

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**September 27, 2018**  
**MINUTES**

A Special Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held September 27, 2018, at 1:00 p.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**

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

2           Dick Cleveland  
3           Steve Coyer, *via phone*  
4           Steve Friedman  
5           George Gregory  
6           Timm Paxson  
7           Bill Simmons  
8           Brian Sipes

9           **Also in attendance were:**

10 <u>District Staff</u>	17	Siri Roman
11          Linn Brooks	18	Amy Vogt
12          Jason Cowles	19	James Wilkins
13          Carol Dickman	20	Len Wright
14          Catherine Hayes	21	<u>Consultants</u>
15          Diane Johnson	22	Jim Collins, Collins Cockrel & Cole
16          John McCaulley	23	Glenn Porzak, Porzak Browning & Bushong LLP

24          **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

27          Director Cleveland disclosed that he serves on the board of Vail Health. Director Friedman serves on the Boards of the Beaver  
28          Creek Metropolitan District and the Vail Valley Foundation. Director Gregory disclosed that he serves on the Boards of the Upper  
29          Eagle Regional Water Authority (Authority and the Berry Creek Metropolitan District and occasionally undertakes development and  
30          construction activities within the District and Authority service areas. Director Simmons disclosed that he is the General Manager of  
31          the Beaver Creek Metropolitan District, an alternate Authority Director, and serves on the board of the Edwards Metropolitan District.

32          **CALL TO ORDER**

33          Chair Friedman called the meeting to order at 1:12 p.m.

34          **INTRODUCTIONS**

35          There were no introductions.

36          **PUBLIC COMMENT**

37          Public comment was requested and there was none.

38          **WATER COUNSEL REPORT**

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

40          **EXECUTIVE SESSION**

41          Mr. Porzak requested the Board enter into Executive Session to receive legal advice regarding Bolts Lake  
42          and Minturn water matters, and CRCA matters, pursuant to §24-6-402(4)(b) and (f), C.R.S. He asked that  
43          no electronic record be made, as the discussion would be entirely privileged attorney-client. Upon motion  
44          duly made and seconded, it was unanimously

45                   **RESOLVED** to enter into Executive Session at 1:13 p.m. to discuss attorney-client privileged  
46                   issues concerning Bolts Lake and Minturn water matters, and CRCA matters, pursuant to  
47                   §24-6-402(4)(b) and (f) C.R.S. with no electronic record created as Mr. Porzak opined the  
48                   contents of the discussion would contain privileged attorney-client communications.\*

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1 Mr. Collins requested the Board continue Executive Session to receive legal advice regarding ongoing  
2 litigation with Vail resident Randy Fischer pursuant to §24-6-402(4)(b) and (f), C.R.S. He asked that no  
3 electronic record be made, as the discussion would be entirely privileged attorney-client. Upon motion  
4 duly made and seconded, it was unanimously

5 **RESOLVED** to enter into Executive Session at 1:53 p.m. to discuss attorney-client privileged  
6 issues concerning ongoing litigation with Vail resident Randy Fischer, pursuant to §24-6-  
7 402(4)(b) and (f) C.R.S. with no electronic record created as Mr. Collins opined the contents  
8 of the discussion would contain privileged attorney-client communications.\*

9 The regular meeting resumed at 1:58 p.m.

10 **Minturn Water Lease** – Mr. Porzak briefly discussed a letter from the town of Minturn’s attorney,  
11 requesting to extend the 2010 option to lease 50 acre feet of the District’s Eagle Park/Homestake  
12 Reservoir water for an additional year, through January 10, 2020. The cost of the extended lease to  
13 Minturn is approximately \$72,600. After discussion and upon motion duly made and seconded, it was  
14 unanimously

15 **RESOLVED** that the 2010 option for 50 acre feet of the District’s Eagle Park/Homestake  
16 Reservoir water be and hereby is extended for an additional year, through January 10,  
17 2020.

### 18 **STRATEGY ITEMS**

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

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

### 28 **ACTION ITEMS**

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

31 **RESOLVED** that the minutes of the August 23, 2018, regular meeting be accepted and hereby  
32 are approved as amended.

33 **Ski and Snowboard Club Vail Cash-in-Lieu of Water Rights Request** – Mr. Cowles discussed a cash-  
34 in-lieu of water rights request for the SSCV’s redevelopment project. A copy of the board action request  
35 and related documentation are attached hereto as **Exhibits B** and **C**, respectively, and incorporated  
36 herein by this reference. Discussion ensued regarding use of a projected water demand of 200 gallons

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1 per day/unit/SFE, which was aligned with similar projects. The board acknowledged that the estimated  
2 demand was a deviation from the historical practice of requiring dedication of 120% of a development's  
3 projected use. Water service agreements are also executed for such properties that limit the amount of  
4 water used and provide enforcement mechanisms should use exceed that for which the development  
5 paid. Upon motion duly made and seconded, it was unanimously

6 **RESOLVED** that the cash-in-lieu of water rights request for the Ski and Snowboard Club Vail  
7 project be and hereby is approved as presented, contingent upon the concurrent execution of a  
8 water service agreement with the development.

9 **Solar Vail Cash-in-Lieu of Water Rights Request** – Mr. Cowles discussed a cash-in-lieu of water rights  
10 request for this redevelopment project. A copy of the board action request and related documentation are  
11 attached hereto as **Exhibits D** and **E**, respectively, and incorporated herein by this reference. This  
12 redevelopment project will demolish existing employee housing units and replace with additional ones for  
13 a total of 65 employee housing units. Discussion ensued regarding use of a projected water demand of  
14 200 gallons per day/unit/SFE, which was aligned with similar projects; however, Mr. Cowles expects the  
15 use to be much lower than projections based on past use there. Upon motion duly made and seconded, it  
16 was unanimously

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

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

23 Mr. Porzak left the meeting at 2:30 p.m.

### 24 **GENERAL MANAGER REPORT**

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

28 **Drought Update** – Ms. Brooks updated on the drought conditions. Streamflows were stable in  
29 the past week, likely due to reduced use of irrigation water, as well as streambank plants going  
30 dormant and reduced evapotranspiration from colder nights. Ms. Brooks reported a good  
31 response from customers who received request letters to cut back their high use. Staff will follow  
32 up with local partners and organizations regarding drought response efforts and to thank those  
33 who responded when the Authority and District requested cutbacks. In response to a question,  
34 Ms. Brooks reported a negative response from fewer than 5% of customers who received a  
35 request to cut back.

36 **Employee Engagement Survey** – In response to a question, Ms. Brooks reported the employee  
37 engagement survey had a 79% participation rate. The engagement score increased to 83% from

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1 last year's score of 79%. Ms. Brooks noted the survey results would be discussed further at an  
2 upcoming board meeting.

### 3 **OPERATIONS REPORT**

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

6 **Colorado Department of Health and Environment Sanitary Survey** – In response to a  
7 question, staff discussed the Authority's recent sanitary survey with the CDPHE. It was clarified  
8 that a "significant deficiency" was something that could be repaired within 120 days and would not  
9 result in a violation. Most of the observed deficiencies were already resolved, and there were no  
10 reported violations. The District will likely have a sanitary survey in 2019.

### 11 **ENGINEERING REPORT**

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

### 14 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

17 **Drought Communication Efforts** – Ms. Johnson discussed drought communications. As in 2012, the  
18 Vail Daily agreed to front page placement of a drought watch graphic, free of charge, to keep a high  
19 level of community awareness about drought issues. The graphic ran for two months and will end Oct.  
20 1, which starts the 2019 water year. Ms. Johnson engaged a local photographer to document low  
21 streamflow conditions and will continue to do so in future years to allow better pictorial comparisons.

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

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

34 **Customer Payments** – In response to a question, Mr. McCaulley said about 40% of customers pay via  
35 credit card. Discussion ensued regarding the information included on paper bills and how to ensure this  
36 information reaches customers who use autopay or other electronic means of payment.

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1 **ADJOURNMENT**

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

3 Respectfully submitted,

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7 \_\_\_\_\_  
8 Secretary to the Meeting

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

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15 **Dick Cleveland, Director**

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19 **Steve Coyer, Treasurer**

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23 **Stephen Friedman, Chair**

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27 **George Gregory, Secretary**

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31 **Timm Paxson, Director**

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35 **Bill Simmons, Director**

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38 \_\_\_\_\_  
39 **Brian Sipes, Director**

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

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48 **Jim Collins, General Counsel**

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**Glenn Porzak, Water Counsel**