A Special Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held July 28, 2016, at 12:45 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. Steve Coyer
3. Steve Friedman
4. George Gregory
5. Bill Simmons, via phone
6. Frederick P. Sackbauer IV, via phone
7. 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 and Gregory disclosed that they also serve on the Board of the Upper Eagle Regional Water Authority (Authority). Director Allender also disclosed that he is a former employee of Vail Resorts, which tangentially deals with the Authority and District, as well as being employed part time by SE Group, which does planning and environmental work for Vail Resorts and other ski areas. Director Friedman serves on the Boards of the Beaver Creek Metropolitan District and the Vail Valley Foundation. Director Gregory also serves on the board of the Berry Creek Metropolitan District and occasionally undertakes development and construction activities within the District and Authority service areas. 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 Authority Director, and serves on the board of the Edwards Metropolitan District. 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
- Tug Birk
- Linn Brooks
- Jason Cowles
- Camille Cuypers
- Wenli Dickinson
- Carol Dickman
- Catherine Hayes
- Diane Johnson
- Melissa Mills McLoota
- Siri Roman
- Jason Sica
- James Wilkins
- Consultants
- Kristin Moseley, Porzak Browning & Bushong LLP
- Public
- Holly Loff, Eagle River Watershed Council

CALL TO ORDER

Acting Chair Friedman called the meeting to order at 12:45 p.m.

Conflict of Interest Disclosure – It was noted that an updated conflict of interest letter was filed on behalf of Director Gregory, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference.

ACTION ITEMS

2015 Audited Financial Statements – Mr. Wilkins discussed the FY 2015 audit, which was performed by McMahan and Associates. A related board action request and copy of the audit are attached hereto as Exhibits B and C, respectively, and incorporated herein by this reference. Mr. Wilkins discussed some minor procedural changes suggested by the auditors to ensure appropriate checks and balances. The audit committee, Vice Chair Friedman and Treasurer Allender, also discussed the audit, which was clean; they recommended approval. After discussion and upon motion duly made and seconded, it was unanimously
RESOLVED that the FY2015 audited financial statement be and hereby is approved as presented.

The Board complimented staff on the clean audit.

Resolution Approving Sale of Real Property – The Board discussed a board action request and resolution to sell Red Sandstone Creek unit A7, copies of which are attached hereto as Exhibits D and E, respectively, and incorporated herein by this reference. In response to a question, Mr. Wilkins said the unit was governed by the town of Vail’s deed restriction. Discussion ensued regarding the history of the program; current policies and procedures; and an upcoming onboarding session for the housing committee, Chair Sackbauer and Director Coyer. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the resolution to sell Red Sandstone Creek unit A7 be and hereby is approved as presented.

Consideration of Minutes – The minutes of the regular meeting of June 23, 2016, were considered.

Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the June 23, 2016, regular meeting be accepted and hereby are approved as presented. Directors Coyer and Testwuide abstained.

Vacation of Easement – Mr. Birk discussed his board action request and related resolution to vacate the District’s right to an easement between 103 and 107 Rockledge Road in Vail, copies of which are attached hereto as Exhibits F and G, respectively, and incorporated herein by this reference. He explained the existing easement has multiple directional changes and does not meet the District’s current width requirement, nor will the easement be needed for future use. In response to a question, he said the easement will remain for any other utility providers. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the vacation of easement between 103 and 107 Rockledge Road be and hereby is approved as presented.

Public Hearing for Inclusion of Property for Sewer Service – Mr. Birk presented his board action request and related materials regarding the request for inclusion of 23600 Highway 24 in Minturn into the District boundaries for sewer service, copies of which are attached hereto as Exhibits H and I, respectively, and incorporated herein by this reference. A notice of inclusion was published in the Eagle Valley Enterprise, a copy of which is attached hereto as Exhibit J and incorporated herein by this reference. The public hearing was opened at 1:10 p.m. Public comment was called for and there was none. The public hearing was closed at 1:11 p.m. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the resolution for inclusion of 23600 Highway 24 in Minturn be and hereby is approved as presented.

Nomination for 2016 Special District Association (SDA) Board of Directors – The Board discussed the nomination of Director Simmons for the SDA Board of Directors representing District 2. A copy of
the nomination is attached hereto as Exhibit K and incorporated herein by this reference. Director Simmons previously represented the Edwards Metropolitan District on the SDA Board. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the Board nominates Bill Simmons to serve on the Special District Association Board of Directors on behalf of the Eagle River Water and Sanitation District, pursuant to the election held at the September 22, 2016, annual business meeting of the SDA.

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

STRATEGY ITEMS
Board Member Input – Ms. Brooks noted the new standing agenda item was added to allow board member input on topics they wished to discuss that may have transpired since board materials were issued the week prior. Director Gregory summarized the recent meeting with Rep. Polis and his staff that he, District Chair Sackbauer, and Mses. Brooks and Johnson attended regarding Rep. Polis’s wilderness bill. Rep. Polis and his staff seemed amenable to the new language proposed by the Authority and District, which addresses process rather than an amendment to the wilderness act. No final approval on the language has been given, but attendees agreed the meeting was positive.

GENERAL MANAGER REPORT
Ms. Brooks presented her report, a copy of which is attached hereto as Exhibit M and incorporated herein by this reference. The monthly reports were also acknowledged, copies of which are attached hereto as Exhibit N and incorporated herein by this reference.

ERMOU Event Update – Ms. Brooks discussed the recent event held July 25 – 26 in Vail with the Eagle River MOU partners. Attendance included executives from the partner entities, whereas much previous communication has been at lower staff levels. July 25 included visits to potential project sites and a welcome dinner. July 26 featured a meeting to discuss statements of water needs from each partner, with plans to develop a joint statement of purpose and need cooperatively. Discussion ensued regarding the terms of the Eagle River MOU and how this will ultimately inform the chosen project(s). Director Gregory complimented staff on arranging the event.

FINANCE REPORT
Mr. Wilkins presented the finance report, a copy of which is attached hereto as Exhibit O and incorporated herein by this reference. He noted June water sales were close to projections.

OPERATIONS REPORT
Ms. Brooks presented the operations report, a copy of which is attached hereto as Exhibit P and incorporated herein by this reference.

COMMUNICATIONS AND PUBLIC AFFAIRS REPORT
Ms. Johnson presented the Communications and Public Affairs Report, a copy of which is attached hereto as Exhibit Q and incorporated herein by this reference.
CWCB Budget – Ms. Johnson cited a Colorado Water Conservation Board (CWCB) memo regarding an April Colorado Supreme Court ruling concerning severance taxes, its impact to the Department of Natural Resources and the CWCB, and the CWCB’s proposed funding plan, a copy of which is attached hereto as Exhibit R and incorporated herein by this reference.

Colorado River Water Conservation District Meeting – Ms. Johnson reported on topics discussed at the July 20 River District board meeting.

Club 20 Policy Committee Meeting – Ms. Johnson reported that the Club 20 water policy committee updated several policies at its July 21 meeting, including two with new language that reflects HB16-1109, the Colorado Water Rights Protection Act, which was signed into law in April. Specifically, Club 20 added provisions stating that water rights and water quality matters should remain within state jurisdiction and federal agencies should defer to state law.

Edwards Medical Center Water Quality – Ms. Johnson reported that a meeting is scheduled August 1 with Vail Valley Medical Center staff to discuss their testing and notification processes as a follow up to the July 18 incident within the Edwards Medical Center campus.

GENERAL COUNSEL REPORT

Ms. Brooks noted that Mr. Collins was on vacation and did not include a July packet report.

WATER COUNSEL REPORT

Federal Water Rights Protection Act – Ms. Moseley discussed two federal water rights protection bills that are pending, one each in the House and Senate, copies of which are attached hereto as Exhibits S and T, respectively, and incorporated herein by this reference. The House bill was introduced by Colorado Rep. Tipton. The Senate bill is an omnibus bill sponsored by ten Republicans, containing a wide range of items, including some on controversial topics.

Red Sandstone Reservoir Diligence Case – Ms. Moseley discussed the diligence filing, a copy of which is attached hereto as Exhibit U and incorporated herein by this reference. In response to a question, she noted the state engineer has begun to focus on the summary of consultation for diligence cases rather than outright opposition.

Vail Whitewater Park Diligence Case – Ms. Moseley discussed the diligence filing, a copy of which is attached hereto as Exhibit V and incorporated herein by this reference. The case will make over 300 acre feet of water absolute during spring months, since documented recreational activities are taking place then. She noted the CWCB was an objector in the case, though they are close to settlement. Ms. Moseley noted the CWCB had recently gotten involved in all whitewater and/or recreational in-channel diversion cases.

Wolcott Diligence Case – Ms. Moseley discussed the diligence filing, a copy of which is attached hereto as Exhibit W and incorporated herein by this reference. She said potential opposers have until the end of September to file opposition. This is the first diligence filing for
these rights, so plenty of supporting activity has taken place as the District works to make these
water rights absolute.

Red Sky Ranch Water Facility – In response to a question, Ms. Brooks said the Red Sky Ranch
water facility would be improved once the Wolcott development is moving forward. There is
currently much unused capacity in the system, as it is serving a small population.

At 1:45 p.m., Ms. Dickinson, Ms. Loff, and Messrs. Sica and Wilkins left the meeting.

EXECUTIVE SESSION

Ms. Moseley requested the Board enter Executive Session to receive legal advice regarding Eagle River
MOU and CRCA matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. She 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 1:46 p.m. to discuss attorney-client privileged
issues concerning Eagle River MOU and CRCA matters, pursuant to §24-6-402(4)(b) and (e)
C.R.S. with no electronic record created as Ms. Moseley opined the contents of the
discussion would contain privileged attorney-client communications.*

At 1:59 p.m., before the discussion of CRCA matters, all staff left the meeting, with the exception of Ms.
Brooks and Ms. Johnson.

The regular meeting resumed at 2:15 p.m.
ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 2:16 p.m.

Respectfully submitted,

__________________________________________
Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND NOTICE OF MEETING WAIVED

__________________________________________
Tom Allender, Treasurer

__________________________________________
Steve Coyer, Director

__________________________________________
Stephen Friedman, Vice Chair

__________________________________________
George Gregory, Secretary

__________________________________________
Frederick P. Sackbauer IV, President/Chair

__________________________________________
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.

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Kristin Moseley, Water Counsel