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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 19, 2008

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., November 19, 2008 in the Conference Room of the District Administrative and Operations Facility, Eagle-Vail, Eagle County, Colorado.

### Attendance

In Attendance were Directors:

- Mike Balk
- Robert Gary
- Louis Kreig

Absent and Excused were Directors:

- Ernie Elsner
- James Power

Also in Attendance were:

- Clyde Hanks, General Manager
- Jim Collins, Esq. District Counsel
- Ken Marchetti, CPA, Robertson & Marchetti, PC
- Kathy Lewensten, Recording Secretary
- Jenny Fancher, Administrative Assistant
- Bill Simmons, BC Operations
- Tony O'Rourke, BCRC
- Alana Hanks, Municipal Recoveries

### 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.

### 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

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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; and Dr. Louis Kreig is a member of the Board of Directors for 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 22, 2008 Regular Meeting. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the minutes of the October 22, 2008 Regular Meeting as presented.

### Future Meetings

The Board reviewed the 2008 meeting dates schedule included in the packet. The next meeting will be Wednesday, December 17, 2008 at the same time and location.

### Agenda

Mr. Hanks requested time to discuss the red phone proposal that was provided by email to the Board prior to today's meeting.

### Public Input

No public input was offered.

### General Manager Update

**Encroachments:** Mr. Hanks reported on progress related to the encroachment at 131 Beaver Creek Drive. The property owner has received approval from DRB for the new driveway design and agreed to place the landscaping 10 feet from the edge of the roadway as discussed at a prior meeting.

**Winter Staffing:** Mr. Hanks introduced Ms. Jenny Fancher the new administrative assistant. He then referred to the memo in the packet which listed the winter operations staff. He was pleased to report there are two people interested in working on an on-call basis to assist with clearing driveways and windrows after heavy snow. The Board noted it is important for public safety to regulate the parking of construction vehicles along the roadways to allow room for proper plowing. This started a brief discussion concerning the responsibilities of the various entities within Beaver

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Creek. It was suggested it may be beneficial for Mr. Hanks and Mr. Simmons to attend the BCPOA meeting to address the rules of enforcement and roles of each entity within the area to help facilitate better understanding of each entities responsibilities.

**Avondale Sidewalk:** Mr. Hanks reported the Avondale sidewalk project is substantially complete. The cost is expected to be \$100,000 to \$110,000. BCRC will be invoicing the District for half of the cost in the near future.

**Firehouse:** Mr. Hanks reported the new replacement boiler has arrived for the BC Firehouse. As explained in a prior meeting the new boiler that had been installed earlier this year was not acceptable by the State. The replacement boiler is expected to be fully installed and inspected by the State this week.

Mr. Hanks reported he had met with Ms. Arnold to review the ownership and easements related to the firehouse site. The lot is owned by the District however there are some restrictions on the parcel. The parcel is zoned for "resort services" which allows for a firehouse, but it is unclear whether employee housing would be allowed. The Board asked if there were any other lots further up that may be available for a firehouse. Most of the usable space up further is being utilized, and it was noted some of the parcels have restrictions which would not allow the construction of a fire station. The current site is a good location for a fire station. Mr. Hanks explained the current fire station is in need of major repairs and suggested the District may want to consider a total rebuild. The Board agreed it would be prudent to compare the costs of remodeling versus the cost of rebuilding. It was suggested an analysis be prepared for consideration during the 2010 budget process. As part of the analysis it was suggested the District look at remodeling the current station, relocating the station if any available sites are found, and rebuilding on the current site.

**Beaver Creek  
Beautification  
"Resortscape"**

Mr. Hanks reported Design Workshop will be presenting the "Resortscape" slide show at the BCRC annual meeting on November 29<sup>th</sup>. The plan will be posted on the Districts website and will be presented at the annual BCPOA meeting later in December. It is expected the cost estimates should be available by

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mid December at which time the phases of the project can be prioritized. Mr. O'Rourke reported BCRC budgeted \$100,000 for design costs related to the project. The Board expressed a desire to keep moving forward with the project suggesting the entry and signage be considered on a priority basis for next year.

### General Manager Update

**TOA Transit Agreement:** Mr. Hanks reported the Town of Avon responded to the District's request for recalculation of the final invoice amount related to the Parking Lot agreement. The TOA offered to reduce the invoice to \$98,799.76. Mr. O'Rourke stated he had reviewed the calculations and was okay with the final reconciliation amount.

**Village Road Sidewalk:** Mr. Hanks reported repair work on the colored concrete sidewalk along Village Road is complete. It will be looked at after the winter season to see how the epoxy coating lasts. The repair is covered under the two year warranty period.

**World Cup Transportation:** Mr. Hanks referred to the memo in the packet regarding Ms. Folz's request for District support for the 2008 Visa Birds of Prey World Cup Races. For the past few years the District has provided transportation and snow removal for the 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.

**Snowmelt Alternative Energy:** Mr. Hanks reported he had obtained a proposal from Architectural Engineering Consultants (AEC) to review options for snowmelting with "Green" technologies. AEC would provide an assessment and estimated payback analysis for the various alternate energy options available including geothermal, solar panels, and photovoltaic for a fee of \$7,250.00. In a prior meeting the Board had reviewed a rough cost for an update to the current system. The Board directed Mr. Hanks to obtain a hard cost estimate for upgrading the equipment of the current system for comparison purposes. It is anticipated the

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information will be available at the January meeting for discussion. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve Architectural Engineering Consultants Engineering Services Proposal for a fixed fee of \$7,250.00

**Prater Road Parking:** Mr. Hanks handed out a memo which reviewed the request for parking along Prater Road for the coming ski season. Similar to last year it was noted more days were being requested than had been used in the prior year to allow for flexibility. Mr. Hanks reported the use of Prater for parking was managed well last season. Mr. Simmons stated the road widening has helped. 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 November 14, 2008 memo.

### Red Phone System

Mr. Hanks referred to the memo from Mr. O'Rourke that discussed the "Red Phone Emergency Notification System". BCRC was requesting the District consider cost sharing the system. Mr. O'Rourke explained the system was able to use land lines, cell phones, email or texting to alert many people in a short amount of time. It has the capability to track who has been contacted and who has received the message being sent. The person receiving the call has the ability to pause, rewind or fast forward while listening to the message. It is anticipated the system would be in place by next summer if approved. The Board asked about gathering the necessary data for the system and how it would be updated and maintained. Mr. O'Rourke explained a common database would need to be developed. The initial cost of the system would be \$50,000, with an annual cost of \$42,500. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve cost sharing of the Red Phone Emergency Notification System for 2009 in the amount of \$25,000.

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## Municipal Recoveries

Mr. Hanks introduced Ms. Alana Hanks from Municipal Recoveries. Mr. Hanks disclosed that Ms. Hanks was his daughter. He explained Municipal Recoveries was offering to obtain reimbursement for damages done to District property, such as lamp posts or guardrails. He explained the District incurs approximately \$30,000 in damages to the lamp posts and guardrails over a year. Currently, the District has not been pursuing reimbursement through the District insurance carrier due to a concern that the increased number of small claims would reflect negatively on the District. The claims are in the range of \$1,000 to \$10,000. Ms. Hanks noted Municipal Recoveries would be working as an independent contractor. She would follow up with the at-fault parties and their insurance carriers to recover the cost of the repairs. The District would be paid directly and would then pay Municipal Recoveries a percentage based fee. The proposal was for a one year period. Director Gary asked Ms. Hanks what level of experience she had in insurance claims handling. Ms. Hanks explained this would be her first year in this type of work. Director Gary expressed his opinion that the District should be able to follow up with the claims internally or that for the fee structure being proposed a person with more experience may be preferable. Mr. Hanks noted last year the District Administrative Assistant had attempted to follow up with several claims but was not successful. It was noted there was no risk to the District to try the service since Municipal Recoveries would only be paid if a reimbursement was received. Ms. Hanks stated she would provide monthly reports on the status of any claims, and would be available to appear in person if requested. After a brief discussion, the Board stated it would like to see action being taken to recover the costs and was willing to try the new services for claims under \$10,000. Mr. Collins offered to draft an agreement for the service. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve a one year agreement with Municipal Recoveries.

## 2008 Budget Amendment

Mr. Marchetti explained it was necessary to amend the 2008 budget to allow for additional expenditures for services and equipment in the transportation budget and in the water fund. This

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meeting had been published and noticed as the public hearing for the 2008 budget amendment. The public hearing was opened. No public comment was offered and the hearing was closed. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the 2008 Budget Amendment and appropriations as amended.

### 2009 Budget

The continued public hearing for the 2009 budget was opened. No public comment was offered and the hearing was closed. A mill levy rate of 21.276 mills had been used in preparing the budget. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to adopt the 2009 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 2008 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the October 2008 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.

### Other Business

Mr. Hanks asked the Board if the public safety, transportation, fire and UERWA reports could be provided electronically through email for 2009 instead of hard copies placed in the packet. The Board approved providing these reports through email in the future.

### Executive Session

Upon motion duly made and seconded, it was unanimously

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**RESOLVED** to enter into executive session citing §24-6-402(4)(e) C.R.S. for the purpose of determining positions related to encroachment matters. The Board entered into executive session at 10:15 a.m. and returned at 10:55 a.m.

Upon returning from executive session the Board took the following action. Upon motion duly made and seconded, it was unanimously,

**RESOLVED** to authorize a study as discussed in executive session to be completed and available for review at the January 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 November 19, 2008.

Respectfully submitted,  
*/s/ Kathy Lewensten*

Kathy Lewensten  
Secretary for the meeting