

Upper Eagle Regional Water Authority
Board of Directors Meeting
October 24, 2024
MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held October 24, 2024, at 8:30 a.m., in the Walter Kirch Room of the Eagle River Water & Sanitation District
3 (District), 846 Forest Road, Vail, Eagle County, Colorado, in accordance with the applicable statutes of the
4 state of Colorado.

5 **ATTENDANCE**

6 **The following Directors were present and acting:**

7 Geoff Dreyer, Arrowhead Metropolitan District
8 George Gregory, Berry Creek Metropolitan District
9 Kevin Hillgren, Beaver Creek Metropolitan District
10 Joanna Kerwin, Edwards Metropolitan District
11 Tamra Underwood, Town of Avon (began acting at 9:26 a.m.)
12 Kim Bell Williams, EagleVail Metropolitan District

13 **Also in attendance were:**

14 <u>District Staff</u>	25 Jeffrey Schneider
15 Jim Cannava	26 Brian Thompson
16 Jason Cowles	27 Brad Zachman
17 Tim Friday	28 <u>Consultants</u>
18 Chris Geisting	29 Kristin Moseley, Somach Simmons & Dunn
19 Madeleine Harris	30 Kathryn Winn, Collins Cole Winn & Ulmer, PLLC
20 Justin Hildreth	31 <u>Public</u>
21 Diane Johnson	32 Laura Bohannon, Eagle County Conservation District
22 David Norris	33 Eric Heil, Town of Avon
23 Chuck Owen	34 Mike Towler, Beaver Creek Metropolitan District
24 Siri Roman	35

36 **DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST**

37 The board noted it had received more than 72 hours prior to the meeting certain disclosures of potential conflicts of interest for the following
38 Directors indicating the following conflicts: Director Gregory disclosed that he occasionally undertakes minor development and construction
39 activities within the Authority's service area. Director Bell Williams disclosed that she is the Housing Director for Eagle County and works
40 with the Eagle County Housing and Development Authority Advisory Committee. Director Kerwin disclosed that she is a board member of
41 Mountain Recreation Metropolitan District, Mountain Recreation Foundation, Homestead Court Club Homeowners Association, Homestead
42 Owners Association, and Homestead Valley Association. Director Underwood disclosed that she was elected on Nov. 8, 2022, to a four-
43 year term on the Town Council of the Town of Avon, a member entity of the Authority.

44 **CALL TO ORDER**

45 Pursuant to §8(e) of the Authority Bylaws, Director Kerwin was appointed as the Acting Chair of this meeting
46 at the request of Chair Gregory, who was attending remotely and requested that Director Kerwin preside over
47 the meeting in person. Having determined there was a quorum, Acting Chair Kerwin called the meeting to
48 order at 8:30 a.m.

49 **PUBLIC COMMENT**

50 Acting Chair Kerwin called for public comment and there was none.

51 **PUBLIC HEARING CONCERNING FY 2025 RATES & FEES**

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

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1 Water Usage Rates. Acting Chair Kerwin then called for public input; hearing none, she closed the public
2 hearing. Upon motion duly made and seconded, it was unanimously

3 **RESOLVED** to approve and adopt Res. 2024-05, Resolution to Adopt 2025 Rates and Fees, with its
4 Exhibit A, as presented.

5 The Board noted that Alternate Director Heil voted on behalf of the Town of Avon due to the temporary
6 absence of Director Underwood.

7 **PUBLIC HEARING CONCERNING FY 2025 BUDGET**

8 Acting Chair Kerwin opened the public hearing. Mr. Cannava and Mr. Norris presented a memorandum,
9 Resolution to Adopt the 2025 Budget, Certification of the Budget, and Resolution to Appropriate Sums of
10 Money, copies of which are attached hereto as **Exhibits D, E, F, and G**, respectively, and incorporated herein
11 by this reference. This public hearing was noticed pursuant to §29-1-108(1), C.R.S. Mr. Norris referenced
12 discussion from the Sept. 26 board work session and noted minor revenue updates in the budget packet.
13 Acting Chair Kerwin then called for public input; hearing none, she closed the public hearing. Upon motion
14 duly made and seconded, it was unanimously

15 **RESOLVED** to approve and adopt Res. 2024-06, Resolution to Adopt the FY 2025 Budget, as
16 presented; and be it

17 **FURTHER RESOLVED** to approve and adopt Res. 2024-07, Resolution to Appropriate Sums of
18 Money, as presented.

19 The Board noted that Alternate Director Heil was acting and voted on the above item due to the temporary
20 absence of Director Underwood.

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 The Board noted that Alternate Director Heil was acting and voted on the above item due to the
27 temporary absence of Director Underwood.

28 **Request from Eagle County Conservation District (ECCD) to consider resolution supporting**
29 **ballot measure** – Acting Chair Kerwin referenced the memorandums by Mr. Thompson and Ms.
30 Bohannon and the proposed resolution submitted by ECCD, copies of which are attached hereto as
31 **Exhibits H, I, and J**, respectively, and incorporated herein by this reference. She said this topic was
32 presented at the Sept. 26 board meeting and tabled to today's meeting. Directors continued to review
33 ECCD's request to support the question on the current ballot, which would create a mill levy for all
34 properties within the ECCD. Director Hillgren expressed concerns regarding the financial burden on
35 Authority customers, the absence of a sunset clause or other provisions to protect against unchecked
36 increases, and his suggestion that grants are a more appropriate form of funding. In response, Ms.

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1 Bohannon, ECCD Executive Director, said this small mill levy is necessary to ensure sustainable
2 funding due to the instability of relying solely on grants. Alternate Director Heil said Avon Town
3 Council voted to support the ballot measure in alignment with community conservation goals. Upon
4 further discussion and motion duly made and seconded, it was

5 **RESOLVED** to approve and adopt Res. 2024-08, Supporting the Eagle County Conservation
6 District Ballot Measure, by a vote of 4-2, with Directors Gregory, Kerwin, Bell Williams and
7 Alternate Director Heil in favor and Directors Dreyer and Hillgren opposed.

8 The Board noted that Alternate Director Heil was acting and voted on the above item due to the
9 temporary absence of Director Underwood.

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

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

16 The Board noted that Alternate Director Heil was acting and voted on the above item due to the
17 temporary absence of Director Underwood.

18 **WORK SESSIONS**

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

28 **INFORMATION REPORTS**

29 Directors reviewed board committees, the draft September meeting summary, and contract log, copies of
30 which are attached hereto as **Exhibits O, P, and Q**, respectively, and incorporated herein by this reference.

31 **BOARD MEMBER INPUT**

32 Acting Chair Kerwin commended District staff for their responses to Holy Cross Energy's planned power
33 outage on Oct. 10, which was ultimately cancelled prior to the outage. Mr. Zachman said preparedness for a
34 major power outage is a critical priority and this experience provided valuable assessment opportunities.

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GENERAL MANAGER REPORT

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

Regulation #31: Basic Standards & Methodologies for Surface Water – Ms. Roman presented the Eagle River Parties Regulation 31 Issues Scoping Hearing cover letter and attached comments, a copy of which is attached hereto as **Exhibit S** and incorporated herein by this reference. She said this letter was necessary to identify issues that may be raised during the Regulation 31 Rulemaking Hearing in June 2026, and she thanked town managers and the county manager for supporting the comments submitted to the Colorado Water Quality Control Commission. She reiterated concerns related to the Water Quality Control Division setting the most stringent temperature limits possible in Town of Eagle’s recent discharge permit. Directors commended staff for clearly presenting community-wide risks associated with overly stringent stream temperature standards and advocating for reasonable, collaborative tactics to protect the Eagle River.

BUSINESS ADMINISTRATION REPORT

Mr. Norris presented the quarterly financial report, a copy of which is attached hereto as **Exhibit T** and incorporated herein by this reference. He had no further items to discuss.

OPERATIONS REPORT

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

Wastewater Master Plan – Ms. Roman reminded the board of significant investments needed to District wastewater facilities to comply with new regulations and to address aging infrastructure and capacity issues. Mr. Geisting and Ms. Harris then presented a memorandum and PowerPoint, copies of which are attached hereto as **Exhibits V** and **W**, respectively, and incorporated herein by this reference. Ms. Harris said wastewater treatment facility upgrades are required to meet stricter limits on total phosphorous and nitrogen set by the Water Quality Control Commission through Regulation #85 (Reg. 85). She also said the nutrient upgrades project (NUP) at Avon Wastewater Treatment Facility was successful in meeting the Reg. 85 compliance deadline in 2023, and similar upgrades must occur at the regional facility in Edwards by 2029 and at the Vail facility by 2034. She also discussed the interconnectedness of the three facilities, highlighting Edwards as the lone facility that treats solids for all of Vail, Minturn, Avon, and Edwards. Mr. Geisting discussed the primary objectives of the recently completed Wastewater Master Plan, which include assessing existing facility and

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1 equipment conditions, developing strategies to ensure current and future regulatory compliance, and
2 preparing capital improvement plans. Ms. Harris also discussed the upcoming NUP at the Edwards
3 regional facility, estimated to cost \$96m, and she reviewed conceptual-level site plans that could
4 accommodate cooling infrastructure if the District becomes subject to temperature limits. Mr. Geisting
5 also discussed the planned Vail NUP and the possibility of nutrient trading. Further discussion ensued
6 regarding potential funding strategies.

7 **ENGINEERING AND WATER RESOURCES REPORT**

8 Mr. Cowles presented the report and a memorandum, copies of which are attached hereto as **Exhibits X** and
9 **Y**, respectively, and incorporated herein by this reference. He provided an update on the Bolts Lake project,
10 noting the recent hire of AECOM to finalize design elements for permitting, completion of cultural, biological,
11 and environmental surveys, and progress on reaching the critical milestone of 30% design completion. He
12 also said the project team is prioritizing updating demand projections and modeling to finalize the purpose
13 and need document by mid-December. Director Hillgren reiterated concerns regarding the pace of the project
14 timeline.

15 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

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

23 **2025 Regular Board Meeting Schedule** – Ms. Johnson presented a memorandum, a copy of which
24 is attached hereto as **Exhibit AA** and incorporated herein by this reference. The board supported the
25 proposed 2025 regular board meeting schedule as presented, which follows a similar cadence as
26 2024 with ten regular board meetings. This schedule will be included in the annual notice resolution
27 that the board will consider at the first board meeting of 2025, pursuant to §24-6-402(2)(c), C.R.S.

28 **WATER COUNSEL REPORT**

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

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1 **GENERAL COUNSEL REPORT**

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

3 **ADJOURNMENT**

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

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

9 **FURTHER RESOLVED**, that the meeting be adjourned at 10:32 a.m.

10 Respectfully submitted,

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15 Secretary to the Meeting

16 **MINUTES APPROVED, FORMAL CALL, AND**
17 **NOTICE OF MEETING WAIVED**

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20 **Arrowhead Metropolitan District**

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23 **Town of Avon**

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26 **Beaver Creek Metropolitan District**

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29 **Berry Creek Metropolitan District**

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32 **EagleVail Metropolitan District**

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35 **Edwards Metropolitan District**

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