

Upper Eagle Regional Water Authority

Board of Directors Meeting

November 21, 2019

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held November 21, 2019, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation
3 District (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes
4 of the 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 George Gregory, Berry Creek Metropolitan District
9 Sarah Smith Hymes, Town of Avon
10 Kim Bell Williams, EagleVail Metropolitan District
11 Mick Woodworth, Edwards Metropolitan District

12 **Also in attendance were:**

| | |
|--------------------------|---|
| 13 <u>District Staff</u> | 25 Amy Vogt |
| 14 Linn Brooks | 26 James Wilkins |
| 15 Alan Cerny | 27 Len Wright |
| 16 Jason Cowles | 28 Brad Zachman |
| 17 Carol Dickman | 29 <u>Consultants</u> |
| 18 Catherine Hayes | 30 Jim Collins, Collins Cockrel & Cole |
| 19 Diane Johnson | 31 Glenn Porzak, Porzak Browning & Bushong LLP |
| 20 Kira Koppel | 32 <u>Public</u> |
| 21 Siri Roman | 33 Matt Scherr, Eagle County Commissioner |
| 22 Jeff Schneider | 34 Bill Simmons, Beaver Creek Metropolitan District |
| 23 Jason Sica | 35 |
| 24 Julie Stuck | |

36 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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

46 **CALL TO ORDER**

47 Chair Gregory called the meeting to order at 8:30 a.m.

48 **INTRODUCTIONS**

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

51 **PUBLIC COMMENT**

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

57

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ACTION ITEMS

Consideration of Minutes – The minutes of the regular meeting of October 24, 2019, were considered. Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the October 24, 2019, regular meeting be accepted and hereby are approved as presented.

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

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

PUBLIC HEARING: 2020 Proposed Budget

Chair Gregory opened a public hearing at 8:45 a.m. to discuss the 2020 budget, a copy of which is attached hereto as **Exhibit C** and incorporated herein by this reference. A call for public input solicited no response. Mr. Wilkins clarified that the budget presented as the same version as the board reviewed at the October 24 board meeting. The public hearing was closed at 8:47 a.m. Mr. Wilkins noted \$25 million in spending budgeted for 2020, which included \$14 million in capital improvements, roughly \$4 million of which was earmarked for the first stages of construction of a new Traer Creek tank. Mr. Wilkins presented Resolutions to Adopt the 2020 Budget and to Appropriate Sums of Money, copies of which are attached hereto as **Exhibits D** and **E**, respectively, and incorporated herein by this reference. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED that the Resolutions to Adopt the 2020 Budget and Appropriate Sums of Money be and hereby are approved as presented.

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

UERWA Water Service Rates for 2020

Base Rates per Single Family Equivalent:

| | |
|--|---------------------------|
| \$19.59 Monthly Base Service Rate | \$1.78 increase from 2019 |
| \$3.01 Monthly Debt Service for 2010B Bonds | \$0.02 decrease from 2019 |
| \$2.51 Monthly Debt Service for 2013A Bonds | \$0.02 decrease from 2019 |
| \$3.84 Capital Replacement Program Base Rate | \$0.35 increase from 2019 |
| \$28.95 Total Base Rate per SFE | \$2.09 increase from 2019 |

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

| | | | |
|--------|---------------------------|---------|-------------------------|
| Tier 1 | First 9,000 gallons | \$ 4.10 | 10% increases from 2019 |
| Tier 2 | Next 9,000 gallons | \$ 6.15 | |
| Tier 3 | (18,001 – 26,000 gallons) | \$ 9.22 | |
| Tier 4 | (26,001 – 32,000 gallons) | \$13.85 | |
| Tier 5 | Over 32,000 gallons | \$20.77 | |

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Wastewater Tap Fees:

Water System Impact Fee: 3% increase from 2019 fees

Residential Fees are based on square footage (s.f.)

| | |
|---------------------|-------------|
| 0 – 2,500 s.f. | \$5.11/s.f. |
| 2,501 – 3,500 s.f. | \$6.39/s.f. |
| 3,501 – 5,000 s.f. | \$7.98/s.f. |
| 5,001 s.f. and over | \$9.98/s.f. |

Commercial fees are based on meter flows and fixture counts.

PUBLIC HEARING: 2020 Proposed Rates

Chairman Gregory opened a public hearing at 8:48 a.m. to discuss the 2020 rate sheet, a copy of which is attached hereto as **Exhibit F** and incorporated herein by this reference. A call for public input solicited no response. Chair Gregory confirmed the Authority had posted the required formal notice of the public hearing at which the Board would consider a rate change at least 30 days in advance. A copy of the notice is attached hereto as **Exhibit G** and incorporated herein by this reference. The public hearing was closed at 8:49 a.m. Mr. Wilkins presented a resolution to adopt the 2020 rates, a copy of which is attached hereto as **Exhibit H** and incorporated herein by this reference. Upon motion duly made and seconded, it was unanimously

RESOLVED that the resolution to adopt the 2020 rates be and hereby is approved as presented.

GENERAL MANAGER REPORT

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

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

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

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1 At 9:01 Mses. Dickman, Koppel, and Vogt left the meeting.

2 EXECUTIVE SESSION

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

8 **RESOLVED** to enter Executive Session at 9:02 a.m. to receive advice of counsel regarding
9 Bolts Lake, Eagle Park Reservoir water rights, and Colorado River Cooperative Agreement
10 matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr.
11 Porzak opined the contents of the discussion would contain privileged attorney-client
12 communications.*

13 The regular meeting resumed at 10:00 a.m., at which time Mses. Dickman, Koppel, and Vogt returned to
14 the meeting.

15 STRATEGY ITEMS

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

28 **Town of Avon Finance Committee** – Vice Chair Smith Hymes thanked Ms. Brooks for agreeing
29 to serve on the town of Avon’s citizen finance committee.

30 FINANCE REPORT

31 **Quarterly Finance Report** – Mr. Wilkins discussed the third quarter financials, a copy of which is
32 attached hereto as **Exhibit L** and incorporated herein by this reference. He said the Authority
33 would likely exceed revenue projections for the year, due to water use in the higher tiers of the
34 Authority’s rate structure. The board and staff discussed water budgeting, how to incentivize
35 efficient water use, and the positive response to reduction requests during the last drought. Mr.

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1 Wilkins also noted impact fees received were ahead of budget, and he expected some customers
2 would pay impact fees at the end of the year, knowing that such fees would increase on Jan. 1,
3 2020. The board acknowledged receipt of the report.

4 OPERATIONS REPORT

5 The operations report was presented, a copy of which is attached hereto as **Exhibit K** and incorporated
6 herein by this reference.

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

11 **Avon Wastewater Nutrient Upgrade Project Work Session Overview** – Ms. Marts and Mr.
12 Schneider discussed the previous week's pre-construction tour of the Avon Wastewater
13 Treatment Facility, attended by staff, some board members, and other project experts. The tour
14 highlighted the planned upgrades, which will require large capital investment, needed approvals
15 from various entities, and mitigation of anticipated project impacts. The project is hugely complex
16 and is being driven by state nutrient regulations, which all three WWTFs will have to meet. Mr.
17 Cowles discussed an undersized pipe that was discovered near the river east of the Arrowhead
18 golf course. The operational plan for the Avon WWTF nutrient upgrade project construction
19 sequencing calls for bypassing wastewater to Edwards WWTF, but the undersized pipe may not
20 accommodate this plan. Staff is working on gathering data to model scenarios based on this new
21 information.

22 ENGINEERING REPORT

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

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

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

31 **Eagle River Village (ERV) Mobile Home Park Water Issues** – Mr. Cowles discussed the water
32 issues at the ERV park. The owners have done sampling and are researching additional
33 treatment options for this private distribution system. Though the water meets state drinking water
34 regulations, the majority of park residents purchase bottled water rather than using the ERV's
35 water system, which has taste, color, and odor issues.

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1 **Urban Land Institute (ULI) Information Session re West Edwards** – Mr. Cowles summarized a
2 recent information session to discuss the west Edwards area, which aimed to improve community
3 health, walkability, traffic, and pedestrian movement in the area. Discussion ensued regarding a
4 previous community plan, which was based on resident and business owner feedback about 15
5 years ago. Chair Gregory opined that the ULI’s proposed ideas are at odds with the community
6 plan.

7 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

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

15 **Communications Update** – Ms. Johnson discussed various outreach efforts about the upcoming
16 rate increases and wastewater master plan. The District’s energy efficiency efforts are featured in
17 this month’s Holy Cross Energy newsletter. The Homestake Partners’ continued work on a
18 proposed Whitney Creek reservoir is receiving press, and Ms. Brooks clarified that the Authority
19 and District support the right of any partners in the Eagle River MOU to pursue permitted projects;
20 it is up to the permitting agencies to determine the viability of such projects.

21 **GENERAL COUNSEL REPORT**

22 Mr. Collins referred to his confidential legal report included 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 M** and incorporated herein by this
26 reference.

27 **WATER COUNSEL REPORT**

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

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1 A copy of the diligence application is attached hereto as **Exhibit N** and incorporated herein by
2 this reference.

3 **Instream Flow Water Rights** – Mr. Porzak said the Colorado Water Conservation Board was
4 meeting today regarding the history of instream flow water rights. Instream flow water rights were
5 subject to preexisting use, decreed or not. There have been recent questions related to
6 undecreed uses like stock watering and whether ISF water rights are subject to such uses.
7 Though Mr. Porzak does not foresee this affecting the Authority or District, he and Kristen
8 Moseley are monitoring the related developments.

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 11:10 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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14 _____
15 **Town of Avon**

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17 _____
18 **Beaver Creek Metropolitan District**

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20 _____
21 **Berry Creek Metropolitan District**

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23 _____
24 **EagleVail Metropolitan District**

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