

**RESOLUTION OF
THE BOARD OF DIRECTORS OF
BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 2
2021 RECALL ELECTION RESOLUTION
MAIL BALLOT**

At a special meeting of the Board of Directors of the Buckhorn Valley Metropolitan District No. 2, Eagle County, Colorado, held at 4:30 P.M., on Wednesday, March 31, 2021 via video and telephone conference in order to preserve the health, safety, and welfare of the public in light of the imminent threat caused by the COVID-19 pandemic and due to the state of emergency declared by Governor Polis, as amended and extended, corresponding executive orders and public health orders, as amended and extended, and CDC recommendations against gathering in large groups in order to mitigate the spread of the COVID-19 virus, at which a quorum was present, the following resolution was adopted:

WHEREAS, the Buckhorn Valley Metropolitan District No. 2 (the “District”) was organized as a special district pursuant to an order and decree of the District Court in and for the County of Eagle, Colorado (the “Court”), dated May 15, 2000 and is located within Eagle County (the “County”); and

WHEREAS, pursuant to Section 32-1-906, C.R.S., any director elected or appointed to the Board of Directors of the District (the “Board”) who has actually held office for at least six months may be recalled from office by the eligible electors of the District; and

WHEREAS, pursuant to Section 32-1-908, C.R.S., procedures to recall a director of the District are to be governed by part 9 of article 1 of title 32, C.R.S., and, pursuant to Section 32-1-910(5), C.R.S., such recall election shall be conducted in accordance with article 13.5 of title 1, C.R.S.; and

WHEREAS, on December 4, 2020, a proposed form for the recall petition for each of the four directors of the Board was filed with the Court pursuant to Section 32-1-909(2), C.R.S.; and

WHEREAS, on December 7, 2020, the Court appointed Jennifer L. Ivey as the designated election official (the “DEO”) pursuant to Section 32-1-909, C.R.S.; and

WHEREAS, on December 10, 2020, the DEO issued written notices of disapproval of recall petition as to form to the committee to recall Anna Maria Ray, the committee to recall David Garton, the committee to recall John Hill (collectively referred to herein as the “Recall Committees”), and the committee to recall Scott Green (the “Green Recall Committee”) for failure to comply with the requirements of Sections 32-1-909 *et seq.*, C.R.S.; and

WHEREAS, on December 21, 2020, the Recall Committees and the Green Recall Committee filed revised forms of recall petitions with the DEO for review in accordance with Section 32-1-909(3), C.R.S.; and

WHEREAS, on December 28, 2020, the DEO issued written notices of Approval of Revised Recall Petitions as to Form to the Recall Committees and the Green Recall Committee pursuant to Section 32-1-909(3), C.R.S.; and

WHEREAS, on February 23, 2021, the Recall Committees and Green Recall Committee filed with the Court a Notice of Sufficient Signatures Obtained and Request for Certification by Election Official; and

WHEREAS, on February 24, 2021, the DEO received written notice of resignation from Director Scott Green, effective as of February 20, 2021, resulting in the termination of all recall proceedings for Director Scott Green and rendering the office vacant pursuant to Sections 32-1-907 and 32-1-911, C.R.S.; and

WHEREAS, on February 25, 2021, the DEO received original copies of the signed sections of the recall petition for Director Anna Maria Ray, the recall petition for Director David Garton, the recall petition for Director John Hill (collectively the “Recall Petitions”), and the recall petition for Director Scott Green (the “Green Petition”) for review in accordance with Section 32-1-910(3), C.R.S.; and

WHEREAS, on March 3, 2021, the DEO issued a written termination of recall proceedings for Director Green pursuant to Sections 32-1-907 and 32-1-911(1), C.R.S., and as such, the DEO did not review the Green Petition; and

WHEREAS, in accordance with Section 32-1-910(3)(a), C.R.S., all petition information in the Recall Petitions was reviewed and verified against the County Clerk and Recorder’s registration records and the County Assessor’s records to determine whether the Recall Petitions each met the requirements of Sections 32-1-906(1) and 32-1-910(2)(a), (2)(b), and (2)(c), C.R.S.; and

WHEREAS, on March 3, 2021, the DEO issued written determinations of sufficiency for each of the Recall Petitions pursuant to Section 32-1-910(3)(b), C.R.S.; and

WHEREAS, pursuant to Sections 32-1-910(3)(f), C.R.S., the last date on which a request for judicial review of a determination could have been filed with the Court was March 10, 2021, and no such request for judicial review was filed; and

WHEREAS, pursuant to Section 32-1-910(4)(a)(II), C.R.S., the last date on which a protest could have been filed with the DEO was March 12, 2021, and no protest was filed; and

WHEREAS, Sections 32-1-910(4)(a)(I) and (II), C.R.S. require the DEO to submit the Recall Petitions, together with certificates of sufficiency, to the Board at a regular or special meeting of the Board held within thirty days following the expiration of the period within which a protest may be filed, or within thirty days of the date the written determination of sufficiency is issued, whichever is later; and

WHEREAS, the DEO submitted the petition, together with a certificate of its sufficiency, to the Board at its March 31, 2021 special meeting; and

WHEREAS, in accordance with Section 32-1-910(4)(a)(III), C.R.S., the Board shall order and fix a date for the recall election to be held not less than seventy-five days nor more than ninety days from the date of the meeting, and the Board shall determine whether voting in the recall election is to take place at the polling place or by mail ballot; and

WHEREAS, pursuant to Section 32-1-914(1), C.R.S., the DEO shall render all interpretations and shall make all initial decisions as to controversies or other matters arising out of the operation of a recall election; and

WHEREAS, the Board desires to order and fix a date for the recall election and set forth herein the procedures for conducting the election as authorized by Section 32-1-906 *et seq.*, C.R.S. and article 13.5 of title 1, C.R.S. (collectively the “Recall Election Laws”).

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 2 THAT:

1. The Board hereby recognizes that the Recall Petitions, together with certificates of sufficiency, were submitted to the Board by the DEO at its March 31, 2021 special meeting as required by Section 32-1-910(4)(a)(I), C.R.S.

2. The Board hereby recognizes that in accordance with Section 32-1-103(21), C.R.S. no enumerated special election date falls within the period prescribed by Section 32-1-910(4)(a)(III), C.R.S. (no sooner than June 14, 2021 and no later than June 29, 2021) for the recall election, and therefore, as required by Section 32-1-910(4)(a)(III), C.R.S., the Board orders a special recall election of the eligible electors of the District to be held on June 29, 2021 between the hours of 7:00 A.M. and 7:00 P.M. pursuant to and in accordance with the Recall Election Laws and other applicable laws, for the purpose of determining whether Director Anna Maria Ray, Director David Garton, and Director John Hill shall be recalled, and in the event of Director Anna Maria Ray, Director David Garton, and/or Director John Hill’s recall, to elect a successor or successors to Director Anna Maria Ray, Director David Garton, and/or Director John Hill’s office from those candidates who have been nominated therefor in accordance with all applicable laws, subject to the Court granting permission for the District to hold the election on said date in accordance with Section 32-1-103(21), C.R.S.

3. The Board hereby recognizes that Jennifer L. Ivey is the DEO for the special recall election in compliance with the order of the Court issued on December 7, 2020. The Board hereby authorizes engaging Community Resource Services of Colorado, LLC to provide services to assist the DEO as the deputy designated election official for the special recall election pursuant to Section 1-13.5-108(2), C.R.S. (the “Deputy DEO”).

4. The Board hereby determines that such special recall election shall be conducted as an independent mail ballot election. Unless otherwise determined necessary by the DEO, there shall be one polling place and drop-off location for the special recall election. Such polling place and

drop-off location shall be located at *office of the Deputy DEO at 7995 East Prentice Avenue, Suite 103E, Greenwood Village, Colorado 80111*. All voters for the District, including handicapped and nonresident voters, shall return their ballots to the polling place and drop-off location by mail or delivery. All eligible electors may also obtain a replacement ballot from the polling place and drop-off location until 7:00 P.M. on *June 29, 2021* in accordance with Section 1-13.5-1105(4)(d) and (e), C.R.S. A map showing the District's boundaries is on file at the office of the DEO at 4725 South Monaco Street, Suite 360, Denver, Colorado 80237 and is available for examination by all interested persons.

5. The Deputy DEO shall act as the primary contact with the Clerk and Recorder of Eagle County, Colorado (the "County") and shall be primarily responsible for ensuring the proper conduct of the election, including, but not limited to, distributing, handling and counting of ballots and the survey of returns, taking the necessary steps to protect the confidentiality of the ballots cast and the integrity of the election, appointing election judges as necessary, appointing the board of canvassers, arranging for the required notices of the election and printing of ballots, maintaining a permanent absentee voter list, providing notice of election results as required by law and directing that all other appropriate actions be accomplished.

6. The DEO shall prepare the form of the ballot to be certified and submitted to the eligible electors of the District. The ballots shall be prepared in accordance with Section 32-1-911(3), C.R.S., including the inclusion, if desired by Director Anna Maria Ray, Director David Garton, and/or Director John Hill, of a statement of not more than three hundred words in support of the director's retention, which shall be submitted to the DEO on or before the date on which the ballot content must be certified under Sections 1-13.5-511 or 1-5-203(3), C.R.S. as required by Section 32-1-911(3), C.R.S. (*April 30, 2021, 60 days before election*).

7. In accordance with Section 32-11-911(4), C.R.S., candidates to succeed a director sought to be recalled at a recall election must be nominated in accordance with Sections 1-13.5-303 and 1-13.5-305, C.R.S., and shall be filed with the DEO no later than sixty-four days prior to the recall election (*April 26, 2021*). The DEO shall make a form of nominating petitions available to all interested parties. Affidavits of intent to be a write-in candidate must be filed no later than sixty-one days prior to the recall election (*April 29, 2021*). The DEO shall provide a call for nominations to be published in the *Eagle Valley Enterprises* between seventy-five days and one hundred days before the recall election (no later than *April 15, 2021*) in accordance with Sections 32-1-911(4) and 1-13.5-501, C.R.S.

8. In the event that Director Anna Maria Ray, Director David Garton, and/or Director John Hill resign by submitting a written letter of resignation as provided by law prior to the election, the Board hereby directs that the DEO may terminate applicable recall proceedings for the director or directors who resign as allowed by law.

9. The DEO, Deputy DEO and the officers, agents and employees of the District are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

10. All actions not inconsistent with the provisions of this Resolution heretofore taken by the members of the Board, the DEO, the Deputy DEO and the officers, agents and employees of the District and directed toward holding the special recall election for the purposes stated herein are hereby ratified, approved and confirmed.

11. All prior acts, orders or resolutions, or parts thereof, by the District in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

12. If any section, paragraph, clause or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution, it being the intention that the various parts hereof are severable.

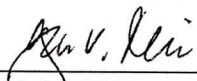
13. The District shall be responsible for the payment of any and all costs associated with the conduct of the special recall election, including its cancellation, if necessary, and may reimburse those costs incurred by the incumbent that are allowed to be reimbursed in accordance with Section 32-1-912, C.R.S., if any.

14. This Resolution shall take effect on the date and at the time of its adoption.


Whereupon, a motion was made and seconded, and upon a majority vote, this Resolution was approved by the Board.

ADOPTED AND APPROVED THIS 31ST DAY OF MARCH 2021.

**BUCKHORN VALLEY METROPOLITAN
DISTRICT NO. 2**



By: John Hill
Its: President

ATTEST:


By: Nickolas R Viau
Its: Treasurer