A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held July 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. Dick Cleveland
2. Steve Coyer, via phone and in person
3. Steve Friedman,
4. George Gregory
5. Timm Paxson
6. Bill Simmons
7. Brian Sipes

Also in attendance were:

8. District Staff
9. Linn Brooks
10. Jason Cowles
11. Carol Dickman
12. Catherine Hayes
13. Diane Johnson
14. John McCaulley
15. Maureen Mulcahy
16. Siri Roman
17. Amy Schweig
18. Brian Tracy
19. James Wilkins
20. Len Wright
21. Consultants
22. Jim Collins, Collins Cockrel & Cole
23. Glenn Porzak, Porzak Browning & Bushong LLP
25. Len Wright
26. Consultants
27. Scott Fifer, Resource Engineering, Inc.

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.
3. 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.
4. 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 Friedman called the meeting to order at 11:30 a.m.

INTRODUCTIONS

Consultant Scott Fifer was introduced.

ACTION ITEMS

Consideration of Minutes – The minutes of the regular meeting of June 28, 2018, were considered.

Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the June 28, 2018, regular meeting be accepted and hereby are

approved as presented.

2017 Audit Consideration – Mr. Wilkins discussed his board action request and the 2017 audit, copies of which are attached hereto as Exhibits A and B, respectively, and incorporated herein by this reference. Mr. Wilkins summarized the audit, noting that actual revenue was $28.5 million over budget, entirely due to two bond refunding events that were not anticipated in 2018. Such refundings saved ratepayers over $2.3 million over the life of the bonds. Mr. Wilkins also noted due to modeling inaccuracies, the District over collected roughly $77,000 in fees from District customers, which amounts to roughly $0.23 per month per SFE. Mr. Wilkins also discussed a meeting with the auditors, McMahan and
Eagle River Water & Sanitation District

Associates, and the Audit/Budget committee (Chair Friedman and Treasurer Coyer) regarding the draft audit. Chair Friedman noted he and Treasurer Coyer were satisfied with the audit and recommended approval, pending a small clarification related to the water rights reference in the audit. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the 2017 audit be and hereby is approved as amended and final copies distributed, and

FURTHER RESOLVED that Ms. Brooks and Mr. Wilkins are hereby authorized to sign the letter of representation addressed to McMahan and Associates.

Consent Agenda – The Board unanimously approved the Consent agenda, a copy of which is attached hereto as Exhibit C and incorporated herein by this reference. Staff answered various questions regarding the contracts included on the log.

STRATEGY ITEMS

Update on Benchmarking and Metrics Reporting – Ms. Brooks discussed her memo regarding the benchmarking and metrics report being compiled by staff, a copy of which is attached hereto as Exhibit D and incorporated herein by this reference. She noted reliance on the American Water Works Association benchmarking manual for data allowing comparison of the Authority and District to other similar entities. Staff has also gathered trending data, allowing the Authority and District to look at its own metrics year over year. The Board agreed with the chosen benchmarks and metrics and directed staff to continue working on the report, which is scheduled for presentation to the boards in October. Ms. Brooks said any additional comments on the benchmarks could be emailed to her in the next week as well.

Dry-Year Management Plan and Policies – Ms. Brooks presented information on the dry-year management plan, a copy of which is attached hereto as Exhibit D. Ms. Brooks discussed the spring and summer weather, which has been abnormally dry and hot, causing the base flows in local streams to decline. Information from prior drought years in 2002 and 2012 was also presented and compared to current conditions. Ms. Brooks discussed proposed policies for enforcement, to ensure streamflows remain viable for aquatic life if and when low water levels are approached. Large irrigators and customers alike would be asked to reduce outdoor water use in amounts commensurate with keeping enough water in streams. Some exceptions would be made, allowing continued water use for economic drivers like ball fields and public gardens. There was no expectation that indoor use, which has very little consumptive impact, would be limited. The Board also agreed to give discretion to the General Manager to consider a variety of factors when determining enforcement levels; documentation will follow at the August meeting for incorporation into the Rules and Regulations. Discussion ensued, including the future use of the District’s Advanced Metering Infrastructure (AMI) to enforce the District’s water use schedule.

Upon motion duly made and seconded, it was unanimously
RESOLVED that the proposed policies and implementation be and hereby are approved as presented for immediate implementation.

A copy of the enforcement action is attached hereto as Exhibit E and incorporated herein by this reference.

Board Member Input – Director Paxson thanked staff for assisting with his onboarding. Director Cleveland asked for additional details on the water supply emergency that was briefly declared in response to the Red Canyon II fire in Wolcott recently, which threatened power supply to the District’s entire service area. Ms. Johnson confirmed the emergency was deliberately not communicated via the county’s EC Alert system because that channel was being heavily used to distribute fire and power-related information.

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. Chair Friedman referenced the updated committees attachment and congratulated Director Sipes on his appointment to the Real Estate and New Development committee.

OPERATIONS REPORT

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

Nutrient Management Memorandum of Understanding – Ms. Roman presented her memo and the related MOU with the Water Quality Control Division (WQCD) of the Colorado Department of Public Health and Environment (CDPHE), copies of which are attached hereto as Exhibits I and J, respectively, and incorporated herein by this reference. The MOU was recently signed by the District and WQCD and is the culmination of years of work by District staff to achieve phased implementation of the state’s nutrient regulations across the District’s three wastewater treatment facilities. This will ultimately bring larger benefits to stream health, allow for operational efficiencies, and be more cost effective. Ms. Brooks thanked Ms. Roman and noted this was a huge achievement for staff, also signaling the WQCD’s willingness to be flexible and work with providers on innovative solutions. The Board also complimented Ms. Roman on these efforts and the positive outcome.

ENGINEERING REPORT

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

East West Resorts Development Application – Mr. Cowles discussed a recent development application submitted to the town of Avon by East West resorts to develop the property immediately east of the Avon WWTF. As part of the town’s approval process, a trail connector
was requested to be installed from Riverfront Lane to the recreation path below. Because of site constraints, the developer has requested to construct part of the trail on District property. Mr. Cowles said the impacted District property is steep, undevelopable, and would not be included in future AWWTF expansion plans. The Board directed Mr. Cowles to move forward with getting an appraisal for the property and then bringing a proposed easement to a future board meeting.

Current Construction Costs – Mr. Cowles discussed a memo by Mr. Schneider regarding construction costs, a copy of which is attached hereto as Exhibit L and incorporated herein by this reference. Colorado Department of Transportation produces a quarterly construction cost index, which was used in the memo. Construction costs had rapidly increased in the past few years and seem to have leveled off currently. Mr. Cowles pointed out that the current administration’s tariffs may affect materials and pricing of some planned projects, however. Mr. Cowles confirmed that staff was not recommending accelerated timelines for any construction projects based on these projections.

COMMUNICATIONS AND PUBLIC AFFAIRS REPORT

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

Water Efficiency Plan Outreach – Ms. Johnson said Ms. Mulcahy and Ms. Schweig wrapped up all scheduled presentations for the Water Efficiency Plan, the public comment period for which ends on July 31. They may continue to present as requested to other groups, including the Eagle Board of County Commissioners. Ms. Mulcahy said she’s received one public comment on the plan so far.

Colorado River Basin Roundtable Update – Ms. Johnson discussed a recent meeting she attended of the basin roundtable. Topics included the water released downstream to protect four endangered species of fish on the Colorado (formerly called the 10825 water); this effort aims to have 850 cfs at the USGS gage at Palisade, which is far below the target currently. She noted consensus among the meeting attendees that water providers can only do so much to mitigate naturally-occurring low streamflows. Ms. Johnson also referenced discussion of the Lake Christine Fire in Basalt and questions regarding where the firefighting water comes from and how the water accounting works. The fire started on July 3 and has burned nearly 12,000 acres. She noted firefighters will take water from anywhere possible during efforts to extinguish wildfires. The accounting will take place later, based on the water rights of entities in the area.

GENERAL COUNSEL REPORT

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

Eagle Park Reservoir Company Matters – Mr. Collins said staff received a request from EPRC Chair Doug Lovell to hold a meeting with the legal counsel for each of the Eagle Park
Shareholders. Mr. Collins said staff and counsel were amenable to holding such a meeting, but could not see what productive outcome might occur from the meeting.

**Randy Fischer Dispute** – Mr. Collins updated on the suit filed against the District by Mr. Fischer, who is suing the District for expenses he claims were incurred when he built a car platform in a modified location due to the presence of a 4 ft. District easement in the area. His original claim was that the value of this was $60,000; he has since offered to settle for $40,000. The law firm of Nathan, Dumm and Mayer is representing the District in this matter.

**Bighorn Sanitation Subdistrict** – Mr. Collins said the Bighorn Sanitation subdistrict was legally formed, and staff was moving ahead with design plans for bringing the sewer infrastructure up to the District’s standards. Mr. Cowles gave a brief history of the matter, by which that area of East Vail was on a private sewer line and often had operational and maintenance issues. The District offered to assist with subdistrict formation, which will allow a financing mechanism by which the residents can pay for the improvements.

**Traer Creek Easements** – Mr. Collins noted his partner, Kathryn Winn, continues to work with staff on getting easements within the Traer Creek development that were never conveyed to the District over 15 years ago.

**De-Gallagherizing Operations Mill Levies** – Mr. Collins discussed the interplay between the 1982 Gallagher Amendment and 1992 TABOR amendment, which is causing the residential assessment rate (RAR) to drop next year, reducing the operating mill levies of entities that receive such revenue. The District is not highly reliant on property tax for its revenue, and after discussion, the Board declined to take any questions to the voters to make up for any lost revenue due to the RAR.

**WATER COUNSEL REPORT**

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

At 2:03 p.m., Ms. Mulcahy 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 2:04 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 matters, and snowmaking return flows, 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 2:15 p.m. to discuss attorney-client privileged

issues concerning Eagle River MOU, Bolts Lake matters, and snowmaking return flows,
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 3:02 p.m.
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

__________________________________________
Steve Coyer, Treasurer

__________________________________________
Stephen Friedman, Chair

__________________________________________
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.

__________________________________________
Jim Collins, General Counsel

__________________________________________
Glenn Porzak, Water Counsel