

Eagle River Water & Sanitation District
Board of Directors Meeting
September 28, 2023
MINUTES

A regular meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held September 28, 2023, 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	28	Michael Rae
Tom Borawski	29	Siri Roman
Jim Cannava	30	Jeffrey Schneider
Jason Cowles	31	Micah Schuette
Bryan Curtis	32	Steven Shattuck
Allison Ebbets	33	Dan Siebert
Tim Dresher	34	Brian Thompson
Tim Friday	35	Brad Zachman
Chris Geisting	36	Justin Way
Madeline Harris	37	
Jesse Hooker	38	<u>Consultants</u>
Salma Huque	39	Kristin Moseley, Somach Simmons & Dunn
Diane Johnson	40	Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
Tim Kashiwa	41	
Jeremy Medina	42	<u>Public</u>
Niko Nemcanin	43	James Dilzell, Eagle River Watershed Council
David Norris	44	Zoe Goldstein, Vail Daily
Joe Prieto	45	

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 Board Member of Arrowhead Metropolitan District, a former builder/developer in the District, a Member of the Eagle County Planning Commission and 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. Nemcanin introduced a new field operator, Jeremy Medina.

AWARDS RECOGNITION

Ms. Roman said the District was awarded the "Safest District of the Year Award" by the Colorado Special Districts Property and Liability Pool at the Special District Association Annual Conference; she recognized Mr. Siebert and Mr. Rae for their leadership in building the District's safety culture. Mr. Geisting said the Avon Wastewater Treatment Facility (AWWTF) was awarded the "Plant Performance Award for Outstanding

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1 Results in Plant Operations, Maintenance, and Public Relations” by the Rocky Mountain Water Environment
2 Association (RMWEA); he recognized AWWTF staff, including Mr. Drescher, Mr. Kashiwa, Mr. Prieto, and Mr.
3 Shattuck, for their excellent work. Mr. Geisting also said AWWTF will receive an award for “Excellence in
4 Concrete” at the American Concrete Institute’s biannual convention in October. Mr. Schneider recognized Ms.
5 Harris for being selected “Young Professional of the Year” by RMWEA. The board congratulated staff on
6 these accolades.

7 **PUBLIC COMMENT**

8 Chair Cleveland called for public comment and there was none.

9 **ACTION ITEMS**

10 **Consideration of Minutes** – The minutes of the Aug. 24, 2023, special meeting and joint meeting
11 with the Authority board of directors were considered. Upon motion duly made and seconded, it was
12 unanimously

13 **RESOLVED** that the minutes of the Aug. 24, 2023, special and joint meetings be accepted
14 and hereby are approved as presented.

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

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

18 **Joint Resolution in Support of the Bolts Ditch Act** – Ms. Moseley presented a memorandum and the
19 resolution, copies of which are attached hereto as **Exhibits B** and **C**, respectively, and incorporated
20 herein by this reference. She referred to J. Res. No. 2022-02, Regarding Bolts Ditch Federal Legislation,
21 which was adopted by the District and Authority boards on Apr. 28, 2022. She recommended the boards
22 adopt an update to the 2022 resolution that would similarly support legislation to include the Authority and
23 District as governmental entities that may use, maintain, and repair Bolts Ditch and its headgate. She said
24 J. Res. 2023-02 expresses support for S. 2156, Bolts Ditch Act, which was introduced by Sens. Bennet
25 and Hickenlooper and referred to the Committee on Energy & Natural Resources. She also said the Bolts
26 Ditch Act will likely not be considered in the current legislative session and will hopefully be included in a
27 2024 omnibus bill. In response to a question, she said Minturn Town Council passed a similar resolution
28 supporting the Bolts Ditch Act. Upon motion duly made and seconded, it was unanimously

29 **RESOLVED** to approve and accept Joint Resolution No. 2023-03, In Support of the Bolts
30 Ditch Act, as presented.

31 **Resolution Authorizing the Vacation of Easement & Acquisition of Easement** – Mr. Friday
32 presented a memorandum, the resolution with its attached exhibits, and the associated site maps,
33 copies of which are attached hereto as **Exhibits D, E, and F**, respectively, and incorporated herein by
34 this reference. He said the resolution would consolidate easements on the West Vail tank access
35 roads and improve the District’s access due to the concrete that will be added by the property owner.
36 In response to a question, he said the covenant restricting property owners from interfering with the

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1 District's access to the tank will run with the property in future transactions. Upon motion duly made
2 and seconded, it was unanimously

3 **RESOLVED** to approve and accept Resolution No. 2023-08, Authorizing the Vacation of
4 Easement and Acquisition of Easement, as presented.

5 **Alura Project water rights dedication** – Mr. Schuette presented a memorandum with attachments,
6 a copy of which is attached hereto as **Exhibit G** and incorporated herein by this reference. He said
7 the property associated with the Alura project as described in Exhibit G had previously received water
8 from an abandoned commercial well, and the developers must complete the District's water
9 dedication requirement as a condition to receive service. He also said the anticipated annual demand
10 of 3.74 acre-feet requires a dedication of 0.49 acre-feet, which equates to a cash in lieu payment of
11 \$32,068. Upon motion duly made and seconded, it was unanimously

12 **RESOLVED** to accept a cash in lieu of water rights dedication payment of \$32,068 to cover the
13 0.49 acre-feet needed to satisfy the water dedication requirement for the Alura Project.

14 **INFORMATION REPORTS**

15 Directors reviewed the development report, board committees, and Authority August meeting summary,
16 copies of which are attached hereto as **Exhibits H, I, and J**, respectively, and incorporated herein by this
17 reference. In response to a question regarding the Authority development report, Mr. Cowles said the
18 development on Tract Y in Avon would receive an allocation of SFEs from the Town of Avon and would not
19 require a water rights dedication. Ms. Roman said the Development Report will be incorporated into the Water
20 Resources & Engineering Report moving forward.

21 **BOARD MEMBER INPUT**

22 Chair Cleveland called for board member comments and there were none.

23 **WORK SESSION: PROPOSED FY 2024 BUDGET**

24 Mr. Norris and Mr. Cannava presented a memorandum with attachments and a PowerPoint, copies of which
25 are attached hereto as **Exhibits K and L**, respectively, and incorporated herein by this reference. Mr. Norris
26 recognized staff and members of the board budget committee for their dedication, collaboration, and detailed
27 analysis throughout the budget development. The board noted that the proposed budget was prepared in
28 compliance with §29-1-105, C.R.S., and submitted twenty-three days prior to the statutory deadline. Work
29 session topics included revenue and expense estimates, fund balance projections, staff compensation
30 adjustments, capital project budgets, rate and fee updates, and investment and bonding strategies. In
31 response to a question, Mr. Norris said usage rate decreases on tiers 4 and 5 on *Individually Metered*
32 *Residential and Irrigation-Only* accounts are due to the rate restructuring that was approved by the board.
33 Directors supported holding a public hearing on the proposed budget at the Oct. 26 board meeting pursuant
34 to §29-1-106, C.R.S. Ms. Roman said board approval at the Oct. 26 meeting will allow staff time to prepare
35 customers for rate changes.

36 **GENERAL MANAGER REPORT**

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1 Ms. Roman presented the report, a copy of which is attached hereto as **Exhibit M** and incorporated herein by
2 this reference. She said staff continues to meet with town managers, property and HOA managers, etc., and
3 presentations are being scheduled with local governing bodies to explain the rationales and impacts of the
4 foundational corrections to certain rate structures that will be implemented in 2024. She invited directors to
5 attend any presentation to support staff and/or comment on board direction related to this.

6 **Minturn/Battle North Settlement Agreement** — Ms. Roman presented a memorandum with an
7 attached letter to the Town of Minturn dated Sept. 20, 2023, a copy of which is attached hereto as
8 **Exhibit N** and incorporated herein by this reference. She said the letter restates agreement
9 provisions and clarifies mutual expectations regarding the recreational uses of Bolts Lake, specifically
10 that the reservoir will not be operated as a public swimming area. She also said copies of the letter
11 were sent to the Battle North partners and their attorneys.

12 **BUSINESS ADMINISTRATION REPORT**

13 Mr. Norris did not have a written report or verbal updates.

14 **Water conservation program updates** – Ms. Ebbets presented a memorandum, a copy of which is
15 attached hereto as **Exhibit O** and incorporated herein by this reference She said a personalized,
16 interactive bill forecasting tool will be available beginning in October on the District website which will
17 help customers understand how their 2024 bills will compare to 2023 and how changing water use
18 will impact their total bill. Ms. Huque provided a demonstration of a draft of the tool, a screenshot of
19 which is attached here to **Exhibit P** and incorporated by this reference

20 **OPERATIONS REPORT**

21 Mr. Zachman presented the report, a copy of which is attached hereto as **Exhibit Q** and incorporated herein
22 by this reference. He reported on repairs to the Sept. 26 water main leak on Vail Valley Drive in Vail.

23 **ENGINEERING AND WATER RESOURCES REPORT**

24 Mr. Cowles presented the report, a copy of which is attached hereto as **Exhibit R** and incorporated herein by
25 this reference. He said the District and Authority received a grant from the Colorado Water Conservation
26 Board (CWCB) to develop a drought management plan. He also provided a brief update on intake surveying
27 at potential Eagle River and Cross Creek diversion sources for Bolts Lake.

28 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

29 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit S** and incorporated herein
30 by this reference. She said the postcard displayed in Exhibit S was mailed to all mailing addresses in the Vail
31 Water and Authority service areas to inform customers of 2024 rate changes and clarify the targeting of
32 disproportionately high water use associated with *Individually Metered Residential and Irrigation-Only*
33 accounts. She also said Colorado River Commissioner Becky Mitchell will meet with the Authority and District
34 boards at a joint work session on Oct. 20; Commissioner Mitchell will also speak at a community event at the
35 Grand View Room in Lionshead on Oct. 20.

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WATER COUNSEL REPORT

Ms. Moseley said she was invited to represent the District and Authority at a meeting organized by the Colorado Municipal League and Colorado Counties, Inc, at the Governor's office to discuss housing issues. She said western slope entities emphasized the perils of a "one size fits all" approach to Accessory Dwelling Unit zoning. She anticipates a new housing bill will be introduced in the next legislative session.

GENERAL COUNSEL REPORT

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

RECESS

Chair Cleveland called for a recess at 2:17 p.m. The meeting and recording resumed at 2:28 p.m. During this time, no public business was performed.

EXECUTIVE SESSION

Mr. Norris requested the board move into Executive Session to discuss the potential purchase of real property at 101 Eagle Road, Units D1 and D2, in EagleVail. Upon motion duly made and seconded, it was unanimously

RESOLVED to enter into Executive Session at 2:29 p.m. to discuss the potential purchase of real property at 101 Eagle Road, Units D1 and D2, in EagleVail, pursuant to §24-6-402(4)(a), C.R.S., with an electronic record created and retained pursuant to §24-6-402(2)(d.5)(II)(E), C.R.S.

Mr. Way requested the board move into Executive Session to discuss specialized details of cybersecurity arrangements. Upon motion duly made and seconded, it was unanimously

RESOLVED to enter into Executive Session at 2:59 p.m. to discuss specialized details of cybersecurity arrangements pursuant to §24-6-402(4)(d), C.R.S., with an electronic record created and retained pursuant to §24-6-402(2)(d.5)(II)(E), C.R.S.

Ms. Moseley requested the board move into Executive Session to receive legal advice regarding Colorado River Cooperative Agreement matters related to a proposed Colorado Water Conservation Board grant. Upon motion duly made and seconded, it was unanimously

RESOLVED to enter into Executive Session at 3:23 p.m. to discuss matters regarding Colorado River Cooperative Agreement matters related to a proposed Colorado Water Conservation Board grant pursuant to §24-6-402(4)(b), C.R.S., with no electronic record created as Ms. Moseley opined the contents of the discussion would contain privileged attorney-client communications.*

Mr. Norris requested the board move into Executive Session to discuss matters in negotiation related to potential lease and purchase options of Eagle Park Reservoir water. Upon motion duly made and seconded, it was unanimously

RESOLVED to enter into Executive Session at 3:27 p.m. to discuss matters in negotiation regarding potential lease and purchase options of Eagle Park Reservoir water pursuant to

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1 §24-6-402(4)(e), C.R.S., with an electronic record created and retained pursuant to §24-6-
2 402(2)(d.5)(II)(E), C.R.S.

3 The open session resumed at 4:09 p.m. During the executive session, the board did not take any formal
4 action or discuss any matters not enumerated in §24-6-402(4), C.R.S.

5 **ADJOURNMENT**

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

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

11 **FURTHER RESOLVED**, that the meeting be adjourned at 4:09 p.m.

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16 Secretary to the Meeting
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44 *The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion in
45 Executive Session not recorded constituted privileged attorney-client communications.
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Kristin Moseley, Water Counsel