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# RECORD OF PROCEEDINGS

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## MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT February 27, 2013

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., February 27, 2013 in the Conference Room of the District Administrative and Operations Facility, Eagle-Vail, Eagle County, Colorado.

### Attendance

In Attendance were Directors:

- Jim Power
- Louis Kreig
- Ernie Elsner
- Mike Balk
- Bob Gary

Also in Attendance were:

- Clyde Hanks, General Manager, BCMD
- Ken Marchetti, Robertson & Marchetti, PC
- Eric Jorgenson, ESQ, Collins Cockrel & Cole
- Jennie Fancher, BC Admin Assistant, BCMD
- Tim Baker, Beaver Creek Resort Company
- Bill Simmons, BC Village Operations
- Chris Lubbers, BC Transportation
- Tim Maher, BCPOA President
- Jim Kaylor, BCPOA Vice President

### 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 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

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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 January 23, 2013 Regular Meeting. Mr. Jorgenson recommended a verbiage change on page 2, changing the word “renewal” to “appropriations” with regards to the Transportation Agreement. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the minutes of the January 23, 2013 Regular Meeting with Mr. Jorgenson’s suggested change.

### Agenda

No changes were made to the agenda.

### Future Meetings

The next regular meeting is scheduled for Wednesday, March 27, 2013 at the same time and location.

### Public Input

There was no public input.

### General Manager Update

**Fire Station:** Mr. Hanks updated the Board on the status of Fire Station negotiations. A meeting was held on February 14<sup>th</sup> with Mr. Hanks, Chairman Balk, Director Kreig, Doug Lovell, and Alex Iskenderian. The output of the meeting was that BCMD would look to move forward with condemnation with the understanding that if both parties did not reach an agreement on a stipulation for a court order BCMD would stand down and reconvene. The next step was for the VR condemnation attorney to contact the BCMD condemnation attorney which has not yet occurred. The process is dragging on. Director Kreig noted the same issues were discussed at the February meeting as were discussed at the November meeting with no progress toward a resolution. A bond issue may have to be approached if non-action continues. Director Power mentioned moving forward with condemnation without VR. There is concern that an agreed upon compensation could be altered by the court, which can dictate its own compensation. Mr. Maher inquired about the issue of density adjustment. The BCPOA Executive Committee decided not to take stance on the Fire Station issue. The sticking point for Elk Track home owners is traffic on the road. Fire trucks are not the issue, VR traffic is. The property where the current fire station sits will not be as valuable without density change and building a new station could cost tax payers some money. VR will be encouraged to move forward as discussed at the February 14 meeting.

**ERFPD Contract Renewal:** Mr. Hanks, Director Gary, Director Power and Jennifer Cartmell-Hayes met to discuss the contract renewal. More detailed financial information has been received from ERFPD. The issues at hand

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include the direct costs and allocated costs. Direct costs are staffing the fire station and allocated costs include a training officer, the Fire Marshall, and other expenses. Some costs should be easy to agree on; others will be more difficult. Director Gary noted the major philosophical difference between the Districts involves the use of the Fire District's actual costs, rather than percentages. ERFPD's prefers to divide their costs between the 5 stations they operate. BCMD would like to pay actual costs and create an agreement to pay direct costs, plus a fair portion of the allocated costs. Once the financial data is available, a fair offer is expected to be prepared and submitted. The sense is that both sides want to reach an agreement. Inclusion of Beaver Creek into ERFPD is not an issue that is expected to be discussed in these negotiations. Director Power stated that the next meeting would be approximately mid April due to other commitments by those involved.

**Transportation Agreement:** Auxiliary Income and the overall structure of the contract is at issue. The BCMD contribution is reliant upon a baseline service that cannot go below 2012 service levels without mutual agreement. Any increase in service is fine and is at the expense of the BCRC. Service levels can be broken into four categories: mutual agreement, fleet (expect fleet to remain a modern fleet, age, mileage and condition are all a consideration of the baseline components); satisfaction survey data; and timeliness (currently 20 minutes or less 90% of the time for pick up). The Dial-A-Ride vans are currently no older than 6 years, with a standard where they are retired after 6 years or when a mileage of 110,000 miles has been reached. The mileage correlates to the age of the vehicles. There are currently 24 DAR vans, none older than 6 years old, totaling 452 seats, with an average of 48,000 miles on each vehicle. BCMD and BCRC mutually agree to replace DAR vehicles after 6 years/100,000 miles, unless otherwise mutually agreed.

Discussion indicated that DAR should have a mandatory standard of reaching its timeliness goal of arriving in 20 minutes or less 90% of the time and the need for a penalty was also discussed. Mr. Baker noted if service levels fail to meet this standard, BCRC is committed to supplementing its funding as necessary to maintain the standard at 20 minutes or less 90% of the time. It was noted that DAR is a signature service for Beaver Creek, especially during Christmas week.

The standard of quality for buses will be equivalent to the standards which existed at the end of 2012. The current number of vehicles represents the minimum number of vans and parking lot buses that will be in service. Mr. Lubbers noted there will be new transportation vehicles purchased prior to 2015. The Board directed that the baseline standards presented by Mr. Hanks be incorporated into separate Schedules that will be made a part of the

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agreement and it will be presented at the next meeting as an executable Restated and Amended Transportation Agreement for the Board's approval.

**Snowmelt System:** Mr. Hanks reported to the Board the snowmelt burner has been replaced and the new control system installed. The only issue is the analog phone line which makes communication with the system more cumbersome. Replacing the existing phone line with a digital line is being examined. The project is within budget.

**Project Legacy:** The Cost estimate for replacing all guardrails on Village Road is \$500,000, breaking down to \$314,000 for guardrails and \$186,000 for stonework. The estimate is 25% higher than expected. There are savings options that could include spreading the stone stanchions out to every 100 feet. In addition, the option engineered stone can be researched. The project can get to \$450,000 probably not much lower. There is only one company that creates the rail. BCRC has \$200,000 allocated for the guardrail project. The railings should be ordered now. The issue was discussed and it was agreed to replace 100% of the rails and as much of the stone work as possible. Mr. Hanks suggested approving \$225,000 for the project. Director Elsner noted his desire to have a guardrail on Village Road at the North Holden Road intersection added to the project in addition to those already in place on Village Road. Mr. Kaylor noted BCRC is moving forward with two large capital projects: moving the zamboni building and installing an escalator by the Grand Staircase. Mr. Maher requested a map be created showing all guardrails within Project Legacy. The BCMD budget would need to be amended to accommodate the added expense. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to utilize \$60,000 already budgeted for Project Legacy combined with an additional \$140,000 from the contingency fund to support the BCMD contribution of \$200,000 toward Project Legacy, with an additional \$200,000 in contributions to be received from the BCRC, with the purpose of replacing all of the guardrails and as much stonework as the \$400,000 will cover; in addition the feasibility and desirability of adding a guardrail at the intersection of North Holden and Village Roads will be examined and, if included in the project, will be subject to the \$400,000 limit as stated above.

**Prater Road Parking Request:** Mr. Hanks distributed a memo to the Board requesting parking on Prater Road for heavy parking days. This is similar to requests that have been approved in the past. Mr. Hanks also informed the Board of a message from a property owner concerned about cars parked on Prater Road after dark and the safety significance. Mr. Simmons noted the

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speed limit is 15 MPH on Prater Road and very rarely are cars parked there late in the evening. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the request for Parking along Prater Roadway as presented in the memo.

**Insurance Claim Recovery:** The Board referred to the report included in the packet. Mr. Hanks noted no new claims have been filed.

### UERWA

**UERWA Rate Increase:** Director Power referred to the resolution in the board packet and informed the Board of a rate increase for water from UERWA. The increase is for capital expenditures that include improving lines, new wells, and overall updates to meet new EPA standards. Director Elsner noted the term “Debt Service” in the resolution is not defined. Director Power responded “Debt Service” refers to the retirement of the bond. Director Elsner wanted clarification related to which entities are included in the resolution. Discussion determined the language in item 2 to be changed from “being actively billed” to “being actively billed by the Water Authority”. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the resolution subject to the revision discussed, a copy of which is hereby attached to become part of the minutes.

### Legal

Mr. Jorgenson noted that negotiations for the acquisition of the new fire station site would be discussed in executive session.

### Financial Statements

The Board referred to the January 2013 preliminary financial statement included in the packet. Mr. Marchetti noted 2013 is expected to close with close to \$4.3 million in reserves, dipping into reserves approximately \$1 million after 2012 ending with close to \$5.4 million in reserves. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to accept the January 2013 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

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**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; The Board entered into executive session at 10:10 a.m. and adjourned the executive session at 10:30 a.m.

Upon returning from executive session the Board took the following actions. Upon motion duly made and seconded, it was unanimously,

**RESOLVED** to authorize an offer be presented to Vail Resorts for the purchase of land for a new fire station near the UERWA Water Storage Tank.

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

**RESOLVED** to adjourn the Regular Meeting of the Beaver Creek Metropolitan District Board of Directors held on February 27, 2013

Respectfully submitted,



Jennie Fancher  
Secretary for the meeting