

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**April 25, 2019**  
**MINUTES**

A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held April 25, 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**

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

2           Dick Cleveland  
3           Steve Coyer  
4           George Gregory  
5           Bill Simmons  
6           Brian Sipes

7           **The following Directors were absent and excused:**

8           Steve Friedman  
9           Timm Paxson

10          **Also in attendance were:**

11 <u>District Staff</u>	21	Siri Roman
12          Linn Brooks	22	Brian Tracy
13          Kyle Collins	23	Len Wright
14          Jason Cowles	24	Chris Wolff
15          Catherine Hayes	25	<u>Consultants</u>
16          Angie Horn	26	Jim Collins, Collins Cockrel & Cole
17          Diane Johnson	27	Glenn Porzak, Porzak Browning & Bushong LLP
18          Ali Kelkenberg	28	<u>Public</u>
19          John McCaulley	29	Don MacKenzie, River Park development
20          Melissa Mills McLoota		

30          **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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

38          **CALL TO ORDER**

39          Acting Chair Simmons called the meeting to order at 12:22 p.m.

40          **INTRODUCTIONS**

41          Introductions were made, including the following: Mr. Wolff, the District's new water demand management  
42          coordinator, who will report to Maureen Mulcahy, the Customer Service Manager. Water department  
43          employees Msses. Horn and Rosema were also introduced, as well as Mr. MacKenzie, representing the  
44          proposed River Park development in Edwards.

45          **PUBLIC COMMENT**

46          Mr. MacKenzie addressed the board regarding the proposed River Park development. He summarized  
47          various aspects of the project and acknowledged that the developers will request water and sewer service  
48          from the Authority and District, respectively. Discussion ensued regarding water diversions for the  
49          development.

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## ACTION ITEMS

**Resolution Consenting to the Organization of the Edwards River Park Metropolitan District Nos. 1 and 2** – Mr. Collins discussed a memo and resolution regarding a request for the District's consent to the formation of River Park Metro District Nos. 1 and 2, which would overlap with the boundaries of the Eagle River Water & Sanitation District. A copy of the memo and resolution are attached hereto as **Exhibit A** and incorporated herein by this reference. Mr. Collins clarified that these commercial and residential districts would be used to finance needed water and sewer infrastructure and would exist in perpetuity. He confirmed that the Authority and District would ultimately own that infrastructure. After discussion and upon motion duly made and seconded, it was unanimously

**RESOLVED** that the resolution consenting to the organization of the Edwards River Park Metropolitan District Nos. 1 and 2.

At 11:45 a.m., Mr. MacKenzie left the meeting.

**Consideration of Minutes** – The minutes of the special meeting of March 28, 2019, were considered. Upon motion duly made and seconded, it was unanimously

**RESOLVED** that the minutes of the March 28, 2019, regular meeting be accepted and hereby are approved as presented.

The minutes of the joint special meeting of March 28, 2019, with the Upper Eagle Regional Water Authority were considered. Upon motion duly made and seconded, it was unanimously

**RESOLVED** that the minutes of the March 28, 2019, joint special meeting with the Authority be accepted and hereby are approved as presented.

**Resolution regarding Bighorn Terrace Sanitation Subdistrict Budget** – Mr. Wilkins presented a memo and related documents regarding the 2019 budget for the Bighorn Terrace Sanitation subdistrict; copies are attached hereto as **Exhibit B** and incorporated herein by this reference. He noted the funds in question were budgeted for this purpose in 2019 but were not specifically broken out as standalone budget items. The Division of Local Affairs requested a copy of the Bighorn subdistrict budget. The proposed resolutions will allow staff to fulfill this request. After discussion and upon motion duly made and seconded, it was unanimously

**RESOLVED** that the resolutions to adopt the 2019 budget for the Bighorn Terrace Sanitation subdistrict and appropriate sums of money be and hereby are approved as presented.

Copies of the resolutions are attached hereto as **Exhibits C** and **D**, respectively, and incorporated herein by this reference.

The board **FURTHER RESOLVED** to approve an application for exemption from audit for the years 2017 and 2018

**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 E** and incorporated herein by this reference.

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## 1 STRATEGY ITEMS

2 Board input was requested and there was none.

## 3 GENERAL MANAGER REPORT

4 Ms. Brooks presented her report, a copy of which is attached hereto as **Exhibit F** and incorporated herein  
5 by this reference. Monthly reports were acknowledged, copies of which are attached hereto as **Exhibit G**  
6 and incorporated herein by this reference.

7 **Recruiting.com Video** – Ms. Kelkenberg, Senior HR generalist, and Ms. Vogt, Community  
8 Relations Specialist, presented information on the District’s recruiting website, including recently  
9 completed videos. The videos feature District employees and promote the culture and benefits of  
10 working at the District, especially in highly technical roles like water and wastewater operations,  
11 which are typically hard to recruit. In response to a question, Ms. Kelkenberg explained the  
12 various channels by which the videos, other recruiting materials, and applications are  
13 disseminated. The board thanked them for the presentation. Thereafter, Ms. Kelkenberg left the  
14 meeting.

15 **Climate Action Collaborative 2018 Annual Report** – Ms. Brooks called attention to the report  
16 included in board packets, a copy of which is attached hereto as **Exhibit H** and incorporated  
17 herein by this reference. She said staff participates in the Collaborative and will continue to  
18 participate in work groups and meetings to help meet the countywide goals for emissions  
19 reductions.

20 **Stillwater Update** – Mr. Wilkins briefly updated on the District’s employee housing development,  
21 Stillwater, located in west Edwards. The project is slated for completion in mid-July, with  
22 employee move-in scheduled for mid-August. The project remains on time and on budget. Mr.  
23 Wilkins will apprise the board when tours are available for board and community members. In  
24 response to a question, Mr. Wilkins said the District expects to choose a property management  
25 firm soon, which will manage all employee housing.

## 26 OPERATIONS REPORT

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

29 **Lead and Copper Sampling Presentation** – Mr. Tracy introduced Ms. Rosema, the District’s  
30 water quality coordinator. Ms. Rosema presented information regarding the lead and copper  
31 sampling requirements set forth by the Environmental Protection Agency (EPA), which the  
32 Authority and District must meet. A related memo is attached hereto as **Exhibit J** and  
33 incorporated herein by this reference. Samples include a target of 30 residences in each the  
34 Authority and District taken between June 1 and Sept. 30 annually. Lead pipes are not known to  
35 exist in the Authority and District service area, but sampling will focus on homes built between  
36 1983–1987 that are likely to have lead solder in copper pipes, which could be a source of lead for

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1 tap water in individual homes. Outreach efforts will begin shortly to find properties to participate,  
2 with letters and follow-up phone calls to communicate to property owners whose homes meet the  
3 criteria for sampling. Participants are also offered a small credit on their water bills as a thank you  
4 for their participation. Historically, lead concentrations in customer tap water have tested below  
5 EPA action levels. In response to a question, Ms. Rosema outlined ways in which customers  
6 could manage high lead levels in their private water systems, including flushing the pipes prior to  
7 water use. The board thanked Ms. Rosema for her presentation.

### 8 **ENGINEERING REPORT**

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

11 **Eagle Park Reservoir Comprehensive Dam Safety Evaluation** – Mr. Cowles and Dr. Wright  
12 discussed a request from the Colorado Division of Water Resources Dam Safety Division to  
13 include Eagle Park Reservoir as part of a pilot project regarding a comprehensive dam safety  
14 evaluation. There would be no cost to the Reservoir Company, and staff believes it will strengthen  
15 the relationship with the state in this area. The board agreed that it was prudent to participate in  
16 the pilot project and directed staff to move forward with the pilot project.

17 **Eagle River Village (ERV) Mobile Home Park Drinking Water Update** – In response to a  
18 question, Mr. Cowles summarized efforts to get the residents of the ERV mobile home park onto  
19 the Authority's water supply system. The park is currently served by a private system that meets  
20 state regulations, but has odor and taste issues, so most residents purchase bottled water.  
21 District staff worked with Our Community Foundation and Eagle County to come to agreement  
22 with the park owner, Ascentia, with each party offering some contribution to the effort. Ascentia  
23 recently declined to participate in the deal, saying it was not economically viable. Staff's plan had  
24 been to use Authority water to fill the tank on the ERV mobile home park property, which could  
25 then be distributed via the park's private water system. Ms. Brooks confirmed that the park  
26 residents use District sewer service and are billed a non-meter sewer rate.

### 27 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

30 **Snowpack Update** – Ms. Johnson discussed local snowpack and noted the Vail Mountain  
31 SNOTEL site peaked a month early, on March 25, at 92% of normal snow water equivalent.  
32 Copper Mountain also may have peaked two weeks early, but is above normal peak SWE. The  
33 Fremont Pass site has yet to peak and is also above normal peak SWE. Discussion ensued  
34 regarding conditions at the various SNOTEL sites and how climate change is affecting snowpack  
35 and runoff

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1       **Shoshone Outage Protocol** – Ms. Johnson discussed the Shoshone outage protocol (ShOP)  
2       that was in effect in early April and referenced a news story about it. The plant was offline for  
3       maintenance, but water users kept operating as if the plant was online, per the protocol’s “virtual  
4       call.” Mr. Porzak clarified that Denver Water and Northern Water operated as if the Shoshone Call  
5       were in effect.

6       **Colorado River Drought Contingency Planning** – Ms. Johnson discussed the Colorado River  
7       Drought Contingency Plan that was agreed upon by the upper and lower basin states and signed  
8       into law by President Trump. The Imperial Irrigation District (IID) did not sign the DCP, and the  
9       same day that Trump signed the plan, the IID filed suit in California to block it.

### 10       GENERAL COUNSEL REPORT

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

12       **Restructuring Efforts** – Mr. Collins reported that meetings were ongoing about the possibility of  
13       restructuring the Authority and District boards. A late-May meeting is scheduled with the board  
14       subcommittee and involved staff. Discussion ensued regarding the feasibility of establishing  
15       “wards” instead of districts, by which residents of each ward would elect only that ward’s director,  
16       rather than the at-large method by which special district board members are currently elected. A  
17       related bill was considered for proposal in the legislature, but this did not come to fruition in this  
18       legislative session. Mr. Porzak noted if the restructuring did come to fruition, this could increase  
19       the amount of unallocated water of the Authority and District through some use and reuse  
20       opportunities.

21       **Feasibility Study for Sola Array at Biosolids Containment Facility** – Mr. Collins updated the  
22       board on a proposed solar array at the District’s biosolids containment facility. The District has a  
23       patent for the land from the Bureau of Land Management but would need to either change the  
24       patent or purchase the land outright to place a solar array there. The board supported continued  
25       staff and counsel efforts to move forward with purchase of the land and a feasibility study to  
26       ensure the site could support a solar array.

27       **6 West Update** – Messrs. Collins and Cowles discussed the additional infrastructure issues at  
28       the development, which are being corrected by the general contractor. He reminded directors that  
29       the Authority and District have required an extended warranty and warranty bonds to ensure any  
30       future water and sewer main installation issues are remedied at the developer’s cost. In a related  
31       matter, a subcontractor on the site damaged a fire hydrant. Mr. Collins offered the subcontractor  
32       could either pay the fine or pay the cost to fix the hydrant.

33       **Casa del Sol** – Mr. Collins reported the deal was finally accepted by the Casa del Sol  
34       homeowners association. Work is ongoing to gather all materials, and Mr. Schneider is working to  
35       ensure all easements are in the correct places.

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1           **Fischer Litigation** – Mr. Collins said there was nothing new to report, but the litigation was  
2           moving ahead.

### 3    **WATER COUNSEL REPORT**

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

5           **Wolford Mountain Diligence Application** – Mr. Porzak reminded the board that the District's  
6           Wolford Mountain water rights have decreed exchanges by which the District can divert it, and in  
7           certain years, it can be augmented by exchange. He noted a portion of those exchanges was  
8           conditional and as such, a diligence application was filed. There were no opponents and the  
9           referee entered a ruling.

10          **District Water Rights Report** – Mr. Porzak discussed the District's water rights report, which is due  
11          for its biennial update. Mr. Porzak expects to present this document to the board in May or June.

12          **Proposed River Park Development** – Mr. Porzak discussed the water rights that would be  
13          needed to serve the River Park development in Edwards. If approved, this would bring the  
14          Authority's unallocated water pool to about 100 A. Mr. Porzak noted the Authority would provide  
15          all water rights, but the District would provide sanitation services. Staff and consultants will  
16          continue to apprise the boards on relevant matters as the project moves forward.

17    At 1:15 p.m., Msses. Horn, Rosema, and Vogt and Messrs. K. Collins and Wolff left the meeting.

### 18   **EXECUTIVE SESSION**

19    Mr. Collins requested the Board enter into Executive Session to receive legal advice regarding the  
20    Hahnewald Barn, proposed solar array at the Biosolids Containment Facility, and a tank hatch breach  
21    emergency, pursuant to §24-6-402(4)(b) and (e) C.R.S. He asked that no electronic record be made, as  
22    the discussion would be entirely privileged attorney-client communications. Upon motion duly made and  
23    seconded, it was unanimously

24                    **RESOLVED** to enter Executive Session at 1:17 p.m. to discuss attorney-client privileged  
25                    issues concerning the Hahnewald Barn, proposed solar array at the Biosolids Containment  
26                    Facility, and a tank hatch breach emergency, pursuant to §24-6-402(4)(b) and (e) C.R.S. with  
27                    no electronic record created as Mr. Collins opined the contents of the discussion would  
28                    contain privileged attorney-client communications.\*

29    Mr. Porzak requested the Board continue Executive Session to receive legal advice regarding the Bolts  
30    Lake/Minturn water service agreement and bulk water and delivery agreement, the CORE Act, and CRCA  
31    matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. He asked that no electronic record be made, as the  
32    discussion would be entirely privileged attorney-client communications. Upon motion duly made and  
33    seconded, it was unanimously

34                    **RESOLVED** to continue Executive Session at 1:35 p.m. to discuss attorney-client privileged  
35                    issues concerning the Bolts Lake/Minturn water service agreement and bulk water and  
36                    delivery agreement, the CORE Act, and CRCA matters, pursuant to §24-6-402(4)(b) and (e)

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1 C.R.S. with no electronic record created as Mr. Porzak opined the contents of the discussion  
2 would contain privileged attorney-client communications.\*

3 At 1:45 p.m., prior to discussion of Bolts Lake matters, Ms. McLoota and Messrs. Schneider and Tracy left the  
4 meeting. The regular meeting resumed at 2:40 p.m.

5 **The Colorado Outdoor Recreation and Economy (CORE) Act** – Mr. Porzak discussed a resolution  
6 regarding the CORE Act, requesting a revision to the Act to name the District as an entity that may use,  
7 maintain, and repair Bolts Ditch and its headgate. Upon motion duly made and seconded, it was  
8 unanimously

9 **RESOLVED** that the resolution regarding Bolts Ditch and the CORE Act be and hereby is  
10 approved as presented.

11 A copy of the resolution is attached hereto as **Exhibit M** and incorporated herein by this reference.

12 **Integrated Project Delivery Resolution regarding the Hahnewald Barn Removal** – The board  
13 discussed a resolution that would allow for the use of integrated project delivery for removal of the  
14 Hahnewald Barn from the District's property at the Avon Wastewater Treatment Facility. The town of Avon  
15 had planned to finance relocation of the barn, but this was overwhelmingly rejected by town voters. Barn  
16 removal will now be handled by the District, and staff is determining the most efficient way to accomplish  
17 this. After discussion and upon motion duly made and seconded, it was unanimously

18 **RESOLVED** that the resolution for integrated project delivery to remove the Hahnewald  
19 Barn be and hereby is approved as presented.

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ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 2:42 p.m.

Respectfully submitted,

*Christine L Hayes*  
Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND NOTICE OF MEETING WAIVED

*Dick Cleveland*  
Dick Cleveland, Director

*Steve Coyer*  
Steve Coyer, Treasurer

*Stephen B. Friedman*  
Stephen Friedman, Chair

George Gregory, Secretary

*Timm Paxson*  
Timm Paxson, Director

*Bill Simmons*  
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*  
Jim Collins, General Counsel

*Glenn Porzak*  
Glenn Porzak, Water Counsel