

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**July 27, 2017**  
**MINUTES**

A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held July 27, 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**

1           **The following Directors were present, thereby constituting a quorum:**

2           Tom Allender  
3           Bob Armour  
4           Steve Friedman  
5           George Gregory  
6           Frederick P. Sackbauer IV  
7           Bill Simmons

8           **The following Director was absent and excused:**

9           Steve Coyer

10          **Also in attendance were:**

11 <u>District Staff</u>	23	Brian Tracy
12          Tug Birk	24	James Wilkins
13          Linn Brooks	25	<u>Consultants</u>
14          Jason Cowles	26	Jim Collins, Collins Cockrel & Cole
15          Carol Dickman	27	Glenn Porzak, Porzak Browning & Bushong LLP
16          Catherine Hayes	28	<u>Public</u>
17          Diane Johnson	29	Taggart Howard, Bighorn Mutual Recreation & Sanitation (BMRS)
18          Nicole Lasseter	30	Linda Moore, BMRS
19          John McCaulley	31	Allen Pachmayer, BMRS
20          Jeff Schneider	32	Susan Pachmayer, BMRS
21          Amy Schweig	33	Wendell Porterfield, BMRS

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34          **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

35          The Board noted it had received more than 72 hours prior to the meeting certain disclosures of Potential Conflicts of Interest  
36          Statements for the following Directors indicating the following conflicts:

37          Directors Allender and Gregory disclosed that they also serve on the Board of the Upper Eagle Regional Water Authority (Authority).  
38          Directors Allender also disclosed that he is a former employee of Vail Resorts, which tangentially deals with the Authority and  
39          District, as well as being employed part time by SE Group, which does planning and environmental work for Vail Resorts and other  
40          ski areas. Director Armour disclosed that he is employed by Vail Resorts and the Vail Recreation District. Director Friedman serves  
41          on the Boards of the Beaver Creek Metropolitan District and the Vail Valley Foundation. Director Gregory also serves on the board  
42          of the Berry Creek Metropolitan District and occasionally undertakes development and construction activities within the District and  
43          Authority service areas. Director Sackbauer is employed by Vail Resorts, Inc., which has significant land ownership and business  
44          interests within the District. Director Simmons disclosed that he is the General Manager of the Beaver Creek Metropolitan District,  
45          an alternate Authority Director, and serves on the board of the Edwards Metropolitan District.

46          **CALL TO ORDER**

47          Acting Chair Gregory called the meeting to order at 11:30 a.m.

48          **INTRODUCTIONS**

49          Mr. McCaulley introduced Ms. Lasseter, who is a Customer Service summer intern. Guests from the  
50          Bighorn Mutual Sanitation & Recreation District Homeowners Association were also introduced.

51          Chair Sackbauer entered the meeting at 11:34 a.m.

52          **ACTION ITEMS**

53                 **Consideration of Minutes** – The minutes of the regular meeting of June 22, 2017, were considered.

54                 Upon motion duly made and seconded, it was unanimously

55                         **RESOLVED** that the minutes of the June 22, 2017, regular meeting be accepted and hereby are  
56                         approved as amended.

## Eagle River Water & Sanitation District

1 The minutes of the special meeting of July 11, 2017, were considered. Upon motion duly made and  
2 seconded, it was unanimously

3 **RESOLVED** that the minutes of the July 11, 2017, special meeting be accepted and hereby are  
4 approved as amended.

5 **Vacation of Easement** – Mr. Birk presented a board action request, resolution, and related information,  
6 copies of which are attached hereto as **Exhibits A, B, and C**, respectively, and incorporated herein by  
7 this reference. He discussed the request for vacation of easement at 180 S. Frontage Road in Vail, which  
8 is requested as part of the Vail Valley Medical Center expansion. Discussion ensued regarding ensuring  
9 the vacation of the requested easements is conditioned upon the District's receipt of new easements as  
10 needed. Upon motion duly made and seconded, it was unanimously

11 **RESOLVED** that the resolution for vacation of easement at 180 S. Frontage Road in Vail be and  
12 hereby is approved as presented, provided the District receives new easements as needed for  
13 District water and sewer infrastructure.

14 **FY 2016 Audited Financial Statements** – Mr. Wilkins discussed the FY 2016 audit, which was  
15 performed by McMahan and Associates. A related board action request, copy of the audit, and materials  
16 from the auditors, are attached hereto as **Exhibits D, E, and F**, respectively, and incorporated herein by  
17 this reference. Mr. Wilkins also said the auditors suggested the following: minor procedural changes to  
18 ensure sufficient checks and balances due to the small size of the finance department; a more robust  
19 tracking system for small tools, equipment, and devices; and completion of an arbitrage study within the  
20 calendar year. The audit committee, Vice Chair Friedman and Treasurer Allender, also discussed the  
21 audit, for which a clean opinion was issued; they recommended approval. After discussion and upon  
22 motion duly made and seconded, it was unanimously

23 **RESOLVED** that the FY 2016 Audited Financial Statements be and hereby are approved as  
24 presented.

25 The Board briefly discussed the tracking of electronic devices assigned to employees and also requested  
26 a cybersecurity update in the coming months.

27 **IGA with Town of Vail for Temporary Storage on Hillcrest Drive Lot** – Mr. Wilkins discussed his board  
28 action request and intergovernmental agreement to allow staging of construction materials at the District-  
29 owned Hillcrest Drive lot in Edwards. Copies of these items are attached hereto as **Exhibits G and H**,  
30 respectively, and incorporated herein by this reference. Mr. Wilkins noted the town of Vail needed a  
31 location to stage the materials for its Chamonix development, after which the District could use the same  
32 lot for its proposed Stillwater development. Mr. Wilkins confirmed the town would pay for the site  
33 preparation. After discussion and upon motion duly made and seconded, it was unanimously

34 **RESOLVED** that the Intergovernmental Agreement with the town of Vail for staging at the  
35 Hillcrest Drive be and hereby is approved as presented.

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

# Eagle River Water & Sanitation District

## STRATEGY

**Board Member Input** – Director Allender noted his EagleVail home was under contract for sale; he expects September 28 to be his last District meeting. The Board discussed the vacancies this would create on its various subcommittees and expects to address this at its August meeting.

**Bighorn Mutual Recreation & Sanitation (BMRS) Company Subdistrict** – Mr. Howard introduced himself as spokesperson for the BMRS Homeowners Association. He gave a brief history of the company and noted the sewer and water infrastructure needs to be replaced. Staff and counsel suggested a subdistrict was the most efficient and economical way to accomplish this, so costs can then be advanced and passed along to unit owners via a monthly charge until the upgrades are repaid. Mr. Taggart said an initial poll showed the majority of owners supported subdistrict formation. Related information is attached hereto as **Exhibit J** and incorporated herein by this reference. Mr. Collins discussed next steps, timeline, and requirements, including an inclusion hearing and County approval, among many other items. A May 2018 election is most likely. Staff was directed to work on cost estimates for design in the coming months.

**Stillwater PUD Update** – Mr. Wilkins noted increased cost estimates for the development, driven mostly by construction cost escalation and the required soils and grading issues at the site. Total cost is currently estimated at \$14 million. A special meeting to further discuss the development is being planned for mid-August.

The Board took a recess for lunch at 12:02 p.m. The meeting resumed at 12:28 p.m.

## GENERAL MANAGER REPORT

Ms. Brooks discussed her report, a copy of which is attached hereto as **Exhibit K**, and incorporated herein by this reference. Monthly reports were acknowledged, copies of which are attached hereto as **Exhibit L** and incorporated herein by this reference.

**Hahnewald Barn Update** – In response to a question, Mr. Collins confirmed the District has the authority to remove the barn from its property. Ms. Brooks recently informed the town of Avon that the barn would be torn down by year end as the space will be needed to expand the Avon Wastewater Treatment Facility. Mr. Collins noted the District gave the town of Avon ample time to find a solution to relocating and restoring the barn.

**Clean Water Rule Editorial** – Ms. Brooks discussed a recent Denver Post editorial (published online only) by Colorado Water Congress director Doug Kemper, a copy of which is attached hereto as **Exhibit M** and incorporated herein by this reference. Mr. Kemper discusses the Trump administration's proposed reform of the Clean Water Rule of 2015. The Authority and District will write a follow-up editorial to be published locally and using local examples of how the rule would have included dry gulches and "waterways," the regulation of which would have little to no benefit to water quality in local rivers. Mr. Kemper's editorial generally supported the upcoming process.

## Eagle River Water & Sanitation District

1        **New Customer Service Portal Testing** – Ms. Brooks discussed a memo from Maureen Egan,  
2        water demand management coordinator, a copy of which is attached hereto as **Exhibit N** and  
3        incorporated herein by this reference. Ms. Brooks requested board volunteers to test the new AMI  
4        “smart meter” portal that customer service is currently testing. Users can sign up for the portal  
5        and see water use in real time, among other benefits of the technology.

6        **Tap Fee and Housing White Paper** – Ms. Brooks noted the District’s white paper continued to  
7        be circulated throughout the community with positive feedback.

8        **Upcoming Housing Meeting** – Ms. Brooks said the July 11 special meeting to discuss housing  
9        policy was productive. A follow-up meeting is planned for mid-August.

### 10    **FINANCE REPORT**

11    Mr. Wilkins presented the monthly finance report, a copy of which is attached hereto as **Exhibit O** and  
12    incorporated herein by this reference. He noted water sales for both the District and Authority continue to  
13    trend below the five-year average, despite a semi-dry summer. He suggested this could be partly  
14    attributed to conservation, as well as that two large hotels in Vail remain offline for upgrades, which had  
15    been expected to finish prior to now.

### 16    **OPERATIONS REPORT**

17    The operations report was presented, a copy of which is attached hereto as **Exhibit P** and incorporated  
18    herein by this reference.

19        **Water Service Issues in Miller Ranch, Homestead** – Mr. Tracy and Mr. McCaulley discussed  
20        issues the previous night with discolored water (one instance in Miller Ranch) and low pressure or  
21        no water (various residences in the Homestead area). Staff investigated and believes a pressure  
22        reducing valve for the Homestead Tank was stuck open, which caused a variety of operational  
23        issues. All customers now have water service and no discoloration; staff collected required  
24        samples per standard state protocol. Mr. McCaulley emphasized the water is safe to drink. Staff  
25        will conduct a debrief in the coming days to analyze the incident and find any opportunities to  
26        avoid similar incidents in the future. A follow-up report will also be provided to Ms. Brooks.

### 27    **ENGINEERING REPORT**

28    Mr. Cowles discussed his report, a copy of which is attached hereto as **Exhibit Q** and incorporated herein  
29    by this reference.

30        **Lodge at Vail Storm Drains** – Mr. Cowles updated on the matter, noting the letter sent to Lodge  
31        co-owners, Vail Resorts and the Lodge Apartments and Condo Association (LACA) achieved the  
32        desired result and the temporary solution to slow down the rate of water flowing into the collection  
33        system was implemented. The roof drains will be permanently disconnected when the roof is  
34        scheduled for a lifecycle replacement.

35        **Sonoran Institute Workshop at Keystone** – Mr. Cowles reported a grant was awarded to send  
36        a local contingent to a September workshop at Keystone on Growing Water Smart. The group will

## Eagle River Water & Sanitation District

1 include representatives from local land use authorities, including the town of Avon and Eagle  
2 County. The goal is to collaboratively work with this group towards a unified model of land use  
3 planning and approvals that considers water demand as a key element.

### 4 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

5 Ms. Schweig presented her report, a copy of which is attached hereto as **Exhibit R** and incorporated  
6 herein by this reference.

7 **Colorado Water Plan** – Ms. Johnson discussed a recent Colorado Basin Roundtable meeting,  
8 which was attended by the newly appointed Colorado Water Conservation Board director, Becky  
9 Mitchell. She said Becky had been the CWCB's water supply planning section chief for several  
10 years and played a key role in developing Colorado's Water Plan, which she is now tasked with  
11 implementing. The CWCB recently established a new grant program and allocated \$9 million to  
12 fund implementation projects, in addition to funds already available through the Basin  
13 Roundtables, in an effort to make progress on the critical actions identified in the Water Plan. Ms.  
14 Johnson relayed that Becky offered to meet with Authority and District representatives; directors  
15 and counsel agreed, so Ms. Johnson will follow up.

### 16 **GENERAL COUNSEL REPORT**

17 **Integrated Project Delivery Methodology** – In response to a question, Mr. Collins noted other  
18 clients had expressed concerns about increased use of the IPD method. Mr. Collins emphasized  
19 that the board must approve any use of IPD, so each request presents an opportunity for  
20 questions, discussion, and to not approve such use, if the board chooses.

### 21 **WATER COUNSEL REPORT**

22 Mr. Porzak noted all of his items would be discussed in Executive Session.

23 Ms. Lasseter and Mr. Schneider left the meeting at 12:52 p.m.

### 24 **EXECUTIVE SESSION**

25 Mr. Collins requested the Board enter Executive Session to receive legal advice regarding the Wolcott  
26 development and a land acquisition update, pursuant to §24-6-402(4)(b) and (e) C.R.S. He asked that no  
27 electronic record be made, as the discussion would be entirely privileged attorney-client communications.  
28 Upon motion duly made and seconded, it was unanimously

29 **RESOLVED** to enter executive session at 12:53 p.m. to discuss attorney-client privileged  
30 issues concerning the Wolcott development and a land acquisition update, pursuant to §24-6-  
31 402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Collins opined the contents  
32 of the discussion would contain privileged attorney-client communications.\*

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

## Eagle River Water & Sanitation District

1           **RESOLVED** to enter executive session at 1:30 p.m. to discuss attorney-client privileged  
2           issues concerning Eagle River MOU matters, Bolts Lake, and CRCA matters, pursuant to  
3           §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak opined the  
4           contents of the discussion would contain privileged attorney-client communications.\*

5           At 1:58 p.m., prior to the discussion of CRCA matters, all remaining staff left the room, with the exception of  
6           Ms. Brooks. The regular meeting resumed at 2:15 p.m.

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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 2:21 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 \_\_\_\_\_ **Tom Allender, Treasurer**

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17 \_\_\_\_\_ **Bob Armour, Director**

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20 \_\_\_\_\_ **Steve Coyer, Director**

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23 \_\_\_\_\_ **Stephen Friedman, Vice Chair**

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26 \_\_\_\_\_ **George Gregory, Secretary**

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29 \_\_\_\_\_ **Frederick P. Sackbauer IV, President/Chair**

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32 \_\_\_\_\_ **Bill Simmons, 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 **James P. Collins, General Counsel**

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46 **Glenn Porzak, Water Counsel**

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