

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**November 16, 2017**  
**MINUTES**

A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held November 16, 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           Steve Coyer  
3           George Gregory  
4           Frederick P. Sackbauer IV, *via phone*  
5           Bill Simmons  
6           Brian Sipes

7           **The following Directors were absent and excused:**

8           Bob Armour  
9           Steve Friedman

10          **Also in attendance were:**

11 <u>District Staff</u>	24	Brian Tracy
12          Tug Birk	25	James Wilkins
13          Linn Brooks	26	<u>Consultants</u>
14          Jason Cowles	27	Jim Collins, Collins Cockrel & Cole
15          Carol Dickman	28	Jonathan Heroux, Piper Jaffray
16          Catherine Hayes	29	Glenn Porzak, Porzak Browning & Bushong LLP
17          Diane Johnson	30	<u>Public</u>
18          Mark Mantua	31	Mark Campbell, Bighorn Terrace
19          Siri Roman	32	Paul Datsko, Vail Resorts
20          Jeff Schneider	33	Taggart Howard, Bighorn Terrace
21          Amy Schweig	34	Wendell Porterfield, Bighorn Terrace
22          Jason Sica	35	Cliff Thompson, IKS Consulting
23          Dylan Smith		

36          **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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

48          **CALL TO ORDER**

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

50          **INTRODUCTIONS**

51          The Board welcomed Mr. Datsko, as well as guests attending on behalf of the Bighorn Terrace  
52          subdistricts. Additionally, Mr. Heroux, special bond counsel, was introduced, as well as employees Mr.  
53          Smith from wastewater and Mr. Mantua, the District's new CIP manager.

54          **ACTION ITEMS**

55                 **Consideration of Minutes** – The minutes of the special meeting of October 26, 2017, were considered.  
56                 Upon motion duly made and seconded, it was unanimously

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1           **RESOLVED** that the minutes of the October 26, 2017, special meeting be accepted and hereby  
2           are approved as presented.

3           The minutes of the joint special meeting of October 26, 2017, with the Upper Eagle Regional Water  
4           Authority and Eagle Park Reservoir Company were considered. Upon motion duly made and seconded,  
5           it was unanimously

6           **RESOLVED** that the minutes of the October 26, 2017, joint special meeting with the Upper Eagle  
7           Regional Water Authority and Eagle Park Reservoir Company be accepted and hereby are  
8           approved as presented.

9           **Stillwater Parcels: Inclusion** – Mr. Birk discussed the request for inclusion and presented a board action  
10          request and related information, copies of which are attached hereto as **Exhibits A** and **B**, respectively,  
11          and incorporated herein by this reference. He clarified that the properties would be included for  
12          wastewater only, as water service is already provided by Edwards Metropolitan District through the  
13          Authority. After discussion and upon motion duly made and seconded, it was unanimously

14          **RESOLVED** that the resolution for inclusion of the Stillwater Parcels be and hereby is approved  
15          as presented.

16          Mr. Birk left the meeting at 11:35 a.m.

17          **Certification of Delinquent Accounts** – Mr. Wilkins discussed the board action request and resolution  
18          regarding delinquent accounts, copies of which are attached hereto as **Exhibits C** and **D**, respectively,  
19          and incorporated herein by this reference. Such delinquent accounts are annually certified to the County  
20          Treasurer for collection. After discussion and upon motion duly made and seconded, it was unanimously

21          **RESOLVED** that the resolution to certify delinquent accounts to the County Treasurer be and  
22          hereby is approved as presented.

### 23          **PUBLIC HEARING: 2018 PROPOSED RATES**

24          Acting Chair Gregory opened a public hearing at 11:40 a.m. to discuss the 2018 rate sheet, a copy of  
25          which is attached hereto as **Exhibit E** and incorporated herein by this reference. A call for public input  
26          solicited no response. Mr. Collins noted the District had posted the required formal notice of the public  
27          hearing at which the Board would consider a rate change at least 30 days in advance. A copy of the  
28          notice is attached hereto as **Exhibit F** and incorporated herein by this reference. The public hearing was  
29          closed at 11:42 a.m. Mr. Wilkins presented a resolution to adopt the 2018 rates, a copy of which is  
30          attached hereto as **Exhibit G** and incorporated herein by this reference. Upon motion duly made and  
31          seconded, it was unanimously

32          **RESOLVED** that resolution to adopt the 2018 rates be and hereby is approved as  
33          presented.

### 34          **PUBLIC HEARING: 2017 PROPOSED BUDGET**

35          Acting Chair Gregory opened a public hearing at 11:43 a.m. to discuss the 2018 budget, a copy of which  
36          is attached hereto as **Exhibit H** and incorporated herein by this reference. A call for public input solicited  
37          no response. The public hearing was closed at 11:45 a.m. Mr. Wilkins presented Resolutions to Adopt the

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1 2018 Budget, Appropriate Sums of Money, and Certify Mill Levies, copies of which are attached hereto as  
 2 **Exhibits I, J, and K**, respectively, and incorporated herein by this reference. After discussion and upon  
 3 motion duly made and seconded, it was unanimously

4 **RESOLVED** that the Resolutions to Adopt the 2018 Budget, Appropriate Sums of Money,  
 5 and Certify Mill Levies be and hereby are approved as presented.

6 The 2018 rates for service charges and tap fees are set as follows:

7 **Vail Water Service Rates:**

Base Rate		Monthly per Single Family Equivalent (SFE)	
0% increase overall in base rate and CRP			
\$15.28	Base Service Rate, no increase		
\$ 5.36	Capital Replacement Base Rate, no increase		
\$ 7.10	Debt Service Base Rate (decrease from \$7.23)		
Water Usage per 1,000 Gallons			
0% increase in all Tiers			
Beginning of Tier (1,000 gallons)	Tier Cutoff (1,000 gallons)	Rate	
0	9	\$2.58 per 1,000 gallons	
10	40	\$4.51 per 1,000 gallons	
41	Over	\$7.89 per 1,000 gallons	

8

9 **Wastewater Service Fees:**

10 \$5.06 per 1,000 gallons of water used based on average monthly use from January to April, with a  
 11 minimum of 5,000 gallons per SFE per month. The average water usage for January to April will be used  
 12 to calculate the wastewater charges for May to December. In addition, a \$9.11 base rate per SFE is  
 13 assessed for debt service on the 2009 and 2012 Bonds. Usage rates are the same as the 2017 levels,  
 14 and there is a \$0.06 decrease per SFE to the Debt Service base rate.

15 **Vail Water Tap Fees:**

16 \$4.72 per square foot for residential properties and 3% increase in the commercial fees, which are based  
 17 on meter size. A 3% increase over 2017.

18 **Wastewater Tap Fees:**

19 \$3.75 per square foot for residential properties and 3% increase in the commercial fees, which are based  
 20 on fixture count and meter flow. A 3% increase over 2017.

21 **Property Tax mill levies for taxes to be collected in 2016:**

	11/16/2017 Net AV	Mill	Revenue
ERWSD – Wastewater Ops.	\$2,343,905,650	0.232	\$544,813
ERWSD – Vail Water Ops.	\$1,094,186,430	0.438	\$480,100
ERWSD – Wastewater Debt	\$2,343,905,650	0.585	\$1,371,133
ERWSD – Vail Water Debt	\$1,094,186,430	0.858	\$938,800

22 *Mill levies and/or revenues are adjusted once the final Assessed Valuation is received and TABOR limits*  
 23 *are reviewed.*

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1       **Parameters Resolution for Crossover Bond Refunding for 2009 Wastewater Build America Bonds**  
2       **(BABs)** – Mr. Wilkins and Mr. Heroux discussed the parameters resolution for the refunding of the 2009  
3       BABs, a copy of which is attached hereto as **Exhibit L** and incorporated herein by this reference. Mr.  
4       Heroux explained the expedited timing of the refunding, as there is the possibility of new tax law  
5       precluding such a crossover refunding in the future. At current market conditions, Mr. Heroux estimated a  
6       possible savings of \$2-3 million over the life of the bonds. After discussion and upon motion duly made  
7       and seconded, it was unanimously

8               **RESOLVED** that the parameters resolution be and hereby is approved as presented; and  
9               **FURTHER RESOLVED** that the resolution to adopt the bond debt service base rate be and  
10              hereby is approved as presented.

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

13       **Bighorn Terrace Subdistricts** – Mr. Collins discussed the memo and related material from Mr. Cowles  
14       regarding the subdistricts, copies of which are attached hereto as **Exhibit M** and incorporated herein by  
15       this reference. The water and sewer mains in the Bighorn neighborhood in East Vail need to be replaced  
16       before the District would accept them into its boundaries, which is the ultimate goal of the homeowners in  
17       the area. Mr. Collins noted the creation of separate water and sewer subdistricts is likely the most efficient  
18       way to accomplish this. Discussion ensued regarding financing the needed upgrades; attendees on  
19       behalf of Bighorn Terrace indicated the majority of the community favors a fee-based financing method,  
20       which would be in addition to service charges for those customers, for a period of time until the cost of the  
21       infrastructure replacement is paid off. The Board requested a mini petition of the homeowners showing  
22       support for the subdistrict plan. After discussion and upon motion duly made and seconded, it was  
23       unanimously

24              **RESOLVED** that the resolution calling for a public hearing on the Bighorn Terrace Sanitation  
25              subdistrict and Bighorn Terrace Water subdistrict for the Dec. 14, 2017, board meeting.

26       All Bighorn Terrace representatives left the meeting at 12:00 p.m.

27              A copy of the resolution is attached hereto as **Exhibit N** and incorporated herein by this reference.

### 28       **STRATEGY ITEMS**

29              **Board Appointments** – The board discussed former Director Allender's recent resignation,  
30              which left a vacancy for Treasurer. After discussion and upon motion duly made and seconded, it  
31              was unanimously

32              **RESOLVED** that Director Coyer serve as Treasurer.

### 33       **GENERAL MANAGER REPORT**

34       Ms. Brooks presented her report, a copy of which is attached hereto as **Exhibit O** and incorporated  
35       herein by this reference. The monthly reports were also acknowledged, copies of which are attached  
36       hereto as **Exhibit P** and incorporated herein by this reference.

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1        **Employee Recognition** – The Board approved an annual holiday bonus for employees in recognition of  
2 their efforts throughout the year.

3        **Hahnewald Barn Update** – Ms. Brooks noted the town of Avon may put a funding question on  
4 the November 2018 ballot, which would assist with financing the barn removal and reconstruction.  
5 Avon could save considerable funds that would otherwise be spent on storage if the barn was not  
6 removed until 2019; Ms. Roman confirmed that the recent wastewater master plan update  
7 indicated that waiting until 2019 would be feasible. The Board agreed, but requested a letter of  
8 intent from the town of Avon that the barn would be removed no later than spring 2019.

9        **Board Member User Account Implementation** – Mr. Sica discussed his memo regarding  
10 implementation of user accounts and email addresses for board members, a copy of which is  
11 attached hereto as **Exhibit Q** and incorporated herein by this reference. There are many benefits,  
12 including increased security of communications and access to the video conferencing upgrades  
13 planned for December. Mr. Sica requested board members bring personal devices to the  
14 December meeting, at which time IT staff will connect the devices to the District network, offer  
15 hands-on demonstrations, and answer any questions.

## 16    **FINANCE REPORT**

17 Mr. Wilkins presented the monthly finance report, a copy of which is attached hereto as **Exhibit R** and  
18 incorporated herein by this reference. He noted the summer water sales did not follow any of the five-year  
19 trends, though the reason is unclear. Water sales to date are already higher than the 2017 total  
20 projections. Mr. Wilkins also discussed the quarterly financial report, a copy of which is attached hereto as  
21 **Exhibit S** and incorporated herein by this reference. Year-end revenues are expected to be above  
22 projections, in addition to below-average expenditures, which are partially responsible for not raising 2018  
23 customer rates.

## 24    **OPERATIONS REPORT**

25 The Operations Report was presented, a copy of which is attached hereto as **Exhibit T** and incorporated  
26 herein by this reference.

## 27    **ENGINEERING REPORT**

28 Ms. Brooks presented Mr. Cowles' report, a copy of which is attached hereto as **Exhibit U** and  
29 incorporated herein by this reference.

## 30    **PUBLIC AFFAIRS REPORT**

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

33        **Presentation at Water Education Colorado Event** – Ms. Johnson discussed her attendance at  
34 a recent event sponsored by Water Education Colorado (formerly Colorado Foundation for Water  
35 Education). She discussed regionalization and the Authority and District's collaborative efforts to

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1 address regional water issues, as the efficiencies and safety of such partnerships are being  
2 looked at more closely on the Front Range, in part due to recent water quality concerns. Ms.  
3 Johnson also noted Ms. Brooks was discussing regionalization at a local Vail Symposium event  
4 later this evening.

5 **Personnel Changes Statewide** – Ms. Johnson reported on staffing changes at various  
6 organizations of interest to the Authority and District. These include the appointment of  
7 Steamboat-native Dylan Roberts to fill the remainder of Rep. Diane Mitsch Bush's term and Greg  
8 Clifton, the new town of Vail manager. Ms. Johnson is working to schedule a meeting with Ms.  
9 Brooks and Mr. Clifton to discuss the many interactions and collaborations between District and  
10 town staff.

11 **Colorado Springs' Stormwater Fee** – Ms. Johnson discussed Colorado Springs' recent  
12 successful ballot issue that will establish a dedicated monthly stormwater fee, which will finally  
13 begin to fund 100s of millions of dollars of needed stormwater infrastructure in Colorado Springs  
14 as the lack of it has negatively affected downstream communities

15 The board took a recess for lunch at 12:23 p.m. The regular meeting resumed at 12:47 p.m.

### GENERAL COUNSEL REPORT

16 **Bylaws Updates** – Mr. Collins noted changes to the bylaws would be presented at an upcoming  
17 meeting.  
18

### WATER COUNSEL REPORT

19  
20 **Minturn's Lease for Eagle Park Reservoir Water** – Mr. Porzak discussed a recent request from  
21 Minturn for a one-year extension on its option to lease 50 acre feet of Eagle Park  
22 Reservoir/Homestake water. A copy of the letter is attached hereto as **Exhibit W** and  
23 incorporated herein by this reference. Discussion ensued regarding the pricing of the water,  
24 which is based on the pricing of Colorado River District water. After discussion and upon motion  
25 duly made and seconded, it was unanimously

26 **RESOLVED** to extend for one year, Minturn's option to lease 50 acre feet of Eagle Park  
27 Reservoir/Homestake water.

28 At 12:51 p.m., Ms. Hoffman, Mr. Mantua, Ms. Schweig, Mr. Smith, and Mr. Thompson left the meeting.

### **EXECUTIVE SESSION**

29  
30 Mr. Collins requested the Board enter Executive Session to receive legal advice regarding cybersecurity,  
31 pursuant to §24-6-402(4)(b) and (e) C.R.S. He asked that no electronic record be made, as the discussion  
32 would be entirely privileged attorney-client communications. Upon motion duly made and seconded, it was  
33 unanimously

34 **RESOLVED** to enter executive session at 12:52 p.m. to discuss attorney-client privileged  
35 issues concerning cybersecurity, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no

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1                    electronic record created as Mr. Collins opined the contents of the discussion would contain  
2                    privileged attorney-client communications.\*

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

7                    **RESOLVED** to continue executive session at 1:15 p.m. to discuss attorney-client privileged  
8                    issues concerning Eagle Park Reservoir expansion, Bolts Lake, and CRCA matters, pursuant  
9                    to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak opined the  
10                    contents of the discussion would contain privileged attorney-client communications.\*

11 The regular meeting resumed at 2:11 p.m.

12

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 1:57 p.m.

3 Respectfully submitted,

4  
5  
6  
7 \_\_\_\_\_  
8 Secretary to the Meeting

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

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14 \_\_\_\_\_  
15 **Bob Armour, Director**

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18 \_\_\_\_\_  
19 **Steve Coyer, Treasurer**

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

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

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

32  
33  
34 \_\_\_\_\_  
35 **Bill Simmons, Director**

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37  
38 \_\_\_\_\_  
39 **Brian Sipes, Director**

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41  
42 \*The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion  
43 in Executive Session not recorded constituted privileged attorney-client communications.

44  
45  
46 \_\_\_\_\_  
47 **James P. Collins, General Counsel**

48 \_\_\_\_\_  
**Glenn Porzak, Water Counsel**