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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 26, 2014

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., February 26, 2014 in the Conference Room of the District Administrative and Operations Facility, Eagle-Vail, Eagle County, Colorado.

### Attendance

In Attendance were Directors:

- Louis Kreig
- Mike Balk (on phone)
- Jim Power
- Ernie Elsner
- 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, Vail Resorts
- Barry Parker, BCPOA President
- Jim Lee, BC homeowner
- Ken Keith, BC homeowner
- Lin Bercher, BC homeowner

### Call to Order

The Regular Meeting of the Board of Directors of Beaver Creek Metropolitan District was called to order by Lou Kreig, Acting 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.

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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 January 22, 2014, Regular Meeting and the February 7, 2014 Special Meeting. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the minutes of the January 22, 2014 Regular Meeting, and

**FURTHER RESOLVED** to approve the minutes of the February 7, 2014 Special Meeting.

### Agenda

No changes were made to the agenda.

### Future Meetings

The next regular meeting is scheduled for Wednesday, March 26, 2014 at the same time and location.

### General Manager Update

**Fire Station Update:** Mr. Hanks updated the Board on progress related to acquiring land for a new fire station. An agreement is being negotiated with VR related to the new site which is located just uphill from the water tank. The condemnation action has been delayed to April 7, 2014, while a definitive agreement is being worked on. A draft agreement from VR was received late Friday afternoon which has been reviewed by Jim Collins, Eric Jorgenson and Mr. Hanks. A redline version was sent to the Board and VR late yesterday, which will be discussed in Executive Session. Mr. Ken Keith, a homeowner on Elk Track Court, inquired as to whether a land swap is still being considered. The land where the current station sits will be sold to cover the cost of purchasing the new site from VR and the construction of a new station, which remains the cornerstone of the strategy behind a new station. Temporary financing will be utilized to build the new station which will be paid back upon the sale of the current site.

**Restrictive Covenant:** Mr. Hanks informed the Board of two issues to discuss and vote on related to ballot language. The amended and restated election resolution will need to be passed as well as the ballot language. The two ballot issues include the restrictive covenant and the agreement with the Fire District. The resolution sent to the Board includes language inserted by VR attorneys that suggested the words "health, safety and welfare of Beaver Creek residents". Director Kreig noted the language does not seem to make sense and is not necessary. Director Elsner noted

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his objection to the language related to acreage, noting the numbers are not backed up by a survey and have no support. There was discussion of omitting the reference to the number of acres and adding a whereas clause. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the Amended and Restated Election Resolution with the omission of language stating the number of acres, leaving in the VR suggested language “health, safety and welfare of Beaver Creek residents” in the agreement, and

**FURTHER RESOLVED** to approve the language of Ballot Issue A as presented.

Mr. Keith inquired as to whether the District Service Plan covers the acquisition of the restrictive covenant. Mr. Jorgenson responded the broadest powers of a Special District allow for this type of acquisitions. Falling under the power to acquire property interests.

Ballot Issue B was discussed. The new contract with ERFDP is a 10% increase that will follow the Denver/Boulder/Greeley CPI, capped at 3%. There will be no change in service levels but more training. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve Ballot Issue B as presented.

**Snowplowing:** Mr. Hanks informed the Board the District operations crew has been short staffed. Complaints received during the heavy snowfall were related to snow banks blocking views from driveways and address markers getting covered. Two new operations staff members have been hired by VR. The equipment has been tested during the heavy snowfall and the Town of Avon has been good at fixing issues with the trucks, plows and sanders. Mr. Parker noted the entrance to Village Road is tough from side roads. The banks are solid and will be taken care of when possible.

**Sweeper:** Mr. Hanks informed the Board the Sweeper bid came in higher than the budgeted amount. It was also discussed whether to purchase or finance. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to purchase the sweeper with financing.

**Prater Road lighting:** The subject of lighting Prater Road where overflow parking occurs was discussed. Members of the community are worried

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about safety. The majority of cars parked along Prater Road are gone by 4 pm. Using portable signage was discussed as was the possibility of installing solar lighting.

**AEDs:** There is a push from the Beaver Creek community to install more AEDs throughout the resort. AEDs are currently in Public Safety vehicles and in the fire truck. Public Safety has a list of all AED locations in the resort.

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

### Legal

Mr. Jorgenson noted nothing to report outside of Executive Session.

### Financial Statements

Director Elsner inquired whether any new information has been received on hotel properties settling property tax disputes. Mr. Marchetti replied he has not received any new information but will check in with the Assessor's office. Mr. Marchetti presented the Board with the preliminary financials for January 2014. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to accept the January 2014 preliminary financials as presented.

### Accounts Payable

The Board reviewed the Accounts Payable listing. Upon motion duly made and seconded, it was unanimously

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

### Other Business

The election was discussed. Four candidates have submitted self-nomination forms to run for the BCMD Board of Directors: James Lee, Linda Bercher, Pam Elsner and Steve Friedman. Absentee Ballot requests should be submitted to Kathy Lewensten. Mr. Parker inquired about the CAT that has been parked all winter on Holden Road.

Director Gary left the meeting at 9:57 a.m.

### 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

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negotiations related to the acquisition of property for a new fire station and the bond issue related to the restrictive covenant; The Board entered into executive session at 10:05 a.m. and adjourned the executive session at 10:50 a.m.

Upon returning from executive session the Board discussed the minutes from the January 22, 2014 Regular Meeting and a request that had been received from Tim Maher to strike the first sentence under "Bond Information". Upon motion duly made and seconded, it was unanimously

**RESOLVED** to reaffirm the earlier approval of the minutes from the January 22, 2014 Regular Meeting.

### **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 26, 2014

Respectfully submitted,



Jennie Fancher

Secretary for the meeting