

Upper Eagle Regional Water Authority

Board of Directors Meeting

September 27, 2018

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held September 27, 2018, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation
3 District (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes
4 of the State of Colorado.

5 **The following Directors were present, thereby constituting a quorum:**

6 Geoff Dreyer, Arrowhead Metropolitan District
7 Pam Elsner, Beaver Creek Metropolitan District
8 George Gregory, Berry Creek Metropolitan District
9 Sarah Smith Hymes, town of Avon, *via phone*
10 Kim Bell Williams, EagleVail Metropolitan District
11 Mick Woodworth, Edwards Metropolitan District

12 **Also in attendance were:**

13 <u>District Staff</u>	23 James Wilkins
14 Linn Brooks	24 <u>Consultants</u>
15 Shane Cerny	25 Jim Collins, Collins Cockrel & Cole
16 Jason Cowles	26 Ashley Hernandez-Schlagel, Nathan Dumm & Mayer PC,
17 Catherine Hayes	27 <i>via phone</i>
18 Diane Johnson	28 Andy Nathan, Nathan Dumm & Mayer PC, <i>via phone</i>
19 John McCaulley	29 Glenn Porzak, Porzak Browning & Bushong LLP
20 Seth Perry	30 <u>Public</u>
21 Siri Roman	31 Holly Loff, Eagle River Watershed Council
22 Amy Vogt	32 Larissa Read, Eagle River Watershed Council

33 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

36 Director Elsner disclosed her membership with the Vilar Performing Arts Center Guild, which operates within the Authority's service
37 area. Director Gregory and alternate Director Simmons disclosed that they serve on the Board of the Eagle River Water and Sanitation
38 District. Director Gregory also disclosed that he occasionally undertakes small development and construction activities within the
39 Authority and District service areas. Alternate Director Simmons noted he serves on the Edwards Metropolitan District board and is
40 employed by Beaver Creek Metropolitan District, an Authority member. Director Williams disclosed that she is the Eagle County
41 Housing Director. Director Woodworth disclosed that he is employed by the Eagle River Fire Protection District, which operates within
42 the Authority's service area.

43 **CALL TO ORDER**

44 Chair Gregory called the meeting to order at 8:30 a.m.

45 **INTRODUCTIONS**

46 The District's new rate analyst, Mr. Perry, was introduced. Mses. Loff and Read of the Eagle River
47 Watershed Council (ERWC) were also welcomed.

48 **STRATEGY ITEMS**

49 **Eagle River Watershed Council Update** – Ms. Roman introduced Ms. Loff, executive director
50 of ERWC, and Ms. Read, ERWC board chair. They updated on ERWC's efforts in the previous
51 year, highlighting watershed protection efforts, water quality monitoring and assessment, and
52 restoration projects, in addition to community events that promote the ERWC's mission to focus
53 on the health of Eagle County's streams and watersheds. They requested continued funding
54 from the Authority, and a related letter is attached hereto as **Exhibit A** and incorporated herein
55 by this reference. The board said it would consider such funding within its normal FY 2019
56 budget preparations.

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1 **Board Member Input** – Board member input was requested and there was none.

2 **ACTION ITEMS**

3 **Consideration of Minutes** – The minutes of the regular meeting of August 23, 2018, were considered.
4 Upon motion duly made and seconded, it was unanimously

5 **RESOLVED** that the minutes of the August 23, 2018, 2018, regular meeting be accepted and
6 hereby are approved as presented.

7 **Fox Hollow Cash-in-Lieu of Water Rights Request** – Mr. Cowles discussed a cash-in-lieu of water
8 rights request from the developer of the Fox Hollow PUD. A copy of the board action request and related
9 documentation are attached hereto as **Exhibits B** and **C**, respectively, and incorporated herein by this
10 reference. Discussion ensued regarding use of a projected water demand of 200 gallons per
11 day/unit/SFE, which was similar to recent board-approved water demand for workforce housing
12 developments with limited occupancy. The board acknowledged that the estimated demand was a
13 deviation from the historical practice of requiring dedication of 120% of a development's projected use.
14 Water service agreements are also executed for such properties that limit the amount of water used and
15 provide enforcement mechanisms should use exceed that for which the development paid. Upon motion
16 duly made and seconded, it was unanimously

17 **RESOLVED** that the cash-in-lieu of water rights request for the Fox Hollow PUD be and hereby is
18 approved as presented, contingent upon the concurrent execution of a water service agreement
19 with the PUD.

20 **Colorado World Resorts Cash-in-Lieu of Water Rights Request** – Mr. Cowles discussed a cash-in-lieu
21 of water rights request from Colorado World Resorts, which wants to develop the property east of the
22 Ascent in Avon, at the base of Beaver Creek. A copy of the board action request and related
23 documentation are attached hereto as **Exhibits D** and **E**, respectively, and incorporated herein by this
24 reference. Mr. Cowles said staff reviewed other workforce housing developments in Avon, almost all of
25 which use an average of 200 gallons per day/unit/SFE; Colorado World Resorts' request was slightly
26 different than those studied, as this development included some short-term rentals and commercial
27 space. Discussion ensued, and the board suggested staff use 300 gallons per day/unit/SFE for this
28 development. There was also discussion of the need to update the Authority's water service agreement
29 with the town of Avon, in addition to executing a water service agreement between the Authority and
30 Colorado World Resorts for the development. Staff will bring an updated request to a future board
31 meeting.

32 **GENERAL MANAGER REPORT**

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

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1 **Drought Update** – Ms. Brooks updated on the drought conditions. Streamflows were stable in
2 the past week, likely due to reduced use of irrigation water, as well as streambank plants going
3 dormant and reduced evapotranspiration from colder nights. Staff will follow up with local partners
4 and organizations regarding drought response efforts and to thank those who responded when
5 the Authority and District requested cutbacks.

6 **OPERATIONS REPORT**

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

9 **ENGINEERING REPORT**

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

11 **Eagle River Valley (ERV) Mobile Home Park Update** – Mr. Cowles updated on the ERV mobile
12 home park and continued efforts to get the park connected to the Authority water supply. Funding
13 commitments were received from the park owner, Our Community Foundation, and Edwards
14 Metro District, which also offered to form a subdistrict for financing. Staff confirmed that the park's
15 current water supply meets primary drinking water standards, but not secondary standards
16 regarding taste, mineral content, and odor. Mr. Porzak noted the water rights used to serve the
17 park are good rights and should be conveyed to the Authority as part of any agreement to serve
18 the park residents.

19 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

20 Ms. Johnson presented her report, a copy of which is attached hereto as **Exhibit I** and incorporated
21 herein by this reference.

22 **Drought Communication Efforts** – Ms. Johnson discussed drought communications. As in
23 2012, the Vail Daily agreed to front page placement of a drought watch graphic, free of charge, to
24 keep a high level of community awareness about drought issues. The graphic ran for two months
25 and will end Oct. 1, which starts the 2019 water year. Ms. Johnson engaged a local photographer
26 to document low streamflow conditions and will continue to do so in future years to allow better
27 pictorial comparisons.

28 **Eagle River Community Water Plan** – Ms. Johnson reported that several staff members are
29 involved in the Eagle River Watershed Council led “Eagle River Community Water Plan” that was
30 formerly known as the Integrated Water Management Plan. Ms. Brooks, Mr. Cowles, Mr. Wright,
31 Ms. Vogt and Ms. Johnson are working on various parts of the plan – with the District's hydrologic
32 model serving as the plan's foundation.

33 **Local and State Water Supply** – Ms. Johnson and Mr. Porzak discussed a recent meeting of the
34 Colorado River Water Conservation District during which possible future water supply shortages
35 were discussed. It was indicated at the meeting that the Colorado Water Conservation Board

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1 staff wants to impose consumptive use reductions on all entities taking water from the Colorado
2 River, rather than implementation of federal solutions. Earlier in the day, Mr. Porzak noted that
3 there are concerns that the reductions could disproportionately impact west slope diverters and
4 not comply with the priority system. If that occurs, it will result in litigation.

5 **GENERAL COUNSEL REPORT**

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

7 **WATER COUNSEL REPORT**

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

9 **EXECUTIVE SESSION**

10 Mr. Collins requested the Board enter Executive Session to receive legal advice regarding the Traer
11 Creek tank, pursuant to §24-6-402(4)(b) and (e) C.R.S. He asked that no electronic record be made, as
12 the discussion would be entirely privileged attorney-client communications. Upon motion duly made and
13 seconded, it was unanimously

14 **RESOLVED** to enter Executive Session at 9:59 a.m. to discuss attorney-client privileged
15 issues concerning the Traer Creek tank, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no
16 electronic record created as Mr. Collins opined the contents of the discussion would contain
17 privileged attorney-client communications.*

18 Special counselors Ms. Hernandez-Schlagel and Mr. Nathan joined the call at 10:00 a.m. They left the call at
19 10:30 a.m.

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

24 **RESOLVED** to continue Executive Session at 10:31 a.m. to discuss attorney-client privileged
25 issues concerning Bolts Lake and Minturn water matters, pursuant to §24-6-402(4)(b) and (e)
26 C.R.S. with no electronic record created as Mr. Porzak opined the contents of the discussion
27 would contain privileged attorney-client communications.*

28 The regular meeting resumed at 11:00 a.m.

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 11:02 a.m.

3 Respectfully submitted,

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6 Secretary to the Meeting

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

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13 **Arrowhead Metropolitan District**

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17 **Town of Avon**

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21 **Beaver Creek Metropolitan District**

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25 **Berry Creek Metropolitan District**

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29 **EagleVail Metropolitan District**

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33 **Edwards Metropolitan District**

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36 *The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion
37 in Executive Session not recorded constituted privileged attorney-client communications.

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41 _____
42 **Jim Collins, General Counsel**

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44 _____
Glenn Porzak, Water Counsel