

**Eagle River Water & Sanitation District**  
**Board of Directors Meeting**  
**January 28, 2021**  
**MINUTES**

A special, virtual meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held Jan. 28, 2021, 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>	23	Tracy Rymph
11	Linn Brooks	24	Jeff Schneider
12	Allen Cerny	25	Shane Swartwout
13	Jason Cowles	26	Amy Vogt
14	Carol Dickman	27	Len Wright
15	Catherine Hayes	28	Brad Zachman
16	Diane Johnson	29	<u>Consultants</u>
17	Kira Koppel	30	Jim Collins, Collins Cockrel & Cole
18	Craig Malkmes	31	Kristin Moseley, Porzak Browning & Bushong LLP
19	Melissa Mills McLoota	32	Glenn Porzak, Porzak Browning & Bushong LLP
20	David Norris	33	<u>Public</u>
21	Siri Roman	34	Tammy Baker, VP Software
22			

**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 in on the Eagle River Watershed Council board of directors. 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 1:00 p.m.

**INTRODUCTIONS/PUBLIC COMMENT**

Ms. Benysh commented on the Bighorn Terrace water and sewer main replacement project and noted the cost increased since the project was originally envisioned, which would be a financial burden on the owners paying for the water main replacement. Mr. Porterfield commented that the Bighorn Terrace project and related costs were approved by the majority of homeowners within the subdistrict.

**ACTION ITEMS**

**Consideration of Minutes** – The minutes of the meeting of December 17, 2020, were considered.

Upon motion duly made and seconded, it was unanimously

**RESOLVED** that the minutes of the December 17, 2020, regular meeting be accepted and hereby are approved as presented.

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1 The minutes of the joint, special meeting of December 17, 2020, with Upper Eagle Regional Water  
2 Authority were considered. Upon motion duly made and seconded, it was unanimously

3 **RESOLVED** that the minutes of the joint special December 17, 2020, special meeting be  
4 accepted and hereby are approved as presented.

5 The board expressed gratitude for the accuracy of the minutes.

6 **IT Security Audit Insurance Policy** – Mr. Norris discussed his board action request, a copy of which is attached  
7 hereto as **Exhibit A** and incorporated herein by this reference. A recent cybersecurity audit through the  
8 Special District Association pool insurance recommended the addition of a cybersecurity insurance policy.  
9 Mr. Norris explained the risk from losses and business interruption due to cybersecurity attacks and  
10 suggested the addition of a \$2,000,000 policy at a cost of \$16,000/annually This will protect the District's  
11 assets and ensure compliance with federal and state regulation in the event of a breach. After discussion  
12 and upon motion duly made and seconded, it was unanimously

13 **RESOLVED** that the addition of cybersecurity insurance to the District's policies at the  
14 recommended level be and hereby are approved as presented.

15 **Consent Agenda** – The consent agenda was approved, a copy of which is attached hereto as **Exhibit B** and  
16 incorporated herein by this reference.

17 **Information Reports** – The information reports are attached hereto as **Exhibit C** and incorporated herein by this  
18 reference. Ms. Brooks clarified recent updates to the Authority's subcommittee membership, which will be  
19 reflected in next month's attachment.

### 20 **STRATEGY ITEMS**

21 **Board Member Input** – Board member input was requested and there was none.

22 **Drought Mitigation and Excessive Use Strategy** – Dr. Wright and Ms. Johnson discussed  
23 current planning efforts, including the formation of a drought mitigation steering committee. Hot,  
24 dry conditions, relative to normal, continued to persist and are forecasted into the summer. Staff  
25 is mobilizing a water demand management effort to target excessive users, which is the best  
26 opportunity to reduce consumptive use and ensure appropriate water use by all customers during  
27 the ongoing drought. Current strategies include various enforcement mechanisms, rules and  
28 regulations revisions, and policy updates, in addition to operational adjustments to preserve in-  
29 basin water.

### 30 **GENERAL MANAGER REPORT**

31 Ms. Brooks referenced her report, a copy of which is attached hereto as **Exhibit D** and incorporated  
32 herein by this reference.

33 **COVID-19 Update** – Ms. Brooks updated the board on COVID-19 operations and noted no new  
34 cases among staff since her report of Jan. 20. Staff is working with Eagle County public health to  
35 determine where District employees are in the vaccination order. Linn also noted hazard pay was  
36 available for employees required to report to work while others are required to work from home;

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1 the rate is lower than the beginning of the pandemic because work conditions and District  
2 protocols have proven effective and minimize risk to on-site employees.

## 3 **FINANCE REPORT**

4 Mr. Norris reported on tap fee collection in 2020, which was slightly lower than projected; this was due to  
5 many developers paying their fees in late 2019, prior to the annual increase. He noted monthly customer  
6 payments are stable. At his request for direction, the board advised Mr. Norris to continue quarterly  
7 financial reporting, but to inform the board of any significant variances monthly.

## 8 **OPERATIONS REPORT**

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

11 **CDOT's West Vail Pass Auxiliary Lane Project Update** – Ms. Roman reported on the CDOT  
12 project, which will add a third lane to I-70 on the west side of Vail Pass, along with other  
13 improvements. The Federal Highway Administration approved the finding of no significant impact  
14 for the project, though staff and other stakeholders continue to express concerns regarding water  
15 quality impacts of the project. CDOT agreed to water quality studies and sediment control efforts,  
16 though such efforts are not expressly tied to the project. Ms. Roman noted funding is in place for  
17 Phase 1, which is expected to move quickly.

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

19 Mr. Cowles noted he did not include a written report in packets.

20 **Colorado River District Demand Management Advisory Committee** – Mr. Cowles discussed  
21 his participation on this advisory committee, which is gathering stakeholders' viewpoints and  
22 reactions regarding the demand management program. The program is a temporary, voluntary,  
23 and compensated reduction of diversions in an effort to conserve water. Many of the stakeholders  
24 from the West Slope were skeptical of the program's chances for success, with the belief that a  
25 more permanent program is needed to make a meaningful impact.

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

27 Ms. Johnson presented her report, a copy of which is attached hereto as **Exhibit F** and incorporated  
28 herein by this reference.

29 **Committee, Board Memberships** – Ms. Johnson discussed membership in various water-  
30 related groups and committees across the state, some of which have changed after the 2020  
31 election and with new appointees to certain positions.

32 **Colorado River District Ballot Issue Update** – Ms. Johnson also noted articles from her report  
33 that focused on water speculation and related information. She specifically pointed out an op-ed  
34 in the Denver Post regarding buy and dry activities on the Western Slope.

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## GENERAL COUNSEL REPORT

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

## WATER COUNSEL REPORT

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

**CJC Properties Water Rights Application** – Mr. Porzak reminded the board that the District was a co-applicant with CJC Properties, the entity that owns the Chris Joufflas property in Wolcott, on an application to quantify the CJC properties' historic consumptive use (HCU) credits for its water rights. The final decree was signed by the judge, a copy of which is attached hereto as **Exhibit G** and incorporated herein by this reference. The decree quantifies the average HCUs at 118.8 AF/year with a maximum annual use of 139 AF/year in a dry year.

## **EXECUTIVE SESSION**

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

**RESOLVED** to enter Executive Session at 2:43 p.m. to receive advice of counsel regarding Bolts Lake and the community water plan, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as Mr. Collins opined the contents of the discussion would contain privileged attorney-client communications.\*

The regular meeting resumed at 3:01 p.m.

**Staff Announcement** – Ms. Brooks announced that Ms. Vogt took a position with another local organization and thanked her for her contributions while at the District.

**Approval of Meeting Minutes** – Mr. Collins advised that during the pandemic, and while virtual board meetings were held, verbal approval of the meeting minutes at the subsequent meeting was sufficient and signatures were not necessary.

## **ADJOURNMENT**

There being no further business to come before the Board, the meeting adjourned at 3:03 p.m.

Respectfully submitted,

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Secretary to the Meeting