A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held January 26, 2017, 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

The following Director was absent and excused:

7. Paul Testwuide

Also in attendance were:

8. District Staff
9. Jason Cowles
10. Carol Dickman
11. Catherine Hayes
12. Diane Johnson
13. Micah Schuette
14. Brian Tracy
15. James Wilkins
16. Consultants
17. Jim Collins, Collins Cockrel & Cole
18. Glenn Porzak, Porzak Browning & Bushong LLP
19. Public
20. Janet Hawkinson, town of Minturn
21. Cliff Thompson, IKS Consulting

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.

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 December 15, 2016, were considered. Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the December 15, 2016, regular meeting be accepted and hereby are approved as presented.

The minutes of the special meeting of December 15, 2016, were considered. Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the December 15, 2016, special meeting be accepted and hereby are approved as presented.

Resolution Designating Meeting Place and Posting Location – Ms. Hayes presented a Resolution designating the District’s meeting place and posting location for 2017, a copy of which is attached hereto
as Exhibit A and incorporated herein by this reference. Upon motion duly made and seconded, it was unanimously
RESOLVED that the Resolution Designating Meeting Place and Posting Location be and hereby is approved as presented.

2017 Operations Agreement with Upper Eagle Regional Water Authority – Ms. Hayes discussed a board action request regarding the 2017 operations agreements with the Authority, Minturn, and Eagle Park, a copy of which is attached hereto as Exhibit B and incorporated herein by this reference. Copies of the operations agreements are attached hereto as Exhibits C, D, and E, respectively, and incorporated herein by this reference. She noted various exhibits to the Authority and Park agreements were updated to reflect the costs and fees from the previously adopted 2017 budgets of those entities; the main body of the agreements did not change. In response to a question, Ms. Hayes confirmed that the District charges in-district rates for any work performed at Eagle Park Reservoir. After discussion and upon motion duly made and seconded, it was unanimously
RESOLVED that the 2017 Operations Agreements with the Upper Eagle Regional Water Authority, town of Minturn, and Eagle Park Reservoir Company be and hereby are approved as presented.

Resolution Approving the Sale of Real Property – Mr. Wilkins presented a board action request and related resolution regarding the sale of Red Sandstone Creek unit A9 to an interested employee who currently rents the unit. Copies of the request and resolution are attached hereto as Exhibits F and G, respectively, and incorporated herein by this reference. Mr. Wilkins clarified that the unit falls under the town of Vail’s deed restriction and if the employee left the District, she could remain in the unit if she continued to work in Eagle County. After discussion and upon motion duly made and seconded, it was unanimously
RESOLVED that the resolution to sell Red Sandstone Creek unit A9 be and hereby is approved as presented.

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

STRATEGY ITEMS

Director District 2 Vacancy – Mr. Collins reported that Director Testwuide sold his home in Vail and no longer resides in District 2; therefore, he is resigning, effective immediately. He wished to tell the Board in person but was unavailable due to illness. Ms. Johnson discussed a prepared press release to encourage interested candidates to apply for the vacancy by Feb. 8. Directors Simmons and Coyer offered to serve on an ad hoc committee to interview applicants, and Ms. Hayes will ensure applicants meet the eligibility requirements for that district. The Board expressed appreciation for Director Testwuide’s contributions.
GENERAL MANAGER REPORT

Ms. Johnson referenced Ms. Brooks’ report, a copy of which is attached hereto as Exhibit I and incorporated herein by this reference. Monthly reports were acknowledged, copies of which are attached hereto as Exhibit J and incorporated herein by this reference.

Staff Promotion – Ms. Johnson shared that Mr. Cowles was recently promoted to Engineering Manager; his previous position was Planning Supervisor. Mr. Cowles will now oversee the capital improvement program, planning, and construction review functions. The Board congratulated him on the promotion.

COMMUNICATION AND PUBLIC AFFAIRS REPORT

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

Legislative Update – Ms. Johnson noted the state legislature convened Jan. 11; of primary concern is the budget shortfall due to the April 2016 Colorado Supreme Court decision on severance taxes. The District and Authority are not directly involved in any legislation this session, but staff and consultants will monitor local government and water-related bills.

Colorado River Basin Water Supply – Ms. Johnson discussed water supply in Lakes Powell and Mead, noting the recent wet weather in the Colorado River basin will likely prevent curtailment of water use by the beneficiaries of Lake Mead for another year. She said the abundant snow in northern California has eased the surface water drought, but groundwater supply continues to decline due to excessive groundwater pumping. Such pumping is causing the ground to sink in many areas.

ENGINEERING REPORT

Rules and Regulations Update – Mr. Cowles noted staff is updating the Rules and Regulations, particularly the appendices that relate to standard specifications for water and sewer mains, as well as requirements for earthwork. He said the changes are mostly for clarification purposes and expects to present a draft for approval at the March meeting.

Fats, Oils, and Grease (FOG) Survey – Mr. Cowles said staff is surveying food service establishments and grease pumping companies to gain data for FOG program implementation. He noted that food service establishments are regulated by the International Plumbing Code for pumping, cleaning, and disposing of grease from traps; if traps are not maintained, they are not effective. Mr. Cowles said the survey results will allow the District to better manage FOG within the sewage collection system. FOG issues can cause costly sewer backups into structures and sewer overflows to the surrounding environment.

Minturn Affordable Housing – The Board welcomed Janet Hawkinson from the town of Minturn, who is working on affordable housing options there. She and Mr. Cowles reported on mutual
topics of concern, including the need to include some properties into the District for sewer
service; a reimbursement agreement with the District to cover District costs associated with the
planning effort, and Minturn’s available water to serve such development.

**Lodge at Vail Storm Drains** – Mr. Cowles updated on the situation at the Lodge at Vail by which
the roof drains are connected to the sewer system, which likely happened during original
construction in the 1960s. The Board was first apprised of the issues in March 2016, and since
then, staff has worked with Lodge representatives to discuss both short and long-term
remediation. The roof will be replaced in approximately six years, at which time the issue could be
permanently resolved; however, interim measures must be taken, as the District is not permitted
to treat stormwater. Additionally, the District could receive a costly permit violation if a large rain
event substantially increased inflows to the Vail wastewater plant and could also require a plant
expansion based on such inflows. Staff is coordinating a meeting with Lodge representatives and
will update the Board when more information is available.

**Bighorn Mutual Recreation and Sanitation Company (BMRSC) Inclusion** – Mr. Cowles
discussed the BMRSC’s request for inclusion into the District due to ongoing issues with its
private sewer system. Mr. Cowles and Mr. Collins discussed the requirements for inclusion,
financing and payment options, and a likely November TABOR election, for which a petition
would be required by the District to ensure sufficient homeowner support for subdistrict formation.

The Board took a short recess for lunch at 12:13 p.m. The regular meeting resumed at 12:25 p.m.

**FINANCE REPORT**

Mr. Wilkins presented the finance report, a copy of which is attached hereto as Exhibit L and
incorporated herein by this reference. Year-end water sales for the Authority were 1% above projections,
while District sales were about 3% below expectations, though neither variance was significant since the
District and Authority used a fixed base rate system. Mr. Wilkins confirmed that some developers did pay
fees in 2016 for upcoming projects, prior to implementation of 2017 fee increases.

**Update on Bond Refunding** – Mr. Wilkins noted interest rates were not favorable at the time of
the planned refunding, so the consultant did not proceed with the refunding, per the parameters
resolution the board passed in December 2016. Mr. Wilkins and the District’s bond counsel
continue to watch market conditions and could do a refunding later this year if conditions become
more favorable.

**WATER COUNSEL REPORT**

**Republican River Compact Rules Update** – Mr. Porzak discussed a letter sent to the State
Engineer regarding the recently submitted draft rules for compliance with the Republican River
Compact. A copy of the letter is attached hereto as Exhibit M and incorporated herein by this
reference. Mr. Porzak noted the draft rules do not exclude pre-Compact water rights and do not
administer post-Compact rights according to the priority system. Mr. Porzak will continue to
monitor the matter on the Authority and District’s behalf.
St. Jude’s Recreation Water Bill – Mr. Porzak discussed the proposed bill, intended to overturn the Colorado Supreme Court decision in a 2015 case in which the judge ruled that the Carbondale-based Roaring Fork Club’s recreational and aesthetic water rights did not constitute beneficial use. This was surprising due to the previous decree of over 1,000 such water rights in the state that predate the 2015 decision. The bill preserves existing water rights decreed for recreational, piscatorial, and aesthetic use and deems recreational releases appropriate uses. A third tenet of the bill allows for recreational water rights in the future, and Glenn and other proponents of the bill suggest this tenet should be removed due to its controversial nature to make passage of this important legislation more likely. A copy of the draft legislation is attached hereto as Exhibit N and incorporated herein by this reference.

Wolcott Municipal Diversion Decree – Mr. Porzak presented a copy of the decree for the Wolcott Municipal Diversion, a copy of which is attached hereto as Exhibit O and incorporated herein by this reference. There were no remaining objectors, the protest period was over, and the ruling of the referee was entered. Mr. Porzak expected the judge to sign the decree shortly.

Ms. Hawkinson and Messrs. McCaulley, Schuette, and Thompson left the meeting at 12:46 p.m.

EXECUTIVE SESSION

Mr. Porzak requested the Board enter Executive Session to receive legal advice regarding Wolcott, Eagle Park Reservoir matters, Eagle River MOU projects, 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 12:47 p.m. to discuss attorney-client privileged issues concerning Wolcott, Eagle Park Reservoir matters, Eagle River MOU projects, 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.*

Mr. Collins requested the Board continue Executive Session to receive legal advice regarding term limits and director districts, 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 continue executive session at 1:18 p.m. to discuss attorney-client privileged issues concerning term limits and director districts, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Collins opined the contents of the discussion would contain privileged attorney-client communications.*

The regular meeting resumed at 1:24 p.m.

OPERATIONS REPORT

The operations report was presented, a copy of which is attached hereto as Exhibit P and incorporated herein by this reference.
**Lead and Copper Sampling** – Mr. Tracy followed up on Ms. Brooks’ December discussion of lead and copper sampling in the District and Authority systems. Mr. Tracy confirmed an increase in the required frequency of lead and copper sampling due to new regulations associated with ongoing issues in Flint, Michigan; the District and Authority must now annually sample 30 homes each. A temporary position has been budgeted for this purpose in 2017 and will likely require a full-time employee in future years. In response to a question, Mr. Tracy said the sampling itself is not time intensive; the related activities of identifying homes that meet the sampling criteria, analysis, record keeping, and public messaging add to the total staff time needed.

**Holiday Season Wastewater Treatment** – Ms. Johnson discussed the graph in the operations report showing flows to the District’s wastewater treatment facilities over the holidays, which were consistent with years past. Also, this was the first holiday season during which all solids were treated at the newly upgraded Edwards WWTP. Facility staff reported smooth operations, with no odor complaints, and passed along their appreciation to the board for supporting such robust odor control measures as part of the recently completed project.

**GENERAL COUNSEL REPORT**

**Heritage Parcel Update** – Mr. Collins discussed the Heritage Parcel, for which the developer needs access through the Country Club of the Rockies in Arrowhead to connect to the District’s sewer system. Mr. Collins is facilitating discussions and offering other assistance to the involved parties; none of the work is at the expense of the District.
Eagle River Water & Sanitation District

ADJOURNMENT
There being no further business to come before the Board, the meeting adjourned at 1:30 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

* 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.

__________________________________________
James P. Collins, General Counsel

__________________________________________
Glenn Porzak, Water Counsel