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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 November 18, 2009

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., November 18, 2009 in the Conference Room of the District Administrative and Operations Facility, Eagle-Vail, Eagle County, Colorado.

### Attendance

In Attendance were Directors:

- Mike Balk
- Ernie Elsner
- Robert Gary (via phone)
- Louis Kreig

The following Director was absent and excused:

- James Power

Also in Attendance were:

- Clyde Hanks, General Manager
- Jim Collins, Esq. District Counsel (via phone)
- Ken Marchetti, CPA, Robertson & Marchetti, PC
- Kathy Lewensten, Recording Secretary
- Jennie Fancher, Administrative Assistant
- Tony O'Rourke, BCRC
- Bill Simmons, BC Operations
- Sam Parker, BC Public Safety
- Ceil Folz, Vail Valley Foundation
- Charlie Moore, Chief ERFDP
- Jennifer Cartmill, Director ERFDP
- Karl Bauer, Deputy Chief, ERFDP
- Glen Palmer, Alpine Engineering Inc.
- Dale Decker, Asphalt Specialist

### 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. Director Balk 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.

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### 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 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 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 October 28, 2009 Regular Meeting. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the minutes of the October 28, 2009 Regular Meeting as presented.

### Future Meetings

The Board reviewed the 2009 meeting dates. The next regular meeting is scheduled for Wednesday, December 16, 2009 at the same time and location.

### Agenda

Mr. Hanks requested time in executive session to discuss the snowmelt system.

### Public Input

**World Cup Transportation:** Ms. Folz referred to the memo in the packet regarding the VVF request for District support for the 2009 Birds of Prey World Cup Races. There is no cost to the District. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the request for transportation support and snow removal services in the same manner as past years for the World Cup Races.

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**VVF Board Seat:** Director Balk asked Ms. Folz whether consideration has been given to appointing a seat on the VVF Board to the District. This was requested in relation to continued District support for the Vilar Center as passed in the November election. Ms. Folz replied that although the seat will not be assigned to the District specifically a person has been chosen whom it is expected will represent the Districts interests. This person will be notified in the next few weeks.

**2015 World Championships:** Ms. Folz reported VVF is working diligently to promote Vail/Beaver Creek as a candidate to host the 2015 World Championships. The final decision on the location will be made in June 2010. She noted if Beaver Creek is chosen it is expected VVF will ask for support from the District on projects related to access to the race area.

### ERFPD Equip Request

Chief Moore presented ERFPD's request to BCMD for consideration of the purchase of a type 3 wild land fire truck in 2010. He referred to the memo in the packet. He explained ERFPD will be purchasing an identical vehicle. It would be preferable to have two of these vehicles available should a need arise. Deputy Chief Bauer presented information to the Board regarding wild land fire fighting explaining conditions that require use of such vehicles. He noted the current equipment is not designed to meet the expected equipment needs related to a wild land fire in the terrain of Beaver Creek. The older BCMD wild land fire truck would be kept for support services. The new truck would be housed at the Beaver Creek fire station and would have BCMD logo's. Chief Moore stated the type 3 wild land fire truck under consideration has an approximate cost of \$300,000. The Board asked if the vehicle could be financed. Mr. Marchetti responded it is expected the District could use a lease purchase arrangement for seven to 10 years for such a vehicle. Chief Moore explained ERFPD will be sending out RFP's shortly and expects to have more details by January with delivery expected in July. Mr. Marchetti noted this expenditure and related financing would need to be added into the 2010 budget. Upon motion duly made and seconded, it was unanimously

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**RESOLVED** to approve obtaining estimates for the purchase of a Type 3 wild land fire truck for presentation at the BCMD January meeting.

### Village Road

Mr. Hanks referred to the memo included in the packet regarding Village Road. He stated a meeting had been held with Elam and B & B to obtain their input on the options under consideration. After the meeting it was determined the recommendation would be to replace the entire roadway as opposed to an overlay. An overlay would not remedy the underlying deteriorating conditions. Mr. Palmer and Mr. Decker were in attendance to discuss any questions the Board may have regarding the recommendation.

It is expected it would take three seasons to completely rebuild the roadway. For instance if the project began in fall of 2013, it would continue into the spring and fall of 2014 before it was complete. No catastrophic failures are anticipated in the near future, so it appears the District has some flexibility related to the timing of the project. The number of patches is expected to increase each year and the aesthetics of the roadway will be affected by the number of patches. Director Elsner asked if any drainage issues have been located during testing this year. Mr. Hanks stated although no drainage issues were located this year, the project has allowances for drainage mitigation if it becomes necessary.

The approximate cost for the project is in the neighborhood of \$4.5 million. Director Elsner observed the next two years will allow the District to monitor the situation to better determine a timeline for the project. It was noted if the 2015 World Championship is awarded to the area the District may want to consider a timeline which completes the project prior to then.

The Board noted there may be other projects, such as portions of project legacy, the relocation of the fire station or improvements in other roadways that should be considered during planning. To include project legacy projects such as new guardrails and intersection improvements would increase the cost of the project by approximately \$1.5 million to a total cost of approximately \$6million. It was noted the District may expect reimbursement of a portion of the cost of the project legacy portion from BCRC in the future. The Board discussed the need for a funding source such as bonds for the total cost of \$6 million. Mr. Marchetti had

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included a memo in the packet explaining the different mill levies that may be considered for funding the project. Mr. Collins noted a TABOR election can be held in May 2010 or any November. The Board tabled the matter.

### General Manager Update

**Prater Road Parking:** Mr. Hanks referred to the memo in the packet which reviewed the request for parking along Prater Road for the coming ski season. The Board gave authority to Mr. Hanks to approve the snow days. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the request for Parking along Prater Roadway subject to the guidelines as presented in the October 27, 2009 memo.

**November Election Costs:** Mr. Hanks reported he had been contacted by Mr. Sable regarding the Vilar Center for the Arts offer to cover the costs of the November election. He referred to the memo in the packet reflecting the cost of the election at \$7,541.15. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to direct an invoice be sent to the Vilar Center for the Arts for the cost of the November 4, 2010 election.

**Lot 7 Wayne Creek:** Mr. Hanks reported on the wall collapse that occurred during construction on Lot 7 in Wayne Creek. A shoring wall had been installed outside the District easement however it collapsed causing a major disruption in the flow of the creek. The contractor built a dam and rerouted the water downstream through flexible pipes while the damage was being assessed. The developer will be covering all costs associated with repairing the damage. AMEC will be contacted to help determine the best course of action for the creek. Mr. Palmer stated he has been involved with the repairs also. Mr. Hanks noted the pond may need to be cleaned due to the amount of sediment that flowed downstream. He will monitor the progress of the repair.

### 2010 Budget

The continued public hearing for the 2010 budget was opened. No public comment was offered and the hearing was closed. A mill

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levy rate of 18.314 mills had been used in preparing the budget. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to adopt the 2010 budget subject to receipt of the final assessed valuation and appropriate the sums of money for Beaver Creek Metropolitan District, and

**FURTHER RESOLVED** to certify the mill levy for Beaver Creek Metropolitan District.

### Financial Statements

The Board reviewed the October 2009 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the October 2009 preliminary financials as presented.

### Accounts Payable

The Accounts Payable listing was reviewed. 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. and 402(4) (f) C.R.S. for the purpose of determining positions subject to negotiations related to the Snowmelt system and personnel matters. The Board entered into executive session at 10:10 a.m. and adjourned the executive session at 10:45 a.m.

Upon returning from executive session the Board directed Mr. Hanks and Mr. Collins to review the snowmelt cost sharing agreement.

The Board took the following action. Upon motion duly made and seconded, it was unanimously,

**RESOLVED** to renew the annual employment contract of Mr. Hanks.

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#### 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 November 18, 2009.

Respectfully submitted,  
*/s/ Kathy Lewensten*

Kathy Lewensten  
Secretary for the meeting