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

The following Directors were present, thereby constituting a quorum:
1. Tom Allender
2. Bob Armour
3. Steve Friedman
4. George Gregory
5. Frederick P. Sackbauer IV
6. Bill Simmons

The following Director was absent and excused:
8. Steve Coyer

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

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

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

INTRODUCTIONS

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

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

ACTION ITEMS

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

Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the June 22, 2017, regular meeting be accepted and hereby are approved as amended.
The minutes of the special meeting of July 11, 2017, were considered. Upon motion duly made and seconded, it was unanimously

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sonoran Institute Workshop at Keystone** – Mr. Cowles reported a grant was awarded to send a local contingent to a September workshop at Keystone on Growing Water Smart. The group will
include representatives from local land use authorities, including the town of Avon and Eagle County. The goal is to collaboratively work with this group towards a unified model of land use planning and approvals that considers water demand as a key element.

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.

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

GENERAL COUNSEL REPORT

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

WATER COUNSEL REPORT

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

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

EXECUTIVE SESSION

Mr. Collins requested the Board enter Executive Session to receive legal advice regarding the Wolcott development and a land acquisition update, 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 12:53 p.m. to discuss attorney-client privileged issues concerning the Wolcott development and a land acquisition update, 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.*

Mr. Porzak requested the Board enter Executive Session to receive legal advice regarding Eagle River MOU matters, Bolts Lake, 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 1:30 p.m. to discuss attorney-client privileged issues concerning Eagle River MOU matters, Bolts Lake, 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 1:58 p.m., prior to the discussion of CRCA matters, all remaining staff left the room, with the exception of Ms. Brooks. The regular meeting resumed at 2:15 p.m.
ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 2:21 p.m.

Respectfully submitted,

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Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND NOTICE OF MEETING WAIVED

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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

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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