

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**December 15, 2022**  
**MINUTES**

A special meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held December 15, 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:**

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

**The following Director was absent:**

Kate Burchenal

**Also in attendance were:**

<u>District Staff</u>	27	Niko Nemcanin
Jeremy Anderson	28	David Norris
Tug Birk	29	Rob Ringle
Tom Borawski	30	Siri Roman
Linn Brooks	31	Jeffrey Schneider
Tom Brown	32	Brian Thompson
Daniel Caffery	33	Jane Tucker
Jason Cowles	34	Brad Zachman
Sarah Crawford	35	
Alyssa Forristell	36	<u>Consultants</u>
Tim Friday	37	Jim Collins, Collins Cole Flynn Winn & Ulmer PLLC
Jesse Hooker	38	Kristin Moseley, Somach Simmons & Dunn
Kyle Hussey	39	Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
Robyn Janssen	40	
Diane Johnson	41	

**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. Ringle introduced wastewater operators Jeremy Anderson and Tom Brown; Mr. Zachman introduced water systems operator Alyssa Forristell; and Mr. Caffery introduced OTS technician Kyle Hussey.

**PUBLIC COMMENT**

Public comment was called for and there was none.

**RECOGNITION OF OUTGOING GENERAL MANAGER LINN BROOKS**

Chair Cleveland read the Joint Resolution and Proclamation Recognizing Linn Brooks for her Dedication and Leadership, a copy of which is attached hereto as **Exhibit A** and incorporated herein by this

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1 reference. Directors commended for Ms. Brooks for her thoughtful and selfless leadership. Ms. Brooks  
2 thanked the board and acknowledged the directors, consultants, and staff with whom she collaborated  
3 with throughout her tenure. Upon motion duly made and seconded, it was unanimously

4 **RESOLVED** that the Resolution and Proclamation Recognizing Linn Brooks for her Dedication  
5 and Leadership be accepted and hereby is approved as presented.

### 6 **ACTION ITEMS**

7 **Consideration of Minutes** – The minutes of the November 17, 2022, special meeting were  
8 considered. Upon motion duly made and seconded, it was

9 **RESOLVED** that the minutes of the November 17, 2022, special meeting be accepted  
10 and hereby are approved as presented, with Director Pylman abstaining as he was  
11 absent from the meeting.

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

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

16 **Resolution Authorizing the Vacation of Easement** – Mr. Birk presented a memorandum and  
17 the Resolution with exhibits, copies of which are attached hereto as **Exhibits C and D**,  
18 respectively, and incorporated herein by this reference. He said the proposed vacation would not  
19 impact operations or maintenance. Upon motion duly made and seconded, it was unanimously

20 **RESOLVED** that the Resolution Authorizing the Vacation of Easement be accepted and  
21 hereby is approved as presented.

### 22 **INFORMATION REPORTS**

23 Directors reviewed the development report, board committees, and Authority November meeting  
24 summary, copies of which are attached hereto as **Exhibits E, F, and G**, respectively, and incorporated  
25 herein by this reference.

### 26 **STRATEGY ITEMS**

27 **Board Member Input** – Treasurer Coyer said conversations coordinated by the Vail Valley  
28 Foundation with civic entities regarding workforce housing have yielded encouraging progress  
29 towards collaborative solutions. Ms. Johnson said Senator-elect Dylan Roberts is working on  
30 legislation related to securing affordable housing on parcels near Dowd Junction.

31 **Water Supply Planning Overview** – Ms. Brooks presented a PowerPoint, a copy of which is  
32 attached hereto as **Exhibit H** and incorporated herein by this reference. She provided an  
33 overview of the development of Authority and District water rights portfolios and the water supply  
34 planning model. She said the presentation concepts will help directors better understand water  
35 rights reports, evaluate risks of water shortage, and guide strategies to protect water supply. She  
36 also said the model incorporates various climate scenarios developed for Colorado's Water Plan,  
37 and that staff will present model output to the board in February.

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## GENERAL MANAGER REPORT

Ms. Roman reminded directors of the Dec. 16 holiday party. Ms. Brooks had no further items to discuss.

**Colorado Water Congress (CWC) participation** – Ms. Roman presented a memorandum, a copy of which is attached hereto as **Exhibit I** and incorporated by this reference. She said Ms. Brooks is interested in continuing her service on the CWC board in 2023 as Immediate Past President, including attending board events and conferences. Ms. Roman said the associated expenses are included in the enacted FY 2023 budget. Ms. Brooks will consult with Ms. Roman on matters directly related to the District and said she hopes the District will continue to hold the Upper Colorado River Watershed seat. The board unanimously supported the arrangement.

## **BUSINESS ADMINISTRATION REPORT**

Mr. Norris had no items to discuss.

## **OPERATIONS REPORT**

Ms. Roman presented the report, a copy of which is attached hereto as **Exhibit J** and incorporated herein by this reference. She said Mr. Zachman has been promoted to Director of Operations. She also said the Backflow Prevention and Cross Connection Control (BPCCC) program achieved compliance on Dec. 2. Finally, she said Gypsum's wastewater rates will markedly increase over the next four years due to escalating construction costs for a facility upgrade to meet increasingly stringent regulations. This trend is impacting utilities statewide and Ms. Roman suggested pursuing collaborative solutions.

## **ENGINEERING AND WATER RESOURCES REPORT**

Mr. Cowles presented the report, a copy of which is attached hereto as **Exhibit K** and incorporated herein by this reference. He said a Colorado water plan grant proposal was submitted to the Colorado Water Conservation Board to help support the preliminary design phase of Bolts Lake.

## **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

**2023 regular board meeting schedule** – Ms. Johnson presented a memorandum with the proposed 2023 regular board meeting schedule, a copy of which is attached hereto as **Exhibit L** and incorporated by this reference. The board unanimously agreed with the proposed schedule as presented. The schedule will be included in the Resolution Designating Location to Post Notice, which the board must approve at the first regular meeting of 2023.

**2023 election updates** – Ms. Johnson presented a memorandum, a copy of which is attached hereto as **Exhibit M** and incorporated by this reference. She said the board must approve an election resolution in January that determines whether the 2023 regular election will be held by mail ballot or polling place. Ms. Johnson and Ms. Winn noted the onerous staff time required to administer a mail ballot election because each property owner must be cross-referenced with the Secretary of State's voter registration list. Discussion ensued on the costs, voter turnout, and public perceptions of mail ballot elections compared to polling place elections. Directors unanimously supported holding a polling place election in 2023 and encouraged proactive promotion of requests for absentee ballots and voting.

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1           **“Do Not Flush” labeling legislation** – Ms. Johnson presented a draft of “Legislative Primer: ‘Do  
2           Not Flush’ Labeling for Disposable Wipe Packaging,” a copy of which is attached hereto as  
3           **Exhibit N** and incorporated by this reference. Ms. Johnson said the legislative primer will be used  
4           to build a coalition of potential supporters. She also said Senator-elect Roberts had connected  
5           staff with the bill drafter at the Office of Legislative Legal Services. Ms. Moseley said a lobbyist is  
6           critical to effectively engaging with coalition members and lawmakers. She recommended Peggi  
7           O’Keefe of Clear Strategies, who has previously worked with the District on legislative efforts. In  
8           response to a question, Ms. Johnson said Ms. O’Keefe’s services would be about \$30,000 for the  
9           2023 legislative session and could be paid through funds allocated in the enacted FY 2023  
10           budget. Her scope of work would not be limited to this legislation, it would include the legislative  
11           session. The board unanimously supported engaging Ms. O’Keefe in a lobbying contract.

### **WATER COUNSEL REPORT**

13 Ms. Moseley had no items for open session.

### **GENERAL COUNSEL REPORT**

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

### **EXECUTIVE SESSION**

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

20           **RESOLVED** to enter into Executive Session at 2:21 p.m. to discuss bulk water service  
21           pursuant to §24-6-402(4)(b) and (e), C.R.S, with no electronic record created as Ms.  
22           Moseley opined the contents of the discussion would contain privileged attorney-client  
23           communications.\*

24 Ms. Winn requested the board continue Executive Session to receive legal advice of counsel and discuss  
25 matters in negotiation related to partial inclusion. Upon motion duly made and seconded, it was  
26 unanimously

27           **RESOLVED** to enter into Executive Session at 3:12 p.m. to discuss partial inclusion  
28           pursuant to §24-6-402(4)(b) and (e), C.R.S, with no electronic record created as Ms.  
29           Winn opined the contents of the discussion would contain privileged attorney-client  
30           communications.

31 The open session resumed at 3:48 p.m. During the executive session, the board did not take any formal  
32 action or discuss any matters not enumerated in §24-6-402(4), C.R.S.

### **ACTION AS A RESULT OF EXECUTIVE SESSION**

34 The board discussed amending the bulk water agreement with Ski and Snowboard Club Vail to reflect the  
35 District’s standard tiered irrigation rates. Chair Cleveland said the District will evaluate all of its bulk water  
36 agreements. Upon motion duly made and seconded, it was unanimously

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1           **RESOLVED** to direct staff to amend the bulk water agreement with Ski and Snowboard Club Vail  
2           to reflect standard tiered irrigation rates.

3           The board discussed ongoing proposals by the Town of Avon (“Avon”) to the District related to the  
4           potential formation of a water authority. Upon motion duly made and seconded, it was

5           **RESOLVED** to direct staff to communicate to Avon that the District has no interest in pursuing or  
6           negotiating any potential formation of a water authority as previously proposed by Avon, with  
7           Secretary Gregory abstaining.

## 8           **ADJOURNMENT**

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

11          **RESOLVED**, that the signing of the minutes of this meeting shall be deemed to constitute  
12          full and complete adoption, ratification, and approval of the business conducted and the  
13          resolutions passed; and be it

14          **FURTHER RESOLVED**, that the meeting be adjourned at 3:52 p.m.

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Secretary to the Meeting

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

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**Kristin Moseley, Water Counsel**

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**Kathryn Winn, General Counsel**