

Eagle River Water & Sanitation District
Board of Directors Meeting
January 23, 2020
MINUTES

A Special Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held January 23, 2020, at 12:00 p.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 Robert Warner

9 **Also in attendance were:**

10 <u>District Staff</u>	20	James Wilkins
11 Tug Birk	21	Chris Wolff
12 Linn Brooks	22	Brad Zachman
13 Allen Cerny	23	<u>Consultants</u>
14 Jason Cowles	24	Jim Collins, Collins Cockrel & Cole
15 Catherine Hayes	25	Glenn Porzak, Porzak Browning & Bushong LLP
16 Diane Johnson	26	<u>Authority Board Members</u>
17 Kira Koppel	27	Geoff Dreyer
18 Siri Roman	28	Mick Woodworth
19 Jeff Schneider		

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 Gregory disclosed that he serves on the Boards of
33 the Upper Eagle Regional Water Authority (Authority and the Berry Creek Metropolitan District and occasionally undertakes
34 development and construction activities within the District and Authority service areas. Director Simmons disclosed that he is the
35 General Manager of the Beaver Creek Metropolitan District, an alternate Authority Director, and serves on the boards of the
36 Edwards Metropolitan District and Eagle River Fire Protection District. Director Warner disclosed that he is a developer within the
37 District's service area and serves on the Eagle County Planning Commission, which occasionally has dealings with the District.

38 **CALL TO ORDER**

39 Chair Simmons called the meeting to order at 12:30 a.m. Acting as Authority Chair, Mr. Gregory
40 concurred.

41 **PUBLIC COMMENT**

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

43 **EXECUTIVE SESSION**

44 Mr. Porzak requested the Boards enter Executive Session to receive legal advice of counsel regarding
45 CRCA matters, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. He asked that no electronic record be
46 made, as the discussion would be entirely privileged attorney-client communications. Upon motion duly
47 made and seconded, it was unanimously

48 **RESOLVED** to enter Executive Session at 12:05 p.m. to receive advice of counsel regarding
49 CRCA matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created
50 as Mr. Porzak opined the contents of the discussion would contain privileged attorney-client
51 communications.*

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1 The boards resumed regular session at 12:22 p.m., at which time the Authority board members left and
2 the District board took a short recess for lunch. The regular meeting resumed at 12:35 p.m.

3 ACTION ITEMS

4 **Consideration of Minutes** – The minutes of the regular meeting of December 19, 2019, were
5 considered. Upon motion duly made and seconded, it was unanimously

6 **RESOLVED** that the minutes of the December 19, 2019, regular meeting be accepted and
7 hereby are approved as presented.

8 **Resolution Regarding 2020 Meeting Place and Posting Location** – Ms. Hayes presented a board
9 action request regarding the meeting place and posting location for board meetings and related materials,
10 and a related resolution, copies of which are attached hereto as **Exhibits A** and **B**, respectively, and
11 incorporated herein by this reference. Mr. Collins reminded directors that new legislation effective Aug. 1,
12 2019, allows special districts to post notices, agendas, and other meeting materials on the district's
13 website rather than posting hard copies as previously required. After discussion and upon motion duly
14 made and seconded, it was unanimously

15 **RESOLVED** that the resolution regarding the District's 2020 meeting place and posting location
16 be and hereby is approved as presented.

17 **2020 Redistricting and Election Update** – Ms. Hayes presented a board action request and proposed
18 map of the seven director districts, copies of which are attached hereto as **Exhibits C** and **D**,
19 respectively, and incorporated herein by this reference. She discussed the redistricting effort, which was
20 undertaken ahead of the May 5, 2020, regular special district election. Ms. Hayes pointed out the various
21 areas on the map where electors moved from one district to another to ensure a roughly equivalent
22 distribution of eligible electors in each of the seven districts. Discussion ensued, with Director Sipes
23 requesting the map be amended to identify areas in which development is not possible. Upon motion duly
24 made and seconded, it was unanimously

25 **RESOLVED** that the proposed director district map be and hereby is approved as presented,
26 pending the addition of the requested information regarding undevelopable areas.

27 **2020 Regular Special District Election Resolution** – Ms. Hayes presented a board action request and
28 related resolution regarding the upcoming election, copies of which are attached hereto as **Exhibits E**
29 and **F**, respectively, and incorporated herein by this reference. The board discussed the pros and cons of
30 a mail ballot election vs. a polling place election. Ms. Hayes noted the most recent mail ballot election in
31 2014 was expensive, labor intensive, and produced a roughly 20% voter turnout. Mr. Collins noted polling
32 place elections are more cost effective and said that eligible electors could request an absentee ballot via
33 mail if they were unable or unwilling to go to a polling place on election day. Discussion ensued regarding
34 communication of the election, and Ms. Hayes confirmed that staff would meet both the statutory
35 requirements for notifying electors of the election, as well as communicating election information through
36 a variety of media channels to ensure transparency and encourage participation from eligible electors.
37 After discussion and upon motion duly made and seconded, it was unanimously

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1 **RESOLVED** that the election resolution be and hereby is approved as presented.

2 **2020 Rules and Regulations Update** – Mr. Birk presented a board action request and proposed
3 revisions to the 2020 Rules and Regulations, a copy of which is attached hereto as **Exhibit G** and
4 incorporated herein by this reference. After discussion and upon motion duly made and seconded, it was
5 unanimously

6 **RESOLVED** that the 2020 Rules and Regulations updates be and hereby are approved as
7 presented.

8 A copy of the 2020 Rules and Regulations is attached hereto as **Exhibit H** and incorporated herein by
9 this reference.

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

12 The board took a short recess for lunch at 12:18 p.m., and the regular meeting resumed at 12:40 p.m.

13 **STRATEGY ITEMS**

14 **Board Member Input** – The board discussed the previous night’s Climate Action Collaborative
15 event, Getting to Zero, which hosted a speaker to discuss the impacts of global warming and
16 ways in which communities and individuals can lower their impact. Discussion ensued regarding
17 how the board can promote such changes within the community and specifically through the
18 District’s overall operations. Staff will continue to pursue these efforts, and Ms. Brooks pointed
19 out that the hiring of a full-time sustainability coordinator in May 2019 has allowed the District to
20 make much progress in this area already.

21 **Water System Classification Update** – Mr. Zachman, water manager, discussed the
22 interconnect between the District and Authority water systems. In recent communications with the
23 state regarding corrosion control, questions have emerged regarding the District and Authority’s
24 separate water systems. The state may suggest administratively combining the two systems into
25 one large water system and classified as such with one water system ID. Discussion ensued
26 regarding the impacts of such a classification, which result in changes sampling requirements and
27 frequency for various water quality parameters, among other items. Mr. Zachman also noted
28 various management plans and other documents would need to be administratively combined,
29 which would create future efficiencies. Mr. Porzak discussed such a merge as it related to water
30 rights.

31 **GENERAL MANAGER REPORT**

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

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1 **Traer Creek Office Space** – Ms. Brooks reported that the Traer Creek office space would be
2 ready for occupants by March 1. Furniture is on order, but a long lead-time is the main reason the
3 office will not be ready prior to March.

4 **OPERATIONS REPORT**

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

7 **Avon Wastewater Treatment Facility Nutrient Upgrade Project** – Mr. Schneider updated the
8 board on the AWWTF nutrient upgrade project, which is scheduled to break ground in March
9 2020. He discussed outreach efforts with neighboring properties, meetings with key
10 subcontractors ahead of mobilization, and a scheduled open house for area residents. The 1041
11 permit application was submitted to the Town of Avon in December, and the topic will be
12 discussed and voted on at a Feb. 4 Avon Town Council meeting. Mr. Schneider noted the effort to
13 balance operational efficiency and aesthetics during the project, due to the close proximity of
14 residential neighbors.

15 **ENGINEERING REPORT**

16 Mr. Cowles presented the Engineering Report, a copy of which is attached hereto as **Exhibit K** and
17 incorporated herein by this reference.

18 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

19 Ms. Johnson presented the Communications and Public Affairs report, a copy of which is attached hereto
20 as **Exhibit L** and incorporated herein by this reference.

21 **Communications Update** – Ms. Johnson said some EC Alerts were erroneously sent by Vail
22 Dispatch regarding some recent water outages. Vail Dispatch serves numerous public agencies
23 in Eagle County and acts as the District's after-hours answering service. The issues have been
24 addressed and correct procedures reinforced.

25 **GENERAL COUNSEL REPORT**

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

27 **WATER COUNSEL REPORT**

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

29 **Updated District Water Rights Appraisal**– Mr. Porzak presented the District's updated water
30 rights appraisal, a copy of which is attached hereto as **Exhibit M** and incorporated herein by this
31 reference. The value of the District's water rights continues to increase, and the report will be
32 attached to the District's annual audit as an appendix.

33 **Contract and Reservoir Matters** Mr. Porzak reported that on behalf of another client, the Bureau
34 of Reclamation agreed that under reclamation law, once reservoir capital costs were paid off for
35 Ruedi Reservoir, such rights became vested and permanent, and the contractees should only be
36 charged operation, management, and replacement (OM&R) costs. The District and Authority

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1 have a contract with the Bureau of Reclamation for Green Mountain Reservoir, for which Mr.
2 Porzak is pursuing a similar agreement to make that contract permanent and restrict the future
3 changes to only OM&R costs. A meeting on this topic is scheduled with the Bureau of
4 Reclamation in February 2020.

5 At 1:35 p.m., Ms. Koppel and Messrs. Cerny, Schneider, Thompson, and Wolff left the meeting.

6 **EXECUTIVE SESSION**

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

11 **RESOLVED** to enter Executive Session at 1:46 p.m. to receive advice of counsel regarding
12 an updated water rights report and Bolts Lake, pursuant to §24-6-402(4)(b) and (e) C.R.S.
13 with no electronic record created as Mr. Porzak opined the contents of the discussion would
14 contain privileged attorney-client communications.*
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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 2:56 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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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 **Robert Warner, Director**

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

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46 **Glenn Porzak, Water Counsel**
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