

Eagle River Water & Sanitation District
Board of Directors Meeting
May 27, 2021
MINUTES

A special, virtual meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held May 27, 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:

Kate Burchenal
Dick Cleveland
Steve Coyer
George Gregory
Timm Paxson
Bill Simmons
Robert Warner

Also in attendance were:

| | | |
|-----------------------|----|--|
| <u>District Staff</u> | 25 | Kailey Rosema |
| Jenna Bearisto | 26 | Jason Sica |
| Linn Brooks | 27 | Jeffrey Schneider |
| Jim Cannava | 28 | Shane Swartwout |
| Kyle Collins | 29 | Len Wright |
| Beth Doliboa | 30 | Chris Wolff |
| Catherine Hayes | 31 | Brad Zachman |
| Christine Heimerl | 32 | <u>Consultants</u> |
| Diane Johnson | 33 | Kristin Moseley, Porzak Browning & Bushong LLP |
| Kira Koppel | 34 | Glenn Porzak, Porzak Browning & Bushong LLP |
| Craig Malkmes | 35 | Kathryn Winn, Collins Cockrel & Cole |
| Nikola Nemcanin | 36 | <u>Public</u> |
| David Norris | 37 | None |
| Chuck Owen | | |
| Rob Ringle | | |

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 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

New employees were introduced, including Ms. Doliboa and Ms. Heimerl from the administration department and Mr. Cannava from the finance department.

PUBLIC COMMENT

Public comment was called for and there was none.

ACTION ITEMS

Consideration of Minutes – The minutes of the meeting of April 22, 2021, were considered. Upon motion duly made and seconded, it was unanimously.

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1 **RESOLVED** that the minutes of the April 22, 2021, special meeting be accepted and hereby are
2 approved as presented.

3 The minutes of the joint, special meeting of April 22, 2021, with Upper Eagle Regional Water Authority
4 were considered. Upon motion duly made and seconded, it was unanimously.

5 **RESOLVED** that the minutes of the joint special April 22, 2021, special meeting be accepted and
6 hereby are approved as presented.

7 **Assessing Late Fees** – Mr. Norris noted the board action request for reinstatement of late fees, a copy
8 of which is attached hereto as **Exhibit A** and incorporated herein by this reference. Late fees were
9 waived during the COVID-19 pandemic via Governor Polis’s executive order, which expired on April 29,
10 2021. After discussion and upon motion duly made and seconded, it was unanimously.

11 **RESOLVED** that the request to reinstate customer late fees be and hereby is approved as
12 presented.

13 **Coverage-Based Irrigation Rate** – Mr. Norris noted the board action request to accommodate a move
14 from three to five tiers, which will better align irrigation rate tiers with residential water use tiers. A copy of
15 the request is attached hereto as **Exhibit B** and incorporated herein by this reference. After discussion
16 and upon motion duly made and seconded, it was unanimously.

17 **RESOLVED** that the request be and hereby is approved as presented.

18 **Highlands Meadows Subdivision Claim of Easement** – The board opened a public hearing to discuss
19 the Claims of Easement in the Highlands Meadows subdivision. Ms. Brooks noted the board action
20 request that would authorize the District to record Claims of Easement on real property located within the
21 Highlands Meadow Subdivision area, a copy of which is attached hereto as **Exhibit C** and incorporated
22 herein by this reference. Ms. Brooks said this was part of the District’s ongoing claim of easement
23 program to identify and record easements for District infrastructure that lacks a recorded easement.
24 Public comment was requested and there was none, and the public hearing was closed. After discussion
25 and upon motion duly made and seconded, it was unanimously.

26 **RESOLVED** that the Highlands Meadows be and hereby is approved as presented.

27 **Termination of Joint Emergency Disaster Declaration** – Mr. Brooks noted the board action request to
28 terminate the emergency disaster declaration, a copy of which is attached hereto as **Exhibit D** and
29 incorporated herein by this reference. Ms. Brooks noted Eagle County Public Health and Environment
30 terminated its local disaster declaration due to the decline in local and statewide COVID-19 cases. After
31 discussion and upon motion duly made and seconded, it was unanimously.

32 **RESOLVED** that the resolution to rescind the emergency disaster declaration be and hereby is
33 approved as presented.

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

36 **Information Reports** – The information reports are attached hereto as **Exhibits F, G and H, and**
37 incorporated herein by this reference.

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1 STRATEGY ITEMS

2 **Board Member Input** – Board member input was requested. Board members expressed interest
3 in returning to in-person board meetings as soon as staff determines its reasonable.

4 **Drought Update** – Dr. Wright presented an update on current drought conditions; the Upper
5 Colorado Basin remains in severe and exceptional drought. Ms. Johnson updated on
6 communication and how the local community is being informed on drought conditions. Ms.
7 Johnson discussed accounts using water in Tiers 4 and 5 and the letter that was distributed to
8 these users encouraging more efficient water use. Mr. Norris discussed how Tier 4 and 5 users
9 responded to the letter and the script the customer service representatives were using when
10 speaking to callers about the letter. A copy of the script is attached hereto as **Exhibit I** and
11 incorporated herein by this reference.

12 GENERAL MANAGER REPORT

13 Ms. Brooks noted she did not include a written packet report this month.

14 **COVID-19 Update** – Ms. Brooks noted 83% of staff was vaccinated based on employee self-
15 reporting rates. She also said staff was preparing to hold in-person board meetings in June, with
16 a virtual attendance option available as well.

17 **Best Place to Work Award** – Eagle River Water and Sanitation District received Vail Valley
18 Partnership's Best Place to Work Award for 2020. Ms. Hayes discussed the application process,
19 which highlighted employee culture and specifically the behind-the-scenes efforts of the IT and
20 HR departments during the pandemic.

21 **Purchase of Property at 54 Nighthawk** – In response to a question, Mr. Norris updated the
22 board on the purchase of a home at 54 Nighthawk Circle in Gypsum. The purchase was
23 approved by the board at the April meeting, and the District is scheduled to close on the property
24 on June 21.

25 OPERATIONS REPORT

26 Mr. Zachman presented the operations report, a copy of which is attached hereto as **Exhibit J** and
27 incorporated herein by this reference.

28 **Lead and Copper Rule Update** – A planned presentation on the lead and copper rule was tabled
29 to the following meeting.

30 **Dowd Junction Collection System Project Update** – Mr. Schneider, Mr. Nemcanin and Ms.
31 Bearsto presented an update on the Dowd Junction Collection System Improvements project. A
32 memo was also discussed, a copy of which is attached hereto as **Exhibit K** and incorporated
33 herein by this reference.

34 ENGINEERING AND WATER RESOURCES REPORT

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1 Dr. Wright referenced the operations report, a copy of which is attached hereto as **Exhibit L** and
2 incorporated herein by this reference.

3 **Wolford Mountain Dam Safety Update** – Dr. Wright briefly discussed updates involving ongoing
4 issues with the Wolford Mountain Reservoir Dam. A comprehensive dam safety evaluation
5 identified elevated levels of risk associated with the dam that will require mitigation. The Authority
6 and District have some contract water supplies in Wolford Reservoir, but other sources are
7 available if the reservoir needs to be lowered for risk mitigation or repairs.

8 **Eagle Park Seep Investigation** – Dr. Wright discussed a planned seep investigation for the fall
9 at Eagle Park Reservoir under the direction of the Dam Safety Branch. Prework for this
10 investigation was completed last fall to use a dye-based method to observe the seep and
11 determine next steps.

12 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

13 Ms. Johnson referenced her report, a copy of which is attached hereto as **Exhibit M** and incorporated
14 herein by this reference.

15 **GENERAL COUNSEL REPORT**

16 Ms. Winn had no updates for the regular meeting. She referenced her confidential legal report included in
17 the confidential packet.

18 **WATER COUNSEL REPORT**

19 Mr. Porzak had no updates for the regular meeting. He referenced his confidential legal report included in
20 the confidential packet.

21 **EXECUTIVE SESSION**

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

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

30 Mr. Porzak requested the Board enter Executive Session to receive legal advice of counsel regarding the
31 Eagle River MOU matters and CRCA matters, pursuant to §24-6-402(4)(a)(b) and (e) C.R.S. He asked
32 that no electronic record be made, as the discussion would be entirely privileged attorney-client
33 communications. Upon motion duly made and seconded, it was unanimously.

34 **RESOLVED** to enter Executive Session at 3:03 p.m. to receive advice of counsel regarding
35 Eagle River MOU matters and CRCA matters, pursuant to §24-6-402(4)(b) and (e) C.R.S.

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- 1 with no electronic record created as Mr. Porzak opined the contents of the discussion would
- 2 contain privileged attorney-client communications. *
- 3 The regular meeting resumed at 4:05 p.m.

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1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 4:05 p.m.

3 Respectfully submitted,

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Secretary to the Meeting