

Upper Eagle Regional Water Authority

Board of Directors Meeting

June 22, 2023

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held June 22, 2023, 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.

ATTENDANCE

The following Directors were present and acting:

8 Geoff Dreyer, Arrowhead Metropolitan District
9 George Gregory, Berry Creek Metropolitan District
10 Kevin Hillgren, Beaver Creek Metropolitan District
11 Mike Trueblood, Edwards Metropolitan District
12 Tamra Underwood, Town of Avon
13 Kim Bell Williams, EagleVail Metropolitan District

Also in attendance were:

15 <u>District Staff</u>	27 Brian Thompson
16 Jim Cannava	28 Brad Zachman
17 Jason Cowles	29
18 Alison Ebbets	30 <u>Consultants</u>
19 Tim Friday	31 Paul Backes, McMahan & Associates
20 Jesse Hooker	32 Kristin Moseley, Somach Simmons & Dunn
21 Diane Johnson	33 Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
22 David Norris	34
23 Chuck Owen	35 <u>Public</u>
24 Siri Roman	36 Eric Heil, Town of Avon Alternate
25 Jeff Schneider	37 Joanna Kerwin, Edwards Metropolitan District Alternate
26 Micah Schuette	38 Mike Towler, Beaver Creek Metropolitan District Alternate

DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

41 The board noted it had received more than 72 hours prior to the meeting certain disclosures of potential conflicts of interest for the
42 following Directors indicating the following conflicts: Director Gregory disclosed that he occasionally undertakes minor development and
43 construction activities within the Authority's service area. Director Bell Williams disclosed that she is the Housing Director for Eagle
44 County and works with the Eagle County Housing and Development Authority Advisory Committee.

CALL TO ORDER

47 Having determined that quorum was established, Chair Gregory called the meeting to order at 8:31 a.m.

INTRODUCTIONS

49 Chair Gregory welcomed presenting consultants and members of the public.

OATH OF OFFICE

51 The board noted Edwards Metropolitan District's appointment of Joanna Kerwin as an alternate director. Mr.
52 Thompson administered the Oath of Office prior to this meeting and filed it pursuant to §24-12-101, C.R.S.

PUBLIC COMMENT

54 Chair Gregory called for public comment and there was none.

ACTION ITEMS

56 **Consideration of FY 2022 Audited Financial Statement** – Mr. Cannava presented a memorandum,
57 a copy of which is attached as **Exhibit A** and incorporated herein by this reference. Mr. Backes then
58 presented the Governing Board Letter and the Audited Financial Statement ("Audit"), copies of which

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1 are attached hereto as **Exhibits B and C**, respectively, and incorporated herein by this reference.
2 Pursuant to §29-1-606, C.R.S., the Audit was submitted to the board prior to the June 30 deadline
3 and, upon approval by the board, will be submitted to the State Auditor prior to the July 31 deadline.
4 Mr. Backes summarized the Audit and said the Authority received an unmodified opinion with no
5 recommendations or concerns. Chair Gregory said the board Audit Committee reviewed the Audit
6 and recommended approval. Upon motion duly made and seconded, it was unanimously

7 **RESOLVED** that the board accept the FY 22 Audited Financial Statement as presented and
8 direct final reports be distributed; and be it

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

11 Directors commended Mr. Cannava, Louise Reiter, and other staff for their extensive contributions to
12 the clean audit.

13 **Consideration of Minutes** – The minutes of the May 25, 2023, regular meeting were considered.

14 Upon motion duly made and seconded, it was unanimously

15 **RESOLVED** that the minutes of the May 25, 2023, regular meeting be accepted and hereby
16 are approved as presented.

17 **INFORMATION REPORTS**

18 Directors reviewed the development report, board committees, May meeting summary, and contract log,
19 copies of which are attached hereto as **Exhibits D, E, F, and G**, respectively, and incorporated herein by this
20 reference.

21 **BOARD MEMBER INPUT**

22 Chair Gregory said he attended the District's annual employee picnic; he recognized staff for their service and
23 accomplishments over the past year. Director Trueblood expressed interest in learning more about financial
24 schedules in the Notes to the Financial Statements and other audit details; Ms. Roman said it would be
25 incorporated into the September budget work session. Director Underwood thanked the Authority for inviting
26 her to attend Water Education Colorado's water fluency course. She recently learned about Wildfire Ready
27 Action Plans and expressed interest in learning about local efforts. Director Hillgren discussed Bolts Lake and
28 requested the boards reassess project timetables. Directors agreed to hold a joint work session with the
29 District board on Aug. 24, pending District board consideration later today. Ms. Roman also proposed a joint
30 field visit to the Bolts Ditch intake and will coordinate with Authority and District directors to schedule.

31 **GENERAL MANAGER REPORT**

32 Ms. Roman provided updates on community presentations and work sessions. She also reported on the Jun.
33 20 Eagle Park Reservoir Company annual shareholder and quarterly board of director meetings. Highlights
34 included approval of the FY 2024 budget that increased operating assessments to account for added capital
35 expenses, plus updated water quality monitoring at the Reservoir and nearby Climax Mine water sources.
36

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1 BUSINESS ADMINISTRATION REPORT

2 **Water conservation program** – Ms. Ebbets presented a PowerPoint, a copy of which is attached
3 hereto as **Exhibit H** and incorporated herein by this reference. She said the board joint Water
4 Conservation Committee and District Water Quality Committee recommend amending the landscape
5 transformation program to exclude rebates for irrigated turf removal using herbicides on land located
6 within 75 feet of the Eagle River and 25 feet of Gore Creek and all tributaries. This change would not
7 apply to noxious weed management and would require that signs be posted if herbicides are used in
8 public areas. In response to a question, Ms. Winn said preemption laws do not apply to rebate
9 program stipulations. Directors unanimously supported implementing the committee
10 recommendations as presented. Alternate Director Kerwin thanked directors for taking this action and
11 for quickly responding to her May 25 public comment.

12 OPERATIONS REPORT

13 Mr. Zachman presented the report, a copy of which is attached hereto as **Exhibit I** and incorporated herein by
14 this reference.

15 **Consumer Confidence Report** – Mr. Zachman presented the annual Consumer Confidence Report,
16 a copy of which is attached hereto as **Exhibit J** and incorporated herein by this reference. The
17 regulatory report covers calendar year 2022 for both the Authority and District public water systems.
18 Working with state regulators, the two reports were combined for the first time as the Authority and
19 District were working to merge the two systems into one for regulatory purposes to align with
20 operating as consecutive systems. Mr. Zachman said the merge was approved in April so it is
21 unknown whether the 2023 CCR will be another combined report or simply one report reflecting the
22 new merged system. Directors thanked staff for also publishing the report in Spanish and
23 commended the high quality of the report's information and aesthetics.

24 ENGINEERING AND WATER RESOURCES REPORT

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

27 **Work Session: Development Report** – Mr. Cowles and Mr. Schuette presented a PowerPoint, a
28 copy of which is attached hereto as **Exhibit L** and incorporated herein by this reference. The topics of
29 the work session were development report methodologies and the processes for development
30 approval, water rights dedication, and infrastructure approval.

31 COMMUNICATIONS AND PUBLIC AFFAIRS REPORT

32 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit M** and incorporated herein
33 by this reference. She reported on community engagement, including the annual State of the River program
34 and the Vail Farmers' Market. She also provided updates on Colorado River Basin issues. Specifically, she
35 said the U.S. Department of the Interior is pausing review of the Supplemental Environmental Impact

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1 Statement to analyze the proposal by the lower basin states to modify operations through 2026, while also
2 initiating the formal process to develop post-2026 operating guidelines.

3 WATER COUNSEL REPORT

4 Ms. Moseley presented a memorandum, a copy of which is attached hereto as **Exhibit N** and incorporated
5 herein by this reference. She said the Colorado Supreme Court opinion in *State v. Hill* was procedural and did
6 not determine legal policy on public stream access.

7 GENERAL COUNSEL REPORT

8 The board noted Ms. Winn's privileged written report. She did not have any items for open session.

9 EXECUTIVE SESSION

10 Ms. Moseley requested the board move into Executive Session to receive legal advice of counsel related to
11 the Homestake/Independence Pass Exchange. Upon motion duly made and seconded, it was unanimously

12 **RESOLVED** to enter into Executive Session at 10:45 a.m. to discuss matters related to the
13 Homestake/Independence Pass Exchange pursuant to §24-6-402(4)(b), C.R.S., with no
14 electronic record created as Ms. Moseley opined the contents of the discussion would contain
15 privileged attorney-client communications.*

16 Ms. Moseley requested the board move into Executive Session to receive legal advice of counsel related to
17 water court case updates. Upon motion duly made and seconded, it was unanimously

18 **RESOLVED** to enter into Executive Session at 10:54 a.m. to discuss matters related to water
19 court case updates pursuant to §24-6-402(4)(b), C.R.S., with no electronic record created as
20 Ms. Moseley opined the contents of the discussion would contain privileged attorney-client
21 communications.*

22 The open session resumed at 11:07 a.m. During the executive session, the board did not take any formal
23 action or discuss any matters not enumerated in §24-6-402(4), C.R.S.

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1 **ADJOURNMENT**

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

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

7 **FURTHER RESOLVED**, that the meeting be adjourned at 11:08 a.m.

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9 Respectfully submitted,

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12 _____
13 Secretary to the Meeting

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

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21 **Arrowhead Metropolitan District**

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25 **Town of Avon**

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29 **Beaver Creek Metropolitan District**

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33 **Berry Creek Metropolitan District**

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37 **EagleVail Metropolitan District**

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41 **Edwards Metropolitan District**

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43 *The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion in
44 Executive Session not recorded constituted privileged attorney-client communications.

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48 _____
49 **Kristin Moseley, Water Counsel**