

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**October 27, 2022**  
**MINUTES**

A special meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held October 27, 2022, at 12:00 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  
George Gregory  
Timm Paxson  
Rick Pylman  
Bob Warner

**Also in attendance were:**

<u>District Staff</u>	28	Chuck Owen
Tom Borawski	29	Siri Roman
Linn Brooks	30	Tracy Rymph
Sarah Brown	31	Jeffrey Schneider
Jim Cannava	32	Brian Thompson
Jason Cowles	33	Kelsey Wren
Tim Friday	34	Brad Zachman
Karina Gonzalez	35	
Jesse Hooker	36	<u>Consultants</u>
Diane Johnson	37	Kristin Moseley, Somach Simmons & Dunn PC
Ali Kelkenberg	38	Glenn Porzak, Porzak Law LLC
Kira Koppel	39	Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
John Letourneaux	40	
Jennifer Morales	41	<u>Public</u>
Niko Nemcanin	42	Tammy Baker
David Norris	43	James Dilzell, Eagle River Watershed Council
	44	

**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 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 12:00 p.m.

**CONSULTANT/GUEST INTRODUCTION**

Four new employees were introduced: Mr. Norris introduced front desk administrative assistant Sarah Brown, District housing administrator John Letourneaux, and customer service specialists Karina Gonzalez and Jennifer Morales.

**PUBLIC COMMENT**

Public comment was called for and there was none.

**PUBLIC HEARING**

Chair Cleveland opened the public hearing. Ms. Rymph presented a memorandum, a copy of which is attached hereto as **Exhibits A** and incorporated herein by this reference. She said employees received

846 Forest Road

Vail, Colorado 81657

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1 notice of the hearing as required by statute; one comment was received in support of declining  
2 participation. She also said to her knowledge no special districts or local municipalities in Eagle County  
3 are opting into the FAML I program. A call for public input solicited no response. Chair Cleveland closed  
4 the public hearing. Ms. Rymph presented the Resolution Declining Participation in the Family and Medical  
5 Leave Insurance (FAML I) Program, a copy of which is attached hereto as **Exhibits B** and incorporated  
6 herein by this reference. Upon motion duly made and seconded, it was unanimously

7 **RESOLVED** that the Board approve the Resolution Declining Participation in the FAML I Program  
8 as presented because current policies provide comparable leave benefits without requiring the  
9 District and its employees remit premiums into a new state program.

### 10 **ACTION ITEMS**

11 **Consideration of Minutes** – The minutes of the September 21, 2022, special meeting were  
12 considered. Upon motion duly made and seconded, it was unanimously

13 **RESOLVED** that the minutes of the September 21, 2022, special meeting be accepted  
14 and hereby are approved as presented.

15 **Consideration of Minutes** – The minutes of the September 22, 2022, special meeting were  
16 considered. Upon motion duly made and seconded, it was unanimously

17 **RESOLVED** that the minutes of the September 22, 2022, special meeting be accepted  
18 and hereby are approved as presented.

19 **Contract Log** – The board reviewed the contract log, a copy of which is attached hereto as  
20 **Exhibit C** and incorporated herein by this reference. Upon motion duly made and seconded, it  
21 was unanimously

22 **RESOLVED** that the contract log be accepted and hereby is approved as presented.

23 **Consideration of weather modification program participation**– Mr. Cowles presented a  
24 memorandum, a copy of which is attached hereto as **Exhibit D** and incorporated herein by this  
25 reference. After discussion, directors supported contributing \$15,000 to the program as budgeted  
26 for the 2022-23 winter season and then reevaluating future participation.

### 27 **INFORMATION REPORTS**

28 Directors reviewed the development report, board committees, and Authority September meeting  
29 summary, copies of which are attached hereto as **Exhibits E, F, and G**, respectively, and incorporated  
30 herein by this reference.

### 31 **STRATEGY ITEMS**

32 **Board Member Input** – Chair Cleveland asked for general input. Director Warner suggested a  
33 work session on service to new development and associated policies, plus budget-related  
34 sessions to allow for more explanation and understanding; all directors agreed. Secretary  
35 Gregory said the Authority board discussed at its morning meeting the process and potential  
36 issues related to full unification and partial unification, where Authority member entities would

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1 include into the District, and whether the District would accept partial unification and its various  
2 complicating issues. Also, the Authority board directed counsel to further investigate the issues.

3 **Work session: Proposed FY 2023 Budget** – Mr. Cannava and Mr. Norris presented a  
4 memorandum, a copy of which is attached hereto as **Exhibit H** and incorporated herein by this  
5 reference. In response to a question, Mr. Norris gave an overview of expense and income  
6 increases in the Employee Housing Fund. Chair Cleveland expressed concern with the cost and  
7 limited return on the potential solar project. Ms. Brooks, Mr. Schneider, and Ms. Koppel offered  
8 comments on the project and potential associated benefits. After discussion, directors supported  
9 holding a public hearing on the budget proposal at its Nov. 17 meeting.

10 **Work session: Water Dedication Policy** – Ms. Moseley presented a memorandum with the  
11 existing policy and Mr. Cowles presented a PowerPoint, copies of which are attached hereto as  
12 **Exhibit I and J**, respectively, and incorporated herein by this reference. Mr. Cowles described  
13 how the policy works as developers go through the land use entitlement process and discussed  
14 the resulting water rights needs of various examples and the value of such rights. Directors  
15 supported three proposed changes to the current water dedication policy: 1) requiring a deposit  
16 for conditional commitment of water rights with a deadline for developers to complete the water  
17 dedication process; 2) increasing cash-in-lieu fees for summer and winter water and setting the  
18 fees at the same amount; and 3) revising the provision requiring payment of 120% of the water  
19 rights necessary for service for cash-in-lieu customers. Directors also discussed the importance  
20 of working with land use authorities and retaining flexibility to adjust cash-in-lieu fees on  
21 affordable and workforce housing. After discussion, directors supported voting on the adoption of  
22 an amended water dedication policy at its Nov. 17 meeting.

23 **Strategic Plan** – Ms. Brooks presented the Plan, a copy of which is attached hereto as **Exhibit K**  
24 and incorporated herein by this reference. She said the Plan provides a framework for staff to  
25 anchor work plans and goals. She also summarized the collaborative process for developing the  
26 Plan's guiding principles. Directors discussed the importance of this being a living document that  
27 adapts to changing visions and circumstances. After discussion, directors supported accepting  
28 the Plan as an internal working document.

### 29 **GENERAL MANAGER REPORT**

30 Ms. Brooks thanked board members for their engagement in the Compensation and Classification study.  
31 Ms. Roman noted the study had immediate impacts as several managers shared positive results such as  
32 higher interest in open positions and hiring more qualified candidates.

### 33 **BUSINESS ADMINISTRATION REPORT**

34 Mr. Norris presented the Quarterly Financial Report, a copy of which is attached hereto as **Exhibit L** and  
35 incorporated herein by this reference. He had no further items to discuss.

### 36 **OPERATIONS REPORT**

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1 Ms. Roman presented the report, a copy of which is attached hereto as **Exhibit M** and incorporated  
2 herein by this reference. Mr. Zachman provided updates on the community fluoridation program and  
3 said upgrades in instrumentation are needed. After discussion, directors supported continuing the  
4 voluntary program in accordance with its reporting requirements and standards.

### 5 **ENGINEERING AND WATER RESOURCES REPORT**

6 Mr. Cowles presented the report, a copy of which is attached hereto as **Exhibit N** and incorporated herein  
7 by this reference. He provided updates on water budgeting, Bolts Lake field investigations, the  
8 Homestake Creek transit study, and the Authority's unallocated water projections.

### 9 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

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

### 12 **WATER COUNSEL REPORT**

13 Ms. Moseley presented the Application to Make Conditional Water Rights Absolute and For Finding of  
14 Reasonable Diligence in Case No. 22CW3092, a copy of which is attached hereto as **Exhibit P** and  
15 incorporated herein by this reference. She said the Application would make additional portions of the  
16 Town of Vail Whitewater Park water rights absolute and noted staff assistance with documenting  
17 recreational use at the Park.

### 18 **GENERAL COUNSEL REPORT**

19 The board noted Ms. Winn's privileged written report. She had no items for open session.

### 20 **EXECUTIVE SESSION**

21 Mr. Porzak requested the board enter Executive Session to receive legal advice of counsel and discuss  
22 matters in negotiation related to Colorado River Cooperative Agreement issues. Upon motion duly made  
23 and seconded, it was unanimously

24 **RESOLVED** to enter into Executive Session at 3:07 p.m. to discuss Colorado River  
25 Cooperative Agreement issues pursuant to §24-6-402(4)(b) and (e), C.R.S, with no  
26 electronic record created as Mr. Porzak opined the contents of the discussion would  
27 contain privileged attorney-client communications.\*

28 Ms. Moseley requested the board continue Executive Session to receive legal advice of counsel and  
29 discuss matters in negotiation related to the Draft Amended and Restated Golden Peak Snowmaking  
30 Water Agreement with Ski and Snowboard Club Vail. Upon motion duly made and seconded, it was  
31 unanimously

32 **RESOLVED** to enter into Executive Session at 3:28 p.m. to discuss the Draft Amended  
33 and Restated Golden Peak Snowmaking Water Agreement with Ski and Snowboard Club  
34 Vail pursuant to §24-6-402(4)(b) and (e), C.R.S, with no electronic record created as Ms.  
35 Moseley opined the contents of the discussion would contain privileged attorney-client  
36 communications.\*

## Eagle River Water & Sanitation District

1 Ms. Moseley requested the board continue Executive Session to receive legal advice of counsel related  
2 to Camp Hale-Continental Divide National Monument implications. Upon motion duly made and  
3 seconded, it was unanimously

4 **RESOLVED** to enter into Executive Session at 3:37 p.m. to discuss Camp Hale-  
5 Continental Divide National Monument implications pursuant to §24-6-402(4)(b), C.R.S.,  
6 with no electronic record created as Ms. Moseley opined the contents of the discussion  
7 would contain privileged attorney-client communications.\*

8 Ms. Winn requested the board continue Executive Session to receive legal advice of counsel related to  
9 the employee 414(h) plan and social security limitations. Upon motion duly made and seconded, it was  
10 unanimously

11 **RESOLVED** to enter into Executive Session at 3:46 p.m. to discuss the employee 414(h)  
12 plan and social security limitations pursuant to §24-6-402(4)(b), C.R.S, with no electronic  
13 record created as Ms. Winn opined the contents of the discussion would contain  
14 privileged attorney-client communications\*

15 Ms. Brooks requested the board continue Executive Session to discuss a personnel matter related to an  
16 Employee Home Ownership Program loan by the Director of Business Administration pursuant to §24-6-  
17 402(4)(f), C.R.S. Upon motion duly made and seconded, it was unanimously

18 **RESOLVED** to enter into Executive Session at 4:24 p.m. to discuss an Employee Home  
19 Ownership Program loan by the Director of Business Administration pursuant to §24-6-  
20 402(4)(f), C.R.S.

21 The open session resumed at 4:46 p.m. During the executive session, the board did not take any formal  
22 action or discuss any matters not enumerated in §24-6-402(4), C.R.S.

### 23 **ACTIONS AS A RESULT OF EXECUTIVE SESSION**

24 Ms. Winn discussed aligning certain provisions in the 414(h) Plan Document with the employee Benefits  
25 Guide. Upon motion duly made and seconded, it was unanimously

26 **RESOLVED** that the board direct staff to align the 414(h) Plan Document with the  
27 employee Benefits Guide and present revisions for consideration by the board.

28 Ms. Brooks discussed exceeding the cap on the Employee Home Ownership Loan program to provide for  
29 a new loan application. Upon motion duly made and seconded, it was unanimously

30 **RESOLVED** that the board authorize the General Manager to exceed the cap on the  
31 Employee Home Ownership Loan program to provide for the new loan application that  
32 has been presented to her.

# 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 4:48 p.m.

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Secretary to the Meeting

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

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45 **Kristin Moseley, Water Counsel**

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47 **Glenn Porzak, Special Water Counsel**

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\_\_\_\_\_ **Kathryn Winn, General Counsel**