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# RECORD OF PROCEEDINGS

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**Minutes of the Regular Meeting  
of the Board of Directors of  
Bachelor Gulch Metropolitan District  
March 27, 2019**

A Regular Meeting of the Board of Directors of Bachelor Gulch Metropolitan District, Eagle County, Colorado, was held Wednesday, March 27, 2019 at 2:00 pm., in the offices of Marchetti & Weaver, LLC, 28 Second Street, Suite 213, Edwards, Eagle County, Colorado.

**Attendance** The following Directors were present and acting:

- Paul Jardis
- Michael Mossman
- Dale Stortz (via telephone)
- Jennifer Holzworth (via telephone)

The following Director was absent and excused:

- Constance Irons-Malernee

**Also in attendance were:**

- Kenneth Fellman, Kissinger & Fellman, PC (via telephone)
- Koby Kenny, Director of Resort Services & Public Safety
- Maureen Crofton, Bachelor Gulch Public Safety
- Sean Sprague, Bachelor Gulch Metro, Ops Asst Manager
- Dave Berg, Bachelor Gulch Metro District, Manager
- Ken Marchetti, Marchetti & Weaver, LLC
- Debbie Braucht, Marchetti & Weaver, LLC, Secretary for the Meeting

**Call to Order** The Meeting of the Board of Directors of Bachelor Gulch Metropolitan District was called to order by Chairman Jardis, noting a quorum was present.

**Consideration of Agenda**

No changes were made to the Agenda.

**Minutes**

Upon review and by motion duly made and seconded it was unanimously

**RESOLVED** to approve the February 27, 2019 meeting minutes as amended.

**Public Safety Report**

There was discussion of the fire pits at Anderson's Cabin and the Ritz Carlton and whether they had or are being converted to natural gas. Natural gas is much safer than burning logs and the Board was very concerned last year because of the intense fire season and the lack of

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safety precautions in and around these fire pits. Director Jardis will speak to the Manager at the Ritz about the Board's concerns and the possibility of converting to natural gas.

### **Operations Report**

Mr. Berg briefly reviewed a couple of items that were included in the Operations Report.

### **Verizon Review**

Director Jardis stated that he, Mr. Berg and Mr. Sprague had a meeting with Verizon representatives with the thought that work could begin on a 5G network this summer. After the meeting they now know there is not enough information to do go forward with that plan. One thing they learned was that 5G will enhance data but not voice so, in their opinion, it's not as big a deal as they thought. Installing a 5G network at this point would be premature.

### **Comcast Agreement**

Director Jardis stated they just received an updated agreement but they have not had time to review it.

### **CenturyLink Agreement**

The Agreement is ready except for some changes to Exhibit 4 so they are very close to a final agreement.

One item of note was that during all the years CenturyLink was using the telecommunications room without an agreement with the District, the District was paying the electric bills. After discussion the Board asked Marchetti & Weaver to proceed with billing Vail Associates Inc (VAI) to reimburse the District for those costs. VAI had a lease agreement with CenturyLink and its predecessor even though the property was not theirs to lease.

Director Jardis worked with Marchetti & Weaver on sales taxes collected on customers of Century Link, but no remittance to the District.

### **Financial Statements**

Mr. Marchetti stated he added a 2019 Corrected Budget column to the 2019 financial statements. Broadband expenses budgeted in detail in the Sales Tax Fund were not pulling into the summary. Also after discussions it was agreed that any Broadband and Fire Mitigation costs were not Sales Tax Fund expenses but General Fund expenses Those line item expenses were moved to the General Fund.

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Mr. Marchetti gave a brief summary of the Wayfair decision by the Supreme Court. The Supreme Court upheld South Dakota's claim that online sales are subject to sales taxes based on the buyer's address. Prior to this it was the point of sale so there will be more retailers collecting and remitting sales tax to the District.

Mr. Fellman joined the meeting via telephone.

### **Executive Session**

The Board discussed the need for Executive Session in regards to CenturyLink and Comcast. Upon motion duly made and seconded it was unanimously

**RESOLVED** to enter in Executive Session at 2:32 pm citing §24-6-402(4)(e), C.R.S., determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators and §24-6-402(4)(b), C.R.S., conferences with an attorney for the purpose of receiving legal advice on specific legal questions.

Upon returning from Executive Session the Board upon motion duly made and seconded it was unanimously

**RESOLVED** to authorize Director Jardis and Mr. Fellman to proceed as directed in Executive Session and execute agreements with Comcast and CenturyLink contingent upon resolving the minor issues that remain.

Mr. Fellman left the meeting.

### **Accounts Payable**

An updated list was distributed to the Board. Upon review and by motion duly made and seconded it was unanimously

**RESOLVED** to approve and ratify the updated accounts payable list.

### **Adjournment**

There being no further business to come before the Board, upon motion duly made and seconded it was unanimously

**RESOLVED** to adjourn the meeting of the Bachelor Gulch Metropolitan District Board of Directors held March 27, 2019.

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Respectfully Submitted,



Secretary to the Meeting

**Attorney Statement**

**REGARDING PRIVILEGED ATTORNEY-CLIENT COMMUNICATION**

Pursuant to Section 24-6-402(2)(d.5)(II)(B), C.R.S., I attest that, in my capacity as special counsel to Bachelor Gulch Metropolitan District, I attended the executive session meeting convened on March 27, 2019 held pursuant to §24-6-402(4)(b) and (e) C.R.S., conference with an attorney for the purpose of receiving legal advice related to specific legal questions and determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators. I further attest it is my opinion that all of the executive session discussion constituted a privileged attorney-client communication as provided by Section 24-6-402(4)(b) and (e), C.R.S. and, based on that opinion, no further record, written or electronic, was kept or required to be kept, and no further record, written or electronic was kept or required to be kept pursuant to Section 24-6-402(2)(d.5)(II)(B), C.R.S.

Signature

  
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Name and Title

Kenneth S. Fellman, President  
Kissinger & Fellman, P.C.

Date

5/6/19