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

The following Directors were present, thereby constituting a quorum:

1. Dick Cleveland
2. Steve Coyer, via phone
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. District Staff
16. Siri Roman
17. Amy Vogt
18. James Wilkins
19. Len Wright
20. Consultants
22. Glenn Porzak, Porzak Browning & Bushong LLP

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. 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

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

INTRODUCTIONS

There were no introductions.

PUBLIC COMMENT

Public comment was requested and there was none.

WATER COUNSEL REPORT

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

EXECUTIVE SESSION

Mr. Porzak requested the Board enter into Executive Session to receive legal advice regarding Bolts Lake and Minturn water matters, 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 enter into Executive Session at 1:13 p.m. to discuss attorney-client privileged issues concerning Bolts Lake and Minturn water matters, 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.*
Mr. Collins requested the Board continue Executive Session to receive legal advice regarding ongoing litigation with Vail resident Randy Fischer 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 into Executive Session at 1:53 p.m. to discuss attorney-client privileged issues concerning ongoing litigation with Vail resident Randy Fischer, pursuant to §24-6-402(4)(b) and (f) C.R.S. with no electronic record created as Mr. Collins opined the contents of the discussion would contain privileged attorney-client communications.*

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

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

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 District, 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 amended.

Ski and Snowboard Club Vail Cash-in-Lieu of Water Rights Request – Mr. Cowles discussed a cash-in-lieu of water rights request for the SSCV’s redevelopment project. 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 aligned with similar projects. 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 Ski and Snowboard Club Vail
project be and hereby is approved as presented, contingent upon the concurrent execution of a
water service agreement with the development.

Solar Vail Cash-in-Lieu of Water Rights Request – Mr. Cowles discussed a cash-in-lieu of water rights
request for this redevelopment project. 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. This
redevelopment project will demolish existing employee housing units and replace with additional ones for
a total of 65 employee housing units. Discussion ensued regarding use of a projected water demand of
200 gallons per day/unit/SFE, which was aligned with similar projects; however, Mr. Cowles expects the
use to be much lower than projections based on past use there. Upon motion duly made and seconded, it
was unanimously

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

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

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

GENERAL MANAGER REPORT

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

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. Ms. Brooks reported a good
response from customers who received request letters to cut back their high use. 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. In response to a question,
Ms. Brooks reported a negative response from fewer than 5% of customers who received a
request to cut back.

Employee Engagement Survey – In response to a question, Ms. Brooks reported the employee
engagement survey had a 79% participation rate. The engagement score increased to 83% from
last year’s score of 79%. Ms. Brooks noted the survey results would be discussed further at an upcoming board meeting.

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

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

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

COMMUNICATION AND PUBLIC AFFAIRS REPORT
Ms. Johnson presented her report, a copy of which is attached hereto as Exhibit K 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.

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

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Jim Collins, General Counsel    Glenn Porzak, Water Counsel