Eagle River Water & Sanitation District
Board of Directors Meeting
May 25, 2017
MINUTES

A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held May 25, 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. Bob Armour
3. Steve Coyer
4. Steve Friedman
5. George Gregory
6. Bill Simmons
7. Frederick P. Sackbauer IV

Also in attendance were:

8. Jeff Schneider
9. District Staff
10. Linn Brooks
11. Jason Cowles
12. Carol Dickman
13. Catherine Hayes
14. John McCaulley
15. Melissa Mills McLoota
16. Glen Phelps
17. Siri Roman
18. Amy Schweig
19. Consultants
20. Jason Sica
21. James Wilkins
22. Public
23. Jim Collins, Collins Cockrel & Cole
24. Joe Norris, Collins Cockrel & Cole
25. Glenn Porzak, Porzak Browning & Bushong LLP
26. Paul Testwuide, former board member
27. 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:

- Directors Allender and Gregory disclosed that they also serve on the Board of the Upper Eagle Regional Water Authority (Authority).
- Directors 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 Armour disclosed that he is employed by Vail Resorts and the Vail Recreation District. 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.

INTRODUCTIONS

Mr. Collins introduced Mr. Norris of his firm.

ACTION ITEMS

Resolution Honoring Paul Testwuide – Mr. Sackbauer read a resolution in honor of Paul Testwuide’s service on the board of directors, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference. Mr. Testwuide resigned his board seat when he moved out of his director district. Upon motion duly made and seconded, it was enthusiastically and unanimously RESOLVED that the Resolution Honoring Paul Testwuide be and hereby is approved as presented.

Mr. Testwuide left the meeting at 11:33 a.m.

Consideration of Minutes – The minutes of the regular meeting of April 27, 2017, were considered. Upon motion duly made and seconded, it was unanimously
Resolved that the minutes of the April 27, 2017, regular meeting be accepted and hereby are approved as presented.

Treasurer Friedman abstained. He also clarified his intended comments regarding last month’s integrated project delivery resolution for the Stillwater PUD. He noted if there is an expected cost savings or anticipated best value associated with this methodology, there should be a way to measure whether such savings and/or benefits are being realized.

Public Hearing: 2016 Budget Amendment – The Board opened a public hearing at 11:38 a.m. A board action request and resolution were discussed, copies of which are attached hereto as Exhibits B and C, respectively. Mr. Wilkins noted the amendment was requested at the suggestion of the auditors; 2016 spending was higher than originally anticipated due to a rollover. Mr. Wilkins said staff is very accurate with budgeting for total project cost, but multiyear projects often experience timing variances, which can affect the annual budget. The public hearing was closed at 11:42 a.m. After discussion and upon motion duly made and seconded, it was unanimously resolved that the Resolution to Amend the 2016 Budget be and hereby is approved as presented.

Public Hearing: 2017 Budget Amendment – The Board opened a public hearing at 11:40 a.m. A board action request and resolution were discussed, copies of which are attached hereto as Exhibits D and E, respectively. Mr. Wilkins noted the amendment was needed due to the bond refunding, which will save ratepayers close to $1.1 million over the life of the bonds. The public hearing was closed at 11:47 a.m. After discussion and upon motion duly made and seconded, it was unanimously resolved that the Resolution to Amend the 2017 Budget be and hereby is approved as presented.

Resolution regarding 2017 Water Bond Debt Service Base Rate – Mr. Wilkins presented a board action request and resolution regarding the bond refunding, copies of which are attached hereto as Exhibits F and G, respectively, and incorporated herein by this reference. He noted the board must adopt a new bond fee, which will go into effect Jan. 1, 2018; the new fee will result in a savings of $0.15/SFE monthly. In response to a question, Mr. Wilkins clarified that the board has not historically changed fees midyear, but the adoption of a new fee is a procedural matter that is being done in conjunction with the bond issuance. After discussion and upon motion duly made and seconded, it was unanimously resolved that the Resolution regarding the 2017 Water Bond Debt Service Base Rate be and hereby is approved as presented.

County Request for Parking on District Property – Ms. Brooks discussed a memo regarding a request from Eagle County to allow public parking on District property west of the Edwards Wastewater Treatment Facility in support of the County’s public transportation system. A copy of the memo is attached hereto as Exhibit H and incorporated herein by this reference. She said the District purchased the property from the County in 2013 and may need the parcel for future expansion, but is not currently utilizing it and has no known future use at this time. The Board directed Mr. Collins to draft a lease agreement stating that
the County may use the lot for public parking while the District does not need it, but the lease would be revocable. Also, the County would be responsible for improvements and maintenance. After discussion and upon motion duly made and seconded, it was unanimously

**RESOLVED** that the request from Eagle County to park on District property west of the Edwards Wastewater Treatment Facility be and hereby is approved as presented, contingent upon execution of a lease agreement to be drafted by Mr. Collins.

**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.

**STRATEGY ITEMS**

**Board Member Input** – Director Armour said he attended Bennie’s Breakfast the prior day, an annual event at which employees are honored for longevity and other accomplishments. He expressed appreciation for the program and the excellent employee turnout. Chair Sackbauer said he also attended the breakfast and acknowledged the employees who received awards at the event.

**Community Climate Action Plan (CAP)** – Mr. Phelps presented information on the CAP; a related memo, resolution, and presentation are attached hereto as **Exhibits J, K, and L**, respectively, and incorporated herein by this reference. Discussion ensued regarding the six tenets of the CAP, specific goals for local emissions reductions, and current and future District efforts for efficiency and sustainability. Director Armour thanked staff for working on the plan and noted it is a guidance document. Treasurer Allender said the actions will represent savings over time due to reduced energy use. The Board agreed to amend the resolution defer to the Intergovernmental Panel on Climate Change’s position concerning the cause and consequences of climate change, as the Authority had done earlier in the day. After discussion and upon motion duly made and seconded, it was unanimously

**RESOLVED** that the Resolution to Adopt the Climate Action Plan for the Eagle County Community be and hereby is approved as amended.

The Board took a recess for lunch at 12:14 p.m. The meeting resumed at 12:45 p.m.

**GENERAL MANAGER REPORT**

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

**Tap Fee and Housing White Paper** – Ms. Brooks discussed the staff-produced white paper regarding local tap fees and the current housing issues, a copy of which is attached hereto as **Exhibit N** and incorporated herein by this reference. The main takeaways from the paper were that there is sound legal basis for the Authority and District’s growth pays for growth philosophy; the square-footage based fee structure is accepted industry-wide and is equitable to customers; and that the current local housing crisis is largely a factor of lack of supply to meet high demand,
not due to water and wastewater tap fees. Ms. Brooks thanked Messrs. Cowles and Wilkins for their work on the paper.

FINANCE REPORT
Mr. Wilkins presented the quarterly financials and the monthly finance report, copies of which are attached hereto as Exhibits O and P, respectively, and incorporated herein by this reference.

OPERATIONS REPORT
The operations report was presented, a copy of which is attached hereto as Exhibit Q and incorporated herein by this reference. In response to a question, Ms. Brooks clarified that meter change-out rates were slower than expected due to staffing shortages. She also agreed that the onboarding manual compiled by the wastewater department was an excellent document.

Eagle Mine Spill – Secretary Gregory noted the recent spill at the Eagle Mine, of which staff was notified. Despite the report indicating the spill was contained on the Eagle Mine premises, the contaminated water will eventually reach the river through the ground.

ENGINEERING REPORT
Mr. Cowles noted he did not include a written report in packets.

Lodge at Vail Storm Drains – Mr. Cowles updated on the matter, 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 short-term solution was to plug the storm drains during the summer to prevent large rain events from overwhelming the collection system or the Vail Wastewater Treatment Facility. Mr. Cowles reported there was water damage in one unit due to deferred roof maintenance. The Lodge is jointly owned and operated by Vail Resorts and the Lodge Apartments and Condo Association (LACA), and there is disagreement over which entity should pay for the damage. Until the matter is settled in small claims court, LACA will not consent to installation of the temporary roof drain plugs. Discussion ensued regarding the Lodge’s clear violation of the District’s Rules and Regulations. Staff will draft a letter to both entities to set a deadline for implementation of the temporary solution and if the temporary solution is not implemented, the District may assess penalty use fines.

COMMUNICATION AND PUBLIC AFFAIRS REPORT
Ms. Schweig presented her report, a copy of which is attached hereto as Exhibit R and incorporated herein by this reference.

GENERAL COUNSEL REPORT
Mr. Collins noted all of his items would be discussed in Executive Session.
WATER COUNSEL REPORT

Homestake Reservoir Exchange Diligence – Mr. Porzak presented the Ruling of the Referee for the Homestake Exchange Case, which was a joint diligence application by the District, Authority, and Cities of Aurora and Colorado Springs. A copy is attached hereto as Exhibit S and incorporated herein by this reference. He explained this is the exchange by which the District and Authority pay the Cities back for Homestake Reservoir water. Mr. Porzak said he is awaiting the judge’s signature on the ruling which will make this the final Decree of the Water Court. However, the 20-day protest period has expired.

St. Jude’s Recreation Water Bill – Mr. Porzak said the bill passed in both the House and Senate; Gov. Hickenlooper is expected to sign the bill today. The bill protects current District and Authority absolute and conditional recreational water rights; future conditional recreation rights were not covered under the final version of the bill. Mr. Porzak also noted that through work on this bill, strong relationships were forged with Sen. Sonnenberg and Rep. K.C. Becker.

Messrs. Schneider and Thompson left the meeting at 1:10 p.m.

EXECUTIVE SESSION

Mr. Porzak requested the Board enter Executive Session to receive legal advice regarding the Eagle River MOU matters, Minturn and Battle Mountain status report, Snowmaking Master Plan for Vail Mountain, 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 1:11 p.m. to discuss attorney-client privileged issues concerning the Eagle River MOU matters, Minturn and Battle Mountain status report, Snowmaking Master Plan for Vail Mountain, 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 1:43 p.m., prior to the discussion of CRCA matters, Mr. Collins, Mr. Norris, and all remaining staff left the room, with the exception of Ms. Brooks. The regular meeting resumed at 1:50 p.m.
ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 1:51 p.m.

Respectfully submitted,

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Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND NOTICE OF MEETING WAIVED

__________________________________________
Tom Allender, Treasurer

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Bob Armour, Director

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Steve Coyer, Director

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Stephen Friedman, Vice Chair

__________________________________________
George Gregory, Secretary

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Frederick P. Sackbauer IV, President/Chair

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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.

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James P. Collins, General Counsel

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Glenn Porzak, Water Counsel