

Eagle River Water & Sanitation District
Board of Directors Meeting
November 21, 2019
MINUTES

A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held November 21, 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 Timm Paxson
6 Bill Simmons
7 Brian Sipes

8 **Also in attendance were:**

9 <u>District Staff</u>	21	Jeff Schneider
10 Linn Brooks	22	Julie Stuck
11 Troy Clous	23	Amy Vogt
12 Jason Cowles	24	James Wilkins
13 Carol Dickman	25	Len Wright
14 Claude Goldberg	26	Brad Zachman
15 Catherine Hayes	27	<u>Consultants</u>
16 Diane Johnson	28	Jim Collins, Collins Cockrel & Cole
17 Kira Koppel	29	Glenn Porzak, Porzak Browning & Bushong LLP
18 Melissa Marts	30	<u>Public</u>
19 Melissa Mills McLoota	31	Robert Lipnick, customer
20 Siri Roman		

32 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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

40 **CALL TO ORDER**

41 Chair Simmons called the meeting to order at 11:30 a.m.

42 **INTRODUCTIONS**

43 Introductions were made, including Ms. Koppel, the District's Sustainability Coordinator and Mr. Zachman,
44 the District's new Water Manager.

45 **PUBLIC COMMENT**

46 Commissioner Scherr introduced himself in his new role. He believes the county is in a positive position
47 overall; however, the issue of climate change continues to provide challenges. He invited the board and
48 staff to a Jan. 22 meeting on behalf of the local Climate Action Collaborative, which was hosting the
49 meeting to discuss community efforts to continue to reduce the impacts of climate change. Ms. Brooks
50 outlined the efforts the District has made to reduce its impact.

51 **ACTION ITEMS**

52 **Consideration of Minutes** – The minutes of the regular meeting of Oct. 24, 2019, were considered.

53 Upon motion duly made and seconded, it was unanimously

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1 **RESOLVED** that the minutes of the Oct. 24, 2019, regular meeting be accepted and hereby are
2 approved as presented.

3 **Privacy Policy** – Mr. Collins discussed his memo and a related joint resolution of the Authority and
4 District boards, copies of which are attached hereto as **Exhibits A** and **B**, respectively, and incorporated
5 herein by this reference. The new policy is the result of 2018 state legislation and guarantees protection
6 of private customer information, although the District and Authority already ensure the highest level of
7 protection of this sensitive information. After discussion and upon motion duly made and seconded, it was
8 unanimously

9 **RESOLVED** that the joint resolution adopting the consumer data privacy policy be and hereby is
10 approved as presented.

11 Discussion ensued regarding physical safety and security at District facilities. Ms. Brooks discussed
12 current practices, as well as improvements currently underway.

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

15 **STRATEGY ITEMS**

16 **PUBLIC HEARING: 2020 PROPOSED BUDGET**

17 Chair Simmons opened a public hearing at 11:50 a.m. to discuss the 2020 budget, a copy of which is
18 attached hereto as **Exhibit D** and incorporated herein by this reference. A call for public input solicited no
19 response. Mr. Wilkins clarified that the budget presented was the same version as the board reviewed at
20 the October 24 board meeting. The public hearing was closed at 11:52 a.m. Mr. Wilkins noted \$28 million
21 in spending budgeted for 2020, though due to a spring 2020 bond issuance, revenues are expected to
22 outweigh expenditures. Mr. Wilkins presented Resolutions to Adopt the 2020 Budget, Appropriate Sums
23 of Money, and Certify Mill Levies, copies of which are attached hereto as **Exhibits E, F, and G**,
24 respectively, and incorporated herein by this reference. After discussion and upon motion duly made and
25 seconded, it was unanimously

26 **RESOLVED** that the Resolutions to Adopt the 2020 Budget, Appropriate Sums of Money,
27 and Certify Mill Levies be and hereby are approved as presented.

28 **PUBLIC HEARING: 2020 PROPOSED RATES**

29 Chair Simmons opened a public hearing at 11:54 a.m. to discuss the 2020 rate sheet, a copy of which is
30 attached hereto as **Exhibit H** and incorporated herein by this reference. A call for public input solicited no
31 response. Mr. Collins noted the District had posted the required formal notice of the public hearing at
32 which the Board would consider a rate change at least 30 days in advance. A copy of the notice is
33 attached hereto as **Exhibit I** and incorporated herein by this reference. The public hearing was closed at
34 11:55 a.m. Mr. Wilkins presented a resolution to adopt the 2020 rates, a copy of which is attached hereto
35 as **Exhibit J** and incorporated herein by this reference. Upon motion duly made and seconded, it was
36 unanimously

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RESOLVED that resolution to adopt the 2019 rates be and hereby is approved as presented.

The 2020 rates for service charges and tap fees are set as follows:

Vail Water Service Rates:

Base Rate	Monthly per Single Family Equivalent (SFE)
\$16.60	Base Service Rate, \$0.94 increase
\$ 5.76	Capital Replacement Base Rate, \$0.27 increase
\$ 9.00	Debt Service Base Rate, \$2.52 increase

Usage Rates per 1,000 Gallons of Metered Water Use per Single Family Equivalent:

Tier	Usage Range	Rate	Increase from 2019
Tier 1	First 9,000 gallons	\$2.80	\$0.16 increase from 2019
Tier 2	9,001 – 18,000 gallons	\$4.90	\$0.28 increase from 2019
Tier 3	18,001 – 26,000 gallons	\$8.58	\$0.49 increase from 2019
Tier 4	26,001 – 32,000 gallons	\$12.87	\$2.76 increase from 2019
Tier 5	Over 32,000 gallons	\$19.31	\$6.67 increase from 2019

Wastewater Service Fees:

\$5.71 per 1,000 gallons of water used based on average monthly use from January to April, with a minimum of 5,000 gallons per SFE per month. The average water usage for January to April will be used to calculate the wastewater charges for May to December. In addition, a \$8.87 base rate per SFE is assessed for debt service on the 2017 and 2012 Bonds.

Vail Water Tap Fees:

\$5.01 per square foot for residential properties and 3% increase in the commercial fees, which are based on meter size. A 3% increase over 2019.

Wastewater Tap Fees:

\$3.98 per square foot for residential properties and 3% increase in the commercial fees, which are based on fixture count and meter flow. A 3% increase over 2019.

Property Tax mill levies for taxes to be collected in 2020:

	11/16/2019 Net AV	Mill	Revenue
ERWSD – Wastewater Ops.	\$2,568,874,130	0.231	\$593,409
ERWSD – Vail Water Ops.	\$1,230,199,890	0.418	\$514,487
ERWSD – Wastewater Debt	\$2,568,874,130	0.534	\$1,372,150
ERWSD – Vail Water Debt	\$1,230,199,890	0.774	\$951,700

Mill levies and/or revenues are adjusted once the final Assessed Valuation is received and TABOR limits are reviewed.

Bond Update – Mr. Wilkins updated the directors on the wastewater bond issuance, which was scheduled for closing on Nov. 26. The District received an A+ bond rating and a low interest rate, in addition to a premium, making this a very favorable bond issuance.

Vacancy and Redistricting Update – Ms. Hayes reported four eligible people expressed interest in filling the vacancy in director district 6, created by the departure of Steve Friedman. The organizational development subcommittee, Directors Simmons and Cleveland, will interview the

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1 candidates and make a recommendation to the board at the December 19, 2019, board meeting.
2 Ms. Hayes also reported that she continues to work on the redistricting effort, to ensure each of
3 the seven director districts have a roughly equivalent number of eligible electors.

4 The board took a short recess for lunch at 11:50 a.m. The regular meeting resumed at 12:05 p.m.

5 **2018 Macroinvertebrate Sampling Results** – Ms. Roman discussed her memo regarding the
6 results of the annual macroinvertebrate sampling. These “bug scores” are indicative of the health
7 of the river and its aquatic life. A copy of the memo is attached hereto as **Exhibit K** and
8 incorporated herein by this reference. Ms. Roman reported the state implemented new monitoring
9 metrics in version 4 of its multimetric index (MMI), which replaces version 3. Version 4 has more
10 focus on extremely sensitive macroinvertebrates, many of which are not found in high alpine
11 streams that are impacted by development. Ms. Roman noted passing scores on Red Sandstone
12 Creek and the Eagle River using version 3 of the MMI; the Eagle River has shown marked
13 improvement and its sample sites have passing scores with version 4 as well. However, using
14 version 4, the sites on Red Sandstone would be failing, as are most sample sites on Gore Creek.
15 Dave Rees, who samples the sites for the Authority and District, will present the full results locally
16 on Jan. 21 and 22, 2020.

17 **Board Member Input** – Director Coyer thanked staff for the Avon Wastewater Treatment Facility
18 pre-construction tour. Ms. Marts and Mr. Schneider discussed the project, which was attended by
19 staff, some board members, and other project experts. The tour highlighted the planned
20 upgrades, which will require large capital investment, needed approvals from various entities, and
21 mitigation of anticipated project impacts. The project is hugely complex and is being driven by
22 state nutrient regulations, which all three WWTFs will have to meet. Mr. Cowles discussed an
23 undersized pipe that was discovered near the river east of the Arrowhead golf course. The
24 operational plan for the Avon WWTF nutrient upgrade project construction sequencing calls for
25 bypassing wastewater to Edwards WWTF, but the undersized pipe may not accommodate this
26 plan. Staff is working on gathering data to model scenarios based on this new information.

27 **GENERAL MANAGER REPORT**

28 Ms. Brooks presented her report, a copy of which is attached hereto as **Exhibit L** and incorporated herein
29 by this reference. Monthly reports were acknowledged, copies of which are attached hereto as **Exhibit M**
30 and incorporated herein by this reference.

31 **Colorado Special District Liability Pool’s Safety Hero Award** – Ms. Brooks introduced
32 Customer Service Specialist Julie Stuck. She is a member of the District’s safety committee and
33 was chosen from among a group of statewide nominees for the Pool’s hero award. Ms. Stuck was
34 recognized for her efforts to address administrative safety risks throughout the organization. She
35 acknowledged the support of Dan Siebert, Safety Coordinator, and the positive and proactive
36 safety culture of the District.

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1 **Climate Impact Award** – Ms. Hayes summarized the Climate Impact Award received by the
2 District at the recent Actively Green awards ceremony. The award was given to an Actively
3 Green-certified business that significantly reduced its greenhouse gas emissions in the past year.
4 The Authority and District participate in Holy Cross Energy's PuRE program, by which they offset
5 100% of their electric use with renewable energy credits. The District achieved reductions through
6 energy efficient upgrades, use of electric vehicles, and waste diversion; the total of these efforts
7 was equivalent to taking 12 passenger vehicles off the road for one year. Ms. Hayes thanked Ms.
8 Koppel, the District's sustainability coordinator, and the board for its support of sustainability
9 initiatives.

10 **Employee Recognition** – The Board approved an annual holiday bonus for employees in
11 recognition of their efforts throughout the year.

12 **Committee Updates** – Ms. Brooks noted vacancies and proposed changes to various board
13 committees. Discussion ensued, and the board agreed upon changes. A copy of the new
14 committees list is attached hereto as **Exhibit N** and incorporated herein by this reference.

15 **FINANCE REPORT**

16 **Quarterly Finance Report** – Mr. Wilkins discussed the third quarter financials, a copy of which is
17 attached hereto as **Exhibit O** and incorporated herein by this reference. The board and staff
18 discussed water budgeting, how to incentivize efficient water use, and the positive response to
19 reduction requests during the last drought. The board acknowledged receipt of the report.

20 **OPERATIONS REPORT**

21 The operations report was presented, a copy of which is attached hereto as **Exhibit P** and incorporated
22 herein by this reference.

23 **Regulation 93 Colorado's Section 303(d) List** – Ms. Roman referenced Ms. Cribari's memo, a
24 copy of which is attached hereto as **Exhibit Q** and incorporated herein by this reference. She
25 noted an upcoming rulemaking hearing for Regulation 93, which Ms. Cribari will report on at the
26 December board meetings.

27 **ENGINEERING REPORT**

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

29 **Water System Master Plan** – Mr. Cowles recently received a draft of the proposed water system
30 master plan from AE2S, the consultant for the project. Staff will review the plan and present it to
31 the boards in January, along with a 10-year capital plan for funding the projects contained in the
32 plan.

33 **Water Demand Management Update** – Mr. Cowles said staff would present information at the
34 December board meetings regarding a proposed water efficiency rebate program for potential
35 implementation in 2020.

36

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1 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

3 **Public Affairs Update** – Ms. Johnson updated on recent developments, including the passage of
4 proposition DD in the Nov. 5 election. Proposition DD legalizes and taxes sports betting, money
5 from which will be used to fund water projects identified in Colorado's Water Plan. She noted
6 concern among plan proponents that the sports betting tax cannot fully fund the plan's projects,
7 so additional funding will have to be procured. Ms. Johnson also discussed the Colorado Water
8 Conservation Board and others' efforts to continue drought contingency planning.

9 **Communications Update** – Ms. Johnson discussed various outreach efforts about the upcoming
10 rate increases and wastewater master plan. The District's energy efficiency efforts are featured in
11 this month's Holy Cross Energy newsletter. The Homestake Partners' continued work on a
12 proposed Whitney Creek reservoir is receiving press, and Ms. Brooks clarified that the Authority
13 and District support the right of any partners in the Eagle River MOU to pursue permitted projects;
14 it is up to the permitting agencies to determine the viability of such projects. Ms. Johnson also
15 noted outreach to targeted customers during various incidents recently.

16 **Drought Contingency Planning** – Ms. Johnson noted ongoing discussions regarding drought
17 contingency planning and how a compact call could ultimately be handled. Regarding water
18 supply matters, she also noted John Fleck and Eric Kuhn's book, Science be Dammed, is
19 available for purchase. The board directed her to invite Mr. Kuhn to an upcoming meeting to
20 discuss water supply and related matters on the Colorado River.

21 **GENERAL COUNSEL REPORT**

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

23 **Conflict of Interest Disclosure** – Mr. Collins noted Mr. Simmons was recently appointed to the
24 board of the Eagle River Fire Protection District. His conflict of interest statement was updated
25 accordingly, a copy of which is attached hereto as **Exhibit R** and incorporated herein by this
26 reference.

27 **WATER COUNSEL REPORT**

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

29 **Eagle Park Reservoir Company Water Rights Diligence Application** – Mr. Porzak discussed
30 the diligence application for Eagle Park Reservoir and East Fork Pump Station water rights. After
31 discussion and upon motion duly made and seconded, it was it was unanimously

32 **RESOLVED** that the filing of the diligence application for the Eagle Park Reservoir
33 Company be and hereby is approved as presented.

34 A copy of the diligence application is attached hereto as **Exhibit S** and incorporated herein by
35 this reference.

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1 **Colorado River Compact Matters** – Mr. Porzak summarized recent discussions in the region
2 regarding the likelihood of a compact call on the Colorado River. He noted ongoing overuse in the
3 lower basin states and discussed the authority of the prior appropriation system, which is codified
4 in the Colorado constitution. Discussion ensued regarding the importance of in-basin water
5 storage facilities and the possibility of a future Wolcott Reservoir.

6 **EXECUTIVE SESSION**

7 Mr. Porzak requested the Board enter Executive Session to receive legal advice of counsel regarding
8 Bolts Lake, Eagle Park Reservoir water rights, and Colorado River Cooperative Agreement matters,
9 pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. He asked that no electronic record be made, as the
10 discussion would be entirely privileged attorney-client communications. Upon motion duly made and
11 seconded, it was unanimously

12 **RESOLVED** to enter Executive Session at 1:25 p.m. to receive advice of counsel regarding
13 Bolts Lake, Eagle Park Reservoir water rights, and Colorado River Cooperative Agreement
14 matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr.
15 Porzak opined the contents of the discussion would contain privileged attorney-client
16 communications.*

17 The regular meeting resumed at 2:15 p.m.

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 2:16 p.m.

3 Respectfully submitted,

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8 Secretary to the Meeting

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

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15 **Dick Cleveland, Director**

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19 **Steve Coyer, Treasurer**

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22 _____
23 **George Gregory, Secretary**

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27 **Timm Paxson, Director**

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31 **Bill Simmons, Chair**

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35 **Brian Sipes, Director**

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

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