A Special Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held October 22, 2015, at 12:00 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:

1. Tom Allender
2. Kim Langmaid
3. Bill Simmons
4. Frederick P. Sackbauer IV
5. Paul Testwuide

The following Director was absent and excused:
6. Debbie Buckley
7. Steve Friedman

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
  - Linn Brooks
  - Jason Cowles
  - Carol Dickman
  - Angelo Fernandez
  - Todd Fessenden
  - Catherine Hayes
  - Leslie Isom
  - Diane Johnson
  - Melissa Mills McLoota
  - Siri Roman
- Consultants
  - Jim Collins, Collins Cockrel & Cole
  - Glenn Porzak, Porzak Browning & Bushong LLP
- Public
  - Tommy King, the Paint Man
  - Shelley Nottingham, Save the Hahnewald Barn
  - Tamra Nottingham-Underwood, Save the Hahnewald Barn
  - Brooke Ranney, Eagle River Watershed Council (ERWC)

CALL TO ORDER

Chairman Sackbauer called the meeting to order at 1:02 p.m.

INTRODUCTIONS

The attendees from Save the Hahnewald Barn introduced themselves. Ms. Brooks welcomed the District’s new IT manager, Jason Sica.

PUBLIC COMMENT

Chairman Sackbauer presented photographs of I-70 and the Frontage Road in Vail during Vail Golf Course construction in 1969, including a backhoe and dump truck in Gore Creek. He also showed an image of the finished hole #10. Board and Staff noted that regulation of such activities has come a long way since then.
ACTION ITEMS

Meeting Minutes – The minutes of the Regular Meeting of September 24, 2015, were considered. Upon motion duly made and seconded, it was unanimously RESOLVED that the minutes of the September 24, 2015, Regular Meeting be accepted and hereby are approved as presented.

Major Facilities Policy – Mr. Schneider discussed his board action request and related major facilities policy, copies of which are attached hereto as Exhibits A and B, respectively, and incorporated herein by this reference. He briefly outlined the policy and the importance of the District and Authority being solely in charge of all major facilities project management. In response to questions, he confirmed that the policy constitutes best management practice and that the Authority approved the same policy. After discussion and upon motion duly made and seconded, it was unanimously RESOLVED that the Major Facilities Policy 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.

GENERAL MANAGERS REPORT

FINANCE REPORT

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

September Water Sales – Mr. Wilkins discussed the September water sales report, a copy of which is attached hereto as Exhibit E and incorporated herein by this reference. September sales were 9% below projections for the District. He expects the remainder of the year to track closely with projections as the irrigation season ended in September.

Development Impact Fee Revenue Report – Mr. Wilkins discussed the report, a copy of which is attached hereto as Exhibit F and incorporated herein by this reference. The water fund is below projections, but the wastewater fund is above projections by enough to offset the water fund, with a total positive balance of about $50,000.

Budget Committee Update – Mr. Wilkins discussed recent meetings with the budget committee, Treasurer Friedman and Director Allender. Director Allender summarized the discussions, noting staff was asked to improve tracking for capital planning. Spreadsheet tracking improvements were also put in place for ease of review by the Board. The budget will be presented at a public hearing at its November meeting; staff and the budget committee recommend approval.

HAHNEWALD BARN DISCUSSION

Mr. Collins requested the Hahnewald Barn be discussed out of order to accommodate the meeting attendees there solely for this discussion. He noted the barn will not be left onsite, therefore it would be disingenuous to request a listing with the state historical registry and/or related grant funds for an analysis. Mr. Collins instead recommended the District contribute any funds that would have been spent on teardown for relocation of the barn if such a project moves forward. Ms. Nottingham-Underwood
requested the Board contribute funds towards a qualified historic preservation architect updating the
District’s existing barn relocation report, which was completed by a local contractor. Mr. Collins suggested
the group enlist an architect recommended by the state historic registry at a cost not to exceed $10,000,
with the District agreeing to pay half of the cost, up to $5,000. Discussion ensued regarding participation
and funding from the town of Avon. Mr. Collins and Ms. Nottingham-Underwood will jointly write a request
letter to the town on the matter. After discussion and upon motion duly made and seconded, it was
unanimously
RESOLVED that the District contribute up to $5,000 in matching funds for an assessment
of the Hahnewald Barn by a historic preservation architect.

Ms. Nottingham and Ms. Nottingham-Underwood left the meeting at 1:25 p.m.

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

ISO Rating – Mr. Fessenden said the town of Vail received an improved fire safety rating from
the International Standards Organization (ISO), which could result in lower insurance rates for
residents within the town boundaries.

Eagle River MOU and Camp Hale Updates – Mr. Fessenden noted a recent meeting with the
Camp Hale and MOU partners; though many of the players are the same, the meetings are
conducted separately due to Forest Service permitting requirements. He discussed the in-lieu fee
program, which is slated to begin in 2016 and would have many beneficiaries, including the
District and Authority. Mr. Fessenden said local participants requested that Eagle Park Reservoir
Company be the third party in line for wetlands credits, behind Climax Mine and the Homestake
Partners (Aurora and Colorado Springs). This request was based on additional funds contributed
by the Company for delineation, which has now been completed in the entire Camp Hale area.
Mr. Fessenden also discussed an agreement intended to ensure sufficient water is available to
support the created wetlands, which an Aurora representative will draft for the in-lieu fee program,
and for ERMOU participants to review. Discussion ensued regarding the appropriate flushing flow
and design considerations for a channel to accommodate such flows. Director Allender further
discussed the flushing flows and how Eagle Park Reservoir yield could be affected.

Mr. Fessenden also discussed the potential in-basin storage projects, including an Eagle
Park Reservoir expansion and the proposed Whitney Creek Forebay, geological information on
which is key for determining reservoir and intake locations, as well as the overall feasibility of the
reservoir. Any project proposed will be subject to permitting requirements, including public input
processes.

East Vail Inflow and Infiltration (I&I) Programs – Mr. Fessenden said staff was looking for I&I
in East Vail sewer lines using a new technology. A pilot project with this technology was
performed and the presence of leakage was confirmed using District sewer line cameras. The
technology is only for sewer lines, but a similar technology is available for water lines. This sort of program will help staff prioritize high leakage areas and better plan capital projects to address these issues.

Vehicle Auction Update — Mr. Fessenden discussed a recent District vehicle and equipment auction, a memo on which is attached hereto as Exhibit H. The District received more money than anticipated from the sale of its equipment on the public auction site.

Edwards Wastewater Treatment Facility Update — Mr. Fessenden said the roof pour on the facility is more than half complete, with recent wet weather causing delays. Masonry work is also being completed, with the overall project on budget and on schedule.

Water Emergencies — Mr. Fessenden called attention to recent water emergencies, including one in the Cortina pressure system resulting from town of Vail work on a new I-70 guardrail. A generator was quickly put in place to restore service, but a Holy Cross power outage caused another water outage a few days later.

Solid Waste Composting Request — Ms. Roman discussed last month’s request from Matt Donovan of Vail Honeywagon regarding a joint solid waste composting facility. A related memo is attached hereto as Exhibit I and incorporated herein by this reference. She cited permitting and regulatory issues that make a joint facility problematic. The Board directed her to communicate these reasons to Matt Donovan but to continue to explore other partnership opportunities, as appropriate.

303(d) List Update — Ms. Roman discussed various stream segments that are listed, provisionally or otherwise, on the 303(d) list and others that are proposed for listing. She noted some of the listings could negatively affect total maximum daily load (TMDL) levels and in turn, wastewater permitting and required facility upgrades for nutrient removal. Staff and consultants continue to evaluate the listings and will take appropriate steps to protect the District and Authority, as well as continuing to collect and provide data to the state regarding the listings.

Urban Runoff Group/Stormwater Update — Ms. Roman discussed a suspicious-looking outfall that turned out to be an illicit connection to a town stormwater outfall dumping raw sewage into Gore Creek. Ms. Roman will keep the Board apprised as staff and the town work to determine the location of the connection.

Town of Vail Water Quality Efforts — Ms. Roman reported on town of Vail water quality improvement efforts from the Gore Creek Strategic Action Plan, including a proposal to limit pesticide use that will be referred to the town council after it is vetted by the Planning and Environmental Commission (PEC). The town has also completed storm sewer mapping and will now prioritize areas that require additional research based on observations during the mapping efforts. In response to a question, Ms. Roman and Ms. Brooks noted a new CDOT outfall under I-70 in East Vail will have treatment at the end of the pipe before the water is released into Gore Creek.
Creek. Additional treatment could be added later as well, as treatment at the end of the pipe is not the District’s preferred method.

COMMUNICATIONS AND PUBLIC AFFAIRS REPORT
Ms. Johnson presented the Communications and Public Affairs Report, a copy of which is attached hereto as Exhibit J and incorporated herein by this reference.

Fluoride – Ms. Johnson reported that the Snowmass Village Water & Sanitation District (SVWSD) board voted yesterday to resume fluoridation of their community water system after a non-binding survey of the district’s customers showed that 64 percent favored fluoride. The SVWSD board had voted in July to stop fluoridating the water supply. She also said Denver Water reaffirmed fluoridation of its water supply in August.

Colorado Water Plan – Ms. Johnson discussed an Aspen Journalism story concerning new items being added to the plan, a copy of which is attached hereto as Exhibit K and incorporated herein by this reference. She mentioned Front Range and West Slope groups are doing last minute lobbying concerning water plan specifics as the Colorado Water Conservation Board (CWCB) prepares the final draft for its Nov. 18-19 board meeting. She will ask CWCB staff to release any proposed plan additions for public comment and review. Ms. Johnson also said the CWCB requested footage for a short video they are producing for release with the final plan; she arranged the shoot with District staff at several District and Authority facilities.

Vail Farmers’ Market – Ms. Johnson said the water station at the Farmers’ Market was a great success and thanked involved staff – who dispensed more than 2,000 gallons in nearly 21,000 compostable cups and thousands of water bottles, which equates to about 1,500 interactions every Sunday from June 21 to October 4. She also thanked managers and the board for its support of these efforts.

Senate Bill 13-019 – Ms. Johnson referenced the legislation, passage of which the District and Authority Boards helped secure in 2013. The legislation allows water rights owners to leave water in streams without risking a potential future reduction in their historic consumptive use calculation. The legislation was put to use by a Granby rancher late last spring and has garnered several media stories of late.

Colorado River System operations – Ms. Johnson mentioned a memo written by John McClow concerning the Colorado River Compact, the 2007 Interim Guidelines, contingency planning, and the structural deficit that exists in the Colorado River supply and storage levels at Lakes Powell and Mead, a copy of which is attached hereto as Exhibit L and incorporated herein by this reference.

REPORT BY GENERAL COUNSEL
Traer Creek Tank Insurance Claim – Mr. Collins noted a discussion on the matter would take place in Executive Session in the absence of all staff and consultants except Ms. Brooks.
Eagle River Water & Sanitation District

Eagle Park Reservoir Company Operations Agreement – Mr. Collins discussed the agreement, a copy of which is attached hereto as Exhibit M and incorporated herein by this reference. In response to a question, Ms. Isom said the Exhibit B rates are the District’s actual costs, which are applied to in-District work completed; these are the same rates charged to the Authority. After discussion and upon motion duly made and seconded, it was unanimously RESOLVED that the Operations Agreement with the Eagle Park Reservoir Company be and hereby is approved as presented.

REPORT BY WATER COUNSEL

Piney River Unit Water Right – Mr. Porzak discussed the Piney River Unit Water Right Diligence filing, a copy of which is attached hereto as Exhibit N and incorporated herein by this reference. He said a favorable ruling was received from the water referee and reminded Directors that this was the right received from Denver water as part of that overall settlement. He expects the judge to sign the filing shortly.

Eagle River MOU Projects – Mr. Porzak discussed the proposed projects, which Mr. Fessenden also commented on previously. At its later meeting, the Eagle Park Reservoir Company will consider a development agreement with the National Forest Foundation (NFF) to grant the Company the option for wetlands credits to mitigate wetlands for any ERMOU projects. The NFF has already entered into similar agreements with Climax Mine and the Homestake Partners, Aurora and Colorado Springs. He said involved engineers have agreed to accelerate their timeline for review of the proposed projects so cost estimates are available sooner. Meetings are also being coordinated with project principals.

State Legislation – Mr. Porzak noted recent meetings with elected officials, including Sen. Donovan and Rep. Mitsch-Bush, as well as environmental representatives. Mr. Porzak discussed ongoing issues with the legislation related to bypass flows. He plans to get consensus on the language and other issues by the end of November so the bill can quickly move forward when the upcoming legislative session begins.

Revised Groundwater Directive – Mr. Porzak said the Forest Service is again moving forward with a modified version of its groundwater directive. A Forest Service point person in Washington D.C. was designated. Mr. Porzak will continue to monitor progress and report to the Board.

Wilderness Bill – Mr. Porzak discussed the timeline for Rep. Polis’s wilderness bill as discussed by his staff members at the joint meeting prior to the District meeting. Mr. Porzak noted without support from both the House and Senate, the bill is not likely to move quickly.

EXECUTIVE SESSION

Mr. Porzak requested the Board enter Executive Session to receive legal advice regarding Colorado River Cooperative Agreement matters, 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 enter executive session at 2:19 p.m. to discuss attorney-client privileged issues concerning Colorado River Cooperative Agreement matters, 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.*

Mr. Collins requested the Board continue Executive Session to receive legal advice regarding the Traer Creek Tank, 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 continue executive session at 2:30 p.m. to discuss attorney-client privileged issues concerning the Traer Creek Tank, 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.*

The regular meeting resumed at 2:45 p.m.
ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 2:46 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