

Upper Eagle Regional Water Authority

Board of Directors Meeting

November 19, 2015

MINUTES

1 A special meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held November 19, 2015, at 8:00 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation
3 District (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable
4 statutes of the State of Colorado.

5 ATTENDANCE

6 The following Directors were present, thereby constituting a quorum:

7 Tom Allender, EagleVail Metropolitan District
8 Geoff Dreyer, Arrowhead Metropolitan District
9 George Gregory, Berry Creek Metropolitan District

10 The following Directors were absent and excused:

11 Todd Goulding, Town of Avon
12 Jim Power, Beaver Creek Metropolitan District
13 Mick Woodworth, Edwards Metropolitan District

14 The following Alternate Director was present:

15 Pam Elsner, Beaver Creek Metropolitan District
16 Kara Heide, Edwards Metropolitan District
17 Sarah Smith Hymes, Town of Avon

18 Also in attendance were:

19 <u>ERWSD Staff</u>	28	John McCaulley
20 Garrett Antill	29	Glen Phelps
21 Linn Brooks	30	Jeff Schneider
22 Jason Cowles	31	Brian Tracy
23 Carol Dickman	32	James Wilkins
24 Catherine Hayes	33	<u>Consultants</u>
25 Leslie Isom	34	Jim Collins, Collins Cockrel & Cole
26 Diane Johnson	35	Glenn Porzak, Porzak Browning & Bushong LLP
27 Elena Jones		

36 DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

37 The Board noted it had received more than 72 hours prior to the meeting certain disclosures of Potential Conflicts of Interest
38 Statements for the following Directors indicating the following conflicts:

39 Director Allender disclosed that he is the Director of Resort Planning for Vail Associates, Inc., which has significant land ownership
40 and business interests within the Authority. Also, he is appointed by Vail Associates, Inc. to serve as a Director of both the Eagle
41 Park Reservoir Company and the Clinton Ditch and Reservoir Company; he also serves on the Eagle River Water & Sanitation
42 District Board of Directors, which manages the Authority. Director Goulding disclosed that he serves on the Boards of the Eagle
43 County Health Service District and Vail Mountain Rescue, which have occasional dealings with the Authority. He also disclosed he
44 is the owner of Goulding Development Advisors, LLC, which may have occasional dealings with the Authority and its member
45 districts. Director Woodworth disclosed that he is employed by the Eagle River Fire Protection District, which operates within the
46 Authority's service area.

47 CALL TO ORDER

48 Chairman Gregory called the meeting to order at 8:01 a.m.

49 ACTION ITEMS

50 **Consideration of Minutes** – The minutes of the special meeting of October 22, 2015, were
51 considered. Upon motion duly made and seconded, it was

52 **RESOLVED** that the minutes of the October 22, 2015, special meeting be accepted and hereby
53 are approved as amended.

54 The minutes of the joint special meeting of October 22, 2015, with the Eagle River Water and Sanitation
55 District were considered. Upon motion duly made and seconded, it was

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1 **RESOLVED** that the minutes of the October 22, 2015, joint special meeting be accepted and
2 hereby are approved as presented.

3 **Public Hearing: 2016 Proposed Rates**

4 Chairman Gregory opened a public hearing at 8:03 a.m. to discuss the 2016 rate sheet, a copy of
5 which is attached hereto as **Exhibit A** and incorporated herein by this reference. A call for public
6 input solicited no response. Mr. Collins noted the Authority had posted the required formal notice
7 of the public hearing at which the Board would consider a rate change at least 30 days in
8 advance. A copy of the notice is attached hereto as **Exhibit B** and incorporated herein by this
9 reference. The public hearing was closed at 8:05 a.m. Mr. Wilkins presented a resolution to adopt
10 the 2016 rates, a copy of which is attached hereto as **Exhibit C** and incorporated herein by this
11 reference. Upon motion duly made and seconded, it was unanimously

12 **RESOLVED** that resolution to adopt the 2016 rates be and hereby is approved as
13 presented.

14 **PUBLIC HEARING: 2016 Proposed Budget**

15 Chairman Gregory opened a public hearing at 8:06 a.m. to discuss the 2016 budget, a copy of
16 which is attached hereto as **Exhibit D** and incorporated herein by this reference. A call for public
17 input solicited no response. The public hearing was closed at 8:07 a.m. Mr. Wilkins presented
18 Resolutions to Adopt the 2016 Budget and to Appropriate Sums of Money, copies of which are
19 attached hereto as **Exhibits E** and **F**, respectively, and incorporated herein by this reference.
20 After discussion and upon motion duly made and seconded, it was unanimously

21 **RESOLVED** that the Resolutions to Adopt the 2016 Budget and Appropriate Sums of
22 Money be and hereby are approved as presented.

23 The 2016 rates for service charges and tap fees are set as follows:

24 **UERWA Water Service Rates for 2016**

25 **Base Rates per Single Family Equivalent:**

\$16.95 Monthly Base Service Rate	\$0.36 increase from 2015
\$3.09 Monthly Debt Service for 2010B Bonds	\$0.00 increase from 2015
\$2.58 Monthly Debt Service for 2013A Bonds	\$0.00 increase from 2015
\$3.32 Capital Replacement Program Base Rate	\$0.07 increase from 2015
\$25.94 Total Base Rate per SFE	2.2% increase from 2015

26 **Usage Rates per 1,000 Gallons of Metered Water Use:**

Tier One	First 10,000 gallons	\$3.55	\$0.08 increase
Tier Two	Next 10,000 gallons	\$5.32	\$0.11 increase
Tier Three	Next 10,000 gallons	\$7.98	\$0.17 increase
Tier Four	Next 10,000 gallons	\$11.98	\$0.26 increase
Tier Five	Over 40,000 gallons	\$17.97	\$0.39 increase

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ERWSD Wastewater Service Rates for 2016

Water System Impact Fee (formerly plant investment fee): to increase 3.0% effective Jan. 1, 2016

Residential Fees are based on square footage (s.f.)

0 – 2,500 s.f.	\$3.73/s.f.
2,501 – 3,500 s.f.	\$4.59/s.f.
3,501 – 5,000 s.f.	\$5.60/s.f.
5,001 s.f. and over	\$7.18/s.f.

Commercial fees are based on meter flows and fixture counts and will increase 3.0% Jan. 1, 2016.

Major Facilities Policy Rules and Regulations Amendment – Mr. Schneider discussed the major facilities policy adopted by the Board at its October meeting. He noted the Rules and Regulations are proposed updated to align with the new policy and presented a board action request form, updated sections of the Rules and Regulations, and the major facilities policy, copies of which are attached hereto as **Exhibits G, H, and I**, respectively, and incorporated herein by this reference. In response to a question, Mr. Schneider suggested amended wording in the Rules and Regulations to clarify that the District and Authority will enter into an agreement to work collaboratively with the developer on major facilities construction. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the Rules and Regulations be and hereby are approved as amended.

Resolution Designating Use of Eagle County Housing Guidelines as Reference Material for Definition of Affordable Housing – Mr. McCaulley presented a board action request and Resolution Designating Use of Eagle County Housing Guidelines as Reference Material for Definition of Affordable Housing, copies of which are attached hereto as **Exhibits J and K**, respectively, and incorporated herein by this reference. He noted Eagle County uses formulas and multiple factors in its definition, which is updated at least every two years based on federal and state changes to affordable housing guidelines. In response to a question, Mr. Collins explained that per state statute, affordable housing is the only customer for which a tap fee can be waived and that the Authority has previously determined to not make such waivers, but instead offer qualifying developments the option to defer tap fee payments with interest. He also noted that tap fees for affordable housing are based on square footage and are therefore lower than if tap fees were based on 3,000 square feet per single family equivalent as they were in the past. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED to approve Exhibit K, the Resolution Designating Use of Eagle County Housing Guidelines as Reference Material for Definition of Affordable Housing, as presented.

GENERAL COUNSEL REPORT

Due to a scheduling conflict, Mr. Collins presented his report out of order.

Irrigation and Sprinkler Account Impact Fee Draft Policy – Mr. McCaulley and Ms. Jones discussed a board action request and joint resolution to Authorize a Public Hearing for Adoption of Impact Fees for New Irrigation and Sprinkler Accounts, copies of which are attached hereto as

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1 **Exhibit L** and **M**, respectively, and incorporated herein by this reference. Mr. McCaulley said
2 while staff was completing the water system impact fee study this past summer, they discovered
3 that irrigation systems that were independent of any associated structure have a capacity impact
4 to the water supply system for which the Authority and District are not being compensated; thus,
5 the recommended consideration of a new irrigation and sprinkler account impact fee. Mr.
6 McCaulley and Ms. Jones presented a PowerPoint on the topic, a copy of which is attached
7 hereto as **Exhibit N** and incorporated herein by this reference. The new fee would take into
8 account irrigable area and irrigation intensity, which would be an incentive for developers to
9 reduce irrigated area and utilize drought-tolerant plants. The Board tabled consideration of the
10 Resolution to set a 30-day notice for a rate hearing while staff further refines the policy.

11 **Settlement and Waiver Agreement with Traer Creek Metropolitan District** – Mr. Collins
12 discussed the agreement between TCMD and the Eagle River Water and Sanitation District, a
13 copy of which is attached hereto as **Exhibit O** and incorporated herein by this reference. TCMD
14 is repaying the agreed upon 10% of the cost of an alternative outfall (equal to \$42,759.75) that
15 was constructed by the District in 1999 within the Authority's service area. The system routes
16 effluent from the Avon Wastewater Treatment Plant to a new outfall located within 25 feet of the
17 Avon BPS Intake to avoid the requirement to augment 100% of the intake's diversions per
18 agreement with the Colorado Water Conservation Board. TCMD requested the Authority
19 acknowledge that it is not due any money for the work described in the agreement. After
20 discussion and upon motion duly made and seconded, it was unanimously

21 **RESOLVED** that the Authority acknowledge the Settlement and Waiver Agreement with
22 Traer Creek Metropolitan District and the Eagle River Water and Sanitation District.

23 **Lake Creek Wells Update** – Mr. Collins said the project is moving forward but the easements are
24 being slightly reconfigured by the engineers, who understand that any changes must be made
25 quickly. An offer was made to the Eagle River Meadows homeowners association. Mr. Collins
26 also noted the co-condemnation resolution was approved by the Edwards Metropolitan District, a
27 copy of which is attached hereto as **Exhibit P** and incorporated herein by this reference.

28 **Mountain Star Tank Update** – Mr. Cowles discussed the tank project, for which geotechnical
29 work is complete and tank design is in progress. The town of Avon and developer Jen Wright
30 each contributed \$20,000 for this work. It appears that the total tank cost estimates are
31 decreasing. Project completion is currently expected in 2016. He noted Alpine Engineering is
32 working on the tank design contract and is a well-recognized firm in good standing in the area
33 with a long history of working collaboratively with the Authority and District.

34 **Disclosures of Conflicts of Interest** – Ms. Brooks disclosed that her husband, Gary Brooks,
35 and other Alpine Engineering employees are purchasing the company. She also disclosed that

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1 Mr. Brooks was recently elected chairman of the Eagle River Watershed Council, with which the
2 Authority and District have a working relationship and to which each entity contributes funds each
3 year. The Board directed Mr. Collins to draft a policy to ensure transparency for the contract
4 process and to ensure continued use of Alpine Engineering.

5 **Traer Creek Tank Update** – Mr. Collins updated on the Traer Creek tank, investigation of which
6 is ongoing.

7 **EXECUTIVE SESSION**

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

12 **RESOLVED** to enter the executive session at 8:43 a.m. to discuss attorney-client privileged
13 issues concerning the Traer Creek Tank, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. with
14 no electronic record created as Mr. Collins opined the contents of the discussion would
15 contain privileged attorney-client communications.*

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

20 **RESOLVED** to continue executive session at 9:20 a.m. to discuss attorney-client privileged
21 issues concerning Colorado River Cooperative Agreement matters, pursuant to §24-6-
22 402(4)(a)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak opined the
23 contents of the discussion would contain privileged attorney-client communications.*

24 The regular meeting resumed at 9:13 a.m.

25 **Billing Surcharges** – Mr. Collins said Beaver Creek eliminated its water bill surcharge. He noted
26 the only Authority members that have not done so are the town of Avon and Cordillera
27 Metropolitan District, which is served by the Authority via contract.

28 **STRATEGY ITEMS**

29 **Water Demand Management Program** – Mr. McCaulley and Ms. Jones presented the results of
30 the water demand management program pilot study, a copy of which is attached hereto as
31 **Exhibit Q** and incorporated herein by this reference. The program goals included developing a
32 vision; determining the effectiveness of new water use technologies; and reducing water
33 use/lowering monthly water bills in Mountain Star while still allowing residents to maintain quality
34 landscapes. The initial results were positive, demonstrating a marked reduction in water use for
35 the properties involved in the pilot study compared to those not involved in the Mountain Star
36 area. Staff will continue to track progress at the involved properties for at least two additional

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1 irrigation seasons. Mr. McCaulley discussed expansion of the pilot program for summer 2016 and
2 distributed a draft application, a copy of which is attached hereto as **Exhibit R** and incorporated
3 herein by this reference. He and Ms. Jones also summarized future program plans, including
4 development of web resources, addition of a water demand management coordinator position,
5 and additional conservation strategies.

GENERAL MANAGER REPORT

7 **Operations Report** – In Mr. Fessenden’s absence, Ms. Brooks presented the operations report,
8 a copy of which is attached hereto as **Exhibit S** and incorporated herein by this reference. She
9 noted ongoing work with the Eagle River Valley mobile home park with the eventual intent to have
10 it tap into the Authority’s system, and a recent Eagle Mine superfund site tour with parties
11 affected by the Gold King Mine spill near Durango. Local experts, including Mr. Fessenden,
12 comprised a panel for the tour attendees.

13 **303(d) Listings** – Ms. Brooks shared an update from Ms. Roman that the District supported the
14 Water Quality Control Division’s recently proposed 303(d) listings with two exceptions. The
15 District suggested listing the Eagle River segment from Martin Creek through the Gore Creek
16 confluence for dissolved iron and arsenic since it affects Authority and District treatment
17 operations. Staff also suggested listing the Eagle River from Berry Creek to Squaw Creek as
18 provisional rather than on the monitoring/evaluation list since the cause of impairment there is
19 unknown. Ms. Brooks also noted that an improperly plumbed sewer line that was discharging
20 wastewater into Gore Creek was traced to the Arrabelle and will be fixed by the Arrabelle shortly.

21 **Gore Creek Strategic Action Plan** – Ms. Brooks said the plan is still undergoing review and
22 refinement by the town of Vail and will be presented to the Authority and District Boards upon
23 final approval by the town.

24 **Proposed 2016 Meeting Schedule** – Ms. Brooks discussed the proposed 2016 meeting
25 schedule, a copy of which is attached hereto as **Exhibit T** and incorporated herein by this
26 reference. She noted a few instances in which meetings will be held on the third Thursday of the
27 month instead of the fourth to accommodate staff and consultant attendance at Colorado Water
28 Congress events. The Board agreed on the schedule, which will be formally adopted along with
29 the meeting place and time and the January 21, 2016 meeting.

30 **Wilderness Update** – Ms. Brooks and Mr. Porzak discussed the prior day’s conference call
31 regarding Rep. Polis’s proposed wilderness bill and the Authority and District’s continued work on
32 a joint wilderness policy. Discussions with Rep. Polis and other involved parties are ongoing.

FINANCE REPORT

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

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1 **September Water Sales** – Mr. Wilkins discussed the October water sales report, noting that
2 sales were higher than expected.

3 **Development Impact Fee Revenue** – Mr. Wilkins discussed the development impact fee
4 revenue report, which shows year-to-date impact fee revenues are more than \$400,000 above
5 projections. He expects additional revenues as developers pay fees in 2015 prior to 2016
6 increases.

7 **Quarterly Financial Report** – Mr. Wilkins discussed the report and pointed out revenues in 2015
8 show the Authority is not operating in a deficit. That trend is expected to continue in 2016. He also
9 noted capital expenditures are not included in general, operational expenditure figures.

10 **REPORT BY COMMUNICATIONS AND PUBLIC AFFAIRS MANAGER**

11 Ms. Johnson presented her report, a copy of which is attached hereto as **Exhibit V** and incorporated
12 herein by this reference.

13 **Fire Hydrant Communications** – Ms. Johnson reported on local government coordination to
14 disseminate information about snow removal around fire hydrants and maintaining cleared
15 spaces. These communications are sent out annually and as reminders after big snowstorms.

16 **Colorado Water Plan** – Ms. Johnson noted the plan was delivered to Gov. Hickenlooper that
17 day, with much media attention devoted to the topic. She reminded Directors that many parties
18 were concerned over late additions to the Plan and said the Colorado Water Conservation Board
19 summarized the final changes in an October update that was attached to her report. Ms. Johnson
20 said since the final Plan was just released, it would still need another review.

21 **Authority U: Pipeline Condition Assessment** – Mr. Phelps referenced a memo about the
22 recent sewer main assessment project in East Vail, a copy of which is attached hereto as **Exhibit**
23 **W** and incorporated herein by this reference. New technology was used that helps to identify pipe
24 defects and other possible sources of inflow and infiltration, which staff is seeking to reduce as it
25 takes up capacity in the wastewater system and could trigger a required costly facility expansion.
26 Mr. Phelps noted the new technology was very effective and corrective projects will be planned
27 based on the findings. He also noted similar technology may be available for water mains that
28 would help detect leaks to reduce water loss and emergency repairs in the Authority's water
29 distribution system.

30 **Monthly Reports** – Monthly reports were acknowledged, including the contract log, October meeting
31 summary, and Authority and District committees list. Copies of the monthly reports are attached hereto as
32 **Exhibit X** and incorporated herein by this reference.

33 **WATER COUNSEL REPORT**

34 **Lake Creek Well Augmentation Plan** – Mr. Porzak discussed the augmentation plan and noted
35 a few objectors remained, including the Colorado Water Conservation Board. A January status

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1 conference is set with the water referee and if agreement cannot be reached with all outstanding
2 objectors, a trial date will be set.

3 **Forest Service Water Right Directives** – Mr. Porzak discussed recent correspondence
4 regarding the directives, a copy of which is attached hereto as **Exhibit Y** and incorporated herein
5 by this reference. He emphasized that the latest revisions underscore the need to pass legislation
6 to ensure similar directives will not accompany each changing administration.

7 **State Legislation Update** – Mr. Porzak updated on the state legislation, noting that all involved
8 groups are nearing agreement on the proposed language, including neutral language regarding
9 bypass flows. He said the most recent version of the legislation includes language specifying that
10 the state engineer cannot spend any funds to carry out directives from the federal government
11 that would reduce the value of any privately owned water rights. Mr. Porzak is hopeful that the bill
12 will be introduced as soon as the next legislative session begins.

13 **Unallocated Water Policy** – Mr. Porzak said he updated the policy based on input from the town
14 of Avon but has not received any feedback from Avon since sending the revised policy. He would
15 like to bring a final draft to the December meeting for approval.

16 **Eagle River MOU Projects** – Mr. Porzak updated the Board on recent meetings regarding
17 proposed ERMOU projects. He discussed involved consultants, who advised the ERMOU parties
18 that they expect to have meaningful data by the end of the year. Upcoming meetings will be
19 scheduled to get new staff members up to speed at Aurora and Colorado Springs, as well as to
20 present findings. Ms. Brooks clarified that prior to project permitting, all ERMOU partners will
21 need to submit “statements of need” for the water. She reminded directors of the water rights
22 hydrology model that is still in progress.

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ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 11:00 a.m.

Respectfully submitted,

Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND NOTICE OF MEETING WAIVED

Arrowhead Metropolitan District

Town of Avon

Beaver Creek Metropolitan District

Berry Creek Metropolitan District

EagleVail Metropolitan District

Edwards Metropolitan District

*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.

Jim Collins, General Counsel

Glenn Porzak, Water Counsel