

Upper Eagle Regional Water Authority

Board of Directors Meeting

August 24, 2023

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held August 24, 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>	28	
16	Jason Cowles	29	
17	Alison Ebbets	30	
18	Tim Friday	31	<u>Consultants</u>
19	Jesse Hooker	32	Kristin Moseley, Somach Simmons & Dunn
20	Robyn Janssen	33	Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
21	Diane Johnson	34	
22	David Norris	35	<u>Public</u>
23	Chuck Owen	36	James Dilzell, Eagle River Watershed Council
24	Siri Roman	37	Eric Heil, Town of Avon Alternate
25	Micah Schuette	38	Joanna Kerwin, Edwards Metropolitan District Alternate
26	Brian Thompson	39	Mike Towler, Beaver Creek Metropolitan District Alternate
27	Brad Zachman		

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. Director Dreyer disclosed that he is a
45 board member and secretary of Bachelor Springs Homeowners' Association.
46

CALL TO ORDER

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48 Having determined that quorum was established, Chair Gregory called the meeting to order at 8:30 a.m.

INTRODUCTIONS

49 Chair Gregory welcomed members of the public, including Eagle River Watershed Council executive director
50 James Dilzell, who presented later in the meeting.

PUBLIC COMMENT

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

ACTION ITEMS

52 **Consideration of Minutes** – The minutes of the Jul. 27, 2023, regular meeting were considered.

53 Upon motion duly made and seconded, it was unanimously

54 **RESOLVED** that the minutes of the Jul. 27, 2023, regular meeting be accepted and hereby
55 are approved as amended.

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INFORMATION REPORTS

Directors reviewed the development report, board committees, July meeting summary, and contract log, copies of which are attached hereto as **Exhibits A, B, C, and D**, respectively, and incorporated herein by this reference. Regarding the development report, Director Underwood raised concerns regarding the strictures directing project evaluation and expiration. Regarding board committees, Ms. Roman said assigning a backup member to each committee will help staff schedule meetings when a primary member is unavailable. In response to a question, Ms. Winn said alternate directors have historically functioned as substitutes at board meetings, and the board has not discussed whether alternate directors can serve on committees. Directors supported continuing the practice of comprising board committees, including backup committee members, of the primary directors appointed by Authority member entities due to their continuous involvement in board matters. Discussion ensued regarding backup committee member assignments. Upon motion duly made and seconded, it was unanimously

RESOLVED that the board committees, as provided in Exhibit B, be amended to assign the following alternate committee members to serve in the absence of a primary committee member: Chair Gregory to Rules and Regulations; Director Hillgren to Water Conservation; and Director Trueblood to Audit and Budget.

BOARD MEMBER INPUT

Chair Gregory said a bench will be installed behind the Edwards Drinking Water Facility in memory of Shelley Simmons, the late wife of former Authority director and former District board chair Bill Simmons, as Shelley walked on the path behind the facility daily. Chair Gregory said the Authority board's request for a meeting with the District board regarding potentially leasing 100 acre-feet of water until Bolts Lake is operational was presented to the District board, and this topic is on the agenda for the District board meeting later today. The ad-hoc meeting between two representatives from the Authority and District board, which had been concurrently agreed upon and scheduled, was postponed until the District board responds. Discussion ensued regarding the Authority's option agreement with the District and potential implications for pursuing leased water. Ms. Moseley recommended this discussion be continued in executive session. Director Underwood asked when the FY 2024 budget will be made available to the public, to which Mr. Norris said the proposed budget will be included in the public packet that will be available on the District's website twenty-four hours in advance of the Sept. 28 board meeting. Ms. Roman said the board will review the proposed budget earlier than in previous years and before the Oct. 15 statutory deadline in order to provide board members and the public additional time to review.

EAGLE RIVER WATERSHED COUNCIL (ERWC) FUNDING REQUEST FOR FY 2024

Mr. Dilzell presented a letter to the chairs of the Authority and District boards and a PowerPoint, copies of which are attached hereto as **Exhibits E and F**, respectively, and incorporated herein by this reference. He thanked the Authority board for its long-standing support and provided an overview of ERWC programs. Specifically, he said the Water Quality Monitoring & Assessment Program (WQMAP) provides additive data to

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1 sampling conducted by the Authority and District from a broader section of the Eagle River watershed. For FY
2 2024, ERWC is requesting the Authority board consider the same funding levels as FY 2023: \$25,000
3 towards WQMAP and \$25,000 towards ERWC's general administration. Following Mr. Dilzell's presentation,
4 Ms. Roman said this funding request will be considered during the development of the FY 2024 budget.

5 **GENERAL MANAGER REPORT**

6 Ms. Roman said she and Ms. Johnson were invited to meet with Rep. Neguse on Aug. 6 when he visited East
7 Vail to discuss wildfire, forest remediation, and the impacts of wildfires on water supply. She then reported on
8 attending the Colorado Water Congress (CWC) summer conference and recognized Governor Polis and
9 Colorado's congressional delegation for discussing collaborative approaches to water issues. Also at CWC,
10 the District was invited to appoint a representative to serve on the state's Urban Landscape Water
11 Conservation Task Force; Becky Mitchell, Colorado's Commissioner to the Upper Colorado River
12 Commission, expressed interest in presenting about Colorado River issues; and staff from Sen. Bennet's
13 office expressed interest in touring Bolts Ditch to learn more about the Bolts Lake project and relevant
14 legislation. Ms. Roman also said she will facilitate a forum on water issues at the 2023 Special District
15 Association Annual Conference in September; District board chair Dick Cleveland and Mr. Norris will present
16 at a session highlighting the District as a case study for successful workforce housing programs.

17 **BUSINESS ADMINISTRATION REPORT**

18 Mr. Norris did not have a written report or verbal updates other than the irrigation-only rate restructure
19 analysis below.

20 **Irrigation-only rate restructure analysis** – Mr. Norris presented a memorandum and a PowerPoint,
21 copies of which are attached hereto as **Exhibits G** and **H**, respectively, and incorporated herein by
22 this reference. He also presented a functional spreadsheet constituting work product as defined by
23 § 24-72-202(6.5)(a), C.R.S. He noted that the proposed restructure was reviewed and supported by
24 the joint board Water Conservation committee. Director Trueblood and Alternate Director Heil said
25 they support the direction of the restructuring and thanked Mr. Norris for reviewing the analysis with
26 them prior to this meeting.

27 Mr. Norris then referred to the board's direction from the Jan. 26 meeting to evaluate current
28 rate structures to address inequities and make progress towards the Authority's water conservation
29 goals. He also referred to the board's discussion at the Jul. 27 meeting affirming the strategy to
30 modify rate methodologies on two of the six account types in 2023 – *Individually Metered Residential*
31 and *Irrigation-Only* – and to analyze the remaining account types in 2024 (*Commercial, Multi-Family,*
32 *Municipal, and Mixed Use*). Upon reminding the board of its support of the restructure on *Individually*
33 *Metered Residential* accounts, Mr. Norris said he was seeking similar direction regarding *Irrigation-*
34 *Only* accounts as developing the FY 2024 budget is predicated on rate methodologies.

35 In presenting the proposed restructure, Mr. Norris said there are 383 *Irrigation-Only* accounts,
36 primarily attributed to Homeowner, Condo, and Townhome Associations. While these are only 3.8%

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1 of the total accounts, they constitute 60.55% of the total consumptive use by all customers because
2 *Irrigation-Only* accounts are exclusively outdoor use. Currently, there are three rate structures within
3 the *Irrigation-Only* account type: Irrigation, Sprinkler, and Coverage Based. The proposed restructure
4 would consolidate these accounts into one Coverage Based structure using a multiplier based on
5 acres of irrigated area. Mr. Norris said this structure would be more consistent and equitable than the
6 current tripartite system. He also said the proposed restructuring would add year-round base rates to
7 align with other account types. The current five-tiered Coverage Base allotment and pricing structure
8 would also be modified, with tiers 1-4 anchored to targeted percentages of water needed during peak
9 season to supplement precipitation for irrigation. Any customer in Tier 5 would be overusing
10 regardless of conditions.

11 Discussion ensued regarding community-specific irrigation data and the associated impacts
12 of the restructure. In response to a question, Mr. Norris said customers would not experience
13 significant cost increases in water rates if they avoid being in Tiers 4 and 5 by implementing
14 reasonable changes to their outdoor watering in alignment with the water need analysis. In response
15 to another question, he said staff will communicate these changes to the customers that will be most
16 affected so that Associations can plan their 2024 budgets and irrigation practices accordingly. Further
17 discussion ensued regarding community education on the purposes of the desired water savings,
18 which include building resiliency to mitigate against the impacts of a warming climate. The board gave
19 direction to incorporate this approach into the Authority's FY 2024 budget and thanked staff for their
20 thoughtful data-driven work.

21 **OPERATIONS REPORT**

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

24 **ENGINEERING AND WATER RESOURCES REPORT**

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

27 **Colorado Green Business Network Gold Level Status** – Mr. Friday presented a memorandum, a
28 copy of which is attached hereto as **Exhibit K** and incorporated herein by this reference. He said the
29 District completed the requirements to achieve CGBN's gold level status and recognized former
30 sustainability specialist Kira Koppel for leading this effort. He also said the preliminary results of the
31 greenhouse gas (GHG) inventory recognized the District's operational efficiencies, including the
32 reduction of GHG emissions by 3,121 metric tons over the past five years.

33 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

34 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit L** and incorporated herein
35 by this reference. She had no further items to discuss.

36 **WATER COUNSEL REPORT**

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1 Ms. Moseley had no items to discuss in open session.

2 **GENERAL COUNSEL REPORT**

3 The board noted Ms. Winn's privileged written report. She had no items to discuss in open session.

4 **EXECUTIVE SESSION**

5 Ms. Winn requested the board move into Executive Session to receive legal advice of counsel related to
6 questions on land use powers. Upon motion duly made and seconded, it was unanimously

7 **RESOLVED** to enter into Executive Session at 10:13 a.m. to discuss matters related to
8 questions on land use powers pursuant to §24-6-402(4)(b), C.R.S., with no electronic record
9 created as Ms. Winn opined the contents of the discussion would contain privileged attorney-
10 client communications.*

11 Ms. Moseley requested the board move into Executive Session to receive legal advice of counsel and discuss
12 matters in negotiation related to water supply. Upon motion duly made and seconded, it was unanimously

13 **RESOLVED** to enter into Executive Session at 10:30 a.m. to discuss matters related to water
14 supply pursuant to §24-6-402(4)(b) and (e), C.R.S., with no electronic record created as Ms.
15 Moseley opined the contents of the discussion would contain privileged attorney-client
16 communications.*

17 The open session resumed at 11:04 a.m. During the executive session, the board did not take any formal
18 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 11:05 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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20 _____
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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46
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48 _____
49 **Kathryn Winn, General Counsel**

_____ **Kristin Moseley, Water Counsel**