

Upper Eagle Regional Water Authority

Board of Directors Meeting

May 28, 2020

MINUTES

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

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

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

11 **Also in attendance were:**

12 <u>District Staff</u>	23	Jeff Schneider
13 Linn Brooks	24	Shane Swartwout
14 Troy Clous	25	James Wilkins
15 Jason Cowles	26	Brad Zachman
16 Carol Dickman	27	<u>Consultants</u>
17 Catherine Hayes	28	Jim Collins, Collins Cockrel & Cole
18 Diane Johnson	29	Kristin Moseley, Porzak Browning & Bushong LLP
19 Kira Koppel	30	Glenn Porzak, Porzak Browning & Bushong LLP
20 Craig Malkmes	31	<u>Public</u>
21 Melissa Mills McLoota	32	Melissa Nelson, Berry Creek Metropolitan District
22 Siri Roman		

33 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

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

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

43 **CALL TO ORDER**

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

45 **INTRODUCTIONS/PUBLIC COMMENT**

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

47 Public comment was called for and there was none.

48 **ACTION and OTHER ITEMS**

49 **Election of Officers** – The board discussed election of officers, which is normally done at the board
50 meeting following special district elections. Discussion ensued, and upon motion duly made and
51 seconded, it was unanimously

52 **RESOLVED** that the current slate of officers will continue to serve in their current roles. This
53 includes George Gregory (Chair), Kim Bell Williams (Secretary), Geoff Dreyer (Treasurer), and
54 all other board members serve as assistant secretaries/treasurers.

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

56 Upon motion duly made and seconded, it was unanimously

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1 **RESOLVED** that the minutes of the April 23, 2020, regular meeting be accepted and hereby are
2 approved as presented.

3 **Extension of Late Fee Waiver** – Mr. Swartwout discussed his board action request regarding extension
4 of customer late fee waivers during the pandemic, a copy of which is attached hereto as **Exhibit A** and
5 incorporated herein by this reference. The volume of unpaid customer bills has remained low throughout
6 the COVID-19 pandemic. After discussion and upon motion duly made and seconded it was unanimously

7 **RESOLVED** that the extension of late fee waivers be and hereby is extended through the August
8 billing period, which ends on Sept. 2, 2020.

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

11 **GENERAL MANAGER REPORT**

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

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

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

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

33 **OPERATIONS REPORT**

34 Ms. Roman presented the operations report, a copy of which is attached hereto as **Exhibit E** and
35 incorporated herein by this reference.

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

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

13 GENERAL COUNSEL REPORT

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

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

23 **Edwards Spur Road Update** – Mr. Schneider presented information to the board on the water
24 main and support structures that were installed by Colorado Department of Transportation
25 (CDOT) project contractor and subcontractor in summer 2019. The pipeline is exhibiting signs of
26 deflection, indicating the alignment is not straight as shown on the construction plans. During a
27 late summer 2019 walkthrough, the pipeline exhibited a minor irregularity that worsened
28 throughout the winter. A bypass main was installed to allow for continued water supply to the Old
29 Edwards Estates subdivision during the correction of the defect. CDOT was put on notice of the
30 defect and staff is working closely with counsel on notice requirements and contract
31 obligations. Counsel believes the Authority's liability in the matter is limited, as this appears to be
32 a combination of construction and design defect. Staff continues to monitor the pipeline daily for
33 any further deflection. A copy of the presentation is attached hereto as **Exhibit H** and
34 incorporated herein by this reference.

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1 **WATER COUNSEL REPORT**

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

3 **EXECUTIVE SESSION**

4 Mr. Porzak requested the Board enter Executive Session to receive legal advice of counsel regarding the
5 Pando Feeder Canal motion for summary judgment and decree and CRCA matters, pursuant to §24-6-
6 402(4)(a)(b) and (e) C.R.S. He asked that no electronic record be made, as the discussion would be
7 entirely privileged attorney-client communications. Upon motion duly made and seconded, it was
8 unanimously

9 **RESOLVED** to enter Executive Session at 9:53 a.m. to receive advice of counsel regarding
10 Pando Feeder Canal motion for summary judgment and decree and CRCA matters, pursuant
11 to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Porzak opined the
12 contents of the discussion would contain privileged attorney-client communications.*

13 The regular meeting resumed at 10:17 a.m.

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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