

Eagle River Water & Sanitation District

Board of Directors Meeting

October 24, 2024

MINUTES

A regular meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held October 24, 2024, at 12:00 p.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:

Kate Burchenal
Dick Cleveland
Steve Coyer
Sarah Smith Hymes
Timm Paxson
Rick Pylman
Robert Warner, Jr.

Also in attendance were:

District Staff	25	Michael Lochary
Michael Beardsley	26	David Norris
Tom Borawski	27	Siri Roman
Jim Cannava	28	Jeff Schneider
Jason Cowles	29	Micah Schuette
Tim Friday	30	Shane Swartwout
Chris Geisting	31	Brian Thompson
Joe Gilles	32	Brad Zachman
Madeleine Harris	33	<u>Consultants</u>
Justin Hildreth	34	Kristin Moseley, Somach Simmons & Dunn
Jesse Hooker	35	Kathryn Winn, Collins Cole Winn & Ulmer, PLLC
Robyn Janssen	36	
Diane Johnson	37	<u>Public</u>
Ali Kelkenberg	38	Zoe Goldstein, Vail Daily
John Letourneaux	39	

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 12:00 p.m.

INTRODUCTIONS

Mr. Swartwout introduced a new employee, utility services technician Joe Gilles.

PUBLIC COMMENT

Chair Cleveland called for public comment and there was none.

PUBLIC HEARING CONCERNING FY 2025 RATES & FEES

Chair Cleveland opened the public hearing. Mr. Cannava and Mr. Norris presented a memorandum, updated 2025 budget packet, and Resolution to Adopt the 2025 Rates and Fees with its Exhibit A, copies of which are attached hereto as **Exhibits A, B, and C**, respectively, and incorporated herein by this reference. This public hearing was noticed pursuant to §32-1-1006(1)(h), C.R.S. Mr. Norris referenced discussion from the Sept. 26 board work session and noted updates to Tier 4 and Tier 5 Individually Metered Residential Water Usage

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1 Rates. Chair Cleveland then called for public input; hearing none, he closed the public hearing. Upon motion
2 duly made and seconded, it was unanimously

3 **RESOLVED** to approve and adopt Res. 2024-07, Resolution to Adopt 2025 Rates and Fees, with its
4 Exhibit A, as presented.

5 **PUBLIC HEARING CONCERNING FY 2025 BUDGET**

6 Chair Cleveland opened the public hearing. Mr. Cannava and Mr. Norris presented a memorandum,
7 Resolution to Adopt the 2025 Budget, Certification of the Budget, Resolution to Appropriate Sums of Money,
8 and Resolution to Set Mill Levies, copies of which are attached hereto as **Exhibits D, E, F, G, and H**,
9 respectively, and incorporated herein by this reference. This public hearing was noticed pursuant to §29-1-
10 108(1), C.R.S. Mr. Norris referenced discussion from the Sept. 26 board work session and noted minor
11 revenue updates and expense reallocations in the budget packet. Staff answered questions regarding the
12 structure of the proposed mill levies, revenue methodologies, premium holiday pay, and capital project costs.
13 Chair Cleveland then called for public input; hearing none, he closed the public hearing. Upon motion duly
14 made and seconded, it was unanimously

15 **RESOLVED** to approve and adopt Res. 2024-08, Resolution to Adopt the FY 2025 Budget, as
16 presented; and be it

17 **FURTHER RESOLVED** to approve and adopt Res. 2024-09, Resolution to Appropriate Sums of
18 Money, as presented; and be it

19 **FURTHER RESOLVED** to approve and adopt Res. 2024-10, Resolution to Set Mill Levies, as
20 presented.

21 **ACTION ITEMS**

22 **Consideration of Minutes** – The minutes of the Sept. 26, 2024, regular meeting were considered.
23 Upon motion duly made and seconded, it was unanimously

24 **RESOLVED** that the minutes of the Sept. 26, 2024, regular meeting be accepted and hereby
25 are approved as presented.

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

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

29 **Timber Ridge Water Rights Dedication** – Mr. Schuette presented a memorandum, a copy of which
30 is attached hereto as **Exhibit J** and incorporated herein by this reference. He said the water
31 dedication requirements on the Timber Ridge redevelopment project, which encompasses 302
32 multifamily workforce housing units, were based on a net increase in 203.4 single family equivalents
33 and 200 gallons per day, per multifamily housing unit. He also said the proposed water rights
34 dedication includes a cash-in-lieu payment of \$161,740 to cover the 2.28 acre-feet of water dedication
35 required for the project. Discussion ensued regarding future opportunities to refine water use
36 projections. Upon motion duly made and seconded, it was unanimously

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1 **RESOLVED** to accept a cash in lieu of water rights dedication payment of \$161,740 to cover
2 the 2.28 acre-feet needed to satisfy the water dedication requirement for the Timber Ridge II
3 project.

4 **Updated Fund Balance Policy** –Mr. Cannava presented a memorandum and updated policy, copies
5 of which are attached hereto as **Exhibits K and L**, respectively, and incorporated herein by this
6 reference. He said the only proposed update to the Fund Balance Policy was to increase the cash-on-
7 hand requirement from six months to 500 days in order to improve bond ratings and enhance
8 financial flexibility and security. Upon motion duly made and seconded, it was unanimously

9 **RESOLVED** that the updated Fund Balance Policy be approved as presented.

10 **Updated Employee Home Ownership Program** – Mr. Borowski presented a memorandum and a
11 PowerPoint, copies which are attached hereto as **Exhibits M and N**, respectively, and incorporated
12 herein by this reference. He provided an overview of new guidelines set by Fannie Mae and Freddie
13 Mac disallowing balloon payments, which includes the equity share concept incorporated into the
14 District’s Employee Home Ownership Program (EHOP). He said the proposed EHOP updates would
15 include smaller, regular loan payments at a reduced interest rate to ensure compliance with these
16 guidelines and improve employee accessibility. The board supported the updates as outlined in
17 Exhibit M, including eliminating the District’s right of first refusal, refunding all paid interest if the loan
18 is fully repaid within five years, and requiring a 10% down payment. Upon motion duly made and
19 seconded, it was unanimously

20 **RESOLVED** that the updated Employee Home Ownership Program be approved as
21 presented.

22 **WORK SESSION**

23 **Board Compliance Training** – Mr. Thompson presented a memorandum and PowerPoint, copies of
24 which are attached hereto as **Exhibits O and P**, respectively, and incorporated herein by this
25 reference. He said today’s board member fundamentals presentation was the final one of the 2024
26 board compliance training. Ms. Winn facilitated the training, highlighting legal principles and best
27 practices related to open meetings, executive sessions, and open records. She noted that certain
28 communication between three or more board members may constitute a public meeting that must be
29 noticed, any emails or texts related to board business may be a public record, and executive sessions
30 require proper notice and two-thirds vote of the board. She also discussed board member decorum
31 and the board’s collective role in decision making and providing direction to the General Manager.

32 **INFORMATION REPORTS**

33 Directors reviewed board committees and the August Authority meeting summary, copies of which are
34 attached hereto as **Exhibits Q and R**, respectively, and incorporated herein by this reference.

35 **BOARD MEMBER INPUT**

36 Director Smith Hymes thanked staff for leading the Sept. 30 joint board water resources tour and expressed
37 interest in touring water and wastewater infrastructure. In response, Ms. Roman said additional board tours

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1 will be regularly scheduled. Chair Cleveland asked if directors were interested in including a ballot question at
2 an upcoming District election to increase board term limits. Discussion ensued regarding other potential ballot
3 questions. The board tabled discussion to the Dec. 5 board meeting.

4 **GENERAL MANAGER REPORT**

5 Ms. Roman presented the report, a copy of which is attached hereto as **Exhibit S** and incorporated herein by
6 this reference. She said, pursuant to board direction, letters were sent to Sens. Bennet and Hickenlooper
7 urging support for the Wastewater Infrastructure Pollution Prevention and Environmental Safety (WIPPES)
8 Act and thanking them for efforts to make progress on the federal Bolts Ditch Act, a similar letter was sent to
9 Rep. Neguse thanking him for voting in favor of the WIPPES Act in the U.S. House. She also said the Senate
10 Energy and Natural Resources Committee rescheduled its hearing on the Bolts Ditch Act to Nov. 19. Ms.
11 Moseley said she is hopeful that the Bolts Ditch Act will be included in an omnibus bill in the 118th Congress.

12 **Regulation #31: Basic Standards & Methodologies for Surface Water** – Ms. Roman presented
13 the Eagle River Parties Regulation 31 Issues Scoping Hearing cover letter and attached comments, a
14 copy of which is attached hereto as **Exhibit T** and incorporated herein by this reference. She said this
15 letter was necessary to identify issues that may be raised during the Regulation 31 Rulemaking
16 Hearing in June 2026, and she thanked town managers and the county manager for supporting the
17 comments submitted to the Colorado Water Quality Control Commission. She reiterated concerns
18 related to the Water Quality Control Division setting the most stringent temperature limits possible in
19 Town of Eagle’s recent discharge permit. Directors commended staff for clearly presenting
20 community-wide risks associated with overly stringent stream temperature standards and advocating
21 for reasonable, collaborative tactics to protect the Eagle River.

22 **Organizational Values** – Ms. Kelkenberg and Mr. Lochary presented a PowerPoint, a copy of which
23 is attached hereto as **Exhibit U** and incorporated herein by this reference. Ms. Kelkenberg discussed
24 the importance of organizational values in guiding employee culture and fulfillment of the District’s
25 mission. She also said the current values, which were established more than ten years ago, have
26 become unwieldy and outdated. Mr. Lochary discussed the values reboot process, highlighting the
27 extensive input provided by staff and the board organizational development committee. The following
28 updated values were proposed: Serving Community, Environmental Stewardship, Ongoing
29 Excellence, and Safety & Wellbeing. Ms. Kelkenberg said if supported by the board, next steps would
30 include integrating these values into daily operations, employee training, and decision-making
31 processes. Chair Cleveland and Secretary Warner summarized committee discussion and thanked
32 staff for their thoughtful work. Upon further discussion, directors unanimously supported the updated
33 values as presented.

34 **BUSINESS ADMINISTRATION REPORT**

35 Mr. Norris presented the quarterly financial report, a copy of which is attached hereto as **Exhibit V** and
36 incorporated herein by this reference. In response to a question, he said the number of new single-family

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1 equivalent (SFEs) connecting to the system is greater than the amount incorporated in the budget, which
2 resulted in wastewater service revenues exceeding budgeted projections.

3 OPERATIONS REPORT

4 Mr. Zachman presented the report, a copy of which is attached hereto as **Exhibit W** and incorporated herein
5 by this reference. He had no further items to discuss.

6 **Wastewater Master Plan** – Ms. Roman reminded the board of significant investments needed to
7 District wastewater facilities to comply with new regulations and to address aging infrastructure and
8 capacity issues. Mr. Geisting and Ms. Harris then presented a memorandum and PowerPoint, copies
9 of which are attached hereto as **Exhibits X** and **Y**, respectively, and incorporated herein by this
10 reference. Ms. Harris said wastewater treatment facility upgrades are required to meet stricter limits
11 on total phosphorous and nitrogen set by the Water Quality Control Commission through Regulation
12 #85 (Reg. 85). She also said the nutrient upgrades project (NUP) at Avon Wastewater Treatment
13 Facility was successful in meeting the Reg. 85 compliance deadline in 2023, and similar upgrades
14 must occur at the regional facility in Edwards by 2029 and at the Vail facility by 2034. She also
15 discussed the interconnectedness of the three facilities, highlighting Edwards as the lone facility that
16 treats solids for all of Vail, Minturn, Avon, and Edwards. Mr. Geisting discussed the primary objectives
17 of the recently completed Wastewater Master Plan, which include assessing existing facility and
18 equipment conditions, developing strategies to ensure current and future regulatory compliance, and
19 preparing capital improvement plans. Ms. Harris also discussed the upcoming NUP at the Edwards
20 regional facility, estimated to cost \$96m, and she reviewed conceptual-level site plans that could
21 accommodate cooling infrastructure if the District becomes subject to temperature limits. Mr. Geisting
22 also discussed the planned Vail NUP and the possibility of nutrient trading.

23 ENGINEERING AND WATER RESOURCES REPORT

24 Mr. Cowles presented the report and a memorandum, copies of which are attached hereto as **Exhibits Z** and
25 **AA**, respectively, and incorporated herein by this reference. He provided an update on the Bolts Lake project,
26 noting the recent hire of AECOM to finalize design elements for permitting, completion of cultural, biological,
27 and environmental surveys, and progress on reaching the critical milestone of 30% design completion. He
28 also said the project team is prioritizing updating demand projections and modeling to finalize the purpose
29 and need document by mid-December.

30 COMMUNICATIONS AND PUBLIC AFFAIRS REPORT

31 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit BB** and incorporated herein
32 by this reference. She highlighted ongoing efforts by staff to meet state digital accessibility rules that went into
33 effect Jul. 1, 2024, with similar federal rules taking effect in 2027. She said staff have tracked over 200 hours
34 of digital accessibility work in 2024, and additional investments in technology may be required for sustainable
35 long-term compliance. She also discussed customer outreach campaigns regarding the shift to meter-based
36 billing on commercial, mixed-use, and multifamily accounts, as well as communication strategies for all
37 customers to understand 2025 rate increases.

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1 **2025 Regular Board Meeting Schedule** – Ms. Johnson presented a memorandum, a copy of which
2 is attached hereto as **Exhibit CC** and incorporated herein by this reference. The board supported the
3 proposed 2025 regular board meeting schedule as presented, which follows a similar cadence as
4 2024 with ten regular board meetings. This schedule will be included in the annual notice resolution
5 which the board will consider at the first board meeting of 2025, pursuant to §24-6-402(2)(c), C.R.S.

6 **WATER COUNSEL REPORT**

7 Ms. Moseley provided a brief update on ongoing federal litigation regarding Denver Water's expansion of
8 Gross Reservoir. She said the U.S. Army Corps of Engineers recently ruled Denver Water violated the Clean
9 Water Act and National Environmental Policy Act when it issued a permit for the project without adequately
10 considering less environmentally damaging alternatives, which will likely result in operational delays and
11 increased pressure to negotiate with environmental groups. She also said Laura Makar, a 9th Judicial District
12 Court judge with extensive water court experience, was appointed as the new judge in the Bolts Lake water
13 court case.

14 **GENERAL COUNSEL REPORT**

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

16 **EXECUTIVE SESSION**

17 Mr. Cowles requested the board move into Executive Session for the purpose of determining positions
18 relative to matters that may be subject to negotiation, developing strategy for negotiations, and instructing
19 negotiators regarding Battle North, pursuant to §24-6-402(4)(e), C.R.S. Upon motion duly made and
20 seconded, it was unanimously

21 **RESOLVED** to enter into Executive Session at 3:07 p.m. for the purpose of determining
22 positions relative to matters that may be subject to negotiation, developing strategy for
23 negotiations, and instructing negotiators regarding Battle North, pursuant to §24-6-402(4)(e),
24 C.R.S., with an electronic record created and retained pursuant to §24-6-402(2)(d.5)(II)(E),
25 C.R.S.

26 Open session resumed at 3:33 p.m. During the executive session, the board did not take any formal action or
27 discuss any matters not enumerated in §24-6-402(4), C.R.S.

28 **ADJOURNMENT**

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

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

34 **FURTHER RESOLVED**, that the meeting be adjourned at 3:34 p.m.