

Eagle River Water & Sanitation District
Board of Directors Meeting
April 26, 2018
MINUTES

A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held April 26, 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, *via phone*
4 George Gregory
5 Frederick P. Sackbauer IV
6 Bill Simmons
7 Brian Sipes

8 **The following Director was absent and excused:**

9 Steve Friedman

10 **Also in attendance were:**

11 <u>District Staff</u>	20	Jeff Schneider
12 Tug Birk	21	Amy Schweig
13 Linn Brooks	22	James Wilkins
14 Dylan Droxler	23	<u>Consultants</u>
15 Carol Dickman	24	Jim Collins, Collins Cockrel & Cole
16 Catherine Hayes	25	Glenn Porzak, Porzak Browning & Bushong LLP
17 Diane Johnson	26	<u>Public</u>
18 John McCaulley	27	Dick Cleveland, board member elect
19 Siri Roman		

28 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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

38 **CALL TO ORDER**

39 Chair Sackbauer called the meeting to order at 11:30 a.m.

40 **INTRODUCTIONS**

41 Mr. Droxler, a Customer Service summer intern, was introduced.

42 **ACTION ITEMS**

43 **Consideration of Minutes** – The minutes of the regular meeting of March 22, 2018, were considered.

44 Upon motion duly made and seconded, it was unanimously

45 **RESOLVED** that the minutes of the March 22, 2018, regular meeting be accepted and hereby are
46 approved as presented.

47 **Inclusion for 6 West Development in Edwards** – Mr. Birk discussed the inclusion request and related
48 materials, copies of which are attached hereto as **Exhibits A** and **B**, respectively, and incorporated
49 herein by this reference. After discussion and upon motion duly made and seconded, it was unanimously

50 **RESOLVED** that the 6 West inclusion request be and hereby is approved as presented.

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

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1 **Inclusion for Jack's House in Edwards** – Mr. Birk discussed the inclusion request and related
2 materials, copies of which are attached hereto as **Exhibits D** and **E**, and incorporated herein by this
3 reference. In response to a question, Mr. Birk clarified that the parcel was not inclusion originally due to a
4 mismarked lot line. He confirmed that the property already receives sewer service, but as a nonprofit,
5 would not remit taxes to the District. Upon motion duly made and seconded, it was unanimously

6 **RESOLVED** that the Jack's Place inclusion request be and hereby is approved as presented.
7 A copy of the resolution is attached hereto as **Exhibit F** and incorporated herein by this reference.

8 **West Vail Sewer Main Improvements Intergovernmental Agreement** – Mr. Schneider presented
9 his board action request and related materials, a copy of which is attached hereto as **Exhibit G** and
10 incorporated herein by this reference. He noted the District and town of Vail were performing different
11 work in the same area at the same time, which is the reason for the IGA; such coordination will create
12 cost efficiencies and minimize traffic and other construction-related disruptions in the community. In
13 response to a question, Mr. Schneider said the District would pay the cost of the project and be
14 reimbursed by the town for its actual costs. After discussion and upon motion duly made and
15 seconded, it was unanimously

16 **RESOLVED** that the IGA with the town of Vail for the West Vail sewer main improvements be
17 and hereby is approved as presented.

18 A copy of the IGA is attached hereto as **Exhibit H** and incorporated herein by this reference.

19 **Resolution to Purchase Real Property** – Mr. Wilkins discussed a board action request to purchase
20 703 Crazy Horse Circle in Edwards from an employee owner; a copy of the request is attached hereto
21 as **Exhibit I** and incorporated herein by this reference. Discussion ensued regarding future sales, and
22 Mr. Wilkins noted an employee renter was already identified for the unit. Upon motion duly made and
23 seconded, it was unanimously

24 **RESOLVED** that the resolution to purchase 703 Crazy Horse Circle in Edwards be and hereby
25 is approved as presented.

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

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

29 **STRATEGY ITEMS**

30 **Board Member Input** – Director Armour checked on his previous request to number board
31 resolutions; Ms. Hayes confirmed this would be taken care of going forward.

32 **GENERAL MANAGER REPORT**

33 Ms. Brooks presented the General Manager report, a copy of which is attached hereto as **Exhibit L** and
34 incorporated herein by this reference. Monthly reports were acknowledged, copies of which are attached
35 hereto as **Exhibit M** and incorporated herein by this reference.

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1 **Vail Recreation District (VRD) Potable Water Rate** – Ms. Brooks discussed staff’s plan to
2 evaluate potential improvements to the VRD raw water delivery system. The system was installed
3 at the Donovan Pavilion fields following the 2002 drought as a surface water diversion, and since
4 its inception, was plagued by operational and maintenance issues. Staff is investigating options to
5 make the system more user-friendly and reliable, as VRD has no choice but to use potable water
6 for irrigation if the raw water system is not operable. Ms. Brooks proposed a blended water rate
7 for VRD while District staff works to improve the system. Upon motion duly made and seconded,
8 it was unanimously

9 **RESOLVED** that Ms. Brooks be authorized to implement a blended irrigation rate for
10 VRD and report such action back to the board.

11 **Director District 1 Vacancy Update** – Ms. Brooks said two applicants had responded with
12 letters of interest for the vacancy in director district 1. The application period closes April 30, after
13 which the organizational development committee (Directors Armour and Simmons) will interview
14 the candidates and make a recommendation to the board.

15 **OPERATIONS REPORT**

16 The operations report was presented, a copy of which is attached hereto as **Exhibit N** and incorporated
17 herein by this reference.

18 **ENGINEERING REPORT**

19 In Mr. Cowles’ absence, there was no monthly engineering report.

20 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

21 Ms. Johnson discussed her report, a copy of which is attached hereto as **Exhibit O** and incorporated
22 herein by this reference.

23 **Snowpack Update** – Ms. Johnson and Ms. Brooks discussed current snowpack conditions,
24 including current snowpack graphs, copies of which are attached hereto as **Exhibit P**. Spring
25 storms have improved conditions, and runoff has not yet begun. Ms. Brooks said the Authority
26 and District are now concerned about low streamflows in late summer because of lack of valley
27 floor snowpack. The low snowpack also contributed to wildfire danger, as soil and vegetation are
28 dry. Communication of the current conditions has already begun to area stakeholders, in
29 conjunction with presentation of the draft Water Efficiency Plan. Stakeholder outreach occurred
30 during the 2012 drought as well, and staff expects a similar, successful response if water use
31 reductions are requested from this group. In response to a question, Ms. Brooks said the District
32 would not release Black Lakes water for the Go Pro Games in June, as the releases wouldn’t
33 have any measurable impact on Gore Creek streamflow for the whitewater events and would
34 reduce the supply available to support aquatic health during the critical low-flow periods that
35 occur during the winter. She indicated Vail Resorts may want to release Homestake water for that
36 purpose, as it’s done in the past.

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1 **Roundtable Meeting, Central Arizona Project and Colorado River Issues** – Ms. Johnson
2 discussed a recent meeting of four west slope basin roundtables to discuss Colorado River
3 issues. She noted discussion of Phase III of the risk study, which was borne out of the Colorado
4 Water Plan. The study has become somewhat political, as there are differing opinions regarding
5 whether any additional Colorado River water could be allocated. Ms. Johnson also noted recent
6 media stories regarding water use by lower and upper Colorado River basin entities. In particular,
7 the Central Arizona Project (CAP) developed and published an infographic that suggested CAP
8 was deliberately keeping Lake Mead at a self-dubbed “sweet spot” so as to maximize water
9 deliveries from the upper basin. This resulted in much communication from the upper basin states
10 to the lower basin, including a letter from the Upper Colorado River Commission and Denver
11 Water, criticizing the purported reason behind CAP’s actions. Ms. Johnson noted meetings were
12 scheduled between upper and lower basin representatives to understand these issues and come
13 to agreement; if not, there is a possibility that the federal government could step in and mandate
14 certain actions.

15 **Wolcott Reservoir** – Directors noted the need for additional in-basin storage, based on Ms.
16 Johnson’s summary of the CAP situation. In response to a question, Mr. Porzak indicated that
17 any Wolcott Reservoir project would likely be a joint enterprise among the District, Authority, and
18 Denver Water, which owns a substantial proportion of the site, and possibly other interested
19 parties. Mr. Porzak noted a 100,000 acre-foot reservoir was envisioned, that could be filled with
20 pre-Compact senior historic consumptive use credits. The reservoir could serve as an
21 augmentation bucket to protect Eagle River basin users and Denver Water against a compact
22 call, which some experts feel is inevitable due to the lower basin structural deficit.

23 The board took a short recess for lunch at 12:25 p.m. The regular meeting resumed at 12:50 p.m.

24 **GENERAL COUNSEL REPORT**

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

26 **WATER COUNSEL REPORT**

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

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

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

31 At 12:50 p.m., Ms. Schweig and Messrs. Droxler and Schneider left the meeting.

32 **EXECUTIVE SESSION**

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

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1 **RESOLVED** to enter executive session at 12:51 p.m. to discuss attorney-client privileged
2 issues concerning Bolts Lake and CRCA matters, pursuant to §24-6-402(4)(b) and (e) C.R.S.
3 with no electronic record created as Mr. Porzak opined the contents of the discussion would
4 contain privileged attorney-client communications.*

5 Mr. Collins requested the Board continue Executive Session to receive legal advice regarding HB18-
6 1181, Eagle Park Reservoir enlargement, the Hahnewald Barn, real estate matters, and a personnel
7 matter, pursuant to §24-6-402(4)(a)(b)(e) and (f), C.R.S. He asked that no electronic record be made, as
8 the discussion would be entirely privileged attorney-client. Upon motion duly made and seconded, it was
9 unanimously

10 **RESOLVED** to continue Executive Session at 2:48 p.m. to discuss attorney-client privileged
11 issues concerning HB18-1181, Eagle Park Reservoir enlargement, the Hahnewald Barn, real
12 estate matters, and a personnel matter, pursuant to §24-6-402(4)(a)(b)(e) and (f) C.R.S. with
13 no electronic record created as Mr. Collins opined the contents of the discussion would
14 contain privileged attorney-client communications.*

15 The regular meeting resumed at 1:59 p.m.

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 2:00 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 **Jim Collins, General Counsel**

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Glenn Porzak, Water Counsel