

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**July 28, 2022**  
**MINUTES**

A special meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held July 28, 2022, at 11:30 a.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**

**The following Directors were present and acting:**

Kate Burchenal  
Dick Cleveland  
Steve Coyer  
George Gregory  
Timm Paxson  
Rick Pylman  
Bob Warner

**Also in attendance were:**

<u>District Staff</u>	24	Jeffrey Schneider
Michael Beardsley	25	Micah Schuette
Tom Borawski	26	Brian Thompson
Linn Brooks	27	Christian Waszak
Jim Cannava	28	
Ray Dixon	29	<u>Consultants</u>
Jesse Hooker	30	Jim Collins, Collins Cole Flynn Winn & Ulmer PLLC
Diane Johnson	31	Kristin Moseley, Somach Simmons & Dunn
Kira Koppel	32	Glenn Porzak, Porzak Law LLC
Niko Nemcanin	33	
David Norris	34	<u>Public</u>
Rob Ringle	35	Cliff Thompson
Siri Roman		

**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 Statements for the following Directors indicating the following conflicts:

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

**CALL TO ORDER**

Having determined there was a quorum, Chair Cleveland called the meeting to order at 11:30 a.m.

**CONSULTANT/GUEST INTRODUCTION**

Ms. Roman introduced a new field operations employee: Fleet and Facilities Technician Christian Waszak.

**PUBLIC COMMENT**

Public comment was called for and there was none.

**PUBLIC HEARING**

Mr. Norris presented a memorandum, a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference. In response to a question, Mr. Norris explained that transfer fees will be ascribed to title companies because the District incurs costs resulting from real estate transactions regardless of whether closing occurs or not. In response to another question, he noted that faulty meters are not included in the new fees. He said the

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1 fees being considered would cover costs directly from customers receiving services rather than such costs being  
2 distributed across all ratepayers. Chair Cleveland opened the public hearing and called for comment. Hearing  
3 none, he then closed the public hearing. Mr. Norris presented the Resolution Concerning Certain Water Service  
4 Fees (Res. No. 2022-06), a copy of which is attached hereto as **Exhibit B**. Upon motion duly made and  
5 seconded, it was unanimously

6 **RESOLVED** that the Resolution Concerning Certain Water Service Fees be approved and  
7 adopted as presented, with Treasurer Coyer not voting as he was not yet at the meeting.

### 8 **ACTION ITEMS**

9 **Consideration of Minutes** – The minutes of the June 23, 2022, regular meeting were  
10 considered. Upon motion duly made and seconded, it was unanimously

11 **RESOLVED** that the minutes of the June 23, 2022, regular meeting be accepted and  
12 hereby are approved, with Treasurer Coyer not voting as he was not yet at the meeting.

13 **Contract Log** – The board reviewed the contract log, a copy of which is attached hereto as  
14 **Exhibit C** and incorporated herein by this reference. In response to a question, Mr. Schneider  
15 clarified that the Bolts Lake contract encompasses permitting and geotechnical services. Upon  
16 motion duly made and seconded, it was unanimously

17 **RESOLVED** that the contract log be accepted and hereby is approved, with Treasurer  
18 Coyer not voting as he was not yet at the meeting.

19 **Information Reports** – The Board reviewed the development report, board committees, and the  
20 Authority June meeting summary, copies of which are attached hereto as **Exhibits D, E, and F**,  
21 respectively, and incorporated herein by this reference. In response to a question about Exhibit D,  
22 Mr. Schuette explained that Projected Water Demand Annual Acre-Feet Augmentation includes  
23 additional water not covered otherwise in the project commitment.

### 24 **STRATEGY ITEMS**

25 Chair Cleveland asked for general input from directors. Director Warner expressed concerns about the  
26 amount of water that will be used once hard tennis courts are converted to clay.

27 **RECESS** – Chair Cleveland called for a recess at 12:05 p.m. The meeting and recording resumed at  
28 12:34 p.m. During this time, no public business was performed.

29 **WATER BUDGETING AND DROUGHT CASE STUDY** – Ms. Brooks presented a PowerPoint, a copy of  
30 which is attached hereto as **Exhibit G** and incorporated herein by this reference. She reported on her visit  
31 to the Las Virgenes (CA) Municipal Water District. Based on data and observations of their water  
32 budgeting program, Ms. Brooks noted the effectiveness of budgeting when implemented with rationales,  
33 enforcement policies, and customer messaging that are transparent and consistent. While the drought  
34 conditions in Las Virgenes are more critical than the District's service area, directors discussed parallels  
35 to the case study's budget calculation factors and outreach strategies.

### 36 **GENERAL MANAGER REPORT**

37 Ms. Brooks had no further items.

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## 1 **BUSINESS ADMINISTRATION REPORT**

2 **Quarterly Financial Report** – Mr. Norris introduced Finance Manager Jim Cannava, who  
3 presented the report, a copy of which is attached hereto as **Exhibit H** and incorporated herein by this  
4 reference.

## 5 **OPERATIONS REPORT**

6 Ms. Roman presented the report, a copy of which is attached hereto as **Exhibit I** and incorporated herein  
7 by this reference. She said water production and wastewater flows since early May are lower than the  
8 same period in 2021. She introduced Field Operations Manager Niko Nemancin, who reported on recent  
9 emergency responses in Vail and Cordillera.

## 10 **ENGINEERING AND WATER RESOURCES REPORT**

11 Ms. Brooks presented Mr. Cowles' report, a copy of which is attached hereto as **Exhibit J** and  
12 incorporated herein by this reference.

## 13 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

14 Ms. Johnson reported on the success of the Hydration Station at the Vail Farmers' Market. She also  
15 reported that feedback to Ms. Brooks' July 20 letter to customers urging permanent water use reductions  
16 due to warming temperatures and diminishing supplies has been primarily positive, though some  
17 customers oppose using the phrase "climate change."

## 18 **GENERAL COUNSEL REPORT**

19 Mr. Collins reported that progress is being made with Minturn on a 1041 intergovernmental agreement.

## 20 **WATER COUNSEL REPORT**

21 Ms. Moseley had no further items for open session.

## 22 **EXECUTIVE SESSION**

23 Mr. Porzak requested the Board enter Executive Session to receive legal advice of counsel related to  
24 Colorado River Cooperative Agreement matters. Upon motion duly made and seconded, it was  
25 unanimously

26 **RESOLVED** to enter into Executive Session at 2:15 p.m. to discuss Colorado River  
27 Cooperative Agreement matters pursuant to §24-6-402(4)(b), C.R.S, with no electronic  
28 record created as Mr. Porzak opined the contents of the discussion would contain  
29 privileged attorney-client communications\*

30 Mr. Collins requested the Board continue Executive Session to receive legal advice of counsel related to  
31 establishing a no-fault damages program. Upon motion duly made and seconded, it was unanimously

32 **RESOLVED** to enter into Executive Session at 2:22 p.m. to discuss establishing a no-  
33 fault damages program pursuant to §24-6-402(4)(b), C.R.S, with no electronic record  
34 created as Mr. Collins opined the contents of the discussion would contain privileged  
35 attorney-client communications\*

36 Ms. Moseley requested the Board continue Executive Session to receive legal advice of counsel related  
37 to the Mill Creek spill. Upon motion duly made and seconded, it was unanimously

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1           **RESOLVED** to enter into Executive Session at 2:37 p.m. to discuss the Mill Creek spill  
2           pursuant to §24-6-402(4)(b), C.R.S, with no electronic record created as Ms. Moseley  
3           opined the contents of the discussion would contain privileged attorney-client  
4           communications\*

5           Ms. Moseley requested the Board continue Executive Session to receive legal advice of counsel related  
6           to diligence for Red Sandstone Reservoir. Upon motion duly made and seconded, it was unanimously

7           **RESOLVED** to enter into Executive Session at 2:50 p.m. to discuss diligence for Red  
8           Sandstone Reservoir pursuant to §24-6-402(4)(b), C.R.S, with no electronic record  
9           created as Ms. Moseley opined the contents of the discussion would contain privileged  
10          attorney-client communications\*

11          Mr. Collins requested the Board continue executive session to discuss the acquisition of property and to  
12          receive legal advice of counsel related to employee housing. Upon motion duly made and seconded, it  
13          was unanimously

14          **RESOLVED** to enter into Executive Session at 2:58 p.m. to discuss the acquisition of  
15          property and to receive legal advice of counsel related to employee housing pursuant to  
16          §§24-6-402(4)(a) and (b), C.R.S, with no electronic record created as Mr. Collins opined  
17          the contents of the discussion would contain privileged attorney-client communications\*

18          The open meeting resumed at 3:22 p.m. During the Executive Session, the Board did not take any formal  
19          action or discuss any matters not enumerated in §24-6-402(4), C.R.S.

### 20          **NO-FAULT DAMAGES PROGRAM**

21          Mr. Collins presented the Joint Resolution Establishing a No-Fault Damages Program, a copy of which is  
22          attached hereto as **Exhibit K** and incorporated herein by this reference. Upon motion duly made and  
23          seconded, it was unanimously

24          **RESOLVED** that Board approve and accept the Joint Resolution Establishing a No-Fault  
25          Damages Program, conditioned upon the Authority's corresponding approval.

### 26          **DILIGENCE ON RED STANDSTONE RESERVOIR**

27          Ms. Moseley discussed the upcoming diligence on Red Sandstone Reservoir. Upon discussion and  
28          motion duly made and seconded, it was unanimously

29          **RESOLVED** that Water Counsel is directed to forego applying for a finding of reasonable  
30          diligence for Red Sandstone Reservoir and abandon the conditional water right.

# Eagle River Water & Sanitation District

1 **ADJOURNMENT**

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

4 **RESOLVED**, that the signing of the minutes of this meeting shall be deemed to constitute  
5 full 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 3:26 p.m.

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Secretary to the Meeting

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29 \*The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion  
30 in Executive Session not recorded constituted privileged attorney-client communications.

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36 **Jim Collins, General Counsel**

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36 **Kristin Moseley, Water Counsel**

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41 **Glenn Porzak, Special Water Counsel**

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