

# **BUCKHORN VALLEY METROPOLITAN DISTRICT NO 2**

## **Special Board Meeting Minutes**

Meeting Date: Monday August 19, 2024

Meeting Time: 6:03pm to 8:29pm

Meeting Location: The meeting was held online at the following location:

<https://meet.goto.com/Wolfersberger>

### **I. Roll Call (6:03pm)**

A special meeting of the Board of Directors of the Buckhorn Valley Metropolitan District No. 2 (District) was called and held as shown above and in accordance with the statutes of the State of Colorado. The following Directors were in attendance:

<b>Directors</b>	<b>Office</b>	<b>Attendance</b>
Nickolas Viau	President	Present
David Fiore		Present
Eliana Walker	Secretary/Treasurer	Present
Angela Heuman		Present
Vacancy		

Also, in attendance was Charles Wolfersberger (District Manager), with Wolfersberger, LLC; Paul Rufien (General Counsel) with Rufien Law; no homeowners were in attendance.

### **II. Call to Order**

The meeting was called to order by the District Manager. The District Manager noted that a quorum of the Board was present, the Directors confirmed their qualification to serve and, therefore, called the special meeting of the Board of Directors of the District to order.

### **III. Present Disclosures of Potential Conflicts of Interest**

The Board reviewed the agenda for the meeting, following which all directors disclosed no conflicts of interest with the business to be discussed and conducted at the meeting.

### **IV. Administrative Matters**

- 1) Meeting Agenda: The Board reviewed the meeting agenda presented by the District Manager. Director Fiore motioned to approve the agenda as presented. Director Viau seconded the motion and the Board voted 4-0 to approve the motion.
- 2) Review and consider minutes from the July 15, 2024 board meeting: The Board agreed to defer review and approval of these minutes to the next board meeting.

### **V. Public Comments – None**

**VI. Director Matters – None**

**VII. Litigation status update**

Mr. Rufien provided a brief update and stated that all pleadings from the District and District No 1 have been filed with District Court regarding the Rule 106 matter. (Rule 106 matter is regarding whether District 1 was allowed to (1) settle and write off a portion of past due water fees owed by BV Firewheel to District 1 and (2) revise the water rates in a manner that shifted more of the cost burden of operating the irrigation system from BV Firewheel to the homeowners.)

**VIII. Executive Session**

Director Viau motioned to open executive session at 6:12pm for the purpose of conferring with the District's legal counsel pursuant to Section 24-6-402(4)(b), C.R.S. regarding existing litigation with Buckhorn Valley Metro District No 1 (BVMD1) and other individually named defendants. Director Walker seconded the motion and the Board voted 4-0 to approve the motion.

No actions were taken by the Board during executive session. Executive session was not recorded. Director Fiore motioned to close the executive session at 8:21pm. Director Viau seconded the motion and the Board voted 4-0 to approve the motion.

Post executive session action items: Director Viau motioned to file an appeal with the Colorado Court of Appeals regarding the District Court's decision to dismiss the District's claims against certain individually named defendants (i.e. David Garton, Sande Garton, Samantha Gale, John Hill and Gayl Hill) in the District's lawsuit. Director Fiore seconded the motion and the Board voted 4-0 to approve the motion.


Director Viau motioned to file an appeal with the Colorado Court of Appeals regarding the District Court's decision that the 2003 intergovernmental agreement (2003 IGA) between the District and District 1 is a valid agreement. Director Fiore seconded the motion and the Board voted 3-1 (Director Heuman opposed) approving the motion.

Director Fiore noted that a difference of opinion regarding the validity and continuing existence of the 2003 IGA still exists between the District's board (which believes the 2003 IGA is invalid and has been effectively terminated due the District 1's breach of the 2003 IGA) and District 1 board (which has stated that they believe the 2003 IGA is still an active, valid agreement binding both districts).

Director Viau stated that the Board may consider appealing additional litigation matters after District Court issues a ruling on the District's "Rule 106" claim against District 1. Director Fiore stated his support for the District (1) pursuing reduction of the District's debt burden and (2) ensuring homeowners can rely upon the long-term operation and viability of the irrigation system. Director Fiore also expressed support for settling the disputes between the District and District 1.

**IX. Adjournment (8:29pm)**

There being no further business to come before the Board, and upon motion duly made by Director Fiore, seconded by Director Viau, and unanimously carried, the meeting was adjourned. The next board meeting will be held on Tuesday October 22, 2024 at 6:00pm at the following online location: <https://meet.goto.com/Wolfersberger>

DocuSigned by:  <small>24B7825AEF8F449...</small>	10/23/2024
Secretary Eliana Walker	Date