

Eagle River Water & Sanitation District
Board of Directors Meeting
August 18, 2016
MINUTES

A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held August 18, 2016, at 11:30 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:

Tom Allender
Steve Coyer
Steve Friedman
George Gregory
Bill Simmons
Frederick P. Sackbauer IV, *via phone*
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:

Directors 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:

<u>District Staff</u>	31	Jason Sica
Linn Brooks	32	Brian Tracy
Carol Dickman	33	James Wilkins
Catherine Hayes	34	<u>Consultants</u>
Debbie Hoffman	35	Glenn Porzak, Porzak Browning & Bushong LLP
Diane Johnson	36	<u>Public</u>
Melissa Mills McLoota	37	Holly Loff, Eagle River Watershed Council
Siri Roman		

CALL TO ORDER

Acting Chair Friedman called the meeting to order at 11:30 a.m.

ACTION ITEMS

Consideration of Minutes – The minutes of the special joint meeting of July 28, 2016, were considered. Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the July 28, 2016, special joint meeting with the Upper Eagle Regional Water Authority be accepted and hereby are approved as presented.

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RESOLVED that the minutes of the July 28, 2016, special meeting be accepted and hereby are approved as presented.

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

Eagle River Water & Sanitation District

1 STRATEGY ITEMS

2 **Eagle River Watershed Council Update** – Ms. Roman introduced Ms. Loff of the ERWC; she noted the
3 District’s water manager Brian Tracy served on the ERWC board of directors. Ms. Loff said the ERWC
4 has an excellent working relationship with the District and appreciates the access to the staff. Ms. Roman
5 also noted the District and Authority have provided annual funding to the ERWC for many years; 2017
6 funding will again be considered during the upcoming budget process. Ms. Loff summarized the ERWC,
7 which is a 501c(3) nonprofit corporation focused on the health of Eagle County rivers and streams; many
8 of its goals align with the District and Authority’s mission. She described ongoing and upcoming
9 educational efforts and projects spanning East Vail to Edwards that benefit District and Authority
10 customers. Ms. Loff detailed the many efforts undertaken by the town of Vail to improve the health of
11 Gore Creek. Ms. Loff said the District’s contributions support the ERWC general fund and water quality
12 monitoring/assessment partnership program. She said the ERWC website was an excellent resource for
13 viewing local water quality data, projects, available training, and other items. In response to a question,
14 Ms. Loff said ERWC’s total budget is about \$500,000 and individual donations comprise a very small
15 percentage of that. The Board thanked Ms. Loff for her presentation. A related letter from Ms. Loff is
16 attached hereto as **Exhibit B** and incorporated herein by this reference. Ms. Loff left the meeting at 1:00
17 p.m.

18 GENERAL MANAGER REPORT

19 Ms. Brooks presented her report, a copy of which is attached hereto as **Exhibit C** and incorporated
20 herein by this reference. The monthly reports were also acknowledged, copies of which are attached
21 hereto as **Exhibit D** and incorporated herein by this reference.

22 **Mountain Star Water Demand Management** – Director Allender referenced a letter to Mountain
23 Star homeowners from water demand management coordinator Maureen Egan, a copy of which is
24 attached hereto as **Exhibit E** and incorporated herein by this reference. In response to a question,
25 Ms. Brooks said the Customer Service department generally sends all letters on District letterhead,
26 despite Mountain Star homeowners being Authority customers. The Board suggested using the
27 letterhead of the serving entity in such future communications with customers.

28 FINANCE REPORT

29 Mr. Wilkins presented the finance report, a copy of which is attached hereto as **Exhibit F** and
30 incorporated herein by this reference.

31 **Quarterly Financial Update** – Mr. Wilkins discussed the quarterly financials, a copy of which is
32 attached hereto as **Exhibit G** and incorporated herein by this reference. He noted actual
33 revenues were above those budgeted and said staff would consider weather predictions, among
34 other items, for the 2017 budget. In response to a question, Mr. Wilkins said staff would certainly
35 apprise the board in a scenario, such as a drought, in which revenue collection was well below
36 projections. He emphasized that rates would not likely be changed mid-year in response to such

Eagle River Water & Sanitation District

1 a scenario due to budget reserves held for this purpose. Ms. Brooks added that the District's rate
2 structure lends itself to accurate budgeting and a reliable revenue source, allowing staff to be
3 proactive rather than reactive in response to unforeseen events. Mr. Wilkins also discussed
4 development impact fee revenues, which he expects to come in well above projections as
5 construction continues to pick up. He noted adjustments and budget transfers made in the last
6 quarter, including some transfers due to postponement of certain construction projects. Mr.
7 Wilkins also noted significant savings in some areas, including a decrease in the District's printing
8 and copying expenses due to switching vendors.

9 The board took a short recess for lunch at 12:20 p.m. The regular meeting resumed at 12:28 p.m.

10 OPERATIONS REPORT

11 Ms. Brooks presented the operations report, a copy of which is attached hereto as **Exhibit H** and
12 incorporated herein by this reference. In response to a question, Ms. Brooks said "jetting" was the
13 practice of pressure flushing of mains to remove any settled materials.

14 COMMUNICATIONS AND PUBLIC AFFAIRS REPORT

15 Ms. Johnson presented the Communications and Public Affairs Report, a copy of which is attached
16 hereto as **Exhibit I** and incorporated herein by this reference.

17 **Shoshone Hydroelectric Power Plant** – Ms. Johnson noted the Shoshone Hydroelectric Power
18 Plant was online and the Shoshone call was again effective on the river; the plant was offline
19 August 1 – 17, at which time the Shoshone call was not in effect.

20 **Ballot Measures Update** – Ms. Johnson discussed various ballot measures of interest to the
21 Authority and District. She specifically discussed Initiative 96, which would require broader
22 geographic signature gathering for amendments to the state constitution.

23 **Educational Opportunities** – Ms. Johnson discussed various local and statewide opportunities
24 for directors to learn more about water. Dates and details were available in her written report.

25 **South Metro Water Supply Authority (SMWSA) Letter** – Ms. Johnson discussed a letter from
26 the SMWSA to the Colorado Water Conservation Board and others regarding its successful
27 efforts to become less reliant on non-renewable groundwater. A copy of the letter is attached
28 hereto as **Exhibit J** and incorporated herein by this reference.

29 **Wilderness Update** – Ms. Johnson summarized a July 21 meeting she attended with Rep. Polis,
30 Board chairmen, and Ms. Brooks. She noted little progress, as Congress was on August recess,
31 though Rep. Polis's staff has indicated the proposed language is likely acceptable.

32 **CWCB Sept. Board Meeting** – Ms. Johnson said the CWCB was holding its Sept. board meeting
33 in Cordillera. The Board discussed the potential to host an event following this meeting as the
34 host community partner and gave staff approval to proceed with such an event in cooperation
35 with the Colorado River Conservation District.

Eagle River Water & Sanitation District

1 **Eagle River MOU Article** – Ms. Johnson discussed a story that local author Allen Best is working
2 on regarding the history of the Eagle River MOU and involved partners. Ms. Johnson noted the
3 ERMOU partners decided to speak as a group and not individually regarding this and any future
4 requests. A group interview with Mr. Best was scheduled for the following day. Mr. Porzak gave
5 additional background on the creation of the Eagle River MOU.

6 **GENERAL COUNSEL REPORT**

7 Acting Chair Friedman noted Mr. Collins was unable to attend due to a conflict, but had emailed earlier in
8 the week stating that he had no outstanding District issues on which to report.

9 **WATER COUNSEL REPORT**

10 **Vail Whitewater Park Diligence Case** – Mr. Porzak discussed the case, which makes all but a
11 small portion of the water right absolute. All opposition was resolved in the case, including the
12 CWCB and an individual objector.

13 **EXECUTIVE SESSION**

14 Mr. Porzak requested the Board enter Executive Session to receive legal advice regarding water rights
15 hydrology modeling, Eagle River MOU and CRCA matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. He
16 asked that no electronic record be made, as the discussion would be entirely privileged attorney-client
17 communications. Upon motion duly made and seconded, it was unanimously

18 **RESOLVED** to enter executive session at 1:00 p.m. to discuss attorney-client privileged
19 issues concerning water rights hydrology modeling, Eagle River MOU and CRCA matters,
20 pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Ms. Moseley
21 opined the contents of the discussion would contain privileged attorney-client
22 communications.*

23 At 1:10 p.m., before the discussion of CRCA matters, all staff left the meeting, with the exception of Ms.
24 Brooks and Ms. Johnson.

25 The regular meeting resumed at 1:42 p.m.

Eagle River Water & Sanitation District

1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 1:43 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 **Tom Allender, Treasurer**

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18 **Steve Coyer, Director**

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22 **Stephen Friedman, Vice Chair**

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26 **George Gregory, Secretary**

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30 **Frederick P. Sackbauer IV, President/Chair**

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34 **Bill Simmons, Director**

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38 **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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46 **Glenn Porzak, Water Counsel**

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