

Upper Eagle Regional Water Authority

Board of Directors Meeting

January 25, 2024

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held January 25, 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:

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

Also in attendance were:

14	<u>District Staff</u>	25	Brian Thompson
15	Jim Cannava	26	Jane Tucker
16	Jason Cowles	27	Brad Zachman
17	Allison Ebbets	28	
18	Tim Friday	29	<u>Consultants</u>
19	Diane Johnson	30	Kristin Moseley, Somach Simmons & Dunn
20	David Norris	31	Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
21	Rajesh Patel	32	
22	Siri Roman	33	<u>Public</u>
23	Jeffrey Schneider	34	Mike Towler, Beaver Creek Metropolitan Authority Alternate

DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

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

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

CERTIFICATE OF APPOINTMENT

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45 Chair Gregory noted a resolution adopted by the Board of Directors of the Edwards Metropolitan District
46 (EMD Resolution), a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference.
47 The EMD Resolution appointed Joanna Kerwin as primary director and Mike Trueblood as alternate director,
48 both of whom have been administered oaths of office to serve on the Authority board.

PUBLIC COMMENT

49
50 Chair Gregory called for public comment and there was none.

ACTION ITEMS

51
52 **Consideration of Minutes** – The minutes of the Dec. 7, 2023, regular meeting were considered.

53 Upon motion duly made and seconded, it was unanimously

54 **RESOLVED** that the minutes of the Dec. 7, 2023, regular meeting be accepted and hereby
55 are approved as presented.

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1 **Resolution to Designate Location to Post Notice** – Mr. Thompson presented a memorandum and the
2 Resolution with an attached exhibit, copies of which are attached hereto as **Exhibits B and C**,
3 respectively, and incorporated herein by this reference. He said notices of public board meetings,
4 including specific agenda information where possible, would continue to be posted on the District’s
5 website pursuant to § 24-6-402(2)(c)(III), C.R.S. The board supported the 2024 regular meeting schedule,
6 as presented in the Resolution’s Exhibit A. Upon motion duly made and seconded, it was unanimously

7 **RESOLVED** to approve and adopt Res. 2024-01, Designating Location to Post Notice, with
8 its Exhibit A: 2024 Regular Meeting Schedule, as presented.

9 **Resolution to Designate the Official Custodian of Records & Adopting A Policy on Responding to**
10 **Open Records Requests** – Mr. Thompson presented a memorandum and the Resolution, copies of
11 which are attached hereto as **Exhibits D and E**, respectively, and incorporated herein by this reference.
12 He said the Resolution would appoint the Government Affairs Supervisor as the Official Custodian of
13 Records and update the Policy on Responding to Open Records Requests to cite Colorado Open
14 Records Act amendments enacted through SB23-286. Upon motion duly made and seconded, it was
15 unanimously

16 **RESOLVED** to approve and adopt Res. 2024-02, Designating the Official Custodian of
17 Records & Adopting A Policy on Responding to Open Records Requests, as presented.

18 **Resolution to Approve Water Supply Contract with the Colorado River Water Conservation District**
19 **(CRWCD)** – Ms. Moseley presented a memorandum and the Resolution with an attached exhibit, copies
20 of which are attached hereto as **Exhibits F and G**, respectively, and incorporated herein by this
21 reference. She referenced the authorization provided by the board on Oct. 26, 2023, for the General
22 Manager to negotiate a 50 acre-foot annual lease with CRWCD. In response to the Authority’s
23 application, CRWCD issued a pending Water Supply Contract, as presented in the Resolution’s Exhibit A.
24 Ms. Moseley said the Contract term is 40-years with a 35-year renewal and incorporates standard
25 CRWCD pricing and conditions. Upon motion duly made and seconded, it was unanimously

26 **RESOLVED** to approve and adopt Res. 2024-03, Approving a Water Supply Contract with
27 the Colorado River Water Conservation District, with its Exhibit A: Water Supply Contract No.
28 CW23008, as presented; and be it further

29 **RESOLVED** to authorize the General Manger to take actions necessary to execute this
30 contract.

31 **Updated Investment Policy** – Mr. Cannava presented a memorandum and the policy, copies of
32 which are attached hereto as **Exhibits H and I**, respectively, and incorporated herein by this
33 reference. A draft of this policy was presented to the board for review on Dec. 7, 2023. Based on
34 board direction, the policy was further revised with two provisions: 1) Listing the institutions delegated
35 by the Authority to support the development of the policy; and 2) Restricting certificates of deposit
36 (CDs) to 30% of the total investment portfolio, with a maximum of 5% per bank and limited to

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1 amounts covered by FDIC insurance. There were no further comments on this policy. Upon motion
2 duly made and seconded, it was unanimously

3 **RESOLVED** to approve and adopt the updated Investment Policy, as presented.

4 **Consideration of easements and easement vacations with Arrowhead Metropolitan District
5 and Vail Resorts** – Mr. Schneider presented a memorandum, as well as an easement, temporary
6 construction easement, and partial vacation of easement with Arrowhead Metropolitan District and an
7 easement modification agreement, temporary construction easement, and partial vacation of
8 easement with Vail Resorts, copies of which are attached hereto as **Exhibits J, K, L, M, N, O, and P,**
9 respectively, and incorporated herein by this reference. Discussion ensued regarding the impact of
10 these property conveyances on the Arrowhead Transmission Main Project, as referenced in Exhibit J.
11 Ms. Winn said the Authority bylaws require all easements be approved by the board. Directors agreed
12 that the board should continue to explicitly approve major easements and that authorizing the
13 General Manager to execute standard easements would create important efficiencies. Ms. Winn said
14 this direction would be incorporated into proposed bylaw amendments planned for board
15 consideration later in the year. Upon motion duly made, it was unanimously

16 **RESOLVED** to authorize staff to execute the attached easement, temporary construction
17 easement, and partial vacation and abandonment with Arrowhead Metropolitan District and the
18 easement modification agreement, temporary construction easement, and partial vacation and
19 abandonment with Vail Resorts.

20 **INFORMATION REPORTS**

21 Directors reviewed board committees and the draft December meeting summary, copies of which are
22 attached hereto as **Exhibits Q and R,** respectively, and incorporated herein by this reference. Chair Gregory
23 said there was no contract log to review because there were no new Authority contracts. Regarding vacancies
24 on certain board committees, Director Hillgren was nominated to serve on the joint water conservation
25 committee, Treasurer Dreyer was nominated as the backup on the joint water conservation committee, and
26 Director Kerwin was nominated as backup on the Authority audit and budget committees. Upon motion duly
27 made and seconded, it was unanimously

28 **RESOLVED** to approve and adopt the updated board committee list, as presented.

29 Further discussion ensued regarding the dissemination of draft meeting summaries. Directors agreed that
30 drafts of summaries may be distributed to member entities for inclusion in their public meeting packets prior to
31 the Authority board approving the summaries or the associated minutes.

32 **BOARD MEMBER INPUT**

33 Director Underwood reported on the Jan. 23 Avon Town Council work session with Traer Creek
34 representatives regarding potential amendments to the Village at Avon Planned Unit Development (PUD)
35 Guide. Discussion ensued regarding the PUD process, previous agreements involving Traer Creek, and the
36 Authority's major facilities policy.

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GENERAL MANAGER REPORT

Ms. Roman presented the report, a copy of which is attached as **Exhibit S** and incorporated herein by this reference. She discussed 2024 strategic priorities, including water affordability, development of Bolts Lake, wastewater regulatory compliance, and continued innovation as a modern utility. She also said she will schedule individual meetings with directors throughout the year.

Per- and polyfluoroalkyl substances (PFAS) class action settlement updates – Ms. Roman presented a memorandum from Water Quality Counsel Steve Bushong, a copy of which is attached as **Exhibit T** and incorporated herein by this reference. She said Mr. Bushong will continue to work with special PFAS counsel to confirm the Authority and District’s exclusions from the settlements referenced in Exhibit T.

BUSINESS ADMINISTRATION REPORT

Quarterly financial report – Mr. Cannava presented the report, a copy of which is attached hereto as **Exhibit U** and incorporated herein by this reference. In summarizing the preliminary 2023 year-end financials, he said overall revenues exceeded budget due largely to reducing the usage tier allotments.

Bond update – Mr. Cannava presented the report, a copy of which is attached hereto as **Exhibit V** and incorporated herein by this reference. He said Standard & Poor’s affirmed the Authority’s enterprise water bond with an “A” rating with positive commentary. He also said annual payments will be approximately \$150,000 lower per year than initial projections due to favorable market conditions. Directors thanked staff for their ongoing efforts to secure the Authority’s financial standing and stability.

Water conservation program update – Mr. Norris presented a memorandum from Allison Ebbets, a copy of which is attached hereto as **Exhibit W** and incorporated herein by this reference. There was no further discussion.

OPERATIONS REPORT

Mr. Zachman presented the report and a PowerPoint, copies of which are attached hereto as **Exhibit X** and **Y**, respectively, and incorporated herein by this reference. He reported on recent water main repairs in Wildridge, Arrowhead, and Beaver Creek. Directors commended staff for their resilient responses to these complex operational challenges, which were exacerbated by recent severe weather, and for their outstanding customer service.

ENGINEERING AND WATER RESOURCES REPORT

Mr. Cowles presented the report, a copy of which is attached hereto as **Exhibit Z** and incorporated herein by this reference. In response to a question, he said Gracious Savior Lutheran Church (the “Church”) had previously been issued an Ability to Serve Letter for 6.6 SFEs for modular classrooms; there is no evidence that the Church paid District or Authority impact fees and the Church has never been charged monthly service charges on these SFEs. Upon discussion, the board supported assessing impact fees on the Church’s housing project with Eagle County School District, as referenced in the Development Report. In response to a

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1 question regarding the Authority's unallocated in-basin supply, Mr. Cowles said the updated storage includes
2 the pending CRWCD lease for 50 acre-feet.

3 **Bolts Lake Reservoir updates** – Mr. Cowles said the Bolts Lake feasibility study was submitted to
4 the U.S. Bureau of Reclamation (USBR), the approval of which is required before the Authority and
5 District can apply for a USBR Small Storage Program grant. He also said a selection committee
6 recommended Black & Veatch be contracted as the Bolts Lake program manager. Discussion ensued
7 regarding funding strategies, potential grant opportunities, and the need for specialized grant
8 consultants. Ms. Moseley then reported on the federal Bolts Ditch Act. She said Congress must pass
9 legislation authorizing the Authority and District to use, maintain, and repair Bolts Ditch and its
10 headgate, which are located within the Holy Cross Wilderness and will be essential to filling Bolts
11 Lake. Ms. Roman said she will testify in support of the Bolts Ditch Act at the Jan. 31 hearing before
12 the U.S. House Subcommittee on Federal Lands of the Committee on Natural Resources. Mr. Cowles
13 said the U.S. Forest Service submitted a referral response on this legislation to the Committee. Ms.
14 Moseley said the Town of Minturn continues to support the Bolts Ditch Act and their Town Manager,
15 Michelle Metteer, will attend the Committee hearing in unity. Ms. Moseley also said other local
16 entities, including the towns of Avon and Vail, have expressed interest in providing letters of support.

17 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

18 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit AA** and incorporated herein
19 by this reference. She mentioned adventure swimmer Matt Moseley, who raises awareness of various water
20 issues, presented at yesterday's town of Vail program and would speak at tomorrow's staff Lunch & Learn.
21 She then presented a preview of the 2024 Colorado legislative session, highlighting SB24-005, Prohibit
22 Landscaping Practices for Water Conservation, which was supported by the District and Authority boards at
23 their respective Dec. 7 meetings. She said a hearing on SB24-005 was scheduled for today before the Senate
24 Agriculture & Natural Resources Committee. Due to a conflict with today's board meeting, Ms. Moseley
25 arranged for an associate from her firm to testify in support of the bill on behalf of the Authority and District.
26 Ms. Moseley said Sen. Roberts, who is co-sponsoring the bill, expressed gratitude for this local
27 representation. Ms. Johnson also briefly discussed water-related draft bills proposed by the Water Resources
28 and Agriculture Review Committee that have been introduced, as well as the legislative recommendations by
29 the Colorado River Drought Task Force.

30 **Shoshone Water Right Preservation Campaign** – Ms. Johnson said she, Ms. Roman, Ms.
31 Moseley, and the chairs of the Authority and District boards attended the Dec. 19 celebration of the
32 Shoshone Purchase and Sales Agreement (PSA). She also said a coalition led by CRWCD is raising
33 funds for the water right purchase price of \$98.5 million, including a \$20 million request from the
34 Colorado Water Conservation Board (CWCB). Ms. Moseley said an associate from her firm will speak
35 in support of this request on behalf of the Authority and District at the Jan. 29 CWCB Board meeting.
36 Ms. Johnson also said the coalition has \$20 million pledged by CRWCD at their December meeting

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1 when they approved the PSA, and they are pursuing nearly \$50 million in federal funding and \$10
2 million from Western Slope entities, of which the Authority and District were original coalition
3 members. Ms. Roman said CRWCD asked to present a funding request to the Authority and District
4 boards. The board supported holding a special joint meeting with the District board on Feb. 22 to hear
5 the CRWCD presentation and then consider the request at a subsequent board meeting.

WATER COUNSEL REPORT

7 **Eagle Park Reservoir augmentation plan application** – Ms. Moseley presented a memorandum, a copy of
8 which is attached hereto as **Exhibit BB** and incorporated herein by this reference. She reminded the board of
9 the Authority's recent acquisitions of Eagle Park Reservoir water and the associated augmentation plan
10 requirements. She said the Authority filed an application for approval of an augmentation plan with the
11 Division 5 Water Court on Dec. 22, 2023, which must be published for two months to provide notice to
12 potential opposers.

13 **Colorado River Drought Task Force (Task Force)** – Ms. Moseley presented a memorandum, a copy of
14 which is attached hereto as **Exhibit CC** and incorporated herein by this reference. Upon discussion, directors
15 supported the concepts outlined in the eight Task Force recommendations presented in Exhibit CC.

GENERAL COUNSEL REPORT

17 Ms. Winn did not have a report or items to discuss.
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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 10:49 a.m.

8 Respectfully submitted,

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12 _____
13 Secretary to the Meeting

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

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19 _____
20 **Arrowhead Metropolitan Authority**

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24 **Town of Avon**

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28 **Beaver Creek Metropolitan Authority**

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32 **Berry Creek Metropolitan Authority**

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36 **EagleVail Metropolitan Authority**

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40 **Edwards Metropolitan Authority**

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