

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**May 26, 2022**  
**MINUTES**

A regular meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held May 26, 2022, at 1:00 p.m., in the Walter Kirch Room of the Eagle River Water & Sanitation District (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the state of Colorado.

**ATTENDANCE**

1 **The following Directors were present, thereby constituting a quorum:**

2 Kate Burchenal  
3 Dick Cleveland  
4 Steve Coyer  
5 George Gregory  
6 Timm Paxson  
7 Robert Warner Jr.

8 **The following Director was absent and excused:**

9 Rick Pylman

10

11 **Also in attendance were:**

12	<u>District Staff</u>	27	Dan Siebert
13	Jenna Beairsto	28	Jeff Schneider
14	Tom Borawski	29	Len Wright
15	Linn Brooks	30	Brad Zachman
16	Tug Birk	31	
17	Jason Cowles	32	<u>Consultants</u>
18	Sarah Crawford	33	Steve Bushong, Bushong & Holleman PC
19	Jesse Hooker	34	Kathryn Winn, Collins Cole Flynn Winn & Ulmer, PLLC
20	Diane Johnson	35	Kristin Moseley, Somach Simmons & Dunn
21	Kira Koppel	36	
22	Niko Nemcanin	37	<u>Public</u>
23	David Norris	38	Bill Simmons
24	Chuck Owen	39	Matt Stovall
25	Siri Roman	40	Kathleen Walsh
26		41	

42 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

43 The Board noted it had received more than 72 hours prior to the meeting certain disclosures of Potential Conflicts of Interest  
44 Statements for the following Directors indicating the following conflicts:

45 Director Burchenal disclosed that she is on the Eagle River Watershed Council board of directors. Director Gregory disclosed that  
46 he serves on the board of the Upper Eagle Regional Water Authority (Authority) and occasionally undertakes development and  
47 construction activities within the District and Authority service areas. Director Warner disclosed that he is a developer within the  
48 District's service area and serves on the Eagle County Planning Commission, which occasionally has dealings with the District.

49 **CALL TO ORDER**

50 Chair Cleveland called the meeting to order at 1:01 p.m.

51 **OATHS OF OFFICE**

52 Chair Cleveland administered oaths of office to reelected directors Burchenal, Coyer, and Paxson, copies  
53 of which are attached hereto as **Exhibits A, B, and C**, respectively, and incorporated herein by this  
54 reference. Ms. Johnson filed the certificate of appointments electronically with the Clerk and Recorder.

55 **TOUR VAIL OFFICE REMODEL**

56 Project manager Jenna Beairsto led directors on a tour of the newly renovated administrative offices.

57 **DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST**

58 Ms. Winn briefly reviewed her memo, a copy of which is attached hereto as **Exhibit D** and incorporated  
59 herein by this reference. She said her office would provide a questionnaire to each director, from which  
60 her office would prepare a letter to disclose any possible conflicts of interest for each director.

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## 1 ELECTION OF OFFICERS

2 Chair Cleveland noted Ms. Johnson's memo, a copy of which is attached hereto as **Exhibit E** and incorporated  
3 herein by this reference, which notes the offices and their responsibilities. The board discussed the positions  
4 and agreed to continue with the current officers. Upon motions duly made and seconded, it was unanimously

5 **RESOLVED** that Dick Cleveland serve as Chair.

6 **RESOLVED** that George Gregory serve as Secretary.

7 **RESOLVED** that Steve Coyer serve as Treasurer.

8 **RESOLVED** that Kate Burchenal, Timm Paxson, Robert Warner, Jr., and Rick Pylman  
9 serve as Assistant Secretary / Treasurer.

## 10 RECOGNITION OF OUTGOING DIRECTOR BILL SIMMONS

11 Chair Cleveland presented a Resolution and Proclamation recognizing Bill Simmons for his Dedication  
12 and Leadership, a copy of which is attached hereto as **Exhibit F** and incorporated herein by this  
13 reference, which was adopted unanimously by the Board. Mr. Simmons thanked board members and  
14 staff. Ms. Brooks expressed her gratitude for his leadership and presented him with a signed copy of the  
15 Resolution and a gift on behalf of the Board.

## 16 CONSULTANT/GUEST INTRODUCTION

17 There were no guest or consultant introductions.

## 18 PUBLIC COMMENT

19 Public comment was called for and there was none.

## 20 ACTION ITEMS

21 **Consideration of Minutes** – The minutes of the Apr. 28, 2022, regular meeting and joint meeting with  
22 the Upper Eagle Regional Water Authority were considered. Upon motion duly made and seconded, it  
23 was unanimously

24 **RESOLVED** that the minutes of the Apr. 28, 2022, regular meeting and joint meeting be  
25 accepted and hereby are approved as presented.

26 **Designate Representative to Eagle Park Reservoir Company** – Chair Cleveland noted Ms. Johnson's  
27 memo, a copy of which is attached hereto as **Exhibit G** and incorporated herein by this reference. After  
28 discussion, the board agreed to appoint Steve Coyer to represent the District on the EPRC board.

29 **Board Committee Appointments** – Directors reviewed Ms. Johnson's memo and the current committee  
30 members, copies of which are attached hereto as **Exhibits H & I**, respectively, and incorporated herein  
31 by this reference. Directors agreed to continue serving on committees as currently slated.

## 32 **PUBLIC HEARING: Claim of Easement, Das Shone and Buffehr Creek areas**

33 Chair Cleveland opened a public hearing at 1:42 p.m. to discuss the Claim of Easements on Real  
34 Property located within the Das Shone and Buffehr Creek areas, a copy of which is attached hereto as  
35 **Exhibit J** and incorporated herein by this reference. Mr. Birk requested approval for claim of easements  
36 on three parcels described therein and responded to questions about the process for notifying property  
37 owners and managing disputes. Chair Cleveland called for public comment. Ms. Johnson noted that an  
38 attorney for one of the affected property owners informed Mr. Birk prior to the meeting that he would  
39 attend and did not need to comment, though he was having technical difficulties with Teams. Mr. Birk said  
40 they were working through the issue. The public hearing was closed at 1:53 p.m.

41 Upon motion duly made and seconded, it was unanimously

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1           **RESOLVED** that the claim of easement on real property located within and around the Das  
2           Shone and Bueffhr Creek Subdivision be accepted and hereby is approved as presented, with  
3           Director Warner abstaining.

4           **Contract Log** – The board reviewed the contract log, a copy of which is attached hereto as **Exhibit K**  
5           and incorporated herein by this reference and approved as presented.

6           **Information Reports** – The board reviewed the development report and the Authority’s April meeting  
7           summary, copies of which are attached hereto as **Exhibits L and M**, respectively, and incorporated  
8           herein by this reference.

## 9           **STRATEGY ITEMS**

10          **Board Member Input** – Chair Cleveland asked for general input and there was none.

11          **Staffing Request** – Mr. Norris presented his memo, a copy of which is attached hereto as  
12          **Exhibit N** and incorporated herein by this reference and explained the need for two additional  
13          Customer Service Specialists and the creation of a Housing Program Manager. He said customer  
14          service staff has decreased due to the backflow prevention response while the number of  
15          customer calls has increased, due largely to increases in construction and transfers of service. In  
16          response to a question, Mr. Norris said the district does not have a transfer-of-service fee and  
17          agreed it could partially offset staff costs. Ms. Winn noted a new fee requires a public hearing with  
18          thirty days’ notice. The board directed Mr. Norris to provide a fee analysis at the June meeting  
19          with the intent to consider a new fee during a public hearing at the July meeting. The Board  
20          expressed concern with a property management function, noting others are getting out of that  
21          business, but given the District’s large employee housing stock, they support the direction.  
22          Directors said future projects and costs will need to be closely examined considering all the  
23          needs and potential costs to taxpayers and ratepayers. Mr. Norris noted some budget increases  
24          could be offset by administrative efficiencies and employee retention. The Board expressed a  
25          desire to coordinate solutions to the community housing crisis. After further discussion and upon  
26          motion duly made and seconded, it was unanimously

27               **RESOLVED** that the Staffing Request for three additional full-time employees be accepted  
28               and hereby is approved as presented.

29          **Housing Program Change** – Mr. Norris presented his memo, a copy of which is attached hereto  
30          as **Exhibit O** and incorporated herein by this reference concerning assisting employees with  
31          home purchases and adjusting the Employee Home Ownership Program (EHOP). Directors  
32          discussed deed restrictions, appreciation caps, and other programs that could improve the  
33          housing program. Directors were comfortable with delegating potential purchases for review by  
34          the housing subcommittee in lieu of full board approval.

## 35          **GENERAL MANAGER REPORT**

36          Ms. Brooks noted she did not include a written report. She acknowledged Mr. Norris and Ms. Johnson for  
37          their work related to resuming in-person meetings as the pandemic eased and post construction at the  
38          Vail office. She reported on the District’s COVID-19 guidance for employees and provided background  
39          information about the Colorado Water Congress, on which she serves as Board Chair. She said CWC  
40          may launch a campaign to rebuild its reserves and Ms. Brooks will follow-up on specific requests.

## 41          **BUSINESS ADMINISTRATION REPORT**

42          Mr. Norris noted he did not include a written report and had no oral updates.

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1           **Human Resources Update** – Mr. Borawski presented his report, a copy of which is attached  
2           hereto as **Exhibit P** and incorporated herein by this reference and shared various staffing  
3           challenges. Directors stated their continued commitment to addressing these issues.

## 4           **OPERATIONS REPORT**

5           Ms. Roman presented the operations report, a copy of which is attached hereto as **Exhibit Q** and  
6           incorporated herein by this reference. She mentioned the collaboration of staff, contractors, and Colorado  
7           Parks and Wildlife to create a suitable location on the Avon wastewater property for osprey to nest.

8           **Construction Cost and Market Update** – Mr. Schneider presented his memo along with a  
9           PowerPoint, copies of which are attached hereto as **Exhibits R and S**, respectively, and  
10          incorporated herein by this reference, concerning impacts to construction planning, timing, costs,  
11          procurement, and contracting, among other variables. He noted the success of projects  
12          associated with using alternative delivery (Integrated Project Delivery), such as Design-Build or  
13          construction manager at risk (CMAR), which helps to reduce risk. He also noted the importance  
14          of personal relationships in negotiating through these tough times.

## 15          **ENGINEERING AND WATER RESOURCES REPORT**

16          Mr. Cowles presented his report, a copy of which is attached hereto as **Exhibit T** and incorporated herein  
17          by this reference. He discussed potential development in Wolcott and its various challenges. He noted  
18          Eagle Park Reservoir hit full pool earlier in the week and acknowledged water staff who operated the East  
19          Fork Pump Station to complete the fill. Also, conditions may allow to operate the Homestake Exchange.

## 20          **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

21          Ms. Johnson presented her report, a copy of which is attached hereto as **Exhibit U** and incorporated  
22          herein by this reference. She reminded directors of the Jun. 2 Eagle River Valley State of the River event  
23          to be held at Colorado Mountain College in collaboration with the Colorado River District.

## 24          **GENERAL COUNSEL REPORT**

25          Ms. Winn said she is working on the Minturn 1041 Intergovernmental Agreement.

## 26          **WATER COUNSEL REPORT**

27          Ms. Moseley reported HB22-1151, turf replacement program, passed and is slated to be signed by Gov.  
28          Polis. The act will provide \$2,000,000 to match local government programs for removing turf. The state  
29          speculation bill was killed and not resurrected. She noted a federal funding matching bill that provides  
30          \$20,000,000 for water infrastructure, which she'll continue to monitor.

## 31          **EXECUTIVE SESSION**

32          Mr. Bushong requested the Board enter Executive Session to receive legal advice of counsel concerning  
33          the Mill Creek Spill pursuant to §24-6-402(4)(b), C.R.S. He asked that no electronic record be made, as  
34          the discussion would be entirely privileged attorney-client communications. Upon motion duly made and  
35          seconded, it was unanimously

36                   **RESOLVED** to enter Executive Session at 4:09 p.m. to discuss spill-related matters  
37                   pursuant to §24-6-402(4)(b), C.R.S. with no electronic record created as Mr. Bushong  
38                   opined the contents of the discussion would contain privileged attorney-client  
39                   communications.\*

40          Ms. Moseley requested the Board continue Executive Session to receive legal advice of counsel and  
41          discuss negotiations related to Bolts Ditch and the Eagle River MOU pursuant to §24-6-402(4)(b) and (e)

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1 C.R.S. She asked that no electronic record be made, as the discussion would be entirely privileged  
2 attorney-client communications. Upon motion duly made and seconded, it was unanimously

3 **RESOLVED** to continue Executive Session at 4:15 p.m. to receive advice of counsel and  
4 discuss negotiations regarding Bolts Ditch and the Eagle River MOU pursuant to §24-6-  
5 402(4)(b) and (e) C.R.S. with no electronic record created as Ms. Moseley opined the  
6 contents of the discussion would contain privileged attorney-client communications.\*

7 Ms. Winn requested the Board continue Executive Session to receive legal advice of counsel concerning  
8 a water and sewer damages fund pursuant to §24-6-402(4)(b), C.R.S. She asked that no electronic  
9 record be made, as the discussion would be entirely privileged attorney-client communications. Upon  
10 motion duly made and seconded, it was unanimously

11 **RESOLVED** to continue Executive Session at 4:26 p.m. to receive advice of counsel about a  
12 water and sewer damages fund pursuant to §24-6-402(4)(b), C.R.S. with no electronic record  
13 created as Ms. Winn opined the contents of the discussion would contain privileged attorney-  
14 client communications.\*

15  
16 The regular meeting resumed at 4.55 p.m.

### 18 **ADJOURNMENT**

19 There being no further business to come before the Board, the meeting adjourned at 4.56 p.m.

20 Respectfully submitted,

21  
22  
23  
24 Secretary to the Meeting  
25