

Eagle River Water & Sanitation District
Board of Directors Meeting
November 17, 2016
MINUTES

A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held November 17, 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
George Gregory
Bill Simmons
Frederick P. Sackbauer IV
Paul Testwuide

The following Director was absent and excused:

Steve Friedman

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	Parker Newbanks
Tug Birk	36	Glen Phelps
Linn Brooks	37	Siri Roman
Jason Cowles	38	Jeff Schneider
Carol Dickman	39	Brian Tracy
Tim Drescher	40	James Wilkins
Maureen Egan	41	<u>Consultants</u>
Catherine Hayes	42	Jim Collins, Collins Cockrel & Cole
Debbie Hoffman	43	Kristin Moseley, Porzak Browning & Bushong LLP
Diane Johnson	44	<u>Public</u>
Ali Kelkenberg	45	Lilly Johnson

CALL TO ORDER

Chair Sackbauer called the meeting to order at 12:38 p.m. He noted a work session was held at the Edwards Wastewater Treatment Plant immediately prior to the meeting, during which Directors toured the recently completed Solids Handling Project there. The Board commended staff on the informative tour and the successful completion of the multi-year project.

PUBLIC COMMENT

Chair Sackbauer called for public comment and there was none.

ACTION ITEMS

Consideration of Minutes – The minutes of the special meeting of October 27, 2016, were considered. Upon motion duly made and seconded, it was unanimously

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1 **RESOLVED** that the minutes of the October 27, 2016, special meeting be accepted and hereby
 2 are approved as presented.

3 The minutes of the joint meeting of October 27, 2016, were considered. Upon motion duly made and
 4 seconded, it was unanimously

5 **RESOLVED** that the minutes of the October 27, 2016, joint meeting with the Upper Eagle
 6 Regional Water Authority be accepted and hereby are approved as presented.

7 **PUBLIC HEARING: 2017 PROPOSED RATES**

8 Chair Sackbauer opened a public hearing at 12:39 p.m. to discuss the 2017 rate sheet, a copy of which is
 9 attached hereto as **Exhibit A** and incorporated herein by this reference. A call for public input solicited no
 10 response. Mr. Collins noted the District had posted the required formal notice of the public hearing at
 11 which the Board would consider a rate change at least 30 days in advance. A copy of the notice is
 12 attached hereto as **Exhibit B** and incorporated herein by this reference. The public hearing was closed at
 13 12:40 p.m. Mr. Wilkins presented a resolution to adopt the 2017 rates, a copy of which is attached hereto
 14 as **Exhibit C** and incorporated herein by this reference. Upon motion duly made and seconded, it was
 15 unanimously

16 **RESOLVED** that resolution to adopt the 2017 rates be and hereby is approved as
 17 presented.

18 **PUBLIC HEARING: 2017 PROPOSED BUDGET**

19 Chair Sackbauer opened a public hearing at 12:40 p.m. to discuss the 2017 budget, a copy of which is
 20 attached hereto as **Exhibit D** and incorporated herein by this reference. A call for public input solicited no
 21 response. The public hearing was closed at 12:41 p.m. Mr. Wilkins presented Resolutions to Adopt the
 22 2017 Budget, Appropriate Sums of Money, and Certify Mill Levies, copies of which are attached hereto as
 23 **Exhibits E, F, and G**, respectively, and incorporated herein by this reference. After discussion and upon
 24 motion duly made and seconded, it was unanimously

25 **RESOLVED** that the Resolutions to Adopt the 2017 Budget, Appropriate Sums of Money,
 26 and Certify Mill Levies be and hereby are approved as presented.

27 The 2017 rates for service charges and tap fees are set as follows:

28 **Vail Water Service Rates:**

Base Rate		Monthly per Single Family Equivalent (SFE)
2% increase overall in base rate and CRP		
\$15.28	Base Service Rate, \$0.30 increase	
\$ 5.36	Capital Replacement Base Rate, \$0.11 increase	
\$ 7.23	Debt Service Base Rate (decrease from \$7.27)	
Water Usage per 1,000 Gallons		
0% increase in Tier 1; 75% increase from previous tier in Tiers 2 and 3		
Beginning of Tier (1,000 gallons)	Tier Cutoff (1,000 gallons)	Rate
0	9	\$2.58 per 1,000 gallons
10	40	\$4.51 per 1,000 gallons
41	Over	\$7.89 per 1,000 gallons

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1 **Wastewater Service Fees:**

2 \$5.06 per 1,000 gallons of water used based on average monthly use from January to April, with a
3 minimum of 5,000 gallons per SFE per month. The average water usage for January to April will be used
4 to calculate the wastewater charges for May to December. In addition, a \$9.17 base rate per SFE is
5 assessed for debt service on the 2009 and 2012 Bonds. Usage rates are the same as the 2016 levels,
6 and there is a \$0.09 decrease per SFE to the Debt Service base rate.

7 **Vail Water Tap Fees:**

8 \$4.31 per square foot for residential properties and 3% increase in the commercial fees, which are based
9 on meter size. A 3% increase over 2016.

10 **Wastewater Tap Fees:**

11 \$3.53 per square foot for residential properties and 3% increase in the commercial fees, which are based
12 on fixture count and meter flow. A 3% increase over 2016.

13 **Property Tax mill levies for taxes to be collected in 2016:**

	11/17/2016 Net AV	Mill	Revenue
ERWSD – Wastewater Ops.	\$2,214,842,850	0.231	\$511,628
ERWSD – Vail Water Ops.	\$1,011,063,110	0.444	\$448,912
ERWSD – Wastewater Debt	\$2,214,842,850	0.618	\$1,370,750
ERWSD – Vail Water Debt	\$1,011,063,110	0.944	\$954,444

14 *Mill levies and/or revenues are adjusted once the final Assessed Valuation is received and TABOR limits*
15 *are reviewed.*

16 **Consider Resolution Authorizing Issuance and Sale of Enterprise Water Revenue Refunding Bonds,**

17 **Series 2016** – Mr. Wilkins discussed the parameters resolution regarding the proposed refunding of 2009 water
18 enterprise bonds, a copy of which is attached hereto as **Exhibit H** and incorporated herein by this reference.
19 Discussion ensued regarding the projected savings, which have decreased significantly since the recent
20 presidential election. Mr. Wilkins noted the resolution stipulates a minimum savings of 4.5%. If such savings is not
21 available by Dec. 15, staff and bond counsel would not proceed with the refunding. Upon motion duly made and
22 seconded, it was unanimously

23 **RESOLVED** that the Resolution Authorizing the Issuance and Sale of Enterprise Water Revenue
24 Refunding Bonds, Series 2016, in the maximum principal amount of \$13,750,000, be and hereby is
25 approved as presented.

26 **Mountain Star Tank Site Inclusion** – Mr. Birk presented a board action request and related information
27 regarding the Mountain Star Tank site inclusion, copies of which are attached hereto as **Exhibits I** and **J**,
28 respectively, and incorporated herein by this reference. He noted that the inclusion would prevent the need for
29 Eagle County to create an entirely new tax district for the property, making for administrative efficiencies. After
30 discussion and upon motion duly made and seconded, it was unanimously

31 **RESOLVED** that the Resolution to include the Mountain Star Tank site into the boundaries of the Eagle
32 River Water and Sanitation District be and hereby is approved as presented.

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

3 **Employee Recognition** – The Board approved an annual holiday bonus for employees in recognition of their
4 efforts throughout the year.

5 The Board took a short recess for lunch at 12:49 p.m. The meeting resumed at 12:59 p.m.

6 **STRATEGY ITEMS**

7 **Wastewater Update** – Ms. Johnson referenced the solids handling improvement project – the largest
8 capital improvement project in District history – at the Edwards WWTF and asked directors if they had
9 feedback or comments. Discussion ensued regarding work by staff and consultants to monitor and ensure
10 adequate return flows in Vail, as all of the District's solids are now treated at the Edwards facility.

11 Ms. Roman presented a PowerPoint and related memo about the wastewater master plan, copies
12 of which are attached hereto as **Exhibits L** and **M**, respectively, and incorporated herein by this
13 reference. She highlighted information regarding nutrients and their effects on aquatic life and stream
14 aesthetics as well as the cost of compliance with Regulations 31 and 85 for nitrogen and phosphorus.
15 She noted that as the lone permitted discharger on most local streams, the District can be held solely
16 accountable for meeting the standards, even though multiple non-point sources contribute to nutrient
17 loading. She also pointed out that even when the regulatory limits are unachievable for the District's
18 service area, costly studies are often needed to demonstrate this to the state regulatory agencies that
19 enforce the limits.

20 Ms. Roman also discussed projected growth scenarios and the impact to planning expansion and
21 regulatory projects for the District's wastewater treatment plants. She noted the wastewater master plan is
22 being updated strategically, with staff and consultants looking at the synergistic relationship between the
23 three plants, rather than treating each one as its own separate entity. Ms. Roman said optimization for
24 each plant would be completed prior to any additional capital improvements. Possible expansion
25 scenarios were shown for each plant.

26 Ms. Johnson discussed public outreach about wastewater matters that was initiated in December
27 2012 and continued into 2014 to share information ahead of the May 2014 special district election
28 regarding two ballot issues, which District voters ultimately approved. Voter authorization allowed the
29 District to issue general obligation bonds to pay for needed wastewater upgrades to start the process of
30 complying with the nutrient regulations that Ms. Roman discussed. The District could have raised rates
31 without voter approval, but collecting revenues through property tax rather than monthly rates saved
32 nearly \$1.8 million over the life of the bonds. Ms. Johnson noted the importance of sharing information
33 and success stories with ratepayers, which has continued after the 2014 election. She also said a ribbon
34 cutting ceremony would be held in spring 2017 to share the Edwards WWTF improvement project and its
35 success with the community.

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1 Ms. Roman presented updated MMI scores for the Gore Creek and the Eagle River. She
2 discussed the sampling sites, methodology, and results. Gore Creek results continue to follow recent
3 trends, with scores dropping at sample sites below urban areas. Eagle River scores showed some
4 improvements, although some of the sediment movement from stream restoration efforts could have
5 scoured bug populations in the Edwards area. Ms. Roman also noted that a significant rain event
6 occurred 10 days prior to sampling, which could have adversely affected the scores for both streams. She
7 pointed out efforts of the local Urban Runoff Group, which was formed in 2010 and is currently working to
8 implement recommendations from the Gore Creek Water Quality Improvement Plan it commissioned. Ms.
9 Roman specifically discussed efforts by the town of Vail to improve Gore Creek water quality, including
10 education and outreach, and stream restoration and bank stabilization projects.

11 **GENERAL MANAGER REPORT**

12 Ms. Brooks noted she did not include a written report in packets. Monthly reports were acknowledged,
13 copies of which are attached hereto as **Exhibit N** and incorporated herein by this reference.

14 **Stillwater PUD Update** – Mr. Wilkins discussed the proposed Stillwater PUD site, which is
15 across the river from the Edwards Wastewater Treatment Plant; preliminary analysis is underway
16 for a potential employee housing project there. An internal housing survey is also in progress to
17 get feedback to inform both the Stillwater PUD and the overall housing policy. In response to a
18 question, Mr. Wilkins noted most of the planned units would be for rent or sale, with the exception
19 of a few that would be available only for short-term lease for recruitment purposes. Staff expects
20 to present a more formal plan for the Stillwater PUD at the December meeting.

21 **FINANCE REPORT**

22 Mr. Wilkins presented the finance report, a copy of which is attached hereto as **Exhibit O** and
23 incorporated herein by this reference. He noted water sales were slightly below projections and that future
24 budgets would not be based on previous years' figures since sales are largely weather-dependent and
25 difficult to predict on a year-to-year basis.

26 **Quarterly Financial Report** – Mr. Wilkins discussed the quarterly report, a copy of which is
27 attached hereto as **Exhibit P** and incorporated herein by this reference. The Board
28 acknowledged receipt of the report.

29 **OPERATIONS REPORT**

30 The operations report was presented, a copy of which is attached hereto as **Exhibit Q** and incorporated
31 herein by this reference.

32 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

33 Ms. Johnson noted she did not include a written report in packets.

34 **City of Aspen Water Rights Diligence** – Ms. Johnson said many groups are opposed to the city
35 of Aspen's filing for diligence on conditional water rights it has maintained since 1965 for potential
36 storage reservoirs on upper Castle and Maroon creeks.

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1 **Colorado River Risk Study** – Ms. Johnson discussed phase 2 of the Colorado River
2 Development and Curtailment Risk Study, led by the River District and funded, in part, by the
3 West Slope Basin Roundtables. Some Front Range entities are concerned about the study's
4 direction, even though many of their representatives are involved in the technical advisory group,
5 and have appealed to the Colorado Water Conservation Board to lead such efforts. She
6 mentioned several letters and media reports and offered to send them to those interested.

GENERAL COUNSEL REPORT

8 **Wolcott Update** – Mr. Collins reported that the Wolcott development was once again on hold. He
9 saved further discussion for Executive Session.

10 **Heritage Parcel Update** – Mr. Collins said he is facilitating discussions between the owner of the
11 Heritage Parcel and the Country Club of the Rockies, which owns the property through which an
12 easement is needed to provide sewer service to the Heritage Parcel. Negotiations have thus far
13 been friendly.

14 **Subdistrict Request** – Mr. Collins discussed a request from the Bighorn Recreation and
15 Sanitation District (BRSD) in East Vail, which wishes to have the District take over its sewer
16 operations. BRSD currently has a private sewer collection system on the property and is having
17 difficulty with operations and maintenance. Due to the high cost of upgrading their system to meet
18 District specs, Mr. Collins suggested BRSD form a subdistrict to be taxed for the cost of the
19 improvements; the District can then bond for the improvements and recoup the taxes. The Board
20 agreed with the recommendation. Mr. Collins said BRSD can continue to patch its service line
21 until upgrades can be made to connect to the District's system.

WATER COUNSEL REPORT

23 **Extension of Minturn Reservation Period** – Ms. Moseley discussed previous litigation with
24 Minturn regarding its water rights, which was settled in 2010. As part of the settlement, the District
25 offered to lease to Minturn up to 50 acre feet of its Eagle Park or Homestake water at the same
26 rate that the Colorado River Water Conservation District offers. In 2015, Minturn requested a one-
27 year extension of the date by which the amount of leased water must be determined and is
28 requesting an additional extension this year, expiring on January 10, 2018. A copy of the request
29 is attached hereto as **Exhibit R** and incorporated herein by this reference. Ms. Moseley clarified
30 that Minturn still pays annually to reserve the lease option. After discussion and upon motion duly
31 made and seconded, it was unanimously

32 **RESOLVED** that Minturn's request to extend its reservation period until January 10,
33 2018, be and hereby is approved as presented.

34 All public attendees, as well as Ms. Kelkenberg and Messrs. Drescher and Newbanks, left the meeting at
35 2:37 p.m.

EXECUTIVE SESSION

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

5 **RESOLVED** to enter executive session at 2:38 p.m. to discuss attorney-client privileged
6 issues concerning Eagle River MOU caps, Wolcott and CRCA matters, pursuant to §24-6-
7 402(4)(b) and (e) C.R.S. with no electronic record created as Ms. Moseley opined the
8 contents of the discussion would contain privileged attorney-client communications.*

9 At 2:59 p.m., before the discussion of CRCA matters, all staff left the meeting, with the exception of Ms.
10 Brooks and Ms. Johnson.

11 The regular meeting resumed at 3:13 p.m.

12 **Wolcott Development** – Ms. Moseley summarized recent discussions with the Chris Joufflas family (CJC
13 Properties) regarding the Wolcott development and the possibility of the District moving forward with CJC
14 Properties in a joint application to change the portion of the O'Neill and Holland Ditch water rights it owns. Ms.
15 Moseley said each party would pay its respective costs and the District's costs would be recovered via a cost
16 recovery agreement with CJC Properties. After discussion and upon motion duly made and seconded, it was
17 unanimously

18 **RESOLVED** that the District move forward as a co-applicant with the Chris Joufflas family in a water
19 rights change case regarding its portion of the O'Neill and Holland Ditch water rights.

20 **Meeting Format** – Ms. Brooks requested input on the day's meeting, including the work session/tour format
21 and the focus on mainly wastewater topics. The agenda was purposely pared down for any items that were
22 not related to wastewater. Directors gave positive feedback on the day's events and requested similar-format
23 meetings a few times per year.

24

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 3:16 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 _____
15 **Tom Allender, Treasurer**

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18 _____
19 **Steve Coyer, Director**

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22 _____
23 **Stephen Friedman, Vice Chair**

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27 **George Gregory, Secretary**

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

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35 **Bill Simmons, Director**

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38 _____
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.

43
44
45 _____
46 **James P. Collins, General Counsel**

47 _____
Kristin Moseley, Water Counsel