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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 March 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., March 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
- Jim Power
- Ernie Elsner
- Bob Gary (on phone)

Also in Attendance were:

- Clyde Hanks, General Manager, BCMD
- Ken Marchetti, Robertson & Marchetti, PC
- Jim Collins, ESQ, Collins Cockrel & Cole
- Jennie Fancher, BC Admin Assistant, BCMD
- Mark Miscio, BCMD Supervisor of Street Services
- Tim Baker, Beaver Creek Resort Company
- Alex Iskenderian, Vail Resorts
- Bill Simmons, Vail Resorts
- Diane Johnson, ERWSD
- Lin Brooks, ERWSD
- Siri Roman, ERWSD
- Barry Parker, BCPOA President
- Jim Lee, BC homeowner
- Tim Maher, BCPOA & BCRC
- 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 Michael 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

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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 February 26, 2014, Regular Meeting. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the minutes of the February 26, 2014 Regular Meeting.

### Agenda

A change of order was made to the agenda. It was decided to discuss the contract to purchase land from VR first, followed by the introduction of Mark Miscio, new supervisor for the road crew, prior to hearing the presentations from ERWSD and UERWA.

### Future Meetings

The next regular meeting is scheduled for Wednesday, April 23, 2014 at the same time and location.

### General Manager Update

**Fire Station Update:** The Board discussed the terms of the Contract with Vail Resorts to purchase the land south of the water tank for a new fire station. The need for title approval should be included in the contract. Another change should include changing the year from 2016 to 2017 for the road. The hiring of an architect and design plans for the new fire station should be left to the newly elected Board. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the contract to purchase land from Vail Resorts subject to changing the date for the road from 2016 to 2017 and adding a title approval contingency.

**Introduction of Mark Miscio:** Mr. Hanks introduced Mark Miscio to the Board. Mr. Miscio is the new Vail Resorts supervisor for the BCMD Road Crew.

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### **Public Input**

Siri Roman, Wastewater Division Manager for the Eagle River Water and Sanitation District, presented the Board with an overview of wastewater treatment, the changes in regulations, and the wastewater master plan. Meeting the changing requirements has resulted in the need for funding. The funding can be approved as either an increase on the property tax bill or as a rate increase. If funded through property taxes the tax payer can write off the amount paid. If the tax is not approved in the May election there will be a revenue bond. Chairman Balk inquired as to whether these bonds would be available for tax payers to acquire. Linn Brooks, ERWSD General Manager, will bring this question up at the next ERWSD meeting. Ms. Brooks discussed two issues on the May ballot. Ballot Issue A will be for the approval of \$25 million in debt. Ballot Issue B will be a TABOR issue, exempting ERWSD from TABOR restrictions. The Board discussed Ballot Issue A and was not in favor of a property tax increase (mil rate increase) to fund the ERW&SD. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to not have the Beaver Creek Metro District support or endorse Ballot Issue A.

Director Gary joined the meeting at 9:29 am.

Ms. Brooks discussed the Resolution consenting to the UERWA creation of a capital replacement program base rate. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the Resolution consenting to the UERWA creation of a capital replacement program base rate.

### **General Manager Update, cont.**

**Village Walk Snowplowing and Maintenance:** Mr. Hanks informed the Board of a meeting held with the Village Walk HOA. Four or five years ago the HOA had requested BCMD take over the plowing and maintenance of its road and BCMD declined. The HOA requested again this year and BCMD declined. BCMD does sand the road.

**Bond Issue Update:** Discussion took place regarding the buffer zone and its enforceability. The opinion of Lew Harsted, BCPOA counsel, and Jim Collins BCMD counsel, is that the map is legally enforceable under Colorado law. It has been determined there is no need for a standalone agreement. The lessee was discussed to include VR as well as any subset of VR. Upon motion duly made and seconded, it was unanimously

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**RESOLVED** to eliminate the need for a stand alone agreement and have Mr. Collins produce a letter referring to the map of the buffer zone as binding with the current lessee noted as Vail Resorts or any subset of Vail Resorts.

Marcin Engineering reviewed the official legal description of the burdened property. With the exception of a few typos it is accurate and meets with what the County has on record. The buffer zone includes a detailed map with a definitive description and is 261.1 acres in size. The appraisal has been received. The TABOR notice is in preliminary draft form and will be mailed out to constituents no later than April 4, 2014. Two property owners had sent in comments for the TABOR notice.

**Insurance Claim Recovery:** The Board referred to the report included in the packet. Mr. Hanks noted a vehicle took out a sign post over the weekend and a report is expected today.

### Legal

Mr. Collins noted the receipt of the appraisal. The appraisal justifies the price of the land. There is some language to be cleaned up. The appraisal will not be released to the public.

### Property Tax Appeals

Mr. Marchetti referred to the information in the Board Packet. There is no set date for settlement of the appeals. Settlement could occur in a couple of weeks or a couple of years. There is an appeal scheduled for March 31<sup>st</sup> and April 15<sup>th</sup>.

### Financial Statements

Mr. Marchetti informed the Board the closing on the land for the fire station is expected to be \$700,000 plus closing costs. The closing date will be April 18<sup>th</sup>. Mr. Marchetti presented the Board with the preliminary financials for February 2014, everything is on budget. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to accept the February 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.

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**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 the bond issue related to the restrictive covenant; The Board entered into executive session at 10:56 a.m. and adjourned the executive session at 11:10 a.m.

Upon returning from executive session the Board discussed the new fire station. Director Kreig presented the Board with a design for a drive-through three bay fire station he toured in New Orleans. The station was designed by an architect from Denton, Texas who has designed fire stations around the US. This particular station cost \$6 million to build but had added features unnecessary for the new BCMD station. The design and construction of the new station will be left for the new board to tackle.

**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 March 26, 2014

Respectfully submitted,



Jennie Fancher

Secretary for the meeting