

Eagle River Water & Sanitation District
Board of Directors Meeting
August 27, 2015
MINUTES

A Special Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held August 27, 2015, at 1:00 p.m., in the District's Walter Kirch Room, 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the State of Colorado.

ATTENDANCE

The following Directors were present, thereby constituting a quorum:

Tom Allender
Debbie Buckley
Steve Friedman
Kim Langmaid
Bill Simmons
Frederick P. Sackbauer IV
Paul Testwuide

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 Allender disclosed that he is the Director of Resort Planning for Vail Associates, Inc., which has significant land ownership and business interests within the District and Authority. He also serves on the Boards of the Upper Eagle Regional Water Authority (Authority), Eagle Park Reservoir Company, and the Clinton Ditch and Reservoir Company. Director Friedman serves on the Boards of the Beaver Creek Metropolitan District and the Vail Valley Foundation. Director Langmaid disclosed that she founded and is employed by Walking Mountains Science Center, which receives funding from parties with which the District does business, including the US Forest Service, Vail Resorts, Towns of Vail and Avon, Vail Recreation District, Eagle County, and Holy Cross Energy. Director Sackbauer is employed by Vail Resorts, Inc., which has significant land ownership and business interests within the District. Director Simmons disclosed that he is the General Manager of the Beaver Creek Metropolitan District, an alternate Director for the Authority, and on the Boards of the Edwards, Holland Creek, and Red Sky Ranch Metropolitan Districts. Director Testwuide disclosed that he performs consulting for Vail Resorts, his former employer, owns water rights in two states, and occasionally uses the District's water counsel, Glenn Porzak, as his personal attorney.

Also in attendance were:

<u>District Staff</u>	38	<u>Consultants</u>
Linn Brooks	39	Jim Collins, Collins Cockrel & Cole
Carol Dickman	40	Glenn Porzak, Porzak Browning & Bushong LLP
Angelo Fernandez	41	Bob Weaver, Leonard Rice Engineers
Todd Fessenden	42	<u>Public</u>
Leslie Isom	43	Walter Dandy, Avon
Diane Johnson	44	Frank Diasparra, Avon
Melissa Mills McLoota	45	Jennie Fancher, Avon Town Council
Glen Phelps	46	Kristi Ferraro, Avon
Siri Roman	47	Nancy Nottingham, Avon
Jeff Schneider	48	Shelley Nottingham, Avon
Brian Tracy	49	
James Wilkins	50	

CALL TO ORDER

Chairman Sackbauer called the meeting to order at 1:15 p.m.

PUBLIC COMMENT

Ms. Ferraro, Ms. Nottingham and Ms. Fancher discussed the importance of preserving the Hahnwald Barn as the sole remaining original structure in the Town of Avon. They requested that the Board either table or vote no on the Hahnwald Barn Resolution, while the District and the Town of Avon seek alternatives to demolishing the Barn. Prior to the meeting, a letter from Tamra Nottingham Underwood and a letter from the Office of Archaeology and Historic Preservation of History Colorado were submitted to the Board in this matter, copies of which are attached hereto as **Exhibits A and B** respectively and incorporated herein by this reference. Ms. Brooks noted that the District has worked throughout the years

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1 to keep the option open for others to preserve the Barn, while communicating to interested parties the
2 long term needs for the District's facilities. In the discussion which followed, it was agreed that a District
3 Sub-committee and Barn stakeholders would try to work toward a mutual resolution of this issue in a
4 reasonable time frame. Thereafter, Mr. Dandy, Mr. Diasparra, Ms. Fancher, Ms. Ferraro, Ms. Nottingham,
5 Ms. Nottingham left the meeting.

6 **GENERAL MANAGERS REPORT**

7 Ms. Brooks discussed the General Managers Report, a copy of which is attached hereto as **Exhibit C**
8 and incorporated herein by this reference.

9 **ACTION ITEMS**

10 **Meeting Minutes** – The minutes of the Regular Meeting of July 23, 2015, were considered. Upon
11 motion duly made and seconded, it was unanimously

12 **RESOLVED** that the minutes of the July 23, 2015, Regular Meeting be accepted and hereby are
13 approved as presented.

14 **Hahnewald Barn Resolution** – The Board considered the Resolution Regarding Hahnewald Barn, a
15 copy of which is attached hereto as **Exhibit D** and incorporated herein by this reference. Following
16 discussion and upon motion duly made and seconded, it was unanimously

17 **RESOLVED** that the Hahnewald Barn Resolution be and hereby is tabled.

18 The Board named a Sub-committee of Ms. Brooks, Mr. Simmons and Ms. Langmaid to try to work with
19 the Barn stakeholders toward a mutual resolution regarding the disposition of the Hahnewald Barn.
20 Director Friedman requested a timeframe for resolution of this matter. It was agreed that staff would
21 provide either a recommended resolution to the issue or a progress report by the next meeting.

22 **Special District Association Resolution** – In recognition of the District being named District of the
23 Year by the Colorado Special District Association (SDA), the Board discussed the Resolution of the
24 Board of Directors of the Eagle River Water & Sanitation District Honoring Its Outstanding Employees, a
25 copy of which is attached hereto as **Exhibit E** and incorporated herein by this reference. The Award will
26 be presented to the District on September 25, at the SDA Conference, in Keystone. Upon Motion duly
27 made and seconded, it was unanimously

28 **RESOLVED** that the Resolution of the Board of Directors of the Eagle River Water & Sanitation
29 District Honoring Its Outstanding Employees be and hereby is approved as presented.

30 **Consent Agenda** – The Board unanimously approved the Consent agenda, a copy of which is
31 attached hereto as **Exhibit F** and incorporated herein by this reference.

32 **REPORT BY GENERAL COUNSEL**

34 Mr. Collins noted that his report involved items which would be discussed in Executive Session.
35

36 **REPORT BY WATER COUNSEL**

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1 **Piney River Unit Diligence** – Mr. Porzak reported there was one objector in this case which has
2 been settled. He has filed the Motion for the Court to approve the Decree. A copy of the Motion
3 for Entry of Decree is attached hereto as **Exhibit G** and incorporated herein by this reference.

4 **Wolford Mountain Reservoir** – Mr. Porzak reported on a letter received from the River District
5 stating that they have decided to do major work on the dam. A copy of the letter is attached
6 hereto as **Exhibit H** and incorporated herein by this reference.

7 **Forest Service Directives** - Mr. Porzak reported that the State Water Plan takes the USFS to
8 task on its water rights directives.

9 **EXECUTIVE SESSION**

10 Mr. Porzak requested the Board enter Executive Session to receive legal advice regarding the Colorado
11 Water Rights Protection Act, the Compact Water Bank, the Colorado Water Plan Meeting, and the Shoshone
12 Acquisition, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. He asked that no electronic record be made, as the
13 discussion would be entirely privileged attorney-client communications. Upon motion duly made and
14 seconded, it was unanimously

15 **RESOLVED** to enter executive session at 1:50 p.m. to discuss attorney-client privileged
16 issues concerning Colorado Water Rights Protection Act, the Compact Water Bank, the
17 Colorado Water Plan Meeting, and the Shoshone Acquisition, pursuant to §24-6-402(4)(a)(b)
18 and (e) C.R.S. with no electronic record created as Mr. Porzak opined the contents of the
19 discussion would contain privileged attorney-client communications.*

20 Mr. Collins requested the Board continue Executive Session to receive legal advice regarding the MWH
21 Change Order Resolution, the Town of Vail Real Estate Discussion and Personnel Issues, pursuant to §24-6-
22 402(4)(a)(b)(e) and (f) C.R.S. He asked that no electronic record be made, as the discussion would be
23 entirely privileged attorney-client communications. Upon motion duly made and seconded, it was unanimously

24 **RESOLVED** to enter executive session at 2:30 p.m. to discuss attorney-client privileged
25 issues concerning the MWH Change Order Resolution, the Town of Vail Real Estate
26 Discussion and Personnel Issues, pursuant to §24-6-402(4)(a)(b)(e) and (f) C.R.S. with no
27 electronic record created as Mr. Collins opined the contents of the discussion would contain
28 privileged attorney-client communications.*

29 The special meeting resumed at 2:55 p.m., at which time Mr. Porzak left the meeting.

30 **STRATEGY ITEMS**

31 **Treated Water Storage Fee Elimination** – Ms. Brooks explained that the Treated Water Storage Fee is now
32 included in the Water System Impact Fee (WSIF) calculation and recommended that the Board
33 authorize elimination of the Treated Water Storage Fee. The Board agreed. The Resolution to reflect
34 this change and amendments to the Rules and Regulations will be presented to the Board at a future
35 meeting.

36 **INFORMATION ITEMS**

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1 **CWC Events** – Ms. Brooks presented an overview of the Colorado Water Congress (CWC) Conference and the
2 District/Authority's Facility Tour and Dinner which went very well and reflected well on the District.
3 There were well over 300 attendees at the CWC Conference. Some of the District and Authority board
4 members and staff attended. The conference touched on many current water events. Former District
5 Director, Ludwig Kurz, gave a presentation and lead an interactive discussion on the importance of
6 water in the State's recreational economy showing that it rises and falls with the availability of water.
7 Director Testwuide gave a presentation at the Dinner regarding the importance of partnerships among
8 the water community which enabled the development of snowmaking for the ski industry and
9 augmentation water for the community. Ms. Brooks mediated a CWC session and Ms. Johnson also
10 participated in a session.

11 **Wilderness Policy Committee Update** – Ms. Brooks reported the 1st draft of a Wilderness Policy
12 was discussed by the consultants. Water Counsel is working on a 2nd draft, which will be
13 presented to the Committee.

14 **FINANCE REPORT**

15 **Water Sales Revenue Impact Study** – Mr. Wilkins presented his Monthly Report, a copy of
16 which is attached hereto as **Exhibit I** and incorporated herein by this reference. He reported that
17 the District was 5%, 15% and 10% below projected sales in May, June, and July respectively, due
18 to wet weather. He presented an analysis reflecting a hypothetical 20% water sales shortfall. With
19 such a shortfall, the District can still meet its debt service requirements and the unrestricted fund
20 balance is still in a good position.

21 **Quarterly Financial Report** – Mr. Wilkins presented The Financial Report for the 2nd Quarter
22 Ending June 30, 2015, a copy of which is attached hereto as **Exhibit J** and incorporated herein
23 by this reference. Following discussion, the Board acknowledged receipt of the Quarterly
24 Financial Report.

25 **Development Impact Fee Revenue Report** - Mr. Wilkins then presented July 2015 Activity, a
26 copy of which is attached hereto as **Exhibit K** and incorporated herein by this reference.

27 **OPERATIONS REPORT**

28 Mr. Fessenden presented his report, a copy of which is attached hereto as **Exhibit L** and incorporated
29 herein by this reference.

30 **Eagle River MOU Projects Status Update** – Mr. Fessenden discussed the Scope of Services
31 for Phase 2 of the ERMOU Project Alternatives Study which has been finalized. A copy of the
32 letter to the ERMOU Partners in this matter titled Scope of Services- Eagle River MOU Project
33 Alternatives Study – Phase 2 Draft is attached hereto as **Exhibit M** and incorporated herein by
34 this reference.

35 **Camp Hale Stakeholders Update** - Mr. Fessenden reported on the meeting held August 17 with
36 ERMOU Partners, USFS, and National Forest Foundation to discuss water needs for the
37 proposed Camp Hale wetlands bank. He also discussed that the National Forest Foundation has

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1 advanced options for wetland bank credits. Climax has reserved 60 units. Colorado Springs and
2 Aurora reserved a second 60 units which leaves roughly 80 units available.

3 **Eagle Mine Update and Tour** - Mr. Fessenden reported the Watershed Council arranged the
4 tour which included CDPHE Staff, District Staff, District Director Langmaid and Authority
5 Chairman Gregory as well as a large number of other guests. Improvements have occurred at the
6 treatment plant however concerns remain regarding preventative maintenance and real time
7 monitoring throughout the site. Staff reviewed the CBS annual report and pipeline conveyance
8 report and sent a letter to the EPA commenting on concerns of real time monitoring, pressure,
9 flows, water seepages. A copy of the letter is attached hereto as **Exhibit N** and incorporated
10 herein by this reference. The Watershed Council also submitted a letter to the EPA, a copy of
11 which is attached hereto as **Exhibit O** and incorporated herein by this reference.

12 **Monthly State Reports** - Mr. Fessenden reported on the Water Department's handling of water
13 reports to the State in July and August when the SCADA system stopped archiving data for a
14 short period of time. After discussions with the State regulators, they determined that adequate
15 monitoring had occurred and no violation was issued.

16 **Urban Runoff Group** – Mr. Fessenden reported the Eagle River Water Quality Improvement
17 Plan (WQIP) efforts are continuing downstream from Gore Creek to Eagle-Vail as well as
18 including a review of Eagle County regulations. The Town of Vail is moving forward with some
19 recommendations in the Gore Creek WQIP, including a number of projects.

20 **ORGANIZATIONAL DEVELOPMENT REPORT**

21 Mr. Fernandez presented his report, a copy of which is attached hereto as **Exhibit P** and incorporated
22 herein by this reference.

23 **Water Demand Management Pilot Project** – Mr. Fernandez discussed the Water Demand
24 Management Pilot Project. Ten properties in Mountain Star are participating and have
25 experienced a 40-50% reduction in water usage. Data will be reported to the Board in September.

26 **Public Employers Leadership Academy** – Mr. Fernandez, Ms. Brooks, Vail Leadership
27 Institute, Town of Vail and Eagle County have been working together to develop the Academy,
28 which will offer ongoing leadership development to public agencies. It is anticipated that this will
29 result in better collaboration and stronger relationships among public agencies county wide and
30 lower costs for participants. A pilot program will be offered this fall.

31 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

32 Ms. Johnson presented the Communications and Public Affairs Report.

33 **CWC Dinner Presentations** - Ms. Johnson reported that the CWC dinner presentations by Town
34 of Vail landscape architect Gregg Barrie and Director Testwuide were videoed and will air on
35 Channel 5. They are also available online; she will send the link to the Board.

36 **Colorado Water Plan** - Ms. Johnson said that at the CWC Conference, one session focused on
37 the integration of water and land use planning, which has been a major theme in the development

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1 of Colorado's Water Plan. The Roundtables continue to review the Plan and work towards
2 implementing Basin Implementation Plans. The Eagle County Conservation District made a
3 preliminary funding request at the August 24 Colorado Basin Roundtable meeting; some
4 agricultural and ranch landowners are concerned about what information will be made public. The
5 IBCC agreed on a revised "conceptual framework" which is now in Chapter 8 of the Plan and
6 details the seven points related to possible future trans-mountain diversions.

7 **River District Seminar** – Ms. Johnson distributed the flier for the September 10 seminar that
8 directors may attend. Presentations are normally recorded and available on the River District
9 website a few weeks after the annual seminar. A copy of the flier is attached hereto as **Exhibit Q**
10 and incorporated herein by this reference.

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 3:34 p.m.

3 Respectfully submitted,

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7 _____
8 Secretary to the Meeting

9 **MINUTES APPROVED, FORMAL CALL, AND**
10 **NOTICE OF MEETING WAIVED**

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14 _____
15 **Tom Allender, Director**

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18 _____
19 **Debbie Buckley, Secretary**

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22 _____
23 **Stephen Friedman, Treasurer**

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26 _____
27 **Kimberly Langmaid, Director**

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30 _____
31 **Frederick P. Sackbauer IV, President/Chairman**

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34 _____
35 **Bill Simmons, Director**

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38 _____
39 **Paul Testwuide, Director**

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

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44
45 _____
46 **Glenn Porzak, Water Counsel**

47 _____
Jim Collins, General Counsel