Upper Eagle Regional Water Authority  
Board of Directors Meeting  
October 24, 2019  
MINUTES

A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was held October 24, 2019, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation District (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the State of Colorado.

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

Geoff Dreyer, Arrowhead Metropolitan District
George Gregory, Berry Creek Metropolitan District, via phone
Bill Simmons, Beaver Creek Metropolitan District
Sarah Smith Hymes, Town of Avon
Kim Bell Williams, EagleVail Metropolitan District
Mick Woodworth, Edwards Metropolitan District

The following Directors were absent and excused:
Pam Elsner, Beaver Creek Metropolitan District

Also in attendance were:
District Staff
Linn Brooks
Alan Cerny
Jason Cowles
Carol Dickman
Catherine Hayes
Diane Johnson
Ali Kelkenberg
Melissa Mills McLoota
Siri Roman
Kailey Rosema
Jeff Schneider
Micah Schuette
Jason Sica
Amy Vogt
James Wilkins
Len Wright
Consultants
Jim Collins, Collins Cockrel & Cole
Kristin Moseley, Porzak Browning & Bushong LLP
Glenn Porzak, Porzak Browning & Bushong LLP
Public
Melissa Nelson, Berry Creek Metropolitan District

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

CALL TO ORDER
Acting Chair Williams called the meeting to order at 8:58 a.m., noting that inclement weather delayed the start of the meeting until a quorum of directors was able to safely arrive at the office.

PUBLIC COMMENT
Public comment was called for, and there was none.

ACTION ITEMS
Consideration of Minutes – The minutes of the regular meeting of September 26, 2019, were considered. Upon motion duly made and seconded, it was unanimously RESOLVED that the minutes of the September 26, 2019, regular meeting be accepted and hereby are approved as presented.
Updated Authority Bylaws – Mr. Collins discussed updates to the Authority’s bylaws and a related memo, copies of which are attached hereto as Exhibits A and B, respectively, and incorporated herein by this reference. The updates reflect current practices and include edits related to legislative changes, such as the increased fee for open records requests and the updated posting requirements for board meetings. After discussion and upon motion duly made and seconded, it was unanimously RESOLVED that the updated Authority bylaws be and hereby are approved as presented.

Club at CVC Residences Cash in Lieu Request – Mr. Cowles discussed his memo related to the cash-in-lieu of water rights request, a copy of which is attached hereto as Exhibit C and incorporated herein by this reference. He summarized the current water use of the CVC development, which is more than double the use to which it is entitled. Discussion ensued regarding the situation and how the entire development should come into compliance. Upon motion duly made and seconded, it was RESOLVED that the payment of cash-in-lieu of water rights be and hereby is approved as presented, to serve the CVC Residences redevelopment as outlined, preserving all rights with respect to the overuse of water in the development. Director Smith Hymes opposed; and FURTHER RESOLVED to approve a motion to direct staff to deliver a letter and presentation to the board of the CVC homeowners’ association, stating that the entire development must come into compliance with the terms of the PUD’s original augmentation plan.

STRATEGY ITEMS

Presentation of Draft FY2020 Budget – Mr. Wilkins and Ms. Brooks discussed the draft FY2020 budget and related documents, copies of which are attached hereto as Exhibit D and incorporated herein by this reference. They gave an overview of the main sections of the budget, including debt service, capital projects, the capital replacement program, personnel salary and benefits, and operational expenditures. Operational expenditures are not projected to increase in 2020; however, personnel salary and benefits are increasing due to health costs rising, and the request for the addition of four full-time employees. There is the need for increases in capital spending in order to meet new regulations and replace aging infrastructure, for which more employees are needed to manage the capital replacement projects and maintain the new facilities and equipment that such projects produce. This combination of factors will result in the projected rate increases for 2020. Staff expects rates will increase at a greater rate than historically observed, for the next five years due to these capital investment needs.

Ms. Brooks and Mr. Wilkins showed a comparison of service providers across the state, including other mountain communities. Authority and District rates for combined water and sewer services were in the middle of the group. Mr. Wilkins pointed out that many of the organizations with higher rates were subject to regulation 85, which is driving many of the needed multi-year capital improvements planned for 2020 and beyond. Mr. Wilkins also noted that despite serving an increasing number of customers in the past 20 years, the Authority’s overall water use has
declined, indicating that the tiered rates are incentivizing efficient water use. Staff proposed basing the average bill on 6 kgal rather than 7 kgal because of this overall decline in average water use. Similarly, the budget assumes 9 kgal tiers instead of the 10 kgal ones used in the past. Ms. Brooks said community outreach was planned to communicate the higher-than-normal rate increases for the coming years. The board requested an ongoing discussion at future meetings to determine how to communicate the proposed increases to the public.

Board Member Input – Acting Chair Williams congratulated Chair Gregory on being awarded the Special District Association’s Board Member of the Year award at its recent annual conference. George thanked her and reminded the board members that they are a team and share equally in the honor. Director Smith Hymes noted a Jan. 8 county-wide meeting to discuss carbon sequestration, in response to a comment by Director Dreyer on the topic.

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

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

Lead and Copper Sampling Update – Ms. Rosema presented a wrap-up of the annual lead and copper sampling results. Thirty homes were sampled in each the Authority and District services areas, for total of 60 homes. The homes sampled are considered high-risk due to their construction between 1983 and 1987, a time when copper pipes with lead solder were commonly used, although there are no lead pipes in homes or other structures in the District or Authority service area. The lead and copper values from the homes sampled were well within the allowable limits set forth by the Environmental Protection Agency (EPA). The board thanked Ms. Rosema for the update.

ENGINEERING REPORT
Mr. Cowles noted he did not include a written report this month.

Traer Creek Tank Demolition – Mr. Cowles reported the Traer Creek tank demolition was in progress and is expected to take six weeks; the tank is being deconstructed by an excavator with a pneumatic hammer to de-tension the cables. The previous plan for implosion was deemed infeasible.

COMMUNICATION AND PUBLIC AFFAIRS REPORT
Ms. Johnson presented her report, a copy of which is attached hereto as Exhibit H and incorporated herein by this reference.
National Drug Takeback Initiative – Ms. Johnson reminded directors of the U.S. Drug Enforcement Administration’s 18th National Take Back Initiative event, scheduled for Saturday, Oct. 26. Local law enforcement personnel will host collection sites throughout the valley to facilitate safe disposal of unused pharmaceuticals. These events help keep such substances out of wastewater and the landfill, which benefits local waterways. Ms. Johnson said that new this year, the Avon Police Department was hosting a takeback site at Walmart.

GENERAL COUNSEL REPORT
Mr. Collins referred to his confidential legal report included in the confidential packet.

WATER COUNSEL REPORT
Mr. Porzak referred to his confidential legal report included in the confidential packet.

Black Lakes Water Lease – Mr. Porzak discussed the lease, by which the unconsumed portion of the District’s Black Lakes water would be leased to the Authority, ensuring the water stayed in the stream through the District’s Vail service area after release from Black Lakes. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the Black Lakes Water lease with the District be and hereby is approved as presented.

A copy of the lease is attached hereto as Exhibit I and incorporated herein by this reference.

Minturn Water Matters – Mr. Porzak briefly discussed recent discussions of future water needs and facilities by the Minturn Town Council. Copies of related documents are attached hereto as Exhibit J and incorporated herein by this reference.

Homestake Exchange Diligence Application – Mr. Porzak discussed the application to make an additional portion of the Homestake exchange water absolute. Mr. Porzak said settlement was made with the one objector to this application. The proposed ruling was filed with the court on Oct. 18.

Climax Molybdenum Update – Mr. Porzak noted the Authority and District applied for and received party status for Climax’s upcoming rulemaking hearing before the Water Quality Control Commission. Climax wishes to increase the stream standard for molybdenum from 210 micrograms per liter to 9,000. Mr. Porzak’s office will continue to monitor this matter.

Messrs. Cerny, Schneider, and Sica and Mses. Kelkenberg and Rosema, left the meeting at 10:56 a.m.

EXECUTIVE SESSION
Mr. Porzak requested the Board enter Executive Session to receive legal advice of counsel regarding Bolts Lake, Eagle River MOU matters, water rights, and Colorado River Cooperative Agreement matters, pursuant to §24-6-402(4)(a)(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 10:57 a.m. to receive advice of counsel regarding Bolts Lake, Eagle River MOU matters, water rights, and Colorado River Cooperative Agreement matters, 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 11:26 a.m.
ADJOURNMENT

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

Respectfully submitted,

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Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND
NOTICE OF MEETING WAIVED

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Arrowhead Metropolitan District

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Town of Avon

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Beaver Creek Metropolitan District

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Berry Creek Metropolitan District

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EagleVail Metropolitan District

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Edwards Metropolitan District

*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.

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Glenn Porzak, Water Counsel