A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held September 24, 2015, at 11:00 a.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:
  1. Tom Allender
  2. Debbie Buckley
  3. Steve Friedman
  4. Bill Simmons
  5. Frederick P. Sackbauer IV
  6. Paul Testwuide

The following Director was absent and excused:
  7. Kim Langmaid

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:

District Staff
  1. Linn Brooks
  2. Carol Dickman
  3. Angelo Fernandez
  4. Todd Fessenden
  5. Leslie Isom
  6. Diane Johnson
  7. Melissa Mills McLoota
  8. Glen Phelps
  9. Siri Roman
  10. Jeff Schneider
  11. Brian Tracy
  12. James Wilkins

Consultants
  14. Glenn Porzak, Porzak Browning & Bushong LLP
  15. Public

Public
  16. Matt Donovan, Vail Honeywagon
  17. Jennie Fancher, Avon Council
  18. Kristi Ferraro, Avon resident
  19. Cici Nottingham, Avon resident
  20. Tamra Nottingham-Underwood
  21. Brian Sipes, Avon resident
  22. Sarah Smith Hymes, Avon Council

CALL TO ORDER

Chairman Sackbauer called the meeting to order at 11:10 a.m.

INTRODUCTIONS

Ms. Johnson introduced Mr. Hecox, who would be presenting information regarding the South Metro WISE project.

PUBLIC COMMENT

Mr. Donovan discussed a possible partnership between Vail Honeywagon and the District for a compost facility at the District’s Biosolids Containment Facility at the Eagle County landfill. According to
Mr. Donovan, this would help both entities meet waste diversion goals and could help market the District’s biosolids. Ms. Brooks is working to set up a meeting to further discussion of this topic.

Chairman Sackbauer discussed a Vail Daily story regarding the economic impact of the Eagle County Airport; he noted the District’s predecessor organization, Vail Valley Consolidated Water District, originally provided water service to the airport, without which it would not have been a viable entity.

**ACTION ITEMS**

**Meeting Minutes** – The minutes of the Special Meeting of August 27, 2015, were considered. Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the August 27, 2015, Special Meeting be accepted and hereby are approved as presented.

The minutes of the Joint Special Meeting with the Upper Eagle Regional Water Authority of August 27, 2015, were considered. Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the August 27, 2015, Joint Special Meeting with the Authority be accepted and hereby are approved as presented.

**Gore Valley Trail IGA with Town of Vail** – Ms. Brooks discussed a board action request and related intergovernmental agreement with the town of Vail, copies of which are attached hereto as Exhibits A and B, respectively, and incorporated herein by this reference. This is an agreement to cost share with the town for design of repairs to the stream bank, which supports the bike path and District’s underlying sewer trunk line through Dowd Junction; erosion has caused the need for this work. Design is estimated at $60,000, with the District and town each paying $30,000. Repair costs will then be determined; if existing capital funds cannot cover the cost, a budget variance will be requested. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the Intergovernmental Agreement with the town of Vail be and hereby is approved as presented.

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

**STRATEGY ITEM: Hahnewald Barn**

Hahnewald Barn stakeholders introduced themselves, including Ms. Nottingham-Underwood, Mr. Sipes, Avon Mayor Fancher, Mr. and Mrs. Nottingham, Ms. Smith Hymes, and Ms. Ferraro. Ms. Brooks discussed the District’s current operational needs, some of which are being evaluated by consultants. Presently, she expects the earliest need for removal of the barn is anticipated to be in spring 2017; however, operational needs and potential state nutrient regulations could require earlier removal. Ms. Nottingham-Underwood spoke on behalf of the barn stakeholders and discussed a previous meeting between the District and Avon representatives regarding the barn. The group wishes to nominate the barn to the state registry of historical structures and apply for grants to preserve the barn. Ms. Nottingham-Underwood would like to invite a preservation expert to the District’s October meeting to provide information on preservation and grant funding. Discussion ensued regarding the state registry process.
and what the ramifications would be for the District and its future operational needs. Mr. Collins suggested he and Ms. Nottingham-Underwood meet with a preservation expert to determine ramifications for the District, so long as an initial meeting does not constitute any District commitment to take any future steps towards preservation. Discussion ensued regarding whether the process should be undertaken if operational expansion ultimately dictates that the barn must be moved regardless; the insight that an expert could provide on the matter; and the need to move forward with this to allow the District, town, and citizens group to take any needed actions. Ms. Roman noted certain state regulations regarding wastewater treatment could add urgency to expansion needs or operational changes. Mr. Collins suggested the town and District could each contribute $5,000 to have an architect review the barn for eligibility for the state historical designation. He suggested further discussion be reserved for Executive Session.

The barn stakeholders group left the meeting at 11:34 a.m.

**Water Infrastructure and Supply Efficiency (WISE) Project** – Mr. Hecox of the South Metro Water Supply Authority presented information about the SMWSA, the South Metro WISE Authority, the WISE Partnership, and the WISE Project. Mr. Hecox and Ms. Johnson provided background information in a related memo, a copy of which is attached hereto as Exhibit D and incorporated herein by this reference. Mr. Hecox said the Project is a regional water supply project between Aurora Water, Denver Water, and the WISE Authority to combine available water supplies and system capacities to create a sustainable new water supply for the WISE Authority and its members. He highlighted provisions in the Colorado River Cooperative Agreement that pertain to the WISE project and noted the Authority’s involvement in the CRCA.

A short recess for lunch was taken at 12:15 p.m., and the meeting resumed at 12:25 p.m.

**Eagle River Watershed Council Update and 2016 Funding Request** – Ms. Loff, executive director of the Watershed Council, discussed background information on the organization, a copy of which is attached hereto as Exhibit E and incorporated herein by this reference. She noted the Watershed Council is focused on the health and quality of all local rivers and tributaries. She noted the organization focuses on research, education, and projects towards this end. She demonstrated the current water quality report card for all local rivers and tributaries; prior to creation of this database and water quality report card, the data was not accessible in one location and was difficult to interpret and understand. Ms. Loff outlined specific projects for river health, including Vail Pass traction sand sedimentation basins and cleaning of the basins; involvement in the Urban Runoff Group efforts; continued work to ensure mitigation of the Eagle Mine Superfund site; and Watershed Wednesday presentations. Ms. Loff requested $50,000 from the Authority for 2016 Watershed Council efforts; $25,000 would be for water quality monitoring and $25,000 would be for general operating support. Ms. Brooks noted the request would be added to the 2016 budget for Board approval.

**Wilderness Process Plan** – Mr. Porzak discussed the Policy on Future Wilderness and Roadless Area Designations, a copy of which is attached hereto as Exhibit F and incorporated herein by this
reference. This included a general statement of intent, background information regarding roadless
areas vs. wilderness designations, a breakdown of current designations, and policy and criteria for
future designations. Mr. Porzak explained that wilderness areas are much more restrictive than
roadless areas. Discussion ensued regarding the high level of public interest on the District’s proposed
wilderness policy, and solicitation of written public comment from interested stakeholders. The Board
agreed to hold a joint meeting with the Upper Eagle Regional Water Authority to consider the policy.
The Board determined that written public comments would be requested one week prior to the October
22 Board meeting and clarified that the meeting would not include a public hearing on the matter.

GENERAL MANAGERS REPORT
Ms. Brooks discussed the General Managers Report, a copy of which is attached hereto as Exhibit G
and incorporated herein by this reference.

Vail Village Filing 2, Tract A – Ms. Brooks discussed the District-owned parcel of land, which is
between the Vail Valley Medical Center and Dobson Ice Arena. Background information is attached
hereto as Exhibit H and incorporated herein by this reference. Discussion ensued regarding riparian
work the town of Vail wishes to do there and whether the District should deed the property to the town.
The Board directed staff to have the parcel appraised before further action is taken.

Interim Funding for Camp Hale Project – Mr. Fessenden said some stream delineation by the Forest
Service occurred in the lower part of Camp Hale and delineation was also needed in the upper part. He
noted $45,000 was needed for the additional work and requested the District provide a bridge loan on
behalf of the Eagle Park Reservoir Company so contracts can be executed tomorrow; the Company
meets on October 22 and can repay the loan at that time. The planned work could count towards
advance credit towards wetlands there. After discussion and upon motion duly made and seconded, it
was unanimously

RESOLVED that the District provide a bridge loan in the amount of $45,000 on behalf of the
Eagle Park Reservoir Company for wetlands delineation in the upper Camp Hale area.

Special District Association (SDA) District of the Year – Ms. Brooks distributed an article from
the SDA newsletter regarding the District as recipient of the SDA District of the Year Award, a
copy of which is attached hereto as Exhibit I and incorporated herein by this reference. She
noted Directors could still RSVP to attend tomorrow’s luncheon at which the District will be
recognized.

FINANCE REPORT
August Water Sales – Mr. Wilkins discussed the August water sales report, a copy of which is
attached hereto as Exhibit J and incorporated herein by this reference. He noted August sales
were 10% above projections; the extra $165,000 in sales offset shortfalls earlier in the summer.
The Authority also experienced higher-than-projected sales, but their shortfalls were not
completely covered by the extra revenue.
Development Impact Fee Revenue Report - Mr. Wilkins discussed the report, a copy of which is attached hereto as Exhibit K and incorporated herein by this reference. He noted the Vail Water fund was below projections, though the Vail sewer fund was above projections.

Budget Committee Update – Mr. Wilkins said the budget committee was meeting with staff next week to review the draft budget. He plans to present the proposed budget to the full Board at its October 22 meeting, with Board approval requested after a public budget hearing at the November meeting.

OPERATIONS REPORT

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

Traer Creek Tank Update – Mr. Fessenden updated on the Traer Creek Tank failure, noting that the investigation is ongoing. Supports have been placed to prevent further tank shifting.

Additional discussion was reserved for executive session.

Urban Runoff Group Update - Mr. Fessenden noted the Town of Vail was making progress on its strategic plan to address Gore Creek water quality issues. He also called attention to the efforts of the Eagle River Watershed Council, which Ms. Loff had previously discussed.

Edwards Wastewater Treatment Facility Project – Mr. Fessenden updated on the project, which is on schedule. All walls are up and roofing will be placed soon. He also noted the new exterior color scheme at the facility, which is more modern and visually pleasing than the previous colors.

Instream Flow (ISF) on Eagle River – Mr. Fessenden said ISF levels were reached on the Eagle River near Avon; Eagle Park releases and operational changes were started immediately, even though there was not a call on the river. There were minor complications because the Edwards Drinking Water Facility was offline for repairs at that time. Mr. Fessenden noted the operational flexibility of the Authority and District systems allowed the needed changes to be made in response to the ISF. Mr. Fessenden said minimal releases were made over a 48-hour period, as Homestake Reservoir releases began in response to some transmountain diversions.

Gage Calibration – Director Testwuide asked how often river profiles are calibrated in relation to the gages, as river profiles can change after events like high runoff. Ms. Johnson noted that stream profiles are checked regularly by the US Geological Survey (USGS).

Colorado Springs Utilities Tour – Mr. Fessenden noted he attended a two-day tour of the Colorado Springs Utilities system. He presented information to other tour attendees regarding the Eagle River Memorandum of Understanding.

COMMUNICATIONS AND PUBLIC AFFAIRS REPORT

Ms. Johnson presented the Communications and Public Affairs Report, a copy of which is attached hereto as Exhibit M and incorporated herein by this reference.
National Prescription Drug Take Back Day – Ms. Johnson reminded Directors of the September 26 drug take back event, which she helps coordinate locally. Law enforcement partners are hosting collection sites in Vail, Edwards, and Gypsum. The event keeps pharmaceuticals out of the waste stream, in part to protect water quality.

Club 20 – Ms. Johnson reported on Club 20’s Fall Meeting that included a session facilitated by Building a Better Colorado. The new non-profit is working to engage elected officials and community leaders in discussions about Colorado’s election systems, initiative process, and financial future – which may lead to 2016 ballot issues.

Colorado Basin Round Table Update – Ms. Johnson briefly reported on the September 17 meeting.

REPORT BY GENERAL COUNSEL

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

REPORT BY WATER COUNSEL

Colorado Water Plan Second Draft Comment Letter – Mr. Porzak discussed the Authority and District’s comment letter regarding the second draft of the Plan, a copy of which is attached hereto as Exhibit N and incorporated herein by this reference. The letter was supportive of the state’s strategic goals and actions outlined in the Plan. The letter also noted support for the portion of the Plan that wishes to ensure separation of control between state and local entities and particularly with regard to the Plan’s denouncement of the Forest Service’s attempt to gain ownership of water rights that originate on Forest Service land. Mr. Porzak also pointed out that the municipal water gap discussed in the Plan is overestimated. The Plan discusses diversion amounts instead of consumptive use; diversions may be considerable but the actual consumption is far less in the care of municipal uses, where the gap has primarily been identified.

State Legislation – Mr. Porzak noted the most recent iteration of the state legislation to prevent water rights takings. He noted Democratic Rep. K.C. Becker agreed to sponsor the bill in the House. If the bill passes in the House, Democratic Sen. Sonnenberg will then cosponsor the bill in the Senate with Democratic Sen. Donovan if she agrees to support the bill. Mr. Porzak outlined upcoming meetings to discuss the legislation prior to the start of the legislative session with many involved parties. The text of the proposed bill is attached hereto as Exhibit O and incorporated herein by this reference.

Eagle River MOU Projects – Mr. Porzak discussed recent meetings to discuss potential ERMOU projects, including an Eagle Park Reservoir enlargement and potential Whitney Creek Forebay. Mr. Porzak said involved parties were surprised that the engineers didn’t plan to complete the preliminary engineering until March 2016; the engineers have since agreed to complete phases of the work more quickly to facilitate moving forward with the projects analysis by the ERMOU group. The Board agreed to schedule a meeting of ERMOU principals to further speed the process.
EXECUTIVE SESSION

Mr. Collins requested the Board enter Executive Session to receive legal advice regarding the Traer Creek Tank and Hahnewald Barn, pursuant to §24-6-402(4)(a)(b)(e) and (f) C.R.S. He asked that no electronic record be made, as the discussion would be entirely privileged attorney-client communications. Upon motion duly made and seconded, it was unanimously

RESOLVED to enter executive session at 2:00 p.m. to discuss attorney-client privileged issues concerning the Traer Creek Tank and Hahnewald Barn, pursuant to §24-6-402(4)(a)(b)(e) and (f) C.R.S. with no electronic record created as Mr. Collins opined the contents of the discussion would contain privileged attorney-client communications.*

Mr. Porzak requested the Board continue Executive Session to receive legal advice regarding the Shoshone Acquisition, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. He asked that no electronic record be made, as the discussion would be entirely privileged attorney-client communications. Upon motion duly made and seconded, it was unanimously

RESOLVED to continue executive session at 2:25 p.m. to discuss attorney-client privileged issues concerning the Shoshone Acquisition, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak opined the contents of the discussion would contain privileged attorney-client communications.*

The regular meeting resumed at 2:55 p.m.
ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 3:00 p.m.

Respectfully submitted,

________________________________________
Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND
NOTICE OF MEETING WAIVED

________________________________________
Tom Allender, Director

________________________________________
Debbie Buckley, Secretary

________________________________________
Stephen Friedman, Treasurer

________________________________________
Kimberly Langmaid, Director

________________________________________
Frederick P. Sackbauer IV, President/Chairman

________________________________________
Bill Simmons, Director

________________________________________
Paul Testwuide, Director

*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.

________________________________________
Glenn Porzak, Water Counsel

________________________________________
Jim Collins, General Counsel