

Eagle River Water & Sanitation District
Board of Directors Meeting
October 27, 2016
MINUTES

A Special Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held October 27, 2016, 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:

Tom Allender
Steve Coyer
Steve Friedman
George Gregory
Bill Simmons
Frederick P. Sackbauer IV
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>	35	Jeff Schneider
Linn Brooks	36	Brian Tracy
Jason Cowles	37	James Wilkins
Carol Dickman	38	<u>Consultants</u>
Maureen Egan	39	Jim Collins, Collins Cockrel & Cole
Catherine Hayes	40	Jonathan Heroux, Piper Jaffray
Debbie Hoffman	41	Glenn Porzak, Porzak Browning & Bushong LLP
Diane Johnson	42	<u>Public</u>
Melissa Mills McLoota	43	Steve Jouflas, Wolcott resident and water rights owner
Glen Phelps	44	Cliff Thompson, IKS Consulting
Siri Roman	45	Jeff Townsend, Hermes Group

CALL TO ORDER

Chair Sackbauer called the meeting to order at 12:18 p.m.

PUBLIC COMMENT

Messrs. Townsend and Jouflas gave an update on the Wolcott development, for which new financing recently became available. They discussed a draft timeline and the benefits they expected the development would bring to the community. They Board thanked them for the information, and they left the meeting at 12:25 p.m.

ACTION ITEMS

Consideration of Minutes – The minutes of the regular meeting of September 22, 2016, were considered. Upon motion duly made and seconded, it was unanimously

Eagle River Water & Sanitation District

1 **RESOLVED** that the minutes of the September 22, 2016, regular meeting be accepted and
2 hereby are approved as presented.

3 **Sanitation Maintenance Warranty Deductible** – Mr. Wilkins discussed the board action request
4 and Sanitation Maintenance Warranty Deductible for 2017, copies of which are attached hereto
5 as **Exhibits A** and **B**, respectively, and incorporated herein by this reference. Mr. Wilkins noted
6 that approval of the endorsement would reduce the District's liability premiums by 33%. After
7 discussion and upon motion duly made and seconded, it was unanimously

8 **RESOLVED** that the endorsement be and hereby is approved as presented.

9 **Housing Pricing Policy** – Mr. Wilkins discussed the board action request and related information
10 regarding recommended changes to the housing pricing policy, copies of which are attached hereto as
11 **Exhibits C** and **D** and incorporated herein by this reference. Discussion ensued regarding the purpose
12 of the employee housing program, current caps on appreciation and depreciation per the housing
13 policy, and whether it was beneficial to build equity in an artificially-priced environment. In response to a
14 question, Mr. Wilkins said in the past, there was a two-year limit on employee rentals, at which time the
15 employee could either purchase that or another unit, or pay full market value for the rental. A *Vail Daily*
16 article regarding proposed ballot issue 1A, a tax to fund affordable workforce housing, was also
17 circulated to the Board, a copy of which is attached hereto as **Exhibit E** and incorporated herein by this
18 reference. Upon motion duly made and seconded, it was unanimously

19 **RESOLVED** that the proposed housing pricing policy change be and hereby is approved as
20 presented.

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

23 At 12:57 p.m. Secretary Gregory left the meeting.

24 **STRATEGY ITEMS**

25 **2009 Bond Refunding** – Mr. Wilkins welcomed Mr. Heroux, the District's bond underwriter. Mr. Heroux
26 discussed the proposed refunding and related information, a copy of which is attached hereto as **Exhibit**
27 **G** and incorporated herein by this reference. He noted that refunding now would yield an estimated 8 –
28 9% savings that the District would realize starting in 2017; this would not change the term of the bonds,
29 but it would provide annual savings that could be passed on to customers. Mr. Heroux outlined the next
30 steps, including presentation of a parameters resolution at the Nov. 17 meeting. The Board directed Mr.
31 Heroux and staff to proceed with the refunding.

32 **GENERAL MANAGER REPORT**

33 Ms. Brooks presented her report, a copy of which is attached hereto as **Exhibit H** and incorporated
34 herein by this reference. The monthly reports were also acknowledged, copies of which are attached
35 hereto as **Exhibit I** and incorporated herein by this reference.

Eagle River Water & Sanitation District

1 **Minturn Sewer Backup** – Ms. Brooks discussed a Minturn sewer backup that would likely result
2 in property and liability insurance claims. She said tree roots infiltrated a private line and
3 eventually compromised the main, which backed up into a private residence. The affected
4 homeowners have been instructed to contact legal counsel for any future assistance.

5 **Property Identification** – Ms. Brooks reported that she was working with Secretary Gregory,
6 who is on the real estate committee, to identify possible properties for various expansions. They
7 will report on progress and options at a future meeting.

8 **November Board meeting** – Ms. Brooks discussed the November board meeting, which will
9 include a tour of the recently completed Solids Handling Project at the Edwards Wastewater
10 Treatment Plant. Staff plans to focus the remainder of the meeting on wastewater matters,
11 including the Wastewater Master Plan, 2015 Multimetric Index (MMI) scores, and related
12 information.

13 **Water Demand Management Update** – Ms. Egan discussed her memo and presented
14 information regarding the water demand management program, copies of which are attached
15 hereto as **Exhibits J** and **K**, respectively, and incorporated herein by this reference. She
16 referenced the water demand management pilot program, which began in 2015 and continued
17 into the 2016 irrigation season. Ms. Egan discussed the program purpose, which is to use water
18 more efficiently and serve an expanding population with existing supply. She also reviewed goals
19 and successes, including: maintain quality landscapes while using less water; utilize efficient
20 irrigation strategies and new technology; and lower system-wide usage. Based on the 2016
21 results, staff will work to improve customer access to information, develop water budgets, and
22 partner with land use authorities to continue to achieve success in reducing overall water
23 demand. Director Testwuide suggested having the portal include a dollar amount for potential
24 savings based on recommended usage vs. what the customer actually paid. Ms. Egan noted that
25 once the District's system is upgraded, such recommendations could be incorporated.

26 **FINANCE REPORT**

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

29 **2017 Draft Budget Update** – Mr. Wilkins discussed the 2017 draft budget and process by which
30 it was created. Related documents are attached hereto as **Exhibit M** and incorporated herein by
31 this reference. He noted the Capital Improvements Program staff was consulted early in the
32 process to better understand timing for capital projects and spending over time. Discussion
33 ensued, and Vice Chair Friedman, also a member of the budget subcommittee, requested more
34 information on various budget details before he felt comfortable recommending full Board
35 approval at the Nov. 17 meeting.

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Eagle River Water & Sanitation District

1 OPERATIONS REPORT

2 The operations report was presented, a copy of which is attached hereto as **Exhibit N** and incorporated
3 herein by this reference.

4 **Low Flow Operations** – Ms. Brooks noted that current streamflows were well below average.
5 The Authority and District can modify system operations to improve streamflows, including
6 moving diversions downstream to the lowest point in the interconnected system. Many District
7 and Authority water rights are senior to the ISF, but both entities recognize the importance of
8 leaving water in the river for aquatic health purposes. In response to a question, Mr. Tracy said
9 water pumping costs depend largely on the part of the system being used, which is in turn
10 influenced by a variety of factors, including time of year, streamflows, and turbidity.

11 **Eagle Park Reservoir Company Quarterly Operations Report** – Mr. Tracy discussed the
12 EPRC report. Mr. Tracy and Mr. Porzak then discussed matters related to Eagle Park Reservoir
13 and Climax Mine. Mr. Tracy noted the reservoir quality was good and outlined monitoring efforts
14 to ensure its continued protection. He also noted the possible need to drill an additional
15 compliance test well at a lower point near the inlet to get accurate metals data. Mr. Porzak
16 summarized the various protections EPRC has against water quality degradation, including the
17 original purchase agreement with Climax and the subsequent settlement agreement with Climax
18 attached to the permit amendment for the Climax Mine. Mr. Tracy discussed Climax's request to
19 apply groundwater standards to monitoring wells, a relaxation of standards that could adversely
20 affect surface water quality in Eagle Park Reservoir, as well as efforts to engage in a transparent
21 dialogue with Climax to maintain a good relationship in light of upcoming Eagle River MOU
22 projects. In response to a question, Mr. Porzak noted Climax does not meet the current standards
23 for various metals in the Ten Mile Creek drainage; treatment system upgrades to come into
24 compliance with molybdenum water quality standards would be in excess of \$100 million. He also
25 discussed the importance of water quality from a health standpoint and for recreation and
26 tourism, particularly snowmaking operations.

27 COMMUNICATION AND PUBLIC AFFAIRS REPORT

28 Ms. Johnson presented her report, a copy of which is attached hereto as **Exhibit O** and incorporated
29 herein by this reference.

30 **Vail Farmers' Market** – Ms. Johnson reviewed a successful season at the Vail Farmers' Market.
31 Eighteen different employees distributed water and interacted with market attendees during the
32 16-week season. She estimated that staff gave out over 2,100 gallons of water. The Board
33 thanked Ms. Johnson and staff for their efforts.

34 At 2:10 p.m. Messrs. Phelps and Thompson left the meeting.
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Eagle River Water & Sanitation District

1 **EXECUTIVE SESSION**

2 Mr. Porzak requested the Board enter Executive Session to receive legal advice regarding Wolcott and CRCA
3 matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. He asked that no electronic record be made, as the
4 discussion would be entirely privileged attorney-client communications. Upon motion duly made and
5 seconded, it was unanimously

6 **RESOLVED** to enter executive session at 2:11 p.m. to discuss attorney-client privileged
7 issues concerning Wolcott and CRCA matters, pursuant to §24-6-402(4)(b) and (e) C.R.S.
8 with no electronic record created as Mr. Porzak opined the contents of the discussion would
9 contain privileged attorney-client communications.*

10 At 2:30 p.m., before the discussion of CRCA matters, all staff left the meeting, with the exception of Ms.
11 Brooks and Ms. Johnson.

12 The regular meeting resumed at 2:39 p.m.

13 **Wolcott Development** – The Board discussed the needed water service agreement for the Wolcott
14 development. The Board also discussed the developer’s timeline and schedule, which is not
15 conducive to a thorough review by the Board. A motion was made and seconded to approve the
16 drafting of a water service agreement with the Hermes Group for the Wolcott development. After
17 discussion, the motion failed by a vote of 0 – 6.

18 **GENERAL COUNSEL REPORT**

19 Mr. Collins noted he had nothing further to report.

20 **WATER COUNSEL REPORT**

21 **Homestake Reservoir Exchange Diligence Application** – Mr. Porzak discussed the
22 Homestake Diligence Application, a copy of which is attached hereto as **Exhibit P** and
23 incorporated herein by this reference. After discussion and upon motion duly made and
24 seconded, it was unanimously

25 **RESOLVED** that the filing of the completed Homestake Reservoir Exchange Diligence
26 Application be and hereby is approved.

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Eagle River Water & Sanitation District

1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 2:50 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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15 **Tom Allender, Treasurer**

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19 **Steve Coyer, Director**

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23 **Stephen Friedman, Vice Chair**

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27 **George Gregory, Secretary**

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

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35 **Bill Simmons, Director**

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39 **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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45 _____
46 **Glenn Porzak, Water Counsel**