A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held June 28, 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. Dick Cleveland
2. Steve Coyer
3. Steve Friedman
4. George Gregory
5. Timm Paxson
6. Bill Simmons

The following Director was absent and excused:
7. Brian Sipes

Also in attendance were:
8. District Staff
9. Tug Birk
10. Linn Brooks
11. Jason Cowles
12. Carol Dickman
13. Catherine Hayes
14. Diane Johnson
15. Lilly Johnson
16. John McCaulley
17. Maureen Mulcahy
18. Jeff Schneider
19. Meghan Schultz
20. Amy Schweig

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:

1. Director Cleveland disclosed that he serves on the board of Vail Health.
2. 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 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

Acting Chair Friedman called the meeting to order at 11:30 a.m. Present were the board, Ms. Brooks, Ms. Hayes, and Messrs. Collins and Porzak.

ACTION ITEMS

Consideration of Minutes – The minutes of the regular meeting of May 24, 2018, were considered.

Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the May 24, 2018, regular meeting be accepted and hereby are approved as presented.

Director District 1 Vacancy: Candidate Interview and Appointment – The board interviewed two candidates for the vacancy in Director District 1: Timm Paxson and Rick Sackbauer. Both candidates fielded questions regarding qualifications, reasons for wanting to serve on the board, and other details.

After discussion and upon motion duly made and seconded, by a 3 – 2 vote, it was

RESOLVED that Timm Paxson be and hereby is appointed to fill the Director District 1 vacancy.
Mr. Sackbauer left the meeting at 12:18 p.m.

**Oath of Office** – Mr. Collins administered the oath of office to Mr. Paxson, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference.

At 12:19 p.m. the remainder of the attendees entered the meeting.

**Election of Officers** – The board discussed election of officers. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that Steve Friedman serve as Chair.

After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that George Gregory serve as Secretary.

After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that Steve Coyer serve as Treasurer.

After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that all other directors serve as Assistant Secretary and Vice Chair.

**Committee Appointments** – The board discussed vacancies on various committees. Director Cleveland was appointed to the Housing and Organizational Development committees. Director Sipes was appointed to the Real Estate Development Committee. Director Paxson was appointed to the Water Quality and Climate Action Plan committees. An updated copy of the board committees memo is attached hereto as Exhibit B and incorporated herein by this reference.

At 12:33 p.m., all attendees left the room, with the exception of the board, Mses. Brooks, Dickman, Hayes, and Johnson, and Messrs. Collins and McCaulley.

Mr. Porzak requested the Board enter Executive Session to receive legal advice regarding Eagle Park Reservoir Company, pursuant to §24-6-402(4)(b) 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 enter Executive Session at 12:34 p.m. to discuss attorney-client privileged issues concerning Eagle Park Reservoir Company, pursuant to §24-6-402(4)(b) and (f) 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 12:40 p.m.

**Eagle Park Reservoir Company Representative** – After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that Mr. Porzak be and hereby is appointed to serve as the District representative on the Eagle Park Reservoir Company board.

At 12:42 p.m., the board took a short recess for lunch. The regular meeting resumed at 12:55 p.m.
Eagle River Water & Sanitation District

INTRODUCTIONS

Mr. Cowles introduced Dr. Len Wright, the District’s new water resource engineer. Ms. Mulcahy introduced Ms. Whitton, the District’s first-ever sustainability intern. Mr. McCaulley introduced Ms. Lilly Johnson, a customer service metering intern.

ACTION ITEMS

Resolution to Establish a Public Comment Period for the Water Efficiency Plan – Ms. Mulcahy discussed her board action request and resolution, copies of which are attached hereto as Exhibits C and D, respectively, and incorporated herein by this reference. She noted the Colorado Water Conservation Board required a public comment period prior to plan adoption by the boards of directors and submittal to the CWCB for its approval. There is past precedent for a 30-day comment period, in addition to the extensive public outreach that staff has undertaken to present the plan to a variety of local organizations and stakeholders. Therefore, Ms. Mulcahy asked the board to adopt the 30-day comment period rather than a 60-day comment period. In response to a question, Ms. Mulcahy said a press release on the comment period was prepared and would be shared with local media and on the District’s website.

RESOLVED that the resolution establishing a 30-day public comment period for the joint regional water efficiency plan be and hereby is approved as presented.

Inclusion of CenturyTel Parcel in Edwards for Sewer Service – Mr. Schuette presented his board action request and related documents, copies of which are attached hereto as Exhibits E and F, respectively, and incorporated herein by this reference. A public hearing was opened at 12:40 p.m. Public comment was called for, and there was none. Discussion ensued regarding the location and specifics of the inclusion. The public hearing was closed at 12:45 p.m. Upon motion duly made and seconded, it was unanimously

RESOLVED that the inclusion of the CenturyTel property at 32478 Highway 6 in Edwards be and hereby is approved as presented.

A copy of the inclusion resolution is attached hereto as Exhibit G and incorporated herein by this reference.

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

STRATEGY ITEMS

I-70 West Vail Pass Auxiliary Lanes Project – In Ms. Roman’s absence, Ms. Brooks and Ms. Johnson discussed the CDOT project to add auxiliary lanes both east and westbound, west of Vail Pass. A copy of the presentation is attached hereto as Exhibit I and incorporated herein by this reference. Ms. Roman is participating on the District’s behalf on the project’s technical team, and Director Cleveland is on the project’s leadership team. The additional lanes address safety concerns due to the physical characteristics of the road, not due to capacity reasons. Ms. Brooks and Ms. Johnson pointed out the various areas on I-70 where accidents are most common.
Discussion ensued regarding timeline, logistics, and the possibility of phasing the project, which would offer CDOT multiple chances to evaluate the programmatic improvements and potentially eliminate or reduce the need for certain later phases of the project. Ms. Brooks emphasized Ms. Roman’s role in ensuring water resources and water quality concerns were addressed by CDOT in the project, including the addition of language to specify impacts to terrestrial and aquatic wildlife. The Board agreed to write a letter to CDOT to voice concerns and request project phasing and systematic re-evaluation rather than one large project.

Board Member Input – Chair Friedman called for public comment and there was none.

GENERAL MANAGER REPORT
Ms. Brooks presented the General Manager report, a copy of which is attached hereto as Exhibit J and incorporated herein by this reference. Monthly reports were acknowledged, copies of which are attached hereto as Exhibit K and incorporated herein by this reference.

OPERATIONS REPORT
Mr. Tracy presented the operations report, a copy of which is attached hereto as Exhibit L and incorporated herein by this reference.

2017 District Consumer Confidence Report (CCR) – Mr. Tracy discussed his memo and the 2017 CCR, a required annual communication to all customers regarding the quality of the District’s water. Copies are attached hereto as Exhibits M and N, respectively, and incorporated herein by this reference. Mr. Tracy reported there were no violations in the 2017 calendar year. He also noted the water department voluntarily participates in the American Water Works Association’s partnership for safe water and received Phase III recognition. Upon achieving Phase IV status, the water system will be considered “fully optimized.” In response to a question, Mr. Tracy said only detected contaminants are listed on the CCR; those that are tested for and not detected are not reported. In response to another question, Mr. Tracy noted water quality varies over the year based on the source water used. Ms. Brooks complimented the water department and noted the report is the compilation of tens of thousands of data points, so receiving zero violations is quite an accomplishment.

Eagle Park Reservoir Company Update – Mr. Tracy reported that power was restored at the East Fork Pump Station on June 5 after an arc flash interrupted operations there on May 29. District staff worked diligently to repair the station, and with the assistance of the Vail Resorts snowmaking department, received and installed a spare breaker that would have otherwise taken three weeks to order. The reservoir is 55 acre feet short of filling, rather than the original estimate of at least 300 acre feet short, which was a great accomplishment, especially given the current dry conditions. Discussion ensued regarding the need for an outside shutoff for the pump station, as well as stocking a spare breaker in the District’s inventory.
ENGINEERING REPORT

Mr. Cowles noted he did not include a written report in the packets.

Eagle River Integrated Water Plan – Mr. Cowles reported on a recent meeting of Eagle River stakeholders, including Colorado Springs, Aurora, Colorado Parks and Wildlife, American Rivers, town of Avon, Eagle County and others. The group is working on a management plan for the Eagle River and wanted to establish ground rules for decision making as the plan moves forward.

Water System Master Plan – Mr. Cowles reported the District selected AE2S (Advanced Engineering and Environmental Services) to complete a water system master plan for the Authority and District. The company will start with creating a new hydraulic model of the distribution system that is GIS-based.

Sewer Project Updates – Mr. Schneider updated on high profile sewer projects. The West Vail sewer project encountered some delays, including after initial excavation revealed the sewer pipe was not where it was mapped. Mr. Schneider also discussed the Bridge Road project in East Vail. Multiple utility relocations are part of the project, and again due to mapping deficiencies, changes were accommodated.

COMMUNICATIONS 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.

Stillwater Groundbreaking – Ms. Johnson noted a successful groundbreaking event at the Stillwater employee housing development in Edwards. Ms. Brooks said there was good media coverage of the project, and she received a phone call from the GM of a Lake Tahoe water utility, which is struggling with employee housing and had questions about the District’s program.

Black Lakes Fish Stocking – Ms. Johnson noted one fish stocking event occurred in June, and the second will occur in July. The District stocks fish in the lakes as part of a 1986 agreement with the Colorado Department of Natural Resources.

Water Supply and Weather Outlook – Ms. Johnson discussed local and regional water supply and weather outlooks. Lake Powell is projected to deliver 9 million acre feet to Lake Mead this year, and it is believed that Mead will hit its threshold low level this year as well. She noted a recent meeting of the Upper Colorado River Commission, comprised of the four upper basin states, during which the commission voted to halt the system conservation pilot project at the end of the year, citing no determination on how to use the water that is saved to benefit the upper basin. Discussion ensued regarding the Central Arizona Project and the backlash over its alleged “gaming” of the system by keeping Lake Mead at a level by which Lake Powell must continue to send water there.
GENERAL COUNSEL REPORT

Mr. Collins referred to his confidential legal report in the confidential packet.

Update on Intermountain Claim of Easement Project – Mr. Collins provided an update on the claim of easement project in Intermountain. He reminded the board that Mr. Randy Fischer and his attorney attended the May 24 board meeting at which the public hearing for the project was held. On Mr. Fischer’s behalf, his attorney stated the Fischers did not believe there was District infrastructure on their property. Mr. Collins noted that the issue has been ongoing since the prior year, when staff disagreed that at least a portion of this 8-inch sewer main was not on the property and verbally agreed with Mr. Fischer to accept a smaller easement than is required by the District’s rules and regulations (4 ft. rather than 10 ft.). Thereafter, Mr. Fischer built a car platform outside of the agreed-upon easement area. He then claimed the modified location of his platform cost, and/or the value of the 4 ft. easement was, $60,000, and filed suit against the District for inverse condemnation. The Board supported the defense of the District’s position.

Continued Legal Service from Collins Cockrel and Cole – Mr. Collins presented a proposed letter of engagement by which his firm would continue to provide legal services to the Authority, a copy of which is attached hereto as Exhibit P and incorporated herein by this reference. He noted it was best practices to reconsider such documentation from time to time. Upon motion duly made and seconded, it was unanimously

RESOLVED that the letter of continuing engagement with Collins Cockrel & Cole be and hereby is approved as presented.

Update on HB 18-1181 – Mr. Collins reported that Governor Hickenlooper vetoed HB 1181, which would have allowed non-Colorado registered electors to vote in special district board of director elections if they owned real or taxable property in Colorado.

WATER COUNSEL REPORT

Mr. Porzak referred to his confidential legal reports in the confidential packet.

Black Lakes Water Lease with Vail Resorts – Mr. Porzak discussed a letter sent to Vail Resorts giving the required one-year notice that the District terminates the lease for 125 acre feet of water that was previously leased to Vail Resorts for snowmaking purposes. A copy of the letter is attached hereto as Exhibit Q and incorporated herein by this reference.

CJC Properties/Wolcott Change Case – Mr. Porzak discussed a joint application with CJC properties for water rights in the Wolcott area. Copies of the engineering report and proposed decree, copies of which are attached hereto as Exhibits R and S, respectively, and incorporated herein by this reference. Mr. Porzak confirmed the cost of the change case is being split by the District and CJC Properties; however, the District’s costs will be reimbursed as part of the future water service agreement.
At 2:28 p.m., Mses. Johnson, Mulcahy, Schultz, Schweig, Whitton, and Messrs. Schneider and Wright left the meeting.

EXECUTIVE SESSION

Mr. Collins requested the Board enter Executive Session to receive legal advice regarding real estate matters, pursuant to §24-6-402(4)(a) 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 2:30 p.m. to discuss attorney-client privileged
issues concerning real estate matters, pursuant to §24-6-402(4)(a) C.R.S. with no electronic record created as Mr. Collins 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 Eagle River MOU, Bolts Lake, and CRCA matters, pursuant to §24-6-402(4)(b) 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 2:31 p.m. to discuss attorney-client privileged issues concerning Eagle River MOU, Bolts Lake, and CRCA matters, pursuant to §24-6-402(4)(b) and (f) 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 2:59 p.m.
Eagle River Water & Sanitation District

ADJOURNMENT
There being no further business to come before the Board, the meeting adjourned at 3:00 p.m.

Respectfully submitted,

________________________________________
Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND NOTICE OF MEETING WAIVED

________________________________________
Dick Cleveland, Director

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Steve Coyer, Treasurer

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Stephen Friedman, Chair

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George Gregory, Secretary

________________________________________
Timm Paxson, Director

________________________________________
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.

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Jim Collins, General Counsel

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Glenn Porzak, Water Counsel