Upon motion duly made and seconded, it was unanimously

20 **RESOLVED** to enter into Executive Session at 10:33 a.m. to discuss matters regarding
21 Colorado River Cooperative Agreement matters pursuant to §24-6-402(4)(b), C.R.S., with no
22 electronic record created as Ms. Moseley opined the contents of the discussion would contain
23 privileged attorney-client communications.*

24 Open session resumed at 10:45 a.m. During the executive session, the board did not take any formal action
25 or discuss any matters not enumerated in §24-6-402(4), C.R.S.

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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 10:46 a.m.

Respectfully submitted,

Secretary to the Meeting

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

Arrowhead Metropolitan Authority

Town of Avon

Beaver Creek Metropolitan Authority

Berry Creek Metropolitan Authority

EagleVail Metropolitan Authority

Edwards Metropolitan Authority

*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