

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**January 26, 2023**  
**MINUTES**

A regular meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held January 26, 2023, at 1:00 p.m., in the Walter Kirch Room of the 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  
Steve Coyer  
George Gregory  
Timm Paxson  
Rick Pylman  
Bob Warner

**Also in attendance were:**

District Staff	24	Siri Roman
Tom Borawski	25	Kailey Rosema
Jim Cannava	26	Jeffrey Schneider
Jason Cowles	27	Brian Thompson
Tim Friday	28	Brad Zachman
Kora Heitzler	29	
Jesse Hooker	30	<u>Consultants</u>
Drew Isaacson	31	Kristin Moseley, Somach Simmons & Dunn
Robyn Janssen	32	Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
Diane Johnson	33	
Niko Nemcanin	34	<u>Public</u>
David Norris	35	Tammy Baker,
Chuck Owen	36	Cliff Thompson
Rob Ringle	37	

**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 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. Director Pylman disclosed that he owns a land planning consulting company, which occasionally has dealings with the District.

**CALL TO ORDER**

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

**INTRODUCTIONS**

Two new employees were introduced: Mr. Zachman introduced water systems operator Kora Heitzler; and Mr. Nemcanin introduced field operations supervisor Drew Isaacson.

**PUBLIC COMMENT**

Public comment was called for and there was none.

**ACTION ITEMS**

**Consideration of Minutes** – The minutes of the December 15, 2022, special meeting were considered. Upon motion duly made and seconded, it was

**RESOLVED** that the minutes of the December 15, 2022, special meeting be accepted and hereby are approved as presented, with Director Burchenal abstaining as she was absent from the meeting.

# Eagle River Water & Sanitation District

1           **Contract Log** – The board reviewed the contract log, a copy of which is attached hereto as  
2           **Exhibit A** and incorporated herein by this reference. Upon motion duly made and seconded, it  
3           was unanimously

4                     **RESOLVED** that the contract log be accepted and hereby is approved as presented.

5           **Resolution Designating Location to Post Notice** – Mr. Thompson presented a memorandum and the  
6           Resolution with its attached schedule of 2023 regular and joint meeting dates, copies of which are  
7           attached hereto as **Exhibits B** and **C**, respectively, and incorporated herein by this reference. Upon  
8           motion duly made, it was unanimously

9                     **RESOLVED** to approve and accept Resolution No. 2023-01, Designating Location to Post  
10           Notice with its Exhibit A, 2023 board meeting schedule, as presented.

11           **Resolution Calling for the 2023 Regular District Election and Appointing a Designated Election**  
12           **Official** – Mr. Thompson presented a memorandum and the Resolution, copies of which are attached  
13           hereto as **Exhibits D** and **E**, respectively, and incorporated herein by this reference. Upon motion duly  
14           made, it was unanimously

15                     **RESOLVED** to approve and accept Resolution No. 2023-02, Calling for the 2023 Regular  
16           District Election and Appointing a Designated Election Official, as presented.

## 17           **INFORMATION REPORTS**

18           Directors reviewed the development report, board committees, and Authority December meeting  
19           summary, copies of which are attached hereto as **Exhibits F, G, and H**, respectively, and incorporated  
20           herein by this reference.

## 21           **BOARD MEMBER INPUT**

22           Chair Cleveland called for board input and there was none.

## 23           **GENERAL MANAGER REPORT**

24           Ms. Roman said she met with town and county officials to discuss water supply and affordable housing  
25           issues. She also said water rights reports will be presented to the boards in February. She concluded by  
26           recognizing general staff achievements of 2022.

## 27           **BUSINESS ADMINISTRATION REPORT**

28           Mr. Norris presented a copy of the enterprise wastewater bond closing document signature pages, a copy  
29           of which is attached hereto as **Exhibit I** and incorporated herein by this reference. In response to a  
30           question, he said the costs to issue the bonds will be lower than initially projected.

31                     **Quarterly financial report** – Mr. Cannava presented the report, a copy of which is attached  
32           hereto as **Exhibit J** and incorporated herein by this reference. In response to a question, Mr.  
33           Norris said the housing fund has grown due to occupancy increases and expense reductions.

## 34           **OPERATIONS REPORT**

35           Mr. Zachman presented the report, a copy of which is attached hereto as **Exhibit K** and incorporated  
36           herein by this reference. In response to a question, he said the rehabilitation of a corroded water  
37           distribution pump will likely not be covered under warranty. Mr. Zachman also presented a PowerPoint, a

## Eagle River Water & Sanitation District

1 copy of which is attached hereto as **Exhibit L** and incorporated herein by this reference. He referenced  
2 discussion from the June 23, 2022, board meeting related to the (then) new EPA interim lifetime health  
3 advisories for per- and polyfluoroalkyl substances (PFAS), which were greatly reduced from the previous  
4 2016 health advisory. Mr. Zachman reminded the board that a health advisory is not a regulation. He also  
5 said the District and Authority are partners with the Colorado Department of Public Health and  
6 Environment as early adopters of voluntary PFAS sampling. Ms. Rosema reviewed sampling results  
7 received on Jan. 20 and noted that levels of two PFAS chemicals exceeded the new health advisory levels  
8 at facilities in both water systems. She said account holders will be directly notified per CDPHE  
9 requirements. In response to a question, Mr. Zachman said the science, data, and regulatory process  
10 related to PFAS need to evolve before utilities can develop appropriate mitigation strategies because the  
11 advisory level is below what analytical methods can detect. In response to another question, Ms. Rosema  
12 said she is not aware of any PFAS testing that has been conducted on bottled water.

### **ENGINEERING AND WATER RESOURCES REPORT**

14 Mr. Cowles presented the report, a copy of which is attached hereto as **Exhibit M** and incorporated  
15 herein by this reference. He provided an update on funding opportunities related to Bolts Lake Reservoir.

### **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

17 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit N** and incorporated  
18 herein by this reference. She said the District monitors relevant legislation through counsel and partner  
19 agencies. She reported that Kathy Chandler-Henry, Eagle County's representative to the Colorado River  
20 Water Conservation District, was elected president of its board of directors. Finally, she referred to news  
21 article links in Exhibit N related to Colorado River basin issues.

### **WATER COUNSEL REPORT**

23 **“Do Not Flush” wipes legislation** – Ms. Moseley presented a memorandum with its attached  
24 “Legislative Primer: ‘Do Not Flush’ Labeling for Disposable Wipe Packaging,” a copy of which is  
25 attached hereto as **Exhibit O** and incorporated herein by this reference. She said the proposed  
26 legislation has received strong support from wastewater agencies and the House and Senate bills  
27 will be introduced by bipartisan co-prime sponsors.

28 **Conditional water rights deadlines** – Ms. Moseley presented a memorandum, a copy of which  
29 is attached hereto as **Exhibit P** and incorporated herein by this reference. She discussed  
30 upcoming diligence deadlines on several of the District's conditional water rights. In response to a  
31 question, she said there has been sufficient activity at Wolcott to maintain diligence.

### **GENERAL COUNSEL REPORT**

33 The board noted Ms. Winn's privileged written report. Ms. Winn said a 1041 intergovernmental agreement  
34 will be presented for review to the Minturn Town Council, the District board, and the Authority board at  
35 their respective February meetings. She also said House Bill 23-1023 would raise the threshold on  
36 contract costs requiring public bids on special district construction projects.

37

# Eagle River Water & Sanitation District

## EXECUTIVE SESSION

Ms. Moseley requested the board move into Executive Session to receive legal advice of counsel and discuss matters in negotiation related to bulk water service agreements. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to enter into Executive Session at 2:15 p.m. to discuss matters related to bulk water service agreements pursuant to §24-6-402(4)(b) and (e), C.R.S., with no electronic record created as Ms. Moseley opined the contents of the discussion would contain privileged attorney-client communications.\*

Ms. Moseley requested the board enter Executive Session to receive legal advice of counsel and discuss matters in negotiation related to the Colorado River Cooperative Agreement. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to enter into Executive Session at 3:05 p.m. to discuss matters related to the Colorado River Cooperative Agreement pursuant to §24-6-402(4)(b) and (e), C.R.S., with no electronic record created as Ms. Moseley opined the contents of the discussion would contain privileged attorney-client communications.\*

Ms. Moseley requested the board move into Executive Session to receive legal advice of counsel related to Senate Bill 23-01. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to enter into Executive Session at 3:12 p.m. to discuss matters related to Senate Bill 23-01 pursuant to §24-6-402(4)(b), C.R.S., with no electronic record created as Ms. Moseley opined the contents of the discussion would contain privileged attorney-client communications.\*

The open session resumed at 3:32 p.m. During the executive session, the board did not take any formal action or discuss any matters not enumerated in §24-6-402(4), C.R.S.

## ACTION AS A RESULT OF EXECUTIVE SESSION

The board discussed amendments to the bulk water service agreement with Ski and Snowboard Club Vail. Upon motion duly made and seconded, it was unanimously

**RESOLVED** that the board direct staff to amend the bulk water service agreement with Ski and Snowboard Club Vail.

# Eagle River Water & Sanitation District

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 3:33 p.m.

8  
9

10  
11

\_\_\_\_\_  
Secretary to the Meeting

12  
13

14  
15

16  
17

18  
19

20  
21

22  
23

24  
25

26  
27

28  
29

30  
31

32  
33

34  
35

36  
37

38  
39

40  
41

42

\*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.

43  
44

45  
46

47

\_\_\_\_\_  
**Kristin Moseley, Water Counsel**