

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**August 22, 2019**  
**MINUTES**

A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held August 22, 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           Steve Friedman  
5           George Gregory, *via phone*  
6           Timm Paxson  
7           Bill Simmons  
8           Brian Sipes

9           **Also in attendance were:**

10 <u>District Staff</u>	20	Amy Vogt
11          Jason Cowles	21	James Wilkins
12          Carol Dickman	22	Len Wright
13          Catherine Hayes	23	<u>Consultants</u>
14          Diane Johnson	24	Alec Bry, AE2S
15          Melissa Mills McLoota	25	Jim Collins, Collins Cockrel & Cole
16          Siri Roman	26	Grant Meyer, AE2S
17          Jeff Schneider	27	Glenn Porzak, Porzak Browning & Bushong LLP
18          Micah Schuette	28	Deon Stockert, AE2S
19          Dan Siebert		

29          **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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

37          **CALL TO ORDER**

38          Chair Friedman called the meeting to order at 11:36 a.m.

39          **INTRODUCTIONS**

40          Introductions were made, Messrs. Bry, Meyer, and Stockert of AE2S, the District and Authority's  
41          consultant for their joint water system master plan effort.

42          **PUBLIC COMMENT**

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

44          **ACTION ITEMS**

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

47                         **RESOLVED** that the minutes of the July 25, 2019, special meeting be accepted and hereby are  
48                         approved as presented.

49                 The minutes of the joint special meeting of July 25, 2019, were considered. Upon motion duly made and  
50                 seconded, it was unanimously

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1           **RESOLVED** that the minutes of the July 25, 2019, joint special meeting with the Upper Eagle  
2           Regional Water Authority be accepted and hereby are approved as presented.

3           **2018 Budget Amendment** – Mr. Wilkins presented his memo regarding a 2018 budget amendment, a  
4           copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference. The Board  
5           opened a public hearing for this purpose at 11:40 a.m. Mr. Wilkins explained the need for the  
6           amendment, as rollover funds from 2017 were spent in addition to budgeted funds, as well as higher-  
7           than-anticipated expenses. Public comment was called for, and there was none. The public hearing was  
8           closed at 11:45 a.m. After discussion and upon motion duly made and seconded, it was unanimously

9           **RESOLVED** that the 2018 budget amendment be and hereby is approved as presented.

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

11          **2018 Audit Approval** – Mr. Wilkins discussed his board action request and the 2018 audit, copies of  
12          which are attached hereto as **Exhibits C** and **D**, respectively, and incorporated herein by this reference.  
13          A filing extension for the audit was granted by the Division of Local Government. Mr. Wilkins explained  
14          that during the 2017 audit, the audit firm, McMahan and Associates, became aware of the Stillwater  
15          employee housing development. Based on the size of the housing program, McMahan suggested forming  
16          a standalone housing enterprise and general obligation (GO) bond proceeds were earmarked for the  
17          housing enterprise; however, further investigation revealed such an enterprise would need to generate  
18          enough proceeds to cover bond payments. The nature of the employee housing program is fundamentally  
19          at odds with the amount of needed revenue generation to cover such payments, so the enterprise model  
20          was abandoned and GO bond proceeds returned to the restricted fund balance. Staff and consultants  
21          continue to work through other options to support the housing program, with the goal of continued  
22          transparency.

23          Mr. Wilkins also reminded the board that a bond refunding took place in late 2018 as tax laws  
24          were quickly changing; such a refunding was not anticipated in the budget. Funds were collected under  
25          the old bond and then switched to the new bond payment following the refunding, which resulted in a  
26          slight overcollection from customers. In 2019, the District will undercollect by the same margin to zero out  
27          the balance.

28          Mr. Wilkins noted McMahan and Associates issued a clean opinion and expressed appreciation  
29          for the ease of working with staff on the audit. After discussion and upon motion duly made and  
30          seconded, it was unanimously

31          **RESOLVED** that the 2018 audited financial statements be and hereby are approved as presented  
32          and

33          **FURTHER RESOLVED** that Ms. Brooks and Mr. Wilkins are hereby authorized to sign the letter  
34          of representation addressed to McMahan and Associates.

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

37          The board took a short recess for lunch at 11:59 a.m., and the regular meeting resumed at 12:09 p.m.

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## STRATEGY ITEMS

**Electrical Safety Program Manual** – Ms. Roman introduced District Safety Coordinator Dan Siebert, who presented information regarding the District’s Electrical Safety Program Manual. Related information is attached hereto as **Exhibit F** and incorporated herein by this reference. The manual provides clear technical definitions, defines roles and responsibilities, training, expectations and resources. The manual’s development was staff-initiated to reduce district-wide risk, clarify roles and responsibilities, and improve the District’s safety culture. Mr. Siebert said the manual was widely adopted because those who wrote the manual were affected by the changes. Ms. McLoota confirmed that the District’s hiring process has evolved to reflect the changing needs of the District over the last five years. He also noted reduced dependence and spending on electrical contractors. Mr. Siebert also thanked the staff members who worked on the manual.

Mr. Siebert left the meeting at 9:38 a.m.

**Water System Master Plan Update** – Mr. Cowles introduced District Planner, Mr. Schuette, who is working on the Water System Master Plan Update. Mr. Schuette noted members of the AE2S team were in attendance, including Messrs. Bry, Meyer, and Stockert, with whom District staff is working on the update. The District and Authority master plan will replace the individual plans each entity developed in 2008 and 2009, respectively. He also noted those plans looked only at capacity to serve, while the new, joint plan will include a holistic view of the integrated water system. Mr. Schuette provided an overview of the plan, including build-out development projections, future water demand projections, the creation of a new integrated water distribution system hydraulic model, condition assessments of infrastructure, and next steps including the development of a 10-year capital improvement plan. In response to a question, Mr. Stockert noted nationwide water use per person is trending downward. Mr. Cowles clarified that peak water demand did not drive system sizing requirements. A memo with additional details is attached hereto as **Exhibit G** and incorporated herein by this reference.

At 1:07 p.m., Messrs. Bry, Meyers, Schuette, and Stockert left the meeting.

**Board Member Input** – Board member input was called for and there was none.

## GENERAL MANAGER REPORT

Mr. Cowles noted that Ms. Brooks was attending the Colorado Water Congress summer conference, at which she was nominated as president-elect of that organization. She will begin her one-year term as president in January. Mr. Cowles noted Ms. Brooks did not include a public report in this month’s packets. Monthly reports were acknowledged, copies of which are attached hereto as **Exhibit H** and incorporated herein by this reference.

## FINANCE REPORT

**Quarterly Financial Report** – Mr. Wilkins presented the quarterly financials, a copy of which is attached hereto as **Exhibit I** and incorporated herein by this reference. Water sales for May and June were well below projections, likely due to the wet, cold spring experienced in the service

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1 area. He noted when water budgeting is someday implemented, water sales projections will be  
2 more accurate, as weather variability will not have such a large impact. Tap fee collection is  
3 higher than projected and expected to exceed budgeted amounts for the fiscal year. The \$30  
4 million in wastewater bonds anticipated in 2019 will not be issued until 2020, and a \$4 million  
5 water bond is anticipated for November 2019. The board acknowledged receipt of the report.

### 6 OPERATIONS REPORT

7 Ms. Roman presented the operations report, a copy of which is attached hereto as **Exhibit J** incorporated  
8 herein by this reference.

9 **Water Resources Updates to the Operations Report** – Dr. Wright discussed updates to the  
10 water resources section in the operations report. Such changes were made to provide more  
11 relevant information to the boards in three distinct sections: snowpack and precipitation;  
12 streamflow hydrographs; and watershed status. Dr. Wright said staff would like board feedback  
13 on the revised report, which is a collaborative monthly effort of a variety of different departments.  
14 The board expressed its desire to continue receiving monthly graphs depicting the levels of Lakes  
15 Powell and Mead.

16 **Vail Water Sanitary Survey Preparations** – Ms. Roman presented an overview of District  
17 preparations for its sanitary survey, which will take place next week. She discussed the many  
18 items that inspectors review during the sanitary survey; any violations require public notice.  
19 Lessons were learned during the Authority's sanitary survey the previous year, which were  
20 applied to District preparations. Consultants were hired to assist with some preparations,  
21 including backflow and cross-connection compliance. Ms. Roman will report back to the board  
22 regarding results of the survey.

### 23 ENGINEERING REPORT

24 Mr. Cowles presented the engineering report, a copy of which is attached hereto as **Exhibit K** and  
25 incorporated herein by this reference.

### 26 COMMUNICATION AND PUBLIC AFFAIRS REPORT

27 Ms. Johnson noted she did not include a written report this month.

28 **Public Affairs Updates** – Ms. Johnson discussed a variety of public events, including a  
29 successful open house and ribbon-cutting ceremony for the Stillwater employee housing  
30 development on Aug. 9. She thanked Ms. Vogt for coordinating a great celebration of the project's  
31 completion. A bus tour of the District and Authority's facilities and infrastructure is planned for  
32 Sept. 5; attendees will include Eagle River Community Water Plan stakeholders. The River  
33 District's annual seminar is scheduled for Sept. 18, at which former River District GM Eric Kuhn  
34 will discuss his upcoming book, "Science Be Dammed" regarding the Colorado River's over  
35 appropriation. A town of Vail community potluck, "Vail Social," is being held Sept. 24, at which the  
36 District will provide water..

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1       **Hahnewald Barn Deconstruction** – Ms. Johnson shared photos from the barn’s deconstruction  
2 that began Aug. 19.

3       **Lakes Powell and Mead Update** – Ms. Johnson reported the Bureau of Reclamation activated  
4 Tier 0 mandatory reductions that are required for Arizona, Nevada, and Mexico under the Drought  
5 Contingency Plan (DCP). Such reductions were triggered by estimates for January 2020, which  
6 project Lake Mead to be just below the threshold of elevation 1090 feet. Tier 0 were formerly  
7 voluntary reductions; they are now mandatory with the DCP. Discussion ensued regarding the  
8 challenge of the lower basin DCP by the Imperial Irrigation District (IID) in California. Ms. Johnson  
9 said the legal action does not affect Tier 0 reductions since they do not apply to California.

10       **Regional Personnel Matters of Interest** – Ms. Johnson noted the Colorado River District’s long-  
11 time external affairs manager, Chris Treese, was retiring in mid-September. She also reported  
12 that the director of the Colorado Water Conservation Board, Becky Mitchell, replaced James  
13 Eklund as Colorado’s Commissioner on the Upper Colorado River Commission.

### 14 GENERAL COUNSEL REPORT

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

### 16 WATER COUNSEL REPORT

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

18       **Black Lakes Augmentation Plan** – Mr. Porzak discussed the final decree for approval of the  
19 Authority’s 300 acre feet of Black Lakes augmentation water; a copy is attached hereto as  
20 **Exhibit M** and incorporated herein by this reference. The District leases this Black Lakes water to  
21 the Authority, and the amount was increased from 200 acre feet; the additional 100 acre feet  
22 became available when the District’s contract with Vail Resorts for that water ended.

23 At 2:15 p.m. Ms. McLoota, Ms. Vogt and Mr. Schneider left the meeting.

### 24 **EXECUTIVE SESSION**

25 Mr. Collins requested the Board enter Executive Session to receive legal advice regarding Traer Creek  
26 matters and Cordillera Valley Club matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. He asked that no  
27 electronic record be made, as the discussion would be entirely privileged attorney-client communications.  
28 Upon motion duly made and seconded, it was unanimously

29       **RESOLVED** to continue Executive Session at 1:13 p.m. to discuss attorney-client privileged  
30 issues concerning the Traer Creek matters Cordillera Valley Club matters, pursuant to §24-6-  
31 402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Collins opined the contents  
32 of the discussion would contain privileged attorney-client communications.\*

33 Mr. Porzak requested the Board continue Executive Session to receive legal advice regarding Bolts Lake,  
34 CRCA matters, Piney River Unit, Wolcott and the water rights hydrology model sharing, pursuant to §24-  
35 6-402(4)(b) and (e) C.R.S. He asked that no electronic record be made, as the discussion would be

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1 entirely privileged attorney-client communications. Upon motion duly made and seconded, it was  
2 unanimously

3 **RESOLVED** to continue Executive Session at 2:18 p.m. to discuss attorney-client privileged  
4 issues concerning the Bolts Lake, CRCA matters, Piney River Unit, Wolcott and the water  
5 rights hydrology model sharing, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic  
6 record created as Mr. Porzak opined the contents of the discussion would contain privileged  
7 attorney-client communications.\*

8 The regular meeting resumed at 3:05 p.m.

9 **Piney River Unit Settlement Agreement** – Upon motion duly made and seconded, it was unanimously

10 **RESOLVED** that the board hereby approves execution of the amendment to the Piney  
11 River Unit Settlement Agreement.

12 Mr. Porzak noted the amended agreement still requires approval of some signatories. He will bring a final  
13 agreement back upon full execution

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 3:06 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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25 \_\_\_\_\_  
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**