

# RECORD OF PROCEEDINGS

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## MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE VALAGUA METROPOLITAN DISTRICT

Held: Saturday, January 7, 2012 at 12:00 p.m., at 28 Second Street, Suite 213, Edwards, Colorado.

### Attendance

The special meeting of the Board of Directors of the Valagua Metropolitan District was called and held as shown above and in accordance with the statutes of the State of Colorado. The following Directors, having confirmed their qualification to serve on the Board, were in attendance:

C. Michael Budd  
Darrel D. Schmidt  
Russ E. Hatle  
Donald Janklow  
Absence Excused: Robert J. Melun

Also present: Eric Weaver, Robertson & Marchetti, P.C.

Joan Fritsche, Foster Graham Milstein & Calisher, LLP participated via teleconference.

### Call to Order

Director Budd noted that a quorum of the Board was present, verified that notice of the meeting was posted in three locations within the District and that the Directors had confirmed their qualification to serve, and therefore called the meeting of the Board of Directors of the Valagua Metropolitan District to order.

### Disclosure Matters

Ms. Fritsche advised the Board that pursuant to Colorado law, certain disclosures by the Board members may be required prior to taking official action at the meeting. The Board reviewed the agenda for the meeting, following which each Board member disclosed his conflicts of interest, stating the fact and summary nature of any matters, as required under Colorado law, to permit official action to be taken at the meeting. The Board determined that the participation of the members present was necessary to obtain a quorum or otherwise enable the Board to act.

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Director Budd reported that he is an owner of real property within the District and that he is engaged as a real estate broker with Prudential Colorado Properties to sell properties within the District.

Director Hatle reported that he is an owner of real property within the District and that he has an ownership interest in Clearwater Development, Inc. Clearwater Development, Inc. is a property owner and developer within the District, which may have a right to reimbursement costs from the District. In addition, Director Hatle reported that he has investments in Imprimis LLC; Mt. 20 LLC; Hares Ear LLC; Hares Builders, LLC; and Rampart Holdings, LLC. This disclosure is associated with approval of items on the agenda, which may affect his interests or those of Clearwater Development, Inc.

Director Janklow reported that he is an owner of real property within the District. This disclosure is associated with approval of items on the agenda, which may affect his interests.

Director Schmidt reported that he is an owner of real property within the District. This disclosure is associated with approval of items on the agenda, which may affect his interests.

Written disclosures of these interests were filed with the Secretary of State and the Board prior to the meeting.

Written disclosures for Director Melun were filed with the Secretary of State and the Board prior to the meeting.

Public Comment

There was no public comment.

Meeting Minutes

The minutes of the regular meeting of the Board of Directors held on October 21, 2011 were read. Upon motion duly made by Director Janklow, seconded by Director Hatle and unanimously carried, the minutes were approved by the Board of Directors, as amended.

The minutes of the special meeting of the Board of Directors held on December 6, 2011 were read. Upon motion duly made by Director Janklow, seconded by Director Schmidt and unanimously carried, the minutes were approved by the Board of Directors.

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### Annual Administrative Matters

Ms. Fritsche discussed a number of administrative matters with the Board, which are generally addressed at the Board's first meeting of the year, in accordance with Colorado laws:

Ms. Fritsche asked the Directors to complete affidavits confirming each Director's qualification to serve on the Board.

Ms. Fritsche asked the Directors to review the information provided to each Director by her firm, describing how to identify a conflict of interest, and the requirements under Colorado law for disclosure of such conflicts of interest by each Director. Ms. Fritsche asked each Director to review the contents of the letter, and to identify all existing and potential conflicts of interest each Director may have in connection with serving as a member of the Board of Directors of the District and to update the disclosure form to be returned to her office.

Upon motion duly made by Director Hatle, seconded by Director Schmidt and unanimously carried, the Board elected the following officers for 2011:

C. Michael Budd - President/Chairman of Board  
Darrel D. Schmidt - Secretary/Treasurer  
Russ E. Hatle - Assistant Secretary  
Donald Janklow -Assistant Secretary  
Robert J. Melun - Assistant Secretary

The Board determined to continue to compensate each director for service to the District in amount of \$100 per meeting, not to exceed \$1,600 per year.

The Board reviewed and determined to continue to use the *Eagle Valley Enterprise* for publication of legal notices.

The Board determined to hold its regular 2011 meetings at 1:00 p.m. on a quarterly schedule: January 7, May 18, July 20, October 19 and November 16 at 28 Second Street, Suite 213, Edwards, Colorado. In addition, the Board identified its regular meeting notice posting location as the Gate House at 10 Brightwater Club Drive.

The Board appointed Cheri Curtis at Robertson & Marchetti to serve as the Designated Election Official for the District for its election activities.

The Board reviewed its existing insurance coverage and found it to be adequate for 2012.

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The Board affirmed the District's current indemnification resolution that indemnifies the District's directors and any District employees hired in the future.

Finally, the Board reviewed the proposed form of resolution presented by Ms. Fritsche to memorialize its determinations concerning actions to be taken by its consultants. Upon motion duly made by Director Janklow, seconded by Director Hatle, the Board unanimously approved the Resolution, as amended, and ratified actions taken by the District's consultants to date.

### Engagement of Consultants

The Board reviewed and renewed the engagement of its consultants, Foster Graham Milstein & Calisher, LLP, serving as the District's legal counsel and depository of the District's records; Robertson & Marchetti, P.C., serving as the District's accountant and manager; Vision Land Consultants, Inc., providing engineering services, as needed; Chadwick, Steinkirchner, Davis & Co., providing audit services; and Mikim Brown providing security services.

### Financial Report/Payables

Mr. Weaver reviewed with the Board the District's preliminary financial reports dated December 31, 2011 and payment of claims dated January 7, 2012. Upon motion duly made by Director Hatle, seconded by Director Schmidt and unanimously carried, the Board accepted the financial reports and approved and ratified the payment of claims as presented in the amount of \$24,493.37.

### 2011 Audit

Upon motion duly made by Director Hatle, seconded by Director Schmidt, and unanimously carried, the Board authorized Chadwick, Steinkirchner, Davis & Co., to prepare the District's 2011 audit.

### Developer Update

Director Hatle gave the Board a brief update on the status of the CDI bankruptcy proceedings and sale of Brightwater Club assets.

### Security Services

The Board discussed operating costs of providing manned security service for the District's property owners in light of the District's shrinking general fund, the District's need to maintain a sufficient reserve level, and lack of funding or commitment from the Brightwater Club POA. No action was taken by the Board.

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- Filing 4/Tall Grass and Filing 5/Doll Station      The Board discussed the issue of the overreaching mechanics lien placed on property in multiple filings by Brock Consulting and the fact that the Town accepted the water and sewer lines in Filing 4/Tall Grass and Filing 5/Doll Station in January of 2011, only to rescind that acceptance because Brock Consulting refused to provide a lien waiver and release and signed mylar as-builts to the Town for completion of infrastructure work done in Filings 1, 4 and 5. The public water and sewer improvements were installed in 2008 and should have been dedicated to the Town so that warranty periods could start running and the District could remove the improvements from its books. Upon motion duly made by Director Hatle, seconded by Director Janklow, and unanimously carried, the Board authorized Ms. Fritsche to send notice to Brock Consulting of the potential liability being incurred by the District as a result of retaining ownership of the water and sanitary sewer improvements in Filing 4/Tall Grass and Filing 5/Doll Station.
- May 2012 Regular Election      Ms. Fritsche reviewed a memorandum concerning upcoming deadlines and Board seats up for election as part of the District's regular 2012 directors' election being conducted by Robertson & Marchetti.
- Adjournment      There being no further business to come before the Board, and upon motion duly made by Director Janklow, seconded by Director Hatle, and unanimously carried, the meeting was adjourned.

  
Secretary for the Meeting