Upper Eagle Regional Water Authority
Board of Directors Meeting
March 22, 2018
MINUTES

A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was held March 22, 2018, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation District (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the State of Colorado.

The following Directors were present, thereby constituting a quorum:

- Geoff Dreyer, Arrowhead Metropolitan District
- Pam Elsner, Beaver Creek Metropolitan District
- George Gregory, Berry Creek Metropolitan District
- Sarah Smith Hymes, town of Avon (via phone)
- Kim Bell Williams, EagleVail Metropolitan District
- Mick Woodworth, Edwards Metropolitan District

Also in attendance were:

- District Staff
- Linn Brooks
- Jason Cowles
- Carol Dickman
- Catherine Hayes
- Diane Johnson
- Ali Kelkenberg
- Maureen Mulcahy
- Siri Roman
- Amy Schweig
- Brian Tracy
- James Wilkins
- Consultants
- Ashley Hernandez-Schlagel, Nathan Dumm & Mayer PC
- Andy Nathan, Nathan Dumm & Mayer PC
- Glenn Porzak, Porzak Browning & Bushong LLP
- Kathryn Winn, Collins Cockrel & Cole
- Public
- Mike Reisinger, Berry Creek Metropolitan District

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:

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

CALL TO ORDER

Chair Gregory called the meeting to order at 8:30 a.m.

ACTION ITEMS

Consideration of Minutes – The minutes of the regular meeting of February 22, 2018, were considered. Upon motion duly made and seconded, it was unanimously RESOLVED that the minutes of the February 22, 2018, regular meeting be accepted and hereby are approved as amended. Director Elsner abstained.

Resolutions in Support of Board Member Continuity – The Board discussed three resolutions encouraging the boards of the Arrowhead, Berry Creek, and EagleVail Metropolitan Districts to consider the continued appointment of the current appointees, Directors Dreyer, Gregory, and Williams, respectively. Discussion and public comment ensued, with the board and counsel noting the many ongoing and complex issues for which the three directors have invested time and effort; such directors...
also have expertise and knowledge that would be difficult to replicate without their previous years of experience. Upon motion duly made and seconded, with Chair Gregory abstaining, it was unanimously resolved that the resolutions encouraging continued appointment of Directors Dreyer, Gregory, and Williams to the Arrowhead, Berry Creek, and EagleVail Metropolitan Districts, respectively, be and hereby are approved as presented. Copies of the resolutions are attached hereto as Exhibits A, B, and C, respectively, and incorporated herein by this reference.

STRATEGY

Board Member Input – Chair Gregory called for board member input and there was none.

Water Efficiency Plan – Ms. Mulcahy discussed her memo regarding the draft joint regional water efficiency plan for the Authority and District and presented related information, copies of which are attached hereto as Exhibit D and incorporated herein by this reference. The plan’s creation was partially funded by a Colorado Water Conservation Board (CWCB) grant. A water efficiency plan is now a statutory requirement for entities that sell over 2,000 acre feet of water annually, so both the Authority and District must comply with this statute. A regional plan (rather than separate plans for each entity) is expected to create opportunities to optimize water use, provide ease of updating the plan in seven years, and will present both entities favorably for future CWCB grant considerations. Ms. Mulcahy stressed that the plan empowers customers to waste less water, rather than asking customers to use less water. Highlights from the draft plan included an observed decrease in water use per single family equivalent (SFE) during the study period (2008 – 2017), and an expected decrease in future demand per SFE based on plan suggestions. Discussion ensued regarding efforts to make the plan user-friendly; noted differences in water use by property based on location, lot-size, and other factors, which lend themselves to future water budgeting efforts; and current customizable resources based on customer needs. In response to a question, Ms. Mulcahy said that indoor and outdoor savings will be tracked as part of implementation of the plan; the plan only included a total past savings from prior conservation efforts, because it was difficult to distinguish between indoor and outdoor savings. Upon motion duly made and seconded, it was unanimously resolved that staff be and hereby is authorized to share the plan externally with stakeholders and customers to gather community input, per the plan presented. A copy of the draft plan is attached hereto as Exhibit E and incorporated herein by this reference.

Ms. Hernandez-Schlagel and Mr. Nathan arrived and Ms. Kelkenberg left at 9:27 a.m.

GENERAL MANAGER REPORT

Ms. Brooks presented the General Manager report, a copy of which is attached hereto as Exhibit F and incorporated herein by this reference. Monthly reports were acknowledged, copies of which are attached hereto as Exhibit G and incorporated herein by this reference.
IT Security Practices – Chair Gregory asked about staff’s preparedness for ransomware attacks. Ms. Brooks said the IT department and safety coordinator are currently undergoing a Department of Homeland Security (DHS) audit on District IT systems as an industry best practice. Staff will implement any suggestions that result from the audit. Additionally, IT staff has attended DHS trainings on this topic in the past and has a robust program to protect against such attacks.

OPERATIONS REPORT
The operations report was presented, a copy of which is attached hereto as Exhibit H and incorporated herein by this reference. There were no questions on the report.

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

Eagle River Valley (ERV) Mobile Home Park – Mr. Cowles briefly updated on the ongoing water service issues in the ERV mobile home park’s private water system. He discussed the possibility of the Authority providing water service to the park’s residents via a master connection. Staff and consultants will continue to investigate the matter and keep the board apprised of any developments. There are several issues that staff will investigate prior to making a recommendation on a potential connection. Staff will keep the board apprised of any developments.

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

Town of Vail’s “Lunch with the Locals” – Ms. Johnson discussed the town of Vail’s “Lunch with the Locals” program, which the District now co-sponsors, funding the filming of the monthly presentations to air locally on Channel 5; the videos are also available online on-demand. Presentation topics relate to the town’s Gore Creek action plan to improve water quality in the creek. District staff will present the draft regional water efficiency plan at an upcoming event.

Snowpack Conditions – Ms. Johnson discussed local snowpack conditions and distributed related information, copies of which are attached hereto as Exhibit K and incorporated herein by this reference. She said normal operations continue, though staff has reviewed the drought management plan that was compiled after the 2012 drought. Ms. Johnson discussed improvements to technology and increased staffing levels since 2012, which would help with any needed drought-related efforts for this year. Ms. Brooks discussed the long-term forecast and said a lot could still happen to improve the water supply outlook for the spring and summer.
GENERAL COUNSEL REPORT

Letters to State Engineer re Well Locations – Ms. Winn discussed a letter from Jim Collins to the state engineer regarding the state’s publication of well locations, which presents security issues for the state’s many drinking water suppliers. The Special District Association of Colorado and many other entities want to keep such information confidential, and legislation to that end may be introduced. A copy of the letter is attached hereto as Exhibit L and incorporated herein by this reference.

Traer Creek Update – Ms. Winn introduced special counselors, Ms. Hernandez-Schlagel and Mr. Nathan, who represent the Authority regarding the Traer Creek tank matter. They noted their discussion would take place in Executive Session.

WATER COUNSEL REPORT

Water Rights Diligence – Mr. Porzak said he received favorable rulings of the referee for the diligence cases for the Cordillera conditional water rights and the Lake Creek diversion conditional water rights. He does not expect opposition, at which time the Water Judge can sign the rulings, whereupon they will become final decrees. The rulings are attached hereto as Exhibits M and N, respectively, and incorporated herein by this reference.

Ms. Mulcahy left the meeting at 9:56 a.m.

EXECUTIVE SESSION

Ms. Winn requested the Board enter Executive Session to receive legal advice regarding Traer Creek tank, pursuant to §24-6-402(4)(b) and (e) C.R.S. She 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 9:56 a.m. to discuss attorney-client privileged issues concerning the Traer Creek tank, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Ms. Winn opined the contents of the discussion would contain privileged attorney-client communications.*

Mr. Porzak requested the Board continue Executive Session to receive legal advice regarding 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 continue Executive Session at 11:01 a.m. to discuss attorney-client privileged issues concerning 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.*

The regular meeting resumed at 11:25 a.m.
ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 11:26 a.m.

Respectfully submitted,

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Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND NOTICE OF MEETING WAIVED

___________________________________
Arrowhead Metropolitan District

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Town of Avon

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Beaver Creek Metropolitan District

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Berry Creek Metropolitan District

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EagleVail Metropolitan District

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Edwards Metropolitan District

*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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Kathryn Winn, General Counsel       Glenn Porzak, Water Counsel