

# Eagle River Water & Sanitation District

## Board of Directors Meeting

### April 4, 2024

### MINUTES

A regular meeting of the Board of Directors of the Eagle River Water & Sanitation District (District) was held April 4, 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:

1  
2 Kate Burchenal  
3 Dick Cleveland  
4 Steve Coyer  
5 Sarah Smith Hymes (left meeting at 2:49 p.m.)  
6 Timm Paxson  
7 Rick Pylman  
8 Robert Warner, Jr.

##### Also in attendance were:

9	<u>District Staff</u>	26	Siri Roman
10	Mike Baum	27	Tracy Rymph
11	Tom Borawski	28	Jeffrey Schneider
12	Jason Cowles	29	Brian Thompson
13	Austin Edington-Moore	30	Mike Thompson
14	Tim Friday	31	Jane Tucker
15	Craig Hoffman	32	Brad Zachman
16	Jesse Hooker	33	
17	Drew Isaacson	34	<u>Consultants</u>
18	Robyn Janssen	35	Kristin Moseley, Somach Simmons & Dunn
19	Diane Johnson	36	Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
20	Ali Kelkenberg	37	
21	Chris Koucherik	38	<u>Public</u>
22	Michael Lochary	39	Tammy Baker
23	Niko Nemcanin	40	Zoe Goldstein
24	David Norris	41	Cliff Thompson

#### DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

42 The board noted it had received more than 72 hours prior to the meeting certain disclosures of potential conflicts of interest for the  
43 following Directors indicating the following conflicts: Director Pylman disclosed that he owns a land planning consulting company doing  
44 business in the District's service area that has represented entities that have and may do business with the District. Director Warner  
45 disclosed that he is a Board Member of Arrowhead Metropolitan District, a former builder/developer in the District, a Member of the Eagle  
46 County Planning Commission and Board of Adjustment, and President of McCoy Springs at Arrowhead Homeowners Association.  
47 Director Burchenal disclosed that she is an employee of Airborne Snow Observatories, Inc., which does not currently do business with  
48 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.  
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#### CALL TO ORDER

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51 Having determined there was a quorum, Chair Cleveland called the meeting to order at 12:01 p.m.

#### FIELD OPERATIONS UPDATE

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53 Mr. Nemcanin said the Field Operations team was reorganized to provide greater team depth and response  
54 capacity. He thanked the board for their continued support and recognized local entities for their collaboration  
55 during the winter season. He also recognized supervisors Mike Baum, Drew Issacson, and Mike Thompson  
56 for their leadership. The board thanked the Field Operations team for their excellent work and resilience.

#### INTRODUCTIONS

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58 Three new employees were introduced: Mr. Nemcanin introduced field operators Chris Koucherik and Austin  
59 Edington-Moore, and Mr. Borawski introduced senior people analyst Michael Lochary.

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## PUBLIC COMMENT

Chair Cleveland called for public comment and there was none.

## ACTION ITEMS

**Consideration of Minutes** – The minutes of the Feb. 22, 2024, special meeting and special joint meeting with the Authority board were considered. Upon motion duly made and seconded, it was unanimously

**RESOLVED** that the minutes of the Feb. 22, 2024, special meeting and special joint meeting with the Authority board be accepted and approved, with Secretary Warner abstaining as he was absent from these meetings.

**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

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

## INFORMATION REPORTS

Directors reviewed board committees and the January Authority meeting summary, copies of which are attached as **Exhibits B** and **C**, respectively, and incorporated herein by this reference.

## BOARD MEMBER INPUT

Chair Cleveland encouraged directors to attend an upcoming regional workshop hosted by the Special District Association (SDA). Ms. Roman recognized Chair Cleveland for serving on the SDA Board of Directors.

## GENERAL MANAGER REPORT

Ms. Roman presented the report, a copy of which is attached hereto as **Exhibit D** and incorporated herein by this reference. She said she is participating in the 2024 Yampa River Awareness Project with other statewide water leaders. She also discussed vacancies on the Water Quality Control Commission.

**Shoshone Water Right Preservation Campaign** – Ms. Roman presented a PowerPoint and referenced the memorandum from Colorado River Water Conservation District (River District), copies of which are attached hereto as **Exhibits E** and **F**, respectively, and incorporated herein by this reference. She reviewed the River District's funding request from the Feb. 22 joint board meeting and Chair Cleveland reported on the Mar. 14 joint meeting of the District and Authority board budget committees. He said committee members supported splitting a combined contribution between the Vail Water subdistrict and the Authority based on the proportionality of SFEs. Discussion ensued regarding balancing the importance of continued coalition leadership with prioritizing local water affordability. Further discussion ensued regarding the contributions by Eagle County and other Western Slope coalition members. Directors agreed to table action on this request so that staff can check in with Eagle County representatives.

**Eagle Park Reservoir Company (EPRC)** – Ms. Roman reported on the Apr. 2 quarterly meeting of the EPRC board of directors. She said the reservoir is expected to fill by snowmelt this spring and staff will exercise the East Fork Pump Station as a routine operating practice. She also discussed the proposal submitted by Climax Mines to change the molybdenum standard for water supply uses from

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1 the existing 210 ug/L to 1,600 ug/L, which has raised concerns regarding the applicable safety factors  
2 and the inadequacy of the protections provided by this proposal.

## 3 **BUSINESS ADMINISTRATION REPORT**

4 Mr. Norris discussed the timelines for redesign of rates associated with Multi-family, Commercial, Mixed Use,  
5 and Municipal account types.

6 **Billing statement improvements** – Ms. Janssen presented a PowerPoint, a copy of which is  
7 attached hereto as **Exhibit G** and incorporated herein by this reference. She reviewed billing  
8 statement updates to make terminology more consistent, clarify account types and rate tiers, improve  
9 branding and digital accessibility, and update delinquency charge provisions. Directors thanked staff  
10 for enhancing the transparency and clarity of billing statements.

11 **People Analytics** – Mr. Borawski and Ms. Kelkenberg presented a memorandum and a PowerPoint,  
12 copies of which are attached hereto as **Exhibits H** and **I**, respectively, and incorporated herein by this  
13 reference. They reported on 2023 employee statistics and analytics. Among the positive trends  
14 presented, Ms. Kelkenberg noted an increase in female representation in leadership roles and a 60%  
15 increase in applications compared to 2022. Mr. Borawski added that the District's benefits were found  
16 to be market-leading considering the high cost of benefits in our area. He also said training expenses  
17 decreased significantly due to in-house facilitation. Finally, they presented a summary of employee  
18 feedback highlighting the District's supportive, professional, and growth-oriented culture.

## 19 **OPERATIONS REPORT**

20 Mr. Zachman presented the report, a copy of which is attached hereto as **Exhibit J** and incorporated herein  
21 by this reference. He said Vail Well R7 experienced major damage during a utility power failure on Jan. 4 and  
22 remains out of service. He also discussed repair options being evaluated by staff and consultants. Discussion  
23 ensued regarding the implications of possibly redrilling a new well nearby. Mr. Zachman also provided  
24 updates on the newly constructed Dowd Junction lift station and said functional testing is expected to begin  
25 on Apr. 15.

26 **Macroinvertebrate sampling** – Mr. Zachman presented a memorandum from Leah Cribari, a copy of  
27 which is attached hereto as **Exhibit K**, respectively, and incorporated herein by this reference. In  
28 response to a question, Ms. Roman said sampling results at the Gore Creek reference site are  
29 healthier than downstream sites due to fewer impacts from development.

## 30 **ENGINEERING AND WATER RESOURCES REPORT**

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

33 **Bolts Lake Update** – Mr. Hildreth presented a memorandum and a PowerPoint, copies of which are  
34 attached hereto as **Exhibits M** and **N**, respectively, and incorporated herein by this reference. He  
35 said the preliminary design of Bolts Lake Reservoir was completed in February. He then reviewed the  
36 Total Cost Estimate and provided updates on project timelines. Mr. Cowles also discussed project  
37 funding and a pending Congressional Directed Spending request.

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1       **Sustainability statistics and progress** – Mr. Friday presented a PowerPoint, a copy of which is  
2       attached hereto as **Exhibit O** and incorporated herein by this reference. He provided an overview of  
3       the District’s sustainability program and reviewed 2023 statistics and accomplishments. Highlights  
4       included completing the Greenhouse Gas Emissions Inventory, reducing natural gas use, and  
5       attaining the “Colorado Green Business Network” certification by the Colorado Department of Public  
6       Health and Environment and the “Actively Green” certification by Walking Mountains Science Center.  
7       2024 goals include maintaining these certifications and pursuing grants to advance renewable energy  
8       priorities. In response to a question, he discussed the District’s participation in Holy Cross Energy’s  
9       PuRE program.

## 10       **COMMUNICATIONS AND PUBLIC AFFAIRS REPORT**

11       Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit P** and incorporated herein  
12       by this reference. She said that Gov. Polis signed SB24-005, Prohibit Landscaping Practices for Water  
13       Conservation, into law and noted supportive committee testimony provided on behalf of the District and  
14       Authority. She provided other updates on relevant legislation, including two competing bills regarding dredge  
15       and fill activities in state waters: SB24-127 and HB24-1379. She also discussed upcoming customer outreach  
16       campaigns and community events.

17       **Bylaw amendments** – Mr. Thompson presented a memorandum and a redlined draft of updated  
18       District bylaws, copies of which are attached hereto as **Exhibits Q** and **R**, respectively, and  
19       incorporated herein by this reference. He said the bylaws were last updated in 2019 and recent  
20       statutory changes necessitated several of the proposed revisions. He highlighted the revision to  
21       section 8(o) clarifying that the General Manager is authorized to execute a real property conveyance  
22       if it aligns with board policy and direction, does not deviate from standard templates developed by the  
23       District’s legal counsel, and does not result in the loss of a property right or interest; otherwise, the  
24       conveyance would require board approval. The updated bylaws will be considered for adoption at the  
25       next board meeting.

26       **Digital accessibility** – Mr. Thompson presented a memorandum, a copy of which is attached hereto  
27       as **Exhibit S** and incorporated herein by this reference. He reported on Colorado’s Rules Establishing  
28       Technology Accessibility Standards, 8 CCR 1501-11 (“Rules”) adopted Feb. 29 by the Governor’s  
29       Office of Information Technology. He said staff continues to learn about the requirements, standards,  
30       and enforcement of the Rules and will develop a plan to meet the Jul. 1, 2024, compliance deadline  
31       for all Colorado public entities. He also said the Rules require the adoption of an accessibility  
32       statement, which will be based on a policy that will be presented at the next board meeting.

## 33       **WATER COUNSEL REPORT**

34       Ms. Moseley did not have a report or items to discuss in open session.

## 35       **WATER QUALITY COUNSEL REPORT**

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

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1 Chair Cleveland confirmed the acceptance of the District's exclusions from the 3M and DuPont class action  
2 settlements.

### 3 **GENERAL COUNSEL REPORT**

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

### 5 **EXECUTIVE SESSION**

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

9 **RESOLVED** to enter into Executive Session at 2:49 p.m. to discuss matters regarding Bolts  
10 Lake and Battle North/Minturn Case Nos. 21CW3029 and 21CW3030 pursuant to §24-6-  
11 402(4)(b), C.R.S., with no electronic record created as Ms. Moseley opined the contents of  
12 the discussion would contain privileged attorney-client communications.\*

13 Mr. Cowles requested the board move into Executive Session to instruct negotiators regarding the Middle  
14 Creek housing project pursuant, to §24-6-402(4)(e), C.R.S. Upon motion duly made and seconded, it was  
15 unanimously

16 **RESOLVED** to enter into Executive Session at 3:44 p.m. to instruct negotiators regarding the  
17 Middle Creek housing project pursuant, to §24-6-402(4)(e), C.R.S., with an electronic record  
18 created and retained pursuant to §24-6-402(2)(d.5)(II)(E), C.R.S.

19 Open session resumed at 4:00 p.m. During the executive session, the board did not take any formal action or  
20 discuss any matters not enumerated in §24-6-402(4), C.R.S.

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**ADJOURNMENT**

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

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

**FURTHER RESOLVED**, that the meeting be adjourned at 4:05 p.m.

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Secretary to the Meeting

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

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**Kristin Moseley, Water Counsel**