

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**June 25, 2020**  
**MINUTES**

A regular, virtual meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held June 25, 2020, at 11:30 a.m., in accordance with the applicable statutes of the State of Colorado.

**ATTENDANCE**

**The following Directors were present via Skype, thereby constituting a quorum:**

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2        Dick Cleveland  
3        Steve Coyer  
4        George Gregory  
5        Timm Paxson  
6        Bill Simmons  
7        Brian Sipes  
8        Robert Warner

**Also in attendance were:**

9			
10	<u>District Staff</u>	20	Shane Swartwout
11	Linn Brooks	21	James Wilkins
12	Allen Cerny	22	Brad Zachman
13	Jason Cowles	23	<u>Consultants</u>
14	Carol Dickman	24	Jim Collins, Collins Cockrel & Cole
15	Catherine Hayes	25	Kristin Moseley, Porzak Browning & Bushong LLP
16	Diane Johnson	26	Glenn Porzak, Porzak Browning & Bushong LLP
17	Kira Koppel	27	Kathryn Winn, Collins Cockrel & Cole
18	Siri Roman		
19	Jeff Schneider		

**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 Statements for the following Directors indicating the following conflicts:

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

**CALL TO ORDER**

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

**INTRODUCTIONS/PUBLIC COMMENT**

Public comment was called for and there was none.

**ACTION ITEMS**

**Consideration of Minutes** – The minutes of the special meeting of May 28, 2020, were considered.

Upon motion duly made and seconded, it was unanimously

**RESOLVED** that the minutes of the May 28, 2020, special meeting be accepted and hereby are approved as presented.

**Updated Employee Loan Benefit Policy** – Mr. Wilkins discussed his board action request regarding an update to the District's Employee Loan Benefit Policy, a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference. Mr. Wilkins proposed updating the policy to the existing no-interest loans to include electric vehicles and to cap the total of any outstanding employee loans at \$2,000. Employee loans are also available to purchase computers, seasonal ski passes, and assist with employee housing damage deposits. After discussion and upon motion duly made and seconded it was unanimously

## Eagle River Water & Sanitation District

1           **RESOLVED** that the Employee Loan Benefit Policy be and hereby is updated to include electric  
2           vehicles and to set a maximum of \$2,000 for all outstanding employee loan balances.

3           **FY2021 Operations Agreement with Eagle Park Reservoir Company** – Ms. Hayes discussed the  
4           board action request regarding the FY2021 Operations Agreement with Eagle Park Reservoir Company,  
5           which includes a 3% increase in cost for operations and administrative services. A copy of the request is  
6           attached hereto as **Exhibit B** and incorporated herein by this reference. The renewal of the agreement  
7           aligns with the Company’s fiscal year. After discussion and upon motion duly made and seconded, it was  
8           unanimously

9           **RESOLVED** that the FY2021 Operations Agreement with Eagle Park Reservoir Company be and  
10          hereby is approved as presented.

11          A copy of the agreement is attached hereto as **Exhibit C** and incorporated herein by this reference.

12          **Appointment of Eagle Park Reservoir Company Representative** – The board discussed the District’s  
13          appointee to the Eagle Park Reservoir Company board of directors in advance of the Company’s  
14          afternoon meeting. After discussion and upon motion duly made and seconded it was unanimously

15          **RESOLVED** that Mr. Porzak continue to serve as the District’s representative on the Eagle Park  
16          Reservoir Company Board of Directors.

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

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

### 21          **GENERAL MANAGER REPORT**

22          Ms. Brooks noted other employees would report on the matters on which she is currently working and did  
23          not include a written packet report. She said staff was again minimizing verbal updates during the virtual  
24          meetings and noted written reports on communications and sustainability, which are attached hereto as  
25          **Exhibits F** and **G**, respectively, and incorporated herein by this reference.

26          **COVID-19 Response Update** – Ms. Brooks updated the board on the COVID-19 response. One  
27          on-site employee tested positive for COVID-19 recently. Four employees who were in close  
28          contact with this individual tested negative for the virus, which indicates the District’s hygiene and  
29          cleaning protocols are effectively preventing virus spread at District facilities. Ms. Brooks  
30          confirmed that the infected employee and close contacts followed all Eagle County Public Health  
31          protocols.

32          **Drought Conditions** – Ms. Brooks noted the current conditions and weather forecasting indicate  
33          likely drought conditions as we move into summer. Ms. Brooks recommended using similar  
34          tactics that served the Authority and District well in the past, including maintaining defensible  
35          space around facilities, reaching out to large irrigators and customers using excessive amounts of  
36          water, and optimizing operations to leave as much water as possible in streams. Ms. Brooks did

# Eagle River Water & Sanitation District

1 not believe an incident command system response was warranted, especially given the two  
2 incidents to which staff continues to respond: the pandemic and the backflow prevention and  
3 cross connection control compliance.

4 **District Bond Update** – Mr. Wilkins updated the board on wastewater 2020 series A and B  
5 bonds. The June 23 issue of the wastewater 2020 series A bonds saw a premium of over \$5  
6 million received on the \$40 million issue due to the demand for bonds from institutional investors.  
7 The 2020 series B bonds were refunded, with a \$3 million savings compared to the original issue,  
8 which will lower the annual debt service payment for ratepayers. Both issues were very favorable  
9 for the District and made possible largely due to the District's solid credit rating and clear  
10 commitment to financial stewardship and fiscal responsibility. A related memo is attached hereto  
11 as **Exhibit H** and incorporated herein by this reference.

## 12 **OPERATIONS REPORT**

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

15 **Backflow Program Update** – Mr. Swartwout referenced his monthly update memo regarding the  
16 Backflow Prevention and Cross Connection Control Program, a copy of which is attached hereto  
17 as **Exhibit J** and incorporated herein by this reference. He explained compliance accounts, or  
18 those accounts that are required to comply with the backflow regulations; he also noted a  
19 reprioritization of staff time to manage and comply with the regulations. A more extensive  
20 presentation on the program and its requirements is being prepared for an upcoming board  
21 meeting. Another required communication to customers regarding this non-compliance will be  
22 included with July bills.

23 **Eagle Park Reservoir Company Operations Report** – The confidential EPRC quarterly  
24 operations report was referenced.

## 25 **GENERAL COUNSEL REPORT**

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

27 **Daybreak Ridge Water Main Break and Repair** – Ms. Roman, Mr. Zachman, and Mr. Schneider  
28 discussed a recent water main break on Daybreak Ridge above the Ritz Carlton in Bachelor  
29 Gulch, caused by a rock underneath the ductile iron pipe. The District's response was swift and  
30 appropriate, and it was clear the break was on the District's side of the system due to declining  
31 tank levels and associated alarms. Notifications were quickly issued, and customers in the  
32 affected area were asked to use water only for essential purposes. The break occurred while the  
33 road was being paved, so staff is coordinating repairs with Bachelor Gulch Metropolitan District to  
34 ensure completion by mid-August, when the road will be used for the Colorado Classic Bike  
35 Race.

## 36 **WATER COUNSEL REPORT**

## Eagle River Water & Sanitation District

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

2 **Pando Feeder Canal Motion for Summary Judgment and Entry of Decree** – Mr. Porzak  
3 presented the Pando Feeder Canal motion for summary judgment and entry of decree regarding  
4 the protest to the referee's ruling in the Pando Feeder Canal absolute/diligence case. A copy is  
5 attached hereto as **Exhibit K** and incorporated herein by this reference. The state's answer brief  
6 is due on June 29, 2020.

7 At 12:15 p.m., Mses. Dickman and Koppel and Messrs. Cerny and Schneider left the meeting.

### 8 **EXECUTIVE SESSION**

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

13 **RESOLVED** to enter Executive Session at 12:16 p.m. to receive advice of counsel regarding  
14 Eagle River MOU and Bolts Lake matters, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no  
15 electronic record created as Mr. Porzak opined the contents of the discussion would contain  
16 privileged attorney-client communications.\*

17 Prior to the discussion of Bolts Lake matters, Messrs. Swartwout, Wilkins, and Zachman left the  
18 meeting.

19 The regular meeting resumed at 1:35 p.m.

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# Eagle River Water & Sanitation District

1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 1:36 p.m.

3 Respectfully submitted,

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6 \_\_\_\_\_  
7 Secretary to the Meeting

8 **MINUTES APPROVED, FORMAL CALL, AND**  
9 **NOTICE OF MEETING WAIVED**

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14 **Dick Cleveland, Director**

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18 **Steve Coyer, Treasurer**

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21 \_\_\_\_\_  
22 **George Gregory, Secretary**

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26 **Timm Paxson, Director**

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29 \_\_\_\_\_  
30 **Bill Simmons, Chair**

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34 **Brian Sipes, Director**

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37 \_\_\_\_\_  
38 **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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