A Special Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held March 28, 2019, at 12:00 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. Tim Drescher
13. Catherine Hayes
14. Diane Johnson
15. Melissa Marts
16. John McCaulley
17. Maureen Mulcahy
18. Siri Roman
19. Brian Tracy
20. Len Wright
21. Consultants
22. Jim Collins, Collins Cockrel & Cole
23. Glenn Porzak, Porzak Browning & Bushong LLP
24. Dr. Robert Lipnick, Vail resident
25. Rick Sackbauer, Vail resident
26. Maureen Mulcahy
27. Len Wright
28. Consultants
29. Jim Collins, Collins Cockrel & Cole
30. Glenn Porzak, Porzak Browning & Bushong LLP
31. Dr. Robert Lipnick, Vail resident
32. Rick Sackbauer, Vail resident

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 Cleveland disclosed that he serves on the board of Vail Health. 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. 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 12:22 p.m.

PUBLIC COMMENT

Public comment was called for, and there was none.

ACTION ITEMS

Consideration of Minutes – The minutes of the regular meeting of February 28, 2019, were considered. Upon motion duly made and seconded, it was unanimously RESOLVED that the minutes of the February 28, 2019, regular meeting be accepted and hereby are approved as presented.

Rules and Regulations Update – Mr. Cowles discussed a board action request and related documents, copies of which are attached hereto as Exhibit A and incorporated herein by this reference. He noted the strategic, annual method by which staff is updating the Rules & Regulations. Mr. Cowles and Ms. Brooks specifically discussed the prohibition of “Y” connections in the water and wastewater system joint service lines. This will protect current and future customers and the District from the liability associated with such connections, which have caused backups and property damage in the past. Use of Y connections is less
costly for developers, but future buyers and the District and Authority bear the burden of associated risk of service line failures. The board discussed the letter from Mike Dantas and considered the concerns therein stated. After additional discussion and upon motion duly made and seconded, it was unanimously

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

Request for Easement on Avon Wastewater Treatment Facility Property – Mr. Schneider presented a board action request and related documents regarding a requested easement on the AWWTF property, copies of which are attached hereto as Exhibit B and incorporated herein by this reference. He said the town of Avon was leading the effort to bury powerlines on the northern property line of the AWWTF using Holy Cross Energy grant funds. This work will benefit the District in removing a possible obstruction and safety concern in advance of the upcoming AWWTF nutrient upgrade project. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the town of Avon’s request for an easement on the AWWTF property be and hereby is approved as presented.

Consent Agenda – Discussion ensued regarding some questions on specific contracts, which Ms. Brooks clarified. The Board unanimously approved the consent agenda, a copy of which is attached hereto as Exhibit C and incorporated herein by this reference.

Strategy Items

Unification – Chair Friedman discussed a recent joint board subcommittee meeting regarding the unification/restructuring process; this was the second meeting of the subcommittee. He noted potential savings projections by staff had increased after further investigation following the initial meeting. Mr. Porzak also indicated potential increases in the unallocated water pool if a unification of both boards occurred, as some reuse of the water could be possible. Chair Friedman believes the case for unification is becoming more compelling; subcommittee members, staff, and consultants will continue to work together on this matter.

General Manager Report

Ms. Brooks presented her report, a copy of which is attached hereto as Exhibit D and incorporated herein by this reference. Monthly reports were acknowledged, copies of which are attached hereto as Exhibit E and incorporated herein by this reference.

Hahnewald Barn Update – Ms. Brooks noted the next Avon Town Council meeting is April 9, at which time the council should have the results of its constituent survey regarding whether the barn should be moved or left for the District to remove as it sees fit. District staff is already researching potential options if voters indicate no support for moving the barn.

Biosolids Containment Facility Solar Array – In response to a question, Ms. Brooks discussed the proposed solar array at the District’s Biosolids Containment Facility (BCF) in Wolcott. The District has a patent for the land from the BLM that allows use for wastewater related purposes; however, the District must either change the use or buy the land outright to accommodate a solar
In response to a question, Mr. Collins noted the District would need to buy the land outright to be legally allowed to make a profit from activities on the land, even if such profit was an offset of District electric costs.

**OPERATIONS REPORT**

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

**Eagle Mine Superfund Site Consent Decree** – Ms. Roman discussed the consent decree between the Environmental Protection Agency (EPA) and CBS, the owner of the Eagle Mine. District and Authority concerns were communicated in writing to ensure the consent decree includes timeliness of notifications and cleanup, regular inspections, and ongoing monitoring to protect our rivers and source water quality. The Eagle Board of County Commissioners also sent a letter to EPA that reinforced the District and Authority’s concerns and requests. Copies of this information are attached hereto as Exhibit G and incorporated herein by this reference. Ms. Roman expects the negotiations between EPA and CBS to occur soon regarding the Consent Decree. Director Paxson added that the previous consent decree did not require remedial actions if violations occurred but expects this one will have actionable consequences for violations.

**West Vail Pass Auxiliary Lane Project** – Ms. Roman continues to participate in the stakeholder meetings on the Authority and District’s behalf. At the last meeting, she suggested if the stakeholders and the Colorado Department of Transportation (CDOT) could agree on required metrics for the project, the Authority and District would not require such diligent oversight of water quality and technical project aspects. Agreed-upon metrics have been used for similar projects in the past; staff is awaiting more information from CDOT on whether these metrics are an acceptable alternative. Ms. Roman also emphasized the importance of making Authority and District requirements clear and written in the Environmental Assessment (EA) document, in case project personnel changes occur by the time the project receives funding.

**Eagle Park Reservoir Company Update** – Mr. Tracy updated the board on Eagle Park Reservoir conditions and operations. He noted the reservoir was expected to gravity fill due to the high snowpack, but the East Fork Pump Station will run at least briefly to ensure the recent upgrades there are successful. The annual reservoir water quality report was recently received from Leonard Rice Engineers and will be closely reviewed by staff in the coming weeks.

**Water Department Updates** – Mr. Tracy briefly updated on upcoming events for the water department, including the annual lead and copper sampling, the state requirements for which are becoming more stringent and detailed. In addition, the Consumer Confidence Reports (CCRs) will be distributed to customers in the coming months. Annual communication of the information in the CCRs is required by the Safe Drinking Water Act.

**Inundation Mapping Update** – Dr. Wright presented updated inundation mapping information related to a possible catastrophic dam failure at Eagle Park Reservoir. Previous such efforts were
Eagle River Water & Sanitation District

outdated and consisted of paper maps. The District received a Federal Emergency Management Agency (FEMA) grant for the work to digitize the mapping and conduct computer modeling to better prepare for such an event. Dr. Wright noted the District’s dams are regularly state-inspected and optimally maintained, so the probability of such a failure is low. Discussion ensued regarding public communication of a catastrophic failure and the timing of certain associated events.

ENGINEERING REPORT

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

**Vines at Vail Update** – Mr. Cowles updated the board regarding Eagle County’s decision on a requested extension for the Vines at Vail’s Planned Unit Development entitlements in the District’s Wolcott service area. The project was granted a two-year extension conditioned upon the Developer entering into a subdivision improvement agreement with the County and providing collateral for the project’s public improvements within 180 days of the ruling. Mr. Cowles also noted that the District is participating in a joint change case to change irrigation water rights owned by the Chris Jouflas family to municipal use. There are no imminent development plans in the Wolcott area.

**Vail Resorts Employee Housing Proposal in East Vail** – Mr. Cowles discussed the controversial employee housing proposal in East Vail on Vail Resorts-owned land. Opponents are concerned about the effects on bighorn sheep in the area; proponents recognize the need for more employee housing. Vail Resorts would have to dedicate Eagle Park Reservoir water for the development. In response to a question, Mr. Cowles noted District staff is not completing any work related to the proposed development at this time.

**Berliamont Estates Proposed Development** – In response to a question, Mr. Cowles clarified that if the proposed Berliamont Estates development moved forward, the residents there would use well water and septic; the District is unable to serve any development there.

**Proposed Development in Edwards** – Mr. Cowles noted a proposed project near the old B&B gravel pit in Edwards. The current proposal anticipates 594 units, including a hotel, several condos, and residential units, including single family houses and townhomes. The board discussed the project and the request for conditional capacity to serve, for which the Authority board requested additional information before any conditional commitment for water service.

**Lionshead Zoning Update** – Mr. Cowles discussed recent Vail Town Council efforts to stimulate redevelopment in Lionshead, via a proposal to allow unlimited residential development within current setbacks. The effort passed first reading. Mr. Cowles discussed concerns, as increased loading to the wastewater treatment facility could trigger capacity upgrades sooner than planned.
in the wastewater master plan; this would compound customer rate increases that have been carefully planned to minimize impacts to customers.

**Water Conservation Considerations in Front Range Water Projects** – Mr. Cowles discussed lawsuits brought by citizen group “Save the Colorado” against the federal agencies that permitted the large Front Range Windy Gap Firming Project and the Moffat Collection System Project. The suits allege that conservation was not considered a reasonable alternative to these projects in either case. Mr. Cowles noted the Authority and District’s aggressive conservation efforts will become more important in planning and permitting for any future projects. Mr. Porzak shared that some environmental groups are also questioning snowmaking water use as it relates to conservation.

**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.

**Colorado River Basin Roundtable Funding** – Ms. Johnson explained how the roundtables are funded. She noted the CBRT voted March 25 to award funds for the EagleVail Metropolitan District’s Stone Creek restoration project, which will improve water quality there. She also noted that “Learning by Doing,” which resulted from the Colorado River Cooperative Agreement, is now a 501(c)3 based in Grand County.

**CIP Projects and Customer Communications** – Ms. Johnson said a variety of construction projects are ramping up so communication to affected customers is also increasing. She noted the CDOT Edwards Spur Road Project would require some water shutdowns in the area that would affect many customers; she and project engineer Mark Mantua are working on customer notifications.

**Eagle River Valley State of the River Community Meeting** – Ms. Johnson noted this free public meeting was upcoming, with possible dates of May 20 or 29. Mr. Mueller of the Colorado River Water Conservation District will discuss drought contingency planning, with other speakers addressing local water issues.

**Legislative Updates** – Ms. Johnson reported on the status of various bills of interest to the Authority and District. Of interest was that HB19-1108, the non-resident elector bill was killed in committee. The district opposed the bill, which would have allowed non-resident electors in Colorado special districts to vote in board member elections.

**Vail Water Billing Tiers** – Ms. Johnson informed the board of a communication that will be included in the April billing statements of all Vail water customers concerning the 2019 billing tiers, which the board adjusted from three to five, effective Jan. 1. The change was previously communicated, but is expected to be noticed more by customers as irrigation season begins, thus the timing of sending more information in the April bills.
Addition Legislative Update – Ms. Moseley offered additional information on late bills introduced in the current legislative session. Such bills deal with leasing water rights to the CWCB in successive ten-year periods (HB19-1218); oil and gas regulations (SB19-181) that would affect severance taxes; water rights easement legislation (HB19-1082) that would allow piping open ditches; and authority to regulate agricultural chemicals in surface water, not just groundwater (SB19-186). Ms. Moseley will continue to monitor such legislation on the Authority and District’s behalf.

GENERAL COUNSEL REPORT

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

6 West Update – Messrs. Collins and Cowles discussed the continued issues of poor construction at the development. The Authority and District have required an extended warranty and warranty bonds to ensure any future water and sewer main installation issues are remedied at the developer’s cost.

Casa del Sol Update – Mr. Collins said the various easement issues with the development are coming to closure, and settlement is expected soon.

WATER COUNSEL REPORT

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

EXECUTIVE SESSION

Mr. Porzak requested the Board enter into Executive Session to receive legal advice regarding the Bolts Lake/Minturn water service agreement, CRCA matters, river access matters, the Colorado Outdoor Recreation and Economy Act, and water rights hydrology model sharing, 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 2:30 p.m. to discuss attorney-client privileged issues concerning the Bolts Lake/Minturn water service agreement, CRCA matters, river access matters, the Colorado Outdoor Recreation and Economy Act, and water rights hydrology model sharing, 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 3:02 p.m.

Minturn Water Service Agreement – After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the board hereby authorizes Mr. Porzak to communication the following to the town of Minturn: it must abandon its Cross Creek water rights or subordinate such rights to District and Authority water rights to ensure consistent filling of a proposed Bolts Lake Reservoir.
ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 3:03 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.

______________________________
Glenn Porzak, Water Counsel