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# RECORD OF PROCEEDINGS

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## MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT September 26, 2012

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., September 26, 2012 in the Conference Room of the District Administrative and Operations Facility, Eagle-Vail, Eagle County, Colorado.

### Attendance

In Attendance were Directors:

- Mike Balk
- Louis Kreig
- Jim Power
- Ernie Elsner (on phone)
- Bob Gary (on phone)

Also in Attendance were:

- Clyde Hanks, General Manager, BCMD
- Ken Marchetti, Robertson & Marchetti, PC
- James Collins, ESQ, Collins Cockrel & Cole
- Jennie Fancher, BC Admin Assistant, BCMD
- Tim Baker, Beaver Creek Resort Company
- Sam Parker, Director of Beaver Creek Public Safety
- Bill Simmons, BC Village Operations
- Glen Porzak, Eagle River Water & Sanitation District
- Linn Brooks, Eagle River Water & Sanitation District
- Mark Chapin, Eagle County Assessor
- Tim Maher, BCPOA President
- Tim Kelley, Beaver Creek homeowner
- Dave Eickholt, Beaver Creek homeowner

### Call to Order

The Regular Meeting of the Board of Directors of Beaver Creek Metropolitan District was called to order by Mike Balk, Chairman of the Board, noting that a quorum was present. It was confirmed that prior to the meeting each of the Directors had been notified of the meeting and that written notice was duly posted at the Eagle County Clerk and Recorder's Office and at three public places within the District.

### Conflicts

The Board noted that it had received certain disclosures of potential conflict of interest statements more than seventy-two hours prior to the meeting for each of the following Directors, indicating the following conflicts: Mr. Ernest Elsner is a member of the Board of Directors for Beaver Creek Property Owners

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Association; Mr. Michael Balk is a member of the Board of Directors for Beaver Creek Property Owners Association; Mr. Robert Gary is a member of the Board of Directors for Beaver Creek Property Owners Association, Vail Valley Foundation Board and the Vilar Center for the Arts Committee; Dr. Louis Kreig is a member of the Board of Directors for Beaver Creek Property Owners Association; and Mr. James Power is a Director of the Beaver Creek Property Owners Association. The Board noted for the record that these disclosures are restated at this time with the intent of fully complying with laws pertaining to potential conflicts.

### Minutes

The Board reviewed the minutes of the August 29, 2012 Special Meeting. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the minutes of the August 29, 2012 Special Meeting.

### Agenda

Director Power noted he wanted to add a presentation from the Eagle River Water and Sanitation District to the agenda.

### Future Meetings

Discussion took place related to changing the October meeting to October 17. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to change the meeting date for the October meeting to October 17, 2012 at the same time and location.

The Budget Work Session meeting will take place in the Board Room of the BCMD Administration Facility at 8:30 am, Wednesday, October 3.

### Public Input

**Eagle River Water and Sanitation District:** Director Power introduced to the Board ERWSD attorney Mr. Glen Porzak and ERWSD general manager Ms. Linn Brooks, noting the exceptional work ERWSD executed during a drought year.

Mr. Porzak presented the Board with information related to Beaver Creek water rights. Beaver Creek has very senior, unique water rights, with 2.5 cubic feet per second year round and not limited to seasonal use; 6 cubic feet per second for irrigation use, and other

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senior water rights that are used for the golf course. 2.53 cubic feet per second is the most water ever used by Beaver Creek. Beaver Creek is unique in that its water has a flow rate limitation and not an acre foot limitation. Five of the 6 members of the water authority are fully subscribed or have exceeded their water usage. Beaver Creek has not. Mr. Porzak noted he does not foresee Beaver Creek ever having an issue with water.

Director Elsner inquired of Mr. Porzak if Beaver Creek has senior water rights and ERWSD decides to terminate irrigation does Beaver Creek have a legal right to continue to use its senior water rights or can the community be forced into terminating irrigation. Mr. Porzak noted diversion facilities could be used. Mr. Porzak reported that there is no cause for concern.

The possibility of adding a water storage facility was raised. It is an expensive proposition to build a water storage facility but is worth pursuing an analysis.

**County Appraisal Process:** Mr. Mark Chapin, Eagle County Assessor, presented the Board with an overview of the assessing process. Colorado is mandated to conduct a reappraisal every 2 years. The next reappraisal will take effect in 2013 with data collected through June 30, 2012. The assessed values are based on market data, income data, and cost data developed from the 24 month period preceding this date. Countywide the median market change is 20% down. The biggest portion of the change is going to be experienced in the western end of the county. Mr. Hanks inquired how much values went down for the current cycle. Mr. Chapin replied 23%. The market has gone back to 2004/2006 levels. Every year the assessment jurisdiction is audited by an independent auditor. Eagle County has passed every time. The most recent assessment will affect revenues in 2014/15.

Prior to 1982 all property in Colorado was assessed at 30%. In 1982 the Gallagher Amendment was passed simplifying the assessing methodology to 3 factors: cost, market, and income. Residential property is determined by the cost and market approaches to appraisal; agricultural property is factored by income only. Commercial properties are taxed at 29% of their net worth. The amendment requires a breakdown for the total property tax revenue for the state of 45% residential, 55% all other classes.

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This means that residential property tax rates float to make the ratio work, currently around 7%, where commercial properties are locked in at 29%.

Chairman Balk noted an examination of commercial property in Beaver Creek revealed extremely low valuations and inquired as to how hotel properties are treated. Mr. Chapin informed the Board sales drive the value of residential. Commercial properties are looked at 3 ways: cost, market, and income approaches. Resort hotels demonstrate a difference between market value and real estate value. The Hyatt in Beaver Creek is an example; it last sold for \$60 million, the value of it today is between \$35 and \$38 million. The real estate value is the fee simple value: the tangibles of the land, determined by any of the 3 approaches. The net operating income is brought into the appraisal. Mr. Chapin used Vail retail space as an example. Properties are selling for \$1,500 a square foot but income data does not support the same value. Part of the value is emotional, people want to buy here. The market drives value. Every reappraisal the resort hotel properties appeal. The appeals are settled to avoid going to court and the resort hotel properties typically receive a 10 to 15% reduction as a result.

Director Power inquired whether an individually owned hotel unit that is mandated to be in a rental pool is considered residential or commercial. If the property owner can use the unit it is considered residential but that unit does not add to the income stream of the hotel and the unit value is considered residential and not a part of the hotel. The residential value of a condo unit is much higher than that of a hotel room. Taxes generated from residential units are far greater than hotel units.

Director Elsner inquired as to why the income approach appears to be the approach being used as opposed to the market approach or a combination of the 3. Mr. Chapin replied that he looks at commercial property based on the income approach and how the property performs. The market approach is considered. Director Elsner asked if the income data is provided by the property owner. Mr. Chapin responded the information does not often come from the property owner, using national market data and data available locally. The final say after the appeal brings the process down to income data, at which point commercial property owners have to provide the information. Chairman Balk noted the Board was

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astounded when they were presented with the assessed values of the commercial property within Beaver Creek. Director Elsner asked Mr. Chapin what he sees the current assessment being for Beaver Creek. Mr. Chapin sees residential properties as flat and condo market impacted. The answer will be known closer to Christmas.

**Sculpture:** Mr. Kaylor was not present to present the Board with his request for a contribution toward a sculpture to be placed at the Village Road/Offerson Road intersection. The cost of the sculpture is estimated to be \$200,000, which would be split four ways: BCPOA, BCMD, BCRC, VR. The sculpture was discussed and it was agreed that it would be nice to have a resort specific sculpture in Beaver Creek. The subject will be discussed during budget talks.

### General Manager Update

**Fire Station Update:** Mr. Hanks informed the Board the PUD hearing is set for October 17, at 3 pm, in the Eagle County Building. Mr. Hanks has communicated with the attorneys for Village Walk and the language has been worked out. One homeowner in Village Walk does not agree with the PUD amendment but the HOA has sent a letter of support to the County. It would be helpful to have people at the meeting showing support. A location for the new station will be discussed in Executive Session.

**Fire District Contract:** Mr. Hanks informed the Board a response was sent to Chief Bauer of the Fire District with regards to the ERFDP analysis. The response requested direct costs associated with operating the BC fire station. The ERFDP has notified Mr. Hanks its current focus is on the ballot issue. BCMD would like accurate data reflecting direct costs and overhead. ERFDP looks at Beaver Creek as a part of the district and not a separate station. Mr. Parker noted training is taking place to ensure there is always an employee on site capable of driving fire equipment.

**Project Legacy:** Mr. Hanks reported to the Board there are 2 Project Legacy updates. 1.) The forms have been poured for the new entry monuments which are expected to arrive by October 13<sup>th</sup>. In addition the guardrail materials have been ordered. The cost will be \$20,000 for each, BCRC and BCMD. 2.) The cost of the guardrail is \$333 per linear foot. It is expected to cost

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\$117,000 to replace the guardrail at the Prater Road intersection. BCRC has \$200,000 earmarked for Project Legacy.

**Speed Sign for Village Road:** A speed sign has been requested to be placed on Village Road in the uphill lane by the Offerson Road crosswalk. It has been budgeted to buy one sign a year, the sign purchased earlier in the year cost \$7,200. It was agreed to purchase a new sign for the requested location.

**Meeting Posting Location:** The closing of 1<sup>st</sup> Bank in Beaver Creek requires finding a new location at which to post meeting notices. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to use the kiosk in the plaza as the new posting location.

**Insurance Claims:** The Board referred to the report included in the packet. Mr. Hanks noted the paint from the Pro Cycling Challenge was removed from the roads and the cost is being billed to the Vail Valley Foundation. A truck hit a lamp post the morning of the event as well and the Foundation has been billed for its replacement cost.

**Transportation Agreement:** A meeting took place with Tim Baker, Doug Lovell, Director Kreig, and Director Elsner related to funding for transportation. The proposal will be discussed in executive session.

**Manhole Painting:** A white ring has been painted around one manhole on Village Road as a test. The manhole in question is just downhill from Beaver Creek Drive and is 1.5" below grade.

**2015 Requests:** Requests from the Vail Valley Foundation for 2015 will be on the agenda for the October 17<sup>th</sup> meeting.

### Legal

Mr. Collins noted nothing to report on the legal front

### Property Sales Report

Mr. Marchetti referred to the property sales report included in the packet, noting he is forecasting a 5% decrease in property values in Beaver Creek. There will be a significant decrease county wide.

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### Financial Statements

Mr. Marchetti referred to the August 2012 preliminary financial statement included in the packet, noting finances are on track, forecasting \$5 million in reserves; \$4.6 million was budgeted, due to more spending being anticipated last year than actually occurred. Mr. Hanks noted a new burner for the snowmelt system will be needed. Mr. Marchetti noted the budget is conservative. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to accept the August 2012 preliminary financials as presented.

### Accounts Payable

The Board reviewed the Accounts Payable listing that had been included in the packet. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve and ratify the accounts payable list as presented.

### Executive Session

Upon motion duly made and seconded, it was unanimously

**RESOLVED** to enter into executive session citing §24-6-402(4) (a) C.R.S. for the purpose of determining positions subject to negotiations related to the acquisition of property for a new fire station; and §24-6-402(4) (e) to discuss positions related to negotiations with BCRC related to Transportation matters. The Board entered into executive session at 10:52 a.m. and adjourned the executive session at 11:30 a.m.

### Transportation Agreement

The Board discussed the Transportation Agreement between BCMD and BCRC. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve a 10 year transportation agreement, subject to annual appropriations, allocating \$2,850,000 for the BCMD share of transportation in 2013 and increasing at a mutually agreed upon CPI rate, not to exceed 3%, thereafter.

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**Adjournment**

There being no further business to come before the Board, by motion duly made and seconded, it was unanimously

**RESOLVED** to adjourn the Special Meeting of the Beaver Creek Metropolitan District Board of Directors held on September 26, 2012.

Respectfully submitted,  
  
Jennie Fancher  
Secretary for the meeting