

**RECORD OF PROCEEDINGS  
BUTTERMILK METROPOLITAN DISTRICT  
May 27, 2010**

A regular meeting of the Board of Directors of the Buttermilk Metropolitan District, in the County of Pitkin, State of Colorado, was held at 0133 Prospector Road, Suite 4210, Aspen, Colorado, on May 27, 2010, at 8:30 a.m. with the following persons present and acting:

Present:                   Joyce Amico, President  
                              Charles Malkemus, Treasurer  
                              Jeff Yusem, Director

Tom Sando, Secretary, was absent but excused

Members

Of the Public:           Gary L. Beach, District Manager  
                              Heather S. Gosda, District Administrator & Recording Secretary  
                              Roy M. Saba, Beach Resource Management  
                              Craton Burkholder, District resident

Oath of Office           Ms. Gosda administered the Oath of Office to Joyce Amico, as she was elected to the District Board by acclamation as of the May 4, 2010 Special District election date.

Call to Order            President Amico called the meeting to order at 8:40 a.m. and a quorum of Directors was declared present.

Approval of Agenda    Upon a motion made by Dir. Malkemus and seconded by Dir. Yusem, the proposed agenda was approved unanimously by voice vote.

Approval of Prior Meeting Minutes   Dir. Yusem moved to approve the February 23, 2010, meeting minutes, as presented. Dir. Malkemus seconded the motion and it passed by unanimous voice vote.

Approval of Revisions to District

Rules & Regulations    Mr. Beach provided the Board in advance, via email, the proposed changes to the District Rules & Regulations, which consisted of minor changes made to Section 1.2, Section 2.7, Section 2.7.1, Section 2.8, and to Appendix I. The most significant change was the addition of a Minimum Fee for Water Rights of \$9,000 per fixture unit above 2.74 fixture units. A discussion on the changes ensued. Mr. Beach explained that more significant changes would occur if and when the District taps into the City of Aspen water system.

Motion                   Dir. Yusem moved, and Dir. Malkemus seconded, to approve the changes to the District Rules & Regulations as proposed. The motion passed unanimously by voice vote.

Discussion of Board Member

Candidates             Mr. Beach explained to the Board that when a vacancy occurs on the Board, the District is technically required to fill that vacancy within 60 days. The procedure to fill the vacancy is to publicly announce the vacancy and ask for nominees,

invite the interested candidates to a District Board meeting where they can state their qualifications and reasons for wanting to serve. The Board may then discuss the applicants and appoint one to fill the vacancy. A discussion on possible candidates ensued. The Board wants to ensure equal representation from the three areas of the District: East Owl Creek/Owl Creek Ranch, West Buttermilk, and Eagle Pines. Dir. Amico suggested that the decision be made by the end of June and she offered to canvass the East Owl Creek/Owl Creek Ranch residents to determine if anyone from that area is interested. Dr. Gordon Gerson has expressed interest, but he resides in the West Buttermilk area and the Board is concerned that this area is already heavily represented on the Board. However, the Board appreciates Dr. Gerson's interest and enthusiasm since he is actively involved in District issues regarding the airport expansion. Dir. Amico directed management to post a notice in the District regarding the Board vacancy, as well as to send out an email to District residents. Mr. Burkholder stated he would be willing to serve if no one else came forward.

## Financial Report

Ms. Gosda had previously sent to the Board, via email, the first-quarter 2010 financial statements for the Board's review. She discussed the combined Profit & Loss compared to Budget, the Combined Balance Sheet, and the Accounts Receivable and Accounts Payable aging reports, and noted that the Water & Road Fund financials are included in the Board packet for more detail on these funds. Regarding the Profit & Loss vs. Budget, Ms. Gosda noted that property tax revenues appear to be low for the first quarter but that as of today's date the District has received another \$190,000 in property tax revenues, putting the District even with budget expectations.

On the expense side, Ms. Gosda reported that all expense categories are even with or under budget for this time period with the exception of the Snow Removal and Road Maintenance/Management categories, which combined are about \$1,000 higher than anticipated for this time period. She reported that this expense is expected come in even or under the annual budget. The PS2 pump and control expense (a Water capital expense) is 99% complete as of today's date and is expected to come in even with or under budget. Mr. Beach reported that this cost is to be shared by the three homeowners who are served by PS2, and that two of these homeowners have already agreed to this cost sharing. Overall, expenses are in line with the budget for the time period.

On the Balance Sheet, Ms. Gosda reported on the current assets and cash on hand, and noted that the District has \$149,741 in the restricted Water Construction fund, and \$124,510 in the restricted Road Construction fund. The cash in the checking account and the ColoTrust general operating account are unrestricted and for operational and debt service uses, and contain approximately \$468,000 as of the end of the first quarter. The first debt service payment will be paid from the unrestricted funds on Friday, May 28. On the Accounts Receivable Aging report, Ms. Gosda noted that two residents have past-due amounts that should be certified with the tax assessor against the residents' tax bill, as these bills are seriously past due and the residents are refusing to pay. Regarding Accounts Payable, Ms. Gosda noted that the \$22,130 owed to Gould Construction is their retainer amount from the original construction project and this amount will be removed from the books after Mr. Beach reconciles the expenditure with Gould. Management will send this reconciliation to the Board via email for approval.

Motion

Dir. Malkemus moved, and Dir. Yusem seconded, to certify the past-due amounts belonging to the two delinquent residents with the tax assessor for payment on the homeowner's tax bills. The motion passed by unanimous voice vote.

Ms. Gosda reported that the 2009 Audit is not yet complete and is currently being finalized by the auditors. She expects no surprises, and reiterated the District came in under budget by about \$85,000 in 2009. She expects to have the completed audit from the auditors in the next few days, at which time she will send it to the Board via email.

Dir. Malkemus raised a concern regarding the low interest rates at ColoTrust (currently at 0.2%), and suggested that management investigate other investment mechanisms for the District, such as T-bills or long-term CDs. A discussion ensued on the topic, and Ms. Gosda stated that the cash for the District must be highly liquid, particularly funds in the ColoTrust General account, as they are used to pay bills and debt service throughout the year.

The discussion turned to the idea of refinancing the bonds held by the District, particularly in light of the proposed State legislation on the November 2010 ballot, which will serve to severely limit borrowings for Special Districts. Mr. Beach reported that he has been in discussions with Alan Matlosz of George K. Baum & Company (bond underwriters) regarding a possible bond refinancing and they are waiting to see whether bond rates will come down to a level that will make a refinancing financially attractive for the District.

Manager's Report

Response to the Airport's Environmental Assessment (EA) & Land Use Application Mr. Beach reported that he has reviewed and responded to both the Environmental Assessment and the Land Use Application put forth by the Pitkin County Airport regarding its proposed runway extension. He informed the Board that the EA document is full of contradictions regarding the impacts of the runway project. Mr. Beach's written response, as Manager of the District, has been submitted to the FAA, and he indicated in his response that the impacts as stated in the EA are contradictory and glossed over. In his response to the Land Use Application, Mr. Beach pointed out numerous land use code violations. He reported that his letters have caused airport staff to ramp up their applications to obtain funding for the new water supply because he believes airport staff recognizes the need for the replacement of the District's water supply.

PS2 Update Mr. Beach stated that the new pump and controls installed on the upper pump station are 99% complete and operational, and that now District staff will only need to check the pump station once a week instead of every day, thus reducing operational costs. As mentioned, the three homeowners who benefit from this pump station have been asked to reimburse the District for the costs of the new pump installation, and two of the three homeowners have agreed to participate.

OPTO Controls on PS1 Mr. Beach reported that the installation of the OPTO controls on PS1 are currently on hold due to pending negotiations regarding the installation of a new primary pump station and controls.

Water Supply Mr. Beach discussed at length the ongoing negotiation to connect

with the City of Aspen's water system. The City Council appears to be a willing partner, but the City Water Department seems to be dragging its feet. The County is very much in support of the District's connection to the City water supply. Currently Mr. Beach is trying to negotiate a tap fee for the District, as well as new water rates. The City Water Department has proposed tap fees for each Buttermilk home, with total tap fees in excess of \$2M, and Mr. Beach has suggested one tap fee, at an amount under \$1M, for the connection to the City's main water line. The City's base water rate is \$3.60/1000 gallons and the District's base water rate is \$4.50/1000 gallons, and Mr. Beach wants to be sure that the cost of running the District's water system can handle the 90-cent reduction. A discussion ensued and the Board asked numerous questions. There is no annexation clause in the agreement, so the City won't be able to annex the District with this process. The issue of water rights has not been brought up in the negotiation, but Mr. Beach explained that a government is exempt from issues of water rights abandonment, and the District is a government. Dir. Yusem asked whether District Board members should contact City Council members on this issue, and Mr. Beach responded that Hilary Fletcher, the County Manager, has requested that the District Board not approach Council at this time. It was suggested that a meeting be held between District Board members and Ms. Fletcher, with perhaps Michael Owsley in attendance, and Mr. Beach stated he would arrange such a meeting. Dir. Yusem asked if the \$100,000 that the District has already spent mitigating the airport's impacts to the water system will be recovered in the negotiation, and Mr. Beach explained that the District would likely receive many water system components at no cost from the County, which will offset the \$100,000 District outlay. One item Mr. Beach would like to add to the system is a de-chlorinator, which the County will likely not pay for, but Mr. Beach feels this item, at a cost of approximately \$10,000, will be a necessity since the City chlorinates its water at 4 times the rate that the District does.

The discussion turned to the District's tap fees and Mr. Beach explained that each home is given a credit of 2.74 fixture units for tap fees, based on the capacity of the water system and the number of homes served by the system, and this credit equates to approximately \$50,000. Any number of fixture units above 2.74 is charged at a rate of \$20,000 per 1 fixture unit. Mr. Gozzo's home, as an example, has been assessed a tap fee of \$100,000 since the home is so large and has numerous water fixtures.

Other Capital Projects Mr. Beach related that the 6" meter installed between East Owl Creek/Owl Creek Ranch and the District's main water system has a failed electronic readout and will be replaced soon. When it is replaced District staff will be better able to determine where the leakages and possible unauthorized water use in District occurs, and the suspicion is that numerous unmetered uses of water occur in the East Owl Creek/Owl Creek Ranch area.

The discussion turned to water storage for fighting fires, and Mr. Beach explained that the District has a 300,000-gallon tank, which was designed to hold 240,000 gallons for fighting fires, and the tank's capacity is able to handle two home fires at once. When the District taps into the City's water system the District will likely be able to improve its tank-refilling capacity, from the District's current pumping rate of 150 gpm to a rate of 300 gpm. The District operates its tank for potable water storage purposes off the top 75,000 gallons in

storage. The remainder is reserved for fire fighting.

Mr. Beach raised the issue of repairs to West Buttermilk Road and the additional installation of guardrails. The District plans to repair the asphalt extension on the inside of Buttermilk Lane, at the first switchback, this year. A discussion ensued on the guardrails, and it was determined that new guardrails should be installed on West Buttermilk Road just below Oak Ridge where the side drop-off is steep.

Mr. Beach will look into alternative, less expensive guardrails such as the steel post and cable guardrails used along I-70.

#### Other Business

Dir. Malkemus and Dir. Amico raised the issue of the proposed lot split by Williams, and reported they had attended the County Commissioners meeting the day before. At the BOCC meeting, the Williams had implied that the District had agreed to water service for the proposed new homes on the lot, and Dir. Amico spoke at the meeting to inform the commissioners that the District had not agreed to this. The Aspen Oak Homeowners Association opposes the lot split because additional homes will negatively impact the ridgeline. A discussion ensued. Dir. Amico reported that the commissioners voted against the Williams' proposed lot split, and it appeared the commissioners were concerned about the issue of the District's water supply.

Dir. Malkemus asked whether the Board should elect officers now that the May 4 Board election date has passed. A discussion ensued and it was decided that officers should be elected at the next board meeting

Dir. Yusem raised the issue of the lack of an easement between the airport and the District's pumps, and Mr. Beach stated he has asked Kevin Patrick to stop work on the letter of default on the easement in order to keep the tap fee negotiations with the City on a friendly basis.

Mr. Burkholder asked whether he could bring in a load of dirt to dam up the wetlands near the Willow & Herrick Ditch next to the airport. Mr. Beach reported that this property does not belong to the District and so the Board could not give permission, but he mentioned it to the County Manager and she is against expanding the wetlands since it may attract waterfowl that can damage jet engines.

Mr. Burkholder raised the issue of noxious weeds in the District open spaces and requested that Crystal Gates, the County Land Manager, provide the District with some educational materials on thistle and oxeye daisy. A discussion on the topic ensued, and Dir. Amico stated that an information piece could be emailed to the District residents and put on the District's web site. Mr. Beach stated that the District would step up efforts on eradicating oxeye daisy since the Road budget could afford it this year.

#### Future Meeting

The next Board of Directors meeting will be set via email, with a target date of late June in order to seat the Board vacancy in a timely manner.

#### Adjournment

There being no further business to come before the Board of Directors at this time, Dir. Malkemus moved, and Dir. Yusem seconded, to adjourn the meeting at 10:35 a.m. The motion was approved by unanimous voice vote.

The foregoing minutes constitute a true and correct copy of the minutes of the above-referred meeting and were approved by the Board of Directors of the Buttermilk Metropolitan District.

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Date of Approval

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Gary Beach, Manager  
Buttermilk Metropolitan District

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