

Upper Eagle Regional Water Authority

Board of Directors Meeting

August 22, 2019

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held August 22, 2019, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation District
3 (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the
4 State of Colorado.

5 **The following Directors and alternates were present and acting, thereby constituting a quorum:**

6 Geoff Dreyer, Arrowhead Metropolitan District
7 Pam Elsner, Beaver Creek Metropolitan District
8 Eric Heil, Town of Avon
9 Melissa Nelson, Berry Creek Metropolitan District
10 Kim Bell Williams, EagleVail Metropolitan District
11 Mick Woodworth, Edwards Metropolitan District

12 **The following Directors observed the meeting via phone:**

13 George Gregory, Berry Creek Metropolitan District
14 Sarah Smith Hymes, Town of Avon

15 **Also in attendance were:**

16 <u>District Staff</u>	25 Amy Vogt
17 Jason Cowles	26 James Wilkins
18 Carol Dickman	27 Len Wright
19 Catherine Hayes	28 <u>Consultants</u>
20 Diane Johnson	29 Alec Bry, AE2S
21 Siri Roman	30 Jim Collins, Collins Cockrel & Cole
22 Dan Siebert	31 Grant Meyer, AE2S
23 Jeff Schneider	32 Glenn Porzak, Porzak Browning & Bushong LLP
24 Micah Schuette	33 Deon Stockert, AE2S

34 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

37 Director Elsner disclosed her membership with the Vilar Performing Arts Center Guild, which operates within the Authority's service
38 area. Director Gregory and alternate Director Simmons disclosed that they serve on the Board of the Eagle River Water and Sanitation
39 District. Director Gregory also disclosed that he occasionally undertakes small development and construction activities within the
40 Authority and District service areas. Alternate Director Simmons noted he serves on the Edwards Metropolitan District board and is
41 employed by Beaver Creek Metropolitan District, an Authority member. Director Williams disclosed that she is the Eagle County
42 Housing Director. Director Woodworth disclosed that he is employed by the Eagle River Fire Protection District, which operates within
43 the Authority's service area.

44 **CALL TO ORDER**

45 Acting Chair Woodworth called the meeting to order at 8:30 a.m.

46 **INTRODUCTIONS**

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

49 **PUBLIC COMMENT**

50 In response to a question, Mr. Cowles discussed a recent meeting with representatives and stakeholders
51 involved in the Eagle River Village (ERV) Mobile Home Park water system discussions. The ERV owners
52 engaged consultants to sample their water and suggest methods by which additional treatment could be
53 used to improve water quality there. Mr. Cowles will continue to participate in the discussions and report
54 developments back to the board.

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ACTION ITEMS

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

RESOLVED that the minutes of the July 25, 2019, regular meeting be accepted and hereby are approved as presented. Director Nelson abstained.

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

RESOLVED that the minutes of the July 25, 2019, joint special meeting with the Eagle River Water & Sanitation District be accepted and hereby are approved as presented. Secretary Williams and Director Nelson abstained.

Public Hearing: Water System Impact Fee Increase – Mr. Cowles discussed his memo and the updated Water System Impact Fee (WSIF) report, dated Aug. 14, 2019, copies of which are attached hereto as **Exhibits A** and **B**, respectively. He discussed the proposed WSIF increase, which requires unanimous board approval. The WSIF increase will include the cost of water system capital improvements in recent years; the annual updates to the fees since 2014 included cost of living increases but did not account for the capital investments in the system that new customers are buying into. Mr. Cowles also clarified that approval of the WSIF increase includes a proportional increase to the outdoor irrigation fee, bringing that fee to \$1.17/ft² of irrigated area. A public hearing was opened at 8:45 a.m., and no public comments were received. The public hearing was then closed at 8:46 a.m. Acting Director Heil confirmed the Town of Avon's desire to bring the increase before its council for approval, though such approval by member districts is not required. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the Water System Impact Fee increase and fee assessment structure be and hereby is approved as presented, with an effective date of September 1, 2019, contingent upon approval of the increase by the Avon Town Council at its Aug. 27 meeting.

2018 Budget Amendment – Mr. Wilkins presented his memo regarding a 2018 budget amendment, a copy of which is attached hereto as **Exhibit C** and incorporated herein by this reference. The Board opened a public hearing for this purpose at 8:50 a.m. Mr. Wilkins explained the need for the amendment, as capital spending and engineering costs exceeded budgeted funds. Public comment was called for, and there was none. The public hearing was closed at 8:52 a.m. After discussion and upon motion duly made and seconded, it was unanimously

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

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

2018 Audit Approval – Mr. Wilkins discussed his board action request and the 2018 audit, copies of which are attached hereto as **Exhibits E** and **F**, respectively, and incorporated herein by this reference. An audit filing extension granted by the Division of Local Government. Mr. Wilkins noted the audit firm,

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1 McMahan and Associates, issued a clean opinion and expressed appreciation for the ease of working
2 with staff on the audit. After discussion and upon motion duly made and seconded, it was unanimously
3 **RESOLVED** that the 2018 audited financial statements be and hereby are approved as presented
4 and
5 **FURTHER RESOLVED** that Ms. Brooks and Mr. Wilkins are hereby authorized to sign the letter
6 of representation addressed to McMahan and Associates.

STRATEGY ITEMS

8 **Electrical Safety Program Manual** – Ms. Roman introduced District Safety Coordinator Dan
9 Siebert, who presented information regarding the District’s Electrical Safety Program Manual.
10 Related information is attached hereto as **Exhibit G** and incorporated herein by this reference.
11 The manual provides clear technical definitions, defines roles and responsibilities, training,
12 expectations and resources. The manual’s development was staff-initiated to reduce district-wide
13 risk, clarify roles and responsibilities, and improve the District’s safety culture. Mr. Siebert said the
14 manual was widely adopted because those who wrote the manual were affected by the changes.
15 He also noted reduced dependence and spending on electrical contractors. Mr. Siebert also
16 thanked the staff members who worked on the manual.

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

18 **Water System Master Plan Update** – Mr. Cowles introduced District Planner, Mr. Schuette, who
19 is working on the Water System Master Plan Update. Mr. Schuette noted members of the AE2S
20 team were in attendance, including Messrs. Bry, Meyer, and Stockert, with whom District staff is
21 working on the update. The Authority and District master plan will replace the individual plans
22 each entity developed in 2008 and 2009, respectively. Mr. Schuette provided an overview of the
23 plan, including build-out development projections, future water demand projections, the creation
24 of a new integrated water distribution system hydraulic model, condition assessments of
25 infrastructure, and next steps including the development of a 10-year capital improvement plan. A
26 memo with additional details is attached hereto as **Exhibit H** and incorporated herein by this
27 reference. In response to questions, Mr. Schuette clarified that the plan is looking at Authority and
28 District customer water use, but not the water use of single family equivalents.

29 **Board Member Input** – Ms. Williams discussed EagleVail Metropolitan District’s water use. Mr.
30 Porzak said there have been few changes since the last EagleVail Water Rights Report in 2018.

GENERAL MANAGER REPORT

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

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1 FINANCE REPORT

2 **Quarterly Financial Report** – Mr. Wilkins presented the quarterly financials, a copy of which is
3 attached hereto as **Exhibit J** and incorporated herein by this reference. Water sales for May and
4 June were well below projections, likely due to the wet, cold spring experienced in the service
5 area. Impact fees are higher than projections and expected to exceed budgeted amounts for the
6 fiscal year, based on the large development projects the Authority is aware of at this time. The
7 board acknowledged receipt of the report.

8 OPERATIONS REPORT

9 Ms. Roman presented the operations report, a copy of which is attached hereto as **Exhibit K** and
10 incorporated herein by this reference.

11 **Berry Creek Booster Pump Station Replacement** – Mr. Schneider discussed the needed
12 replacement of the Berry Creek pump station. Requirements from Eagle County, including the
13 location and extent application and a variety of comments and suggestions on the application,
14 have delayed the project's start. A Sept. 18 County Planning Commission hearing is scheduled,
15 at which approval is expected. Discussion ensued regarding a proposed meeting between the
16 Commissioners and the Authority and District boards to determine ways to collaborate and
17 ensure needed projects to serve the public good are not delayed in the future.

18 **Dowd Junction Lift Station Replacement** – Mr. Schneider reported that the project to replace
19 the Dowd Junction Lift Station received an exemption from the 1041 permit process, which was
20 welcome news that will allow that important project to progress more rapidly.

21 **Water Resources Updates to the Operations Report** – Dr. Wright discussed updates to the
22 water resources section in the operations report. Such changes were made to provide more
23 relevant information to the boards in three distinct sections: snowpack and precipitation;
24 streamflow hydrographs; and watershed status. Dr. Wright said staff would like board feedback
25 on the revised report, which is a collaborative monthly effort of a variety of different departments.

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

33 ENGINEERING REPORT

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

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1 **Mountain Hive Project** – Mr. Cowles discussed the proposed Mountain Hive development in
2 Edwards. The developer requested a conditional ability to serve letter from the Authority; Mr.
3 Cowles clarified that such a letter does not commit the Authority to serve the development but
4 indicates that water is available. The board authorized Mr. Cowles to issue a conditional ability to
5 serve letter and requested an update on the Authority’s unallocated water in September.

6 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

8 **Public Affairs Updates** – Ms. Johnson discussed a variety of public events, including a
9 successful open house and ribbon-cutting ceremony for the Stillwater employee housing
10 development on Aug. 9. She thanked Ms. Vogt for coordinating a great celebration of the project’s
11 completion. A bus tour of the District and Authority’s facilities and infrastructure is planned for
12 Sept. 5; attendees will include Eagle River Community Water Plan stakeholders. Ms. Johnson
13 also shared photos from the Hahnewald barn deconstruction that began Aug. 19.

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

18 **GENERAL COUNSEL REPORT**

19 Mr. Collins referred to his confidential legal report included in the confidential packet.

20 **Traer Creek Tank Insurance** – Mr. Collins reported that the Special District Association
21 Insurance pool committed to insuring the new tank.

22 **WATER COUNSEL REPORT**

23 Mr. Porzak referred to his confidential legal report included in the confidential packet.

24 **Authority Water Rights Appraisal** – Mr. Porzak reported that a recent review of the Authority’s
25 water rights was undertaken; the value is an estimated \$58 million. Though the present market
26 value of its water rights cannot be included in the Authority’s annual audit, the market value is
27 included at the end of the audit, in the statistical section.

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

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1 **Wolford Mountain Reservoir Exchange** – Mr. Porzak discussed execution of the final decree to
2 make absolute a portion of the Authority’s Wolford Mountain Reservoir Exchange. A copy of the
3 decree is attached hereto as **Exhibit N** and incorporated herein by this reference. Some of these
4 water rights are still conditional, and the next diligence filing will occur in 2025.

5 Messrs. Schneider and Schuette, Ms. Vogt, and all AE2S representatives left the meeting at 10:38 a.m.

6 **EXECUTIVE SESSION**

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

11 **RESOLVED** to enter Executive Session at 10:39 a.m. to discuss attorney-client privileged
12 issues concerning Cordillera Valley Club matters, pursuant to §24-6-402(4)(b) and (e) C.R.S.
13 with no electronic record created as Mr. Collins opined the contents of the discussion would
14 contain privileged attorney-client communications.*

15 Mr. Porzak requested the Board continue Executive Session to receive legal advice regarding the Bolts
16 Lake, CRCA matters, Piney River Unit, and water rights hydrology model sharing, pursuant to §24-6-
17 402(4)(b) and (e) C.R.S. He asked that no electronic record be made, as the discussion would be entirely
18 privileged attorney-client communications. Upon motion duly made and seconded, it was unanimously

19 **RESOLVED** to continue Executive Session at 10:54 a.m. to discuss attorney-client privileged
20 issues concerning the Bolts Lake, CRCA matters, Piney River Unit, and water rights
21 hydrology model sharing, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic
22 record created as Mr. Porzak opined the contents of the discussion would contain privileged
23 attorney-client communications.*

24 The regular meeting resumed at 11:23 a.m.

25 **Cordillera Valley Club Water Rights Matters** – The Board authorized Mr. Cowles to send a letter to a
26 developer interested in building in the Cordillera Valley Club (CVC) area to address water rights issues.

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

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

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

32

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 11:26 a.m.

3 Respectfully submitted,

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5 _____
6 Secretary to the Meeting

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

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11 _____
12 **Arrowhead Metropolitan District**

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15 **Town of Avon**

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18 **Beaver Creek Metropolitan District**

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21 **Berry Creek Metropolitan District**

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24 **EagleVail Metropolitan District**

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27 **Edwards Metropolitan District**

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36 *The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion
37 in Executive Session not recorded constituted privileged attorney-client communications.

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41 _____
42 **Jim Collins, General Counsel**

43 _____
44 **Glenn Porzak, Water Counsel**