A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held February 28, 2019, 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
3. Steve Friedman
4. George Gregory
5. Timm Paxson
6. Bill Simmons
7. Brian Sipes
8. Also in attendance were:
   9. District Staff
   10. Linn Brooks
   11. Jason Cowles
   12. Carol Dickman
   13. Tim Drescher
   14. Catherine Hayes
   15. Diane Johnson
   16. Melissa Marts
   17. John McCaulley
   18. Maureen Mulcahy
   19. Brian Tracy
   20. Amy Vogt
   21. Len Wright
   22. Consultants
   23. Jim Collins, Collins Cockrel & Cole
   24. Glenn Porzak, Porzak Browning & Bushong LLP
   25. Dr. Robert Lipnick, Vail resident
   26. Rick Sackbauer, Vail resident
   27. Public
   28. Brian Tracy
   29. Siri Roman

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 Coyer disclosed that one of his relatives is an Avon resident who is looking for Hahnewald Barn removal alternatives. 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. 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

Dr. Lipnick, a Vail resident, was introduced.

PUBLIC COMMENT

Mr. Sackbauer discussed Mr. Porzak’s Vail Trailblazer award and thanked him for his contributions to the community.

ACTION ITEMS

Resolution Honoring Rick Sackbauer – Chair Friedman read a resolution honoring Mr. Sackbauer for his accomplishments during his previous tenure on the board. A copy of the resolution is attached hereto as Exhibit A and incorporated herein by this reference. The board unanimously approved the resolution, and thanked Mr. Sackbauer for his years of service.

Consideration of Minutes – The minutes of the regular meeting of January 24, 2019, were considered.

Upon motion duly made and seconded, it was unanimously
RESOLVED that the minutes of the January 24, 2019, meeting be accepted and hereby are approved as presented.

Parameters Resolution for 2019 Enterprise Wastewater Revenue Bonds – The Board discussed the bonds, which will help fund wastewater treatment plant upgrades to meet state-required nutrient regulations. Mr. Wilkins and Ms. Roman discussed the parameters resolution and related documents, copies of which are attached hereto as Exhibit B and incorporated herein by this reference. Mr. Wilkins said bond issuance is likely to be in late April or early May. Ms. Roman said project costs are coming in much higher than anticipated, so additional planning will be required to determine if any planned improvements can be modified or removed. Ms. Roman also noted there are only a few contractors in the state that are qualified to perform such highly technical construction projects. A resolution to establish a wastewater bond debt service rate was also presented, a copy of which is attached hereto as Exhibit C and incorporated herein by this reference; a $5.50/month per single family equivalent base rate is also anticipated on customer monthly bills beginning in 2020. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the parameters resolution for 2019 enterprise wastewater revenue bonds be and hereby is approved as presented; and

FURTHER RESOLVED that the resolution to establish a wastewater bond debt service rate be and hereby is approved as presented.

Rules and Regulations Update: Appendix G – Ms. Mulcahy presented her board action request and related documents, copies of which are attached hereto as Exhibit D and incorporated herein by this reference. She summarized the need for the updates, to ensure compliance with the state-issued Backflow Prevention and Cross Connection Control (BPCCC) requirements during the District’s upcoming sanitary survey with the state. In response to a question, Ms. Mulcahy noted that surveys of single-family residences were not required by the state but that they could be surveyed in the future. In response to another question, Ms. Mulcahy explained the $500 monthly fee per instance of noncompliance is meant as a baseline for enforcement; it could change depending on a variety of factors following implementation. She also confirmed that when District meter technicians enter customer homes to change meters, they are also looking for other compliance-related items. Upon motion duly made and seconded, it was unanimously

RESOLVED that the updates to Appendix G of the Rules and Regulations be and hereby are approved as presented.

Consent Agenda – The Board unanimously approved the consent agenda, a copy of which is attached hereto as Exhibit E and incorporated herein by this reference.

STRATEGY ITEMS

Board Member Input – Board input was called for and there was none.
GENERAL MANAGER REPORT

Ms. Brooks presented her 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.

Compost Program at the Vail Office – Ms. Brooks informed directors that the Vail office now has a commercial compost pickup service through EverGreen Zero Waste, based out of Aspen. Employees are encouraged to compost at work and bring compost from home as well; interested directors are welcome to bring compost and can get further details from staff.

Red Sandstone Sewer Main Intergovernmental Agreement – In response to a question, Ms. Brooks clarified that the IGA she signed with the town of Vail was for the District’s portion of the cost to replace the Red Sandstone sewer main. This work is being done in conjunction with the construction of the parking garage and new elementary school in the area.

FINANCE REPORT

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

Finance Update – Mr. Wilkins reported that District water sales were above budget projections, with May and July sales much higher than anticipated, likely due to the extremely dry summer in the service area. District tap fees were also higher than projections, and many developers paid at the end of December, prior to annual increases. Mr. Wilkins also noted fewer rollovers than in years past, as staff continues to work on improving project spending projections and timelines.

Stillwater Employee Housing Development – Mr. Wilkins discussed progress on the Stillwater housing development, with units expected to be ready for mid-August move in. An RFP for property management firms solicited two bids; the lower level of interest may be due to the small inventory and the level of demand for such services around the valley. Mr. Wilkins expects to present a comprehensive housing update to the board in May or June.

OPERATIONS REPORT

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

Avon Drinking Water Facility (ADWF) Capital Improvements – Mr. Tracy presented an overview of recent capital improvements at the Avon Drinking Water Facility. State requirements have necessitated many of the upgrades, including a project to reduce disinfection byproducts to meet new Colorado Department of Public Health and Environment (CDPHE) regulations. Other highlights at the facility included being the first water provider to receive credits for ozone disinfection, as well as having 24/7 automated operations. In response to questions, Ms. Brooks and Mr. Tracy confirmed that many of the optimization activities have been completed with little or
no capital investment; such improvements often mitigate small issues before they become large problems. The board thanked Mr. Tracy for the information.

**Partnering Event for AWWTF Nutrient Upgrade Project** – Mr. Schneider and Ms. Marts gave an overview of upcoming Avon Wastewater Treatment Facility capital improvements to meet the state’s nutrient regulations. A related memo is attached hereto as Exhibit J and incorporated herein by this reference. A construction manager at risk method is being used, and Ms. Marts noted a partnering session with the staff, and engineering and contractor representatives to kick the project off in a collaborative spirit and to minimize construction cost risk. Construction is expected to start this fall and be completed in 2022; the project costs are currently estimated at $34 million but some cost escalation is expected based on current estimates. Ms. Marts noted this project is unique in that it requires construction through existing operations. The board thanked Ms. Marts for the presentation.

**ENGINEERING REPORT**

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

**6 West Project** – Mr. Cowles reported a subcontractor at the 6 West project did not properly install the water and sewer mains for the development. The District’s field inspector identified numerous issues, which the subcontractor has since remedied. In response to a question, Mr. Cowles said the subcontractor had lost many of its tenured employees after being purchased by a larger company. To protect the District and Authority if the fixes are not sufficient, an extended three-year warranty for the work will be procured by the developer; warranty bonds will also be assigned to the District and Authority by the contractor to back the extended warranty. Further, the District will record a perpetual lien against the property, which will be memorialized via an agreement with the subcontractor’s company. The board expressed satisfaction with the remedy.

**COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

**Legislative Updates** – Ms. Johnson noted the 2019 legislative session began Jan. 4. She updated the board on HB19-1050, which would extend to special districts the same policy that came from 2013 legislation, which said any homeowner association (HOA) rules that require homeowners to have turf grass are unenforceable. This bill is prepared for the governor’s signature after passing in both the House and Senate. Ms. Johnson also discussed HB19-1108, which would allow nonresident homeowners in Colorado to vote within special district elections and serve on special district boards in a nonvoting capacity. This is an iteration of a bill from 2018 that was vetoed by former Gov. Hickenlooper. The bill is on the calendar for the Senate committee for State, Veterans, & Military Affairs, with a hearing scheduled for the following week.
The District opposes this legislation; Ms. Johnson is working with others to get a “no” vote at the
committee hearing.

**Drought Contingency Planning** – Ms. Johnson updated the board on drought contingency
planning, particularly issues that the lower basin states are having. March 4 is the latest deadline
for the lower basin states to come to agreement regarding their drought contingency plan,
although the Bureau of Reclamation will allow time for states to agree while it takes input from
each of the seven basin states per the notice in the federal register.

**GENERAL COUNSEL REPORT**

Mr. Collins referenced his confidential legal report in the confidential packet.

**Hahnewald Barn Update** – Mr. Collins discussed a letter of agreement he sent to the town of
Avon’s attorney, Eric Heil, regarding the various terms and requirements to ensure the
Hahnewald Barn is removed from the District’s property at the Avon WWTF for a facility
expansion. Verbal acknowledgement of the agreement was received, as Mr. Collins noted little
desire by either party to draft a full-blown agreement for signature.

**Casa del Sol Update** – Mr. Collins said the various easement issues with the development are
coming to closure.

**Unification Committee** – Mr. Collins discussed a recent meeting of the unification joint
subcommittee of the boards. The involved directors requested a determination of how both
boards could unify into an authority. The next meeting of the subcommittee will be March 27.

**WATER COUNSEL REPORT**

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

**Colorado Outdoor Recreation and Economy (CORE) Act** – Mr. Porzak discussed this
legislation, which will be introduced in Congress and, among other issues, deals with wildfire
coordination efforts in wilderness areas. Of particular interest to the Authority and District are the
inclusion of Camp Hale as a National Treasured Landscape, as water released from Eagle Park
Reservoir must traverse these areas. Mr. Porzak also pointed out that the current legislation does
not require a cleanup of unexploded ordnances in the area, a change from previous iterations of
the bill. He will continue to monitor the legislation, which he expects will see many changes
before it would ever be signed into law. Related information is attached hereto as **Exhibit M** and
incorporated herein by this reference.

**Pando Feeder Canal Absolute/Diligence Application** – Mr. Porzak reported there were no
opposers to the Pando Feeder Canal filing to make absolute a portion of these important water
rights. He filed the motion for entry of final decree and is awaiting the referee’s signature. A copy
of the motion is attached hereto as **Exhibit N** and incorporated herein by this reference.
EXECUTIVE SESSION

Mr. Porzak requested the Board enter Executive Session to receive legal advice Bolts Lake Agreement, Minturn Water Service Agreement, water rights hydrology modeling, and CRCA 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 enter Executive Session at 2:13 p.m. to discuss attorney-client privileged issues concerning the Bolts Lake Agreement, Minturn Water Service Agreement, water rights hydrology modeling, and CRCA 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.*

All staff, with the exception of Ms. Brooks, left the meeting at 3:06 p.m.
Mr. Collins requested the Board continue Executive Session to receive legal advice on a personnel matter §24-6-402(4)(f) 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 3:07 p.m. to discuss attorney-client privileged issues concerning a personnel matter, pursuant to §24-6-402(4)(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 3:13 p.m.
ADJOURNMENT
There being no further business to come before the Board, the meeting adjourned at 3:14 p.m.
Respectfully submitted,

Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND NOTICE OF MEETING WAIVED

________________________________________
Dick Cleveland, Director

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Steve Coyer, Treasurer

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Stephen Friedman, Chair

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George Gregory, Secretary

________________________________________
Timm Paxson, Director

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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

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Glenn Porzak, Water Counsel