

Eagle River Water & Sanitation District
Board of Directors Meeting
January 25, 2024
MINUTES

A regular meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held January 25, 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
Timm Paxson
Sarah Smith Hymes
Robert Warner, Jr.

The following Director was absent and excused:

Rick Pylman

Also in attendance were:

<u>District Staff</u>	25	Jeffrey Schneider
Tom Borawski	26	Dan Siebert
Jim Cannava	27	Brian Thompson
Jason Cowles	28	Justin Way
Tim Friday	29	Brad Zachman
Jesse Hooker	30	
Robyn Janssen	31	<u>Consultants</u>
Diane Johnson	32	Kristin Moseley, Somach Simmons & Dunn
Ali Kelkenberg	33	Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
David Norris	34	
Rajesh Patel	35	<u>Public</u>
Micael Rae	36	Tammy Baker
Siri Roman	37	Zoe Goldstein
Tracy Rymph	38	Joanna Kerwin

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.

PUBLIC COMMENT

Chair Cleveland called for public comment and there was none.

ACTION ITEMS

Consideration of Minutes – The minutes of the Dec. 7, 2023, regular meeting were considered.

Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the Dec. 7, 2023, regular meeting be accepted and hereby approved as presented.

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

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

2 **Resolution to Designate Location to Post Notice** – Mr. Thompson presented a memorandum and the
3 Resolution with an attached exhibit, copies of which are attached hereto as **Exhibits B and C**,
4 respectively, and incorporated herein by this reference. He said notices of public board meetings,
5 including specific agenda information where possible, would continue to be posted on the District's
6 website pursuant to § 24-6-402(2)(c)(III), C.R.S. The board supported the 2024 regular meeting schedule,
7 as presented in the Resolution's Exhibit A. Upon motion duly made and seconded, it was unanimously

8 **RESOLVED** to approve and adopt Res. 2024-01, Designating Location to Post Notice, with
9 its Exhibit A: 2024 Regular Meeting Schedule, as presented.

10 **Resolution to Designate the Official Custodian of Records & Adopting A Policy on Responding to**
11 **Open Records Requests** – Mr. Thompson presented a memorandum and the Resolution, copies of
12 which are attached hereto as **Exhibits D and E**, respectively, and incorporated herein by this reference.
13 He said the Resolution would appoint the Government Affairs Supervisor as the Official Custodian of
14 Records and update the Policy on Responding to Open Records Requests to cite Colorado Open
15 Records Act amendments enacted through SB23-286. Upon motion duly made and seconded, it was
16 unanimously

17 **RESOLVED** to approve and adopt Res. 2024-02, Designating the Official Custodian of
18 Records & Adopting A Policy on Responding to Open Records Requests, as presented.

19 **Intergovernmental Agreement (IGA) with Cordillera Metropolitan District** – Mr. Norris presented a
20 memorandum and the IGA with attached exhibits, copies of which are attached hereto as **Exhibits F and**
21 **G**, respectively, and incorporated herein by this reference. He said the District has historical
22 arrangements with local entities, including smaller metropolitan districts with limited administrative
23 capacity, to collect certain fees on their behalf. He also said staff and counsel are collaborating with these
24 entities to memorialize such arrangements, clarify roles and processes, and establish an administrative
25 fee for the District's fee collection services. Upon motion duly made and seconded, it was unanimously

26 **RESOLVED** to approve the Intergovernmental Agreement Regarding Collection of Fees with
27 Cordillera Metropolitan District, with its Exhibit A: Metro District Fee Resolution and Exhibit B:
28 2024 Fee Schedule for District Equipment and Personnel, as presented.

29 **Updated Investment Policy** – Mr. Cannava presented a memorandum and the policy, copies of
30 which are attached hereto as **Exhibits H and I**, respectively, and incorporated herein by this
31 reference. A draft of this policy was presented to the board for review on Dec. 7, 2023. Based on
32 board direction, the policy was further revised with two provisions: 1) Listing the institutions delegated
33 by the District to support the development of the policy; and 2) Restricting certificates of deposit
34 (CDs) to 30% of the total investment portfolio, with a maximum of 5% per bank and limited to
35 amounts covered by FDIC insurance. There were no further comments on this policy. Upon motion
36 duly made and seconded, it was unanimously

37 **RESOLVED** to approve and adopt the updated Investment Policy, as presented.

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1 **Updated Electronic Mail Policy** – Mr. Norris presented a memorandum and the policy, copies of
2 which are attached hereto as **Exhibits J** and **K**, respectively, and incorporated herein by this
3 reference. A draft of this policy was presented to the board for review at the Dec. 7 meeting. There
4 were no further comments on this policy. Upon motion duly made and seconded, it was unanimously

5 **RESOLVED** to approve and adopt the Electronic Mail Policy, as presented.

6 **Consideration of Identity Theft Prevention Program Policy** – Mr. Norris presented a
7 memorandum and the policy, copies of which are attached hereto as **Exhibits L** and **M**, respectively,
8 and incorporated herein by this reference. A draft of this policy was presented to the board for review
9 at the Dec. 7 meeting. In response to a question, Mr. Norris said the policy incorporates federal
10 guidelines and industry best practices. Upon motion duly made and seconded, it was unanimously

11 **RESOLVED** to approve and adopt the Identity Theft Prevention Program Policy, as presented.

INFORMATION REPORTS

13 Directors reviewed board committees, a copy of which is attached as **Exhibit N** and incorporated herein by
14 this reference. Ms. Roman said the Authority board appointed Kevin Hillgren as a primary member and Geoff
15 Dreyer as a backup member of the joint board water conservation committee.

BOARD MEMBER INPUT

17 Director Paxson thanked Ms. Moseley for meeting with him to answer questions regarding water law and Mr.
18 Cowles for providing information on SNOTEL reports.

GENERAL MANAGER REPORT

20 Ms. Roman presented the report, a copy of which is attached as **Exhibit O** and incorporated herein by this
21 reference. She discussed 2024 strategic priorities, including water affordability, development of Bolts Lake,
22 wastewater regulatory compliance, and continued innovation as a modern utility. She also said she will
23 schedule individual meetings with directors throughout the year.

24 **Per- and polyfluoroalkyl substances (PFAS) class action settlement updates** – Ms. Roman
25 presented a memorandum from Water Quality Counsel Steve Bushong, a copy of which is attached
26 as **Exhibit P** and incorporated herein by this reference. She said Mr. Bushong will continue to work
27 with special PFAS counsel to confirm the Authority and District's exclusions from the settlements
28 referenced in Exhibit P.

BUSINESS ADMINISTRATION REPORT

30 **Quarterly financial report** – Mr. Cannava presented the report, a copy of which is attached hereto as
31 **Exhibit Q** and incorporated herein by this reference. In summarizing the preliminary 2023 year-end financials,
32 he said overall revenues exceeded budget due largely to additional impact fee revenues and the sale of 25
33 acre-feet of water to the Authority.

34 **Water Conservation Program Update** – Mr. Norris presented a memorandum from Allison Ebbets, a copy of
35 which is attached hereto as **Exhibit R** and incorporated herein by this reference. In response to a question,
36 he said the online bill forecasting tool has been accessed approximately 25,000 times since October 2023.

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1 **Safety and Risk Review** – Mr. Rae and Mr. Siebert presented a PowerPoint, a copy of which is attached
2 hereto as **Exhibit S** and incorporated herein by this reference. In reviewing 2023 safety statistics and
3 accomplishments, they highlighted the continued trend of fewer recordable injuries with growing employee
4 counts, increased near-miss reporting, decreased injury costs, and lower insurance premiums due to a 10-
5 year low Experience Modification Factor. He also said these improvements are due largely to training and
6 policies that have decreased employee error. Mr. Siebert reviewed specific changes to the District's insurance
7 premiums and procedures for documenting potential claims. He also discussed 2024 priorities, including
8 implementing Risk & Resiliency action items and an updated Emergency Response Plan, creating a Risk
9 Work Group, and expanding streamlined training. In response to a question regarding contractor safety, Mr.
10 Rae said safety measures are reviewed and inspected regularly throughout projects and staff can require
11 contractors to stop work if there is a safety concern. Directors commended staff for enhancing the District's
12 safety culture.

13 **OPERATIONS REPORT**

14 Mr. Zachman presented the report and a PowerPoint, copies of which are attached hereto as **Exhibits T** and
15 **U**, respectively, and incorporated herein by this reference. He reported on the triennial Compliance Evaluation
16 Inspection (CEI) of the District's wastewater facilities that was conducted by the Colorado Department of
17 Public Health and Environment on Dec. 12-13. He said the inspectors brought trainees to observe this
18 inspection due to the District's history of exceptional preparation and attention to detail. In reviewing the
19 inspection results, he said there were no Major Findings and two minor Other Findings that were immediately
20 corrected. He also discussed other observations and recommendations, including continued development and
21 enforcement of the Fats, Oil, and Grease (FOG) Program. He then reported on recent major repairs to the
22 Vail Well R7. He also reported on recent repairs in West Vail and in the Authority service area. Directors
23 commended staff for their resilient responses to these complex operational challenges, which were
24 exacerbated by recent severe weather, and for their outstanding customer service.

25 **ENGINEERING AND WATER RESOURCES REPORT**

26 Mr. Cowles presented the report, a copy of which is attached hereto as **Exhibit V** and incorporated herein by
27 this reference. He reported on potential and upcoming projects in Vail.

28 **Bolts Lake Reservoir updates** – Mr. Cowles said the Bolts Lake feasibility study was submitted to
29 the U.S. Bureau of Reclamation (USBR), the approval of which is required before the Authority and
30 District can apply for a USBR Small Storage Program grant. He also said a selection committee
31 recommended Black & Veatch be contracted as the Bolts Lake program manager. Discussion ensued
32 regarding funding strategies, potential grant opportunities, and the need for specialized grant
33 consultants. Ms. Moseley then reported on the federal Bolts Ditch Act. She said Congress must pass
34 legislation authorizing the District and Authority to use, maintain, and repair Bolts Ditch and its
35 headgate, which are located within the Holy Cross Wilderness and will be essential to filling Bolts
36 Lake. Ms. Roman said she will testify in support of the Bolts Ditch Act at the Jan. 31 hearing before
37 the U.S. House Subcommittee on Federal Lands of the Committee on Natural Resources. Mr. Cowles

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1 said the U.S. Forest Service submitted a referral response on this legislation to the Committee. Ms.
2 Moseley said the Town of Minturn continues to support the Bolts Ditch Act and their Town Manager,
3 Michelle Metteer, will attend the Committee hearing in unity. Ms. Moseley also said other local
4 entities, including the towns of Avon and Vail, have expressed interest in providing letters of support.

5 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

6 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit W** and incorporated herein
7 by this reference. She mentioned adventure swimmer Matt Moseley, who raises awareness of various water
8 issues, presented at yesterday's town of Vail program and would speak at tomorrow's staff Lunch & Learn.
9 She then presented a preview of the 2024 Colorado legislative session, highlighting SB24-005, Prohibit
10 Landscaping Practices for Water Conservation, which was supported by the District and Authority boards at
11 their respective Dec. 7 meetings. She said a hearing on SB24-005 was scheduled for today before the Senate
12 Agriculture & Natural Resources Committee. Due to a conflict with today's board meeting, Ms. Moseley
13 arranged for an associate from her firm to testify in support of the bill on behalf of the Authority and District.
14 Ms. Moseley said Sen. Roberts, who is co-sponsoring the bill, expressed gratitude for this local
15 representation. Ms. Johnson also briefly discussed water-related draft bills proposed by the Water Resources
16 and Agriculture Review Committee that have been introduced, as well as the legislative recommendations by
17 the Colorado River Drought Task Force.

18 **Shoshone Water Right Preservation Campaign** – Ms. Johnson said she, Ms. Roman, Ms.
19 Moseley, and the chairs of the Authority and District boards attended the Dec. 19 celebration of the
20 Shoshone Purchase and Sales Agreement (PSA). She also said a coalition led by CRWCD is raising
21 funds for the water right purchase price of \$98.5 million, including a \$20 million request from the
22 Colorado Water Conservation Board (CWCB). Ms. Moseley said an associate from her firm will speak
23 in support of this request on behalf of the Authority and District at the Jan. 29 CWCB Board meeting.
24 Ms. Johnson also said the coalition has \$20 million pledged by CRWCD at their December meeting
25 when they approved the PSA, and they are pursuing nearly \$50 million in federal funding and \$10
26 million from Western Slope entities, of which the Authority and District were original coalition
27 members. Ms. Roman said CRWCD asked to present a funding request to the Authority and District
28 boards. The board supported holding a special joint meeting with the Authority board on Feb. 22 to
29 hear the CRWCD presentation and then consider the request at a subsequent board meeting.

30 **WATER COUNSEL REPORT**

31 **Colorado River Drought Task Force** – Ms. Moseley presented a memorandum, a copy of which is attached
32 hereto as **Exhibit Y** and incorporated herein by this reference. Upon discussion, directors supported the
33 concepts outlined in the eight Task Force recommendations presented in Exhibit Y.

34 **GENERAL COUNSEL REPORT**

35 Ms. Winn did not have a report or items to discuss.
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1 **RECESS**

2 Char Cleveland called for a recess at 2:04 p.m. Open session resumed at 2:17. During the recess, no public
3 business was performed.

4 **EXECUTIVE SESSION**

5 Ms. Winn requested the board move into Executive Session to receive legal advice regarding subdistrict
6 service requirements. Upon motion duly made and seconded, it was unanimously

7 **RESOLVED** to enter into Executive Session at 2:17 p.m. to receive legal advice regarding
8 subdistrict service requirements pursuant to § 24-6-402(4)(b), C.R.S.

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

11 **ADJOURNMENT**

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

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

17 **FURTHER RESOLVED**, that the meeting be adjourned at 3:27 p.m.

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21 Secretary to the Meeting
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41 *The undersigned attorney for the applicable Executive Session affirms that the portion of the discussion in
42 Executive Session not recorded constituted privileged attorney-client communications.
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47 _____
Kathryn Winn, Water Counsel