

Eagle River Water & Sanitation District
Board of Directors Meeting
February 22, 2024
MINUTES

A special meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held February 22, 2024, at 12:30 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
Rick Pylman
Sarah Smith Hymes

The following Directors were absent and excused:

Robert Warner, Jr.

Also in attendance were:

<u>District Staff</u>	27	Kailey Rosema
Jenna Beairsto	28	Jeffrey Schneider
Candice Bundy	29	Fred Searles
Jason Cowles	30	Gregory Strine
Dan Duerr	31	Shane Swartwout
Carly Ferguson	32	Brian Thompson
Tim Friday	33	Ivy Todd
Zach Green	34	Brad Zachman
Madeleine Harris	35	
Jesse Hooker	36	<u>Consultants</u>
Diane Johnson	37	Kristin Moseley, Somach Simmons & Dunn
Chuck Martellaro	38	Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
David Norris	39	
Jessie Oldham	40	<u>Public</u>
Chuck Owen	41	Tammy Baker
Siri Roman	42	Zoe Goldstein
	43	Cliff Thompson

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 12:32 p.m.

INTRODUCTIONS

Seven new employees were introduced: Mr. Schneider introduced project manager Dan Duerr; Mr. Green introduced wastewater operator Chuck Martellaro; Ms. Rosema introduced water operators Jessie Oldham, Fred Searles, and Gregory Strine; and Ms. Bundy introduced Microsoft architect/database administrator Carly Ferguson.

PUBLIC COMMENT

Chair Cleveland called for public comment and there was none.

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ACTION ITEMS

1 **Consideration of Minutes** – The minutes of the Jan. 25, 2024, regular meeting were considered.

2 Upon motion duly made and seconded, it was unanimously

3 **RESOLVED** that the minutes of the Jan. 25, 2024, regular meeting be accepted and hereby
4 approved as presented, with Director Pylman abstaining as he was absent from this meeting.

5 **Contract Log** – The board reviewed the contract log, a copy of which is attached hereto as **Exhibit A**
6 and incorporated herein by this reference. In response to a question, Ms. Roman said Black &
7 Veatch’s scope of work will be determined by task orders. Upon motion duly made and seconded, it
8 was unanimously

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

Resolution Authorizing Integrated Project Delivery (IPD) for the Edwards Wastewater

11 **Treatment Facility Nutrient Upgrade Project** – Ms. Beairsto presented a memorandum and the
12 Resolution, copies of which are attached hereto as **Exhibits B** and **C**, respectively, and incorporated
13 herein by this reference. She requested the board approve IPD for the Edwards Wastewater
14 Treatment Facility Nutrient Upgrade Project pursuant to §32-1-1804, C.R.S. and Section 14 of the
15 District bylaws. She also said the Construction Manager at Risk (CMAR) methodology allows for a
16 construction manager to be contracted early in the design phase and expedites budget forecasting,
17 procurement, and team alignment. Upon motion duly made and seconded, it was unanimously

18 **RESOLVED** to approve and adopt Res. 2024-03, Authorizing Integrated Project Delivery for
19 the Edwards Wastewater Treatment Facility Nutrient Upgrade Project, as presented.

20 **Rules and Regulations Revisions** – Mr. Friday and Ms. Todd presented a memorandum, a
21 summary of the proposed revisions to the Rules and Regulations, and a redlined draft of the revised
22 Rules and Regulations, copies of which are attached hereto as **Exhibits D, E, and F**, respectively,
23 and incorporated herein by this reference. Mr. Friday said the revisions were approved by the joint
24 board Rules & Regulations committee on Jan. 12. and presented for comment at a public stakeholder
25 meeting on Jan. 30. Ms. Todd summarized the revisions, including updates to Appendix F, an added
26 definition for “regional facilities,” and specifications related to the Fats, Oils, and Grease (FOG)
27 program. Upon motion duly made and seconded, it was unanimously

28 **RESOLVED** to approve the revised Rules and Regulations as presented.

29 **Intergovernmental Agreement (IGA) with Traer Creek Metropolitan District** – Mr. Norris
30 presented a memorandum and the IGA with an attached exhibit, copies of which are attached hereto
31 as **Exhibits G** and **H**, respectively, and incorporated herein by this reference. He referred to
32 discussion from the Jan. 25 board meeting regarding fee collection agreements. Ms. Winn said this
33 IGA was approved by the Traer Creek Metropolitan District Board of Directors. Upon motion duly
34 made and seconded, it was unanimously
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1 **RESOLVED** to approve the Intergovernmental Agreement Regarding Collection of Fees with
2 Traer Creek Metropolitan District, with its Exhibit A: Metro District Fee Resolution, as
3 presented.

4 **INFORMATION REPORTS**

5 Directors reviewed board committees and the December 2023 Authority meeting summary, copies of which
6 are attached as **Exhibits I** and **J**, respectively, and incorporated herein by this reference.

7 **BOARD MEMBER INPUT**

8 Chair Cleveland referenced the Feb. 21 Vail Daily story about Minturn water issues.

9 **GENERAL MANAGER REPORT**

10 Ms. Roman said the District and Authority are contracting with The Ferguson Group (TFG) to identify and
11 apply for federal grants for Bolts Lake and other high-priority projects. She also reviewed the preceding joint
12 meeting with the Authority board regarding the Shoshone Water Right Preservation Campaign. Directors
13 agreed for the District and Authority board budget committees to jointly meet to analyze the funding request
14 and bring forth a united recommendation to the board at a future meeting.

15 **BUSINESS ADMINISTRATION REPORT**

16 Mr. Norris presented a PowerPoint, a copy of which is attached as **Exhibit K** and incorporated herein by this
17 reference. He said the District repurchased a deed-restricted house in Eagle from a former employee and
18 remodeled it into two employee housing units.

19 **Water Conservation Program Update** – The board noted a memorandum from Allison Ebbets, a copy of
20 which is attached hereto as **Exhibit L** and incorporated herein by this reference.

21 **OPERATIONS REPORT**

22 Mr. Zachman presented the report and a PowerPoint, copies of which are attached hereto as **Exhibits M** and
23 **N**, respectively, and incorporated herein by this reference. He reported on recent water main repairs in Vail
24 and challenges resulting from property owners installing trees and fences on District easements. He also
25 discussed the status of the Dowd Junction lift station construction and Vail Well R7 repairs.

26 **ENGINEERING AND WATER RESOURCES REPORT**

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

29 **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

30 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit Q** and incorporated herein
31 by this reference. She provided updates on two state bills supported by the Authority and District: SB24-005,
32 Prohibit Landscaping Practices for Water Conservation, which passed in the Senate and has moved to the
33 House Agriculture, Water & Natural Resources Committee; and SB24-081, Perfluoroalkyl & Polyfluoroalkyl
34 (PFAS) Chemicals, which was assigned to the Senate Business, Labor & Technology Committee.

35 **WATER COUNSEL REPORT**

36 **Bolts Ditch Act** – Ms. Moseley presented a memorandum with attachments, a copy of which is attached
37 hereto as **Exhibit R** and incorporated herein by this reference. She commended Ms. Roman for her testimony

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1 in support of the Bolts Ditch Act (H.R.4297) at the Jan. 31 hearing before the U.S. House Subcommittee on
2 Federal Lands of the Committee on Natural Resources. She also recognized Minturn Town Manager Michelle
3 Metteer for attending the hearing in unity. She further reported that H.R.4297 passed in committee and has
4 gone through mark up, and she and Ms. Roman met with Colorado's Senate delegation to encourage a
5 hearing on the companion Senate bill, S.2156. Ms. Roman said several local governments are adopting
6 resolutions supporting the passage of the Bolts Ditch Act.

7 WATER QUALITY COUNSEL REPORT

8 **Per- and polyfluoroalkyl substances (PFAS) class action settlements** – The board noted a memorandum
9 by Steve Bushong, a copy of which is attached hereto as **Exhibit S** and incorporated herein by this reference.

10 GENERAL COUNSEL REPORT

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

12 EXECUTIVE SESSION

13 Ms. Moseley requested the board move into Executive Session to receive legal advice regarding Bolts Lake
14 and Battle North/Minturn Case Nos. 21CW3029 and 21CW3030, pursuant to § 24-6-402(4)(b), C.R.S. Upon
15 motion duly made and seconded, it was unanimously

16 **RESOLVED** to enter into Executive Session at 1:47 p.m. to discuss matters regarding Bolts
17 Lake and Battle North/Minturn Case Nos. 21CW3029 and 21CW3030 pursuant to §24-6-
18 402(4)(b), C.R.S., with no electronic record created as Ms. Moseley opined the contents of
19 the discussion would contain privileged attorney-client communications.*

20 Open session resumed at 2:05 p.m. During the executive session, the board did not take any formal action or
21 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 2:05 p.m.

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11 Secretary to the Meeting

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

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Kristin Moseley, Water Counsel