

Eagle River Water & Sanitation District
Board of Directors Meeting
June 23, 2022
MINUTES

A regular meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held June 23, 2022, at 1:00 p.m., in the Walter Kirch Room of the Eagle River Water & Sanitation District (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the state of Colorado.

ATTENDANCE

The following Directors were present and acting:

Kate Burchenal
Dick Cleveland
George Gregory
Timm Paxson
Rick Pylman
Bob Warner

The following Director was absent and excused:

Steve Coyer

Also in attendance were:

<u>District Staff</u>	33	Daniel Seibert
Mike Baum	34	Connor Serba
Tom Borawski	35	Nick Thomas
Jason Cowles	36	Brian Thompson
Sarah Crawford	37	Len Wright
Beth Hensel	38	Brad Zachman
Jesse Hooker	39	
Daniel Hychalk	40	<u>Consultants</u>
Diane Johnson	41	Matthew Miller, McMahan & Associates
Kira Koppel	42	Kristin Moseley, Somach Simmons & Dunn
Melissa Marts	43	Calvin Seneker, McMahan & Associates
Michael McCarron	44	Kathryn Winn, Collins Cole Flynn Winn & Ulmer, PLLC
Gabe Medina	45	
Nikola Nemcanin	46	<u>Public</u>
David Norris	47	Tammy Baker
Chuck Owen	48	James Dilzell, Eagle River Watershed Council
Siri Roman	49	Mike Imhof
Kailey Rosema	50	Kris Miller
Jeffrey Schneider	51	Cliff Thompson
	52	

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 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

Having determined that quorum was established, Chair Cleveland called the meeting to order at 1:00 p.m.

OATH OF OFFICE

Chair Cleveland announced that Director Pylman was administered the oath office on June 2, 2022, a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference. Mr. Thompson filed the certificate of appointment with the Eagle County Clerk and Recorder on that date.

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1 **CONSULTANT/GUEST INTRODUCTION**

2 Mr. Nemcanin introduced new, returning, and recently promoted Field Operations employees, including
3 Inspector Daniel Hychalk, Utility Locator Mike Baum, and seasonal staff Nick Thomas, Michael McCarron,
4 Gabe Medina, and Connor Serba. Mr. Norris introduced Accounting Systems Administrator Beth Hensel.
5 Ms. Johnson introduced Government Affairs Administrator Brian Thompson. Ms. Johnson also introduced
6 Mr. Dilzell, Executive Director of the Eagle River Watershed Council.

7 **PUBLIC COMMENT**

8 Public comment was called for and there was none.

9 **ACTION ITEMS**

10 **Consideration of Minutes** – The minutes of the May 26, 2022, regular meeting were considered.
11 Upon motion duly made and seconded, it was

12 **RESOLVED** that the minutes of the May 26, 2022, regular meeting be accepted and
13 hereby are approved, with Director Pylman abstaining as he was not present at the
14 meeting.

15 **Consideration of FY 2021 Audited Financial Statement** – Mr. Norris presented a
16 memorandum, a copy of which is attached hereto as **Exhibit B** and incorporated herein by this
17 reference. Mr. Miller, McMahan and Associates Managing Member, presented a memorandum
18 and the audited financial statement, a copy of which is attached hereto as **Exhibits C and D**,
19 respectively, and incorporated herein by this reference. Mr. Miller noted that ERWSD received an
20 unmodified opinion with no recommendations or concerns reported in the board communication
21 letter and commended staff for their timeliness and preparation throughout the audit process.
22 Upon discussion and motion duly made and seconded, it was unanimously

23 **RESOLVED** that the Board accept the FY 21 Audited Financial Statement as presented
24 and direct final reports be distributed; and be it

25 **FURTHER RESOLVED** that the Board authorize the general manager and finance
26 manager to sign the letter of representation addressed to McMahan and Associates

27 **Employee Housing Cash Purchase Assistance Program** – Mr. Norris presented a
28 memorandum, a copy of which is attached hereto as **Exhibit E** and incorporated herein by this
29 reference, and requested action on a program where ERWSD would purchase property and sell
30 back to an employee under a deed restriction and appreciation cap. Noting the pace of the
31 current real estate market, he asked that the Board authorize the staff housing subcommittee to
32 execute transactions without needing to convene a full board meeting. In response to a question,
33 he clarified the deed restriction would give ERWSD the right of first refusal upon employee
34 separation or if the property is refinanced, sold, or is no longer the employee's primary residence.
35 Upon discussion and motion duly made and seconded, it was unanimously

36 **RESOLVED** that the Board adopt the Employee Housing Cash Purchase Assistance
37 Program as presented; and be it

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1 **FUTHER RESOLVED** that the Board delegate authority to the staff housing
2 subcommittee to execute transactions under this Program.

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

5 **Information Reports** – The Board reviewed the development report, board committees, and the
6 Authority May meeting summary, copies of which are attached hereto as **Exhibits G, H, and I**,
7 respectively, and incorporated herein by this reference. In response to a question, Mr. Cowles
8 clarified that the location of “Belden Place” is not “Vail” as listed on the report and said it will be
9 corrected to “Minturn.”

10 **STRATEGY ITEMS**

11 Chair Cleveland asked for general input. Director Burchenal expressed appreciation to staff for their
12 effusive response to a water issue at her parent’s home in Vail.

13 **ACTING GENERAL MANAGER REPORT**

14 Ms. Roman proposed moving Board meetings to 11:30 a.m. unless there is a joint meeting scheduled,
15 which directors unanimously supported. She expressed appreciation for the board’s decision last year to
16 add Juneteenth as a paid holiday and said staff was grateful for the respite earlier in the week. She also
17 shared photos from the recent employee picnic and stressed the importance of staff connecting at such
18 events. She reported there are no COVID-19 cases currently amongst staff. Also, recent wastewater
19 sampling conducted as part of Colorado’s SARS-CoV-2 Wastewater Surveillance Collaborative confirmed
20 the presence of COVID-19 BA.4 and BA.5 omicron subvariants in wastewater at each district facility.

21 **Analysis of Miscellaneous Fees** – Mr. Norris presented a memorandum, a copy of which is
22 attached hereto as **Exhibit J** and incorporated herein by this reference, and discussed the
23 Board’s direction to create an analysis of fees and costs associated with services. Based on this
24 analysis, Mr. Norris requested direction on scheduling a public hearing to consider a transfer of
25 service fee, reactivation fee, and construction application fees, as well as seven adjustments to
26 current fees. He highlighted that these fees would cover costs directly from customers receiving
27 services rather than these costs being distributed across all ratepayers. Directors expressed
28 support for the proposal with potential changes to be effective this summer, asked that fees be
29 annually reviewed and incorporated in the annual budget process, and directed staff to post
30 notice for a public hearing at the July meeting.

31 **Human Resources Update** – Mr. Borawski presented a memorandum, a copy of which is
32 attached hereto as **Exhibit K** and incorporated herein by this reference. He reported on
33 employee turnover, position recruitment, and progress with the classification and compensation
34 study.

35 **OPERATIONS REPORT**

36 Ms. Roman presented her report, a copy of which is attached hereto as **Exhibit L** and incorporated
37 herein by this reference.

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1 **EPA PFAS Health Advisory** – Ms. Rosema presented a PowerPoint, a copy of which is
2 attached hereto as **Exhibit M** and incorporated herein by this reference, and provided an update
3 on the Environmental Protection Agency’s June 15 health advisory related to per-and
4 polyfluoroalkyl substances (PFAS). She noted the EPA significantly lowered existing health
5 advisories for such substances and that current laboratory methods cannot detect such low
6 levels. She said the announcement is an advisory, with no currently enforceable regulations. Mr.
7 Zachman noted the need for a metered approach as the science is still evolving; there are no
8 current actions to take.

9 **Avon Wastewater Nutrient Upgrade Project Update** – Ms. Marts presented a memorandum, a
10 copy of which is attached hereto as **Exhibit N** and incorporated herein by this reference, and
11 reported that capital improvements continue to be on schedule and within budget.

12 **Eagle Park Reservoir Company (EPRC) Quarterly Operations Report** – Ms. Roman
13 referenced the company’s confidential memorandum and recapped the June 21 annual
14 shareholders meeting and quarterly board of directors meeting. Highlights include new directors,
15 approval of the FY 2023 budget, and that the reservoir filled.

16 **ENGINEERING AND WATER RESOURCES REPORT**

17 Mr. Cowles presented his report, a copy of which is attached hereto as **Exhibit O** and incorporated herein
18 by this reference.

19 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

20 Ms. Johnson noted she did not include a written report. She provided updates on the Special District
21 Association’s regional workshops and board member manuals, the Aug. 18-19 water law training for
22 directors, and the success of the June 9 “State of the River” program. She also reported that the annual
23 UERWA and ERWSD consumer confidence reports were mailed to customers and will be available online
24 for those who don’t receive them directly. In response to a question, Mr. Zachman said that regulations
25 require all customers receive copies of both reports and that the UERWA report contains public
26 notification of a violation it received last year.

27 **GENERAL COUNSEL REPORT**

28 Ms. Winn reported that she is awaiting comments from Minturn on a draft intergovernmental agreement
29 for Minturn’s 1041 process concerning the construction of Bolts Lake.

30 **WATER COUNSEL REPORT**

31 Ms. Moseley had no further items for open session.

32 **EXECUTIVE SESSION**

33 Ms. Moseley requested the Board enter executive session to receive legal advice of counsel and discuss
34 negotiations related to stipulations in Case Nos. 21CW3029 and 21CW3030 pursuant to §24-6-
35 402(4)(b)(e), C.R.S. Upon motion duly made and seconded, it was unanimously

36 **RESOLVED** to enter into Executive Session at 2:35 p.m. to discuss stipulations in Case
37 Nos. 21CW3029 and 21CW3030 pursuant to §24-6-402(4)(b)(e), C.R.S, with no

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1 electronic record created as Ms. Moseley opined the contents of the discussion would
2 contain privileged attorney-client communications*

3 Ms. Winn requested the Board continue Executive Session to receive legal advice of counsel and discuss
4 negotiations related to a no-fault damages program pursuant to §24-6-402(4)(b) and (e), C.R.S. Upon
5 motion duly made and seconded, it was unanimously

6 **RESOLVED** to enter into Executive Session at 2:40 p.m. to discuss a no-fault damages
7 program pursuant to §24-6-402(4)(b) and (e), C.R.S, with no electronic record created as
8 Ms. Winn opined the contents of the discussion would contain privileged attorney-client
9 communications.*

10 Ms. Winn requested the Board continue Executive Session to receive legal advice of counsel and discuss
11 negotiations related to affordable housing options pursuant to §24-6-402(4)(b) and (e), C.R.S. Upon
12 motion duly made and seconded, it was unanimously

13 **RESOLVED** to enter into Executive Session at 2:55 p.m. to discuss affordable housing
14 options pursuant to §24-6-402(4)(b) and (e), C.R.S, with no electronic record created as
15 Ms. Winn opined the contents of the discussion would contain privileged attorney-client
16 communications.*

17 Ms. Winn requested the Board continue Executive Session to receive legal advice of counsel and discuss
18 personnel matters related to the general manager position pursuant to §24-6-402(4)(b) and (f), C.R.S.
19 Upon motion duly made and seconded, it was unanimously

20 **RESOLVED** to enter into Executive Session at 3:15 p.m. to discuss the general manager
21 position pursuant to §24-6-402(4)(b) and (f), C.R.S, with no electronic record created as
22 Ms. Winn opined the contents of the discussion would contain privileged attorney-client
23 communications.*

24 The regular meeting resumed at 4:00 p.m. During Executive Session, the Board did not engage in
25 substantive discussion of any matters not enumerated in §24-6-402(4), C.R.S, or take any formal action.

26 **CONSIDERATION OF STIPULATION AGREEMENTS**

27 Ms. Moseley presented a stipulation agreement with Minturn regarding Case Nos. 21CW3029 and
28 21CW3030, a copy of which is attached hereto as **Exhibit P** and incorporated herein by this reference.

29 After discussion and upon a motion duly made and seconded, it was unanimously

30 **RESOLVED** that the Board approve the stipulation agreement for Case Nos. 21CW3029
31 and 21CW3030 as presented; and be it

32 **FURTHER RESOLVED** that the Board grant the general manager of the Eagle River
33 Water & Sanitation District authority to address future stipulations unless the stipulation is
34 unique, unusual, or otherwise requires Board approval.

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1 **ADJOURNMENT**

2 There being no further business to come before the board at this meeting and upon motion duly moved
3 and seconded, it was unanimously

4 **RESOLVED**, that the signing of the minutes of this meeting shall be deemed to constitute
5 full and complete adoption, ratification, and approval of the business conducted and the
6 resolutions passed; and be it

7 **FURTHER RESOLVED**, that the meeting be adjourned at 4:05 p.m.

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11 Secretary to the Meeting

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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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Kathryn Winn, General Counsel

Kristin Moseley, Water Counsel