

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**May 23, 2019**  
**MINUTES**

A Special Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held May 23, 2019, 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
- 4           Steve Friedman
- 5           Timm Paxson
- 6           Bill Simmons

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

- 8           George Gregory
- 9           Brian Sipes

10          **Also in attendance were:**

11 <u>District Staff</u>	20	Jeff Schneider
12          Linn Brooks	21	Jason Sica
13          Jason Cowles	22	Amy Vogt
14          Catherine Hayes	23	Len Wright
15          Diane Johnson	24	Chris Wolff
16          Kira Koppel	25	<u>Consultants</u>
17          Maureen Mulcahy	26	Jim Collins, Collins Cockrel & Cole
18          Niko Nemcanin	27	Glenn Porzak, Porzak Browning & Bushong LLP
19          Siri Roman		

28          **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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

36          **CALL TO ORDER**

37          Chair Friedman called the meeting to order at 1:02 p.m.

38          **INTRODUCTIONS**

39          Introductions were made, including Ms. Koppel, the District's new Sustainability Coordinator and Mr.  
40          Nemcanin, project engineer in the CIP department. Ms. Mulcahy was also acknowledged; her final day  
41          with the District will be May 29. Water Manager Brian Tracy, who was not at the meeting, was also  
42          acknowledged; his last day at the District will be June 3.

43          **PUBLIC COMMENT**

44          Public comment was called for, and there was none.

45          **ACTION ITEMS**

46                 **Consideration of Minutes** – The minutes of the regular meeting of April 25, 2019, were considered.  
47                 Upon motion duly made and seconded, it was unanimously

48                         **RESOLVED** that the minutes of the April 25, 2019, regular meeting be accepted and hereby are  
49                         approved as presented.

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1       **Commercial Lease for IT and OTS** – Mr. Wilkins and Mr. Sica presented a memo and related  
2 documents regarding a proposed lease for commercial space at the Traer Creek Plaza in Avon; copies  
3 are attached hereto as **Exhibit A** and incorporated herein by this reference. The lease would be for 5  
4 years at \$100,000/year. Mr. Wilkins noted the OTS department currently used space at the Swift Gulch  
5 facility leased from the town of Avon, which would be unavailable at year end. Moving IT from the Vail  
6 administrative offices would create needed space in Vail and free up parking at that facility. Mr. Wilkins  
7 confirmed that a thorough search of available properties was conducted, and the Traer Creek space was  
8 the only location that could meet parking and facility requirements for those two groups. After discussion  
9 and upon motion duly made and seconded, it was unanimously

10               **RESOLVED** that staff negotiate the commercial lease for the Traer Creek Plaza space.  
11 The board requested notification and review of any significant changes that occur during the negotiation  
12 process.

13       **Dowd Junction Collection System Project IPD Resolution** – Mr. Schneider discussed a board action  
14 request and a related resolution for Integrated Project Delivery (IPD), copies of which are attached hereto  
15 as **Exhibits B** and **C**, respectively, and incorporated herein by this reference. Last year, staff planned to  
16 coordinate District upgrades with Colorado Department of Transportation (CDOT) work in the same area.  
17 The CDOT work was postponed, but the District's aerial crossing continues to deteriorate and must be  
18 replaced. An IPD methodology would allow staff to begin design approval process planning and  
19 potentially start the project this year if favorable bids and conditions permit. Discussion ensued, and Mr.  
20 Schneider noted the challenges of permitting the project through various entities, including CDOT and the  
21 U.S. Forest Service. Upon motion duly made and seconded, it was unanimously

22               **RESOLVED** that the resolution to allow integrated project delivery for the Dowd Junction  
23 Collection System Project be and hereby is approved as presented.

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

### **STRATEGY ITEMS**

27       **WaterSmart Presentation** – Mr. Wolff discussed his memo regarding WaterSmart, the new  
28 customer service water efficiency portal. A copy of the memo is attached hereto as **Exhibit B** and  
29 incorporated herein by this reference. Mr. Wolff demonstrated the various features of the  
30 WaterSmart software, noting the opportunities for customer comparison to similar homes in their  
31 neighborhood, customer scores for water use efficiency, and suspected leak notification, among  
32 other available options. He said all customers will be notified of the new software and invited to  
33 enroll, via letter or email, depending on the available contact information for each customer. Mr.  
34 Wolff noted he was presenting a more in-depth look at the WaterSmart software at the May 29  
35 Lunch with the Locals in the Grandview Room in Vail. The Board thanked him for his  
36 presentation.

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1           **Board Member Input** – In response to a question, Ms. Brooks said Bennie’s Breakfast was May  
2           29 at the Arrabelle from 9:00 – 10:30 a.m. All directors were invited to attend this longevity  
3           celebration.

## 4           **GENERAL MANAGER REPORT**

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

## 8           **FINANCE REPORT**

9           **Quarterly Financial Report** – Mr. Wilkins presented the Q1 financials, a copy of which is  
10          attached hereto as **Exhibit G** and incorporated herein by this reference. He noted revenues were  
11          tracking closely to the budgeted amount for the first quarter. The continued cold, snowy weather  
12          has precluded the need for early outdoor irrigation water use, so May water sales are expected to  
13          be lower than in 2018. Few tap fees were collected in the first quarter, which is expected based  
14          on previous years and a slow start to construction season during the winter. Mr. Wilkins reported  
15          that anticipated bond issuance in 2019 would be delayed, as the bids for the Avon Wastewater  
16          Treatment Facility expansion were much higher than anticipated and value engineering is  
17          ongoing. Because of this, capital expenditures will be lower than anticipated in 2019. Mr. Wilkins  
18          also confirmed the District is meeting all requirements of its investment policy.

19          **Stillwater Employee Housing Development Update** – Mr. Wilkins said two open houses were  
20          planned for May 31 and June 7 for interested employees to walk through completed units. A  
21          ribbon-cutting ceremony for board members and public was expected in late July. Employee  
22          occupancy at the properties is expected to begin in mid-August, and the application process has  
23          opened. In response to a question, Mr. Wilkins said some units would be earmarked for short-  
24          term rental to assist with recruiting and housing for new hires. Any additional vacant units could  
25          be rented on a month-to-month basis to other local government employees, per District policy. In  
26          response to a question, Mr. Wilkins noted if there was more interest than available units, Ms.  
27          Brooks would make final determinations.

## 28          **OPERATIONS REPORT**

29          The operations report was presented, a copy of which is attached hereto as **Exhibit H** incorporated  
30          herein by this reference.

31          **Beaver Creek Village Hall Water Main Project** – Messrs. Schneider and Nemcanin discussed  
32          the project to replace the water main that serves Village Hall and a fire hydrant in the tunnel  
33          under Village Hall and the Park Hyatt at Beaver Creek. Corrosion has led to several water main  
34          breaks on the ductile iron main which carries a high degree of risk to damaging private property.  
35          Mr. Nemcanin discussed the schedule of the project, which is divided into two phases to lessen  
36          the impact on the resort during its busiest times. The fire hydrant will be replaced with a dry fire

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1 standpipe in the tunnel, and the water main will be replaced with a new HDPE water service line  
2 to Village Hall. Installation of the dry fire standpipe is underway, and water main replacement will  
3 occur in the fall.

### 4 **ENGINEERING REPORT**

5 Mr. Cowles noted he did not have a written report.

6 **Fischer Litigation** – Messrs. Collins and Cowles discussed the Fischer litigation regarding a  
7 sewer easement at 2636 Davos Trail. The District settled with the Fischers for what the District  
8 originally claimed, prior to the court ruling on the District’s summary judgment motion, and the  
9 matter is now closed. Under the terms of the settlement, the Fischers agreed to drop their claims  
10 and agreed to a 4’ sewer easement along the western property boundary.

### 11 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

14 **Water Use Regulations** – Ms. Johnson said an informational pamphlet was distributed with the  
15 May billing statements to remind customers of the water use regulations, via mail or email. A copy  
16 of the pamphlet is attached hereto as **Exhibit J** and incorporated herein by this reference.

17 **Colorado River Drought Contingency Planning** – Ms. Johnson discussed the Colorado River  
18 Drought Contingency Plan that was agreed upon by the upper and lower basin states and signed  
19 into law by President Trump. All seven basin states signed the agreement the past Monday. Ms.  
20 Johnson explained the significance of this plan and discussed continuing efforts in Colorado to  
21 come to agreement on how to avert or handle a “compact call.”

### 22 **GENERAL COUNSEL REPORT**

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

24 **6 West Update** – Mr. Cowles and Mr. Collins updated on the 6 West development and its various  
25 issues, including the poorly installed water and sewer infrastructure. The Authority and District  
26 have agreed to accept the infrastructure on the condition that 6 West Apartments, LLC provides a  
27 three-year warranty backed by security. The Developer will provide approximately \$340,000 in  
28 cash as security, which be held in escrow during the three-year warranty period. The warranty  
29 may be extended if any repairs are required during the warranty period.

30 **Update on Proposed Solar Array at Biosolids Containment Facility** – Ms. Brooks updated the  
31 board on a proposed solar array at the District’s biosolids containment facility. Staff continues to  
32 work on this effort, and a letter was recently sent to the Bureau of Land Management to discuss  
33 outright purchase of the land, which would replace the patent currently held by the District. A local  
34 solar company, Active Energies, is also determining site feasibility, including a geotechnical  
35 analysis to ensure the ground can support the proposed array.

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1       **Restructuring Efforts** – Mr. Collins and Chair Friedman discussed Monday’s restructuring  
2       committee meeting. Topics of ongoing discussion include a better quantification of potential cost  
3       savings, the potential for additional uses of water for a combined entity, and future legislation to  
4       allow the electors of each director district to elect that district’s board representative, rather than  
5       the current at-large system. Once staff gathers the needed data, another meeting will be  
6       scheduled. Discussion ensued; staff, counsel, and the board subcommittee will continue to report  
7       progress as it is made.

8       **Casa del Sol** – Mr. Collins reported the matter with Casa del Sol was finally complete, and he  
9       thanked Messrs. Nemcanin and Schneider for their efforts.

### 10    **WATER COUNSEL REPORT**

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

12    At 2:27 p.m., Ms. Koppel and Messrs. Nemcanin and Wolff left the meeting.

### 13    **EXECUTIVE SESSION**

14    Mr. Collins requested the Board enter into Executive Session to receive legal advice regarding the  
15    Backflow Program and Hahnewald Barn, pursuant to §24-6-402(4)(b) and (e) C.R.S. He asked that no  
16    electronic record be made, as the discussion would be entirely privileged attorney-client communications.  
17    Upon motion duly made and seconded, it was unanimously

18                **RESOLVED** to enter Executive Session at 2:28 p.m. to discuss attorney-client privileged  
19                issues concerning the Backflow Program and Hahnewald Barn, pursuant to §24-6-402(4)(b)  
20                and (e) C.R.S. with no electronic record created as Mr. Collins opined the contents of the  
21                discussion would contain privileged attorney-client communications.\*

22    Mses. Mulcahy and Vogt left the meeting at 2:35, before the discussion of the Hahnewald Barn.

23    Mr. Porzak requested the Board continue Executive Session to receive legal advice regarding the  
24    comprehensive water right report, Bolts Lake agreement/Minturn bulk water and delivery agreement,  
25    water model data sharing agreement, Eagle Park water quality, and CRCA matters, pursuant to §24-6-  
26    402(4)(b) and (e) C.R.S. He asked that no electronic record be made, as the discussion would be entirely  
27    privileged attorney-client communications. Upon motion duly made and seconded, it was unanimously

28                **RESOLVED** to continue Executive Session at 2:45 p.m. to discuss attorney-client privileged  
29                issues concerning the comprehensive water right report, Bolts Lake agreement/Minturn bulk  
30                water and delivery agreement, water model data sharing agreement, Eagle Park water  
31                quality, and CRCA matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic  
32                record created as Mr. Porzak opined the contents of the discussion would contain privileged  
33                attorney-client communications.\*

34    The regular meeting resumed at 3:27 p.m.

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 3:28 p.m.

3 Respectfully submitted,

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6 \_\_\_\_\_  
7 Secretary to the Meeting

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

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14 **Dick Cleveland, Director**

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18 **Steve Coyer, Treasurer**

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22 **Stephen Friedman, Chair**

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26 **George Gregory, Secretary**

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30 **Timm Paxson, Director**

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34 **Bill Simmons, Director**

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38 **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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47 \_\_\_\_\_  
48 **Jim Collins, General Counsel**

49 \_\_\_\_\_  
**Glenn Porzak, Water Counsel**