

Eagle River Water & Sanitation District
Board of Directors Meeting
February 27, 2020
MINUTES

A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held February 27, 2020, 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 Robert Warner
- 9 **Also in attendance were:**
- | | | |
|-----------------------------|----|---------------------------------------------|
| 10 <u>District Staff</u> | 19 | Shane Swartwout |
| 11 Linn Brooks | 20 | Amy Vogt |
| 12 Troy Clous | 21 | James Wilkins |
| 13 Jason Cowles | 22 | Brad Zachman |
| 14 Catherine Hayes | 23 | <u>Consultants</u> |
| 15 Diane Johnson | 24 | Jim Collins, Collins Cockrel & Cole |
| 16 Kira Koppel | 25 | Glenn Porzak, Porzak Browning & Bushong LLP |
| 17 Siri Roman | | |
| 18 Jeff Schneider | | |

DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

- 26 The Board noted it had received more than 72 hours prior to the meeting certain disclosures of Potential Conflicts of Interest
27 Statements for the following Directors indicating the following conflicts:
28
- 29 Director Cleveland disclosed that he serves on the board of Vail Health. Director Gregory disclosed that he serves on the Boards of
30 the Upper Eagle Regional Water Authority (Authority and the Berry Creek Metropolitan District and occasionally undertakes
31 development and construction activities within the District and Authority service areas. Director Simmons disclosed that he is the
32 General Manager of the Beaver Creek Metropolitan District, an alternate Authority Director, and serves on the boards of the
33 Edwards Metropolitan District and Eagle River Fire Protection District. Director Warner disclosed that he is a developer within the
34 District's service area and serves on the Eagle County Planning Commission, which occasionally has dealings with the District.

CALL TO ORDER

- 35
36 Chair Simmons called the meeting to order at 11:30 a.m.

INTRODUCTIONS

- 37
38 Ms. Brooks introduced Shane Swartwout, the new Customer Service manager. The board welcomed him.

PUBLIC COMMENT

- 39
40 Public comment was called for, and there was none.

ACTION ITEMS

- 41
42 **Consideration of Minutes** – The minutes of the regular meeting of January 23, 2020, were considered.
43 Upon motion duly made and seconded, it was unanimously
44 **RESOLVED** that the minutes of the January 23, 2020, regular meeting be accepted and hereby
45 are approved as presented.
46 The minutes of the joint special meeting of January 23, 2020, with the Upper Eagle Regional Water
47 Authority were considered. Upon motion duly made and seconded, it was unanimously
48 **RESOLVED** that the minutes of the January 23, 2020, joint special meeting with the Upper Eagle
49 Regional Water Authority be and hereby are approved as presented.

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

3 **STRATEGY ITEMS**

4 **Board Member Input** – Secretary Gregory encouraged all directors to watch the recording of last
5 month’s Getting to Zero presentation, by which the local Climate Action Collaborative hosted a
6 speaker to discuss the impacts of global warming and ways in which communities and individuals
7 can lower their impact.

8 **Sustainability Update** – Ms. Koppel gave a sustainability update, which she will continue to do
9 at subsequent board meetings. She reported on local efforts to engage stakeholders in climate
10 change action through behavior change campaigns. Locally, the most impactful initiatives
11 identified were offsetting electric use through purchase of renewable energy credits through Holy
12 Cross Energy’s PuRE program; carpooling; and rooftop solar installations. Ms. Koppel also gave
13 an overview of composting and reminded directors that they are welcome and encouraged to
14 compost at home and drop off their compost at any District facilities.

15 Ms. Koppel left the meeting at 11:49 a.m.

16 **GENERAL MANAGER REPORT**

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

20 **Solar Installation Field Trip** – Ms. Brooks said she would report in March on her field trip to view
21 a portable solar array, which Holy Cross Energy staff installed at its Glenwood Springs
22 headquarters.

23 **FINANCE REPORT**

24 Mr. Wilkins presented the quarterly finance report, a copy of which is attached hereto as **Exhibit D** and
25 incorporated herein by this reference. The report included year-end information for fiscal year 2019.
26 Water sales were below projections and below the five-year average, likely due to wet, cold spring
27 conditions. Tap fees were well above projections, with many developers paying before the new year to
28 avoid the annual increases. Water service revenues were closely aligned with projections, and
29 expenditures were below projections. Mr. Wilkins also discussed an anticipated bond refunding for the
30 District in May 2020.

31 The board took a short recess for lunch at 11:55 a.m. The regular meeting resumed at 12:05 p.m.

32 **OPERATIONS REPORT**

33 The operations report was presented, a copy of which is attached hereto as **Exhibit E** and incorporated
34 herein by this reference.

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1 **Operations Updates** – Mr. Zachman discussed various operations updates, including different
2 water outages in two Vail neighborhoods due to line breaks and subsequent repairs. Discussion
3 ensued regarding the District’s property and liability insurance. Ms. Roman noted that Field
4 Operations staff responded to a recent sanitary sewer overflow at Beaver Creek Landing. The
5 spill was small, contained, and did not require reporting to the state. By comparison, a June
6 overflow at the Dowd Junction lift station did require reporting to the state, based on its size and
7 because it reached the river. This overflow and many other items were discussed during the
8 District’s recent compliance evaluation inspection. State inspectors toured the District’s
9 wastewater facilities and heard from various staff members regarding operations. The inspectors
10 were complimentary of District operations and facilities.

11 **Union Pacific Railroad Easement** – Mr. Schneider reported that the District recently got the
12 needed easement from UPRR to complete its Dowd Junction Lift Station replacement. Details are
13 forthcoming on the much-needed project, including cost and timing.

14 **PFAS Monitoring** – Mr. Zachman discussed monitoring for per- and polyfluoroalkyl substances
15 (PFAS), which have gained media coverage in recent years as they were found in municipal
16 water supplies. PFAS are commonly found in everyday items but have been linked most strongly
17 to groundwater contamination near military bases where firefighting training occurs. Mr. Zachman
18 noted staff received a grant to do additional PFAS sampling for Authority and District supplies,
19 even though they are not high-risk. He will update the board when sampling has occurred.

20 **ENGINEERING REPORT**

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

23 **Vines at Vail Development Update** – Mr. Cowles noted an “inability to serve” letter was recently
24 sent to the development, Patrick Chirichillo. His entitlements with Eagle County expired for the
25 proposed development, and the District has no ability to serve in the development’s Wolcott
26 location, as there has never been a demand for service in the area. Discussion ensued, and Mr.
27 Cowles clarified that Mr. Chirichillo has some water via contract, but would need more to serve a
28 proposed development. The District maintains the water tank there, though it has never held
29 water; Mr. Chirichillo must repay the District for this capital cost as well.

30 **Traer Creek Tank Update** – Mr. Cowles discussed Traer Creek Tank planning. Geotechnical site
31 analysis confirmed the old tank site was the best place for the new tank. Staff is proceeding with
32 30% tank design, and construction is anticipated from 2021 – 2022. Mr. Cowles said design and
33 bidding requirements will not allow for 2020 construction. Mr. Collins recommended
34 communication with entities that should be informed of the delay and continued limitation with
35 ability to serve – including Traer Creek and EagleVail, which will be served by the new tank.

36 **Rockledge Road Service Line** – Mr. Cowles discussed the sewer service line on Rockledge
37 Road in Vail, which does not meet current District standards. Staff reached out to the four

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1 affected homeowners, recommending a new line be constructed to code. Three of the
2 homeowners responded positively and would like the District to install a new line, for which they
3 would pay.

4 **COMMUNICATION AND PUBLIC AFFAIRS REPORT**

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

7 **Legislative Update** – Ms. Johnson discussed various bills that staff and consultants are
8 monitoring, including funding for Colorado’s Water Plan, a bill that would have required the
9 District to index all its real property; and a housing authority bill to exempt developers of
10 workforce housing from paying tap fees. Staff continues to monitor a bill regarding augmentation
11 of instream flows.

12 **GENERAL COUNSEL REPORT**

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

14 **Bighorn Terrace Subdistrict Update** – Mr. Collins said easements and encroachments were for
15 the Bighorn subdistrict were agreed upon by the homeowners and the District. The District will
16 recover all associated costs of installing new sewer lines in that area.

17 **WATER COUNSEL REPORT**

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

19 **Pando Feeder Canal Diligence Protest** – Mr. Porzak discussed the protest letter he filed on
20 behalf of the Authority and District regarding the recent diligence application for the Pando
21 Feeder Canal water right, a copy of which is attached hereto as **Exhibit H** and incorporated
22 herein by this reference. The water referee agreed with a finding of diligence; however, Mr.
23 Porzak is protesting an inclusion in the diligence finding that would unduly restrict the ability to
24 obtain an absolute decree for a future enlargement of Eagle Park Reservoir.

25 Ms. Vogt and Mr. Schneider left the meeting at 1:14 p.m.

26 **EXECUTIVE SESSION**

27 Mr. Porzak requested the Board enter Executive Session to receive legal advice of counsel regarding
28 unallocated water, Bolts Lake update, CRCA matters, Authority water rights, and the Green Mountain
29 Reservoir contract, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. He asked that no electronic record be
30 made, as the discussion would be entirely privileged attorney-client communications. Upon motion duly
31 made and seconded, it was unanimously

32 **RESOLVED** to enter Executive Session at 1:15 p.m. to receive advice of counsel regarding
33 unallocated water, Bolts Lake update, CRCA matters, Authority water rights, and the Green
34 Mountain Reservoir contract, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic
35 record created as Mr. Porzak opined the contents of the discussion would contain privileged
36 attorney-client communications.*

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 2:23 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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18 **Steve Coyer, Treasurer**

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21 **George Gregory, Secretary**

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25 **Timm Paxson, Director**

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28 **Bill Simmons, Chair**

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31 **Brian Sipes, Director**

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35 **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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45 _____
46 **Glenn Porzak, Water Counsel**
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