

Eagle River Water & Sanitation District
Board of Directors Meeting
June 27, 2024
MINUTES

A special meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held June 27, 2024, at 11:30 a.m., in the Walter Kirch Room of the District, 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the state of Colorado.

ATTENDANCE

The following Directors were present and acting:

- 1 Kate Burchenal
- 2 Dick Cleveland
- 3 Steve Coyer
- 4 Sarah Smith Hymes
- 5 Timm Paxson
- 6 Rick Pylman
- 7 Robert Warner, Jr.

Also in attendance were:

- | | |
|--------------------------|---|
| 10 <u>District Staff</u> | 26 Jeffrey Schneider |
| 11 Tricia Bancker | 27 Brian Thompson |
| 12 Tom Borawski | 28 Devan Villalovos |
| 13 Daniel Caffery | 29 Brad Zachman |
| 14 Jim Cannava | 30 |
| 15 Jason Cowles | 31 <u>Consultants</u> |
| 16 Tim Friday | 32 Paul Backes, McMahan & Associates, L.L.C. |
| 17 Justin Hildreth | 33 Kristin Moseley, Somach Simmons & Dunn |
| 18 Jesse Hooker | 34 Page Weil, LRE Water |
| 19 Diane Johnson | 35 Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC |
| 20 Ali Kelkenberg | 36 |
| 21 Michael Lochary | 37 <u>Public</u> |
| 22 David Norris | 38 Tammy Baker |
| 23 Louise Reiter | 39 Zoe Goldstein |
| 24 Siri Roman | 40 Cliff Thompson |
| 25 Tracy Rymph | |

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 for the following Directors indicating the following conflicts: Director Pylman disclosed that he owns a land planning consulting company doing business in the District's service area that has represented entities that have and may do business with the District. Director Warner disclosed that he is a former Builder/Developer in the District, a Member of the Eagle County Planning Commission and Zoning Board of Adjustment, and President of McCoy Springs at Arrowhead Homeowners Association. Director Burchenal disclosed that she is an employee of Airborne Snow Observatories, Inc., which does not currently do business with the District but there may be a time in the future when they do business with the District or other partners in the District's service area.

CALL TO ORDER

Having determined there was a quorum, Chair Cleveland called the meeting to order at 11:37 a.m. This meeting started late due to the extended adjournment time of the preceding meeting of the Authority board.

INTRODUCTIONS

Mr. Cannava introduced Paul Backes, Managing Partner at McMahan & Associates, who presented later in the meeting. Mr. Cowles introduced Mr. Weil, who presented later in the meeting. There was one new employee introduction: Mr. Caffery introduced OTS technician Devan Villalovos.

PUBLIC COMMENT

Chair Cleveland called for public comment and there was none.

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ACTION ITEMS

Consideration of Minutes – The minutes of the May 23, 2024, regular meeting were considered.

Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the May 23, 2024, regular meeting be accepted and hereby are approved as presented.

Contract Log – The board reviewed the contract log, a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference. Upon motion duly made and seconded, it was unanimously

RESOLVED that the contract log be accepted and hereby is approved as presented.

Consideration of Fiscal Year 2023 Audited Financial Statement – Mr. Cannava presented a memorandum and the FY 2023 Audited Financial Statements, copies of which are attached as

Exhibits B and C, respectively, and incorporated herein by this reference. Mr. Backes summarized the audit process and key findings outlined in the Independent Auditor's Report. He said the District received an unmodified opinion with no material adjustments, recommendations, or concerns. Chair Cleveland and Treasurer Coyer said the board Audit Committee reviewed the audit with Mr. Backes on Jun. 20 and recommended the board accept the audit as presented. Directors thanked staff for maintaining tight controls and ensuring a clean audit. Ms. Reiter was recognized for her many years of service as Controller and congratulated on her upcoming retirement. Upon motion duly made and seconded, it was unanimously

RESOLVED that the board accept the FY23 Audited Financial Statement as presented and direct final reports be distributed; and be it

FURTHER RESOLVED that the board authorize the General Manager and Finance Manager to sign the letter of representation addressed to McMahan & Associates.

The audit report will be submitted to the State Auditor pursuant to § 29-1-606(3), C.R.S.

INFORMATION REPORTS

Directors reviewed board committees and the April Authority meeting summary, copies of which are attached hereto as **Exhibits D and E**, respectively, and incorporated herein by this reference.

BOARD MEMBER INPUT

Chair Cleveland called for board member input and there was none.

GENERAL MANAGER REPORT

Ms. Roman presented the report, a copy of which is attached hereto as **Exhibit F** and incorporated herein by this reference. She said the District held its annual employee picnic to celebrate employee contributions and accomplishments. She also discussed the results of recent stay interviews and said the most-cited reason why employees remain at the District is they value the culture and people. She also discussed efforts to raise awareness around issues affecting water affordability, including her participation on a panel with Sen. Roberts and other local leaders at the District's May 29 State of the River event. She is also meeting with representatives from the Colorado Department of Public Health & Environment and the Department of Local Affairs regarding the impacts of implementing regulatory standards on water affordability. Finally, she and

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1 other local leaders recently met with Sen. Hickenlooper, where she thanked him for his support of the federal
2 Bolts Ditch Act and advocated for federal support of the permanent acquisition of the Shoshone water rights
3 by the Western Slope coalition.

4 **Eagle Park Reservoir Company update** – Ms. Roman reported on the June 25 annual shareholders
5 meeting and quarterly board of directors meeting of the Eagle Park Reservoir Company (EPRC). She
6 said the FY25 budget was approved with decreases in repair and maintenance costs due to the
7 completion of the recent Chalk Mountain Ditch Interceptor and East Fork Pump Station improvement
8 projects. She also said these projects have already resulted in significant operational efficiencies. She
9 also discussed the June 10 Molybdenum Rulemaking Hearing before the Colorado Water Quality
10 Control Commission (WQCC), which is particularly relevant to EPRC since the Reservoir is located
11 on Climax Mine (Climax) property. The WQCC considered, but did not approve, a proposal by Climax
12 to relax the water supply standard by increasing it from 210 micrograms per liter (ug/L) to 1,600 ug/L,
13 though ultimately voted to increase the standard to 530 ug/L. EPRC was represented at the Hearing
14 and did not take a position on the updated 530 ug/L standard.

15 BUSINESS ADMINISTRATION REPORT

16 Mr. Norris did not have a written report or items to discuss.

17 **People Operations update** – Mr. Borawski and Ms. Kelkenberg presented a memorandum and a
18 PowerPoint, copies of which are attached hereto as **Exhibits G** and **H**, respectively, and incorporated
19 herein by this reference. They said results of recent employee stay interviews indicate high employee
20 satisfaction, particularly regarding safety, team connection, work culture, and employee benefits.
21 They also said no ethical violations were reported. Next steps include department-specific reports and
22 ongoing review and action items as needed based on employee feedback and organizational needs.

23 OPERATIONS REPORT

24 Mr. Zachman presented the report and a PowerPoint, copies of which are attached hereto as **Exhibits I** and
25 **J**, respectively, and incorporated herein by this reference. He provided updates on ongoing repairs to Vail
26 Well R7. He also reported on recent sewer interceptor investigations. Directors discussed the need to plan for
27 additional interceptor inspections and improvements.

28 ENGINEERING AND WATER RESOURCES REPORT

29 Mr. Cowles presented the report, a copy of which is attached hereto as **Exhibit K** and incorporated herein by
30 this reference.

31 **Bolts Lake Reservoir update** – Mr. Cowles said staff and consultants are developing a project
32 management plan and a comprehensive permitting plan, which includes National Environmental
33 Policy Act (NEPA) requirements. He also said that staff were prepared to resubmit the feasibility
34 study that is a prerequisite to apply for the U.S. Bureau of Reclamation Small Storage Grant Program
35 with an economic analysis requested by the Bureau. Mr. Cowles also provided an update on
36 Congressionally Directed Spending Requests that were submitted to the offices of Sens. Bennet and
37 Hickenlooper and Rep. Neguse, noting that Senator Hickenlooper's office submitted the District's

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1 request to the Senate Interior Subcommittee. He also noted only one of these funding sources can be
2 accepted if awarded.

3 **Water shortage response plan** – Mr. Hildreth and Mr. Weil presented a memorandum and a
4 PowerPoint, copies of which are attached hereto as **Exhibits L** and **M**, respectively, and incorporated
5 herein by this reference. Mr. Hildreth said the 2023 Water Rights Report recommended replacement
6 of the 2012 Drought Response Plan with a Water Shortage Response Plan (WSRP) to provide an
7 updated framework for responding to drought and other emergencies that may cause a water supply
8 shortage in the Eagle River Basin. Mr. Weil presented data related to historical flows and drought
9 occurrences, water supply portfolios, drought vulnerabilities, and water demands. He also discussed
10 monitoring, response, and enforcement strategies proposed in the WSRP. Staff and consultants will
11 continue to finalize the WSRP and present for board approval at a future meeting.

12 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

13 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit N** and incorporated herein
14 by this reference. She said the 2023 Consumer Confidence Report was mailed to all District and Authority
15 water customers prior to the June 30 regulatory deadline. She thanked staff from the Communications and
16 Water departments for their collaborative efforts to produce these highly detailed reports. She also thanked
17 staff from the Communications and Information Technology departments for their work to ensure compliance
18 with state digital accessibility rules taking effect on July 1, 2024. She further recognized staff and directors
19 who attended the June 26 ribbon cutting ceremony of the new segment of the Eagle Valley Trail in Dowd
20 Junction, which the District partnered with ECO Trails to develop as part of the Dowd Junction collection
21 system improvement project. She said the start time for the community open house of the recently upgraded
22 Avon Wastewater Treatment Facility was changed to 10 a.m. on Jul. 24. Finally, she said staff are meeting
23 with landscaping companies to further understanding of the rate structures and use tiers.

24 **WATER COUNSEL REPORT**

25 **Bolts Ditch Act update** – Ms. Moseley presented a memorandum with attachments, a copy of which
26 is attached hereto as **Exhibit O** and incorporated herein by this reference. She provided updates on
27 the federal Bolts Ditch Act and recognized Ms. Roman for submitting written testimony in support of
28 S.2156 for the June 10 hearing before the U.S. Senate Subcommittee on Public Lands, Forests, and
29 Mining of the Committee on Energy and Natural Resources. As hearings have now been held by both
30 the House and Senate, the Bolts Ditch Act is eligible to be included in an upcoming omnibus bill.

31 **GENERAL COUNSEL REPORT**

32 Ms. Winn did not have a written report or items to discuss.

33 **EXECUTIVE SESSION**

34 Ms. Moseley requested the board move into Executive Session to receive legal advice regarding Bolts Lake
35 and Battle North/Minturn Case Nos. 21CW3029 and 21CW3030, pursuant to §24-6-402(4)(b), C.R.S. Upon
36 motion duly made and seconded, it was unanimously

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1 **RESOLVED** to enter into Executive Session at 2:04 p.m. to receive legal advice regarding
2 Bolts Lake and Battle North/Minturn Case Nos. 21CW3029 and 21CW3030, pursuant to §24-
3 6-402(4)(b), C.R.S., with no electronic record created as Ms. Moseley opined the contents of
4 the discussion would contain privileged attorney-client communications.*

5 Mr. Cowles requested the board move into Executive Session to instruct negotiators regarding the Middle
6 Creek housing project, pursuant to §24-6-402(4)(e), C.R.S. Upon motion duly made and seconded, it was
7 unanimously

8 **RESOLVED** to enter into Executive Session at 2:09 p.m. to instruct negotiators regarding the
9 Middle Creek housing project, pursuant to §24-6-402(4)(e), C.R.S., with an electronic record
10 created and retained pursuant to §24-6-402(2)(d.5)(II)(E), C.R.S.

11 Open session resumed at 2:30 p.m. During the executive session, the board did not take any formal action or
12 discuss any matters not enumerated in §24-6-402(4), C.R.S.

13 **ADJOURNMENT**

14 There being no further business to come before the board at this meeting and upon motion duly moved and
15 seconded, it was unanimously

16 **RESOLVED**, that the signing of the minutes of this meeting shall be deemed to constitute full
17 and complete adoption, ratification, and approval of the business conducted and the
18 resolutions passed; and be it

19 **FURTHER RESOLVED**, that the meeting be adjourned at 2:30 p.m.

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40 *The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion in
41 Executive Session not recorded constituted privileged attorney-client communications.
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46 **Kristin Moseley, Water Counsel**