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

The following Directors were present, thereby constituting a quorum:

- Geoff Dreyer, Arrowhead Metropolitan District
- Pam Elsner, Beaver Creek Metropolitan District
- George Gregory, Berry Creek Metropolitan District
- Sarah Smith Hymes, town of Avon, via phone
- Kim Bell Williams, EagleVail Metropolitan District
- Mick Woodworth, Edwards Metropolitan District

Also in attendance were:

- District Staff
- Linn Brooks
- Shane Cerny
- Jason Cowles
- Catherine Hayes
- Diane Johnson
- John McCaulley
- Seth Perry
- Siri Roman
- Amy Vogt
- James Wilkins
- Consultants
- Jim Collins, Collins Cockrel & Cole
- Ashley Hernandez-Schlagel, Nathan Dumm & Mayer PC, via phone
- Andy Nathan, Nathan Dumm & Mayer PC, via phone
- Glenn Porzak, Porzak Browning & Bushong LLP
- Public
- Holly Loff, Eagle River Watershed Council
- Larissa Read, Eagle River Watershed Council

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

CALL TO ORDER

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

INTRODUCTIONS

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

STRATEGY ITEMS

Eagle River Watershed Council Update – Ms. Roman introduced Ms. Loff, executive director of ERWC, and Ms. Read, ERWC board chair. They updated on ERWC’s efforts in the previous year, highlighting watershed protection efforts, water quality monitoring and assessment, and restoration projects, in addition to community events that promote the ERWC’s mission to focus on the health of Eagle County’s streams and watersheds. They requested continued funding from the Authority, and a related letter is attached hereto as Exhibit A and incorporated herein by this reference. The board said it would consider such funding within its normal FY 2019 budget preparations.
Board Member Input – Board member input was requested and there was none.

**ACTION ITEMS**

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

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

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

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

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

**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.
Upper Eagle Regional Water Authority

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

**OPERATIONS REPORT**

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

**ENGINEERING REPORT**

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

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

**COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

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

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

**Local and State Water Supply** – Ms. Johnson and Mr. Porzak discussed a recent meeting of the Colorado River Water Conservation District during which possible future water supply shortages were discussed. It was indicated at the meeting that the Colorado Water Conservation Board
staff wants to impose consumptive use reductions on all entities taking water from the Colorado River, rather than implementation of federal solutions. Earlier in the day, Mr. Porzak noted that there are concerns that the reductions could disproportionately impact west slope diverters and not comply with the priority system. If that occurs, it will result in litigation.

**GENERAL COUNSEL REPORT**

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

**WATER COUNSEL REPORT**

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

**EXECUTIVE SESSION**

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

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

Mr. Porzak requested the Board continue Executive Session to receive legal advice regarding Bolts Lake and Minturn water 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 continue Executive Session at 10:31 a.m. to discuss attorney-client privileged issues concerning Bolts Lake and Minturn water 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.*

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

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

Respectfully submitted,

___________________________________
Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND NOTICE OF MEETING WAIVED

___________________________________
Arrowhead Metropolitan District

___________________________________
Town of Avon

___________________________________
Beaver Creek Metropolitan District

___________________________________
Berry Creek Metropolitan District

___________________________________
EagleVail Metropolitan District

___________________________________
Edwards Metropolitan District

*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