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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 May 28, 2014

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., May 28, 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

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
- Stephen Friedman, BC Property Owner
- Pamela Elsner, BC Property Owner
- James Fraser, BC Property Owner
- Bill Simmons, Vail Resorts
- Tim Baker, BCRC
- Jim Clancy, BC Public Safety
- Tim Maher, BCPOA
- Barry Parker, BCPOA
- Jeff Luker, BC homeowner
- Tim Kelley, BC homeowner
- Dominic Mauriello, Mauriello Planning Group LLC.

### 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 of the Board of Directors for Beaver Creek Property Owners Association;

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# RECORD OF PROCEEDINGS

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## Beaver Creek Metropolitan District May 28, 2014 Meeting Minutes

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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 April 23, 2014, Regular Meeting, Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the minutes of the April 23, 2014 Regular Meeting.

### Agenda

No changes were made to the Agenda.

### Future Meetings

The next regular meeting is scheduled for Wednesday, June 25, 2014 at the same time and location. The date may need to be moved up a week dependent on discussion of bond issuance being held later in the meeting.

### Public Input

Mr. Luker recognized the current Board and its outgoing directors for their time and contributions on behalf on the Beaver Creek community.

### General Manager Update

**Revised Water Contract:** The UERWA Agreement has been in the revisal process for the past three years. The six member entities have approved a contract contingent upon agreement of each individual board. The BCMD representative on the UERWA is Director Power. Director Power recommends approval of the contract. Director Elsner inquired about irrigation restrictions should a drought occur. This contract does not deal with irrigation issues and restrictions. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the newly revised agreement with the Upper Eagle Regional Water Authority.

**Restrictive Covenant Acquisition:** Director Elsner referred to the confidential opinion letter received late yesterday afternoon and inquired about Beaver Creek Associates Inc. being named as the lessee of the buffer zone, on the second page. Mr. Collins responded the lessee is the subject of the restrictive agreement, all parties being equally bound, regardless of the name of the affiliate, and will change his opinion letter accordingly. Director Elsner also inquired about the reference to knowledge of Special District law and property law, asking if this refers to Colorado case law,

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# RECORD OF PROCEEDINGS

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## Beaver Creek Metropolitan District May 28, 2014 Meeting Minutes

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Colorado statutory law or both. Mr. Collins noted he has sufficient knowledge of Colorado Special District law and Colorado property law, sufficient knowledge to render this opinion. The knowledge in question is related to case, statutory, and constitutional law.

### Financial Statements

Mr. Marchetti referred to the packet, noting income and expenses are tracking well. The big item on the horizon is the expense related to the new fire station site. This will be monitored and money will be borrowed next year to cover construction of the new station. This will be watched as work moves forward. Director Elsner informed the incoming directors about assessed values of commercial properties within Beaver Creek and the unbalance that has existed with the assessment of hotel properties specifically. Director Elsner recommended an Assessed Valuation Committee be formed by the next Board. There is \$75,000 in the budget for road striping and patching. There is also money budgeted for skier bridge repairs. Upon motion duly made and seconded, it was unanimously

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

### Accounts Payable

The Board reviewed the Accounts Payable listing. Mr. Marchetti noted costs specific to the bond issue are being tracked and will be covered by the bond money when issued. Upon motion duly made and seconded, it was unanimously

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

### Oaths of Office

Three new Board members were elected in the May election for terms through 2018. The Oath of Office was taken by Mr. Stephen Friedman, Mr. James Fraser, and Ms. Pamela Elsner. The Board and Mr. Hanks expressed appreciation to Chairman Balk, Director Gary, and Director Elsner for their years of service on the Board.

### Election of Officers

The election of officers within the Board was discussed. It was agreed to put off the election of officers until the June meeting. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to postpone the election of officers until the June 2014 meeting and appoint Director Kreig as the interim Chairman and Director Power as the interim Secretary/Treasurer.

### Appointment

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# RECORD OF PROCEEDINGS

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Beaver Creek Metropolitan District May 28, 2014 Meeting Minutes

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## Of Delegates

The Board discussed the delegates it would need to appoint to Upper Eagle Regional Water Authority (UERWA) board. The Board appointed Director Power as the delegate with Mr. Hanks as the first alternate. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to appoint Director Power as the delegate to UERWA, with Mr. Hanks as the alternate.

## Future Meetings

The June meeting is scheduled for June 25 but due to the bond issue it should be held a week earlier. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to hold the next meeting of the Board of Directors of the Beaver Creek Metro District on Wednesday, June 18, at 8:30 am in the BCMD Administration Facility.

## General Manager Update

**Fire Station Site:** Mr. Hanks informed the Board the purchase of the land for a new fire station is complete. There are some steps to be completed this spring, including wetlands issues and soil testing. \$10,000 has been placed in escrow for mitigation. The survey will involve the Army Corps of Engineers, which will entail signing off on any wetlands issues. There is a possibility that issues could slow the permitting process. The design of the road to the new fire station site is complete and it will go out to bid. The existing road is dirt and needs to be smoothed and moved ten feet out to the side. The access road is currently being used by VR and no objections have arisen to-date. The next step in the process will be identifying and hiring an architect for the fire station. There is presently a Fire Station subcommittee consisting of Director Krieg and Director Power. The subcommittee will continue into the design and construction phases of the fire station. Director Kreig and Director Power would like to be on this committee. Options for selling the property where the current fire station sits will be discussed in Executive Session.

**Guardrails:** Mr. Hanks informed the Board of work planned on the guardrail section by Prater Road. The area is too narrow for a stone stanchion and a timber will be placed on the end at a 45° angle.

**ERFPD Agreement:** A new agreement has been executed with ERFPD, to last 11 years with a revisit after five (5) years and two consecutive three (3) year terms.

**Bond Update:** There will be a committee approach to working on the bonds with Jonathan Heureux of Piper Jaffray. Director Fraser was

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# RECORD OF PROCEEDINGS

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## Beaver Creek Metropolitan District May 28, 2014 Meeting Minutes

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nominated to serve on the Bond Committee. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to elect Director Jim Fraser to the bond Committee.

The bond schedule was discussed. The bonds will be available by July 8<sup>th</sup> at the earliest, depending on how quickly the process can move forward. The bonds are double tax exempt for Colorado residents. The process will involve two rating agencies, Standard and Poor and Fitch, the challenge with the rating is that the assessed valuation in Beaver Creek is high but the population is low. The rating can be accepted or challenged. Insurance will be implemented if it is deemed cost effective. A flyer will be sent to homeowners soon and the method of delivery was discussed. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to inform homeowners of the ability to purchase bonds via both email and direct mailing.

**General BCMD Update:** Mr. Hanks referred to the report in the packet, noting a slurry seal overlay is scheduled for the fall. The Town of Avon has had some issues with slurry seals on its roads, specifically in areas where there are sharp curves along with the fact it does not stick to areas where striping is present. The annual review the road conditions and the annual review of the Vilar Center are scheduled for the June meeting. Authorization for the current funding for the Vilar Center expires at the end of 2015 and an extension will require a ballot issue in November, with the finalization of ballot language in September. Mr. Hanks informed new directors that the skier bridges are owned by BCMD. Mr. Hanks also reminded the Board of the Board Member Training offered by the SDA on June 11 in Vail. Mr. Collins discussed communication with the Board, noting the importance to not hit "reply all" when responding to an email and that confidential materials and discussions are to remain confidential. Mr. Marchetti discussed the assessment cycle within Beaver Creek, noting current sales are trending flat. This will affect revenues for 2016 and 2017. Revenues will need to be increased or significant cost reduction will have to be implemented.

### Legal

Mr. Collins noted nothing of note on the legal front.

### 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 sale of property where the current fire

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## RECORD OF PROCEEDINGS

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### Beaver Creek Metropolitan District May 28, 2014 Meeting Minutes

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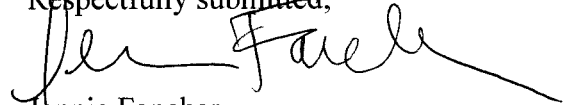
station is located; The Board entered into executive session at 10:52 a.m. and adjourned the executive session at 11:37 a.m.

#### 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 May 28, 2014

Respectfully submitted,



Jennie Fancher  
Secretary for the meeting