

# EAGLE RIVER WATER & SANITATION DISTRICT

Board of Directors Meeting

February 26, 2015

## MINUTES

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:**

Tom Allender  
Debbie Buckley  
Steve Friedman  
Kim Langmaid  
Bill Simmons  
Frederick P. Sackbauer IV, *via phone*

**The following Directors were absent and excused:**

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:**

<u>District Staff</u>	36	Siri Roman
Louise Beaudin	37	Jeff Schneider
Linn Brooks	38	Steve Sego
Becky Bultemeier	39	<u>Consultants</u>
Evette Curran	40	Ned Connolly, Chandler Asset Management
Carol Dickman	41	Chad Larsen, Moreton Retirement Partners
Angelo Fernandez	42	Kristin Moseley, Porzak Browning & Bushong LLP
Catherine Hayes	43	Glenn Porzak, Porzak Browning & Bushong LLP
Leslie Isom	44	Scott Pritchard, Chandler Asset Management
Diane Johnson	45	Jayson Schmitt, Chandler Asset Management
Ali Kelkenberg	46	<u>Public</u>
Melissa Mills McLoota	47	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,

EAGLE RIVER WATER & SANITATION DISTRICT

1 and plan fees. He also discussed plan changes in 2014 and noted fees are reviewed annually  
2 and negotiated if needed; fees have been trending downward the last three years. The Board  
3 thanked him for the information.

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

10 **ACTION ITEMS**

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

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

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

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

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

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

26 **STRATEGY ITEMS**

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

EAGLE RIVER WATER & SANITATION DISTRICT

1 water rights. Ms. Moseley also summarized the differences between the eastern riparian  
2 system of water rights and the Western practice of prior appropriation.

3 **REPORT BY WATER COUNSEL**

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

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

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

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

EAGLE RIVER WATER & SANITATION DISTRICT

1 **REPORT BY DIRECTOR OF ORGANIZATIONAL DEVELOPMENT**

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

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

7 **2014 and 2015 Initiatives Update** – Mr. Fernandez discussed the District’s 2014 and 2015  
8 initiatives, copies of which are attached hereto as **Exhibits H** and **I**, respectively, and  
9 incorporated herein by this reference. He noted staff’s accomplishments in 2014 and noted  
10 the 2015 list was pared down, as it was not possible to complete all previous initiatives due to  
11 the exhaustive nature of the list. Mr. Fernandez pointed out the theme of the 2015 initiatives  
12 is stability; many changes have been implemented in previous years, and this will allow staff  
13 to adjust to new processes and procedures. In response to a question, Mr. Fernandez noted of  
14 the few items that were not completed, nothing was critical or affected operations in any way.

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

22 **EXECUTIVE SESSION**

23 The Board requested the Board enter Executive Session to discuss personnel matters, pursuant to §24-6-  
24 402(4)(f) C.R.S. They asked that no electronic record be made, as the discussion would be entirely  
25 privileged attorney-client communications. Upon motion duly made and seconded, it was unanimously

26 **RESOLVED** to enter executive session at 1:25 p.m. to discuss personnel matters,  
27 pursuant to §24-6-402(4)(f) C.R.S. with no electronic record created as Counsel has  
28 opined the contents of these discussions constitute privileged attorney-client  
29 communications.\*

30 The regular meeting resumed at 1:42 p.m.

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## EAGLE RIVER WATER & SANITATION DISTRICT

### 1 **REPORT BY GENERAL MANAGER**

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

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

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

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

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

### 26 **REPORT BY DIRECTOR OF OPERATIONS**

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

29 **2015 World Alpine Championships Update** – Ms. Roman said operations were seamless  
30 during the 2015s, largely due to the preplanning efforts that occurred. She thanked operations  
31 staff for being flexible with their schedules, working extra shifts, and limiting vacations  
32 during the two-week event.

## EAGLE RIVER WATER & SANITATION DISTRICT

1        **Town of Vail Grants** – Ms. Roman updated on \$700,000 Transportation Alternative  
2        Program (TAP) grant received by the town of Vail for two water quality improvement  
3        projects that should benefit Gore Creek, both of which were identified in the Water Quality  
4        Improvement Plan. The projects include water quality improvements at the East Vail  
5        interchange and at Bighorn Road where the creek crosses under I-70. Ms. Roman said the  
6        awarding of the grants for these projects highlights the importance of water quality  
7        efforts and a community-minded approach to solutions. The town of Vail is providing a  
8        project cost match to the TAP grant of \$400,000.

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

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

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

20    **Denver Metro Chamber Leadership Foundation** – Ms. Johnson is working with  
21       Leadership Foundation staff on their “Colorado Experience” program that will bring about  
22       100 business leaders to Summit County and Vail in April to learn about transportation,  
23       housing, and water infrastructure. Several staff members will address the group, which will  
24       also tour treatment facilities.

25    **Colorado River Basin Implementation Plan** – Ms. Johnson is coordinating a March 2  
26       stakeholders meeting to review and prioritize projects for the Eagle River and State Bridge  
27       regions of the Colorado Basin Roundtable’s Basin Implementation Plan. The final draft of the  
28       BIP is due April 17 to the Colorado Water Conservation Board as part of the Colorado Water  
29       Plan process. She distributed a CWCB update on Colorado’s Water Plan, a copy of which is  
30       attached hereto as **Exhibit K** and incorporated herein by this reference.

**EAGLE RIVER WATER & SANITATION DISTRICT**

1 **ADJOURNMENT**

2 There being no further business to come before the Board, the meeting adjourned at 2:29 p.m.

3 Respectfully submitted,

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7 Secretary to the Meeting

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9 **MINUTES APPROVED, FORMAL CALL, AND**  
10 **NOTICE OF MEETING WAIVED**

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14 **Tom Allender, Director**

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18 **Debbie Buckley, Secretary**

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22 **Stephen Friedman, Treasurer**

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26 **Kimberly Langmaid, Director**

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30 **Frederick P. Sackbauer IV, President/Chairman**

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34 **Bill Simmons, Director**

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38 **Paul Testwuide, Director**

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