

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**November 17, 2022**  
**MINUTES**

A special meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held November 17, 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  
Bob Warner

**The following Director was absent:**

Rick Pylman

**Also in attendance were:**

|                       |    |  |
|-----------------------|----|--|
| <u>District Staff</u> | 34 | Jane Tucker  |
| Viktoria Beardsley    | 35 | Justin Way   |
| Tom Borawski          | 36 | Kelsey Wren  |
| Linn Brooks           | 37 | Brad Zachman                                       |
| Daniel Caffery        | 38 |  |
| Jim Cannava           | 39 | <u>Consultants</u>                                 |
| Jason Cowles          | 40 | Jim Collins, Collins Cole Flynn Winn & Ulmer PLLC  |
| Tim Friday            | 41 | Kim Crawford, Butler Snow LLP                      |
| Beth Hensel           | 42 | Dalton Kelly, Butler Snow LLP                      |
| Jesse Hooker          | 43 | Andrew Ma, Piper Sandler                           |
| Robyn Janssen         | 44 | Robyn Moore, Piper Sandler                         |
| Diane Johnson         | 45 | Kristin Moseley, Somach Simmons & Dunn             |
| Carter Keller         | 46 | Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC |
| Kira Koppel           | 47 | Dee Wisor, Butler Snow LLP                         |
| Niko Nemcanin         | 48 |  |
| David Norris          | 49 | <u>Public</u>                                      |
| Chuck Owen            | 50 | John Hale, Ski and Snowboard Club Vail             |
| Siri Roman            | 51 | Bryan Rooney, Ski and Snowboard Club Vail          |
| Jeffrey Schneider     | 52 | Rick Sackbauer, Vail resident                      |
| Brian Thompson        | 53 |  |

**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**

Chair Cleveland welcomed public attendees Mr. Hale, Mr. Rooney, and Mr. Sackbauer and bond consultants Ms. Crawford, Mr. Kelly, Mr. Ma, Ms. Moore, and Mr. Wisor. Ms. Johnson introduced two new employees: communications specialist Robyn Janssen and graphic design specialist Jane Tucker. Ms. Johnson thanked the board for supporting the growth of the Communications team.

# Eagle River Water & Sanitation District

## PUBLIC COMMENT

Public comment was called for and there was none.

## PUBLIC HEARING CONCERNING CERTIFICATION OF DELINQUENT ACCOUNTS

Chair Cleveland opened the public hearing. Mr. Norris presented a memorandum, a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference. Ms. Hensel said only one account is being certified due to diligent collections by the customer service team. She also said service discontinuation on delinquent accounts has been suspended since the beginning of the COVID-19 pandemic and will restart in 2023. Public input was called for and there was none. Chair Cleveland closed the public hearing. Mr. Norris presented the Resolution Certifying Delinquent Accounts for Collection by the County Treasurer, a copy of which is attached hereto as **Exhibit B** and incorporated herein by this reference. Upon motion duly made and seconded, it was unanimously

**RESOLVED** that the Resolution Certifying Delinquent Accounts for Collection by the County Treasurer be approved and adopted as presented.

## PUBLIC HEARING CONCERNING FY 2023 BUDGET

Chair Cleveland opened the public hearing. Mr. Norris introduced a memorandum and the Proposed FY 2023 Budget, copies of which are attached hereto as **Exhibit C** and **D**, respectively, and incorporated herein by this reference. The board noted discussion on the proposed budget at its Oct. 27 meeting. Public input was called for and there was none. Chair Cleveland closed the public hearing. Mr. Norris presented the Resolution to Adopt the 2023 Budget, Resolution to Set Mill Levies, Resolution to Appropriate Sums of Money, and the Certification of Budget, copies of which are attached hereto as **Exhibits E, F, G, and H**, respectively, and incorporated herein by this reference. Upon motions duly made and seconded, it was unanimously

**RESOLVED** that the Resolution to Adopt the 2023 Budget, Resolution to Set Mill Levies, and Resolution to Appropriate Sums of Money be and hereby are approved as presented.

The board further directed the Chair to sign the Certification of Budget as presented.

## PUBLIC HEARING CONCERNING INCREASING CERTAIN WASTEWATER AND WATER SERVICE RATES & FEES

Chair Cleveland opened the public hearing. Mr. Norris introduced a memorandum, a copy of which is attached hereto as **Exhibit I** and incorporated herein by this reference. The board noted discussion on the proposed rates and fees at its Oct. 27 meeting. In response to a question, Mr. Norris said the Fee Schedule has been amended to combine tampering and unauthorized use fees into one inclusive "Tampering and Unauthorized Use Fee." Public input was called for and there was none. Chair Cleveland closed the public hearing. Mr. Norris presented the Resolution Increasing Certain Wastewater and Water Service Fees & Rates with amended exhibits, a copy of which is attached hereto as **Exhibit J** and incorporated herein by this reference. Upon motion duly made and seconded, it was unanimously

**RESOLVED** that the Resolution Increasing Certain Wastewater and Water Service Fees & Rates be and hereby is approved as presented.

# Eagle River Water & Sanitation District

## ACTION ITEMS

1  
2 **Consideration of Amended and Restated Golden Peak Snowmaking Agreement with Ski**  
3 **and Snowboard Club Vail (SSCV)**– Ms. Moseley presented the proposed Agreement, a copy of  
4 which is attached hereto as **Exhibit K** and incorporated herein by this reference. The board noted  
5 discussion on the Agreement at its Oct. 27 meeting. Chair Cleveland recognized Mr. Sackbauer  
6 for public comment. Mr. Sackbauer said SSCV is the community’s oldest non-profit organization  
7 and continues to have critical impacts on local families and Vail’s international reputation. Chair  
8 Cleveland recognized Mr. Hale for public comment. Mr. Hale said SSCV has been challenged by  
9 warmer temperatures and changes in Vail’s early-season snowmaking. In response to a question,  
10 Ms. Winn said rates need to be uniform across similar types of uses. Directors unanimously  
11 agreed that continuing to charge SSCV rates below the costs to produce water creates an  
12 unreasonable burden on ratepayers. Directors discussed considering phased rate increases and  
13 supported establishing the base rate for water delivered to SSCV at an amount equivalent to the  
14 District’s Tier 1 – Irrigation Usage Rate for water service commencing January 1, 2023. The  
15 board also encouraged continued discussions between the District, SSCV, and Vail Resorts.  
16 Upon motion duly made and seconded, it was unanimously

17 **RESOLVED** that the Amended and Restated Golden Peak Snowmaking Agreement with  
18 Ski and Snowboard Club Vail be approved and accepted as presented.

19 **Resolution Authorizing the Issuance and Sale of Enterprise Wastewater Revenue Bonds –**  
20 Mr. Norris presented a memorandum and the Resolution with exhibits, copies of which are  
21 attached hereto as **Exhibits L** and **M**, respectively, and incorporated herein by this reference. Mr.  
22 Norris said the Resolution would authorize staff to move forward with the bond issuance process.  
23 In response to a question, he also said the largest Bond Term project is completing the Avon  
24 Wastewater Treatment Facility nutrient upgrades. In response to a question, Ms. Moore said  
25 rates will be slightly under 5%. She also provided updates on the municipal bond market. In  
26 response to another question, Mr. Wisor said the Resolution provides the District with flexibility to  
27 set pricing within a range. Upon motion duly made and seconded, it was unanimously

28 **RESOLVED** that the Resolution Authorizing the Issuance and Sale of Enterprise  
29 Wastewater Revenue Bonds be approved and accepted as presented.

30 **Consideration of Minutes** – The minutes of the October 27, 2022, special meeting were  
31 considered. Upon motion duly made and seconded, it was unanimously

32 **RESOLVED** that the minutes of the October 27, 2022, special meeting be accepted and  
33 hereby are approved as presented.

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

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

## Eagle River Water & Sanitation District

1       **2023 Operations Agreement with the Authority** – Mr. Norris presented a memorandum and the  
2 Agreement with exhibits, copies of which are attached hereto as **Exhibit O** and **P**, respectively,  
3 and incorporated herein by this reference. In response to a question, Mr. Norris said the District  
4 proportionally bills the Authority for capital and labor. Directors noted that the Authority board  
5 approved the Agreement at its meeting earlier in the day. Upon motion duly made and seconded,  
6 it was unanimously

7               **RESOLVED** that the 2023 Operating Agreement with the Authority be accepted and  
8 hereby is approved as presented.

9       **2023 Billing Services Agreement with Minturn** – Mr. Norris presented a memorandum and the  
10 Agreement with exhibits, copies of which are attached hereto as **Exhibits Q** and **R**, respectively,  
11 and incorporated herein by this reference. Upon motion duly made and seconded, it was  
12 unanimously

13               **RESOLVED** that the 2023 Billing Services Agreement with the Town in Minturn be  
14 accepted and hereby is approved as presented.

15       **Resolution on Amended Water Dedication Policy** – Ms. Moseley presented a memorandum and a  
16 Resolution with exhibits, copies of which are attached hereto as **Exhibit S** and **T**, respectively, and  
17 incorporated herein by this reference. The board noted discussion on the water dedication policy and  
18 the proposed increase in the cash payment in-lieu of dedicating water rights at its Oct. 27 meeting. In  
19 response to a question, Ms. Moseley said the Agreement retains cash-in-lieu rates of 120% of projected  
20 new or increased water use and the board may consider adjusting these rates to as low as 100% on a  
21 case-by-case basis. In response to another question, she said the refundable cash-in-lieu deposit  
22 applies to the issuance of a Conditional Capacity to Serve Letter and developers will still need to  
23 complete the process for obtaining an Ability to Serve Letter. Upon motion duly made, it was  
24 unanimously

25               **RESOLVED** that the Amended Water Dedication Policy be accepted and hereby is  
26 approved as presented.

27       **Pension policy change** – Mr. Norris presented a memorandum, a copy of which is attached  
28 hereto as **Exhibit U** and incorporated herein by this reference. He referenced the direction given  
29 by the board at its Oct. 27 meeting to align the District's Benefits Guide with the 414(h) Plan  
30 Document by removing the cap on social security. Upon motion duly made, it was unanimously

31               **RESOLVED** that the pension policy change be accepted and hereby is approved as  
32 presented.

### 33 **INFORMATION REPORTS**

34 Directors reviewed the development report, board committees, and Authority October meeting summary,  
35 copies of which are attached hereto as **Exhibits V, W, and X**, respectively, and incorporated herein by  
36 this reference.

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# Eagle River Water & Sanitation District

## STRATEGY ITEMS

Board Member Input – Chair Cleveland called for board input and there was none.

## GENERAL MANAGER REPORT

Ms. Brooks suggested directors forward interview requests to Communications staff so they can coordinate responses.

## BUSINESS ADMINISTRATION REPORT

Mr. Norris had no further items to discuss.

## OPERATIONS REPORT

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

**Remote Terminal Units (RTU) System Upgrades** – Mr. Schneider presented a PowerPoint, a copy of which is attached hereto as **Exhibit Z** with redactions and incorporated herein by this reference. Mr. Caffery, Mr. Keller, and Mr. Way provided updates on the RTU project. Mr. Way said additional upgrades in 2023 will increase redundancy and independence. In response to another question, Mr. Keller said costs for the 10-year project have been divided between the District and Authority based on where work was completed.

## ENGINEERING AND WATER RESOURCES REPORT

Mr. Cowles presented the report, a copy of which is attached hereto as **Exhibit AA** and incorporated herein by this reference. He reported on his participation in the Colorado River Water Conservation District's lower basin tour. In response to a question, he said a broken-off drill head at Bolts Lake was caused by common challenges associated with deep drilling into glacier till and bedrock.

## COMMUNICATIONS AND PUBLIC AFFAIRS REPORT

Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit BB** and incorporated herein by this reference. She said the 2007 Interim Guidelines for Lakes Powell and Mead remain in effect through 2025, which sets the 2026 operating plan. She also said the Department of the Interior is seeking to modify operations for 2023 and 2024 to conserve storage. Ms. Johnson also reported that the Governor's budget proposal for FY 2023-24 may have multifaceted impacts on water, including the creation of a dedicated Upper Colorado River Commissioner separate from the Colorado Water Conservation Board Director. Lastly, she noted an article in Exhibit BB that highlights continued marketing strategies which erode consumer trust in public drinking water.

## WATER COUNSEL REPORT

Ms. Moseley had no items in open session.

## GENERAL COUNSEL REPORT

The board noted Mr. Collins's privileged written report. She had no items for open session.

## Eagle River Water & Sanitation District

1 **EXECUTIVE SESSION**

2 Ms. Moseley requested the board enter Executive Session to receive legal advice of counsel and discuss  
3 matters in negotiation related to bulk water service. Upon motion duly made and seconded, it was  
4 unanimously

5 **RESOLVED** to enter into Executive Session at 2:36 p.m. to bulk water service pursuant  
6 to §24-6-402(4)(b) and (e), C.R.S, with no electronic record created as Ms. Moseley  
7 opined the contents of the discussion would contain privileged attorney-client  
8 communications.\*

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

13 **RESOLVED** to enter into Executive Session at 3:03 p.m. to discuss the Draft Amended  
14 and Restated Golden Peak Snowmaking Water Agreement with Ski and Snowboard Club  
15 Vail pursuant to §24-6-402(4)(b) and (e), C.R.S, with no electronic record created as Ms.  
16 Moseley opined the contents of the discussion would contain privileged attorney-client  
17 communications.

18 The open session resumed at 3:12 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.

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# 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 3:13 p.m.

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12 Secretary to the Meeting

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**Kristin Moseley, Water Counsel**