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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 December 19, 2007

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., December 19, 2007 in the Conference Room of the District Administrative and Operations Facility, Eagle-Vail, Eagle County, Colorado.

### Attendance

In Attendance were Directors:

- Stephen Friedman
- Mike Balk
- John Forstmann
- Ernie Elsner
- Robert Gary

Also in Attendance were:

- Ken Marchetti, CPA Robertson and Marchetti, P.C.
- Clyde Hanks, General Manager
- Kathy Lewensten, Recording Secretary
- Heather Nolan, Administrative Assistant
- Tom Schouten, BC Property Owner
- Bill Simmons, BC Operations
- Jim Funk, BC Public Safety
- Tony O'Rourke, BCRC

### Call to Order

The Regular Meeting of the Board of Directors of Beaver Creek Metropolitan District was called to order by Director Friedman, Chairman of the Board, noting that a quorum was present. Director Friedman 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. Stephen Friedman is a board member of the Beaver Creek Arts Foundation which operates the performing arts facilities within Beaver Creek; Mr. John Forstmann is a board member of the Beaver Creek Club; Mr. Ernest Elsner is a board member of the Beaver Creek Property Owners Association; Mr. Michael Balk is a director of the Beaver

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# RECORD OF PROCEEDINGS

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## Beaver Creek Metropolitan District December 19, 2007 Meeting Minutes

---

Creek Property Owners Association and a director of the Vilar Center for the Arts; and Mr. Robert Gary is a member of the Beaver Creek Property Owners Association and the Vilar Center for the Arts Committee. 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 November 28, 2007 Regular Meeting. Upon motion duly made and seconded, it was unanimously,

**RESOLVED** to approve the minutes of the November 28, 2007 Regular Meeting as presented.

### Agenda

Mr. Hanks requested time to review matters concerning the fire station.

### Future Meetings

The Board reviewed the meeting schedule included in the packet. The next regular meeting is scheduled for Wednesday, January 23, 2008 at 8:30 a.m. at the District Administration Facility.

### Public Input

Mr. Schouten discussed the upcoming May 2008 election for two District board seats. He explained the BCPOA does not endorse candidates but may encourage interested persons to run in the election.

He thanked the Board for the new fencing along the recreation path noting the rugged and sturdy style chosen also looks good.

He offered a brief update on the litigation with Bachelor Gulch Metro District. He explained the matter was still moving through the judicial process but the BCPOA is optimistic there will be a positive outcome.

He reported the courts had asked for an update concerning negotiations related to the Alpine Slide. He noted the deadline had been extended to November 2008 for Vail Resorts discussions with the Forest Service.

He asked for a brief update on security matters. Mr. Funk replied an exercise testing the lost child emergency management system

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# RECORD OF PROCEEDINGS

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## Beaver Creek Metropolitan District December 19, 2007 Meeting Minutes

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had showed it worked well. In the future exercises simulating a bomb threat and a wild fire will be held. He is studying a “Red Phone” system which would allow a reverse 911 type of call which could be set up in groups, such as “Strawberry Park residents”. Mr. Funk noted at this time the agencies involved are working on protocols and communications for various situations. Mr. Funk explained he was hopeful he will be able to meet with ERFPD and other related agencies in early 2008 to finalize evacuation plans for the area. Mr. Schouten asked if the community residents will be involved with the exercises at some future date as it is important for the community to know the plans and where to go. It was explained the evacuation route will depend on the type and location of the emergency. How to best communicate the plan will need to be determined.

Mr. Schouten informed the Board the PUD amendment which would prohibit vacation/timeshare ownership in single family areas of Beaver Creek that is being considered by Eagle County appears to be headed for denial. The Vacation Club counsel has presented a strong defense stating their position opposing this amendment. The Board expressed concern with parking issues related to such use, in particular parking along the roadways. Mr. Funk will alert his staff to be aware of any excessive noise or parking issues.

Mr. Schouten stated this would be the last meeting he would be attending as the President of the BCPOA. He noted he will be the chairman of the BCPOA legal committee. The Board expressed their appreciation to Mr. Schouten for his participation and input.

The Board asked Mr. O’Rourke about the decorative lighting in Beaver Creek. Mr. O’Rourke stated LED lights were being used throughout the area, the original “artic white” (blue tint) lights had been returned for “warm white”. He noted there are certain areas that need to have more lights; these additional lights will be purchased and added next year. It was noted the colorful lights in the Village area have received both positive and negative comments.

**General  
Manager  
Update**

**Market Square:** Mr. Hanks has confirmed with Ms. Folz that the outline of the deal for the Market Square conveyance matter is

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# RECORD OF PROCEEDINGS

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## Beaver Creek Metropolitan District December 19, 2007 Meeting Minutes

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agreeable to VVF. Mr. O'Rourke stated BCRC has approved the deal and is ready to execute the documents once they are available. It is anticipated the final conveyance documents will be prepared for execution in early 2008.

Mr. Hanks referred to the Settlement Agreement included in the packet related to the allocation of prior utility bills at Market Square. He explained this has not been approved by all parties but has been sent out for comment. Mr. Funk stated one revision requested was for Market Square to agree there are no more issues from the past that can be brought forward. Market Square heard this request and did not immediately have any objection to it.

### Town of Avon Service Agreements

Mr. Hanks referred to the two Service Agreements with the Town of Avon which had been included in the packet. One agreement covers the Districts operations equipment; the other agreement covers the District transit vehicles (buses). The 2008 proposed hourly service rate is \$100 per hour as compared to the 2007 rate of \$95 per hour. TOA provided a worksheet reflecting similar rates being charged by private "for profit" entities. The Board questioned whether these are fair comparisons since the TOA is a governmental entity providing services to other governmental entities. It was suggested more information be requested as to the breakout of the service rate, for instance how much of the rate is for overhead and what type of overhead is included? It was noted that overhead allocations are subjective. Director Forstmann expressed concerns with the limited amount of detail provided suggesting an audit of the charges may be appropriate to see if the overhead allocation is disproportionate. Mr. Marchetti noted the agreements do not give the District the right to audit the charges. Mr. Simmons explained the work orders are reviewed on a monthly basis with the District being charged actual costs for hours worked at the approved service rate and the cost of parts including a 10% mark up. Director Forstmann expressed his opinion the District has a right and obligation to question the rate prior to approving the agreements. Director Friedman reminded the Board he was continuing discussions with Mr. Wolfe, TOA Mayor, regarding concerns of the District and suggested the matter of better transparency and clarity may be a good topic for further conversation. The Board directed staff to do an analysis of viable

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# RECORD OF PROCEEDINGS

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## Beaver Creek Metropolitan District December 19, 2007 Meeting Minutes

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alternatives to allow a better comparison in the future. Upon motion duly made and seconded it was by a vote of four (4) Ayes and one (1) Nay

**RESOLVED** to approve the Service Agreement for the Districts Operations Equipment for a term through December 31, 2008, and

**FURTHER RESOLVED** to approve the Service Agreement for the Transit Equipment for a term through December 31, 2008, and

**FURTHER RESOLVED** to direct staff to provide an analysis of viable alternatives for future discussion.

**General  
Manager  
Update, Cont.**

**Fire Station:** Mr. Hanks informed the Board the heating system at the fire station was in need of repair. The heating system uses plastic pipe which connects with metal pipe at the radiators. There have been two zones in which the plastic pipe has failed. He was recommending replacement of the plastic pipe in all of the remaining zones. He noted the boiler was new. Initial estimates for the work are approximately \$50,000; this includes \$35,000 for installation of the new pipe and \$15,000 for repairing the drywall and paint that will be affected by the exchange of pipe. He has scheduled the work to begin in January 2008. The Board approved of the project.

**Beaver Creek  
Beautification  
“Resortscape”**

Mr. Hanks referred to the summary of eight firms for consideration for heading up the beautification “resortscape” project which had been included in the packet. He had worked with Mr. Hensel and Mr. Kurz, BCRC to obtain the initial firms. The next step will be to narrow the number of firms down further based on the firms experience with high end mountain environments. Requests for information (RFI) will be sent to the chosen firms. The Board expressed interest in using local firms. Mr. Hanks suggested a working committee be formed once the field is narrowed down to help choose the final firm. The working committee would consist

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# RECORD OF PROCEEDINGS

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## Beaver Creek Metropolitan District December 19, 2007 Meeting Minutes

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of a District Board member representative, Mr. Hanks, and representatives from BCRC and BCPOA.

### ERFPD

Director Friedman noted the District has provided an amendment for consideration by ERFPD. The District is waiting for comments back from ERFPD.

### UERWA

Director Friedman suggested the Board begin considering whom they would like to have represent the District on the UEWRA Board as his term on the BCMD Board will be ending in May. He cautioned it will take some time for the new member to become familiar with the topics under discussion. It was noted at a prior meeting Mr. Collins had explained the BCMD Board representative needs to be a Board member however the alternative can be a private party.

Mr. Marchetti informed the Board Mr. Porzak will be making a presentation on January 9<sup>th</sup> at 9:00 A.M. regarding the recent settlement announced concerning the Denver water matter. Director Friedman briefly reviewed the matter explaining it was significant in that it set the tone for maximum and efficient use of Colorado's limited water supply. He noted if Colorado as a state has a plan it can better address outside state water agreements and entitlements.

### 2007 Budget Amendment

Mr. Marchetti explained it was necessary to amend the 2007 budget to allow for additional capital expenditures related to the Village Road Project and additional expenditures for services and equipment in the transportation budget. This meeting had been published and noticed as the public hearing for the 2007 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 2007 Budget Amendment and appropriations as amended.

### Financial Statements

The Board reviewed the November 2007 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

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# RECORD OF PROCEEDINGS

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## Beaver Creek Metropolitan District December 19, 2007 Meeting Minutes

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**RESOLVED** to approve the November 2007 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)(f) C.R.S. for the purpose of discussing personnel matters. The Board entered into Executive session at 10:20 a.m. and returned at 11:20 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 December 19, 2007.

Respectfully submitted,

Kathy Lewensten  
Secretary for the meeting