

Eagle River Water & Sanitation District
Board of Directors Meeting
March 22, 2018
MINUTES

A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held March 22, 2018, 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 Bob Armour
3 Steve Coyer
4 Steve Friedman
5 George Gregory
6 Frederick P. Sackbauer IV
7 Bill Simmons
8 Brian Sipes
- 9 **Also in attendance were:**
- | | | |
|-----------------------------|----|---|
| 10 <u>District Staff</u> | 22 | Chuck Webber |
| 11 Linn Brooks | 23 | James Wilkins |
| 12 Carol Dickman | 24 | <u>Consultants</u> |
| 13 Catherine Hayes | 25 | Leah Mayer, LKSM Design |
| 14 Diane Johnson | 26 | Glenn Porzak, Porzak Browning & Bushong LLP |
| 15 Elena Jones | 27 | Rick Pylman, Pylman & Associates |
| 16 Melissa Marts | 28 | Kathryn Winn, Collins Cockrel & Cole |
| 17 John McCaulley | 29 | <u>Public</u> |
| 18 Maureen Mulcahy | 30 | Cliff Thompson, IKS Consulting |
| 19 Siri Roman | 31 | Dick Cleveland, board member elect |
| 20 Amy Schweig | | |
| 21 Brian Tracy | | |

32 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

35 Director Armour disclosed that he is employed by Vail Resorts and the Vail Recreation District. Director Friedman serves on the
36 Boards of the Beaver Creek Metropolitan District and the Vail Valley Foundation. Director Gregory disclosed that he serves on the
37 Boards of the Upper Eagle Regional Water Authority (Authority and the Berry Creek Metropolitan District and occasionally
38 undertakes development and construction activities within the District and Authority service areas. Director Sackbauer is employed
39 by Vail Resorts, Inc., which has significant land ownership and business interests within the District. Director Simmons disclosed
40 that he is the General Manager of the Beaver Creek Metropolitan District, an alternate Authority Director, and serves on the board of
41 the Edwards Metropolitan District.

42 **CALL TO ORDER**

43 Chair Sackbauer called the meeting to order at 11:35 a.m.

44 **INTRODUCTIONS**

45 The Board welcomed Vail resident Mr. Cleveland, who will begin serving on the board in May as the
46 director district 2 representative. It was noted that the May 8, 2018, election was cancelled as there were
47 no more candidates than open seats. Additionally, a vacancy exists in director district 1, as no one self-
48 nominated for that seat. Ms. Mayer and Mr. Goulding were also introduced; they would update the board
49 on the Stillwater development later in the meeting.

50 **ACTION ITEMS**

51 **Consideration of Minutes** – The minutes of the regular meeting of February 22, 2018, were
52 considered. Upon motion duly made and seconded, it was unanimously

53 **RESOLVED** that the minutes of the February 22, 2018, regular meeting be accepted and hereby
54 are approved as presented.

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1 **Stillwater Guaranteed Maximum Price (GMP) Resolution** – Mr. Wilkins discussed documents related
2 to the Stillwater employee housing development GMP resolution, including the Guaranteed Maximum
3 Price amendment and various exhibits, copies of which are attached hereto as **Exhibit A** and
4 incorporated herein by this reference. Ms. Mayer and Mr. Goulding discussed the project, pricing, and
5 related items. In response to a question, Mr. Goulding confirmed that signing Exhibit A of the GMP
6 amendment would not impact the schedule or the budget. After discussion and upon motion duly made
7 and seconded, it was unanimously

8 **RESOLVED** that the Guarantee Maximum Price be and hereby is approved as presented.

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

11 The board took a short recess for lunch at 12:07 p.m., at which time Mr. Goulding and Ms. Mayer left the meeting.

12 The regular meeting resumed at 12:35 p.m.

13 **Intergovernmental Agreement with town of Vail re Bridge Road Sewer Relocation** – Ms. Marts
14 discussed the IGA with the town of Vail to split costs for relocation of the Bridge Road sanitary sewer
15 main. Copies of the board action request and IGA are attached hereto as **Exhibits C** and **D**, respectively,
16 and incorporated herein by this reference. After discussion and upon motion duly made and seconded, it
17 was unanimously

18 **RESOLVED** that the IGA with the town of Vail for the Bridge Road sanitary sewer relocation
19 be and hereby is approved as presented.

20 Ms. Jones, Ms. Marts, and Mr. Webber left the meeting at 12:45 p.m.

21 **STRATEGY ITEMS**

22 **Director District 1 Vacancy** – The Board discussed the vacancy in director district 1, as Chair
23 Sackbauer is term limited, and there were no candidates for that seat for the May 8 election,
24 which was canceled. The board instructed staff to post notice of the vacancy, in accordance with
25 recent practice for filing vacant seats. The board suggested accepting letters of interest until April
26 30, after which the organizational development committee (Directors Armour and Simmons) can
27 interview the candidates and make a recommendation to the board in time for the May 24 board
28 meeting.

29 **Water Efficiency Plan** – Ms. Mulcahy discussed her memo regarding the draft joint regional
30 water efficiency plan for the District and Authority and presented related information, copies of
31 which are attached hereto as **Exhibit E** and incorporated herein by this reference. The plan's
32 creation was partially funded by a Colorado Water Conservation Board (CWCB) grant. A water
33 efficiency plan is now a statutory requirement for entities that sell over 2,000 acre feet of water
34 annually, so both the District and Authority must comply with this statute. A regional plan (rather
35 than separate plans for each entity) is expected to create opportunities to optimize water use,
36 provide ease of updating the plan in seven years, and will present both entities favorably for
37 future CWCB grant considerations. Ms. Mulcahy stressed that the plan empowers customers to

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1 waste less water, rather than asking customers to use less water. Highlights from the draft plan
2 included an observed decreased in water use per single family equivalent (SFE) during the study
3 period (2008 – 2017), and an expected decrease in future demand per SFE based on plan
4 suggestions. Discussion ensued regarding efforts to make the plan user-friendly; noted
5 differences in water use by property based on location, lot-size, and other factors, which lend
6 themselves to future water budgeting efforts; and current customizable resources based on
7 customer needs. In response to a question, Ms. Mulcahy said that indoor and outdoor savings will
8 be tracked as part of implementation of the plan; the plan only included a total past savings from
9 prior conservation efforts, because it was difficult to distinguish between indoor and outdoor
10 savings. Upon motion duly made and seconded, it was unanimously

11 **RESOLVED** that staff be and hereby is authorized to share the plan externally with
12 stakeholders and customers to gather community input, with the requested amendments
13 incorporated.

14 A copy of the draft plan is attached hereto as **Exhibit F** and incorporated herein by this reference.
15 Ms. Mulcahy left the meeting at 1:25 p.m.

16 **1987 Agreement between the District and Vail Resorts** – Chair Sackbauer discussed the
17 agreement, a copy of which is attached hereto as **Exhibit G** and incorporated herein by this
18 reference. Mr. Porzak gave background on the agreement as it outlines the obligations of the
19 District and limitations of use. The District agreed to provide an interruptible supply of a maximum
20 of 603 acre feet of snowmaking water each season, as part of the Green Mountain Reservoir
21 augmentation plan.

22 **Board Member Input** – Chair Sackbauer called for board member input, and there was none.

23 GENERAL MANAGER REPORT

24 Ms. Brooks presented the General Manager report, a copy of which is attached hereto as **Exhibit H** and
25 incorporated herein by this reference. Monthly reports were acknowledged, copies of which are attached
26 hereto as **Exhibit I** and incorporated herein by this reference.

27 **New Staff Positions** – Ms. Brooks discussed two board action requests regarding proposed
28 positions in the Finance (rate analyst) and IT (helpdesk technician) departments, copies of which
29 are attached hereto as **Exhibits J** and **K**, respectively, and incorporated herein by this reference.
30 Ms. Brooks acknowledged these positions would normally be covered in the budget cycle;
31 however, there is a need to staff these jobs now. Benefits of adding these positions immediately
32 include less reliance on outside consultants and related monetary savings, building in-house
33 expertise, and allowing current employees to concentrate more on core job functions rather than
34 filling requests that the two new positions could handle. After discussion and upon motion duly
35 made and seconded, it was unanimously

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1 **RESOLVED** that the requests for a rate analyst and helpdesk technician be and hereby
2 are approved as presented.

3 The board requested staff begin tracking savings of time and money and report back to the board
4 in the coming months.

5 **OPERATIONS REPORT**

6 The operations report was presented, a copy of which is attached hereto as **Exhibit L** and incorporated
7 herein by this reference.

8 **ENGINEERING REPORT**

9 Mr. Cowles presented his report, a copy of which is attached hereto as **Exhibit M** and incorporated herein
10 by this reference. In response to a question, Mr. Cowles noted he was asked by County staff to
11 participate on an advisory committee for Eagle County's rewrite of its land use regulations.

12 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

13 Ms. Johnson discussed her report, a copy of which is attached hereto as **Exhibit N** and incorporated
14 herein by this reference.

15 **Town of Vail's "Lunch with the Locals"** – Ms. Johnson discussed the town of Vail's "Lunch
16 with the Locals" program, which the District now co-sponsors, funding the filming of the monthly
17 presentations to air locally on Channel 5; the videos are also available online on-demand.

18 Presentation topics relate to the town's Gore Creek action plan to improve water quality in the
19 creek. District staff will present the draft regional water efficiency plan at an upcoming event.

20 **Snowpack Conditions** – Ms. Johnson discussed local snowpack conditions and distributed
21 related information, copies of which are attached hereto as **Exhibit O** and incorporated herein by
22 this reference. She said normal operations continue, though staff has reviewed the drought
23 management plan that was compiled after the 2012 drought. Ms. Johnson discussed

24 improvements to technology and increased staffing levels since 2012, which would help with any
25 needed drought-related efforts for this year. In response to a question, Ms. Johnson said the
26 Fermont Pass SNOTEL site was perhaps the most important indicator of snowpack because it
27 gives a snapshot of conditions at higher altitude. Mr. McCaulley noted Customer Service staff
28 was already talking to landscapers about using more native plants and planting less overall for
29 the summer, based on projected conditions. He also discussed special use permits for new
30 planting; there are very few repeat accounts that request such permits year after year. Ms.

31 Brooks discussed the long-term forecast and said a lot could still happen to improve the water
32 supply outlook for the spring and summer.

33 **GENERAL COUNSEL REPORT**

34 **Letters to State Engineer re Well Locations** – Ms. Winn discussed a letter from Jim Collins to the state
35 engineer regarding the state's publication of well locations, which presents security issues for the state's

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1 many drinking water suppliers. The Special District Association of Colorado and many other entities want
2 to keep such information confidential, and legislation to that end may be introduced. A copy of the letter is
3 attached hereto as **Exhibit P** and incorporated herein by this reference.

4 **WATER COUNSEL REPORT**

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

6 **Executive Session Invitation** – After discussion and upon motion duly made and seconded, it was
7 unanimously

8 **RESOLVED** to invite board member elect Cleveland, to join the Executive Session.

9 At 2:19 p.m. Mr. Thompson left the meeting.

10 **EXECUTIVE SESSION**

11 Mr. Porzak requested the Board enter Executive Session to receive legal advice regarding CRCA matters, the
12 CJC Properties change case, and Bolts Lake, pursuant to §24-6-402(4)(b) and (e) C.R.S. He asked that no
13 electronic record be made, as the discussion would be entirely privileged attorney-client communications.

14 Upon motion duly made and seconded, it was unanimously

15 **RESOLVED** to enter executive session at 2:20 p.m. to discuss attorney-client privileged
16 issues concerning CRCA matters, the CJC Properties change case and Bolts Lake, pursuant
17 to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak opined the
18 contents of the discussion would contain privileged attorney-client communications.*

19 Director Gregory left the meeting at 2:45 p.m.

20 Ms. Winn requested the Board continue Executive Session to receive legal advice regarding real estate
21 matters, pursuant to §24-6-402(4)(a) C.R.S. She asked that no electronic record be made, as the
22 discussion would be entirely privileged attorney-client. Upon motion duly made and seconded, it was
23 unanimously

24 **RESOLVED** to continue Executive Session at 2:48 p.m. to discuss attorney-client privileged
25 issues concerning real estate matters, pursuant to §24-6-402(4)(a) C.R.S. with no electronic
26 record created as Ms. Winn opined the contents of the discussion would contain privileged
27 attorney-client communications.*

28 The regular meeting resumed at 3:00 p.m.

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 3:01 p.m.

3 Respectfully submitted,

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8 Secretary to the Meeting

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

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15 **Bob Armour, Director**

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19 **Steve Coyer, Treasurer**

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23 **Stephen Friedman, Vice Chair**

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27 **George Gregory, Secretary**

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31 **Frederick P. Sackbauer IV, President/Chair**

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35 **Bill Simmons, Director**

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39 **Brian Sipes, Director**

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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.

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46 _____
47 **Kathryn Winn, General Counsel**

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Glenn Porzak, Water Counsel