A Regular Meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held February 26, 2015, at 11:00 a.m., in the District’s Walter Kirch Room, 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the State of Colorado.

ATTENDANCE

The following Directors were present, thereby constituting a quorum:

1. Tom Allender
2. Debbie Buckley
3. Steve Friedman
4. Kim Langmaid
5. Bill Simmons
6. Frederick P. Sackbauer IV, via phone

The following Directors were absent and excused:

7. Paul Testwuide

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 Allender disclosed that he is the Director of Resort Planning for Vail Associates, Inc., which has significant land ownership and business interests within the District and Authority. He also serves on the Boards of the Upper Eagle Regional Water Authority, Eagle Park Reservoir Company, and the Clinton Ditch and Reservoir Company. Director Friedman serves on the Boards of the Beaver Creek Metropolitan District and the Vail Valley Foundation. Director Langmaid disclosed that she founded and is employed by Walking Mountains Science Center, which receives funding from parties with which the District does business, including the US Forest Service, Vail Resorts, Towns of Vail and Avon, Vail Recreation District, Eagle County, and Holy Cross Energy. Directors Sackbauer and Simmons are employed by Vail Resorts, Inc., which has significant land ownership and business interests within the District. Directors Simmons also serves on the Boards of the Upper Eagle Regional Water Authority, and the Edwards, Holland Creek, and Red Sky Ranch Metropolitan Districts. Director Testwuide disclosed that he performs consulting for Vail Resorts, his former employer, owns water rights in two states, and occasionally uses the District’s water counsel, Glenn Porzak, as his personal attorney.

Also in attendance were:

- District Staff
- Louise Beaudin
- Linn Brooks
- Becky Bultermeier
- Evette Curran
- Carol Dickman
- Angelo Fernandez
- Catherine Hayes
- Leslie Isom
- Diane Johnson
- Ali Kelkenberg
- Melissa Mills McLoota
- Siri Roman
- Jeff Schneider
- Steve Sego
- Consultants
- Ned Connolly, Chandler Asset Management
- Chad Larsen, Moreton Retirement Partners
- Kristin Moseley, Porzak Browning & Bushong LLP
- Glenn Porzak, Porzak Browning & Bushong LLP
- Scott Pritchard, Chandler Asset Management
- Jayson Schmitt, Chandler Asset Management
- Public
- Cliff Thompson, IKS Consulting

CALL TO ORDER

Acting Chair Buckley called the meeting to order at 11:00 a.m.

INTRODUCTIONS

Guests were introduced, including Chad Larsen from Moreton Retirement Partners and Ned Connolly, Jayson Schmitt, and Scott Pritchard of Chandler Asset Management.

CONSULTANT PRESENTATIONS

Employee Retirement Plans – Mr. Larsen presented an overview of the District’s 401a and 457 retirement plans, including eligibility for the plans, contribution and vesting levels, key statistics of each plan, Retirement Plan Committee meetings, employee education sessions,
and plan fees. He also discussed plan changes in 2014 and noted fees are reviewed annually and negotiated if needed; fees have been trending downward the last three years. The Board thanked him for the information.

**Investment Report** – Ms. Bultemeier explained the role of Chandler Asset Management in managing the District’s portfolios. Messrs. Connolly, Pritchard, and Schmitt presented information regarding the District’s investments, management strategies, and economic trends. The Board discussed having its audit/budget committee members meet with Chandler representatives annually to review the investments, which has historically occurred only at the staff level.

**ACTION ITEMS**

**Meeting Minutes** – The minutes of the Regular Meeting of January 22, 2015, were considered. Upon motion duly made and seconded, it was unanimously

**RESOLVED** that the minutes of the January 22, 2015, Regular Meeting be accepted and hereby are approved as presented.

**Quarterly and Year-End Financial Reports** – Ms. Bultemeier discussed the financial performance in 2014, noting strong planning efforts for the 2014 budget. A copy of the reports are attached hereto as **Exhibit A** and incorporated herein by this reference. Ms. Bultemeier noted all bond covenants were met for the water and wastewater funds. Discussion ensued regarding budget preparations and the timing and frequency of forecasting. The Board requested that the quarterly reports include an explanation of any large variances. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to acknowledge receipt of the report.

**Consent Agenda** – The Board unanimously approved the Consent agenda, a copy of which is attached hereto as **Exhibit B** and incorporated herein by this reference.

The Board took a short recess for lunch at 12:05 p.m. The regular meeting resumed at 12:23 p.m.

**STRATEGY ITEMS**

**Federal Water Rights Background** – Ms. Moseley presented information regarding three federal directives that imply federal ownership of water on federal land, which is contrary to Colorado state water law and the prior appropriation doctrine of the western states. A copy of the presentation is attached hereto as **Exhibit C** and incorporated herein by this reference. She noted the well-established practice of both private parties and governmental entities obtaining water rights on federal land and the continued deference to state law concerning
water rights. Ms. Moseley also summarized the differences between the eastern riparian
system of water rights and the Western practice of prior appropriation.

REPORT BY WATER COUNSEL

State Legislation (Senate Bill 64) – Mr. Porzak and Ms. Moseley gave a status report on the
bill, a copy of which is attached hereto as Exhibit D and incorporated herein by this
reference. The bill passed in the Senate and now moves to the House of Representatives. Mr.
Porzak recently held a meeting with the Speaker of the House to give background on the bill
and stress its importance with regard to protection of privately owned water rights.

Sedalia Case Supreme Court Opinion – Mr. Porzak discussed the ruling in the Sedalia
case, a copy of which is attached hereto as Exhibit E and incorporated herein by this
reference. The Supreme Court ruled that previously quantified water rights cannot be subject
to factoring in years of nonuse up to a date of the prior Court quantification. If not previously
quantified or subsequent to the date of the prior quantification, nonuse can be considered;
however, the nonuse will not count against the user if there is good reason for the nonuse,
which the provider has an opportunity to explain. In response to a question, Mr. Porzak said
over 25 municipal providers filed amicus briefs in the case in support of Sedalia’s position.

Colorado River Compact Water Bank – Mr. Porzak discussed the possibility of a Western
Slope water bank using historic consumptive use credits; this could protect against a future
compact call and could potentially involve a variety of East and West Slope parties. Mr.
Porzak said the project was a good candidate for inclusion in the Colorado Water Plan, as it is
a cooperative approach to mitigate potential future water shortages; funding may be
available. The Board discussed a potential Wolcott reservoir, which could serve in this
capacity. Director Langmaid expressed concerns about this possibility. A March 3 meeting is
planned with the president of the Colorado River Water Conservation District to further
discuss this concept.

Wolford Mountain Reservoir Update – Mr. Porzak discussed dam movement at the
Wolford Reservoir and two related articles, copies of which are attached hereto as Exhibit F
and incorporated herein by this reference. He noted the water level may be drawn down to
alleviate the immediate risk, but other measures, including rebuilding, may be required. The
dam is jointly owned by the River District and Denver Water.
EAGLE RIVER WATER & SANITATION DISTRICT

REPORT BY DIRECTOR OF ORGANIZATIONAL DEVELOPMENT

Mr. Fernandez presented his report, a copy of which is attached hereto as Exhibit G and incorporated herein by this reference.

Staffing Update – Mr. Fernandez introduced Brian Tracy, who was recently promoted to water manager. He also introduced Ali Kelkenberg, who was recently hired as the District’s Human Resources Generalist.

2014 and 2015 Initiatives Update – Mr. Fernandez discussed the District’s 2014 and 2015 initiatives, copies of which are attached hereto as Exhibits H and I, respectively, and incorporated herein by this reference. He noted staff’s accomplishments in 2014 and noted the 2015 list was pared down, as it was not possible to complete all previous initiatives due to the exhaustive nature of the list. Mr. Fernandez pointed out the theme of the 2015 initiatives is stability; many changes have been implemented in previous years, and this will allow staff to adjust to new processes and procedures. In response to a question, Mr. Fernandez noted of the few items that were not completed, nothing was critical or affected operations in any way.

Organizational Development Committee Report – Directors Simmons reported on the initiatives from his perspective as a committee member. He noted that the 2015 initiatives list was more focused and easier to track. Director Langmaid asked whether there were opportunities to participate more closely with the town of Vail’s water quality improvement efforts. Mr. Fernandez clarified that initiatives carried over from 2014 were not on the list and are still in development stages. Director Simmons noted an Executive Session was needed to discuss Ms. Brooks’ review.

EXECUTIVE SESSION

The Board requested the Board enter Executive Session to discuss personnel matters, pursuant to §24-6-402(4)(f) C.R.S. They 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 1:25 p.m. to discuss personnel matters, pursuant to §24-6-402(4)(f) C.R.S. with no electronic record created as Counsel has opined the contents of these discussions constitute privileged attorney-client communications.*

The regular meeting resumed at 1:42 p.m.
REPORT BY GENERAL MANAGER

Legal Report – Ms. Brooks noted Mr. Collins was available via phone for any questions pertaining to his legal report.

Traer Creek Tank Update – Ms. Brooks noted a lien was being recorded against Traer Creek to recover the District’s costs related to closing the gap between Traer Creek diversion flow and the return point, which precluded the need to augment the gap.

Water Rights Hydrology Model – Ms. Brooks updated the Board on the model. Phase I is complete, and the model is producing data. Phase II will include development of demand scenarios, reporting tools to extract information from the model, and priorities for data extraction. Discussion ensued regarding data extraction priorities, including data that would support development of Eagle River MOU alternatives and to support the water demand management plan.

Singletree Waterline Break – Ms. Brooks provided an update on the waterline break earlier in the week, noting that the failed PVC pipe wasn’t discoverable during sounding efforts. The District and Authority exceed the American Waterworks Association’s recommended number of leaks per 100 miles of pipe. The Authority will begin a more systematic pipe replacement program like the District has in place. Ms. Brooks said affected residents praised staff for the quick response time and professional service provided.

Development Trends – Ms. Brooks discussed current development trends that indicate District acceptance of cash-in-lieu payments should occur following preliminary plan approval, but prior to final plat approval so any issues with water rights aren’t the deciding factor in a development’s success. Ms. Brooks stressed the importance of ensuring cash-in-lieu estimates are preliminary and conditional prior to final plat approval. She noted staff would work with land use authorities to ensure the District’s approvals become part of their land use approval processes.

REPORT BY DIRECTOR OF OPERATIONS

In Mr. Fessenden’s absence, Ms. Roman presented his report, a copy of which is attached hereto as Exhibit J and incorporated herein by this reference.

2015 World Alpine Championships Update – Ms. Roman said operations were seamless during the 2015s, largely due to the preplanning efforts that occurred. She thanked operations staff for being flexible with their schedules, working extra shifts, and limiting vacations during the two-week event.
Town of Vail Grants – Ms. Roman updated on $700,000 Transportation Alternative Program (TAP) grant received by the town of Vail for two water quality improvement projects that should benefit Gore Creek, both of which were identified in the Water Quality Improvement Plan. The projects include water quality improvements at the East Vail interchange and at Bighorn Road where the creek crosses under I-70. Ms. Roman said the awarding of the grants for these projects highlights the importance of water quality efforts and a community-minded approach to solutions. The town of Vail is providing a project cost match to the TAP grant of $400,000.

Edwards Wastewater Treatment Facility Project Update – Mr. Schneider updated on the project at the Edwards Wastewater Treatment Facility. A major milestone included the recent installation of the photoionization odor control unit, which virtually eliminated odors at the plant. The contractor, engineer, and District staff have formed a cohesive team, and an online system is being used to track the project’s $21 million budget. The project is currently ahead of schedule and on budget.

COMMUNICATIONS AND PUBLIC AFFAIRS REPORT

Meeting with Rep. Polis Staff – Ms. Johnson said she and Ms. Brooks met February 3 with Congressman Polis’s new legislative assistant on environment and energy along with his district representative to discuss his pending wilderness legislation, their approach to working with local stakeholders, and other water-related federal issues.

Denver Metro Chamber Leadership Foundation – Ms. Johnson is working with Leadership Foundation staff on their “Colorado Experience” program that will bring about 100 business leaders to Summit County and Vail in April to learn about transportation, housing, and water infrastructure. Several staff members will address the group, which will also tour treatment facilities.

Colorado River Basin Implementation Plan – Ms. Johnson is coordinating a March 2 stakeholders meeting to review and prioritize projects for the Eagle River and State Bridge regions of the Colorado Basin Roundtable’s Basin Implementation Plan. The final draft of the BIP is due April 17 to the Colorado Water Conservation Board as part of the Colorado Water Plan process. She distributed a CWCB update on Colorado’s Water Plan, a copy of which is attached hereto as Exhibit K and incorporated herein by this reference.
There being no further business to come before the Board, the meeting adjourned at 2:29 p.m.

Respectfully submitted,

Secretary to the Meeting

MINUTES APPROVED, FORMAL CALL, AND NOTICE OF MEETING WAIVED

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Tom Allender, Director

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Debbie Buckley, Secretary

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Stephen Friedman, Treasurer

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Kimberly Langmaid, Director

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Frederick P. Sackbauer IV, President/Chairman

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Bill Simmons, Director

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Paul Testwuide, Director