

Eagle River Water & Sanitation District
Board of Directors Meeting
January 27, 2022
MINUTES

A remote regular meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held Jan. 27, 2022, at 1:00 p.m., in accordance with the applicable statutes of the state of Colorado.

ATTENDANCE

The following Directors were present via Microsoft Teams, thereby constituting a quorum:

1
2 Kate Burchenal
3 Dick Cleveland
4 Steve Coyer
5 George Gregory
6 Timm Paxson
7 Bill Simmons
8 Robert Warner

Also in attendance were:

9			
10	<u>District Staff</u>	22	Len Wright
11	Jason Cowles	23	Brad Zachman
12	Sarah Crawford	24	
13	Leah Cribari	25	<u>Consultants</u>
14	Diane Johnson	26	Kristin Moseley, Somach Simmons & Dunn
15	David Norris	27	Kathryn Winn, Collins, Cole, Flynn, Winn & Ulmer, PLLC
16	Chuck Owen	28	
17	Siri Roman		
18	Jeffrey Schneider	29	<u>Public</u>
19	Shane Swartwout	30	Tammy Baker
20	Justin Way	31	Kris Miller
21			

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 Burchenal disclosed that she is on the Eagle River Watershed Council board of directors. Director Gregory disclosed that he serves on the board of the Upper Eagle Regional Water Authority (Authority) 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, is an alternate Authority Director, and serves on the board of the 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 1 p.m.

INTRODUCTIONS

There were no new employee or consultant introductions.

PUBLIC COMMENT

Public comment was called for and there was none.

ACTION ITEMS

Consideration of Minutes – The minutes of the meeting of Dec. 16, 2021, and of the special joint meetings of Dec. 16, 2021; and of Jan. 3, Jan. 10, and Jan. 17, 2022, with the Upper Eagle Regional Water Authority, were considered. Upon motions duly made and seconded, it was unanimously

RESOLVED that the minutes of the Dec. 16, 2021, regular meeting, and of the Dec. 16, 2021; Jan. 3, 2022; Jan. 10, 2022, and Jan. 17, 2022, special joint meetings be accepted and hereby are approved as presented.

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1 **Resolution Designating Location to Post Notice** – Ms. Johnson presented a memo, which the board
2 considered along with the Resolution with its attached schedule of 2022 regular and joint meeting dates,
3 copies of which are attached hereto as **Exhibits A and B**, respectively, and incorporated herein by this
4 reference. After discussion and upon motion duly made and seconded, it was unanimously

5 **RESOLVED** to approve and accept the Resolution Designating Location to Post Notice with its
6 Exhibit A, 2022 board meeting schedule, as presented.

7 **Resolution Calling for the 2022 Regular District Election and Appointing a Designated Election**
8 **Official** – Ms. Johnson presented a memo, which the board considered along with two versions of the
9 Resolution, copies of which are attached hereto as **Exhibits C, D, and E**, respectively, and incorporated
10 herein by this reference. She noted the difference between the resolutions was whether the election
11 would be conducted as a mail ballot or polling place election. She also noted that both versions designate
12 Peggy Rupp, with Collins Cole Flynn Winn & Ulmer, PLLC, as the Designated Election Official to conduct
13 the election on behalf of the District. Board members considered the ease of voting by mail and their
14 strong support of Colorado's mail-ballot practices while noting the much higher costs associated with a
15 mail ballot election. After discussion and upon motion duly made and seconded, it was unanimously

16 **RESOLVED** that the Polling Place version of the Resolution Calling for the 2022 Regular District
17 Election and Appointing a Designated Election Official be accepted and hereby is approved as
18 presented, with direction that staff make it clear that eligible electors can vote by mail via
19 absentee ballot and to make the process as simple as possible.

20 **Resolution to Authorize Contribution of Found Asset** – Ms. Winn reviewed the Resolution, a copy of
21 which is attached hereto as **Exhibit F** and incorporated herein by this reference. She stated that the
22 found asset, a ring, could raise substantial funds for the Vail Valley Foundation which would spend all
23 proceeds on projects of significant interest and benefit to the District. Director Coyer said he serves on
24 the Vail Valley Foundation executive committee and would abstain from voting on this issue. After
25 discussion and upon motion duly made and seconded, it was

26 **RESOLVED** to approve and accept the Resolution to Authorize Contribution of Found Asset as
27 presented, by a vote of five to zero with Director Coyer abstaining.

28 **Contract Log** – The board reviewed the contract log, a copy of which is attached hereto as **Exhibit G**
29 and incorporated herein by this reference and approved as presented.

30 **Information Reports** – The board reviewed the monthly development report, board committee
31 membership, and the Authority's December meeting summary, copies of which are attached hereto as
32 **Exhibits H, I, and J**, respectively, and incorporated herein by this reference. Chair Simmons noted he
33 serves on the Organizational Development committee which is in the middle of a compensation study that
34 he will not be able to complete because he is term-limited in May. He asked that another director be
35 appointed to the committee at the February board meeting.

36 STRATEGY ITEMS

37 **Board Member Input** – Director Gregory noted the strong language in a letter that Beaver Creek

846 Forest Road

Vail, Colorado 81657

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1 Metro District sent to its constituents, and to the Authority, about unification efforts, which Chair
2 Gregory said was inappropriate. He relayed perceptions of certain authority member entities and
3 stated that authority directors agreed this morning to pause further work on unification to allow
4 time to finish other important initiatives.

5 Chair Simmons noted that he and Director Cleveland had met with the compensation study
6 consultant; he feels very comfortable with its direction and is confident in the consultant selected.
7 Director Cleveland concurred.

8 **GENERAL MANAGER REPORT**

9 It was noted that Ms. Brooks is the board president of the Colorado Water Congress and was attending
10 the annual convention. Mr. Norris, as acting general manager, acknowledged Ms. Johnson's work to
11 assume responsibility for the board packets and meetings, including implementing a new packet process,
12 and thanked her for her work.

13 **COVID-19 update** – Mr. Norris updated board members about staff vaccination and booster
14 rates, ongoing COVID-19 protocols, and various effects of the omicron variant.

15 **FINANCE REPORT**

16 Mr. Norris presented the Quarterly Financial Report, a copy of which is attached hereto as **Exhibit K** and
17 incorporated herein by this reference. He said the operations agreement with the authority will be trued up
18 as 2021 numbers are finalized, which should increase the district's fund balance. Also, that the district will
19 develop a fund balance policy, which should improve future bond ratings and reduce costs. Mr. Norris
20 noted that even with a large employee housing program, the district has more demand than supply and
21 continues to investigate ways to create more housing units to support recruitment and retention. In
22 response to a question, Mr. Norris confirmed that district units owned by a non-employee are generally
23 former employees and they must continue to occupy the unit as their primary residence.

24 **OPERATIONS REPORT**

25 Ms. Roman presented the operations report, a copy of which is attached hereto as **Exhibit L** and
26 incorporated herein by this reference. She informed the board that the Colorado Department of Public
27 Health and Environment had recently asked the District to participate in its COVID-19 wastewater
28 surveillance program, which the District intends to do, subject to final arrangements with CDPHE.

29 **Backflow Prevention and Cross Connection Control Program** – Mr. Swartwout referenced
30 his memo and shared a PowerPoint presentation, copies of which are attached hereto as
31 **Exhibits M and N**, respectively, and incorporated herein by this reference, that summarized the
32 work required to successfully meet all CDPHE backflow prevention and cross connection control
33 program requirements. The program reached compliance with Colorado Primary Drinking Water
34 Regulation 11.39 for the 2021 compliance year. Chair Simmons noted that achieving compliance
35 was an amazing accomplishment that was due in part to a small team that remained focused

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1 during the last two years. In response to a question, Mr. Swartwout confirmed that fines
2 assessed to customers contributed to customers completing substantial corrections; those
3 customers were credited if corrections were completed within the compliance window.

4 **2020 Macroinvertebrate Sampling Results** – Ms. Cribari presented a memo, a copy of which
5 is attached hereto as **Exhibit O** and incorporated herein by this reference, that discussed the
6 program and showed the results of sampling conducted in fall 2020 and how the results
7 compare with previous years. Conditions have improved since the town of Vail began a program
8 to protect water quality. In response to a question, Ms. Roman said that she continues to follow
9 up with CDPHE and Colorado Parks & Wildlife concerning the September Mill Creek incident.

10 **Molybdenum Rulemaking** – The board considered a memo from water quality counsel Steve
11 Bushong, a copy of which is attached hereto as **Exhibit P** and incorporated herein by this
12 reference, that summarized previous and current developments related to domestic water supply
13 and agricultural molybdenum standards, as well as Colorado’s rulemaking process.

14 **ENGINEERING AND WATER RESOURCES REPORT**

15 Mr. Cowles noted that he did not have a written report this month.

16 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

17 Ms. Johnson referenced her report, a copy of which is attached hereto as **Exhibit Q** and incorporated
18 herein by this reference. She cited technical difficulties and referred directors to the written report.

19 **GENERAL COUNSEL REPORT**

20 Ms. Winn said she no updates for the regular meeting.

21 **WATER COUNSEL REPORT**

22 Ms. Moseley said she no updates for the regular meeting.

23 **EXECUTIVE SESSION**

24 Ms. Winn requested the Board enter Executive Session to discuss cybersecurity pursuant to §24-6-
25 402(4)(d) C.R.S. and to receive legal advice of counsel and discuss negotiations regarding unification and
26 a potential land acquisition, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. She asked that no electronic
27 record be made, as the discussion would be entirely privileged attorney-client communications. Upon
28 motion duly made and seconded, it was unanimously

29 **RESOLVED** to enter Executive Session at 1:55 p.m. to discuss cybersecurity and to receive
30 advice of counsel and discuss negotiations regarding Unification and a potential land
31 acquisition, pursuant to §24-6-402(4)(a)(b)(d) and (e) C.R.S. with no electronic record
32 created as Ms. Winn opined the contents of the discussion would contain privileged attorney-
33 client communications.*

34 Ms. Moseley requested the Board continue Executive Session to receive legal advice of counsel and
35 discuss negotiations regarding the Eagle River MOU pursuant to §24-6-402(4)(b) and (e) C.R.S. She

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1 asked that no electronic record be made, as the discussion would be entirely privileged attorney-client
2 communications. Upon motion duly made and seconded, it was unanimously

3 **RESOLVED** to continue Executive Session at 2:35 p.m. to receive advice of counsel and
4 discuss negotiations regarding Eagle River MOU pursuant to §24-6-402(4)(b) and (e) C.R.S.
5 with no electronic record created as Ms. Moseley opined the contents of the discussion would
6 contain privileged attorney-client communications.*

7 The regular meeting resumed at 2:43 p.m.

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9

10 **ADJOURNMENT**

11 There being no further business to come before the Board, the meeting adjourned at 2:44 p.m.

12 Respectfully submitted,

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15 _____
16 Secretary to the Meeting

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