

Upper Eagle Regional Water Authority

Board of Directors Meeting

October 27, 2022

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held October 27, 2022, 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 (joined at 8:35 a.m.)
9 George Gregory, Berry Creek Metropolitan District
10 Sarah Smith Hymes, Town of Avon
11 Kim Bell Williams, EagleVail Metropolitan District (joined at 9:28 a.m.)
12 Mick Woodworth, Edwards Metropolitan District

The following Alternate Director was present and acting:

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14 Mike Towler, Beaver Creek Metropolitan District

The following Director was present but not acting:

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16 Kevin Hillgren, Beaver Creek Metropolitan District
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Also in attendance were:

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19 District Staff 32 Brian Thompson
20 Linn Brooks 33 Kelsey Wren
21 Jim Cannava 34 Brad Zachman
22 Jason Cowles 35
23 Tim Friday 36 Consultants
24 Jesse Hooker 37 Kristin Moseley, Somach Simmons & Dunn PC
25 Robyn Janssen 38 Glenn Porzak, Porzak Law LLC
26 Diane Johnson 39 Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
27 Niko Nemcanin 40
28 David Norris 41 Public
29 Chuck Owen 42 Melissa Nelson, Berry Creek Metropolitan District Alternate
30 Siri Roman 43 Mike Trueblood, Edwards Metropolitan District Alternate
31 Jeffrey Schneider 44 Bob Warner, Arrowhead resident
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DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

46 The board noted it had received more than 72 hours prior to the meeting certain disclosures of Potential Conflicts of Interest
47 Statements for the following Directors indicating the following conflicts:
48

49 Director Gregory disclosed that he serves on the board of the Eagle River Water & Sanitation District; also that he occasionally
50 undertakes small development and construction activities within the Authority and District service areas. Director Bell Williams
51 disclosed that she is the Eagle County Housing Director. Director Woodworth disclosed that he is employed by the Eagle River Fire
52 Protection District, which operates within the Authority's service area.
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CALL TO ORDER

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

INTRODUCTIONS

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57 Chair Gregory congratulated Ms. Roman on being selected as the next General Manager of the district
58 effective January 1, 2023. He also recognized project engineer Melissa Marts, who is relocating, and
59 commended her work on the nutrient upgrade project at the district's Avon wastewater treatment facility.

PUBLIC COMMENT

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61 Public comment was called for and there was none.

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ACTION ITEMS

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

RESOLVED that the minutes of the September 22, 2022, regular meeting be accepted and hereby are approved as presented.

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

INFORMATION REPORTS

Directors reviewed the development report, board committees, September meeting summary, and contract log, copies of which are attached hereto as **Exhibits B, C, D, and E**, respectively, and incorporated herein by this reference.

STRATEGY ITEMS

Board Member Input – Chair Gregory asked for general input. Secretary Dreyer said the Arrowhead metro board authorized him to communicate its support for unification of the authority and district and, short of complete unification, supports pursuing inclusion into the District. Chair Gregory and Mr. Warner said unification would create efficiencies across the interconnected water system and partial inclusion is a viable option if entities want to remain in the Authority. In response to a question, Ms. Winn explained the process involved with inclusion elections. Vice President Smith Hymes, Director Hillgren, and Alternate Director Trueblood said their respective metro boards remain opposed to a governing structure without appointed directors and suggested exploring other approaches. Upon discussion, directors supported having counsel work with staff to create an outline of relevant issues for the board to consider.

Work session: Proposed FY 2023 Budget – Mr. Cannava and Mr. Norris presented a memorandum, a copy of which is attached hereto as **Exhibit F** and incorporated herein by this reference. In response to a question, Mr. Norris said tier rates reflect use by typical customers. In answering another question, he said the District recently adopted a merit and cost-of-living adjustment policy that will impact the Authority's operating agreement. After discussion, directors supported holding a public hearing on the proposed budget at its Nov. 17 meeting.

Work session: Water Dedication Policy – Ms. Moseley presented a memorandum with the existing policy and Mr. Cowles presented a PowerPoint, copies of which are attached hereto as **Exhibit G and H**, respectively, and incorporated herein by this reference. Mr. Cowles described how the policy works as developers go through the land use entitlement process and discussed the resulting water rights needs of various examples and the value of such rights. Directors supported three proposed changes to the current water dedication policy: 1) requiring a deposit

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1 for conditional commitment of water rights with a deadline for developers to complete the water
2 dedication process; 2) increasing cash-in-lieu fees for summer and winter water and setting the
3 fees at the same amount; and 3) revising the provision requiring payment of 120% of the water
4 rights necessary for service for cash-in-lieu customers. Directors also discussed augmentation
5 needs on areas located in the Edwards Gap and the importance of retaining flexibility to adjust
6 cash-in-lieu fees on affordable and workforce housing. After discussion, directors supported
7 voting on the adoption of an amended water dedication policy at its Nov. 17 meeting.

GENERAL MANAGER REPORT

8 Ms. Brooks had no items to discuss.

BUSINESS ADMINISTRATION REPORT

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

OPERATIONS REPORT

11 Ms. Roman presented the report, a copy of which is attached hereto as **Exhibit J** and incorporated herein
12 by this reference. Mr. Zachman said operators identified an oil sheen at the top water level in Wildridge
13 Tank #2 during a routine periodic inspection, which they believe is associated with a contracted tank
14 inspection process. Sampling of the residual amounts did not raise any public health concerns and staff
15 reported it to the Colorado Department of Public Health and Environment.

ENGINEERING AND WATER RESOURCES REPORT

16 Mr. Cowles presented the report, a copy of which is attached hereto as **Exhibit K** and incorporated herein
17 by this reference. He said the Authority has about 52-acre feet of unrestricted Eagle Park Reservoir water
18 remaining for development, and that amount could change as a better understanding of remaining
19 unallocated water will be available after modeling is completed.

COMMUNICATIONS AND PUBLIC AFFAIRS REPORT

20 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit L** and incorporated
21 herein by this reference. She did not have any further items to discuss.

WATER COUNSEL REPORT

22 Ms. Moseley had no items for open session.

GENERAL COUNSEL REPORT

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

EXECUTIVE SESSION

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

27 **RESOLVED** to enter into Executive Session at 11:01 a.m. to discuss Colorado River
28 Cooperative Agreement issues pursuant to §24-6-402(4)(b) and (e), C.R.S., with no
29

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1 electronic record created as Mr. Porzak opined the contents of the discussion would
2 contain privileged attorney-client communications*

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

6 **RESOLVED** to enter into Executive Session at 11:20 a.m. to discuss Camp Hale-
7 Continental Divide National Monument implications pursuant to §24-6-402(4)(b), C.R.S.,
8 with no electronic record created as Ms. Moseley opined the contents of the discussion
9 would contain privileged attorney-client communications*

10 The open session resumed at 11:27 a.m. During the executive session, the board did not take any formal
11 action or discuss any matters not enumerated in §24-6-402(4), C.R.S.
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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
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 11:28 a.m.

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9 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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18 _____
19 **Arrowhead Metropolitan District**

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23 **Town of Avon**

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27 **Beaver Creek Metropolitan District**

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31 **Berry Creek Metropolitan District**

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35 **EagleVail Metropolitan District**

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39 **Edwards Metropolitan District**

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

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49 **Kristin Moseley, Water Counsel**

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51 _____
Glenn Porzak, Special Water Counsel