

## RECORD OF PROCEEDINGS

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### MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 2

Held: Thursday, October 14, 2021 at 5:30 P.M., at Eagle County Library, 600 Broadway Street, Eagle, CO, 81631, Conference Room, also hosted digitally at:

<https://us02web.zoom.us/j/7636703470>

Meeting ID: 763 670 3470, Or

Dial-In Number: 1 (720) 707-2699

Meeting ID: 763 670 3470, Passcode: #

**Attendance:**

The meeting of the Board of Directors of Buckhorn Valley Metropolitan District No. 2 (the “Board of Directors” or “Board”) was called and held as shown in accordance with the statutes of the State of Colorado.

The following Directors were present:

Nickolas Viau, President

Eliana Walker, Secretary

David Fiore

Brandon McGlamery, Assistant Secretary (*via video/telephone conference*)

Kristine Rossier, Treasurer

Also present were: Jennifer L. Ivey, Attorney for the District, Icenogle Seaver Pogue, P.C. (*via video/telephone conference*); AJ Beckman, District Manager, Public Alliance, LLC (*via video/telephone conference*); Noel Nail, Administrative Manager, Public Alliance, LLC, (*via video/telephone conference*); Debbie Sedgeley, Accountant for the District, CliftonLarsonAllen LLP (*via video/telephone conference*); and the following members of the public: Maxine Hepfer, Cass McGlamery, Angela Heuman, Jeff Roberts, Nick Richards, and Mark Hoblitzell (*all via video/telephone conference*).

**Call to Order/  
Declaration of Quorum:**

Mr. Beckman noted that a quorum of Directors was present for the special meeting of the Board of Directors of the Buckhorn Valley Metropolitan District No. 2 and Director Viau called the meeting to order at 5:32 p.m., at which time it was noted that the notice of this meeting was properly posted within the District.

**Disclosure Matters:**

The Directors reviewed the agenda for the meeting, following which each Board member confirmed that they had no conflict of interest related to matters on the agenda.

**Approval of/Additions to/Deletions from the Agenda:**

Upon motion of Director Viau and second of Director Fiore, the Board voted to unanimously approve the Agenda as presented.

**Public Comment for Matters not on the Agenda:**

Mr. Hoblitzell addressed the Board. He stated that as a member of the Citizens Advisory Board he believes their input could have value for District 1. He voiced concern regarding the fact that the office for the Districts is currently housed in a private residence and suggested that the Districts make it a priority to find an alternative office, even if it is a temporary modular office like that of a construction company.

Mr. Beckman noted that it is generally agreed upon that finding new offices space should be a priority. Mr. McGlamery also acknowledged his agreement with Mr. Hoblitzell, but noted that the office does house various equipment that would need to be moved and noted that the Board members should have keys and access to the District office.

**Minutes:**

After discussion it was decided that the Board would defer the approval of the minutes from September 6, 2021 and October 7, 2021 until a future Board meeting.

**Legal Matters:**

**Consultant Engagement:**

Director Fiore noted that Wolfersberger, LLC, has been interviewed and members of the Board have discussed entering into a limited scope agreement for consulting services for evaluating, advising, and making recommendations with regard to budget and management services.

Following discussion, upon a motion duly made by Director Fiore, seconded by Director McGlamery and, upon vote unanimously carried, the Board authorized Director Viau to enter into a limited scope service agreement with Wolfersberger, LLC for consulting services.

**First Amended and Restated District Construction and Service Agreement (“Service Agreement”):**

Following discussion, it was decided by the Board to discuss the Service Agreement during Executive Session.

**Special Counsel:**

Director Fiore reported that members of the Board have reviewed a proposal from Paul Rufien, Esq, for the purpose of receiving legal advice relating to the Service Agreement and other matters.

Following discussion, upon motion duly made by Director Fiore, seconded by Director Walker and, upon vote unanimously carried, the

Board authorized Director Viau to engage Paul Rufien as Special Counsel.

Mr. Beckman disclosed that he works with Mr. Rufien on another district, and noted that he would not discuss the business before the District with Mr. Rufien. Ms. Sedgeley also disclosed that she works for the same district. Ms. Ivey stated that she will continue to serve at the Board's pleasure as limited General Counsel for matters in which the District and District No. 1 are not adverse.

**Fee Resolution:**

Director Fiore asked Ms. Ivey for some explanation about how the fee resolution was adopted. Ms. Ivey reported that the resolution was adopted several years ago following the completion of a rate study performed by an independent third party.

Ms. Ivey then noted that, a joint executive session may be appropriate at the next joint meeting to discuss the fees and consult with special counsel, Mr. Forbes regarding the matter. She then inquired if the District intended to join District No. 1 for their annual joint budget meeting next month, as the statutory deadline for posting notice of the Budget Hearing is approaching. If the proposed date is unacceptable, she asked for an alternative date by next week. Director Viau noted that he will poll the Board and respond with availability.

**Financial Matters:**  
2022 Draft Budgets:

Ms. Sedgeley reviewed the draft budgets for the District and District No. 1 with the Board.

It was decided that they would go through the budgets line by line beginning with District No. 1.

There was confusion regarding why several items were listed under several funds, for instance, accounting is listed under both the general and enterprise funds. Ms. Sedgeley explained that the general fund is more administrative while the enterprise fund is more operational and therefore the accounting and other services are apportioned between the funds.

Director Fiore noted that all expenses flow through District No. 1's budget. He wondered if the Board could approve an amended District No. 1 budget that excluded some of these expenses and move them to the District's budget.

Ms. Ivey advised the Board that the Service Agreement contemplates that the Board they could approve the District's budget as presented, or they could provide an alternative budget for consideration to District No. 1.

Upon inquiry regarding the origin of the Service Agreement, Ms. Ivey explained that this predates her work with the District but that the Service Plan contemplates an intergovernmental agreement between the District and District No. 1 and contemplates that District No. 1 would be the service district and the District would be a financing district. Upon further inquiry, Ms. Ivey advised that the process for revising the Service Plan would require coordination with and approval of the Town of Gypsum.

Director Fiore asked about the fees related to water rights. Mr. Beckman explained that District No. 1 retains a water rights attorney that is used on an as-needed basis. Director Fiore expressed concern that the water rights for the Districts belong to District No. 1 and noted that the District may want to retain their own water rights counsel.

Director Rossier inquired as to the change in rental expense, year over for 11 Bridger Drive. She noted that the expense is high and would like to see minutes from the meeting where the lease was approved as the lease is not currently posted on the website. Director McGlamery that it appears that someone is living there. Director Fiore asked for the Board to be provided keys for the property.

Mr. Beckman explained that the District does not have exclusive access to the building. He will ask if keys can be made available to the Board.

Director McGlamery asked for the name of the individual that holds the bonds for the District, and Director Fiore requested that Ms. Sedgeley research and report this information to the Board.

Executive session pursuant to Section 24-6-402(4)(e), C.R.S. for purposes of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and/or instructing negotiators regarding Special Litigation Legal Counsel's report on water fee dispute and/or matters pertaining to agreements between the District and District No. 1:

Pursuant to Section 24-6-402(4)(e), C.R.S., the Board convened in executive session at 7:22 p.m. for purposes of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and/or instructing negotiators regarding Special Litigation Legal Counsel's report on water fee dispute and/or matters pertaining to agreements between the District and District No. 1.

Only Board members were present for the Executive Session. Ms. Ivey advised the Board that the session must be recorded and departed the meeting at this time.

*(all members of the public and all consultants were placed in the waiting room).*

The Board reconvened in regular session at 7:34 p.m.

*(Mr. Beckman and members of the public were admitted from the waiting room rejoined the meeting at this time).*

**Service Agreement:** Upon motion duly made by Director Walker, seconded by Director Rossier and, upon vote unanimously carried, the Board terminated the Service Agreement effective December 31, 2021.

Upon motion duly made by Director Viau, seconded by Director Walker and, upon vote unanimously carried, the Board noted its intention to present a modified budget which moves the General Fund activity from District No. 1 to the District.

**Other Business:**

**Eagle River Pump Station** Mr. Beckman noted that a cost sharing agreement is presently being negotiated with the goal of finding a fair and equitable cost share for maintenance and utilities among the stakeholders.

**Buckhorn Pond Maintenance:** Director McGlamery discussed the algae bloom and Mr. Beckman acknowledged that this is an important maintenance item. Mr. Beckman will discuss the matter with the District's Operator.

**Holy Cross Energy:** Mr. McGlamery noted that in a recent conversation with the District's Operator it was noted that Holy Cross Energy is using District irrigation for their landscaping without being billed. Mr. Beckman noted that he will speak to the Water Operator about this matter to verify the status.

**Land Access:** Director McGlamery noted that there have been complaints about access to the land surrounding Buckhorn Pond, but the area around it is intended to be a wildlife refuge, with no motors or engines. This was noted as an item for future discussion.

**Adjournment:** Following discussion and upon motion duly made by Director Fiore and second of Director Viau, the Board voted unanimously to adjourn at 7:44 p.m.

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Secretary