A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held September 22, 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:

1. Tom Allender
2. Steve Coyer
3. Steve Friedman
4. George Gregory
5. Bill Simmons
6. Frederick P. Sackbauer IV
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
  - Linn Brooks
  - Jason Cowles
  - Carol Dickman
  - Maureen Egan
  - Catherine Hayes
  - Debbie Hoffman
  - Diane Johnson
  - Melissa Mills McLoota
  - Siri Roman
- Consultants
  - Dan Siebert
  - Brian Tracy
  - James Wilkins
- Public
  - Jim Collins, Collins Cockrel & Cole
  - Glenn Porzak, Porzak Browning & Bushong LLP
  - Kim Langmaid, Walking Mountains Science Center
- Kim Langmaid, Walking Mountains Science Center

CALL TO ORDER

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

ACTION ITEMS

Consideration of Minutes – The minutes of the regular meeting of August 18, 2016, were considered.

Upon motion duly made and seconded, it was unanimously RESOLVED that the minutes of the August 18, 2016, regular meeting with the Upper Eagle Regional Water Authority be accepted and hereby are approved as presented.

Resolution Regarding Designation of Wilderness for Spraddle Creek, No Name Watershed Areas – The Board discussed the resolution and a Sept. 21 letter from Rep. Polis agreeing to either include the Authority and District’s requested language in an amendment to Rep. Polis’s wilderness bill or a reintroduced version in the 115th Congress. The resolution and letter are attached hereto as Exhibits A and B, respectively, and incorporated herein by this reference.

After discussion and upon motion duly made and seconded, it was unanimously adopted.
Eagle River Water & Sanitation District

RESOLVED that the resolution be and hereby is approved as presented.

Vacation of Easement: Basecamp Development – Mr. Cowles discussed the board action request and related information regarding the Basecamp development, copies of which are attached hereto as Exhibits C and D and incorporated herein by this reference. He explained the requested easement vacation, noting that the water and sewer lines will be located in a different area of the parcel. Discussion ensued regarding whether there should be a cost to the requestor of easement abandonment. The Board directed staff to consider the cost/value of abandonment in the future. Upon motion duly made and seconded, it was unanimously

RESOLVED that the vacation of easement be and hereby is approved as presented.

Resolution in Support of Amendment 71: Raise the Bar, Protect our Constitution – Ms. Johnson discussed the resolution and related board action request regarding Amendment 71, copies of which are attached hereto as Exhibits E and F, respectively, and incorporated herein by this reference. She clarified that Amendment 71 would make it more difficult to amend the Colorado constitution by requiring that “any petition for a citizen-initiated constitutional amendment be signed by at least two percent of the registered electors who reside in each state senate district for the amendment to be placed on the ballot” and that the percentage of votes needed to pass any proposed constitutional amendment would be increased “from a majority to at least fifty-five percent of the votes cast, unless the proposed constitutional amendment only repeals, in whole or in part, any provision of the constitution.” Currently there is no requirement for geographical signature representation, and only a simple majority vote is required for approval. Ms. Johnson clarified that the Amendment does not affect the process to amend state statute. Mr. Collins clarified that the board members are elected officials and empowered to take such actions if they so choose. Upon motion duly made and seconded, by a vote of 6–1, it was

RESOLVED that the resolution be and hereby is approved as presented.

Resolution in Support of Ballot Issue 1A: Affordable Workforce Housing – The Board discussed a board action request and related resolution regarding ballot issue 1A, which would add 3/10 Eagle County sales tax to be earmarked for affordable workforce housing; copies are attached hereto as Exhibits G and H, respectively, and incorporated herein by this reference. Discussion ensued regarding the vague plan for spending the collected funds. A motion was made and seconded, but failed by a vote of 2–5.

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

The board took a short recess for lunch at 12:00 p.m. The regular meeting resumed at 12:05 p.m.

STRATEGY ITEMS

District Sustainability Efforts – Mr. Tracy discussed the District’s sustainability committee and introduced interim chair Dan Siebert. Mr. Siebert noted the Authority and District combined are the second largest energy user in Eagle County. He also discussed District sustainability efforts, including the history of the District’s sustainability committee and energy improvements to employee housing units and District facilities. The District is implementing efficiency programs using established frameworks and
standards, including the environmental management system and Actively Green through the Walking
Mountains Science Center. Mr. Siebert also noted the District recently received the Colorado Department
of Public Health and Environment's bronze level certification in its Environmental Leadership Program,
the only such municipality on the West Slope to achieve this designation. The Board thanked Mr. Siebert
for his presentation, a copy of which is attached hereto as Exhibit J and incorporated herein by this
reference.
Eagle County Climate Action Plan – Ms. Langmaid was introduced and presented information
regarding the Climate Action Plan (CAP), a copy of which is attached hereto as Exhibit K and
incorporated herein by this reference. This climate change mitigation plan is being drafted through a
stakeholder process and spearheaded by Walking Mountains Science Center. Ms. Langmaid noted more
frost-free days in the area, the higher per capita energy usage in Eagle County, and that climate change
is simple, serious, and solvable. Discussion ensued regarding the achievability of the plan’s goals for
energy reduction; Ms. Langmaid noted that an energy transition is underway and market forces would
play a large role in shifting the balance between renewable and non-renewable energy sources in the
future. The Board indicated it supports the development of the CAP in concept.
Vail Sustainable Destination – Ms. Langmaid also discussed Vail’s efforts to become the first certified
sustainable travel destination in the United States under the Global Sustainable Tourism Council. A
related presentation is attached hereto as Exhibit L and incorporated herein by this reference. She noted
a pre-assessment was completed with local stakeholders, including the District. The town must meet 40
criteria for the certification and is on track for summer 2017 completion. Ms. Langmaid said the town
would stay within the generic global criteria but was also customizing some of the framework for mountain
resort communities. The Board thanked Ms. Langmaid for the information.
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.
FINANCE REPORT
Mr. Wilkins presented the finance report, a copy of which is attached hereto as Exhibit O and
incorporated herein by this reference.
OPERATIONS REPORT
The operations report was presented, a copy of which is attached hereto as Exhibit P and incorporated
herein by this reference.
GENERAL COUNSEL REPORT

Email Discussions Reminder – Mr. Collins reminded directors that any meeting or discussion of more than two Board members in which public business is discussed constitutes a public meeting that must be noticed accordingly. This includes any email received by all Board members to which a Board member then replies to all. Mr. Collins also noted that any email communication among Board members or staff is considered a discoverable public record.

WATER COUNSEL REPORT

Denver Water Reuse Case – Mr. Porzak discussed the case, which was a complete victory for Denver Water. The District and Authority wrote an amicus brief in support of Denver Water’s continued reuse of return flows from its transmountain diversions, with the exception of one specific 1940s TMD. The ruling limits Denver Water’s need for future TMDs.

District Water Rights Report – Mr. Porzak presented the first-ever water rights report for the District, a copy of which is attached hereto as Exhibit Q and incorporated herein by this reference. The report summarizes such details as all Vail-area water rights, including groundwater and direct diversions; the interconnect between the District and Authority systems; in-basin and out-of-basin augmentation water; the agreements and contracts associated with the rights; and diligence schedules, among other items. The report also details the water rights and water demands in the Wolcott service area at full build out. Mr. Porzak discussed various scenarios that could affect the amount of unallocated water available to the District for future development; he also noted the numbers in the report reflect worst-case scenarios, as the District must commit to serve in the driest years.

Vail Whitewater Park Ruling – Mr. Porzak presented the final decree in the Vail Whitewater Park case, a copy of which is attached hereto as Exhibit R and incorporated herein by this reference. He noted the ruling makes absolute all but a very small portion of the water right.

St. Jude’s Recreation Water Bill – Mr. Porzak discussed the proposed St. Jude’s legislation, a copy of which is attached hereto as Exhibit S and incorporated herein by this reference. The bill would recognize recreational, aesthetic and piscatorial water rights as beneficial uses of decreed water rights. In 2015, the Colorado Supreme Court ruled that such uses were not beneficial. The District and Authority expressed support for such legislation, along with numerous other water providers.

All guests and staff left the meeting, with the exception of Ms. Brooks, Ms. Hayes, Ms. Johnson and Mr. Wilkins at 1:29 p.m.

EXECUTIVE SESSION

Mr. Porzak requested the Board enter Executive Session to receive legal advice regarding water rights Eagle River MOU and CRCA matters, pursuant to §24-6-402(4)(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 1:30 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 Mr. Porzak opined the contents of the discussion
would contain privileged attorney-client communications.*

At 1:39 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 1:42 p.m.
ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 1:43 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.

Glenn Porzak, Water Counsel