

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

A special meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held October 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	<u>District Staff</u>	28	Amber Parmet
10	Tom Borawski	29	Rajesh Patel
11	Liz Carter	30	Rob Ringle
12	Jim Cannava	31	Siri Roman
13	John Castillo	32	Jeffrey Schneider
14	Kyle Collins	33	Shane Swartwout
15	Jason Cowles	34	Justin Way
16	Beth Doliboa	35	Chris Wolff
17	Catherine Hayes	36	Len Wright
18	Christine Heimerl	37	<u>Consultants</u>
19	Jesse Hooker	38	Kristin Moseley, Somach Simmons & Dunn
20	Kate Isaacson	39	Kathryn Winn, Collins Cockrel & Cole
21	Diane Johnson	40	<u>Public</u>
22	Kira Koppel	41	Tammy Baker
23	Craig Malkmes	42	Mike Eytel, Colorado River District
24	Nikola Nemcanin	43	Eric Hjermsstad, Washington Weather Consultants
25	David Norris	44	Andrew Rickert, Colorado Water Conservation Board
26	Chuck Owen		
27			
45			

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 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

The following new employees were introduced to the board, Kate Isaacson, Lab Analyst; Liz Carter, Fields Operations Coordinator; Matt Sears, Wastewater Operator; Amber Parmet, Project Engineer; Jesse Hooker, IT Helpdesk Technician; and Rajesh Patel, IT Systems Administrator.

PUBLIC COMMENT

Public comment was called for and there was none.

ACTION ITEMS

846 Forest Road

Vail, Colorado 81657

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1 **Consideration of Minutes** – The minutes of the meeting of September 23, 2021, were considered.
2 Upon motion duly made and seconded, it was unanimously

3 **RESOLVED** that the minutes of the September 23, 2021, special meeting be accepted and
4 hereby are approved as presented.

5 The minutes of the joint, special meeting of September 23, 2021, with the Upper Eagle Regional Water
6 Authority were considered. There was one minor correction to the joint meeting minutes. Upon motion
7 duly made and seconded, it was unanimously

8 **RESOLVED** that the minutes of the September 23, 2021, joint special meeting be accepted and
9 hereby are approved as presented.

10 **Vail Wastewater Integrated Project Delivery** – Mr. Ringle and Mr. Schneider presented a request
11 regarding use of Integrated Project Delivery for the Vail Wastewater Treatment Facility (VWWTF) Master
12 Plan improvements. The memo and associated resolution are attached hereto as **Exhibit A** and
13 incorporated herein by this reference. Staff recommended the board consider employing the construction
14 manager at risk (CMAR) delivery method for the design and construction of VWWTF Master Plan
15 Improvement Projects, as such method provides reduced construction risk by including the contractor
16 during the design process, and cost certainty during period of volatile pricing, particularly as supply chain
17 issues have increased material prices. After discussion and upon motion duly made and seconded, it was
18 unanimously

19 **RESOLVED** that the request for Integrated Project Delivery authorization be and hereby is
20 approved as presented.

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

23 **Information Reports** – The information reports are attached hereto as **Exhibit C** incorporated herein by
24 this reference.

25 **STRATEGY ITEMS**

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

27 **Budget Presentation** – Mr. Norris and Mr. Cavanna presented the 2022 budget and outlined the
28 process, including the fund balances, proposed expenses and rates, and the fund structure. Staff
29 encouraged board directors to thoroughly review the budget. It will be included in the November
30 board packet for approval.

31 **ERWC Funding Request for 2022** – Ms. Roman discussed the informational memo, a copy of
32 which is attached hereto as **Exhibit D** and incorporated herein by this reference. The memo
33 outlined an annually budgeted request for \$25,000 from ERWSD and \$25,000 from UERWA for
34 the Eagle River Watershed Counsel's Water Quality Monitoring and Assessment Program, as
35 well as \$25,000 from each entity for the unrestricted fund.

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1 **Employee Survey Results** – Mr. Borawski presented the 2021 Employee Engagement Survey
2 results. There was participation by 106 of 121 of employees, and the overall favorability score
3 was 84%. There was discussion about the results, and Mr. Borawski shared that a consultant is
4 performing a pay classification study, which should help staff address one of the lower scoring
5 areas on the survey – growth.

6 **GENERAL MANAGER REPORT**

7 Ms. Brooks referenced the general manager’s report, a copy of which is attached hereto as **Exhibit E** and
8 incorporated herein by this reference.

9 **Cloud Seeding** – Guests from the Colorado River District and Colorado Water Conservation board discussed
10 the results of the 2020/2021 ski season cloud seeing program and how it assisted with snowpack in the area.
11 They noted Vail Resorts again declined to participate in the program, and the District approved a contribution of
12 \$15,000 for the 2021/2022 cloud seeding effort.

13 **FINANCE**

14 Mr. Norris included the Quarterly reports, a copy of which is attached hereto as **Exhibit F** and
15 incorporated herein by this reference.

16 **OPERATIONS REPORT**

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

19 **Mill Creek Aquatic Die-off Update** – Ms. Roman included a memo to update on the Mill Creek
20 aquatic die-off, a copy of which is attached hereto as **Exhibit H** and incorporated herein by this
21 reference. Vail Resorts made the initial report to Colorado Department of Public Health and
22 Environment’s (CDPHE) spill hotline on Sept. 21. CDPHE issued a compliance advisory to Vail
23 Resorts on Sept. 24 advising Vail Resorts of alleged violations of the Colorado Water Quality
24 Control Act and requested VR submit a Colorado Discharge Permit System permit application for
25 the outfall. Vail Resorts’ deadline to respond to the compliance advisory was extended to Oct. 29
26 so Vail Resorts and CDPHE could discuss the event during a scheduled Oct. 19 meeting.
27 Colorado Parks and Wildlife continues to investigate the cause of the aquatic life mortality.
28 Documents related to the event are available on [CDPHE's website](#).

29 **East Vail Gore Creek Place Outage** – Ms. Roman presented on a large water main break that
30 occurred on Saturday October 23rd in East Vail at Gore Creek Meadows townhomes. District staff
31 is working to repair the damaged pipe and get service reconnected.

32 **ENGINEERING AND WATER RESOURCES REPORT**

33 Mr. Cowles noted he did not include an engineering and water resources report.

34 **Ski and Snowboard Club Vail Snowmaking Agreement** – Mr. Cowles discussed the Ski and
35 Snowboard Club Vail (SSCV) snowmaking agreement that was most recently updated in 2017.

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1 The District agreed to provide SSCV with water for snowmaking that was subordinate to its prior
2 obligation to provide snowmaking water to Vail Resorts in the 1987 Snowmaking Agreement with
3 Vail Associates. Vail Resorts ability to pump snowmaking water from Gore Creek during the
4 month of October is limited to the Vail Wastewater Treatment Plan effluent return flows when
5 flows at the Gore Creek above Red Sandstone gage are below the instream flow of 16 cfs. The
6 SSCV agreement incorrectly stated that SSCV would be provided with snowmaking water in
7 October when flows at the Gore Creek above Red Sandstone gage were above 12 cfs. The
8 agreement will be updated to reflect the correct Gore Creek flow limitations for SSCV
9 snowmaking and will be presented at a future meeting.

10 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

11 Ms. Johnson referenced her report, a copy of which is attached hereto as **Exhibit I** and incorporated
12 herein by this reference.

13 **GENERAL COUNSEL REPORT**

14 Ms. Winn had no updates for the regular meeting and referenced her confidential legal report in the
15 confidential packet.

16 **WATER COUNSEL REPORT**

17 **Updated Water Dedication Policy** – Ms. Moseley referenced the Proposed Updated Water
18 Dedication Policy, a copy of which is attached hereto as **Exhibit J** and incorporated herein by this
19 reference. Ms. Moseley committed to revising the policy effective date to January 1, 2022.

20 **RESOLVED** that the Proposed Water Dedication Policy be and hereby is approved with
21 the effective date being revised to January 1, 2022.

22 **Piney River Unit Update** - Ms. Moseley referenced the Piney River Unit Conditional Water Right
23 Diligence memo, a copy of which is attached hereto as **Exhibit K** and incorporated herein by this
24 reference.

25 **EXECUTIVE SESSION**

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

30 **RESOLVED** to enter Executive Session at 3:40 p.m. to receive advice of counsel regarding
31 unification, pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as
32 Ms. Winn opined the contents of the discussion would contain privileged attorney-client
33 communications. *

34 Ms. Moseley requested the Board continue Executive Session to receive legal advice of counsel
35 regarding the Eagle River MOU, Regulatory Matters Update and Eagle Park Reservoir Company

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1 Settlement pursuant to §24-6-402(4)(b) and (e) C.R.S. She asked that no electronic record be made, as
2 the discussion would be entirely privileged attorney-client communications. Upon motion duly made and
3 seconded, it was unanimously

4 **RESOLVED** to continue Executive Session at 2:50 p.m. to receive advice of counsel
5 regarding Eagle River MOU, Regulatory Matters Update and Eagle Park Reservoir Company
6 Settlement pursuant to §24-6-402(4)(b) and (e) C.R.S. with no electronic record created as
7 Ms. Moseley opined the contents of the discussion would contain privileged attorney-client
8 communications. *

9 The regular meeting resumed at 4:18 p.m.

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 4:19 p.m.

3 Respectfully submitted,

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Secretary to the Meeting