

Upper Eagle Regional Water Authority

Board of Directors Meeting

October 26, 2017

MINUTES

1 A special meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held October 26, at 8:30 a.m., in the Cortina I Ballroom of the Arrabelle at Vail Square at 675 Lionshead
3 Place, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the State of Colorado.

4 ATTENDANCE

5 The following Directors were present, thereby constituting a quorum:

6 Kim Bell Williams, EagleVail Metropolitan District
7 Geoff Dreyer, Arrowhead Metropolitan District
8 Pam Elsner, Beaver Creek Metropolitan District
9 George Gregory, Berry Creek Metropolitan District, *via phone*
10 Sarah Smith Hymes, town of Avon

11 The following Director was absent and excused:

12 Mick Woodworth, Edwards Metropolitan District

13 The following Alternate Director was present and acting:

14 Bill Simmons, Edwards Metropolitan District

15 Also in attendance were:

| | | |
|--------------------------|----|---|
| 16 <u>District Staff</u> | 26 | Brian Tracy |
| 17 Linn Brooks | 27 | James Wilkins |
| 18 Jason Cowles | 28 | <u>Consultants</u> |
| 19 Carol Dickman | 29 | Steve Bushong, Porzak Browning & Bushong LLP |
| 20 Catherine Hayes | 30 | Jim Collins, Collins Cockrel & Cole |
| 21 Diane Johnson | 31 | Kristin Moseley, Porzak Browning & Bushong LLP |
| 22 John McCaulley | 32 | Glenn Porzak, Porzak Browning & Bushong LLP |
| 23 Siri Roman | 33 | <u>Public</u> |
| 24 Micah Schuette | 34 | Mike Reisinger, Berry Creek Metropolitan District |
| 25 Jason Sica | | |

35 DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

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

38 Director Elsner disclosed her membership with the Vilar Performing Arts Center Guild, which operates within the Authority's service
39 area. Director Gregory and alternate Director Simmons disclosed that they serve on the Board of the Eagle River Water and Sanitation
40 District. Director Gregory also disclosed that he occasionally undertakes small development and construction activities within the
41 Authority and District service areas. Alternate Director Simmons noted he serves on the Edwards Metropolitan District board and is
42 employed by Beaver Creek Metropolitan District, an Authority member. Director Williams disclosed that she is the Eagle County
43 Housing Director. Director Woodworth disclosed that he is employed by the Eagle River Fire Protection District, which operates within
44 the Authority's service area.

45 CALL TO ORDER

46 Acting Chair Hymes called the meeting to order at 8:38 a.m.

47 ACTION ITEMS

48 **Consideration of Minutes** – The minutes of the regular meeting of September 28, 2017, were
49 considered. Upon motion duly made and seconded, it was unanimously

50 **RESOLVED** that the minutes of the September 28, 2017, regular meeting be accepted and
51 hereby are approved as amended.

52 **Request for Modification of Tap Fee Deferral by 6 West Developer** – Mr. Cowles discussed a
53 request from the 6 West developer for the Authority to modify its tap fee for affordable housing
54 policy, a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference.
55 Mr. Cowles said the developer had expected a ten-year deferral of Eagle County's property tax,
56 which did not come to fruition and which the developer believes is now affecting the development's

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1 cash flow. The developer requested deferral of the Authority's tap fee for ten years or upon sale of
2 the development, whichever occurred sooner. The board discussed the request and declined to
3 modify its current policy. Staff also pointed out the Authority's fee structure is based on square
4 footage, which is equitable and also advantageous to high density projects. The Board further
5 clarified that only the affordable housing portion of any project would qualify for tap fee deferral.

6 **STRATEGY**

7 There were no strategy items for discussion.

8 **GENERAL MANAGER REPORT**

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

12 **Regional Water Efficiency Plan Update** – Ms. Brooks reported that a draft of the regional water
13 efficiency plan is nearing completion. She requested a comprehensive review from the water
14 demand management subcommittee, Authority Director Woodworth and District Director Coyer.
15 She noted the plan would provide important supporting information for future water supply
16 projects of the Authority and District.

17 **FINANCE REPORT**

18 Mr. Wilkins presented the monthly finance report, a copy of which is attached hereto as **Exhibit D** and
19 incorporated herein by this reference. He noted the July spike in water sales may have been weather-
20 related. Discussion ensued regarding water use per SFE; the amount budgeted for 2018 was the same
21 as 2017. Such number would be adjusted in response to continued annual trends.

22 **Draft 2018 Budget** – Mr. Wilkins discussed the draft FY 2018 budget and related materials,
23 copies of which are attached hereto as **Exhibit E** and incorporated herein by this reference. He
24 noted the Authority is maintaining a slight surplus, likely due to optimization of operations. Mr.
25 Wilkins also noted staff anticipates bonding in 2019, not 2018 as originally thought. The budget
26 committee, Directors Dreyer and Gregory, discussed the annual budget process and noted the
27 process was smooth and they were comfortable with the proposed budget. A public budget
28 hearing for formal approval of the budget was noticed for the Nov. 16 board meeting.

29 **OPERATIONS REPORT**

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

32 **ENGINEERING REPORT**

33 Mr. Cowles discussed his report, a copy of which is attached hereto as **Exhibit G** and incorporated herein
34 by this reference.

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1 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

4 **GENERAL COUNSEL REPORT**

5 **Traer Creek Tank Update** – Mr. Collins and Mr. Cowles discussed the Traer Creek Tank. Mr.
6 Collins reported the Authority’s insurer maintains its stance that a repaired tank would not be
7 insurable. Progress continues on Traer Creek’s repair analysis, however, and staff is keeping up
8 on these developments. Staff is also making some progress on a replacement plan.

9 **Edwards Water Pressure Issues** – Mr. McCaulley said staff continues to monitor pressure
10 issues in the Riverwalk area, including the use of data loggers to observe pressure events. Staff
11 is meeting with an independent sprinkler specialist next week evaluate their fire sprinkler systems
12 and to install additional pressure data loggers. Recent homeowner claims against the Authority
13 were submitted to its insurer, though staff completed considerable investigation and determined
14 such pressure events were confined to individual homes, not the Authority’s water supply system.

15 **WATER COUNSEL REPORT**

16 **Proposed 2018 Cash-in-Lieu of Water Rights Fees** – Mr. Porzak presented an updated water
17 dedication policy that included proposed 2018 cash-in-lieu of water rights fees, a copy of which is
18 attached hereto as **Exhibit I** and incorporated herein by this reference. The changes would be
19 approved with the 2018 budget, and the consideration of rate increase was noticed for the
20 November meeting. The policy includes increases for summertime water (\$9,000/acre foot) and
21 wintertime storage water (\$35,000/acre foot). Such fees reflect the projected cost of enlarging
22 Eagle Park Reservoir.

23 **EXECUTIVE SESSION**

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

28 **RESOLVED** to enter Executive Session at 9:25 a.m. to discuss attorney-client privileged
29 issues concerning cybersecurity, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no
30 electronic record created as Mr. Collins opined the contents of the discussion would contain
31 privileged attorney-client communications.*

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

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1 **RESOLVED** to continue Executive Session at 9:42 a.m. to discuss attorney-client privileged
2 issues concerning Eagle Park Reservoir and 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 Mr. Bushong entered the meeting at 9:58 a.m.

6 The regular meeting resumed at 10:25 a.m.

7 **Climax Mine and Molybdenum Standards** – Mr. Bushong discussed Climax’s request to
8 increase statewide molybdenum standards for domestic water supplies and agriculture
9 significantly from their current allowable levels. Toxicology experts are reviewing the proposed
10 standards on behalf of the Authority, District, and other stakeholders. Mr. Bushong noted the
11 singular study Climax is using as evidence to support its request is concerning on many levels.
12 The opponents of the increased standards will submit a consolidated pre-hearing statement by
13 the following day’s deadline.

14 **Eagle Mine Update** – Mr. Bushong also reported on the recent record of decision regarding the
15 Eagle Mine cleanup efforts. He discussed the history of the Eagle Mine, and cleanup efforts in the
16 90s. Despite such cleanup, the Mine still adds heavy metals to the surrounding environment and
17 stream, affecting aquatic life and complicating Authority and District treatment operations. The
18 Environmental Protection Agency (EPA) and Colorado Department of Public Health and
19 Environment (CDPHE) recently ruled on the Mine’s proposed cleanup plans, for which the
20 Authority and District submitted extensive comments. Many of the comments were included in the
21 required cleanup measures. The Eagle Mine water treatment system will be expanded, further
22 reducing metals loading to the stream. The system will also undergo more rigorous inspection
23 and maintenance. Additionally, at operational unit 3, contaminated soils in the area will be
24 removed and buried at the consolidated tailings pile with a three-foot layer of soil to preclude
25 human contact. Mr. Bushong cautioned that any water supply development projects at or near the
26 Eagle Mine would need to avoid the contaminated soils. Staff and consultants will continue to
27 monitor the conditions at the Mine and the water quality there, but are pleased with the increased
28 cleanup requirements. Ms. Brooks thanked staff and consultants for their efforts with the matter.

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 11:19 a.m.

3 Respectfully submitted,

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6 Secretary to the Meeting

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8 **MINUTES APPROVED, FORMAL CALL, AND**
9 **NOTICE OF MEETING WAIVED**

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13 **Arrowhead Metropolitan District**

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17 **Town of Avon**

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21 **Beaver Creek Metropolitan District**

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25 **Berry Creek Metropolitan District**

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29 **EagleVail Metropolitan District**

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33 **Edwards Metropolitan District**

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36 *The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion
37 in Executive Session not recorded constituted privileged attorney-client communications.

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42 **James P. Collins, General Counsel**

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Glenn Porzak, Water Counsel