



FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT OPEN BOARD MEETING

January 4, 2017

Present: Jamey Kabisch, Chairperson
Mike Scholz, Vice Chairperson
Ginna Hermann, Secretary
Heather Budd, Treasurer
Kevin Germain, Director
Whitney Brunner, Administrative Officer

Chairperson Jamey Kabisch called the open meeting to order at 9:00 a.m.

I. Open Meeting

A. Public Comment:

John Olsen, Lone Mountain Land Company: MDT approved the plans for the Ousel Falls traffic light and the contract will be executed this week. It should be operational by June 30.

David O'Connor, Big Sky Chamber of Commerce: The Chamber has been looking for a CEO since September 2016. It made two offers, which were not accepted because of family and financial reasons. Britt Ide is the Interim CEO. The real estate contract on the corner property fell through yesterday. Question for the Resort Tax Board: May the Chamber make a request to move funds within its appropriation application request? The board stated yes.

Hans Williamson, Yellowstone Club: Mr. Williamson read a letter stating the Yellowstone Club remitted \$730,000 in resort tax in fiscal year 2016. He stated the Yellowstone Club believes club dues, which represent a third of total club operational expenses that are mandatory for membership, are exempt from resort tax. In the spirit of alleviating any perception in the community that Yellowstone Club does not fully support resort tax, it intends to make an additional voluntary annual contribution. The contribution will be based on the average achieved value in the region of a lift ticket or round of golf, multiplied by the number of skier days or golf rounds (respectively) utilized by Yellowstone Club members and then multiplied by 3%. The voluntary contribution will not be restricted and is intended to be utilized by resort tax in the normal annual appropriations.

B. New Business:

1. Big Sky Community Housing Trust: Brian Guyer and Bayard Dominick: Mr. Guyer stated there have been delays on the administrative side of the project. If the potential 1% dedicated to workforce housing comes to pass, the Housing Trust Board will be formed differently than outlined in the appropriation application. If guaranteed revenue on a regular basis is possible, it can become a 501c3. If there is no 501c3, it is best to remain under the HRDC because of compliance, accountability, etc. He stated he has been working on other HRDC projects. Beginning January 23, he will be back on the project full time.

Mr. Dominick stated the Bough Parcel Project is on schedule. Per the application, preliminary plat was submitted in the fall. He expects the Commission will approve it in February and final plat will be in place by June. Construction is to begin March 15 because of the pressure to meet the Resort Tax June deadline. He stated the County was asked to bond over paving and it stated a special exception cannot be made. The Resort Tax June deadline is placing stress on the schedule and the time is approaching when talk of a contingency will need to begin. The Resort Tax Board stated it consulted Attorney Jamison and it will be a rollover request. Mr.

Dominick asked if the board would consider changing the contract from final plat to preliminary plat. The Board stated the request can be made; however, the likelihood is similar to the outcome of the request made to the County, but it is appropriate to keep the dialog going.

2. **Attorney Search: Sherine Fernando of Dodd Law Firm Bozeman:** Ms. Fernando provided a resume and stated before Dodd Law Firm she worked with Jane Mersen for five years. She stated she was involved in prosecution and civil contract work for Manhattan and litigation work for West Yellowstone Resort Tax. In Dillion she represented the City Treasurer and performed ordinance revisions. Ms. Fernando stated she does not have any conflicts and, after reviewing the schedule of estimated hours, is able to take on the work. She stated Dodd Law Firm has one full time and one part time staff and, in February, is taking on an Associate Attorney. The Board thanked Ms. Fernando for applying. The Board would like to fill the position by March. The board stated it will be in touch.
3. **Appropriation Entities Progress Report I:** No discussion.

Directors and Officers Insurance: Motion by Mr. Germain to approve the renewal of the Directors and Officers Insurance Policy. Second by Ms. Hermann. All in favor. Motion passed.

C. Old Business

1. **Legislative Session:** The board allowed Taylor Middleton to share his public comment. Mr. Middleton stated he will be covering minutia, but he thinks it is important and he invites discussion, context and questions. He stated his purpose is to convince the board not to increase resort tax and (his case) has nothing to do with affordable housing. The board stated it understands the likelihood of legislation passing in Helena is slim if two buses (one for and one against) go to Helena. Mr. Middleton stated he has held his discussions to this point in private to prevent the two buses scenario.

Mr. Middleton stated he and the board are community builders. 25 years ago he was involved in the start of resort tax. His business now collects 50% of the tax. He asked if any of the board members own or work for businesses that remit the tax on their primary business. The board responded that one member does; however, no candidate that ran for a board seat in 2016 would fit that criterion.

He stated he is supportive of the board, but is opposed to a 30% increase in the tax. He listed the following: 1) existing resort taxes are already available for affordable housing, 2) although he applauds what Mr. Williamson contributed earlier in the meeting, there are taxable services not currently being taxed, 3) existing collections are increasing by 13% per year over the past five years and resort tax has inflation built in and 4) it is unfair to increase taxes on the businesses that have been collecting the tax for 30 years.

Mr. Middleton suggested a real estate transfer tax. The board stated a real estate transfer tax is unconstitutional in Montana, as in 13 other states, because it is housing. The board asked the question of Attorney Jamison and was advised that the unconstitutional obstacle is too difficult to overcome. Mr. Middleton stated he would challenge the board to pursue and make that change. If it is willing to work on this 1% effort, it should be willing to do the same for a real estate transfer tax. The board stated it is trying to work within the resort tax law. A real estate transfer tax effort should come from the real estate community, similar to how resort tax was created by the retailers. Mr. Middleton stated he should disclose his company is a real estate developer and partial owner in Lone Mountain Land Company.

He stated if the board is trying to increase collections by 30% for affordable housing, funds could come from the construction and real estate industries that are creating 1,500-2,000 workers. Resort tax already funded \$1 million toward the affordable housing problem. The board stated the \$1 million was from the sinking fund created over four years.

Mr. Middleton stated resort tax law states luxuries are to be taxed. If the board can collect on the items not currently being taxed, then there is no need for the 1% increase. Mr. Middleton stated the law specifies destination facilities are luxuries and are to be taxed. The board stated from the start of resort tax,

homeowners' fees have not been taxed. A home and its expenses are considered a necessity of life, not a luxury.

Mr. Middleton stated discretionary and voluntary in the ordinance are not from the law and that the board is responsible for interpreting the law.

Mr. Middleton stated he has been a Spanish Peaks member since 2004. With the bankruptcy he did not pay club dues for years. When the club restarted, Spanish Peaks members were given the option to join the club; a voluntary opportunity that was not taxed. The Yellowstone Club National Memberships are non-property owning and have club dues associated. There are marketed memberships, Signature is the name of one, that may not be taxing correctly. There may be membership products that were not taxed before and should be taxed now.

Mr. Williamson stated Yellowstone Club was in Chapter 11 and continued operating through the bankruptcy. With new ownership, club members were given the opportunity to rejoin and, if they sold their real estate, they were rejected. Mr. Dominick stated at Moonlight Basin, the membership was optional, but now it is not.

The board asked if Summit owners have access to the pool. Mr. Middleton stated yes; the use is not separated out to pay resort tax.

The resort tax board stated if dues were taxed at Spanish Peaks and Moonlight Basin, an estimated \$100,000 would be remitted. The 1% effort is trying to solve a problem by putting a tool in the toolbox for the community to then vote and decide for itself.

Mr. Middleton stated it is the responsibility of this board to see that this is fair.

The board stated it is a volunteer group trying to make a difference and Mr. Middleton's condescending is not fair. The board stated it is not made of club members that receive membership letters. 10 audits are performed each year for compliance. The tax is a common responsibility and partnership with the businesses and members of this community.

Mr. Middleton stated there is a club expert on the board. He stated the board is trying to do the right thing. He stated, he believes, there are untaxed items that can increase the tax without legislation.

The board asked Mr. Middleton if, for the record, as the bill stands he is opposed. Mr. Middleton stated yes. He stated if the board pursues the bill, there will be a nasty fight in Helena. The board thanked Mr. Middleton.

The board discussed that the legislation is giving the community the right to place a vote. It hopes to give Big Sky community members the opportunity to participate in the democratic process and decide for themselves if this is part of the housing solution.

The board discussed that it learned from the Summit Meeting December 12, 2016 that other resort tax districts and communities in the state have different needs. Ms. Jamison loosened the bill language to include "workforce housing and support services". The lobbyists are shy of the term infrastructure because the bill will have the best chance of success if it is focused on workforce. The lobbyists have advised that the bill should not get tangled up in the "doomed" bills like the local sales option taxes and removing the population cap on resort tax. The board discussed if since the no taxes pledge was signed if the bill is in the "doomed" category as well. The advice of the lobbyist is that the bill trying to solve a specific problem and feels optimistic that it will pass. The bill will have the same challenges as the last legislative session and that bill failed because of one vote. The board stated the bill may not pass, but it is an issue that should be kept on the radar of the legislature and this community. The board discussed if the discussion could be continued without the 1% increase. It is not about more tax, it is about giving people who work in our community the opportunity to live in our community. It is a social issue and if it is not addressed we are doing a disservice. Housing is still going to be an issue when the next legislative session is here in 2019. It takes several sessions to make progress. Workforce housing is a \$30 million dollar problem for Big Sky. Resort tax addresses a portion of the problem.

The board discussed who will sponsor the bill. The lobbyists are still deciding if it is best to have the bill come from the House or the Senate. Madison County supports the bill. West Yellowstone has different concerns from water to sewer issues.

The board discussed the Chamber Housing Study. The resort tax 1% increase is the cleanest, most concise effort the community has available now.

The board discussed the cost difference if it pulls the plug today or if the bill is unsuccessful in the legislature and fails in 45 days. The lobbying contracts will be reviewed and the potential savings shared next week, if the board elects to hold a special meeting.

Motion by Mr. Kabisch to suspend lobbying efforts and not move forward with the 1% increase Penny for Housing bill. Second by Ms. Hermann.

Discussion:

The board realizes the effort is controversial. If we do not give the community the tool in the toolbox to decide for itself, we are kicking the effort down the road because it is the best opportunity this community has to begin to address the problem today.

This is about local control; the right to bring the opportunity to this community for it to decide; that message has not gotten across.

This issue is dealt with in other resort communities. It is not the job of this board to take on the responsibility to solve it. An extra \$1 million per year is only taking little nips out of the problem. There has to be a way to get a big chunk.

No one is going to discover a silver bullet.

There are some well-run businesses that do not need this. You run a good business and you still have an employee housing problem.

The board sees headwinds in Helena and is concerned it puts retailers at a disadvantage. Some of the board has been going along with this, but progress and support is not there.

This community is what it is because of this tax. Everyone grew because of this tax. Did the retailers collecting the tax benefit more or less because of the existence of this tax? And the big retailers benefited more than the little businesses.

The largest beneficiaries of workforce housing are the people that collect this tax. Of course you can say you want everyone else to pay for it.

Can the community mature without solving this problem?

Keep it open to the democratic process; give the voters of this community the opportunity to decide.

If we're not ready to give up, let's get the specifics on what funds can be saved by pulling out now and have a special meeting next week.

For: Mr. Kabisch.

Against: Mr. Scholz, Ms. Hermann, Ms. Budd and Mr. Germain.

Motion fails.

A meeting for January 19 at 6:00 p.m.

Chairperson Jamey Kabisch closed the open meeting for a break at 11:15 a.m.
and reopened the open meeting at 11:25 a.m.

2. **Governing Ordinance Review:** The board discussed if everyday items are necessities, if electronics are appliances, if employee lift tickets are taxed, the taxability of membership fees and homeowners' dues with recreational components, if second homes are luxuries and resident discrimination.

The board discussed asking for a legal opinion once a new attorney is in place, since that attorney will be the one that will have to stand behind their legal opinion.

3. **Office Audit:** No discussion.
4. **Treasurer Report:** Ms. Budd stated Big Sky Western Bank was under pledged in November 2016 and, as of the meeting, had not yet submitted the December 2016 pledge report. After the meeting Ms. Brunner sent an email to Ms. Budd with the pledge report stating the Big Sky Western account was over pledged by \$18,512.11.
5. **Financial and Tax Collection Reports:** *Motion by Mr. Scholz to accept the Financial and Tax Collection Reports. Second by Mr. Germain. All in favor. Motion passes.*

Chairperson Jamey Kabisch left the open meeting at 12:15 p.m.

6. **Other:** The board decided to gauge interest in the resort tax contract attorney position from Helena Attorney Betsy Griffing, as recommended by Ms. Hermann and Ms. Jamison. In addition, Ms. Budd and Ms. Brunner will call Ms. Fernando's references.
- D. **Minutes: November 9:** *Motion by Mr. Kabisch to approve the November 9 open minutes, as amended. Second by Mr. Germain. For: Mr. Kabisch, Mr. Scholz, Ms. Hermann and Mr. Germain. Abstain: Ms. Budd. Motion passes.*

Vice Chairperson Mike Scholz closed the open meeting at 12:20 p.m.

Respectfully Submitted,


Virginia Hermann, Secretary



FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT OPEN BOARD MEETING

January 19, 2017

Present: Jamey Kabisch, Chairperson
Mike Scholz, Vice Chairperson
Ginna Hermann, Secretary
Heather Budd, Treasurer
Kevin Germain, Director
Whitney Brunner, Administrative Officer

Chairperson Jamey Kabisch called the open meeting to order at 6:00 p.m.

Mark Taylor of the Taylor Luther Group attended via telephone conference.

I. Open Meeting

A. Public Comment:

Dustin Shipman, Ophir Superintendent: In favor of Penny for Housing. 50% of staff is not professional (custodians, etc.). There is a five year shelf life for those that live up or down the canyon and commute to work.

Hans Williamson, Yellowstone Club General Manger: In support of Penny for Housing. Give the Big Sky residents the opportunity to vote and decide.

Alex Iskenderian, Lone Mountain Land Company: In support of Penny for Housing. It does not raise taxes on anyone. It enables the Big Sky community to have the debate. There is no silver bullet to solve workforce housing; it takes several arrows. There has been question on the resort taxes due (by Yellowstone Club, Spanish Peaks and Moonlight Basin) and it is our intention to pay whatever is due; don't let that sidetrack the effort.

Alan Shaw, Active on the Bozeman Human Resource Development Council Board: HRDC is a partner in the effort (creating the Housing Trust). In his discussions with HRDC Chief Executive Director Heather Grenier, they agree it is inappropriate for HRDC to be involved and, because of the lawsuit, HRDC is in jeopardy. Additionally, affordable housing is not part of the HRDC's role. Separately, before the board approved a budget line item of \$60,000 for a lobbyist, the public should have been consulted.

Andrea Saari, Gallatin River Task Force: Provided a Water Forum Update and provided an Executive Summary Handout. Separately, as a resident, she is a minority age group represented at the meeting. Bedrooms are being rented for \$800-\$1,000 in Big Sky. Why is there not a tax on club memberships?

Paul Cronin, Cronin Family Limited Partnership: Big Sky residents will have to pay the additional 1% tax too, not just tourists. Funds should be spent to learn how much of the tax is paid by locals. Is tax being paid on skis rented or purchased at Yellowstone Club like they are at Gallatin Alpine Sports? He read from the Chamber's Housing Plan that housing for the lowest income group (part time and seasonal, largely comprised of resort employees) is best addressed by private funds to provide dormitory-style housing.

Brian Hurlbut: In support of Penny for Housing. Pass the bill in the legislature and bring it to the Big Sky community for a vote.

Al Malinowski: Not in favor of Penny for Housing. More time to find a solution is needed. Take the opportunity to recognize unfairness (Yellowstone Club, Spanish Peaks and Moonlight Basin), if housing is going to be solved by resort tax, private sector incentives will be removed, it seems like the board has moved away from good controls since it is creating, interpreting and enforcing the law. Resort tax has been wonderful for the community and has been successful 3%. Live within your means.

John Richardson, 320 Ranch: The ranch is outside the district. It houses 79 ranch employees and 70 Yellowstone Club employees. He would like to see a long-term plan before supporting the bill or not. It's important to let the people decide. It is important to find funding resources for housing. Big Sky is an island; instead of water we have trees; there is only so much land. In the past three years the ranch has spent \$75,000 on employee housing.

Brian Guyer, HRDC: In support of Penny for Housing. HRDC is committed to finding a solution and as the Housing Agency for Gallatin and Park Counties this is an appropriate effort. The HRDC Executive Team Unequivocally supports the effort.

Tom Owens, Gallatin Alpine Sports: I pay \$1,500 a month for employees' gas. How is this effort going to help me and small business owners? I want to help the young professionals, not seasonal employees. In 22 years, I've hired 115 people. The exponential growth of the last two years has been overwhelming. My biggest headache is employees; however, I don't want to support a benefit only for the large employers.

Kate Smith, Small Business Owner: Premature to go to the legislature. It is better to have a plan.

David O'Connor, Bucks T-4 and Chamber of Commerce Chairman: 100% opposed to doing nothing. A Housing Committee was formed at the Chamber three years ago. For a democracy to work, we do our best when we're together. Many hours over many years have been spent to get to where this effort is today.

Separately, the board Chamber requests "permission to reallocate the \$60,000 allocated...for Light/Entryway category to Operations and Administration."

The request is driven by:

- The corner property is currently back on the market for sale, which makes entryway program discussions difficult
- The Chamber is dedicated to hiring and retaining excellent professional staff
- The Chamber has had unexpected recruiting costs to replace the former Executive Director and Marketing Manager
- Salary costs have risen to stay competitive with the market and job descriptions

Motion by Mr. Kabisch to reallocate the \$60,000 from the Chamber for Light/Entryway category to the Operations and Administration category. Second by Mr. Scholz. All in favor. Motion passed.

B. New Business:

1. Attorney Search: Betsy Griffing, Axilon Law: Ms. Griffing has 41 years local government experience and an extensive resume, which included work with Ms. Jamison. Mr. Griffing is comfortable providing guidance on tax issues and litigation; however, is glad to have the defensive lobbying work hired out. If she takes on the position, she will limit litigation to make time in her schedule. The board requested a fee schedule and terms of engagement.

C. Old Business

1. Legislative Session:

- a) Big Sky Chamber of Commerce Survey Results: Britt Ide: There are 450 Chamber members. ¼ of the membership completed the survey and 61% are in favor of Penny for Housing (an estimated 1/3 of those that completed the survey were retailers). The Chamber supports going after enabling legislature. The Community Housing Report is on the Chamber's website. Tuesday, January 23 is the Chamber's 2nd Community Forum.

- b) Penny for Housing: Ms. Jamison revised the bill to add the following underlined language suggested by West Yellowstone. A Bill for an Act entitled: "An Act allowing an additional resort tax of 1% to be designated for workforce housing and related needs and community development; requiring the additional resort tax to be approved by the qualified electors; amending sections 7-6-1501, 7-6-1503, 7-6-1504, 7-6-1541, and 7-6-1542, MCA; and providing an immediate effective date."

The board discussed that the bill does not specify that people need to work in the District. This specification is not made in the legislation, but is made in the ordinance that governs the local resort tax community or district. In researching other areas, the local ordinance requires that hours per week are worked in the District (instead of months or years). Breckenridge uses 30 hours a week and makes adjustments for retirement.

The board discussed how the bill allows debt service up to 70% of the 1% revenue (\$17 million). Alternatively, the Housing Authority could do the borrowing. Land is where it starts and to buy land, cash is needed.

Motion by Mr. Kabisch to stop moving forward with the bill and legislative efforts. Second by Ms. Budd.

Discussion:

It's going to take funding to begin to solve the affordable housing issue.

Where the I's are dotted is in the ordinance at the local level if and when the board brings a ballot to the residents of Big Sky. I have faith in this board that it would not let the wrong thing go to the voters.

Regarding drafting the bill and lobbying effort, reference the spreadsheet provided in advance of the meeting that states \$37,000 has been committed to date and \$18,000 is left to go. The \$18,000 is based on success through the different phases of the legislative process.

Referencing a second spreadsheet provided before the meeting, the other eight resort area communities and districts have seen the most recent bill and are in favor.

Lobbyist Mark Taylor, principle of the Taylor Luther Group, is on the phone to provide an update on the bill's potential success.

Motion tabled.

Mr. Taylor stated over the last couple of weeks conversations with legislators and stakeholders have taken place. The bill has been included with the other infrastructure bills. Infrastructure is the number one business issue in the State of Montana. A favorable response has been received to workforce housing and support needs. Ms. Jamison is getting ready to submit the bill. The Minority House Leader Senator Sesso is in favor. The board asked if a Democrat introducing the bill is in its best interest (with the Republicans in majority). Mr. Taylor stated the lobbying team is currently looking for the best bill sponsor. A Republican would be best and Senator Sesso would be a co-sponsor. The bill is not a partisan issue. The board asked if, with the "no tax pledge" signed by Republicans, the Penny for Housing bill will be easy to kill. Mr. Taylor stated the party leadership would not take caucus. It is a local control decision – let the local voters that would be participating make the decision.

The board asked what is different this year in contrast to last session when the bill died because of a tie. Mr. Taylor stated the following:

- 1) The state of the budget. Last session there was a \$500 million surplus. This session the surplus is less than \$100 million and with the fire fund, arguably, there is no surplus.
- 2) This session the Senate and House Leaders get along.

The board asked what the bill's likelihood of success is if two buses go to Helena – one for and one against. Mr. Taylor stated in a perfect world there would be zero opposition. Organized and significant opposition increases

the challenges. Penny legislation has risk of opposition. To pass legislation, it takes seven decision points, seven different votes.

The board asked if, in Mr. Taylor's professional opinion, he sees a path forward for this bill. Mr. Taylor stated it is a 50/50 proposition with opposition. Big ticket items take multiple efforts to pass.

The board asked what the timing is on the draft bill. Mr. Taylor stated it is a revenue bill and changes can be made for up to a month; however, it is better to get the bill introduced sooner rather than later.

Mr. Kabisch renewed his motion to stop moving forward with the bill and legislative efforts. Second by Ms. Budd.

Discussion:

A tax increase puts retailers at a disadvantage. The community should try to raise funds in other ways. The issue should be tabled to explore other options. Resort tax can begin appropriating to a Housing Trust.

It would be best to have full support from the Chamber. 60/40 doesn't provide overwhelming support. Prefer not to show a divided community in Helena when the Big Sky community is united on solving affordable housing. Prefer that resort tax funds are the last in, not that resort tax is trying to solve the issue. \$1 million a year does not provide housing. \$45 million is needed and other big players should step up.

A lot of other funds are available if memberships are taxable; legal opinions should be aggressively pursued when a new attorney is hired.

It is great to see a packed room at this meeting. Two years from now Big Sky will have the same problem. If the problem can be solved with private sector funds alone, this community would be the first. All communities with this problem solve it with public/private partnerships. The Chamber Housing Study outlines five options. Three require incorporation and two are private donation and sales tax. If everybody read the Chamber Housing Study, we will be right back here. This is a tax issue. It is not going to get unanimous support. 60/40 is a good margin. The demographic we are trying to help, are not in this room right now. The Resort, Spanish Peaks and Moonlight Basin house 1/3 of their workers. This effort is trying to come up with a solution for our teachers and middle management; a focus on year-round workers. A dent cannot be made without this. It is enabling legislation. For those that want to see a plan and are wondering if this is about me, look to the Chamber Study. Any plan cannot take a first step without funding.

Mr. Cronin stated the public should see the bill. The board stated it is not an official draft yet.

How much housing in Big Sky is based on AMI? Reference the Chamber Housing Study. Housing is to be 30% of income to be considered affordable. Appreciation is limited to 3-4% per year. Deed restrictions are key; without them it is a one-time deal. This is a social issue more than an economic issue. Inequality. Those that are coming to work here deserve an opportunity to live here. The community will need people to run and serve the community. To say that those who work here don't deserve to live here or that they can commute is unfair and does not serve a democracy in the "pursuit of happiness". There is more land out there than you think that would serve different target AMIs. In response to Mr. Malinowski's public comment, resort tax boards have been creating, interpreting and enforcing its ordinance since its inception and it is unfair to say that this board is doing anything different. Many have not taken the time to study and simply accuse. Boards are elected to be entrusted.

It is frustrating to be accused of not setting a plan when in June the board publicly appropriated \$1,050,000 million to the HRDC to begin to address affordable housing. There is disappointment that the HRDC has not moved forward more quickly. The statement at the last meeting that it is waiting for a decision on the bill is not applicable because boards can be reorganized.

Mr. Guyer stated an advisory committee of three including Heather Budd, David Kack and Sarah Gaither has been formed and is working on the criteria and waitlist. Details will be put forward next week at the 2nd Chamber Community Forum. Two homebuyer education classes have been held and a third will be in March.

There are going to be delays because of the layering of financing.

The bill is not ready, how is a vote possible? Changes can be made.

We've never had a bill in front of us. The bonding is aggressive if there is a down economy. The bigger issue is that we've gotten ahead of ourselves. It doesn't include a five-year rolling average.

That can change by specifying it in the ordinance. The cost of land changes everyday in this community.

Opposition to the bill is not in opposition to workforce housing. A financing plan is needed, not another housing plan. Taking small chunks out of the problem does not ensure success.

Supporting the bill gives the ability for the local community to make the decision.

For: Mr. Kabisch and Ms. Budd.

Against: Mr. Scholz, Ms. Hermann and Mr. Germain.

Motion fails.

The process for this effort has not taken place in front of the board. That was not intentional. The process has taken place as the open meeting law was understood.

The board set a work session open to the public for Friday, January 27 at 8:00 a.m. and requested Ms. Jamison attend.

- c) **Defensive Lobbying:** The board reviewed the list Ms. Jamison provided and discussed the bill from Billings to expand the resort tax population.
 2. **Governing Ordinance Review: Taxable Items:** Ms. Brunner stated this agenda item is to be moved to the closed meeting.
 3. **Treasurers Report:** Big Sky Western Bank was pledged for December.
 4. **Financial Reports:** Since financials were reviewed January 4, they will be reviewed again at the next regularly scheduled meeting.
- D. **Minutes:** Minutes will be reviewed at the January 27 meeting.
- E. **Public Comment:**

Paul Cronin, Cronin Family Limited Partnership: The discussion would have been more meaningful for the public in attendance if it received a copy of the draft bill. He stated he would like to go on record that he is in objection and thinks the board is moving in the wrong direction. He stated he believes Section 19 of the resort tax ordinance is in question regarding issuing resort tax funds for lobbying. The board stated Ms. Jamison drafted the ordinance including Section 19 and she is a hired lobbyist; if there was a conflict, Ms. Jamison would have made the board aware.

Taylor Middleton: The "yes" box in the Chamber survey was pre-checked. The board stated there were a number of flaws with the survey and info sheet. The Chamber stated the pre-checked box was a technical glitch and stated it was not perfect. It asked the board to look at the survey objectively.

Steve Johnson: The funds the 1% would generate is part of the solution, but not the solution. A sustaining and enduring entity to manage the funds is needed. When referencing the other resort area communities, they are not districts and, as incorporated communities, they have a lot more tools available to them.

The board stated it is grateful Big Sky is dealing with affordability and not the problem much of Montana has, which is not enough workforce.

Mark Taylor left the open meeting via telephone conference.

Chairperson Jamey Kabisch closed the open meeting at 8:30 p.m.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "VM Hermann", written in black ink.

Virginia Hermann, Secretary



FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT OPEN BOARD MEETING

January 27, 2017

Present: Jamey Kabisch, Chairperson
Mike Scholz, Vice Chairperson
Ginna Hermann, Secretary
Heather Budd, Treasurer
Kevin Germain, Director
Whitney Brunner, Administrative Officer

Chairperson Jamey Kabisch called the open meeting to order at 8:04 a.m.

Mona Jamison Group attended via telephone conference.

The meeting was streamed live on Facebook by Explore Big Sky.

I. Open Meeting

A. Public Comment:

Jon Olsen, Lone Mountain Land Company: Bough Big Sky Community Subdivision has some challenges and to maintain an open dialog with the Resort Tax Board, Lone Mountain Land Company is formally requesting a board meeting to discuss final plat, bank funding and ideas for efficiency.

Matt Kidd, Cross Harbor Capital Principle: Workforce housing is an important issue and he is attending to lend support. Sam Byrne would have liked to attend, but he is ill. Mr. Kidd has been involved since 2008 and spends 85% of his time in Big Sky. He extends gratitude to the Resort Tax Board the Chamber of Commerce Board. In 2013, before Cross Harbor closed on Moonlight Basin, the Chamber started the housing sub-committee. Cross Harbor supports the grassroots effort to get in front of the housing issue. Lone Mountain Land Company's lending its services voluntarily to the Bough Big Sky Community Subdivision. In 2015, Cross Harbor funded the legislative lobbying effort. He read four objectives from the Chamber Housing Study including that the employer is to take care of seasonal employees. He provided a handout referencing the percentage of employees housed by several Big Sky Employers (including Big Sky Resort, Yellowstone Club, etc.).

Paul Robertson, Lone Mountain Ranch: In support of Penny for Housing. Lone Mountain Ranch has always provided workforce housing and if the community takes the same approach it can achieve its goals.

B. New Business: None.

C. Old Business

1. 2017 Legislative Session: Penny for Housing Bill: Ms. Jamison referenced an email she sent the board and advised it not to hold a work session. She stated it's too late. The board appointed a legislative committee and delegated getting the bill drafted. The goal is a dedicated revenue stream for affordable housing. The bill reflects a lot of effort. This is the bill you need to achieve your goal. The board should respect the process it put in place. The bill was sent to the board in November and the board had discussion on it. Specifics of the program would be in the administrative ordinance.

After discussion with Ms. Jamison, the out of district language can be specified in the administrative ordinance. It stated the 70% of bonding needs to be addressed further. Ms. Jamison stated it may be easier to change just a number. She stated the 70% applies to the 1%, not the existing 3%.

The board discussed that the bill was presented at the November meeting. Ms. Hermann and Ms. Budd were not in attendance. A day before the November meeting, the board received a copy of the bill in an email. A motion was made at the November meeting to move forward with the legislation. In Ms. Brunner's notes, the 70% was addressed. 70% was advised by Bridget Ekstrom of D.A. Davidson. It was not a number causally decided on or pulled out of a hat. It was what she recommended as a dedicated revenue stream. The bill is for all resort area communities and districts, not just Big Sky. For example, the main reason West Yellowstone is interested in the bill is to address the town-owned 80 acres. West Yellowstone requested we add "community development" to the bill to give them options. When they want to do something, it will require a huge bond. If Big Sky wants to restrain the bonding to 40% (or something similar) or state "payments not to exceed xyz", it can be done in the administrative ordinance. 70% is not dissimilar to 85% of Big Sky's collections going to the initial water and sewer bond. Big Sky Resort was the biggest beneficiary of the first resort tax bond.

The board discussed social versus economic contracts. The workforce should be thought of as potential community contributors not just commuting employees.

The board discussed the letter from Heather Grenier, President/CEO of HRDC. Alan Shaw's public comment at the January 19 meeting was untrue.

The language "up to 1%" was the language in the 2015 bill. The board asked Ms. Jamison if changing the 2017 bill's language to "up to 1%" would be a problem. She stated it would add confusion since the lobbying effort has been educating legislators on 1% not up to 1%.

Motion by Mr. Kabisch to stop moving forward with the Penny for Housing legislative effort. Second by Ms. Budd.

For: Mr. Kabisch and Ms. Budd.

Against: Mr. Scholz, Ms. Hermann and Mr. Germain.

Motion fails.

Motion by Mr. Germain to amend the January 24 draft copy of the bill by specifying "up to 1%". Second by Mr. Scholz.

Discussion: Ms. Jamison stated the amendment would add confusion four weeks into the session and makes us look like we are waffling. The board stated it would like the flexibility.

For: Mr. Kabisch, Ms. Budd and Mr. Germain.

Against: Mr. Scholz and Ms. Hermann.

Motion passes.

Ms. Jamison recommended the board follow with a clarifying motion.

Motion by Mr. Scholz to approve moving forward with the Penny for Housing legislation. Second by Ms. Hermann.

For: Mr. Scholz, Ms. Hermann and Mr. Germain.

Against: Mr. Kabisch and Ms. Budd.

Motion passes.

Mona Jamison left the open meeting via telephone conference.

The board discussed the next steps. The legislative committee will regroup with the lobbyists and find the right bill sponsor. The board discussed if bill progress will move quickly. It requested that Ms. Jamison send all Penny for Housing and defensive lobbying updates to the entire board.

D. Minutes December 12 & 14 and January 4 & 19:

Motion by Mr. Kabisch to approve the December 12 open minutes. Second by Mr. Scholz. For: Mr. Kabisch, Ms. Hermann, Ms. Budd and Mr. Germain. Abstain: Mr. Scholz. Motion passes.

December 14 amendments:

- Change "squeamish" to "questioning support".
- Remove the next sentence beginning with "Mr. Loomis..."

Motion by Ms. Hermann to approve the December 14 open minutes, as amended. Second by Mr. Germain. For: Mr. Kabisch, Ms. Hermann, Ms. Budd and Mr. Germain. Abstain: Mr. Scholz. Motion passes.

January 4 amendments:

- Remove "not" from "...the responsibility of this board to see that this is not fair."
- Many inaccurate statements were made. Minutes are a record of what was said.

Motion by Ms. Hermann to approve the January 4 open minutes, as amended. Second by Mr. Hermann.

For: Mr. Kabisch, Mr. Scholz Ms. Hermann and Ms. Budd.

Against: Mr. Germain.

Motion passes.

January 19 amendments:

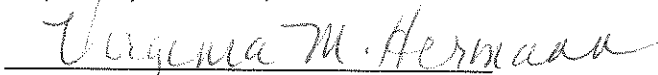
- Change "1/2" to "1/3" from "...Moonlight Basin house ½ of their workers."
- Change "\$1.5 million" to "\$1,050,000" from "...in June when the board publicly appropriated \$1.5 million..."

Motion by Mr. Germain to approve the January 19 open minutes, as amended. Second by Mr. Scholz. All in favor. Motion passes.

- E. Other: The board set a meeting for February 8 at 5:00 p.m. It directed Ms. Brunner to add Lone Mountain Land Company to the agenda, Financial Reports and the Treasurer's Report.

Chairperson Jamey Kabisch closed the open meeting at 9:10 a.m.

Respectfully Submitted,



Virginia Hermann, Secretary



FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT OPEN BOARD MEETING

February 8, 2017

Present: Jamey Kabisch, Chairperson
Mike Scholz, Vice Chairperson
Ginna Hermann, Secretary
Heather Budd, Treasurer
Kevin Germain, Director
Whitney Brunner, Administrative Officer

Chairperson Jamey Kabisch called the open meeting to order at 5:00 p.m.

I. Open Meeting

A. Public Comment: None.

B. New Business:

Bough Big Sky Community Subdivision: A copy of the preliminary plat application binder was provided to the resort tax board now on file at the district office. Mr. Germain stated he is abstaining from the conversation because he is employed by the project's consultant, Lone Mountain Land Company.

Administrative Update: Brian Guyer of the Housing Resource Development Council (HRDC) stated the Articles of Incorporation, Bylaws and Draft Advisory Council Handbook are complete. He stated he intends to expand the Advisory Council from three to six in the next two weeks. The board asked how the next three Advisory Council members will be selected. Mr. Guyer stated the community stakeholders will advise him and he will run it past the Advisory Council as well.

At the Chamber of Commerce's Community Forum on Housing the application and scoring process were presented. Two homebuyer education courses have been held and a third is slated for February 28. Mr. Guyer stated appreciation caps, capital improvement caps, primary residency requirements, credit score ratios, etc. are being discussed. The board asked if the Advisory Council has not met since its initial December meeting, who has been making decisions. He replied he and his colleagues. The board suggested income caps, asset caps, work requirements at 30 hours per week, etc. The board asked if a lottery is being considered. Mr. Guyer stated it is being considered if there is a tie based on the scoring matrix results.

Construction Update: Jon Olsen of Lone Mountain Land Company stated the resort tax contract is tied to final plat being received by June 30. With that timeline, construction would have to begin March 15 to get the application to Gallatin County by May 1st. There is a 20-25% premium to begin work on frozen ground. He is attending the meeting to formally request the appropriation contract be amended to gain final plat by December 31 instead of June 30. If the contract can be amended, ground work can begin as soon as the thaw in May or June. If the contract cannot be amended, the bank will not finance the project. If a rollover request is approved, it would be a nine-month delay with ground work beginning in August (final plat is a two to five month County process).

The board asked that the formal request to amend the appropriation contract come from HRDC in writing. Once the written request is received, it will direct Ms. Jamison to advise the board in time for the March 8 resort tax board meeting. The preliminary plat hearing is February 28.

1. Short and long term needs and goals from the new attorney: The board directed Ms. Brunner to provide the following priority list to Ms. Griffing:

SHORT TERM

Litigation:

- A. Enforcement Letter
- B. File an Action in District Court
- C. Letter to State Liquor Department

Legal Opinion: Clubs

- A. Are Yellowstone Club, Spanish Peaks and Moonlight Basin "Destination ski resorts or other destination recreational facilities?" (ORD 98-01, Section 8 (4))?
- B. Are membership deposits, fees and dues subject to resort tax?
- C. Are Homeowner Association deposits, fees and dues subject to resort tax?
- D. Should we amend ORD 98-01 regarding the aforementioned questions? Should Section 9 (4b) be amended? Is the use of "discretionary or voluntary" appropriate?

Legal Opinion (by March 8): Request from the Human Resource Development Council (HRDC) to amend its Fiscal Year 2017 Appropriation Contract

- A. The HRDC attended tonight's board meeting and formally requested a contract amendment. The entity will provide the request in writing next week and I will forward it to you. The board asked that when I receive the written request I forward it to you both. The board would like your legal opinion on the subject before their March 8 meeting.

Legal Opinion: Lodging Establishments (including Short Term Rentals)

- A. May we cross reference the Resort Tax registered lodging establishments with the Montana Department of Revenue's Lodging Tax Big Sky registered lodging establishments?
As a local government, it would be a benefit to both offices if the lists were cross referenced on a regular basis to maintain compliance. The State's response is as follows: "No. I wish we could but the Lodging Facility Sales & Use Taxes are completely confidential so we cannot compare registration lists—which would be nice. I can't even compare it to the Public Accommodations Licensing unit at the Department of Public Health and human Services because of the confidentiality issue."

Appropriations: Fiscal Year 2018

- A. Following is the schedule for the upcoming appropriations process. Please check your calendar and plan to attend the Q&A and Final Appropriations Meetings* in Big Sky.

March 8 at 9a: Regularly scheduled board meeting

April 5 at 9a: Regularly scheduled board meeting

May 1 by 3p: Appropriation Applications Due (I will compile a binder with hard copy drafts and mail it to you for review)

*June 5 at 1p: Question and Answer Session

*June 19 at 6p: Final Appropriations

Contracts to be drafted between June 19 and June 30

July 1: Start of new fiscal year

LONG TERM

Legal Opinion: Conflict of Interest

- A. Update and combine the Conflict of Interest Opinions into one opinion 17, 37, 38, 39, 55.

Ordinance Amendment: ORD 98-01, as amended (effective June 1, 2015)

- A. Define "appliance".
- B. Define "destination ski resorts" and "other destination recreational facilities".
- C. Are stereo equipment, home electronics and kitchen appliances subject to resort tax?
- D. Are there items under the law that we are not taxing?
- E. Review gratuity (if revenue to the employer) and its taxability.

Legal Opinion: Housing Authority/District

- A. Should the Penny for Housing legislation pass, what should resort tax's role be in a Housing Authority/District?

C. Old Business

1. 2017 Legislative Session

- A. **Penny for Housing Bill:** Seven of the nine resort tax districts and communities support the bill. Next week the Legislative Committee hopes to have nine of nine is support. To date, no sponsor has been selected.

The board reviewed that as the legislation is drafted, a resort tax board can bond without asking the voters. At \$1 million per year (with 16 years left in Big Sky's resort tax duration) is a \$16 million bond. Restrictions can be put into the ballot to inform the ordinance. The legislation was written for all resort tax districts and communities as a broad tool to be specified locally. The Board discussed that if and when this is a local vote, the members of the Board could have changed, and not be as judicious in deciding how much to bond. The board stated there will be the same citizens in the district.

It reviewed the conflicting language on page three, Section 2 (b) and it will direct Ms. Jamison to revise to "The revenue from the additional resort tax must be used...".

- B. **Defensive Lobbying:** The board discussed the summary email included in the board meeting packet from Ms. Jamison.
 - LC 218 (to extend resort taxes to cities of any size) is NOT proceeding.
 - LC 2325's (the infrastructure investment and property tax relief bill) intent and the language of the bill is not to interfere with the operation of the resort tax in a resort area/district.
 - SB 249 (allows a 4% option tax on goods and services as enumerated in an ordinance to be adopted by an incorporated municipality or consolidated city-county government) does NOT affect resort areas or resort area districts and would not be codified in the resort tax law but rather creates its own part in the law. The bill could affect the "resort communities" but does not affect an unincorporated resort area.
 - LC 1136 is an exact copy of SB 249.

2. **Treasurer Report:** First Security Bank's auditors requested the December 31 fund balance from resort tax's two accounts with the bank. Ms. Budd will coordinate with Ms. Brunner.
3. **Financial Reports:** The board reviewed the December collection numbers and noted Christmas and New Years were in the same week this fiscal year.

The board directed Ms. Brunner to fix Ms. Jamison's Legal and Lobbying billing line items.

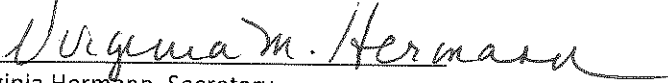
D. Open Minutes: January 27:

Motion by Mr. Germain to approve the January 27 open minutes. Second by Ms. Hermann. All in favor. Motion

passes.

Chairperson Jamey Kabisch closed the open meeting at 6:15 p.m.

Respectfully Submitted,


Virginia Hermann, Secretary



FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT OPEN BOARD MEETING

February 24, 2017

Present: Jamey Kabisch, Chairperson
Mike Scholz, Vice Chairperson
Ginna Hermann, Secretary
Heather Budd, Treasurer
Kevin Germain, Director
Whitney Brunner, Administrative Officer

Chairperson Jamey Kabisch called the open meeting to order at 8:30 a.m.

Ginna Hermann and Mona Jamison attended via telephone call.

I. Open Meeting

- A. Public Comment: None.
- B. New Business: None.
- C. Old Business

1. **Penny for Housing Bill (LC 743): Tax increment financing/Targeted economic development district clarification:**
Ms. Jamison provided background on the reason for the requested amendment. Ms. Jamison met with John Scully from Ennis. Mr. Scully indicated that the Ennis School Board had requested him to look at several bills including LC 743 and bills pertaining to TIF's and TED districts, and to determine the impact of those bills on the Ennis school district. He was concerned that resort tax revenue, including funds raised from the proposed increase of up to 1%, could be used to assist in the funding or creation of a TIF/TED district within the Big Sky resort Area District. Mr. Scully said he needed assurances that resort tax funds could not assist in the funding or creation of a TIF/TED district. When Ms. Jamison informed Senator Jeff Welborn of the meeting with Mr. Scully, the Senator urged that the TIF/TED district restrictive language be included in the bill when introduced, if possible, and not proposed through an amendment. Ms. Jamison visited with the legislative staffer about the process for inclusion of the TIF/TED district restrictive language in the bill. She said that the bill would be a "redo" but could be done; the transmittal deadline is not until the end of March. The transmittal deadline is the date by which the bill must be fully acted on in the Senate and transmitted to the House. The bill's hearing would be held no later than the third week in March. Ms. Jamison stated this clarification will facilitate passage of the bill.

Following is the draft language and where it would be likely be placed in the bill. Ms. Jamison is asked for the authority to work with the legislative staffer to word correctly.

7-6-1542. Resort area district board powers related to resort tax revenue-bonds-election-restrictions.

(1)(a) – (c)...

(d) amend the rate of the resort tax to designate up to an additional 1% over what was previously approved by the qualified electors by submitting the question of the additional resort tax directly to the qualified electors in an election conducted in accordance with 13-1-501 through 13-1-505. The revenue raised from the

additional resort tax may be used only to provide or help provide workforce housing and related needs or community development.

(i) The additional resort tax revenue may not be appropriated or expended by a District to fund or assist in TIF financing or the creation of a TED District.

The board asked Ms. Jamison if the new language only applies to the new 1%, not the existing 3%. She replied yes.

Motion by Ms. Hermann to approve that Ms. Jamison may work with the staffer and add language to the bill that funds raised from the proposed increase of up to 1%, may not be used to assist in the funding or creation of a TIF/TED district. Second by Mr. Scholz.

For: Mr. Scholz, Ms. Hermann and Mr. Germain.

Against: Mr. Kabisch and Ms. Budd.

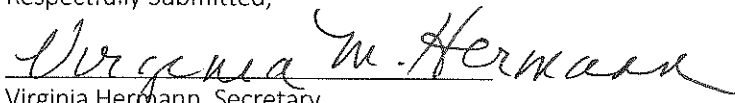
Motion passes.

The committee hearing will be the week of March 6th or the following week. It is a revenue bill and will be introduced in the Senate. Ms. Jamison will let the board know when it's scheduled.

2. **Legislative Session Update:** The nine Resort Area Districts and Communities are in support of the bill. The sponsor of the bill will be Senator Jeff Welborn of Dillon.
3. **Letter Supporting LC0743 from the Big Sky Resort Area District:** The board reviewed the draft letter and revised it to remove the following sentence: "The bill is not a tax increase". The board discussed that it is a tax increase, a self-implementing tax increase i.e. an opportunity for a ballot.
4. **Financial Reports:** Ms. Brunner provided an updated December tax collection report.
5. **Other:** The board directed Ms. Brunner to forward the Housing Resource Development Council (HRDC) letter to the board.

Chairperson Jamey Kabisch closed the open meeting at 8:45 a.m.

Respectfully Submitted,



Virginia Hermann, Secretary



FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT OPEN BOARD MEETING

March 8, 2017

Present: Jamey Kabisch, Chairperson
Mike Scholz, Vice Chairperson
Ginna Hermann, Secretary
Heather Budd, Treasurer
Kevin Germain, Director
Whitney Brunner, Administrative Officer

Chairperson Jamey Kabisch called the open meeting to order at 9:00 a.m.

I. Open Meeting

A. Public Comment: None.

B. New Business: None.

1. Upcoming Fiscal Year 2018 Meeting Dates: The board rescheduled Final Appropriations to Wednesday, June 14 per Warren Miller Performing Arts Center and Attorney Griffing's schedules.

Motion by Mr. Scholz to approve the following proposed meeting schedule for fiscal year 2018. Second by Mr. Germain. All in favor. Motion passes.

July 12

August 9

September 13

October 11: No meeting

November 8

December 13

January 10

February 14

March 14

April 4 (First Wednesday of the month)

May 9: No Meeting

June 4 (Monday at 1:00 p.m.): Q&A Session

June 18 (Monday at 6:00 p.m.): Appropriations

2. Betsy Griffing Projects: Ms. Jamison and Ms. Griffing are scheduled to go over the project list and position outline Thursday, March 9. The board added the following to the project list:

Draft and mail the enforcement letter ASAP.

Define "destination".

Legal Opinion: Two-Year Funding Cycle for Specific Projects: In anticipation of several upcoming construction-related projects (construction timelines begin in June, which contradicts the resort tax fiscal year July start date) the board anticipates will be requesting appropriation funds (pedestrian tunnel, housing, etc.); can funds be appropriated with a deadline for completion at two years instead of one. This would be in place of a rollover request and would not bind a future board because the funds would have been set aside for that project's use by one board.

Open meeting law: How can and cannot the board communicate.

3. Gift for Mona Jamison's Retirement: Mona Jamison has served as the District's attorney for 26 years. She was the attorney that wrote and passed resort tax law in 1992. She's provided 15 Ordinances, 26 Resolutions, 68 Opinions and countless memos to the Big Sky Resort Area District. In seeking a thoughtful retirement gift, Mona's husband suggested "something that she will see or wear routinely and triggers remembrances of all you good folks at Big Sky." Ms. Brunner proposed 15 necklace options from Big Sky vendors.

Motion by Ms. Hermann to assign a budget of \$1,500. Second by Mr. Kabisch. All in favor. Motion passes.

Motion by Mr. Germain creating a subcommittee of Ms. Hermann and Ms. Brunner to select the gift. Second by Mr. Kabisch. All in favor. Motion passes.

The board discussed traveling to Helena to take Ms. Jamison to a retirement lunch after the legislative session.

4. **Draft District Budget:** The board directed Ms. Brunner to add a current year-to-date comparison to the budget draft spreadsheet. \$5,000 was added to the legal line item in anticipation of Ms. Griffing's project list.

An increase in staff was proposed to move delinquent tax collection from good to great. Ms. Brunner recommended creating a new position for administrative tasks, allowing her to take on outreach, solve short-term rental noncompliance, bring the office into the digital age and take a more active role in community leadership.

The board stated it likes the proposal's differentiation of work with oversight by Ms. Brunner and easily trainable new hire tasks. It stated an increase in administrative costs reflects district growth; in 2014, the office was operating on the same full time equivalent, but collecting \$1.9 million less. If the same businesses were remitting larger checks, staffing could remain the same; however, increased business in Big Sky coupled with board decisions has made the job more complex.

\$1,700 was suggested for new hire computer and software (desktop computer, Office 365 Suite and Quickbooks). The board directed Ms. Brunner to provide a cost/benefit analysis for review at the April 5 meeting.

C. Old Business

1. **Housing Resource Development Council (HRDC) Contract Amendment Request:** Jon Olsen of Lone Mountain Land Company attended to provide an update on the project since the Gallatin Country Commissioners did not approve the preliminary plat application. He stated HRDC pulls the contract amendment request. Mr. Olsen stated those involved in the project remain optimistic and are committed to moving forward. The board asked if the opposition from Mr. Cronin was anticipated. He stated HRDC was surprised with the opposition to the variances since the Commissioners have approved similar circumstances 10 times before. The board stated, from observing the Commissioner meeting, the counter from the HRDC should have been stronger; no examples were given to contradict the opposition. He stated it would have been inappropriate to push past decisions as rationale because the Commissioners would lose face.

Motion by Mr. Kabisch to deny the HRDC contract amendment request based on Ms. Jamison's recommendation. Second by Mr. Scholz. All in favor. Motion passes.

2. **Penny for Housing Bill (LC 743) Update:** Ms. Jamison worked with the legislative staff to add bill amendment language that funds from the proposed increase of up to 1%, may not be used to assist in the funding or creation of a TIF/TED district. She anticipates the bill will be picked up today (March 8), then Sponsor Welborn will add his name to it and a hearing in the Senate Tax Committee will be scheduled. When scheduled, Ms. Jamison will inform the board of the date and time (March 9 the bill was scheduled for Tuesday, March 14 at 9:00 a.m.). The board asked if its attendance at the hearing would be requested. The subcommittee stated it would be great if board members attended.
3. **Treasurer Report:** Ms. Budd reported that the pledge reports look good.
4. **Financial Reports:** The board discussed that December was up 12% over the previous year and collections will tip \$5 million this fiscal year.
5. **Administrative Officer Update:**

The Interlocal Agreement with Gallatin and Madison Counties expires June 2017. The Gallatin County Sheriff's Department intends to have the new agreement and financials for review by the April 5 board meeting.

Big Sky Community Corporation requested a letter of support from the resort tax board for a \$906,942 grant to fund the remaining expenses of the pedestrian tunnel under Hwy 64 at the Little Coyote intersection. The board added to and approved the letter drafted by Ms. Brunner.

D. Minutes: February 8 & 24:

February 8 amendments:

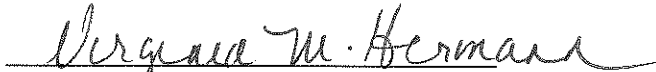
- Change "developer" to "consultant".

Motion by Mr. Scholz to approve the February 8 open minutes, as amended. Second by Mr. Kabisch. All in favor. Motion passes.

Motion by Mr. Germain to approve the February 24 open minutes. Second by Ms. Hermann. All in favor. Motion passes.

Chairperson Jamey Kabisch closed the open meeting at 8:45 a.m.

Respectfully Submitted,



Virginia Hermann, Secretary



FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT OPEN BOARD MEETING

April 5, 2017

Present: Jamey Kabisch, Chairperson
Mike Scholz, Vice Chairperson
Ginna Hermann, Secretary

Kevin Germain, Director
Whitney Brunner, Administrative Officer

Chairperson Jamey Kabisch called the open meeting to order at 9:00 a.m.

The meeting was broadcast on Facebook Live at Explore Big Sky.

Attorney Betsy Griffing attended via telephone call.

I. Open Meeting

A. Public Comment:

Ryan Blechta, Big Sky Skating and Hockey: He stated he is attending to clear misinformation. It has been suggested by a Big Sky community member that funding the skating and hockey program should be cut. It is the first time to Mr. Blechta's knowledge the organization's right to receive funds has been questioned. From summer concerts, parks and trails to the ski education foundation, unlike incorporated communities, there are no other public funding sources for these organizations' programs and projects. Big Sky is the only major ski community without refrigerated skating. Mr. Blechta stated the Big Sky community member's agenda is to oppose progress for affordable housing. Mr. Blechta stated he believes housing is a real problem, but does not agree that it should be solved by cutting other worthy organizations' funding.

The resort tax board stated every year all applications are reviewed by the resort tax attorney and the board relies on the attorney's counsel. The skating and hockey application has never been questioned for legality.

David O'Connor, Big Sky Chamber of Commerce and Buck's T-4: Mr. O'Connor stated he has been a Big Sky resident for 30 years. He stated there needs to be a correction of the record. Statements made by community members have been made in public that are misrepresentations of history. Chamber members represent over 90% of those collecting the tax. Most of the tax is bore by visitors. He stated he believes this resort tax board and past boards are owed an apology. The board is volunteer and in place to manage the tax. It has been alleged that Penny for Housing came out of thin air. The resort tax board, since 1992, has supported affordable housing efforts, which has been well documented in public record. In the early 2000s, the Chamber Housing committee was formed and commissioned a study. Penny for Housing was a result of that study. To intimate the effort was done quickly is false. He stated he cannot think of how the effort could have been more transparent. The resort tax board members are representatives of the community because they are elected by the community. At the risk of this community to again spend resources to gain professional opinions and then ignore them, he stated he would like to correct the record that Penny for Housing was, and continues to be, the product of a very public process. He stated on behalf of the Chamber he would like to express its commitment to the process and gratitude to the resort tax board. He stated he apologizes to the resort tax board for any allegation that's been made in public and to the Montana State Legislature to the contrary.

Brian Hurlbut, Big Sky Arts Council: Mr. Hurlbut thanked the resort tax board for its hard work. He stated there are very few affordable housing naysayers and he hopes the board will continue to fight past this setback. Mr. Hurlbut stated he has been asked to serve on the Housing Trust Advisory Board.

Ciara Wolfe, Big Sky Community Organization: Ms. Wolfe stated she would like to offer updates on timelines and timeframes. The Ousel Falls traffic light is to begin construction May 1 and to be operating in June. The cost came in \$30,000 more than expected and the extra cost was covered by developers. Construction costs are increasing rapidly.

A State of Montana grant application was submitted to fund the remaining cost of the pedestrian tunnel. The project will not be complete this fiscal year. Ms. Wolfe asked if the board would prefer a rollover application or for the Community Organization to submit a new application outlining the exact costs. The board stated it would like a new application. The board asked if the grant is dependent on the match of resort tax funds appropriated in 2017. Ms. Wolfe stated, yes. The State of Montana adds administrative costs and will duplicate work already done, which is why the grant request was more than the resort tax request. If the grant is successful, the tunnel will be complete summer of 2018. She stated she received 30 letters of support including all Big Sky Districts and Gallatin County. The board thanked Ms. Wolfe for her efforts.

Ms. Wolfe stated the Parks and Rec Study is complete and provides statistically valid results. She stated an electronic copy will be sent to the board after today's meeting.

Ms. Wolfe stated the resort tax board funded 50% of the Community Organization's administration costs. The logistics to request payment are time consuming on both the Community Organization and resort tax administrative staff. She stated if a way to provide transparency and detail while reducing the time involved could be created, it would be appreciated.

David Kack, Big Sky Transportation District: Mr. Kack stated Skyline is in its 11th year. This was a record year for the district. Skyline ridership is up 11%. It provided 16,000 rides. Link ridership is up 32%. He stated if the reserve allows he anticipates adding another Link round trip for \$50,000. He stated he will again talk to both Gallatin and Madison Commissions. This year resort tax funded \$525,000, Gallatin County funded \$50,000 and Madison County funded \$80,000. He stated he will ask each county for \$80,000 this year and increase his ask by \$20,000 each year until both are contributing \$200,000 per year. This request will be ½ of the road tax collected in Big Sky through the property tax that goes into each county seat.

B. New Business:

1. **Interlocal Agreement: Sheriff Service:** Mr. Kabisch stated he will attend the April 6 Commissioners meeting as well. Attorney Griffing stated she compared the current agreement to the prior one and provided the following two revisions:

- On the first page in the recitation #3 there is a reference to fiscal year 1999 that should be deleted
- In paragraph 12, the heading is incorrect as stating Termination and Disposal of Property. The Disposal of Property portion should be deleted as that is not addressed in the paragraph.

The board discussed the \$830,864 fiscal year sheriff's budget to be split three ways between Gallatin and Madison Counties and resort tax.

Motion by Mr. Kabisch to approve the Interlocal Agreement as Attorney Griffing amended. Second by Mr. Scholz. All in favor. Motion passes.

GINNA HERMANN attended via telephone call.

2. **Draft Newsletter:** The board stated it liked the information shared and the presentation of the appropriation requests. It asked how the order for requests is decided. Ms. Brunner stated it is in order of applications received and the designer is at liberty to adjust. *Motion by Mr. Kabisch to approve the newsletter cost of \$1,500. Second by Mr. Scholz. All in favor. Motion passes.*

3. Available Funds Estimation: The board reviewed the worksheet and stated \$5.85 million is estimated to be available for fiscal year 2018 appropriations. The estimation includes the \$811,439 sinking fund. It stated the April, May and June collections are based on previous years. If 2017 continues to trend 11-13% upward, available funds could be greater at the June 14 final appropriations meeting.

C. Old Business

1. Penny for Housing Bill SB 343: The board reviewed an email from Attorney Jamison. The email summarized the lobbying efforts and is included in the meeting packet.

The subcommittee shared a book with 140 support letters. 50 supporters traveled to Helena including Gallatin County and Madison County Commissioners as well as Sheriff Gootkin and representatives from resort area districts and communities (including Whitefish, West Yellowstone, Red Lodge, Gardiner, Virginia City and Cooke City). Opponents were from Big Sky.

The subcommittee stated the bill came out of the senate taxation committee 9 "for" and 3 "against". The senators debated the bill in the second reading where the vote was 26 "for" and 23 "against". Saturday there was no discussion and the vote was a tie, 25-25.

The board stated it appreciated the subcommittee's time and effort. It stated resort tax board member opposition was not for the reasons brought up in Helena. It also thanked community members that stepped up to help with the effort.

The subcommittee stated it gave it's all and had overwhelming support. It was hard to get through the misinformation surge. Following is the subcommittee's overview of the misinformation shared with the legislature.

A letter sent to senators stated the effort was, "started by the Big Sky Resort Tax Board on their own without a vote of the citizens". The subcommittee would like to state there was a vote of the citizens when it elected resort tax board members. Those that worked to kill the bill in Helena ultimately killed the opportunity for the citizens of Big Sky to vote on this initiative. It thanked David O'Connor for addressing this in public comment.

Community member Alan Shaw's letter stated "none of these items (including children, trails, weeds, snowmobiling, etc.) are included in the authorized legislation describing appropriation expenditures". The law allows for public health and welfare.

Mr. Shaw stated the Clubs (Yellowstone, Spanish Peaks and Moonlight Basin) began collecting resort tax in 2016. The Clubs have been collecting the tax for 13 years. Last year they remitted \$824,000, the second largest tax payer, representing \$27.4 million in taxable goods and services. The Clubs have been audited by resort tax, like other businesses, and have been found compliant. The board clarified this is a conglomeration of the Clubs and tax collection numbers are confidential, the Clubs disclosed its collections, which were verified with the resort tax office.

Mr. Shaw attacked the Human Resource Development Council (HRDC) and its President/CEO Heather Grenier, in an effort to convince the resort tax board that HRDC did not want to be involved in the 2017 appropriation for affordable housing and that HRDC was not supposed to be involved because the effort does not serve its mission. Ms. Grenier submitted a letter to the board stating Mr. Shaw misrepresented her and his allegations are false.

The subcommittee was contacted by Explore Big Sky to verify quotes from Mr. Shaw and Tallie Lancy that \$100,000 and \$80,000 were spent by resort tax on the bill. \$20,000 was spent on defensive lobbying, which is spent regardless if there is a bill, and \$35,000 was spent on the bill. 25 years ago the Big Sky Owners Association spent \$10,000 on the original 3% resort tax bill.

A list of misinformation from Taylor Middleton was referenced and the following history provided. In February 1992, when resort tax was being formed, a glowing letter from John Kirchner to the resort tax board states the 3% is ok, people are accustomed to paying taxes, services and public health are important, etc. In March of 1992,

a letter from Taylor Middleton to the resort tax board states Boyne has changed its position on the resort tax as it applies to lift tickets. Mr. Middleton attended the recent resort tax meeting and would like us to believe he is in support of resort tax; however, Boyne was not for the 3% and is not for the up to 1%.

Mr. Middleton wrote a letter to the Minority Leader of the House stating he was against bonding. Mr. Middleton was on the first resort tax board that approved the water and sewer district bond. His company was the biggest beneficiary of that bond.

Ms. Lancy stated that if Big Sky incorporated, it would solve the affordable housing problem. Incorporation is not our panacea. Per state statute, there is a density requirement, which Big Sky meets in Town Center and along Highway 191. The tool incorporation gives us, that we currently do not have, is inclusionary zoning. Inclusionary zoning requires developers in a city to set aside a certain number of units for affordable housing; it would be up to the Town Center and Highway 191 areas to provide the housing solution for a problem created outside their areas. Bozeman has been dealing with this problem of inequality for 20 years. If incorporation is the way the community would like to go, there are two to three bills to get through the legislature.

The subcommittee stated as a community, we need to stop throwing out problems. Every other resort community in North America has come up with some form of public/private partnership for affordable housing. This bill was intended to be part of the solution; it was run on its merits and it was positive, the opponents that shared problems did not enabled a solution.

We hope the opponents do not fade away because affordable housing as an issue is not going away. It believes it is the will of the community to come up with a solution and the opponents should have a seat at the table. To quote Mr. O'Connor from a past meeting, "the one thing we know is to do nothing is not the solution".

It was unfair misinformation was shared. We lost. I'm sure they're proud they won. I'm not sure our community is proud they won. We're going to keep working on it. We weren't there because we wanted to beat Boyne or anyone. We were there for the community. We recognize it is impossible to get into housing. Those that spoke in opposition in Helena all have their own homes that were purchased in more affordable times. As board members, we like to live in your shoes, not just in our own. Thank you for the support.

2. **Betsy Griffing Projects:** Attorneys Griffing and Jamison met in Helena March 10. Attorney Jamsion transferred all projects except lobbying and the HRDC contract amendment to Attorney Griffing. Specifics were not discussed; however, many Legal Opinions were created in 1997-1999, when they were working together.

Attorney Griffing stated she is researching the open meeting law and that Opinion 8 is still based on good law. The open meeting law has become more expansive. She will update the opinion. The board asked how subcommittees relate to the open meeting law and what procedures a two person subcommittee needs. Attorney Griffing stated it is complicated; subcommittees have distinct characteristics.

The board discussed email correspondence and that the board's current policy is where it is comfortable; info is distributed and received via email, but discussion and substance are not discussed over email. Attorney Griffing stated the board is not convening over email, emails are public documents. The board directed Attorney Griffing to spend time on how open meeting law impacts subcommittees, not email.

Regarding the Club Legal Opinion, Attorney Griffing stated she hopes to have something to the board before appropriations. The board stated it is deferring to Attorney Griffing to clarify the issues.

Attorney Griffing stated she is excited about the work.

3. **Administrative Cost Benefit Analysis: Staff and Software:**

Sales Tax Software: Ms. Brunner traveled to West Yellowstone March 16 to review the sales tax software. The three features it has that quickbooks does not are a delinquency report, the opportunity to "close" businesses for off seasons (so they do not appear delinquent) and auto printing letters. The software does not have an

auto email or a webpay option. These two features are important to future operations, which would eventually save costs. Ms. Brunner will continue research.

Short Term Rental Software: The software facilitates VRBO, etc. tax collections and provides data on the availability of short-term vs. long-term rentals. The software estimates there are between 850-1200 short term rentals in the district. The district has 330 registered. Ms. Brunner shared the software estimation with the state lodging department and it cautioned that property managers such as Boyne USA alone handle at least 400 properties. Ms. Wolfe and Mr. Johnson stated there are 2000-2500 residential units in Big Sky. Ms. Brunner recommended budgeting for the software to ensure compliance and increase collections.

Staffing Recommendation: Ms. Brunner presented a spreadsheet that breaks down the time and cost it takes to accomplish office projects. Ms. Brunner recommended a new hire at 16 hours per week to allow her to focus on outreach, solve short term rental noncompliance, bring the office into the digital age and take a more active role in community leadership. Ms. Brunner shared a community member recommendation to rethink the office staffing to include a CPA, since funds managed are approaching \$6 million. The board stated businesses managing \$6 million would not employ a CPA and that having a CPA audit the books quarterly and annually is sufficient. The board stated Ms. Brunner's proposal is very well thought out and what has been discussed is what is needed.

Motion by Mr. Scholz to approve as presented. Second by Mr. Kabisch. All in favor. Motion passes.

GINNA HERMANN LEFT THE MEETING VIA TELEPHONE CALL.

4. **Final Fiscal Year 2018 Budget:**

Motion by Mr. Kabisch to approve the budget as presented. Second by Mr. Scholz. All in favor. Motion passes.

5. **Treasurer Report:** Ms. Brunner stated the current American Bank CD rates are higher than the resort tax CD rate. The CD is through November.

6. **Financial Reports:** Ms. Brunner stated three large collectors have not yet remitted taxes for January (due February 28). On the Profit and Loss Budget vs Actual the compliance audit costs took the accounting line item over budget. The board noted the website line item will not be completed.

Motion by Mr. Scholz to approve the financial reports. Second by Mr. Kabisch. All in favor. Motion passes.

7. **Administrative Officer Update:**

Ms. Brunner presented an improved draw-format payment request form. Appropriation entities can sign electronically and email the request with back-up documentation. Back-up documentation is often large and tedious; however, the board discussed that there is no way to get around having the appropriation entities submit and Ms. Brunner review the back-up documentation.

Accountant Rosie Barndt approved that the board sign payables electronically; however, checks will still need to be signed in-person. Ms. Brunner added \$300 to the supplies budget for a tablet for the board to sign electronically, reducing paper resources and end of year file boxes.

Appropriations Advertising: *Motion by Mr. Kabisch to approve the appropriation meeting advertising content and budget at \$650. Second by Mr. Scholz. All in favor. Motion passes.*

First Security Bank and Knaub & Co are hosting the "Intro to Financial Statements for Non-Profits" seminar this year. It is April 24 from 11:45a-1p. Ms. Brunner and a board member will attend to answer resort tax application questions.

The board tentatively set a Jamison Retirement Luncheon date in Helena for June 28.

D. **Minutes: March 8:**

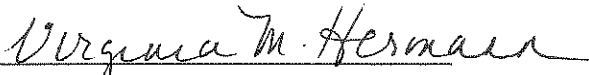
March 8 amendments:

- Remove "to support or oppose the bill".

*Motion by Mr. Scholz to approve the March 8 open minutes, as amended. Second by Mr. Kabisch. All in favor.
Motion passes.*

Chairperson Jamey Kabisch closed the open meeting at 10:45 a.m.

Respectfully Submitted,


Virginia Hermann, Secretary



FINAL MINUTES OF THE QUESTION & ANSWER SESSION OPEN BOARD MEETING

June 5, 2017

Present: Jamey Kabisch, Chairperson
Mike Scholz, Vice Chairperson
Ginna Hermann, Secretary
Heather Budd, Treasurer

Kevin Germain, Director
Betsy Griffing, Attorney
Whitney Brunner, Administrative Officer

Chairperson Jamey Kabisch called the open meeting to order at 1:07 p.m.

The meeting was broadcast on Facebook Live at Explore Big Sky.

Attendance seemed to be near 110 with a visual head count.

I. Open Meeting

- A. **Introductions** – Chairman Jamey Kabisch introduced the Board Members and Administrative Officer. He welcomed the New Resort Tax Attorney Betsy Griffing. He stated at the beginning and end of the meeting there will be opportunity for public comment. Mr. Kabisch stated resort tax makes this community different from others around the country. He stated the applications are online at resorttax.org.
- B. **Available Funding Estimation** –Mr. Kabisch directed attention to the funds available handout and went through each line item. The sinking fund cannot be bound from year to year and is; therefore, available for appropriation.
- C. **Public Comment**

Britt Ide, Chamber of Commerce Board Member and parent of school-aged children, stated she supports Visit Big Sky (VBS). It is historically proven that when states and communities cut the marketing budget, incomes go down. VBS benefits the whole community, especially small businesses, and focuses on all seasons. She supports the Chamber of Commerce and is very proud of serving as Executive Director in the transition. Housing is #1 for Chamber Board Members. She supports the Housing Trust application and will serve on Housing Trust Committee. A focus on being a community and not just for tourists is important when 80% of the community's employees commute. She supports the Transportation District too.

David Kack, Coordinator of the Transportation District and Human Resource Development Council (HRDC) Board Director, stated affordable housing is important. HRDC is not tied to any one individual or solution and supports ownership and rentals. HRDC looks forward to working with anyone and everyone. He hopes the board will support the HRDC Rollover request.

Paulina Hazen stated she supports HRDC. She is a middle manager in town. She lost her housing because it went on the market and she cannot afford to buy it. She is here year round. She is volunteering and made an intentional choice to be here. The housing crisis makes it hard to put down roots here. She's had the stresses of moving and is in temporary housing until permanent housing is found. It is a negative housing environment for her colleagues. The Bough Parcel was a huge opportunity. She is disappointed that Helena stopped progress. She is thankful the board is putting in its efforts and she hopes to see the HRDC funds approved.

David Kirkin, Assistant Manager of Yellowstone Club, stated he supports Skyline. With the housing situation he appreciates support to the commuters.



D. Office Budget

Motion by Ms. Budd to approve the budget as presented. Second by Ms. Hermann. All in favor. Motion passes.

Motion by Ms. Budd to approve Mr. Kabisch sign the MUNIREvs and STRHelper software agreements. Second by Mr. Germain. All in favor. Motion passes.

E. Question and Answer

1. Big Sky Fire Department – Chief Bill Farhat

Q. Is the funding request for three battalion chiefs and a mill levy would fund the staff that would be reporting to the battalions? A. Correct. 13 people. Three from resort tax and 10 from a mill levy. 70% of calls are for those that don't live here.

Q. If battalion chiefs are approved but the mill levy is not, what happens? A. It is still a good thing. The need is not going away.

Q. Will the mill levy request be for the 10 positions and funds to remodel the stations? Also, explain the grant. A. Correct. With the grant, it does not require a match, but there is no guarantee. We would know before the next fiscal year, maybe in February. The deadline is not yet set.

Q. Is it a requirement that employees live in the district? A. We just changed that at the last board meeting. We cannot pay them enough to have them live here. The majority will still live here. It will help with recruitment and retention.

Q. When you look at all applying organizations, your FTEs are double all the other applicants. A. They are unable to live here because of housing or they would rather live in the valley. They cannot get what they have in the valley here.

Q. What is the life of a fire engine? A. 25 years. 15 years front line. 10 years in reserve.

Q. Does it include features you can live without? A. All wheel drive is what makes it expensive. It holds 5,000 gallons of water. There are no extravagances. It has AC to cool the firefighters down before they go back out. There is no stereo. The Pierce engine will be backline reserve engine.

Q. Historically resort tax funding has not paid for staffing. We cannot obligate future boards. The \$400,000+ is not into perpetuity. It is the will of the board. A. We fund \$526,000 per year now with resort tax funds and if that is changed, we will have to make cuts. It is a risk, but I've always found the resort tax board is responsible as long as we justify the why.

Q. Is there a way to transfer the funds for battalions to the mill levy and resort tax fund the new station, etc.? A. The stations are multi-year projects. Since 70% of the calls are nonresidents, we've learned the residents appreciate if we come to resort tax first.

Q. 70% of the medical or overall calls are nonresidents? A. Overall. Medical is the majority of what we do. We changed the ambulance fees to be less for residents.

Q. Please provide a detailed report with specific numbers for ambulance fees, runs, details, etc. It is a sizable line item. A. It is an accrual number. 54% of what we bill. We have a good payer. Many cannot pay and need support for it. Blue Cross Blue Shield bills \$100. Bad debt is to offset losses. We are billing over ½ million.

Q. Please explain if we lose our ISO rating. A. ISO is used by majority of insurance providers. It's moved from 4 to 5 since I've been here.

2. Big Sky Transportation District – David Kack



Q. Where are you with the counties? A. Last week we met with Madison County. They thought \$80,000 was doable. Fiscal year 2017 was the first year Gallatin County participated. They were adamant it was a one year fund. If we do not receive the funds we will adjust our winter service to stay within budget.

Q. What are you asking from Gallatin County? A. \$80,000 from each county. The plan is to increase the ask by \$20,000 per year. The goal is \$200,000 per year per county. The thinking is that the road taxes should come back to Skyline since the counties are not responsible for roads in Big Sky.

Q. Why is there an increase? A. We hope to add another route in Big Sky. To add a route is \$150,000.

Q. Are you confident you'll receive the federal grant? A. Yes. The federal bill is through 2020 and I've heard congress is not interested in opening that back up.

Q. Explain the fare revenue. A. The fare on the Big Sky to Bozeman Link has gone up. It is tricky because fare revenue can take federal funding away. We watch carefully to see if it should be increased while still making it affordable.

Q. Under Other Revenue, Partnerships. Is that Yellowstone Club (YC)? A. Yes. YC is paying the expenses of their program and paying above to help the community. There are also the bus wraps for \$13,000.

3. Big Sky Search and Rescue – Jeff Trulen and Steve DeTullio

Jeff Trulen is the new President taking over for Ed Hake.

Q. You are asking for 50% of an ATV and \$8,000 for the parking lot? Is there a duplicate \$8,000? A. We will rework and resend the application to clarify.

Q. \$16,000 more for next year's operations? A. Volunteers need medical training. We are now doing maintenance at a dealership when before volunteers did the maintenance.

Q. Specify the following: 1) where the maintenance expense funds will be going, 2) how all the equipment you have, and are requesting, is used for response and 3) how many searches have taken place and compare year over year numbers. A. We will send that to you.

Q. Are you getting adequate and quality volunteers? Yes.

Q. Are there ways to capture funds from those you help? A. Some are generous and donate for the equipment. It depends.

Q. Do you get any funds from either county? Yes; Gallatin County for utilities. Have you ever requested from Madison County. A. No.

Q. Are there rescues in Madison County? A. Yes. They've been good to work with.

4. Big Sky Community Organization – Ciara Wolfe

Q. In the 2015-2016 budget vs actual; donations are up and grants are off. A. With the completion of the recreation trails program we were awarded, but did not receive it until the 2016-2017 budget. We were denied the Montana Transportation grant, but will continue to ask.

Q. Why denied? A. We partnered with the Parks District to apply. The grant felt we had enough funds up here. We are continuing to build the case. There were more requests than funds available.

Q. What about the tunnel grant? A. We should know by the end of 2017.

Q. Explain the winter-time plowing and grooming and is the parking lot in Beehive Basin part of that? A. It is not a community asset. We will plow the Ousel Falls, park, Crail Ranch and Hummocks/Uplands parking lots. We will hard-



pack the trail from Town Center to Ousel Falls and along Highway 64. We are submitting this request because of interest from the community. This year will be a test ground if we buy our own equipment or continue to hire it out. We are looking at how our community can ensure the Beehive Basin trail stays in the community. The parcel of land where the parking lot is located is for sale. We'd like to install toilets, etc. The forest service does not care to fund it.

Q. Can the Big Sky Community Organization (BSCO) transfer assets to the parks district and go to the community for a mill levy? A. In the recent survey we asked the community and 92% felt resort tax should fund BSCO. Second was a membership fund and third a tax district. The model we have is working, but if it starts not working then we'll figure it out. I wanted to understand what similar organizations budget nationwide. Crested Butte spends \$400,000 for 30 acres of park land and one mile trail. Whitefish spends \$1.5 million for 140 acres of parks and 12 miles of trails. Comparatively, when you look at what we're doing we are being fiscally responsible. If it was not resort tax it would be a property tax. Resort tax is actually a subsidy for the property tax.

People want resort tax to pay for everything. We are now being asked for 100% of operations. This is a risk.

Q. Grants and fundraising; you went way over budget. What have you done differently? A. We worked strategically about what we asked for. When a need is strong and there is good engagement you can be successful. We recognize the need and are very specific about the ask. There are no more large capital projects we will fundraise for.

Q. Your donor numbers are up, but donors are down. A. There are large one donor gifts in those.

Q. Reference the 2020 capital improvements verses description. Please verify which one is accurate. A. We will address this and resend it to you.

Q. Last year we plowed Ousel and Hummocks/Uplands parking lots. We packed the Ousel Falls Trail. The community park was done in kind, but the contractor has changed. We cannot guarantee in kind and need to understand operational costs.

Q. Our property taxes spend a lot toward the Gallatin County Open Space Fund and it would be nice to see it come back. A. The Community Park had some funding from that for the open space bond.

5. Gallatin County Sheriff's Department – Sargent Brandon Kelly

The board explained the three year interlocal agreement was signed.

Q. Can you provide call volume year-over-year so we have a baseline for the future. Please break it up into residents verses nonresidents A. I will get that to you.

Q. How is the integration of the new state trooper? It is helping a great deal. It is helping with faster response to crashes and traffic control.

6. Chamber of Commerce – Candace Carr Strauss and David O'Connor

Welcome to Ms. Strauss. This is her third day on the job.

Q. The membership revenue has improved with an upward trend over past three years. A. That started several years ago getting bad debt accurately reflected or written off. All members are valid businesses. The large donations from the Rapiers inflated the numbers. Margo and her predecessors have made the membership program more all-inclusive. Membership revenues through end of March show a 35% increase. In addition, we now have ten members at the top two membership levels now. With the partnerships the Chamber created, we were able to fill community roles that are untraditional for a Chamber like housing and transportation. We appreciate the resort tax board entrusting us to assume that role.



Q. What is the go-forward plan with the Gateway Entrance Foundation? A. It is a placeholder. Its initial role was to create something physical. The land ownership situation continues to evolve. When we are in a place to be able to receive donations, the Foundation will be available.

Q. How did you select the strategic planning budget? A. We set it based on what others have needed. Foundational programs have 5-7 year timeframes. I've been chair for six years and we've put most projects to rest. We've been an incubator and have handed off projects like housing and transportation. We want a good answer to where we are going in the next several years. It's been 10 years since the last strategic session. It is a great year to reflect and forge what we do moving forward.

Q. What is your long term plan with the corner parcel? A. It is important to this community. We will continue to push for securing that parcel. The board and staff share that. The asking price of the land exceeds the appraisal so financing is tough.

Q. Clarify how the Chamber and Visit Big Sky overlap with staffing. A. The Convention and Visitors Bureau (CVB) is partially funded by state bed tax dollars, which allows for 20% to be awarded to administrative costs. \$140,000 was not going to move the needle so we decided to combine resources and keep all staffing on one side. All chamber staff with reimbursement from the CVB. The marketing staffing sharing was not working so this was path of least resistance.

Q. Clarify the strategic planning tourism master plan. A. It is the science behind tourism marketing to inform plans for future years.

7. The Montana Land Reliance – Jessie Wiese

Q. What were you able to do in the last year? A. I am currently working on three conservation easements. Easements are into perpetuity; it takes time. I've done outreach in the community from the PBR to workshop presentations. I partner with local groups. The water solutions group has been useful to help prioritize waterways, etc.

Q. Don't limit Big Sky for affordable housing opportunities. Consider overall smart planning for the community. Other communities seem to look back in retrospect. A. I work on conservation for areas that need conservation.

Q. What percentage of your time and position are spent in Big Sky. A. My estimate of 50% of time in Big Sky has been accurate. I can accomplish what I need to do in that time. If there was a higher demand in the community, we would discuss that.

Q. 40% of the operating budget comes from other grants. If resort tax were not here, where else would you find funding? A. We would put out for other foundation grants.

Q. Are there other public tax dollars that go to Montana Land Reliance? A. Yes; public funds are out there for specific land projects.

Q. Have you approached the Gallatin County open space fund? A. Yes; my Gallatin Gateway coworker has been working on it. The goal would be to have some of that come into Big Sky.

10-12% of that fund comes from Big Sky and it would be nice to get it back.

Q. What do you use for migration patterns and wildlife habitat? A. Models and data exist. We incorporate those models when creating easements.

Q. Would there be overlap with Wildlife Conservation Society? A. The Wildlife Conservation Society would help us determine where a wildlife corridor would exist.



Q. Why do you need resort tax funds? A. A lot of the money in the bank is for the operating budget this year. We are required to put matches for up to 25% for purchasing conservation easements and we need to have money on hand. This year we took 1 million out for the Big Hole project.

Q. Please provide a balance sheet for each year so we can see how the excess cash is being used. A. I will provide that to you.

8. Rollover – Big Sky Skating and Hockey: Refrigeration System Matching Grant – Gary Hermann and Ryan Blechta

Q. How much have you raised? A. We've raised \$35,000 so far. We believe we would have fundraised much more if there was a permanent site. That could be happening soon, if it does, we will go back to those interested and hope to get it done.

Q. Next year, consider separating the capital campaign from operations like Morningstar's applications this year. The way it is now, it is hard to keep track of where the money is going. A. We could get an accountant to help us to do that. Last year our expenses were greater.

Q. The contract had a condition for the cooling system. Would the rollover be the same? A. Yes.

9. Big Sky Skating and Hockey – Gary Hermann and Ryan Blechta

Q. Did attendees consider a club or contribute financially to curling? A. We found it reaches a different demographic of people. There would be a rental program, fees would be involved, set up and take down, etc. It could be revenue producing. Between fees and sponsorships we could then purchase the equipment.

Q. What are you expecting or budgeting for how participants can help support curling (example of BSCO softball). A. We do not know; a few thousand. Once we own it we can advertise. Based on discussions, we could get \$3,000-5,000 per year and, once we own it, the income becomes revenue.

Q. Was broomball and hockey a lot of investment upfront and they are now self sustaining? A. Yes. We are not charging for the kids programming yet. We deliberately kept costs down to encourage usage. We are not looking to be a revenue producer. Funds are to come through fundraising.

Q. What is included under other programming at the top of page five? A. We are expecting some revenue from curling. Plus broomball, hockey, the donation box, etc. We anticipate an increase with curling.

Q. What is included under other public grants on page five? A. The Yellowstone Club Community Foundation and Spanish Peaks Community Foundation. The Moonlight Basin Foundation has encouraged us to apply. It will be \$25,000 if we get it all. Those are generous contributions.

Q. Snow removal fell short this year. The rink opens at 12:00 p.m. and the contractor was not able to get there until 2:00 p.m. A. It costs more to have a professional or hire two people to manage the gap. We were paying way below market. We received a lot of complaints this year. The community would benefit if we had more help.

10. Gallatin-Big Sky Weed Committee – Jennifer Mohler

Great job getting your grants up this year; that took a lot of hard work and we commend you for that. We've been tough on you in the past and challenged the organization. I see great progress. Fundraising is up and, if you talk to anyone in this community, everyone says how great you are.

Q. How much does cost share contribute? A. Cost share depends on funding. Landowners apply, I educate them, they treat weeds or hire professionals and we approve. We pay half up to \$250 (you spend \$500).



Q. What is the cost to take care of one acre of ground? A. I remain neutral. I've heard \$80 an acre. It depends on what weeds you have.

Q. In-kind is a high percentage. What is it covering? A. The bighorn program uses in-kind from the forest service to help treat it; a professional crew for six days using herbicide.

Q. Regarding the cost share program, I cannot figure out why we are subsidizing the wealthiest of property owners. I understand the outreach and education and spraying for weeds. A. It serves as a big carrot for me. No one likes managing noxious weeds. If they are not wealthy, they do it themselves. Weeds are something that affects us all. Our neighbors become our problem. Cost share helps grease the wheels.

I got Gallatin County funding last year and hope it continues. I will be approaching Madison County as well.

11. Jack Creek Preserve Foundation – Sarah Tilt

Q. Part of the application is to initiate a new program, why is it not supported through your board endowment fund? A. That is a board-restricted fund. I only get 4% of that fund and we raise the rest. We could change the rules, but we want to use the assets as a portion of the operating costs.

Q. What else does the endowment fund? Capital improvement projects like power and electrical. I also have a 1% that accrues on an annual basis for capital improvements.

Q. What does our community expect to get out of this; what would be successful? A. I will get back to you.

Q. Who can use the groomed trails? A. Anyone. Get a road pass and use one of the two parking areas. This winter we groomed six miles of trails. It makes the cabins available in winter. We are expanding the trails this year.

12. Arts Council of Big Sky – Brian Hurlbut

Thank you for keeping the ask in-line with last year.

Q. What is the 20% increase in year three? A. The difference is a large grant through the Murdoch Foundation. We did not get the grant so the number of FTE will change. I will rework this for you.

Q. On the October/November Budget Profit and Loss (P&L) what is Programming? A. The art auction we hold in March. It's broken out into ticket sales and art in the updated P&L.

Q. Have you asked if lodging and restaurants see pick up and are generating resort tax when the concerts are in town? A. The businesses say they get an uptick, but we have not done a study. We are working with Big Sky Resort on a lodging packet.

Q. Will the security money be spent before the year end? A. Yes.

We like that you're much more than music. The utility wraps are great.

13. Big Sky Post Office – Al Malinowski

Q. Explain the USPS contract. A. Last year we asked for an increase and received \$287,500 so I reduced the ask last year. I did not realize it took three months to begin. I will ask for another increase in two years. We are unique and the only CPO managed the way it is. I've developed relationships and do not bring this resort tax process up.

Q. When is the rent increase? A. 2018; to \$23 per square foot.

Q. Are people waiting to get po boxes? Where does the post office go in the coming years? You have finite space. A. We have a waitlist. If we outgrow our space I would work with the Bozeman postmaster on home delivery transfers



every other day or build a new facility. Home delivery may take pressure off. Initially we are planning for more parcel lockers.

Q. If it went to home delivery, what is the added cost? A. I do not know, but it has to be significantly more since in 2001 they choose to build a larger po instead. It would be a community discussion.

Q. Depending on the waitlist, we'd like a long term plan to meet needs of the community.

Q. What is the 30% increase? A. Labor. We need to pay on par with other resort tax applicants. We have had very loyal employees.

14. Gallatin River Task Force – Kristin Gardner

Q. If you are not successful, would the restoration projects be affected? A. Not Moose Creek; I will make that happen. The goal is to have it happen, it just may take longer.

You are jumping by 3 ½ fold in your fundraising. Kuddos for receiving the full request from Madison County.

Q. For the river access projects, do you get funding from the rafting communities? They've been involved in planning. We get a portion of planning fees from the forest service. We are asking the raft companies for campaigning donations as well.

Q. For the Water Conservation Program, do you get funding from water and sewer? A. \$10,000 last year and \$5,000 this year. We want to work with other developers to get other funding as well.

Q. In the cash flow for 2019-2020 there is a 33% increase in personnel, but no more people. I want to add benefits to the salary. We do not have those now.

Programming is 70% of your budget and that is really good. You are having a big impact.

Q. How has follow-through been after the Yellowstone Club sewer issue? I think it had something to do with Gallatin County funds. It's hard to measure. Social media and the website were active. There is a lot of growing support in the community. I am bringing on a community and education coordinator. It has been a combination of a lot of things. I hope the momentum continues.

Q. When will the water forum be complete? A. By the end of this year; December 2017. The forum will give us potential funding sources. It will take us to build out.

Chairperson Jamey Kabisch recessed the meeting at 4:10 p.m. and reconvened the meeting at 4:22 p.m.

15. Rollover – Big Sky Community Housing Trust: Affordable Housing Bough Big Sky Community Subdivision – Brian Guyer and Heather Grenier

Director Germain stated he will abstain from discussion because his employer, Lone Mountain Land Company, is associated with the project.

Since the April board meeting, HRDC held a meeting. The Cronin Family attended the meeting. Attorneys from the Cronin Family have not taken action, but have given indication they will appeal any preliminary or final plat. This could result in up to two years of delays.

With county denial of the proposed variances, HRDC changed the project. Specifically the variance requesting one entry and exit to the project; HRDC changed the project to allow for a second access.



Because of the infrastructure cost, it will have to change the number of market rate vs. restricted (affordable) units. Originally there were 24 affordable and 8 market rate units. The sale proceeds would be used to offset the costs of the affordable units. It is closer to 50/50 now. Best case scenario would be 17/15. HRDC will have to consider the risk of selling 20 market rate units, which is difficult for the organization.

Q. With the changes, would this qualify as a rollover? Has the request changed so much that it would need a new application? Would the conditions in the original contract hold up? Can they convert to an application? A. Attorney Griffing stated she does not know the answers now and will have to look at it.

HRDC stated it is not at a point to abandon the project. It wishes to address the need for affordable housing in Big Sky. There are now things HRDC needs to navigate. In addition, there are issues with resort tax timing to get to final plat in the year time frame.

Q. Would it be appropriate to create a development appropriate timeline for an application like this? Attorney Griffing stated currently the ordinance reads as an annual appropriation. To change, what board would need to amend the ordinance? There may be constitutional constraints on what can be amended.

Attorney Griffing stated she needs, in writing, the changes from original application. Mr. Guyer stated the proforma is in a state of flux.

Q. Does HRDC have a composition requirement? A. There is no minimal composition. It depends on stability and marketability.

Q. As this shifts, it looks more like infill instead of an affordable housing project. It moves you to a developer. A. The Bough donation is unique. It is hard to pass up. There are a lot of issues around the project and changing circumstances. HRDC is not going to abandon it because it is aware of the donation uniqueness; even if issues persist.

Q. How do we draw lines on new vs. rollover applications? A. Attorney Griffing stated substantial compliance with original application is needed and then a rollover is possible. We are to respect the materiality.

HRDC stated the goals of the organization have stayed the same. We are just changing the mix.

Q. Can HRDC live with it? A. it is a significant risk.

Attorney Griffing stated for her materiality review, she needs the changes from HRDC by Friday. Can a narrative be delivered before the numbers? A. We can reference the budget.

Q. Attorney Griffing requested information that may affect the application- plat, etc. A listing of what you are doing now, appeal to zoning variance, etc. Is that a significant enough change? Plat was previous requirement and now plat could be appealed.

16. Big Sky Community Housing Trust – Brian Guyer and Heather Grenier

HRDC stated the EPS study took us to one point. The new study provides a 10-15 year action plan. Demographics will be updated. The EPS numbers are still fresh and will not be dramatically different. It would give the ability to confirm the numbers are accurate. The bulk would be a housing action plan; similar to what Breckenridge used, which led to healthy stock of affordable housing in the community. I feel confident we'd get something out of it. This study would generally be the first step. With the Bough donation we reacted. Now we can step back to see what targets need to be hit over the next five years. It will assess the feasibility of certain plots. The EPS report fell short by using census data. This will have accurate, on the ground data.



It will not give you a list of tools, it will work through multiple options and help figure out a timeline for implementation, a road map. The local housing board needs it to help them through the education, covenants and the options of those. I don't think we can do it without this study. It would give developers the go forward options to make sure we do the job right. We need this done so there is not another study. It gets us closer to on the ground and into units faster.

Q. I'd rather put \$100,000 toward housing, but I see the rationale behind this. Will it tell us how much it's going to cost? Will it put dollars to it? That needs to come out of this study.

Q. With the potential of the community becoming incorporated, will they give us options for both unincorporated and incorporated? A. We will have the conversation.

Q. Did it go out for RFP? A. We got a proposal from EPS.

Q. The EPS report regarding incorporation has been glossed over; in the new report that section should be beefed up.

Not one person that was against penny for housing was against affordable housing. All questions had better be answered by this report.

Vice Chairperson Mike Scholz left the meeting at 4:30 p.m.

17. Visit Big Sky – Candace Carr Strauss

Q. Do I read this correctly that there is no private business investment this year? A. We will rework the website to be a global destination. Collectively the businesses in Big Sky are investing. Visit Big Sky (VBS) promotes Big Sky as a whole. We act in the role of inspiration. The businesses are already spending marketing their own organizations. Visit Big Sky gets people here. The businesses then get people into their doors. With my background in fundraising I am hoping to bring in funds. I do see opportunities moving forward. I ask for trust moving forward and that we will take it serious and that it will be supported with private funding where we can. There are synergies and a lot more money than shown here. For example, the air routes. \$1.6 million was spent to expand services by 10 private partners. To know what is being spent is hard. It is hard to aggregate on a finite number because businesses are private about how much they spend.

Q. So there is no partner revenue. A. None.

Q. Why is a tourism master plan necessary right now? We've already begun by working with destination next. 100 stakeholders participated. A master plan is tourism product development; what is missing, how to make better, etc. It is a natural progression. The Montana Department of Tourism did one for the state. It gave us a lot of info, but was a shortfall for Big Sky specifically.

Q. Will there be collaboration? A tourism master plan is done in collaboration with others. It will be unifying. It will identify brand filler. We would all businesses in the community to have the same message.

Q. Only 7-8 lodging partners participated in destination next. How do you grow? A. We will attempt to do that. It is hard for the businesses to staff for data entry, which takes time. The problem has been a function of their staffing. We are planning another recruitment effort. We see the value of the tool. We hope to help get more on board.

Q. The lodging partners don't pay anything? A. We aggregate and share back.

Q. So if smaller businesses don't participate, they are not getting from it? A. I hope to use as a whole. It is guiding us with our decisions with our ad agencies.

Q. What are your thoughts on bringing people here and not having the infrastructure to serve them well?



For example, we do not have a labor market that supports the existing infrastructure. Businesses are having trouble supporting the visitors because of a lack of staffing. Do we continue to market to bring people to Big Sky? A. For Big Sky to be a year round destination resort we do. We were born to be a destination. In 1992, when resort tax was created we tied our fate to tourism by having them pay for our infrastructure, etc. It has been shown time again that when you break the cycle of marketing spending, tourism goes down, which leads to layoffs, losing taxes and a down cycle. We will focus on bringing those that share our values; we want to bring the right people here.

Q. What if those that come have a negative experience. How does that impact Big Sky? We hope that is not the case and do the host week program for that reason. Still there is a lot of work that needs to be done.

Q. Earlier when we asked the Chamber about the staffing model, you referred to “not moving the needle”. What do you mean? A. With the staffing we have now, there is no one dedicated to VBS. With a new website coming online and master planning we need someone dedicated. Off season occupancy rates were 8-13%. We’ve been sustaining and need to focus on how to expand into shoulder seasons to grown the year round community. April was at 2% occupancy. We will dive in where there is room to grown. Right now businesses can’t pay staff year round. If businesses are open year round then there may be solutions.

18. Friends of the Big Sky Community Library – Kathy House

The Library has been open for 16 years. We are asking same amount as last year. We know what our operating costs are.

Q. What is long term for the library? Are you evolving with technology? A. Over drive was implemented last year. We’ll have an open house this year to demonstrate how to use it.

19. Gallatin Valley Snowmobile Association – Devon White

Q. Please provide numbers from the counters on Buck Ridge Trail. A. I will get that to you.

Q. Do you have an industry metric on what a snowmobiler spends on lodging, etc.? A. I’m certain they spend a lot.

We returned \$5,000 to you this year because it wasn’t spent; we lost the snow in March. This year we did not have any complaints from riders.

Q. Resort Tax funds 49%. Who funds the rest? A. We get the other 51% from FWP.

Q. Is there any threatening on that funding? A. No; it is all good.

20. Women In Action – Jennifer O’Connor

You’ve had an impressive increase in use. That is a hard statement when you are talking about counseling. A. Yes; 115% increase substance abuse counseling and 40% increase in community counseling.

Q. Is the need growing or are you advertising? A. We developed partnerships. As a community support organization, we’ve been out talking about it. We received grants from the Hungry Moose and YC. With a substance abuse related death at the Hungry Moose we went in and talked to the other employees. The employees didn’t know there was a program despite flyers being throughout the store. Instead of individuals dealing with stress they turn to substance abuse. We started the “You’re never alone on Lone Peak” campaign.

Q. You seem to be able to do more with what you already have. We are fluid, we try to meet what the community needs. For example, we need access to suicide prevention. We would not be able to staff a crisis line so we established a partnership with an existing call line to determine the need. Another example is Haven for a domestic support group. We market the programs and provide a place for them to meet.



Q. Your reserves are unrestricted? A. We're committed and have to pay the year before counseling happens. If a fundraiser falls through we need the reserves.

Q. Do you work with Big Sky medical center? A. We share info. A couple times a year we meet with doctors to be sure info is handed out. We had hoped the medical center would have mental healthcare included. They are five years out from figuring that out.

Q. Last year you had a lull for your counselor in training. Are you keeping enough interest to have it staffed? A. We have new counselor starting today who wants to be part of outreach. They couldn't fill the position for community counseling so MSU incentivized the leaving counselor and he stayed.

21. Morningstar Learning Center: Infant Building Capital Project – Sarah Blechta and Matt Dodd

Q. The application shows a smaller building that you actually have, but we got that figured out. A. The State has a requirement for square foot per child.

Q. Where are you now before the proposed expansion? We have a waitlist for infants. That capacity cannot be changed because infants have to be on lowest level of any floor. The preschool children have to be upstairs. Infants and toddlers have to be able to get out. If we get the building, infant and toddler space will double. There is no where else to go in Big Sky unless you are potty trained. Historically those that started as infants have moved eventually up and through preschool.

Q. Clarify your sources of funding and fundraising. A. We raised \$40,000 and have a matching grant of \$40,000. The donor has made it clear they will give it when we need it. We will spend our funds first. \$80,000 is solid. Plus the \$82,500 in savings is solid.

Q. We will not be the last in because you're asking for monthly draws. A. \$50,000 is reserve. We have to keep \$20-30,000 to replace the roof. When cut lines backed up our plumbing we were set back and had to refund parents. It was covered by contractors insurance, but we've learned we need \$50,000 in reserves should something like that occur again and the contractor not be insured.

Mr. Dodd clarified that Morningstar has already put \$30,000 into the building in reviews, approvals, etc. We will not start asking for draws until we spend our money upfront. The monthly draws are based on as we need it. We have two contractors committed to begin in July.

Q. How do you raise money knowing that ours is committed? A. Builders and contractors in kind. We do not expect a lot of cash to come in on this project.

Q. We need to know if this applicant is eligible for funding. A. The service is so viably needed. Are we supporting a select group of people? It is an ongoing debate. The previous attorney thought the group was too select and not a broad population. We need to make sure we can comfortably fund this. A. It may be the difference of serving a large vs. small community. I am an attorney and my wife is a baker at Hungry Moose. We could not have made it work without the help of Morningstar. The children that attend are those of school teachers, medical staff, etc. We are all part of the community. Most everyone who has kids under six years old has come through Morningstar. There is no where else to go.

Women In Action resort tax funded programs only serve those with substance abuse issues.

Q. Attorney Griffing stated her concern is on the building. How can we ensure that the infant building is open to all? A. We have a scholarship program that will ensure that it is available to all.

Q. I'm interested in there being a building when our funds are involved. Can you do it? We will need some conditions in the contract to ensure the building will get done. Can we create some sort of contract that guarantees the building will



be done? A. Every six months prices change, but we've gotten true numbers. We've gotten handshakes from contractors. We have hard numbers and have asked hard questions.

22. Morningstar Learning Center: Tuition Reduction Program – Sarah Blechta and Matt Dodd

Q. Every child is subsidized \$10 per day? A. Yes. We changed to quarterly enrollment. That ensures we are helping the local resort families. The subsidy gets us to a level where we operate at a break even point. You can then apply for the family assistance program and be subsidized further. Drop ins do not get subsidized. Last year I had a \$16,000 daycare bill. That is still a big chunk of money.

Q. What about those that don't have the need? What if you had those that have a need apply? A. We did that before and, because it is a small town, families are not comfortable with others knowing their financials. We tried, but it didn't work here.

Q. 136 is your average enrollment. The last few years it's hung around the same. A. There is a ratio between teacher and students. If we bring in one more student then we have to bring in another teacher.

With quarterly enrollment we are able to forecast out two months. The waiting list is on the infant side. On average we have 20 preschoolers a day. We had 573 enrolled days last month. In December the infant building would be open and numbers would go up.

Q. Can we instead do a subsidy for teacher support? A. Any money we can get would be wanted, needed and used appropriately. However, the biggest need for us to serve the community is space. Because of changes we've made, we're getting better retention for teachers. We're doing good by the children, just not by enough of them. Mothers who are pregnant call to get on the waiting list. The problem is space.

Q. I struggle with those that can afford it being subsidized. Can they show some kind of need to receive the subsidy? I see you as a vital community service need and am just trying to come up with creative ways to help.

23. Wildlife Conservation Society – Sarah Reed and Kris Inman

Q. Why is this request coming to us? Shouldn't it go to Gallatin County? It is for zoning that should be done by the county. A. Big Sky is facing rapid growth in the next few years. We have the expertise in our team. We led the bear smart campaign through BSCO. We heard there was a concern. There is a component that has the counties involved.

Q. We have no teeth at this board. The people that make these decisions are in another room. A. When you want changes to happen, once subdivisions are plated, you need to know how the wildlife move through those areas. Wildlife Conservation Society (WCS) has worked with other similar communities; solutions come at many phases in the process. You have important influences.

Q. This is a bold first time ask. Bear smart has been successful. This is a big jump. You finish the study and no one has control. A. If we want to have success, this is what we need. I kept it modular should you choose to invest in some level.

Q. The national organization has an extremely good balance sheet. What are they doing? A. We like to let the community lead the process. We've been standing back. The wolverine project happened here and that has been used.

Q. Why isn't your rich uncle paying? A. We are global, in 60 countries. We have an office in Ennis. We can take the expertise from our colleagues and bring it here. We just provide the science to the community to let it decide.

Q. You can come up with great recommendations, but it's just education. We've received no letters of support and haven't seen or heard anyone talking about supporting the application. You are asking for 70% of your revenue. You have the highest personnel expenses of our applicants. A. You will have experts in climate change and wildlife. I can provide projects for leveraging information.



Q. Bear aware has been educational to homeowners. It was more organic. In Moonlight Basin we already did this and it is ingrained in what we are doing. A lot more work has been done in this community than what is represented here. Your application felt like we're starting at ground zero and we're messed up. A. We don't believe doomsday is the case. We understand people are a part of the landscape. The first objective is discovering what the community wants to look like, strategic planning, working with a community on wildlife development. When we made our list of goals, Big Sky was at the top of the list. Big Sky could be a model.

Q. Reference your private donor contributions. Are any of those Big Sky dollars? A. No.

Q. Any donations from Big Sky? A. No.

Q. How would you practically do this? Would you have an office in Big Sky? There is a lot of salary in this. Would employees be giving 100% of their time? A. We now have the time to give. I would coordinate from Ennis; leadership would come from Ennis. The expertise would be this team plus one more. The expertise is in our group.

24. Rollover – Warren Miller Performing Arts Center: Capital Improvements in Technical Infrastructure – John Zirkle

Q. Why a rollover? A. The contractor came in with a \$60,000 bid, which was too expensive. Then the season hit. We now have a bid and should be able to get in this summer.

25. Warren Miller Performing Arts Center – John Zirkle

Q. The five year artist director fund has been depleted. You're averaging a 30-40% increase each year. The fundraising does not seem to be off. That is a big increase each year. A. The next three years increase and then it will plateau with increases at 5-8%. The goal is to get to 1.5 FTE. We are trying to follow the trends of the community. Between the Arts Council and WMPAC, the arts are less than 6%.

Q. You're dramatically more than Arts Council. A. Our artist fees are higher; the total amount spent on each artist. The caliber of artists have something to do with it. Also, we are transitioning to a producing entity. We would be the third theater in Montana to become a producing house. A world class destination is the goal.

Q. We are encouraged by attendance numbers. Are you correlating expense with what it costs? Why are we priced below Americana ticketing pricing? This theater was built with everyone in mind. We experimented with ticket prices last year. We can increase the premier seats.

Q. Are the summer conservatory programs an opportunity for revenue? A. Yes. We increased that cost by 40%.

Q. I'd hate to see us grow to what we cannot sustain. A. Cash flow is increasing. The long range plan is to produce and grow royalties from that.

Q. You have a lot of private donors. Do you see an endowment or a larger fund? Not at this time.

Q. Should resort tax not be able to support you, would the organization survive? A. It would be tricky. We have room to grow. I would hope resort tax funding would not be a zero. We've been on a pretty aggressive growth path. The risk is relatively low. Resort tax support is 30%. We have a pretty diverse funding portfolio.

26. Beehive Basin Home Owners Association – NA

No representative attended the meeting.

27. Big Sky Community Food Bank – Sarah Gaither and Marjorie Hennessey

Q. Are you going to use all funding this year? A. We will come close.



Q. How do other Montana communities fund their food banks that don't have resort tax? A. HRDC runs two other food banks in Three Rivers and Bozeman. Those are run on fundraising and donations.

Q. April through June you had a 41% increase in customers. A. Yes; it jumped up and is staying there.

A lot were in town for seasonal jobs and stayed in town through the off season.

Q. Do you have other metrics to show year over year? The unique people severed in 2017 are tremendous staggering numbers for a community our size. A. The numbers include everyone in the household.

F. Public Comment:

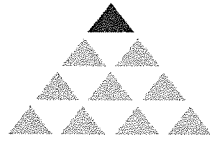
Jennifer O'Connor, Women In Action, stated she supports Morningstar. 15 years ago she was HR Director for Big Sky Resort. We had housing for lift ops, but trying to hire managers or supervisors was impossible. They called it a trifecta. We had no high school, housing is more expensive and no daycare. When we relocated back to Big Sky I worked for Morningstar. The service Morningstar does is not a daycare. It's a service to employers and the employees that make this community run. Morningstar was doing something no one else could accomplish. We talked to six different daycares and they all said there is no way to make a for profit successful. Staffing is twice the cost here. Small businesses cannot afford to give their employees a daycare stipend. Morningstar's service has a profound impact. They have to have the new space.

Regarding families applying for need based subsidies, Women In Action faces the same problems. Each year we have a decrease in families applying for scholarships. Seven of the families that applied last year did not apply this year because they have moved out of town. We are not going to have recession to make housing affordable again (hopefully). Morningstar is a critical service and no one else can support it.

Chairperson Jamey Kabisch closed the open meeting at 6:30 p.m.

Respectfully Submitted,

Virginia Hermann, Secretary



RESORT TAX
— BUILDING BIG SKY SINCE 1992 —

**FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT
OPEN BOARD MEETING**

July 12, 2017

Present: Jamey Kabisch, Chairperson
Mike Scholz, Vice Chairperson
Ginna Hermann, Secretary
Heather Budd, Treasurer
Kevin Germain, Director
Whitney Brunner, Administrative Officer
Betsy Griffing, Attorney

Chairperson Jamey Kabisch called the open meeting to order at 9:00 a.m.

The meeting was broadcast on Facebook Live at Explore Big Sky.

I. Open Meeting

A. Public Comment:

Visit Big Sky: Candace Carr Strauss: Mrs. Strauss stated she would like the corner property to be on the August agenda. She stated there is an opportunity and she does not want it to be lost. She stated the canyon, meadow and mountain are all served best by the Chamber's current location.

Transportation District: David Kack: Mr. Kack stated he is at the meeting to share ridership was up 8.6% this year. That is 16,000 more riders than last year. He thanked the board for funding the Transportation District. He stated Gallatin County said no to the funding request of \$80,000 this year. Last year it contributed \$50,000. Madison County committed to funding \$80,000 this year. He stated the Resort Tax Board is a group that may have leverage with Gallatin County because of a law enforcement partnership. He stated he views the transportation district similar to the sheriff department; it works best when all partners step up. He stated timing is of the essence because Gallatin County is finalizing their budget. He stated the Transportation District hopes to add another route this winter. Mr. Kack stated anything the Resort Tax Board can do is appreciated. The Resort Tax Board stated it would write a letter of support, attend the Gallatin County Commissioners meeting and hand-deliver the letter.

Fire Engine Request for Funds: Bill Farhat: Chief Farhat stated he will know in September if the Department receives a grant for personnel. He stated its application has gone through peer review. Chief Farhat stated the fire engine will be less if we prepay. He stated the cost of the engine is \$730,000. The department requested \$715,000 from resort tax. If we prepay the engine will cost \$695,000. He stated the difference in funds would go towards purchasing equipment for the truck. It would have been an empty truck. The board asked the Chief to update it on the federal grant for the fire engine. Chief Farhat stated prepaying does not put the grant at risk. He stated you do not have to demonstrate that you don't have funds. The board asked if the fire department would write resort tax a check back if the grant goes through. Chief Farhat stated yes.

B. New Business:

1. Resort Tax Board Elections:

Mr. Kabisch stated he would like to step down as Chairman.
Motion by Ms. Hermann to elect Mike Scholz as Chairman.

Second by Mr. Germain.

Discussion: The board thanked Mr. Kabisch for his service. Mr. Kabisch stated turnover is good and he doesn't want to become jaded. He wants what's best for the District. He stated he is concerned meetings will not go as fast.

All in favor.

Motion passes.

Motion by Mike Scholz to elect Kevin Germain as Vice Chairman. Second by Mr. Kabisch. All in favor. Motion passes.

The Board nominated Ms. Hermann as Secretary and Ms. Budd as Treasurer. Both accepted. Mr. Kabisch will serve as Director.

2. **Tax Collection Software:** Ms. Brunner is instituting tax collection software where the businesses register and remit taxes online. Interest and late fees are automatically calculated. Auto email reminders are sent in advance of end-of-month deadlines and in regular intervals after the due date passes. Email and phone support is provided for businesses. Reports can be generated in real-time. The tax collection software is MUNIRevs. It works together with STRHelper to provide an all-inclusive solution for resort tax. STRHelper is the short term rental software. It identifies marketed short term rentals (on VRBO, AirBnB, etc.) and cross references with MUNIRevs to see if rentals are registered with the office. If a rental is not registered, it auto emails the rental contact on a regular basis until they register with our office. Ms. Budd and Ms. Barndt sat in on a MUNIRevs demo and agree it will be a convenience for collectors and will be a great internal control and reporting tool.
3. **Bonding Capacity Update:** At this time, the bonding capacity is \$10,882,564 at a 14 year term.
4. **Application for Funding and Board Policies: How To Improve:** Resort Tax Board policy states that project line items exceeding \$50,000 are required to get two bids. If the lowest bidder is not accepted, the entity is to provide a written explanation to the Resort Tax Board. The Board clarified the \$50,000 limit is for anything in the entities' budget that is over \$50,000. Not just if \$50,000 of resort tax funds are applied to a project line item. Also, the Board discussed if an entity is requesting funds for a study (feasibility, etc.), a minimum of two bids are required an RFP must also be submitted so the Board can understand what the entity wants to do.

Attorney Griffing joined the meeting at 9:35 a.m.

5. **2018 Appropriations: Final Discussion of Contracts with Conditions**

Morningstar: Miss Griffing introduced Morningstar she asked Mindy Cummings, Morningstar's Attorney to speak on the topic. Ms. Cummings stated the property value is \$1 million. \$284,000 is resort tax. Deed restriction is into perpetuity. Resort tax would be devaluing the building. Tom Cahill at First Security Bank discussed a deed restriction. He is opposed to putting a deed restriction on the title. Instead it is a trust indenture. The Board stated that mechanism is more appropriate. The Board directed Ms. Cummings to move a row down so there is not 20% sunk cost at the start of the project. The Board asked Attorney Griffing if this change can be made since the motion was made at appropriations. Attorney Griffing stated she does not see a legal problem because it's a negotiation; it is workable.

Motion by Mr. Kabisch to accept the proposal with Morningstar's \$160,000 in first, change to five years and make the change to the table in the trust indenture and promissory note.

Second by Ms. Hermann.

Discussion: In-kind would decrease resort tax's obligation. Mr. Kabisch or Mr. Scholz may sign on behalf of the District.

All in favor.

Motion passes.

Big Sky Community Housing Trust: The board requested HRDC send the RFP and it must get two receipts back.

Big Sky Community Organization: Ciara Wolfe stated the Organization is a strong applicant for the MTAP grant. It will find out in early September if it was received. The match is within each phase of the project. There are three

phases. It will take 3-4 fiscal years to finish. The Board stated it wants the tunnel to get off the ground. It would love to hear progress. The Board stated the remaining \$400,000 is up to the organization's Board how to spend. You gave us a scope of work. We gave you a number. There are no other stipulations. The Board asked if the tunnel project will cause road disruptions. Ms. Wolfe stated the road will become one lane. Construction is only one year.

Fire Department: The Board approved the following condition: If federal funds are received by the Contractor for the new fire engine, this appropriation shall be decreased an amount equal to the federal funds received by the Contractor.

Jack Creek: Attorney Griffing proposed the following for addition to the contract: While not an express condition to this Agreement, the Board encourages Contractor, and Contractor agrees, to explore and expand as much as possible public access to the Jack Creek area. The Board stated it is a process to access the property. It is limited access. Increased access is a good trend. The Board stated it needs to be careful with its motions and conditions. It stated it is not here to micromanage. Attorney Griffing stated it is okay to determine terms within the parameters of the appropriation. The board stated it is not a condition and approved the language, as Attorney Griffing proposed, in the contract.

Visit Big Sky: The Board approved the following condition: Contractor agrees to do a Request for Proposal and obtain at least two bids in selecting a consultant for development of the Master Tourism Plan. If the lowest bidder is not accepted, Contractor agrees to provide a written explanation to the Board.

Gallatin/Big Sky Weed Committee: The Board stated the appropriated funds may be spent by the organization's Board as it wishes within the application's scope.

6. *2018 Resolution: Motion by Mr. Scholz to approve the 2018 Resolution. Second by: Mr. Germain. All in favor. Motion passes.*

C. Old Business

1. **Open Meeting Law Opinion Review:** The board discussed observing public comment before a motion. It also discussed a comment period before the final closing of the appropriations meeting. Attorney Griffing stated the Board has complied with open meeting laws. Public comment is usually how the public gets an agenda item in front of a board. Since this Board makes a motion and then discusses it, that might be a time for public comment. The Board stated it needs to provide more clarity and more well-written motions. It stated there will be long meetings. Attorney Griffing stated this may be a call for restructuring appropriation meetings. The Board asked what constitutes a committee. Attorney Griffing stated there is no clarification. Open meeting law was amended to include subcommittees to allow public participation before a final agency decision. The difference is if a subcommittee only acts to give recommendations or if a subcommittee is given authority to act, then the public has to be involved. It's an evolving area of law. The Board asked for clarification on emails between Board Members. Attorney Griffing stated all emails the Board exchanges are public. The Montana Supreme Court has chosen not to address instant message. Email is considered a serial communication. As long as discussion is not taking place the Board should not be concerned. The Board stated it may receive info information via email, but is not to respond. The Board asked if two people can discuss a topic. Attorney Griffing stated the two can talk one-on-one. Three is a majority. The board directed Ms. Bruner to add public comment for action items on the August agenda.
2. **Two-Year Funding Cycle Discussion:** The Board stated it would like to amend the ordinance. Two-year appropriations are to be allowed with the funding from the same year. Attorney Griffing stated she would test it against the Constitution for oversight when she drafts it. The Board stated it is obligating future boards; the Sheriff, Fire Department, Big Sky Community Organization, etc. It is a big burden. Organizations are counting on these funds. We say we do not obligate but all we do is obligate.
3. **The Taxability of Clubs, Memberships, Dues, Fees HOAs, etc. Update:** Attorney Griffing stated she has done some research but she needs to know more. The compliance audit reports are getting old. She would appreciate clear oversight during compliance audits. She asked how the Board wants to approach this issue. She stated she needs

factual determinations. The board discussed destination resorts and HOAs. It discussed taking the issue step by step. The Board stated it wants to understand if it is following the law. It suggested a subcommittee help get attorney Griffing up to speed because all clubs are different. The Board suggested defining destination ski resort. Attorney Griffing stated it is not a legal term. In that case we go to the dictionary or how it's being applied. The Board asked if HOA dues can and should be taxed. It also asked if the fees and dues for services in the clubs can and should be taxed. The board asked if a destination ski resort is defined geographically or for ownership, etc. Attorney Griffing stated the next step is a plan and course of action.

4. Treasurer Report: Heather Budd: Ms. Budd stated interest rates have increased for First Security Bank's money markets and she will look into it.
5. Financial Reports: *Motion by Ms. Bud to accept the financial and tax collection reports. Second by Ms. Hermann. All in favor. Motion passes.*
6. Correspondence
 - Expedia: The Board stated if the State of Montana puts forth legislature, the District should piggyback.
 - Wildlife Conservation: The Board stated it would like to see the zoning board and developers willing to implement the plan. It would like to see an actionable plan. It would like to understand what will be achieved following the plan. There was not enough collaboration and pre discussion. There was no explanation for the funding reduction. Also it sits on a large bank account; even if it is restricted.
 - Whitefish Housing Article: The Board stated there could be economies of scale; Reese is a group the Big Sky Housing Trust is getting an RFP for also.
7. Other: Chronicle Journalist Request for Information: Attorney Griffin stated a journalist requested proprietary info from the District. The board may consider a position that the files are private despite this is not based on the Montana right of privacy, if it is a corporation. Attorney Griffing stated she would contact the reporter first and report back to the Board.

D. Minutes:

April 5 amendments:

- Change "It" to "we" on page four, paragraph four.

Motion by Mr. Germain to approve the April 5 open minutes, as amended. Second by Ms. Hermann. All in favor. Motion passes.

June 5 amendments:

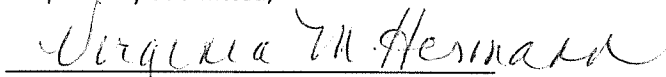
- Add Facebook Live note.

- Change "Eater" to "Water" on page eight.

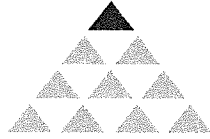
Motion by Mr. Germain to approve the April 5 open minutes, as amended. Second by Ms. Hermann. All in favor. Motion passes.

Chairperson Jamey Kabisch closed the open meeting at 12:55 p.m.

Respectfully Submitted,



Virginia Hermann, Secretary



RESORT TAX
— BUILDING BIG SKY SINCE 1992 —

**FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT
OPEN BOARD MEETING**

August 17, 2017

Present: Mike Scholz, Chairperson
Kevin Germain, Vice Chairperson
Ginna Hermann, Secretary
Heather Budd, Treasurer
Jamey Kabisch, Director
Whitney Brunner, Administrative Officer
Betsy Griffing, Attorney

Chairperson Mike Scholz called the open meeting to order at 8:00 a.m.

The meeting was broadcast on Facebook Live at Explore Big Sky.

Attorney Betsy Griffing attended the meeting by telephone.

I. Open Meeting

A. Public Comment

Big Sky Community Organization: Ciara Wolfe: Ms. Wolfe referenced her letter and requested David Weinstein, with Trust for Public Lands (TPL), is on the September agenda. TPL assesses feasibility for funding of Parks, Trails and Open Space through public avenues including property tax options. The Board stated it does not want to get into micromanaging the organization. Ms. Wolfe stated TPL requires that taxing entities have the relationship since that is the funding. The Parks District would be involved as well.

Ms. Wolfe stated BSCO did not receive the MTAP grant- BSCO ranked 15th in 42 applications. It was ranked low because there is no trail on the other side, there was no data to prove crossings and it like to see 20 crossings per hour. It will be a couple more years until the grant is open for the next cycle. She stated BSCO would be interested in a two-year request if that is the direction the Board decides to go in the ordinance.

Gallatin/Big Sky Weed Committee: Jen Mohler: The Weed Committee Board has a question about how the money has been allocated. By reducing the Costshare and Landowner funding, it minimizes any direct assistance to landowners, the foundation of our invasive species education, prevention and eradication effort which is our primary mission. The Committee provides FREE assistance to the public: so far reaching 686 landowners, representing 8,899 acres. This has been a 180 degree shift in two years and the organization feels whiplash. The Board stated there are not any conditions on the contract and; although, the funding was reduced from what was requested, the Weeds Council is able to manage its budget as it wishes. It referenced the Appropriation minutes.

Gallatin/Big Sky Weed Committee: John Councilman: Thank you for your continued support and Ms. Mohler is the best.

- B. Consent Agenda:** Mr. Scholz explained the consent agenda. A consent agenda is a meeting practice that packages non-controversial items not requiring discussion. This saves meeting time by allowing the Board to approve this 'package' of items together in one motion. If a Board Member would like to discuss an item on the Consent Agenda, a request of the Chairman may be made at the meeting to move the item onto the Regular Agenda. Mr. Scholz explained action items will be in Old Business. He stated there will be public comment after discussion before action.

The Board provided the following June 14 Minute Revisions: Page 7 (26) remove “to” add “infrastructure” and page 11 (Johnson) change “pit” to “pick”. The Board removed the July 12 minutes from the consent agenda.

Motion by Mr. Geramin to approve the June 14 minutes as amended. Second by Ms. Hermann. All in favor. Motion passed.

Motion by Mr. Kabisch approve the consent agenda. Second by Mr. Germain. All in favor. Motion passed.

C. Regular Agenda

a) New Business

- a) **Corner Property: Current Chamber Location: Candace Strauss Carr:** Ms. Strauss Carr stated the three Chamber Boards unanimously agree it is in the community’s interest to purchase the corner property. It could be purchased by someone that does not share our vision for world class. The second phase is to 1) get the parcel and 2) create a world class visitor center, rest stop designation and public/private partnerships. August 25 the property is getting reappraised. DEQ approval has been received. The Chamber formed a campaign committee. It would prepare a legal document between the three interested parties. The Board discussed that appropriations and the sinking fund are limited and it could consider bonding. The Board discussed that it would like to see the initial portion of funds come through fundraising. With the Gateway Foundation an educational component would be tied in as well- Crail Ranch, Museum, etc. It discussed how disappointing a casino would be on the corner.

Ms. Strauss Carr stated separately Visit Big Sky would like to reallocate its website funds. The Board stated since the request is all in line with the marketing appropriation it was allowed without its approval.

- b) **Operational Restructuring Proposal: Whitney Brunner:** Ms. Brunner stated she believes the District’s needs have grown beyond the current operational model and proposed a shift in the way the Board utilizes staff. She stated the proposal she provided in the meeting packets will ensure all that are subject to resort tax are collecting and remitting the tax, will maximize the effectiveness of appropriated funds, will facilitate more community involvement and will increase the efficiency of the Board. The recommendation adds a Compliance Officer and Executive Officer to the staff and restructures the Administrative Officer as bookkeeper. It also recommends improving the office function and website. The proposal moves operational overhead from 2% to 5%.

The Board created a subcommittee to provide a recommendation to the Board at the September 11 Board Meeting. The following were appointed to the subcommittee: Mr. Germain, Ms. Hermann and Mr. Kabisch. A subcommittee meeting was set for August 24 at 2:00 a.m.

- c) **Ordinance Amendment Work Flow Schedule: Chairman Mike Scholz:** Mr. Scholz presented the following workflow schedule to give the Board and the public a plan of process. He stated the schedule is a draft and is not set in stone.

July 14 – Two-Year Funding Cycle
August 17 – Destination resort taxability
September 11 – Fees and dues taxation
November – 8 Other ordinance amendments
December 13 – Summary
January 10 – 1st reading
February 14 – 2nd reading
March 14 – Revised ordinance in place

- d) **Legal Opinion: “Destination Ski Resort” and “Destination Recreational Facility” Definitions: Chairman Mike Scholz:** Attorney Griffing stated there is no legal definition for “Destination Ski Resort” and “Destination Recreational Facility”. The law treats certain entities different. Under this section of the law, all are taxed. The Board has the chance to clarify the ordinance.

Mr. Germain stated he will abstain from discussion. He stated he is recusing himself because his employer has two Clubs. He stated he provided Lone Mountain Land Company contact information to Attorney Griffing's for her research. The Board asked why he is abstaining; it is a broad concept the Board is discussing. Mr. Germain stated he believes it is in the best interest for himself and the Board. The Board stated when writing language for the ordinance, it is not about specific businesses. It is about defining a type of entity. Attorney Griffing stated legal principles point out, regarding definitions, when you write an ordinance a business is not named. It is general law.

Attorney Griffing stated when there is no legal term, you look to the dictionary term and make a determination on a rational basis; a broad standard.

The Board asked "Destination Ski Resort" and "Destination Recreational Facility" is a geographic area or a business entity. Attorney Griffing stated the term destination cannot be pulled out. She stated she believes it is a facility or entity, a business entity.

Attorney Griffing stated the District currently operates on a shoestring. Most taxing entities have an arm that decides these issues. There is always the task of having to parse out meaning. Focus on a reason you've interpreted and if the District has used geographic in the past, great. Keep it broad with a rational basis and get lots of public comment. The Board asked how it rules out that the entire community is not a "Destination Ski Resort" and "Destination Recreational Facility". The Board discussed leases, locals vs. visitors and the intent of the resort tax law. Attorney Griffing stated governments treat people differently and make classifications all the time. Most taxes are set up as a sales tax with exemptions. You can use the characteristics of a "Destination Ski Resort" and "Destination Recreational Facility" and how it is already being taxed to help apply. The Board discussed if Town Center is a "Destination Ski Resort" and "Destination Recreational Facility". It discussed destination weddings. The Board discussed that it was not out of the question that Big Sky exists because we are a "Destination Ski Resort" and "Destination Recreational Facility". It discussed if a "Destination Ski Resort" or "Destination Recreational Facility" was applied to the whole area, it would be a general sales tax. The Board discussed the concept of the tax and not to act regressively. It is to get revenue from the people coming in; it is hard enough to live here. It discussed tourism is a travel term- along with overnight guest, etc.

The Board stated it would do more research, inform themselves to make a sound decision. The agenda item will be on old business in September.

Attorney Griffing stated to look at the purpose of the main statute. Keep a broad perspective. Keep in context of the whole statute.

- e) Other: Big Sky Community Housing Trust: Reallocate \$8,000 from the Study to Staffing: Chairman Mike Scholz: The Board discussed what kind of staffing and that there was already a lot of appropriation for staffing, etc. Mr. Scholz stated he will have this on the old business agenda in September.

D. Old Business

- a) Bozeman Chronicle information Request: Attorney Betsy Griffing: Attorney Griffing stated she did not receive a response to the email she sent the reporter. No action needed.
- b) Two-Year Funding Cycle: Recommend Amending the Ordinance: Chairman Mike Scholz: Attorney Griffing stated it is constitutional that there be strict accountability of funds. The Board's direction remains an annual appropriation cycle. It is just calling a rollover something different. The contract language can be tightened. Need to be careful that is not an open project. The project would be thoroughly reviewed at the one-year mark. However, if conditions are not met for the first year; the Board would still be able to pull the funding.

The Board discussed that this would help the Board not use bonding. Municipalities budget differently. They budget/commit and spend in the same year. Resort Tax saves and spends/commits what was saved. Boards would

not be obligating future Board's revenue because it has the funds already. Interlocal agreements are different because those commit funds that have not yet been collected.

The Board stated it anticipates using the multiyear funding for big capital construction projects and already requires draw requests and progress reports. It already has strict accountability. With construction timelines and the building season in Big Sky, a multiyear funding cycle seems necessary. The Board stated morally it makes multiyear commitments. For builders, contractors and banks, a multiyear appropriation seems necessary.

Motion by Mr. Kabisch to direct Attorney Griffing to draft ordinance amendments for a multiyear year appropriation. Second by Ms. Hermann.

Discussion: Do we need a subcommittee to look at rollovers and interlocal agreements? Mr. Scholz and Mr. Germain volunteered to research. Attorney Griffing cautioned the Board to make the exceptions as narrow as possible and the exception, not the rule. The Board stated it defers to Attorney Griffing to draft the language. The Board stated the purpose is for two-three year capital construction projects and would await Ms. Griffings guidance at the next meeting. It stated the interlocal agreement topic will be on the backburner for now.

Public Comment: Chief Farhat stated the Board may consider capital purchases as well, not just construction, for fire engines or the corner property, etc.

Discussion: The Board directed Attorney Griffing to take that under consideration as well.

All in favor. Motion passed.

The Board discussed that Attorney Griffing is to assemble all ordinance amendments over the next several months and the Board will have the goal to revise the ordinance by July 1, 2018.

E. Public Comment

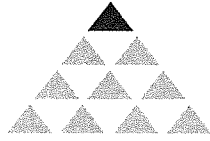
Steve Johnson: Mr. Johnson suggested the board request the formal opinion of the state attorney general to help with the interpretation of Montana law, as it applies to what constitutes a luxury item or service. He stated the essential quality of Big Sky is a destination.

Chairperson Mike Scholz closed the open meeting at 10:30 a.m.

Respectfully Submitted,



Virginia Hermann, Secretary



RESORT TAX

— BUILDING BIG SKY SINCE 1992 —

FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT

Organizational Restructuring Subcommittee

Thursday, August 24, 2017 at 2:00 p.m.

Present: Jamey Kabisch, Chairperson
Ginna Hermann, Secretary

Kevin Germain, Director
Whitney Brunner, Administrative Officer

Chairperson Jamey Kabisch called the open meeting to order at 2:00 p.m.

Virginia Hermann attended the meeting by telephone.

I. Open Meeting

A. **Public Comment:** Ciara Wolfe: Ms. Wolfe stated the community is changing and growing. It has outgrown the current structure of Resort Tax. She stated she has not seen the proposal.

B. **New Business:**

Operational Restructuring Proposal: The subcommittee discussed the role of Resort Tax- to collect and distribute funds. It stated as a Board, it has taken on a bigger role in the community since the 2013 strategic planning session. The operational restructuring proposal is a philosophical difference from the prior role of Resort Tax. It is more proactive. The subcommittee expressed concern that the proposal oversteps the Board's bounds and to be the fiduciary arm of the community goes beyond this Board. Ms. Brunner stated it is a proactive proposal that allows for the Board to be better educated in making critical funding decisions for the future of Big Sky. The subcommittee stated the EO would have a lot of power of influence. Ms. Brunner stated it would be an objective, professional staff member at the service of the Board.

The subcommittee went through the Executive Officer job description's bullet points and advised Ms. Brunner what is important at this time. It agrees the office should be covered 9-5, M-F. Better customer service and responsiveness is needed. It agreed tax collector compliance should be a priority. It agreed Board research support would be appreciated. It agreed it would bring down accounting and legal expenses. It was concerned with the limited amount of time managing staff allocated in the EO job description.

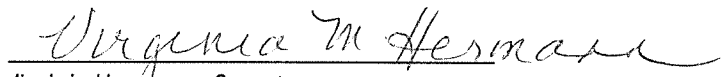
The subcommittee discussed if the Compliance Officer could handle the 10 audits each year. As an employee of the District the CO would know the issues and ordinance better. The Board would then need to hire someone with a financial background.

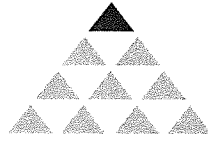
The Board directed Ms. Brunner to ask Attorney Griffing if there is a requirement to post for new positions.

The Board directed Ms. Brunner to create a second, two-staff member proposal that would serve as a 1-2 year transition to the first proposal and a plan for the subcommittee's course of action.

Chairperson Jamey Kabisch closed the open meeting at 4:23 p.m.

Respectfully Submitted,


Virginia Hermann, Secretary



RESORT TAX
— BUILDING BIG SKY SINCE 1992 —

FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT

Organizational Restructuring Subcommittee

Wednesday, September 6, 2017 at 2:00 p.m.

Present: Jamey Kabisch, Chairperson
Ginna Hermann, Secretary

Kevin Germain, Director
Whitney Brunner, Administrative Officer

Chairperson Jamey Kabisch called the open meeting to order at 2:00 p.m.

Virginia Hermann attended the meeting by telephone.

I. Open Meeting

A. Public Comment: None.

B. New Business:

1. Operational Restructuring Proposal II & III:

The subcommittee asked Ms. Brunner why she provided proposal three. She stated she is only able to give .75 FTE and does not want to limit the opportunities available to the Board because of her schedule.

The subcommittee asked what Ms. Brunner thought of the two-staff model compared to the first proposal. The first proposal is a true restructuring and establishes a proactive position that expands Board capacity and community strategy while bringing the demands on the office to a professional standard. The two-staff model focus on the required office operations and is essentially two high functioning secretarial positions.

The subcommittee reviewed the three proposals. It selected the first and second proposals to debate. The subcommittee stated it likes the second proposal. The Administrative Officer would be hired at a high-level to be able to take on tasks from the Operations Officer. It gives the office what it needs. With a second staff member, the office should take a huge step forward with compliance. It is a nice interim step, a bridge, to proposal one, which may be what is coming in a year or two.

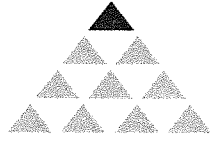
The subcommittee will recommend the Board adopt the second proposal at the September 11 Board meeting.

It discussed a hiring plan. The job description will be posted on the website, Craigslist and in Explore Big Sky. Salary will be included in the job description. Ms. Brunner will create an application. Ms. Hermann will conduct phone interviews. The Board will conduct two to three in-person interviews prior to the November Board Meeting. The subcommittee will meet again to discuss the office updates and review quotes.

Chairperson Jamey Kabisch closed the open meeting at 3:00 p.m.

Respectfully Submitted,

Virginia Hermann, Secretary



RESORT TAX

— BUILDING BIG SKY SINCE 1892 —

FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT OPEN BOARD MEETING

September 11, 2017

Present: Mike Scholz, Chairperson
Kevin Germain, Vice Chairperson
Ginna Hermann, Secretary

Jamey Kabisch, Director
Whitney Brunner, Administrative Officer
Betsy Griffing, Attorney

Chairperson Mike Scholz called the open meeting to order at 8:00 a.m.

The meeting was broadcast on Facebook Live at Explore Big Sky.

Ms. Hermann and Attorney Betsy Griffing attended the meeting by telephone.

I. Open Meeting

A. Public Comment: None.

B. Consent Agenda: The Board removed the Treasurer and Financial Reports from the consent agenda.

Motion by Mr. Kabisch approve the consent agenda. Second by Mr. Germain. All in favor. Motion passed.

C. Regular Agenda

Big Sky Community Organization: Trust for Public Lands (TPL) David Weinstein: Assess Other Funding Resources for Parks and Trails: Mr. Weinstein has a flight to Denver today and; therefore, the New Business agenda item was moved up. Ciara Wolfe provided an introduction. Mr. Weinstein stated TPL has 25 offices; one of which is in Bozeman. It is a 501(c)3 with a 501(c)4 arm. He passes legislation at local, county and state levels and has a 76% passage rate. Steps include polling work to determine support, the cost per household people are willing to pay, funding mechanisms and the fiscal capacity of the jurisdiction, programmatic recommendation for the community and ballot language to reflect the will of the community.

The Board asked if TPL worked with the Gallatin County Commissioners on the Bozeman bond issue and what it is asking of the Resort Tax Board. Mr. Weinstein stated elected officials are the first step and it will meet with the Big Sky Parks District as well. TPL then creates reports and eventually lobbies resort tax. The Board discussed if the Parks District could initiate the effort without Resort Tax. Mr. Weinstein stated he would need both the Parks District and Resort Tax; the Parks District is only property tax.

Mr. Weinstein provided three case studies. In Crested Butte, TPL helped increase the sales and use tax in 2015. The budget was \$4,000. It passed by 55% and created \$500,000 per year. In Boise, TPL helped override the mill levy in 2001. It had a large budget. It passed by 74% and created a fund of \$10 million. In Whitefish, TPL helped raise resort tax from 2% to 3% to secure water access from a basin by preventing development. TPL looked at bonds, resort tax, property tax increase, creating a water district, etc. It passed by 84% and created \$8 million for a \$24 million project.

The Board asked Ms. Wolfe the following: who engages TPL and how is Resort Tax involved? Ms. Wolfe stated the Parks District and the Resort Tax Boards would have to agree that parks and trails long term funding is worth a feasibility study. It would take a letter from both Board Chairs. TPL would then provide the scope of work. There is no commitment and the Boards would receive help and expertise. TPL would research other support mechanisms outside the Boards as well. The Board stated parks, trails, water, conservation, etc. could make the project bigger. The Board clarified at appropriations that operations and maintenance funding is what was needed. That is where this suggestion from Ms. Wolfe is stemming from.

The Board asked Mr. Weinstein for a copy of the letter TPL would like the Board Chairs to sign. It directed Ms. Brunner to forward the letter to Ms. Griffing for review in advance of the November 8 meeting.

2. Old Business

- a) **Big Sky Community Housing Trust: Reallocate \$8,000 from the Study to Staffing: Motion by Mr. Kabisch to approve the \$8,000 reallocation. Second by Mr. Germain.**

Discussion: The Board discussed it appropriated \$30,000 for staffing of the \$100,000 project. It would like to better understand how staff is spending time on the project.

Public comment: None.

All opposed. Motion fails.

Motion by Mr. Scholz to table the discussion until the organization provides the Board more information. Second by Ms. Hermann. All in favor. Motion passed.

- b) **Two or Three-Year Funding Cycle: The Board asked Attorney Griffing if it would be appropriate to approve the revisions as written and then set up the process for the first and second reading to coincide with the forthcoming 98-01 ordinance changes. Attorney Griffing stated the Board should be careful when packaging approvals for different ordinances. The public must know what is being voted on.**

The Board provided Attorney Griffing the following feedback on the proposed revisions:

-The timeframe now seems open ended and a "not to exceed" timeline could be added.

-Construction takes two years and there may be one year for approvals needed.

-A timeframe of three years may be needed.

-The Board suggested the following terms: custom purchases, equipment contracts, long-term capital projects and purchases, conditional spending or asset purchase, etc.

-The language regarding "most appropriations" could be revised to read "all appropriations" must be completed within one year unless otherwise specified.

The Board confirmed this is for only spending the funds in the coffers at the time of the appropriation and the applicant has two years to meet the condition.

The Board considered a subcommittee and determined it would not add anymore direction to Attorney Griffing than what the Board discussed today. Attorney Griffing stated she will provide something to the Board in November.

- c) **Clarify the definition of "destination ski resort" and "destination recreational facility" for purposes of taxability in Resort Area District Ordinance. Propose Ordinance change if deemed necessary:**

Mr. Germain stated he will recuse himself from discussion.

Attorney Griffing stated at the August meeting she talked about the Board's breath in defining "Destination Ski Resort" and "Destination Recreational Facility" and she provided legal parameters for that from a legal perspective. At the initial hearing on the Resort Tax bill at the legislature, there was discussion on what "Destination Ski Resort" and "Destination Recreational Facility" means (see the Attorney Griffing's Legal Memo). Attorney Mona Jamison testified that it was a term of art in the tourism industry. Resort Tax was designed to capture tourist dollars and provide property tax relief. The conversation was focused on Whitefish at the time. The legislature decided not to define "Destination Ski Resort" and "Destination

Recreational Facility". This provides direction regarding where to look at how the term is used in the tourism industry.

The Board discussed that Whitefish Mountain Resort sat outside the incorporated area of Whitefish, like Red Lodge Mountain.

The Board noted that their discussion is more than semantics because there are two sections in the law. In one section, "Destination Ski Resort" and "Destination Recreational Facility" and other businesses are to tax ALL goods and services without exemption. In the second section, the businesses outside the first section are to tax luxury goods and services only. The word ALL complicates and discriminates between businesses.

Like in Whitefish, the "Destination Ski Resorts" and "Destination Recreational Facilities" have not been determined, they have been interpreted. All area districts and communities apply the tax differently. For example, clothing could be considered a necessity of life; however, Big Sky Resort Tax Boards have historically opted to tax all clothing in an effort not to discriminate between businesses.

Attorney Griffing stated in reviewing the ordinances from other area districts and communities, Red Lodge does a nice job of drafting. It places "Destination Ski Resort" and "Destination Recreational Facility" under their definition of luxury. If that change was adopted by this Board, it can get around the confusion of ALL. The Board discussed that it would take out the ambiguity and would treat the tax the same since no Board has really determined who is a "Destination Ski Resort" and "Destination Recreational Facility". The Board discussed that the reason we have Resort Tax is there is no other way for tourists to contribute to the tax base. It is not a broad-based sales tax.

The Board discussed if it makes sense to have the Attorney General weigh in. Attorney Griffing stated that is one way to go. It takes 90 days for the Attorney General to weigh in. The use of all goods and services does not say all luxuries.

The Board discussed that the other area districts and communities do not approach trying to define the term "Destination Ski Resort" and "Destination Recreational Facility" because they do not have any- West Yellowstone, etc. In Big Sky, no one has determined who is a "Destination Ski Resort" and "Destination Recreational Facility" because they have been avoiding conflict.

Motion by Mr. Scholz to direct Attorney Griffing to take the ambiguity out of the ordinance that discriminates between who is and who is not a "Destination Ski Resort" and "Destination Recreational Facility". Second by Ms. Hermann. In favor: Mr. Scholz, Ms. Hermann and Mr. Kabisch. Abstain: Mr. Germain. Motion passed.

- d) **Operational Restructuring:** The subcommittee stated Ms. Brunner did a tremendous amount of work and the subcommittee held two meetings since the August meeting. Three different proposals were brought forth. The subcommittee asked Ms. Brunner to create different paths. The subcommittee decided the Board does not know enough to do proposal one. It will do discovery over the next year. Proposal two allows the Board to go through restructuring prudently. Proposal two employs an Operational Officer and an Administrative Officer. The change is toward tax collection compliance. The District has been reactionary and proposal two will hopefully put compliance in a better place. It also includes some organization to help with Board efficiency. Community outreach and community organizational involvement has been put on the backburner. The subcommittee is in agreement to recommend proposal two.

Motion by Mr. Germain to approve operational restructuring proposal two. Second by Mr. Kabisch.

Discussion: The budget is to be amended as outlined in proposal two. Proposal two is a guideline that may change depending on who may be found through the interview process. Ms. Brunner will post the Administrative Officer position and Ms. Hermann will conduct phone interviews.

Attorney Griffing stated the Board has broad discretion in the hiring process. Once the hiring process begins it needs to be nondiscriminatory. The Board asked Attorney Griffing if it needs to follow a process or if it can appoint Ms. Brunner to the Operations Officer position. The Board stated it is not a rehire; it is a change in job description and compensation. Attorney Griffing stated that is good.

Public comment: Buz Davis stated if you do not promote Ms. Brunner, you are crazy.

All in favor. Motion passed.

Motion by Mr. Germain to amend Ms. Brunner's job description to Operations Officer and the subcommittee will hire an Administrative Officer. Second by Ms. Hermann. All in favor. Motion passed.

Chairperson Mike Scholz closed the open meeting for a break at 9:40 a.m.
and reopened the open meeting at 9:50 a.m.

D. New Business

- a) Pertaining to the ordinance that specifies taxable goods and services within the Big Sky Resort tax District, clarify if fees and dues mandatory by property deed or contract are subject to taxation; Review Legal Opinion: The Board discussed that historically the Big Sky Resort Tax Board has never taxed homeowner associations (HOAs) fees, dues and operational costs no matter how divided.

Attorney Griffing stated she did a legislative history on this when Resort Tax was first adopted. The main goal was property tax relief. In the cities with Resort Tax, they provide for property tax relief. It was never intended as a general sales tax and that is echoed in what the definition of luxury with "transient visitors or tourists". Transient visitors and tourists is what the legislature was focused on. The Board is to determine if fees associated with the purchase of property crosses the line into a person subject to property tax.

The Board discussed the ordinance's historical list of exemptions (as written from 1998-2015), which gave comfort to the voters regarding what was not taxed, but left a gray area for the District to constantly clarify what is taxed (example furniture).

The Board asked Ms. Griffing if HOA dues can legally be taxed by the District. If it is legal in the state of Montana to tax HOAs. Attorney Griffing stated you have to look at what the HOA provides and if there is a good or a service that can be taxed. There is no exemption in the statute. She stated in Idaho, yes, they can be taxed. In Florida, no, they cannot be taxed.

The Board discussed mandatory versus discretionary versus voluntary (West Yellowstone uses voluntary in its ordinance), necessity of life, ownership versus rental, equity, investment in capital things, if second homeowners are tourists, luxuries are in the eye of the beholder, etc. Timeshares are not subject to the lodging tax.

The Board discussed if it is skirting what is a luxury because of property ownership and if it should define ownership if it wants to understand operational versus capital. The Board discussed if owners should be treated differently if they own something collectively or as an individual. With no sales tax, will the Attorney General be able to give much guidance. The Board considered a subcommittee and decided to have Attorney Griffing look at this first.

Attorney Griffing stated she will look if there is a definition for HOA. She recommended the Board then apply the tax to HOAs uniformly. She stated she found nothing that prohibited taxing membership dues. The Board stated the discussion is larger than HOAs if we are taking something that is owned and not based on usage. Attorney Griffing stated in her legal memo she provided a list of questions. She asked if the Board only wants her to look at if fees are tied to ownership in a specific area. The Board stated it is asking if there is anything in Montana that would restrict usage. Attorney Griffing stated she keeps falling back on equity interest, usage fees and recreational.

The Board stated it will table the issue until the November 8 meeting.

- b) **Big Sky Fire Department: The SAFER Grant Awarded and What that Means for Resort Tax Funding:** The Board asked for clarification on what the funding is a how it affects Resort Tax to allow the Board to better manage the budget. It thanked the Fire Department for working so hard to get the grant.

E. **Public Comment**

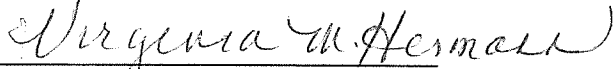
Steve Cherne: Mr. Cherne stated he is on the Firelight HOA Board. It is a nonprofit. It just finished its budget. It budgets for all expenses. If you tax HOAs you are double taxing. A few years ago it created a RID and should be paying property taxes. Expenses flow straight through and the HOA is not making any money. The Board stated there is not a tax on Hammond for the management of property.

Alex Iskenderian, Moonlight Basin and Spanish Peaks Mountain Club: Mr. Iskenderian stated he is looking forward to being part of the discussion. HOA dues are rife with controversial issues. It will need to differentiate between Club dues and HOAs. If the intention of Resort Tax is to get property tax relief, then it would not make sense to impose the burden on those that are paying property tax. The Board stated there will be gray areas and gave restaurants and golf shirts as examples. The Board stated it is trying to be deliberate and not rush. It stated it is its job to make decisions.

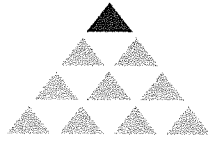
Hans Williamson, Yellowstone Club: Mr. Williamson stated he agrees with Mr. Iskenderian. He stated he is happy to provide information and he recently answered 20 questions from Attorney Griffing. He sated he is interested in what is mandatory verses what is discretionary. He stated the Yellowstone Club collects Resort Taxes. He stated it is a falsity in the community that they do not; the Yellowstone Club collects significant tax. He stated he is happy to provide clarifications as needed and is glad to be part of the process. The Board stated the nature of the Big Sky community is complex and it is trying to apply a statutory direction to its discussions.

Chairperson Mike Scholz closed the open meeting at 10:45 a.m.

Respectfully Submitted,



Virginia Hermann, Secretary



RESORTTAX
— BUILDING BIG SKY SINCE 1992 —

FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT

Organizational Restructuring Subcommittee

Tuesday, October 10, 2017 at 9:00 p.m.

Present: Jamey Kabisch, Chairperson
Ginna Hermann, Secretary

Kevin Germain, Director
Whitney Brunner, Administrative Officer

Subcommittee Chairperson Jamey Kabisch called the open meeting to order at 9:00 a.m.

Virginia Hermann and Whitney Brunner attended the meeting by telephone.

I. Open Meeting

A. Public Comment: None.

B. New Business:

1. Administrative Officer Candidate selection: The position was posted September 14 through October 10, 2017. 26 candidates applied. Ms. Hermann and Ms. Brunner conducted five phone interviews. Two of the five candidates were recommended and Mr. Kabisch and Mr. Germain conducted two in-person interviews. It discussed the resumes that came in since the phone interviews and decided if the subcommittee cannot come to an agreement today; it will conduct a second round of phone and in-person interviews.

2. Administrative Officer and Operational Officer compensation and benefits:

The subcommittee discussed the differences between the two in-person interview candidates from detail oriented, communication skills, personality, estimated tenure, collaboration with the Operations Officer, professional background and current/requested salaries.

Motion by Mr. Kabisch to hire Kristin Drain at an annual salary of \$46,000. Second by Ms. Hermann. All in favor. Motion passed.

The subcommittee discussed Ms. Brunner's salary and compensation as the Operations Officer and its adjustment for .75 FTE.

Motion by Mr. Kabisch to increase Ms. Brunner's annual salary to \$52,500. Second by Ms. Hermann. All in favor. Motion passed.

The subcommittee discussed health benefit coverage for the employees.

Motion by Mr. Kabisch to pay 100% of the employees' medical, dental and vision benefit premiums. The quoted Blue Cross Blue Shield Gold Plan medical premium is \$485. Second by Ms. Hermann. All in favor. Motion passed.

Subcommittee Chairperson Jamey Kabisch closed the open meeting for a break at 9:40 a.m.
and reopened the open meeting at 3:00 p.m.

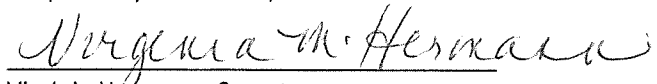
Whitney Brunner left the meeting.

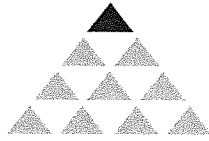
Mr. Kabisch offered Ms. Drain the Administrative Officer position. She accepted and, after giving the offer thought, stated she would rather be at an annual salary of \$50,000.

Motion by Ms. Hermann to hire Kristin Drain at an annual salary of \$50,000. Second by Mr. Germain. All in favor. Motion passed.

Chairperson Jamey Kabisch closed the open meeting at 3:15 p.m.

Respectfully Submitted,


Virginia M. Hermann
Virginia Hermann, Secretary



RESORT TAX
— BUILDING BIG SKY SINCE 1992 —

**FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT
OPEN BOARD MEETING**

November 8, 2017

Present: Mike Scholz, Chairperson
Kevin Germain, Vice Chairperson
Ginna Hermann, Secretary
Heather Budd, Treasurer
Jamey Kabisch, Director
Whitney Brunner, Operations Officer
Betsy Griffing, Attorney
Kristin Drain, Administrative Officer

Chairperson Mike Scholz called the open meeting to order at 9:15 a.m.

The meeting was broadcast on Facebook Live at Explore Big Sky.

Ms. Hermann and Attorney Betsy Griffing attended the meeting by telephone.

I. Open Meeting

A. Public Comment:

Big Sky Chamber: Candace Strauss: Ms. Strauss provided a strategic planning update and stated that the Chamber is pursuing infrastructure including a Big Sky Council moving forward. Ms. Strauss stated that Governor Bullock has called a special session next week and is proposing a 3% increase to the lodging tax. The tax is currently 7%, 4% of which goes to the Convention and Visitors Bureau (CVB) and 3% to the general fund. Ms. Strauss stated that an additional 3% would be a burden especially on resort tax districts, and the Chamber will be mobilizing to oppose this increase.

Montana Land Reliance: Jessie Wiese: Ms. Wiese stated that the 20 million-dollar Gallatin County Open Space bond has run out. Ms. Wiese stated that a group including Montana Land Reliance and Trust for Public Land is putting a charter together to get an initiative on the ballot for next election. Ms. Wiese discussed with the Board that Big Sky paid approximately 10-12% of the bond but only received 100-200k back and that 2 million would've been a reasonable number for Big Sky to receive.

Parks and Trails Committee: Mary Wheeler: Ms. Wheeler stated that Parks and Trails has adopted the letter that the Board is being asked to approve and will be referenced under Regular Agenda Item "e" to David Weinstein of Trust for Public Lands. Ms. Wheeler hopes that the Board will adopt and sign the letter. Ms. Wheeler stated that a community survey suggested that the community wishes Resort Tax monies to fund the parks and trails maintenance, etc. but that this letter is helping them to seek out other funding sources as the Board requested.

Big Sky Community Housing Trust: Brian Guyer: Mr. Guyer stated that Wendy Sullivan has completed an employer's report and held a real estate round table with the help of Tim Kent of Big Sky Western Bank. Mr. Guyer confirmed that there will be an upcoming online survey for feedback across the sector, and that the legal team is reviewing information for a down payment assistance program. Mr. Guyer stated that incentives are being discussed to increase long term rentals and decrease short term rentals, as long-term rentals are at a vacancy of approximately 1%. Mr. Guyer stated that they are working with some on the ground projects for housing and that appropriated tax funds are being used as expected, no adjustments will be required.

Dan Sheil: Big Sky Fire Department: Chief Farhat was traveling and was unable to call in to the meeting, but Mr. Sheil stated that the Fire Department has been approved for a FEMA Safer Grant. Mr. Sheil stated that this will result in less funding being required from Resort Tax, that it will be a 3-year grant, and that he was told that the Mill Levy voted on in the election on November 7 was expected to pass by a vote of approximately 500-300.

- B. Consent Agenda: The Board removed the August 17 and September 11 minutes, Network Security Contract, Correspondence, Administrative Officer, Treasurer and Financial Reports from the consent agenda.

Motion made by Mr. Germain to approve the consent agenda. Second by Mr. Kabisch. All in favor. Motion passed.

C. Regular Agenda

1. Old Business

a) New Fiscal Year Investments:

Mr. Scholz stated that he will recuse himself from discussion because he is a Board Member for Big Sky Western Bank.

Motion by Mr. Kabisch to approve Option 2 from Big Sky Western Bank. Second by Ms. Budd.

Discussion: The Board asked Tim Kent of Big Sky Western Bank to review the options since he was present at the meeting. Mr. Kent explained that the promontory option uses an online network that provides the opportunity for full FDIC coverage as well as higher interest rates than can be offered locally. The Board asked Mr. Kent to explain the acquisition of First Security Bank by Big Sky Western Bank's parent company Glacier Bancorp. Mr. Kent stated that the transition will take approximately a year and that the two banks will remain separate for at least 6 months. The Board discussed that Option 2 from Big Sky Western Bank would be the best choice for the Emergency and Sinking funds. The Board is concerned that the 500k maximum on the American Bank option would be restrictive.

Motion was amended to specify that the funds transferring to Big Sky Western Bank Option 2 will be the emergency and sinking funds and that the other existing counts will remain the same. All in favor. Mr. Scholz abstained. Motion passed.

- b) Office Audit: The Board stated that Holmes and Turner will attend the December board meeting. No action required.
- c) Big Sky Fire Department: Chief Farhat on the SAFER Grant: Seeking a change to the contract: No action required. The Board stated that some of the appropriated funds will be rolled over due to the approval of the SAFER Grant and this will be discussed at the next meeting.
- d) Visit Big Sky: Corner Property (25,55, 75, 135 Lone Mountain Trail, Big Sky, MT 59716): Candace Strauss from the Big Sky Chamber of Commerce stated that Visit Big Sky is requesting that 160,000 of their appropriated funds be reallocated from marketing to help match funds from the Chamber for the purchase of the Corner Property that currently houses the Chamber and Visitor Center. Ms. Strauss stated that the Chamber has 160,000 in matching funds from the sale of their former building, so there would be a total of 320,000 to put towards the purchase. Ms. Strauss stated that the reallocation from marketing funds wouldn't impact Visit Big Sky's ability to market the destination because they have received additional tourism funds collected by the state that exceeded the expected amount. The Board asked Ms. Strauss if there is a buy/sell contract in place for the property and she said no, but they have received an appraisal on the property and the 160,000 will be 100% refundable if they enter into a contract and it falls through.

Motion by Mr. Kabisch to approve the reallocation of 160,000 from marketing to the purchase of the Corner Property. Mr. Germain seconds. All in favor. Motion passed.

- e) Trust for Public Lands Letter: Assess Other Funding Resources for Parks and Trails: Attorney Griffing stated that the Board doesn't usually help entities look for other funding sources. The Board sees it as supporting their

process to find funding. Ciara Wolfe of the Big Sky Community Corporation stated that they are seeking other public sources of funding outside of Resort Tax and a Parks District is a possibility. Ms. Wolfe stated that the goal is to put long-term funding in place. Attorney Griffing proposed a revision to the letter, suggesting that in the first sentence of the opening paragraph, "our efforts" should be changed to "the efforts". The Board asked Ms. Wolfe how the Public Land Trust is funded. Ms. Wolfe stated that it is funded mostly by foundations and private donors. Ms. Wolfe will send a report to Ms. Brunner regarding the specific funding sources for the Public Land Trust. Mr. Kabisch stated that he is hesitant to approve the letter depending on the identities of the donors and their interests as they may not align with the District's interests. Mr. Scholz and Mr. Germain stated that they have both had positive experiences with the Public Land Trust and that the letter would only help find other funding sources but wouldn't spur any specific choice. Ms. Wheeler stated that the letter would assist in finding other funding and is not a guarantee of which option will be chosen.

Motion by Mr. Germain that the Board sign the letter with the edits proposed by Attorney Griffing. Second by Ms. Budd. All in favor. Motion passed.

- f) Clarify if fees and dues mandatory by property deed or contract are subject to taxation: Attorney Griffing stated that per the legal opinion she prepared on November 6, she concluded that HOA fees are not subject to resort tax. Ms. Griffing stated that HOA fees are not a luxury, and are not paid for goods or services. The Board asked if Ms. Griffing looked at recreational services provided by HOAs. Ms. Griffing stated that she saw these services as separate from regular HOA fees. Mr. Kabisch commended Ms. Griffing's work on the opinion and agreed with her conclusion.

Mr. Scholz stated that every state is different, and taxes are applied differently, and the question should be whether an obligatory HOA payment is tied to real or personal property. Mr. Scholz stated that it would be beneficial to get an Attorney General's opinion. Ms. Griffing stated that the analysis at ownership is not a distinction made in resort tax laws. Mr. Scholz referenced a letter from Mona Jamison regarding property and secondary residences that may be helpful. The Board discussed that it would make a difference if fees are associated with an enumerated establishment (Section 8), if not, if fees were to be taxed they'd need to cover services that are considered luxuries (Section 10). The Board discussed that other Resort Area Communities including West Yellowstone and Whitefish have an appeals process, letter opinions, and have definitions of taxable items that are much more open ended.

Mr. Germain stated that he will recuse himself from the discussion.

Motion by Mr. Scholz to request an Attorney General Opinion. The opinion would answer whether mandatory fees and dues required by ownership are taxable, and if they are not taxable, what constitutes ownership? If fees are taxable, is there a difference between capital and operational contributions?

Attorney Griffing would help draft the letter to the Attorney General requesting the opinion. Attorney Griffing stated that it would be very difficult for the Attorney General to form an opinion on these questions because they are too broad. Attorney Griffing stated that more information would be necessary, including what entity is being looked at, is the fee considered a luxury, and is a mandatory fee considered a luxury. Analysis will be limited to how resort tax law is written.

Ms. Budd stated that the question should be whether fees or services that resort tax applies to when sold separately can no longer be taxed when bundled with mandatory fees and/or dues. The Board discussed that an example would be use of a swimming pool for an owner versus a guest and whether use of the pool would be considered an amenity or a taxed service.

Attorney Griffing referenced her opinion from the summer which stated that the Board could choose to add tax on mandatory fees if they so choose. Attorney Griffing stated that an Attorney General Opinion (AG) must be requested by the county attorney, and she would need to provide a package of information and ask for a question to be answered. Attorney Griffing stated that once submitted it could be up to 6 months for a response.

The Board asked Attorney Griffing for her recommendation on how to proceed. Attorney Griffing recommended that she prepare an opinion based on information from the audits, and she would consider in the opinion whether the entities charging the fees are enumerated (Section 8) and if the items are considered luxuries (Section 9) according to the ordinance.

Motion by Ms. Budd to have Attorney Griffing formulate an opinion as she stated, taking into account today's conversation on the subject. Second by Mr. Kabisch.

Public Comment

Tim McKenna, Yellowstone Club Member: Mr. McKenna stated that the Board should research dues and the breakdown of the amounts because he believes that not all items would be considered luxuries and therefore not all would be taxable. Mr. McKenna stated that it is important to share data publicly on the breakdown of the dues and fees. The Board stated that they are trying to do their due diligence on this issue.

Tallie Lancey, Big Sky Sotheby's: Ms. Lancey stated that there is a difference between HOA fees and membership dues and this should be clarified, and that many amenities are not owned via the HOA. Ms. Lancey asked whether national memberships are involved.

Sarah Phelps, Yellowstone Club: Ms. Phelps asked whether home ownership is always considered a luxury and stated that not all Yellowstone Club members are second homeowners, that for some it is their primary residence and only home. Ms. Phelps stated that the Board wouldn't consider taxing fees on other HOA's, but that the Yellowstone Club is being looked at as a cash cow. Mr. Scholz stated that second homes are not considered luxuries and referenced a legal opinion formulated by Mona Jamison.

Tom Weiskopf, Yellowstone Club: Mr. Weiskopf stated that the Board should ask what is considered a destination. Mr. Weiskopf stated that he is a Yellowstone Club member, property owner, state tax payer, and owns only one home, and asked why he should have to pay additional tax.

End of public comment. Mr. Scholz stated that accusations were made of the Board in December 2016 that all available taxes were not being collected and it is taking its time to address them.

All in favor. Mr. Germain abstains. Motion passed.

- g) Clarify the definition of "destination ski resort" and "destination recreational facility": The Board asked Attorney Griffing to talk about the opinion that she formulated. Attorney Griffing stated that her conclusion was that the Board should not amend the Ordinance to only tax luxuries sold at enumerated establishments in the Big Sky Resort Area District.

Ms. Hermann joined the meeting by telephone at 11:10 a.m.

The Board discussed that a destination is considered a self-contained commercial establishment that vacationers want. A destination is free standing and attracts its own visitors aside from a town or other tourist attraction. The Board discussed what to use as guidance for a definition. Attorney Griffing stated that the Board has discretion to define "destination ski resort" and "destination recreational facility", they could have her look at creating a unique definition.

Mr. Kabisch asked if the entire community of Big Sky is a destination. Attorney Griffing stated the current criteria states we are currently in line with the law by not applying it to the whole community. Mr. Kabisch stated that the Board should follow the current plan to tax establishments as under the Ordinance. The Board discussed whether private clubs are different or if they are considered destination resorts on their own. The Board discussed whether it is necessary for the Board to define "destination ski resort" and "destination recreational facility". Ms. Hermann does not think creating a definition is necessary.

The Board discussed that the public had asked if money was being left on the table as far as tax to be collected. Ms. Hermann stated that it would be a good idea to write an article to explain to the community about the research that has been completed, but it would be important for legal reasons not to state that

Attorney Griffing has rendered an opinion on the entire matter. Mr. Kabisch stated that he doesn't believe there is sufficient information yet to provide an article, and that no action is necessary at this time. Ms. Budd agrees that after the additional opinions are completed by Attorney Griffing that a letter or article should be written to the public. The Board discussed that the article should be completed by the staff and Ms. Hermann.

D. New Business


- a) Pertaining to Visit Big Sky and sponsorship of visitor and tourism monies: Candace Strauss, Big Sky Chamber of Commerce: Ms. Strauss stated that currently the Big Sky Chamber is the sponsor for monies received from the state for visitors and tourism taxes, but that auditors have recommended to align the funds going to Visit Big Sky (VBS) and the Chamber for tourism. The same practice is done in Missoula. Ms. Strauss will present the item for action at the December 13 meeting.
- b) Subcommittee to review the Ordinance: Mr. Scholz that a committee to review the Ordinance is just something to think about for now.
- c) Legal Opinion on catalog/internet sales: The Board stated that in the closed meeting they had discussed the need for a legal opinion from Attorney Griffing on taxation of catalog and internet sales, and that Attorney Griffing will be formulating this opinion.

E. Public Comment

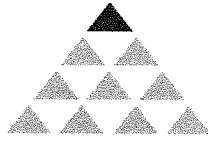
Candace Strauss, Big Sky Chamber: Ms. Strauss stated that the Governor's Conference on Tourism will be held in Big Sky on April 14th and there will be a conversation at the conference with the 10 other Resort Area District's in Montana. Ms. Strauss will work with Ms. Brunner regarding the January conference call the District has with the other Resort Area Districts and the April Governor's conference, and how the two events might be combined.

Chairperson Mike Scholz closed the open meeting at 11:41 a.m.

Respectfully Submitted,



Virginia Hermann, Secretary



RESORT TAX
— BUILDING BIG SKY SINCE 1892 —

**FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT
OPEN BOARD MEETING**

December 13, 2017

Present: Mike Scholz, Chairperson
Kevin Germain, Vice Chairperson
Ginna Hermann, Secretary
Heather Budd, Treasurer
Jamey Kabisch, Director
Whitney Brunner, Operations Officer
Betsy Griffing, Attorney
Kristin Drain, Administrative Officer

Chairperson Mike Scholz called the open meeting to order at 9:58 a.m.

The meeting was broadcast on Facebook Live at Explore Big Sky.

Attorney Betsy Griffing attended the meeting by telephone.

I. Open Meeting

- A. **Public Comment:** None.
- B. **Consent Agenda:** The Board removed the Officer Report, Treasurer and Financial Reports and the TPL letter from the consent agenda.

Motion by Ms. Hermann to approve the consent agenda as amended. Second by Mr. Germain. All in favor. Motion passed.

C. Regular Agenda

1. Old Business

- a) **Office Audit Report:** Matthew Cope of Holmes and Turner presented the office audit report, which is in draft form and almost finalized. Mr. Cope stated that the audit received a clean opinion, which is the best level of opinion to receive. Mr. Cope stated that there could be improvement in the division of duties, but since there has been an additional staff member added this can be accomplished with his and Accountant Barndt's help. Ms. Brunner, Mr. Cope, and Accountant Barndt have discussed the issue and are implementing needed changes. Mr. Cope discussed the journal entries listed in the audit, and mentioned that the implementation of MUNIREvs is still a work in progress, and that \$355,000 in funds at First Security Bank was found not to be pledged, but that funds at Big Sky Western Bank were found to be pledged 100 percent.

Motion by Ms. Budd to accept the draft form of the audit report. Second by Mr. Kabisch.

Discussion: Ms. Budd asked that Mr. Cope let the Board know of any action needed including a signed letter for financial reports to be filed.

Motion was amended to say a letter to authorize may be signed by the next meeting. All in favor. Motion passed.

- b) **Visit Big Sky and Sponsorship of Visitor and Tourism Monies:** Candace Carr Strauss of the Big Sky Chamber of Commerce stated that Resolution NO. 2017-02 R was prepared for the Board to sign to designate Visit Big Sk, as the recognized non-profit convention and visitor bureau for the purposes of receiving distributions of the accommodations tax.

Motion by Mr. Kabisch to approve and sign the resolution. Second by Ms. Hermann. All in favor. Motion passed.

- c) **Two or Three-year Funding Cycle:** Attorney Griffing provided an overview of the edits that were made to the language in the Ordinance regarding the funding cycle. Mr. Kabisch likes the adjustments that were made. The Board discussed that they would like the red-lined version of the document showing the changes. Ms. Drain provided the red-lined version from Attorney Griffing. The Board stated that they'd like more time to review the changes. The Board discussed that the emergency appropriation section is to be amended to require super majority approval (four of the five board members) instead of a unanimous vote because a board member may be out of town, etc. The Board will review the document further and discuss it at the next meeting. No action required.
- d) **Define "Destination Ski Resort" and "Destination Recreational Facility":** Attorney Griffing reviewed her legal opinion and stated that a private club is not considered a "destination ski resort" or "destination recreational facility". Mr. Kabisch stated that the term substantial in the opinion is irrelevant; regarding other taxability issues the Board has discussed and set a precedent has been that level of cost doesn't matter, it's the nature of the sale that matters. Mr. Scholz agreed and stated ownership is the issue. It's a public vs. private issue regardless of cost.

Ms. Budd stated that the Board should be careful not to lump recreational fees that would otherwise be taxed with mandatory fees. Mr. Kabisch stated that the Yellowstone Club website lists amenities that are offered at a destination, such as food, shopping, etc. and if the word "club" is stripped away it could be a destination ski resort. Mr. Scholz stated that the difference is that no visitors or tourists are allowed. Ms. Budd stated that the Moonlight Lodge went private this winter, and asked if that means that its sales are no longer taxable. The Board stated that sales at the Moonlight Lodge would still be subject to tax.

Attorney Griffing stated that the Board could find that clubs are destinations if a member of the public can become a member. Attorney Griffing gave the example of purchasing alcohol in Utah, where it had been required that anyone must become a member of the establishment to purchase, but that any member of the public could become a member. Attorney Griffing stated that the distinction with the clubs is based on wealth. Mr. Scholz stated that purchasing real estate removes anyone from the tourist category, and that the clubs aren't advertised as destinations. Ms. Budd stated that the clubs are often referred to and call themselves "resorts" or "exclusive resorts". Mr. Scholz likes the #4 definition created by Attorney Griffing and thinks #1-3 are too gray.

Attorney Griffing stated that definition #1 was considered by the legislature, #2 has been used in previous legal opinions, #3 came from information provided by Mr. Scholz, and #4 could work if the Board wanted to exclude private clubs with a definition. Mr. Scholz stated that we don't want to create a competitive disadvantage and that this issue is about taxability. Mr. Scholz stated that he doesn't believe that private clubs are "destination ski resorts" or "destination recreational facilities" and that membership fees are a separate discussion.

Motion by Mr. Scholz to accept definition #4. Second by Ms. Hermann. Mr. Germain abstains.

Discussion: Ms. Budd stated that definition #4 is too specific because it rules out any private clubs, and that while it may be a good snapshot of today, it may not serve the district well going forward. Ms. Budd stated that she prefers definition #1. Mr. Scholz stated that if definition #1 is chosen, it would mean a general sales tax on anything sold within the district. Attorney Griffing suggested replacing "locality" as used in definition #1 with "establishment". Mr. Scholz stated that definition #1 doesn't clarify anything for the district staff.

All in favor: Mr. Scholz and Ms. Hermann. Opposed: Ms. Budd and Mr. Kabisch. Motion failed.

Public Comment: Tallie Lancey: Ms. Lancey stated that if hotels are built on the property of private gated clubs, they would be considered semi-private or less private going forward. Mr. Scholz stated that if club hotels are marketed to the public, they are not considered private.

Hans Williamson: Mr. Williamson stated that anyone who books vacation rentals in the Yellowstone Club must be hosted by a member or must be a prospective member. The other example would be a member whose home is currently under construction. Mr. Williamson stated that the Yellowstone Club defines itself as a private residential community, and that is how the club is marketed. Mr. Williamson also stated that any sales that take place within the club are billed to a member account.

Motion by Mr. Kabisch to accept definition #3. Second by Ms. Budd.

Discussion: Mr. Scholz was asked by Ms. Strauss to read definition #3 aloud: "A destination ski resort or destination recreational facility means a facility that offers amenities, including but not limited to, food, drink, lodging, sports, entertainment, convention support, and shopping within the facility so that tourists or visitors do not need to leave the facility throughout their vacation."

Mr. Kabisch stated that definition #3 doesn't exclude private clubs. Mr. Scholz stated that the definition should help the district staff to determine which facilities to tax and how, on an individual basis.

Mr. Germain departed the meeting at 11:00 a.m.

Motion by Ms. Hermann to accept definition #3. Second by Ms. Budd. All in favor. Motion passed.

- e) **Officers Report:** Mr. Kabisch stated that the day after Thanksgiving and the day after Christmas shouldn't be recognized as holidays in regards to payroll for the district staff. Mr. Kabisch stated that it would be okay for the office to be closed on those days, but that the staff shouldn't receive holiday pay. Ms. Brunner asked that the members of the Board on the Operational Restructuring committee review their calendars for possible upcoming meeting dates that were detailed in the Officers Report.
- f) **Form an Ordinance 98-01 Subcommittee:** Mr. Scholz stated that it would be good to have recommendations prior to the time of Appropriations and he volunteered to be on the committee. Mr. Scholz stated that Ms. Brunner and Ms. Drain will have vital input for the Subcommittee, and Attorney Griffing can be pulled in for any clarification on the Ordinance. Ms. Hermann volunteered to be part of the committee.

The Board discussed that if the Subcommittee is more than 3 members, notice will need to be given for the meeting. Ms. Budd stated that the end of the year is an extremely busy time for her at work and she cannot commit to participating at this time.

Public Comment: Candice Carr Strauss: Ms. Strauss asked the Board if public involvement is welcome for the Ordinance Subcommittee. Mr. Scholz stated that public involvement is welcome at any meeting.

Hans Williamson: Mr. Williamson stated that he is available for any questions from the Board.

- (g) **Other:** Ms. Hermann stated that she has decided not to seek a 3rd term as a Board member. Ms. Hermann stated that when she started, there were approximately 1.7 million dollars in tax funds appropriated, and most recently the Board appropriated around 7 million dollars in funds. Ms. Hermann stated that she appreciates being a part of the district and having an impact on the community. Mr. Scholz thanked Ms. Hermann for her years of service.

Ms. Budd stated that she is undecided on whether she will seek another term.

D. New Business

- a) Mr. Scholz stated that types of facilities need to be discussed so that rules can be applied based on the type of facility.
- b) Mr. Scholz stated that the public might find it helpful to read how some of the different Resort Area Districts apply taxes, and that many are completely different than the Big Sky Resort Area District.

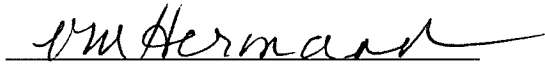
E. Public Comment

Ciara Wolfe, Big Sky Community Organization and Steve Johnson, Big Sky Parks District: Ms. Wolfe and Mr. Johnson requested a liaison for working with the Parks District regarding the TPL effort. Specifically, Mr. Germain would be their ideal candidate. Mr. Scholz agreed to contact Mr. Germain and request that he act a liaison. Mr. Scholz reminded Ms. Wolfe about the revision to the letter to the Trust for Public Lands from the District, and stated that it needs to be revised to clarify that the District has no obligation whatsoever.

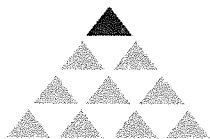
Mr. Scholz thanked the Board for their participation.

Chairperson Mike Scholz closed the open meeting at 11:20 a.m.

Respectfully Submitted,



Virginia Hermann, Secretary



RESORT TAX

— BUILDING BIG SKY SINCE 1982 —

FINAL MINUTES OF THE BIG SKY RESORT AREA DISTRICT

Ordinance Subcommittee

Wednesday, December 20, 2017 at 9:00 a.m.

Present: Mike Scholz, Chairperson
Ginna Hermann, Secretary

Whitney Brunner, Operations Officer
Kristin Drain, Administrative Officer

Subcommittee Chairperson Mike Scholz called the open meeting to order at 9:00 a.m.

I. Open Meeting

A. Public Comment: None.

B. New Business:

1. **Language Clean Up (Section 1: Definitions):** Mr. Scholz stated that though much thought has been put into the proposed amendments to the Ordinance, it can still be confusing. The Board approved a definition for "Destination Ski Resort" which will need to be added to the Ordinance. Mr. Scholz read the selected definition aloud:

"A destination ski resort or destination recreational facility means a facility that offers amenities, including but not limited to, food, drink, lodging, sports, entertainment, convention support, and shopping within the facility so that tourists or visitors do not need to leave the facility throughout their vacation."

The subcommittee discussed adding the following HOA definition from Attorney Griffing's opinion:

"Homeowners associations" means a private organization or "common interest community" set up to govern a community of properties, such as a set of condominiums, a subdivision, or neighborhood (Restatement (Third) of Prop.: Servitudes & 6.2; 1.8). The individually-owned lots are "burdened by a servitude" that imposes a mandatory obligation on the owners of property that cannot be avoided by nonuse of the property or withdrawal (Restatement, Id. & 1.8). The obligations imposed by an HOA generally include payments of dues or assessments to the association for: the use of, or to contribute to maintenance of, common property; services to common property or to the individually-owned property; or for enforcement of other servitudes such as covenants that burden the property in the subdivision or neighborhood, Id."

Ms. Hermann stated that it is better to include more definitions, etc. to make the Ordinance as clear as possible. The subcommittee discussed that necessities of life are things that aren't considered luxuries. The subcommittee discussed that Big Sky may want to return to having a list of exceptions. The subcommittee discussed there isn't a definition for "tourism purchases" but Mr. Scholz stated it's covered under Section 9 of the Ordinance. Ms. Brunner stated Attorney Griffing recommended changing the luxuries Section back to inclusive rather exclusive as it would help with not having to amend the Ordinance, and adopting an appeals process. Mr. Scholz stated that a catch all in the Ordinance will make the job of the staff more difficult. Ms. Brunner stated that she is having a hard time considering adding a list of exemptions.

2. **Taxability Issues (Sections 6, 8, 9, and 10):** The subcommittee discussed that HOA fees are not currently taxed and the Ordinance should clarify types of HOA fees.

Ms. Brunner stated that adding a list of exemptions in the Ordinance would show the evolution of the Board over the years, and all of the issues they've addressed. Ms. Brunner provided a combined list of exemptions from West Yellowstone and Whitefish combined. Ms. Brunner stated an alternative to an exemption list in the ordinance would be a separate document that tracks the activity of the compliance officer and its direction provided to tax collectors in the district. Ms. Brunner is afraid businesses will get bogged down in the list of exemptions. Ms. Brunner stated the real concern is the luxuries that *are* taxed, but that she is trying to provide some options for the subcommittee.

Mr. Scholz stated each district has specialized their ordinance to fit their community, for example, West Yellowstone doesn't tax the purchase of snowmobiles or chainsaws. Mr. Scholz stated that Big Sky Resort only sells items that tourists buy, therefore they must tax it all according to the Ordinance. Mr. Scholz asked whether the Board is wanting to make rules that create competitive inequality. Ms. Brunner stated it may be impossible not to create competitive inequality without putting all businesses into Section 9.

Ms. Hermann stated Whitefish doesn't tax internet sales because the purchaser never enters the district. Mr. Scholz discussed whether taxis, mass transit, helicopters, or cars that drive through the district should be taxed. Ms. Hermann stated that transportation within the district is a necessity. Mr. Scholz stated that sales tax is on real property, including second homes. A goods and services tax is on the sale of goods and services. Mr. Scholz stated that the Ordinance should address the fact that real property isn't to be taxed.

The subcommittee discussed how the Ordinance handles food products. Ms. Brunner stated Big Sky Grocery Stores reported that it takes an estimated two years for a grocer to become eligible for the Supplement Nutrition Assistance Program (SNAP). When a grocer becomes eligible, the grocery distributor sets up the POS system. SNAP items have a nutrition label not an ingredient label. The subcommittee discussed they don't want a general sales tax, and grocers are satisfied with the current Ordinance. The subcommittee discussed removing the calculations. Mr. Scholz thought reviewing the SNAP guidelines might be helpful to the subcommittee, but he found they are too complicated. The subcommittee discussed milk and water are exempted in other areas, and water is a necessity. The subcommittee stated that they'd also like to include "and milk" to Section 9, Number 9.

The subcommittee discussed the definition of "service" in Section 1, Number 15. Mr. Scholz stated Big Sky Resort exempts payroll as a service. Mr. Scholz stated there is a difference between hiring a person and providing a service. Mr. Scholz asked Hans Williamson, General Manager of the Yellowstone Club for his input. Mr. Williamson stated the Yellowstone Club charges Resort Tax on in-home services that are provided to members, such as a private chef, but they would like more guidance on how to tax in these cases.

Mr. Scholz stated some families travel with a private chef, but whether the service is taxed depends on where the staff lives. The subcommittee discussed property caretakers and whether caretaking is considered a service. Mr. Scholz stated that employment shouldn't be considered a service. Sarah Blechta of the Yellowstone Club stated someone on payroll is different than a service that's being provided for a fee.

Mr. Scholz stated West Yellowstone requires a \$500 deposit on new businesses that goes towards Resort Tax if the business doesn't survive, and businesses are also required to have a license. The subcommittee discussed if requiring a license would help legitimize farmer's market or concert vendors. Ms. Brunner asked the subcommittee why it should be the job of the district to know if a business is licensed or not. Mr. Scholz stated that licensing could help the Board determine the definition of a service and help to audit the business if necessary because the business would definitely be viable. Ms. Hermann asked who would be responsible for maintaining the list of businesses and whether they are licensed. Ms. Blechta stated that she purchased clothes from a vendor at the Big Sky farmer's market who traveled from Bozeman and asked if her purchase would be taxed. The subcommittee stated that the location of the purchase is the determining factor. Mr. Scholz asked if a state business license should be added to the definition of service to give the district more

leverage for enforcement, or if that would be overreaching. The subcommittee discussed that the term service absolutely needs to be defined in the Ordinance.

The subcommittee discussed that they need the legal opinion on internet and catalog sales from Attorney Griffing prior to making decisions on transportation under Section 9. Mr. Williamson stated that mass transportation in the district is funded partly by Resort Tax, and depending on the location of the actual transaction, transportation can be a complicated issue. The subcommittee discussed that outfitters should also be included in the catalog/internet sales opinion and will need further discussion afterwards. Ms. Hermann stated it is difficult to monitor where services are taking place, and for outfitters, their locations may be day-to-day decisions.

Ms. Hermann discussed Section 9, Number 4b. The subcommittee discussed that "the homeowners association" should be changed to "ownership". Mr. Scholz stated that the regarding voluntary recreational activities, the issue is ownership, not membership, and that servitudes are about ownership. Mr. Williamson stated that he believes club dues and deposits are servitudes; that they are refundable to the seller and then charged to the buyer. Mr. Scholz asked whether a servitude is part of the sale or transfer of real property. Mr. Scholz stated that a definition for "voluntary" might be necessary. Mr. Williamson stated that whether members use the common facilities or not, they are still paying dues. Mr. Williamson stated that other voluntary services such as visiting restaurants or the services of a ski instructor would be taxed. Mr. Williamson stated that dues can be lienied if unpaid and would be deducted from the refundable deposit at the time of sale.

Ms. Brunner proposed a revision changing the phrase to "recreational fees and dues, including but not limited to skiing and golfing, not mandatory by homeowners' associations. The subcommittee will consider the revision but will need more information from Attorney Griffing on servitudes and any decisions will depend on whether an entity is a private HOA or a common interest community. Ms. Hermann believes that the thought is correct but that the wording needs to be clearer. Mr. Scholz stated that the subcommittee's goal isn't to make new rules but to clarify the exiting rules.

The subcommittee discussed milk beverages again under Section 9 Number 9. Ms. Blechta asked whether stating "milk" would cover all milk beverages including almond milk, etc. The subcommittee agreed on the phrase "milk beverages".

The subcommittee discussed Section 9, Number 12 regarding rental agreements. Mr. Scholz discussed businesses that don't charge the guest the 3% but are still remitting the correct amount of tax based on their gross sales. The subcommittee discussed that if the tax is still being remitted that they are still in compliance. Mr. Williamson suggested adding the word "consecutive" after the (30) in number 12 to clarify that long term rentals must be 30 consecutive days.

Mr. Scholz stated leases need to be discussed. Mr. Scholz asked what "all" means in regards to taxable items for "destination ski resorts" and "destination recreational facilities". Mr. Scholz asked if "all" includes leases and medical services. Ms. Hermann stated that the definition of "all" can't be decided at today's meeting. Mr. Williamson asked for clarification on application of tax to cleaning fees.

The subcommittee discussed Section 10, Number 3. The subcommittee discussed GoPro cameras and Mr. Williamson stated that GoPro cameras are taxed if sold at the Yellowstone Club. Ms. Hermann stated electronics shouldn't be exempt from taxation because they are not necessities. The subcommittee discussed the word "electronics" should be removed from Section 10, Number 3.

The subcommittee returned to discussing Section 9, Number 14. The subcommittee discussed personal assistant-like services, and that landscaping services have already been excluded. The subcommittee discussed the line between luxuries and necessities. Mr. Williamson stated there is no valet tax, but shuttles are taxed for events at the Yellowstone Club, but every situation is different. Ms. Hermann stated Number 14 should be cut from the draft of the Ordinance. Mr. Scholz stated any sale of a service must be taxed. Mr. Scholz suggested adding the phrase "and guest services" after "private events" in Number 13 and eliminating Number 14.

The subcommittee discussed Section 10, Number 6 but will wait for the opinion on internet and catalog sales from Attorney Griffing to discuss further. Ms. Hermann stated phone sales should also be included in the opinion.

3. **Establish an Appeals Process:** The subcommittee discussed the proposed new sections to the Ordinance and how the process will work. The subcommittee discussed that items can be voted on by the Board if there are disagreements. The subcommittee stated they approve of the wording regarding the appeals process in Section 10, page 7.

The subcommittee discussed the need for clarification on definitions, wording, and the opinion on internet and catalog sales from Attorney Griffing. The subcommittee discussed that they would like the materials from Attorney Griffing a week before the Board meeting in the Board packet, or via secure email. The subcommittee also discussed the opinion on conflict of interest from Attorney Griffing.

The subcommittee discussed the timeline for drafting the updated Ordinance, and they concurred that an additional meeting may be needed around March 1st to complete the Ordinance prior to June appropriations.

Mr. Williamson stated he had reviewed the legal opinion from Attorney Griffing about "destination ski resorts" and "destination recreational facilities". Mr. Williamson agrees with Attorney Griffing's conclusion that the membership fees are refundable and are not taxable. Mr. Williamson asked if second homes are destinations and stated that the Yellowstone Club members are primary and secondary homeowners and are not visiting the club as a special trip or vacation. Mr. Williamson disagrees that the club is in the tourism industry and considers it hospitality instead. Mr. Williamson stated that anyone must be a member or be invited to the club, and the general public is not welcome. Mr. Williamson stated that members are already paying property taxes and supporting the community via property taxes. Mr. Williamson stated that there are very nice homes throughout Big Sky, but it is the equity in the club and the dues that make the property values higher. Mr. Williamson stated that members at private clubs are not tourists, and that the club is not advertised to the public as a destination for tourists. Mr. Williamson stated that he is available for any questions from the Board. Mr. Scholz asked Mr. Williamson if private clubs are distinct due to servitude and common elements. Mr. Williamson stated that yes, servitudes are part of the club, and they can be liened and facility use can be restricted. Mr. Williamson stated that national memberships require an extra deposit that would go towards a future real estate purchase, but most of those memberships are being recalled. Mr. Scholz stated that there must be proof that the private clubs are common interest communities. Mr. Williamson stated that the Yellowstone Club is willing to provide proof.

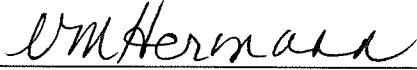
Mr. Scholz stated that the word "voluntary" may need to be removed from the Ordinance in Section 9, Number 4b. Ms. Hermann asked Mr. Williamson what would be taxed at the Yellowstone Club if not membership dues and fees. Mr. Williamson stated that skiing and golf would be taxed since those are voluntary services for members, and that the club has provided voluntary donations to cover these fees. Ms. Hermann stated that she appreciated the donations, but asked Mr. Williamson how the Board can assure that these donations will continue, because the community has many needs. Ms. Hermann stated the Board was challenged recently about not collecting all available tax money from the community, and the Board must be

fair. Mr. Scholz stated the Board is attempting to be fair, and while the community and economy are growing every day, a general sales tax could be created if the community was in need of a significant funding increase. Mr. Williamson stated the Yellowstone Club is willing to cooperate with the Board, but some documents are private. Mr. Scholz doesn't want the decision regarding membership fees at private clubs to be political.

The subcommittee discussed they are trying to clarify the Ordinance and it will depend on how the Board votes, there may be disagreements. Mr. Scholz thanked the staff for their time and work.

Chairperson Mike Scholz closed the open meeting at 11:37 p.m.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "VM Hermann", written in black ink.

Virginia Hermann, Secretary