Upper Eagle Regional Water Authority  
Board of Directors Meeting  
May 28, 2020  
MINUTES

A regular, virtual meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was held May 28, 2020, at 8:30 a.m., in accordance with the applicable statutes of the State of Colorado. 

The following Directors and alternate were present and acting via Skype, thereby constituting a quorum:

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

Also in attendance were:

District Staff  
Linn Brooks  
Troy Clous  
Jason Cowles  
Carol Dickman  
Catherine Hayes  
Diane Johnson  
Kira Koppel  
Craig Malkmes  
Melissa Mills McLoota  
Siri Roman

Jeff Schneider  
Shane Swartwout  
James Wilkins  
Brad Zachman  
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 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

Chair Gregory called the meeting to order at 8:33 a.m.

INTRODUCTIONS/PUBLIC COMMENT

Mr. Cowles introduced the District’s new GIS specialist, Craig Malkmes.

Public comment was called for and there was none.

ACTION and OTHER ITEMS

Election of Officers – The board discussed election of officers, which is normally done at the board meeting following special district elections. Discussion ensued, and upon motion duly made and seconded, it was unanimously resolved that the current slate of officers will continue to serve in their current roles. This includes George Gregory (Chair), Kim Bell Williams (Secretary), Geoff Dreyer (Treasurer), and all other board members serve as assistant secretaries/treasurers.

Consideration of Minutes – The minutes of the regular meeting of April 23, 2020, were considered.  

Upon motion duly made and seconded, it was unanimously
RESOLVED that the minutes of the April 23, 2020, regular meeting be accepted and hereby are approved as presented.

Extension of Late Fee Waiver – Mr. Swartwout discussed his board action request regarding extension of customer late fee waivers during the pandemic, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference. The volume of unpaid customer bills has remained low throughout the COVID-19 pandemic. After discussion and upon motion duly made and seconded it was unanimously RESOLVED that the extension of late fee waivers be and hereby is extended through the August billing period, which ends on Sept. 2, 2020.

Information Reports – The information reports were acknowledged and are attached hereto as Exhibit B and incorporated herein by this reference.

GENERAL MANAGER REPORT

Ms. Brooks presented her general manager report, a copy of which is attached hereto as Exhibit C and incorporated herein by this reference.

COVID-19 Response Update – Ms. Brooks updated the board on the COVID-19 response. The District will move to the sustain stage of its pandemic response starting June 1. This will allow up to 50% of staff to return onsite; however, Ms. Brooks expects onsite staffing will be closer to 30%. District offices remain closed to the public, and board meetings will continue to be hosted virtually as Ms. Brooks clarified that the size of the board meetings would not allow staff and board members to meet social distancing guidelines. Attendance remains stable, and only one staff member, who was working offsite, tested positive for the virus to date.

Financial Modeling – Ms. Brooks and Mr. Wilkins provided an update on Authority finances and the effects of COVID-19; a presentation is attached hereto as Exhibit D and incorporated herein by this reference. Discussion ensued regarding water sales trending, seasonal changes in demand, and year over year comparisons. Mr. Wilkins expects impact fees for new development to be under budgeted amounts due to the local economic impacts of COVID-19. The Authority is achieving savings by leaving some open positions unrecruited, limiting staff to virtual training, and postponing Authority capital projects as feasible. Mr. Wilkins outlined the requirements for fund balance and sufficient reserves to maintain the Authority’s bond rating. Further discussion was saved for executive session.

Eagle River MOU Update – Mr. Cowles noted two recent meetings regarding Eagle River MOU matters: one with principals and the other, which included each entity’s legal team. He reserved the rest of his discussion for Executive Session.

OPERATIONS REPORT

Ms. Roman presented the operations report, a copy of which is attached hereto as Exhibit E and incorporated herein by this reference.
Sanitary Sewer Overflow – Ms. Roman briefly updated on a sanitary sewer overflow, which was caused by grease buildup. A related memo is attached hereto as Exhibit F and incorporated herein by this reference. Discussion ensued regarding how to better identify the sources of such incidents, which are likely restaurants.

Backflow Program Update – Mr. Swartwout discussed his memo regarding the Backflow Prevention and Cross Connection Control Program, a copy of which is attached hereto as Exhibit G and incorporated herein by this reference. He noted the Authority and District remained out of compliance with the regulations and were required to report such non-compliance to customers, including in the Customer Confidence Reports for each entity. Mr. Swartwout affirmed that this was the Authority and District’s number one priority and a task force was recently created to ensure both entities comply by the end of 2020. Staff will provide monthly board progress updates and understands the severity of the continued non-compliance.

GENERAL COUNSEL REPORT

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

Cordillera Valley Club Development Request – Mr. Cowles updated on developer Jeff Townsend’s request to add units on the Cordillera Valley Club (CVC) golf course tract. A conditional capacity to serve letter is required from the Authority before the developer can present the plan for Eagle County review. The CVC PUD is overusing the amount of water allocated to it. Additionally, Eagle County ruled the PUD must be amended before additional density could be added on the golf course tract. Jason received affirmation from the Authority board that a conditional capacity to serve letter cannot be issued at this time; the PUD must be amended and the overuse of irrigation water also must be addressed.

Edwards Spur Road Update – Mr. Schneider presented information to the board on the water main and support structures that were installed by Colorado Department of Transportation (CDOT) project contractor and subcontractor in summer 2019. The pipeline is exhibiting signs of deflection, indicating the alignment is not straight as shown on the construction plans. During a late summer 2019 walkthrough, the pipeline exhibited a minor irregularity that worsened throughout the winter. A bypass main was installed to allow for continued water supply to the Old Edwards Estates subdivision during the correction of the defect. CDOT was put on notice of the defect and staff is working closely with counsel on notice requirements and contract obligations. Counsel believes the Authority’s liability in the matter is limited, as this appears to be a combination of construction and design defect. Staff continues to monitor the pipeline daily for any further deflection. A copy of the presentation is attached hereto as Exhibit H and incorporated herein by this reference.
1 WATER COUNSEL REPORT
2 Mr. Porzak referred to his confidential legal report included in the confidential packet.
3
4 EXECUTIVE SESSION
5 Mr. Porzak requested the Board enter Executive Session to receive legal advice of counsel regarding the
6 Pando Feeder Canal motion for summary judgment and decree and CRCA matters, pursuant to §24-6-
7 402(4)(a)(b) and (e) C.R.S. He asked that no electronic record be made, as the discussion would be
8 entirely privileged attorney-client communications. Upon motion duly made and seconded, it was
9 unanimously
10 RESOLVED to enter Executive Session at 9:53 a.m. to receive advice of counsel regarding
11 Pando Feeder Canal motion for summary judgment and decree and CRCA matters, pursuant
12 to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak opined the
13 contents of the discussion would contain privileged attorney-client communications.*
14
15 The regular meeting resumed at 10:17 a.m.
Upper Eagle Regional Water Authority

ADJOURNMENT
There being no further business to come before the Board, the meeting adjourned at 10:18 a.m.

Respectfully submitted,

______________________________
Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND
NOTICE OF MEETING WAIVED

 Arrowhead Metropolitan District

 Town of Avon

 Beaver Creek Metropolitan District

 Berry Creek Metropolitan District

 EagleVail Metropolitan District

 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.

______________________________
Glenn Porzak, Water Counsel