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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 June 22, 2011

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., June 22, 2011 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
- James Power
- Robert Gary
- Ernie Elsner

Also in Attendance were:

- Clyde Hanks, General Manager
- David Greher, Esq, Collins Cockrel & Cole
- Ken Marchetti, CPA, Robertson & Marchetti, PC
- Jennie Fancher, BC Admin Assistant,
- Kathy Lewensten, Recording Secretary
- Sam Parker, BC Public Safety
- Bill Simmons, Director of Operations
- Dawn Friedman, BCPOA
- Tim Maher, BCPOA
- Tim Baker, BCRC Executive Director
- Kris Sable, Vilar Performing Arts Center
- Dean Davis, Vilar Performing Arts Center
- Glen Palmer, Alpine Engineering

### Call to Order

The Regular Meeting of the Board of Directors of Beaver Creek Metropolitan District was called to order by Director 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 and a director of the Vilar Center for the Arts; 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 May 25, 2011 Regular Meeting. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the minutes of the May 25, 2011 Regular Meeting as presented.

### Agenda

Mr. Hanks requested two additions to the agenda, discussion of a request for parking on Prater Road during the Tough Mudder event this coming weekend, and an update on the Prater and Village Road realignment project.

### Future Meetings

The next regular meeting is scheduled for Wednesday, July 27, 2011 at the same time and location.

### Vilar Capital Projects Annual Report

The Board turned its attention to the Vilar Center for the Arts Annual Report which had been included in the Packet. Mr. Sable was in attendance to present the information. He thanked the District for its continued support. He reviewed the expenditures explaining some projects have been reprioritized. He stated the sound system was recently affected by a transformer which was replaced outside of the building. The exact issue is not known so consultants are working to assess the problem. Once the problem is defined it is expected the repair will be a priority. The Board complimented Mr. Sable on how well the center is run and expressed appreciation for the many hours it takes. Upon motion duly made and seconded, it was unanimously

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**RESOLVED** to authorize the release of \$250,000 to the Vilar Center for use on capital projects as outlined in the annual report and ratification of capital projects from the prior year.

### General Manager Update

**Prater Road Overflow Parking:** Mr. Hanks stated he had received a request from BC Public Safety to allow parking along Prater Road this coming weekend during the Tough Mudder event. Mr. Baker explained they had expected around 2,000 participants but have received over 8,000 entries to date. Mr. Hanks explained this is similar to the request for overflow parking in the winter months. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve overflow parking on Prater Road during the Tough Mudder event.

**Prater Road Project:** Mr. Hanks reported Marcin Engineering has been retained to re-design the Prater Road curve area. BCRC will be paying for half of the cost of the engineering for the project. It is hoped a design and cost estimate will be available for review at the July meeting. The golf course has expressed interest in looking at adding a second tunnel in the area in connection with the redesign. Mr. Hanks stated a meeting will be held next week with Marcin to discuss alternatives and asked if the Board would like to have representatives attend. The Board appointed Director Elsner and Director Kreig to represent the District in the meeting. Director Elsner felt it would be appropriate to have the project legacy committee review and comment on the design also.

**Project Legacy Signs:** Mr. Hanks reported the sign project is underway. The signs have been ordered, the repainting of the poles is 80 % complete, and signs are being replaced as they arrive. In house staff is being used when available to help contain costs. Mr. Hanks reported a proposal of \$1,200 to re-stain and repaint two skier bridges was received and will be included as part of the project.

Mr. Hanks reminded the Board that neither regulatory signs nor the entryway monument signs were included in the first part of the project. If BCRC budgets for their half of the entry monument

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signs in their next fiscal year the entryway work will be done in the fall.

The Board expressed interest in keeping project legacy moving forward and encouraged Mr. Baker and BCRC to budget as much as possible in their next budget year for project legacy projects. Mr. Baker stated he would like the remaining project legacy projects prioritized to better understand the financial requirements that need consideration during the budget process. Mr. Hanks explained the project legacy committee had prioritized the projects last year and offered to get the information to Mr. Baker. It was suggested the project legacy committee meet to review the list and priorities.

**Landslide:** Mr. Hanks reported a landslide had occurred in between two properties located at Strawberry Park Court. The District has a drainage easement in the area. Until runoff ends it is difficult to ascertain what remedial work will be needed and whose responsibility it will be. Any remedial work would need to be scheduled in the fall at the driest time. He will keep the Board informed as more information becomes available.

**Fire Station:** Mr. Hanks reported Mr. Lovell and Mr. Iskenderian will be presenting the proposed fire station site request to Mr. Katz in the near future to seek his approval to proceed with a proposal for the District to consider. A map of the area indicating the proposed location for the fire station was provided and briefly discussed. Director Gary had contacted Mr. Garnsey (VR) and Director Power had contacted Mr. Meyer (Elk Track homeowner) as follow up to the discussions from prior meetings concerning a possible written agreement between the Elk Track Property Owners and VR. They both remembered a verbal agreement, not a written one. Director Gary also left a message for Mr. Dalton (Elk Track homeowner) requesting a copy of the agreement, Mr. Dalton has not responded.

Mr. Hanks reported he has learned the District does not have its own ISO rating but is included in the rating for the Town of Avon through ERFPD. He will be meeting with the consultant next week to learn what steps the District could take to obtain its own ISO rating and whether there would be any benefit to doing so.

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Director Gary reported Mr. O'Brien (Chairman, ERFPD Board) has contacted him to discuss the renewal of the agreement between the Districts. A meeting had been set for later in the week.

**Insurance Claims:** There are no claims currently outstanding.

### Roadways

Mr. Hanks and Mr. Palmer presented the information included in the packet concerning the current condition of Village Road and related repair recommendations. It was reported the full depth patches done last year appear to be holding up well. However other shallow patches are deteriorating more rapidly than expected. This past winter one large pothole developed which was difficult to repair. Mr. Hanks explained cold patch was used but would not last much longer than a day; an infrared patch was scheduled but was not immediately available so it took longer than expected to repair the area. Mr. Palmer stated it is hard to predict where these types of failures will occur. Director Elsner asked about the term "catastrophic" failure used in the memo. Mr. Palmer explained he used the term to describe anticipated large and deep failures such as the large pothole experienced this past winter. Director Elsner stated the term "catastrophic" implied something much more significant than a large pothole and requested another term be used. It was suggested "severe" and "probability" may be more appropriate terms. The memo will be reissued with revised language.

In preparing today's report the District roadways were reviewed to determine the area's of highest probability of failure in the near future. Using this information cost estimates for recommended repairs were developed. The minimum recommended repair cost estimate is \$117,000. This would cover the high risk subgrade repairs and routine maintenance. For an additional \$140,000 the moderate risk subgrade repairs and drainage improvements could be included. Mr. Palmer pointed out the intent of the drainage improvements would be to help stabilize the subgrade. Mr. Hanks explained the bid package will request individual bids for sections of the project so the District can determine which parts it wants to proceed with. He pointed out the bid package will also request a bid for an overlay on Holden Road.

The Board discussed the budget for road repairs. The District budgeted \$50,000 for patching and \$400,000 for road overlays. It

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is expected the cost of the Holden Road Overlay will be near the full \$400,000 budgeted. Mr. Marchetti stated the District has \$60,000 available in contingency funds in the general fund and \$90,000 available in contingency funds in the capital projects fund which could be used for additional patching and maintenance. The pros and cons of using contingencies and reserve funds for funding of the repairs were discussed. One alternative may be to do the minimum recommended repairs and part of the drainage improvements as a test. Mr. Hanks will obtain bids and bring back a summary for further discussion at the next meeting.

Mr. Palmer left the meeting at 10:00 a.m.

### Mill Levy Discussion

The Board began discussion of future funding needs of the District and potential mill levy increases. Draft election questions for a mill levy increase which would sunset after three years had been included in the packet for discussion purposes. The District may hold a TABOR election this November, in May 2012, in November of any year or in May of even numbered years. Mr. Marchetti had provided mill levy estimates to maintain the current level of property tax revenue collection based on lower assessed valuations. He explained one scenario reflected an increase in the mill levy of 2.224 mills to keep general fund property tax revenues at the same level as 2011 collections; the other scenario reflected an increase in the mill levy of 4.125 mills which would keep both the general fund and the transportation fund at the same levels as 2011 collections.

The Board discussed the general and capital funds first. Mr. Hanks reported he had gone through the capital budget with Mr. Marchetti prior to today's meeting and had extended out major capital projects or equipment replacements to maximum timeframes. The revised capital expenditures were reflected in the scenarios presented. The Board agreed that taking a hard look at expenditures to see if cost reductions could be made would be a prudent step prior to holding an election to raise the mill levy. Director Elsner stated the District has reserve funds that could be used for the next year or two to cover any shortfalls instead of a mill levy increase. He noted the assessed valuation will continue to fluctuate and may even decrease further in future years making it difficult to determine an appropriate mill levy. Director Power

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expressed his opposition to using reserve funds to cover operational expenses noting reserve funds should be used for unexpected major expenses not day to day operations. It was noted the District has lowered the mill levy when the Districts assessed valuations rose by self imposing a 5.5% restriction on revenues so it does not seem unreasonable to ask for a mill levy increase to maintain current levels of property tax revenues since the assessed valuations decreased.

The Board turned its attention to the transportation fund. Director Balk asked Mr. Baker for his comments. Mr. Baker stated at the end of the day BCRC is interested in providing the necessary functions to the best of their ability while facing declining revenues. He stated RC does not believe in using reserve funds for operations shortfalls. Based on the reduced assessed valuations RC would need to cover an additional \$650,000 in transportation expenditures. He stated it is not clear what revenue source is available to cover such a shortfall. He noted service levels may need to be adjusted to reflect the declining revenues. There was a general sense that a reduction in service levels for Dial a Ride would not be favorably received. The Board was reminded that DAR service levels were reduced several years ago and then were reinstated before the end of the season. Mr. Baker explained he would like to take a longer look, perhaps 5 or 6 years out, to better understand the effects of the transportation revenue changes. The Board asked if a common assessment is being considered as a revenue source by BCRC. Mr. Baker stated he is beginning development of the BCRC budget without a common assessment and would prefer not to have an assessment but could not rule it out. The discussion turned to the separation of the parking lot functions to RC and the dial a ride functions to the District for funding and management as discussed at previous meetings. A term sheet had been developed regarding the separation which could be used for future discussions. Mr. Baker stated he will be presenting several items including discussion of potential sources of funding for the \$650,000 shortfall, the possibility of reduction of transportation services, and the transfer of DAR responsibility to the District at upcoming RC budget meetings. He plans on attending the District's July meeting to present an update on RC discussions and budgeting.

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Ms. Friedman stated she agrees it would be prudent for the District to review the budget in detail for any cost reductions before proposing any increase in mill levies. She noted the District has healthy reserves which could help cover any shortfalls for a year or two while more information is gathered. She expressed a preference for a property tax over an assessment for transportation funding.

The Board tabled the matter.

### **2010 Audit**

Mr. Marchetti presented the 2010 Audit. The District will receive a “clean” unqualified opinion. He reported a meeting had been held between Director Elsner, Director Gary, Mr. Hanks, himself and Mr. Cudahy from McMahan and Associates to review the 2010 Audit in detail. All requested revisions had been made as discussed at the meeting. Director Elsner and Director Gary recommended approval of the Audit. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to accept the 2010 Audit.

### **Financial Statements**

The Board reviewed the May 2011 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to accept the May 2011 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 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) (e) C.R.S. for the purpose of determining positions subject to negotiations related to the fire station relocation.



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The Board entered into executive session at 10:50 a.m. and adjourned the executive session at 11:15 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 June 22, 2011.

Respectfully submitted,  
*/s/ Kathy Lewensten*

Kathy Lewensten  
Secretary for the meeting