

Upper Eagle Regional Water Authority

Board of Directors Meeting

June 27, 2024

MINUTES

1 A regular meeting of the Board of Directors of the Upper Eagle Regional Water Authority (Authority) was
2 held June 27, 2024, 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:

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8 Geoff Dreyer, Arrowhead Metropolitan District
9 Kevin Hillgren, Beaver Creek Metropolitan District
10 Joanna Kerwin, Edwards Metropolitan District
11 Kim Bell Williams, EagleVail Metropolitan District

The following Directors were absent and excused:

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13 George Gregory, Berry Creek Metropolitan District
14 Tamra Underwood, Town of Avon

The following Alternate Director was present and acting:

15 Eric Heil, Town of Avon

Also in attendance were:

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17
18 District Staff 31 Jane Tucker
19 Tricia Bancker 32 Brad Zachman
20 Jim Cannava 33
21 Jason Cowles 34 Consultants
22 Tim Friday 35 Paul Backes, McMahan & Associates, L.L.C.
23 Justin Hildreth 36 Kristin Moseley, Somach Simmons & Dunn
24 Jesse Hooker 37 Page Weil, LRE Water
25 Diane Johnson 38 Kathryn Winn, Collins Cole Flynn Winn & Ulmer PLLC
26 David Norris 39
27 Louise Reiter 40 Public
28 Siri Roman 41 Mike Towler, Beaver Creek Alternate Director
29 Jeffrey Schneider 42
30 Brian Thompson

DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

43 The board noted it had received more than 72 hours prior to the meeting certain disclosures of potential conflicts of interest for the following
44 Directors indicating the following conflicts: Director Gregory disclosed that he occasionally undertakes minor development and construction
45 activities within the Authority's service area. Director Bell Williams disclosed that she is the Housing Director for Eagle County and works
46 with the Eagle County Housing and Development Authority Advisory Committee. Director Kerwin disclosed that she is a board member of
47 Mountain Recreation Metropolitan District, Mountain Recreation Foundation, Homestead Court Club Homeowners Association, Homestead
48 Owners Association, and Homestead Valley Association. Director Underwood disclosed that she was elected on Nov. 8, 2022, to a four-
49 year term on the Town Council of the Town of Avon, which is a member entity of the Authority.
50

CALL TO ORDER

51
52 Secretary Bell Williams presided at this meeting due to the absence of Chair Gregory, pursuant to Section
53 8(h) of the Authority Bylaws. Having determined that quorum was established, Secretary Bell Williams called
54 the meeting to order at 8:30 a.m.

INTRODUCTIONS

55 Mr. Cannava introduced Paul Backes, Managing Partner at McMahan & Associates, who presented later in
56 the meeting. Mr. Cowles introduced Page Weil, Senior Project Manager at LRE Water, who presented later in
57 the meeting.
58

PUBLIC COMMENT

59 Secretary Bell Williams called for public comment and there was none.
60

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ACTION ITEMS

Consideration of Minutes – The minutes of the May 23, 2024, regular meeting were considered. Upon motion duly made and seconded, it was unanimously

RESOLVED that the minutes of the May 23, 2024, regular meeting be accepted and hereby are approved as presented.

Consideration of Fiscal Year 2023 Audited Financial Statement – Mr. Cannava presented a memorandum and the FY 2023 Audited Financial Statements, copies of which are attached as **Exhibits A** and **B**, respectively, and incorporated herein by this reference. Mr. Backes summarized the audit process and key findings outlined in the Independent Auditor’s Report. He said the Authority received an unmodified opinion with no material adjustments, recommendations, or concerns. Treasurer Dreyer said the board Audit Committee reviewed the audit with Mr. Backes on Jun. 20 and recommended the board accept the audit as presented. Directors thanked staff for maintaining tight controls and ensuring a clean audit. Ms. Reiter was recognized for her many years of service as Controller and congratulated on her upcoming retirement. Upon motion duly made and seconded, it was unanimously

RESOLVED that the board accept the FY23 Audited Financial Statement as presented and direct final reports be distributed; and be it

FURTHER RESOLVED that the board authorize the General Manager and Finance Manager to sign the letter of representation addressed to McMahan & Associates.

The audit report will be submitted to the State Auditor pursuant to § 29-1-606(3), C.R.S.

POLICY UPDATES

Joint Digital Accessibility Policy – The board noted a memorandum by Mr. Thompson and the draft policy, copies of which are attached hereto as **Exhibits C** and **D**, respectively, and incorporated herein by this reference. Secretary Bell Williams said this proposed new policy was introduced and reviewed at the May 23, 2024, board meeting. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve and adopt the joint Digital Accessibility Policy, as presented.

Sunsetting 2017 Policy for Use-Based Tap Fee Calculation – The board noted a memorandum by Mr. Cowles and the 2017 Policy for Use-Based Tap Fee Calculation, copies of which are attached hereto as **Exhibits E** and **F**, respectively, and incorporated herein by this reference. Secretary Bell Williams said this proposed policy sunset was introduced and reviewed at the May 23, 2024, board meeting. Upon motion duly made and seconded, it was unanimously

RESOLVED to sunset the 2017 Policy for Use-Based Tap Fee Calculation, as presented.

Amended Tap Fee Policy for Public Use Facilities – The board noted the draft amended policy, a copy of which is attached hereto as **Exhibit G** and incorporated herein by this reference. Secretary Bell Williams said this proposed amended policy was introduced and reviewed at the May 23, 2024,

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1 board meeting. In response to a question, Ms. Roman said the District board reaffirmed the same
2 requirements on tap fees for public facilities at its May 23 board meeting. Upon motion duly made and
3 seconded, it was unanimously

4 **RESOLVED** to approve and adopt the Amended Tap Fee Policy for Public Use Facilities, as
5 presented.

6 **INFORMATION REPORTS**

7 Directors reviewed board committees, the draft May meeting summary, and contract log, copies of which are
8 attached hereto as **Exhibits H, I, and J**, respectively, and incorporated herein by this reference.

9 **BOARD MEMBER INPUT**

10 Directors discussed the importance of mailing customer reminders about rates and billing statements, as well
11 as prioritizing long-term water conservation through community education and cultural awareness.

12 **GENERAL MANAGER REPORT**

13 Ms. Roman presented the report, a copy of which is attached hereto as **Exhibit K** and incorporated herein by
14 this reference. She said the District held its annual employee picnic to celebrate employee contributions and
15 accomplishments. She also discussed the results of recent stay interviews and said the most-cited reason
16 why employees remain at the District is they value the culture and people. She also discussed efforts to raise
17 awareness around issues affecting water affordability, including her participation on a panel with Sen. Roberts
18 and other local leaders at the District's May 29 State of the River event. She is also meeting with
19 representatives from the Colorado Department of Public Health & Environment and the Department of Local
20 Affairs regarding the impacts of implementing regulatory standards on water affordability. Finally, she and
21 other local leaders recently met with Sen. Hickenlooper, where she thanked him for his support of the federal
22 Bolts Ditch Act and advocated for federal support of the permanent acquisition of the Shoshone water right by
23 the Western Slope coalition.

24 **Eagle Park Reservoir Company update** – Ms. Roman reported on the June 25 annual shareholders
25 meeting and quarterly board of directors meeting of the Eagle Park Reservoir Company (EPRC). She
26 said the FY25 budget was approved with decreases in repair and maintenance costs due to the
27 completion of the recent Chalk Mountain Ditch Interceptor and East Fork Pump Station improvement
28 projects. She also said these projects have already resulted in significant operational efficiencies. She
29 also discussed the June 10 Molybdenum Rulemaking Hearing before the Colorado Water Quality
30 Control Commission (WQCC), which is particularly relevant to EPRC since the Reservoir is located
31 on Climax Mine (Climax) property. The WQCC considered, but did not approve, a proposal by Climax
32 to relax the water supply standard by increasing it from 210 micrograms per liter (ug/L) to 1,600 ug/L,
33 though ultimately voted to increase the standard to 530 ug/L. EPRC was represented at the Hearing
34 and did not take a position on the updated 530 ug/L standard.

35 **BUSINESS ADMINISTRATION REPORT**

36 Mr. Norris did not have a written report or items to discuss.

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1 OPERATIONS REPORT

2 Mr. Zachman presented the report, a copy of which is attached hereto as **Exhibit L** and incorporated herein
3 by this reference. He did not have any further items to discuss.

4 ENGINEERING AND WATER RESOURCES REPORT

5 Mr. Cowles presented the report, a copy of which is attached hereto as **Exhibit M** and incorporated herein by
6 this reference. He provided updates on certain projects listed on the Development Report, including the North
7 Road project in Traer Creek. Discussion ensued regarding whether the transition to aligning rates on certain
8 account types based on meter size rather than Single Family Equivalents (SFE), as discussed at the May 23
9 board meeting, would impact the Development Report, which includes “SFEs Proposed” for each project;
10 Ms. Roman clarified these concepts are mutually exclusive. Mr. Cowles also summarized the Berry Creek
11 water rights analysis and the related memorandum to Eagle County referenced in Exhibit M. He also provided
12 a brief update on the Eagle County Land Use Reform Project.

13 **Bolts Lake Reservoir update** – Mr. Cowles said staff and consultants are developing a project
14 management plan and a comprehensive permitting plan, which includes National Environmental
15 Policy Act (NEPA) requirements. Director Hillgren encouraged permitting submissions proceed with
16 all possible expedition and simultaneity. Mr. Cowles also said that staff were prepared to resubmit
17 the feasibility study that is a prerequisite to apply for the U.S. Bureau of Reclamation Small Storage
18 Grant Program with an economic analysis requested by the Bureau. Mr. Cowles also provided an
19 update on Congressionally Directed Spending Requests that were submitted to the offices of Sens.
20 Bennet and Hickenlooper and Rep. Neguse, noting that Senator Hickenlooper’s office submitted the
21 Authority’s request to the Senate Interior Subcommittee. He also noted only one of these funding
22 sources can be accepted if awarded.

23 **Water shortage response plan** – Mr. Hildreth and Mr. Weil presented a memorandum and a
24 PowerPoint, copies of which are attached hereto as **Exhibits N** and **O**, respectively, and incorporated
25 herein by this reference. Mr. Hildreth said the 2023 Water Rights Report recommended replacement
26 of the 2012 Drought Response Plan with a Water Shortage Response Plan (WSRP) to provide an
27 updated framework for responding to drought and other emergencies that may cause a water supply
28 shortage in the Eagle River Basin. Mr. Weil presented data related to historical flows and drought
29 occurrences, water supply portfolios, drought vulnerabilities, and water demands. He also discussed
30 monitoring, response, and enforcement strategies proposed in the WSRP. Staff and consultants will
31 continue to finalize the WSRP and present it for board approval at a future meeting.

32 COMMUNICATIONS AND PUBLIC AFFAIRS REPORT

33 Ms. Johnson presented the report, a copy of which is attached hereto as **Exhibit P** and incorporated herein
34 by this reference. She said the 2023 Consumer Confidence Report was mailed to all District and Authority
35 water customers prior to the June 30 regulatory deadline. She thanked staff from the Communications and
36 Water departments for their collaborative efforts to produce these highly detailed reports. She also thanked

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1 staff from the Communications and Information Technology departments for their work to ensure compliance
2 with state digital accessibility rules taking effect on July 1, 2024. She said the start time for the community
3 open house of the recently upgraded Avon Wastewater Treatment Facility was changed to 10 a.m. on Jul. 24.
4 Finally, she said staff are meeting with landscaping companies to further understanding of the rate structures
5 and use tiers.

WATER COUNSEL REPORT

7 **Bolts Ditch Act update** – Ms. Moseley presented a memorandum with attachments, a copy of which
8 is attached hereto as **Exhibit Q** and incorporated herein by this reference. She provided updates on
9 the federal Bolts Ditch Act and recognized Ms. Roman for submitting written testimony in support of
10 S.2156 for the June 10 hearing before the U.S. Senate Subcommittee on Public Lands, Forests, and
11 Mining of the Committee on Energy and Natural Resources. As hearings have now been held by both
12 the House and Senate, the Bolts Ditch Act is eligible to be included in an upcoming omnibus bill.

GENERAL COUNSEL REPORT

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

EXECUTIVE SESSION

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

19 **RESOLVED** to enter into Executive Session at 10:38 a.m. to receive legal advice regarding
20 Bolts Lake and Battle North/Minturn Case Nos. 21CW3029 and 21CW3030, pursuant to §24-
21 6-402(4)(b), C.R.S., with no electronic record created as Ms. Moseley opined the contents of
22 the discussion would contain privileged attorney-client communications.*

23 Open session resumed at 10:49 a.m. During the executive session, the board did not take any formal action
24 or discuss any matters not enumerated in §24-6-402(4), C.R.S.

25

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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 10:49 a.m.

8 Respectfully submitted,

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11 _____
12 Secretary to the Meeting

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14 **MINUTES APPROVED, FORMAL CALL, AND**
15 **NOTICE OF MEETING WAIVED**

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18 _____
19 **Arrowhead Metropolitan District**

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22 **Town of Avon**

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25 **Beaver Creek Metropolitan District**

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28 **Berry Creek Metropolitan District**

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31 **EagleVail Metropolitan District**

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33 _____
34 **Edwards Metropolitan District**

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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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47 _____
48 **Kristin Moseley, Water Counsel**