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

The following Directors were present, thereby constituting a quorum:

1. Bob Armour
2. Steve Coyer, via phone
3. George Gregory
4. Frederick P. Sackbauer IV
5. Bill Simmons
6. Brian Sipes

The following Director was absent and excused:

7. Steve Friedman

Also in attendance were:

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

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

CALL TO ORDER

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

INTRODUCTIONS

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

ACTION ITEMS

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

Upon motion duly made and seconded, it was unanimously

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

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

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

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

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

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

RESOLVED that the IGA with the town of Vail for the West Vail sewer main improvements be and hereby is approved as presented.
A copy of the IGA is attached hereto as Exhibit H and incorporated herein by this reference.

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

RESOLVED that the resolution to purchase 703 Crazy Horse Circle in Edwards be and hereby is approved as presented.
A copy of the resolution is attached hereto as Exhibit J and incorporated herein by this reference.

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

STRATEGY ITEMS

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

GENERAL MANAGER REPORT

Ms. Brooks presented the General Manager report, a copy of which is attached hereto as Exhibit L and incorporated herein by this reference. Monthly reports were acknowledged, copies of which are attached hereto as Exhibit M and incorporated herein by this reference.
Vail Recreation District (VRD) Potable Water Rate – Ms. Brooks discussed staff’s plan to evaluate potential improvements to the VRD raw water delivery system. The system was installed at the Donovan Pavilion fields following the 2002 drought as a surface water diversion, and since its inception, was plagued by operational and maintenance issues. Staff is investigating options to make the system more user-friendly and reliable, as VRD has no choice but to use potable water for irrigation if the raw water system is not operable. Ms. Brooks proposed a blended water rate for VRD while District staff works to improve the system. Upon motion duly made and seconded, it was unanimously

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

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

OPERATIONS REPORT

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

ENGINEERING REPORT

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

COMMUNICATION AND PUBLIC AFFAIRS REPORT

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

Snowpack Update – Ms. Johnson and Ms. Brooks discussed current snowpack conditions, including current snowpack graphs, copies of which are attached hereto as Exhibit P. Spring storms have improved conditions, and runoff has not yet begun. Ms. Brooks said the Authority and District are now concerned about low streamflows in late summer because of lack of valley floor snowpack. The low snowpack also contributed to wildfire danger, as soil and vegetation are dry. Communication of the current conditions has already begun to area stakeholders, in conjunction with presentation of the draft Water Efficiency Plan. Stakeholder outreach occurred during the 2012 drought as well, and staff expects a similar, successful response if water use reductions are requested from this group. In response to a question, Ms. Brooks said the District would not release Black Lakes water for the Go Pro Games in June, as the releases wouldn’t have any measurable impact on Gore Creek streamflow for the whitewater events and would reduce the supply available to support aquatic health during the critical low-flow periods that occur during the winter. She indicated Vail Resorts may want to release Homestake water for that purpose, as it’s done in the past.
Roundtable Meeting, Central Arizona Project and Colorado River Issues – Ms. Johnson discussed a recent meeting of four west slope basin roundtables to discuss Colorado River issues. She noted discussion of Phase III of the risk study, which was borne out of the Colorado Water Plan. The study has become somewhat political, as there are differing opinions regarding whether any additional Colorado River water could be allocated. Ms. Johnson also noted recent media stories regarding water use by lower and upper Colorado River basin entities. In particular, the Central Arizona Project (CAP) developed and published an infographic that suggested CAP was deliberately keeping Lake Mead at a self-dubbed “sweet spot” so as to maximize water deliveries from the upper basin. This resulted in much communication from the upper basin states to the lower basin, including a letter from the Upper Colorado River Commission and Denver Water, criticizing the purported reason behind CAP’s actions. Ms. Johnson noted meetings were scheduled between upper and lower basin representatives to understand these issues and come to agreement; if not, there is a possibility that the federal government could step in and mandate certain actions.

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

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

GENERAL COUNSEL REPORT

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

WATER COUNSEL REPORT

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

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

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

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

EXECUTIVE SESSION

Mr. Porzak requested the Board enter 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 enter executive session at 12:51 p.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.*

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

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

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

There being no further business to come before the Board, the meeting adjourned at 2:00 p.m.

Respectfully submitted,

__________________________________________
Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND
NOTICE OF MEETING WAIVED

__________________________________________
Bob Armour, Director

__________________________________________
Steve Coyer, Treasurer

__________________________________________
Stephen Friedman, Vice Chair

__________________________________________
George Gregory, Secretary

__________________________________________
Frederick P. Sackbauer IV, President/Chair

__________________________________________
Bill Simmons, Director

__________________________________________
Brian Sipes, Director

*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.

__________________________________________
Jim Collins, General Counsel

__________________________________________
Glenn Porzak, Water Counsel