

Blue Mountain Translator District
Board of Directors Regular Meeting
April 7, 2020

Regular Meeting at 10:00AM
Brent Clapp Production Studios
1912 4th St.
La Grande, OR 97850

Public Participation: BMTD is required by law to permit participation at a public location. In light of social distancing rules, it is requested that members of the public participate via phone. The meeting will be streamed online at BMTD's Facebook page.

Conference Number: 669-900-6833

Meeting ID: 923089732

Agenda

1. Call to Order and Roll Call Vote
2. Declaration of Conflict of Interest
3. Reports
 - a. Director Reports
 - b. Staff Report
4. Old Business
 - a. Bylaws Amendments
 - b. Performance Review Update
5. New Business
 - a. Expenditures
 - b. Procurement Policies and RFP Template
 - c. Local Channel Discussion
 - d. 2020-2021 Budget
 - e. Contract Review Board - Inter-Governmental Agreement with Union County 4-H & Extension Service District
6. Public Comment
7. Scheduling of Next Meeting and Adjournment

4.a. Bylaws Amendments

Staff Summary - Board Eligibility

SB 393 permits service charge payers to serve on BMTD's Board of Directors regardless of elector status. Rules to govern the appointment of non-electors to the Board should be included in the Bylaws. The following amendments to Section II are suggested following discussion with the Clerk of Baker County.

Suggested Motion: *I move to adopt the second reading of amendments to BMTD Bylaws.*

II. Board of Directors

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Directors (officers) may be removed prior to completion of term of office by: (1) Submitting a letter of resignation; (2) Request for resignation by unanimous vote of all other Directors; (3) Officers may be requested to step down from officer position by unanimous vote of all other Directors. **Directors who are not electors of the District but pay the service charge may be removed from office if the Secretary/Treasurer does not receive a service charge payment from this board member during the annual billing period.**

...

In accordance with ORS 354.655, individuals who pay the service charge but are not electors of the District may serve on the Board of Directors. In order to certify that an individual may be elected to the Board of Directors, the individual must have paid a service charge directly to the District prior to filing candidacy paperwork with the Baker County Clerk. When a non-electore who has paid the service charge files campaign paperwork with the Baker County Clerk, the Secretary/Treasurer will verify to the Baker County Clerk that the individual has paid the service charge. When a vacancy occurs on the Board of Directors, BMTD will first consider the appointment for non-electors who have already directly paid the service charge. If no electore of the District or non-electore who has paid the service charge applies for appointment to the Board, a non-electore may be appointed conditional upon the receipt of a service charge payment.

4.b. Performance Review Update**Staff Summary**

Vice President Innerarity will present the composite performance review scores completed for the Executive Director.

5.a. Expenditures

Payee	Description	Requirement	Amount
O TEC	Beaver Mtn. Power	Power	\$216.27
O TEC	Mt. Fanny Power	Power	\$299.71
O TEC	Mt. Harris Power	Power	\$1,940.00
Payroll & Accounting Services, PC	Accounting Services	Professional Services	\$239.35
Union County Chamber of Commerce	Annual Dues	Memberships	\$100.00
USPS	PO Box Renewal	Fees	\$112.00

5.B. Board Policies and RFP Template

Staff Summary: Board Policies Regarding Contracts and Competitive Bidding

BMTD does not currently have its own Board Policies Regarding Procurement and Contracting. As a result, ORS 279.065 requires BMTD to use the Oregon Attorney General's Model Rules General Provisions Related to Public Contracting (Oregon Administrative Rules Chapter 137 Division 46). These rules were generally designed for high-dollar state projects, and do not easily accommodate small projects by a rural special district. BMTD is statutorily permitted to reject the Attorney General's Model Rules and adopt its own procurement policies.

The following Board Policies Regarding Contracts and Procurements are proposed by the Executive Director. These policies duplicate the City of Aurora, Oregon's Municipal Code Contracts and Bidding Ordinance. Aurora is a rural community with fewer than 1,000 residents in Marion County.

Suggested Motion: I move to approve the first reading of Board Policies Regarding Contracts and Competitive Bidding.

Staff Summary - RFP Template

Following rejection of the Attorney General Model Rules, BMTD must adopt a new RFP template. An RFP used by the City of Aurora, OR in compliance with their municipal ordinance regarding public contracting can be used by BMTD as a template.

Suggested Motion: I move to adopt the RFP Template.

BMTD Board Policies Regarding Contracts and Competitive Bidding

1. Contract Review Board
 - a. The Board of Directors is designated as the local contract review board and relative to contract concerns of this District shall have all the powers granted to the State Public Contract Review Board.
2. Administrative Rules Adopted by Reference
 - a. The Model Public Contract Rules prepared by the state Attorney General are rejected.
 - b. The administrative rules for the local contract review board, attached to the ordinance codified in this section as Exhibit B, are adopted by the Board of Directors acting as the official governing body of the District and in its capacity as the local contract review board and will be available for public inspection at the office of the Executive Director.
3. Definitions

- a. The following words and phrases shall mean:
 - i. Board means the local contract review board as established in Section 3.04.010.
 - ii. Public contract means any purchase, lease or sale by the Blue Mountain Translator District Board of Directors of personal property, public improvements or services other than agreements which are exclusively for personal service.
 - iii. Public improvement means any construction of improvements on real property by or for the District.

4. Competitive Bids - Exemptions

- a. All contracts shall be based upon competitive bids except:
 - i. Contracts made with, or the cost of which is provided by, other public agencies or the federal government;
 - ii. Contracts for any purchase the amount of which are two thousand dollars (\$2,000.00) or less;
 - iii. Contracts for any item which is available only through one company, firm or individual;
 - iv. In any case where the interest or property of the District probably would suffer material injury by delay or would be materially benefited by immediate purchase or contract;
 - v. And including the other exemptions listed in ORS 279.015(1).
- b. The contract review board may by resolution exempt other contracts from competitive bidding if it finds:
 - i. The lack of bids will not result in favoritism or substantially diminish competition in awarding the contract; and
 - ii. The exemption will result in substantial cost savings. In making such finding, the board may consider the type, cost, amount of the contract, number of persons available to bid, and such other factors as the board may deem appropriate.

5. Emergency Contracts

- a. A contract may also be exempted from competitive bidding if the board, by unanimous vote, determines that emergency conditions require prompt execution of the contract. A determination of such an emergency shall be entered into the record of the meeting at which the determination was made.

6. Brand name specification in contracts.

- a. Specifications for contracts shall not require any product by any brand name or mark, nor the product of any particular manufacturer or seller, unless the product is exempted from this requirement by the board under this section. However, this section shall not be construed to

prevent reference in the specification to a particular product as a description of the type of item required.

- b. The board may by resolution exempt certain products or classes of products upon any of the following findings:
 - i. It is unlikely that such exemption will encourage favoritism in the awarding of the contract or substantially diminish competition.
 - ii. The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings.
 - iii. There is only one manufacturer or seller of the product of the quality required.
 - iv. Efficient utilization of existing equipment or supplies require the acquisition of compatible equipment or supplies.

7. Bid Rejection

- a. The BMTD Board of Directors or an official designated by the BMTD Board of Directors may reject any bid not in compliance with all prescribed public bidding procedures and requirements and may reject all bids if it is in the public interest to do so.

8. Bidder Disqualification

- a. The BMTD Board of Directors or an official designated by the BMTD Board of Directors may disqualify any person as a bidder on a contract if:
 - i. The person does not have sufficient financial ability to perform the contract. Evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;
 - ii. The person does not have equipment available to perform the contract;
 - iii. The person does not have personnel of sufficient experience to perform the contract; or
 - iv. The person has repeatedly breached contractual obligations to public and private contracting agencies.

9. Appeal of Disqualification

- a. A person who has been disqualified as a bidder may appeal such disqualification to the board as provided in this section:
 - i. The person shall, within three business days after receipt of notice of disqualification, in writing notify the BMTD Executive Directors that he or she wishes to appeal his or her disqualification.
 - ii. Immediately upon receipt of such written notice of appeal, the BMTD Executive Director shall inform the board.

- iii. Upon receipt of notice of appeal, the board shall notify the person appealing of the time and place of the hearing.
 - iv. The board shall consider de novo the notice of disqualification, the record of the investigation made by the Executive Director and any evidence provided by the parties. The hearing shall be public and the appeal decided within thirty (30) days after receiving the notification. The board's decision and reasons therefore shall be in writing.
10. Additional Authority of the Board
- a. In addition to the powers and duties established by this chapter, the board shall have such additional powers as authorized by state law and may also:
 - i. Require notice publication in addition to that required by state law;
 - ii. Require prequalification for persons desiring to bid for public improvement contracts;
 - iii. Grant exemptions from the bid security and performance bond required on contracts for public improvements;
 - iv. Make alternate arrangements for retainage pursuant to ORS 279.435.

5.c. Local Channel Discussion

Staff Summary

BMTD's local TV channel will launch this month. The following details should be discussed prior to official launch.

- Content
 - Syndicated TV from TelVue and PEG Media
 - Local TV programs
 - Video updates from Greg Walden and Grande Ronde Hospital
 - Local Government Meetings
 - Educational content from IMESD
 - Public safety announcements from local officials
- Channel Name
 - BMTD Now/Live, NE Oregon Live, Blue Mountains Now/Live
- Revenue Generation
 - How much recognition should sponsors receive in broadcasts and VOD content?
 - Salem CCTV: Sponsors receive recognition in certain programs (e.g. sports, music, local government meetings) based on size of donation
 - Traditional Broadcaster: Advertising client chooses dates/times/frequency of advertisement and pays accordingly

5.d. 2020-2021 Budget

Staff Summary

BMTD's budget cycle begins in April during a Board discussion about budget priorities. Directors should provide the Budget Officer (Executive Director, as per Bylaws) with priorities to develop with appropriate assistance. The Budget Officer will then provide the Budget Committee with recommended appropriations, revenue, and requirements based on Director priorities.

The Budget Officer notes the following information to inform the Board's priorities:

- Total Resources during the 2020-2021 fiscal year budget may include up to \$400k.
- BMTD purchased a playout system for a local channel during the 2019-20 fiscal year due to the COVID-19 outbreak. The District is no longer required to figure this expenditure into the 2020-2021 Budget.
- BMTD will be able to operate the OTA version of the local channel until the end of the COVID-19 National Emergency, projected for the middle of summer. The streaming version of the channel will run from April 2020-March 2021. BMTD can step back from regular operation of the Local Channel after the National Emergency ends and work on a new strategic plan and consider whether to renew the service in 2021. The Budget can include funding necessary to renew the streaming service and create a new LPTV station only if financial conditions permit operation.
- BMTD needs to construct a more resilient facility on Mt. Fanny. This includes funding for a quote from a construction firm and a NEPA study. Funding will likely be close to \$10,000.00 for the planning phase.
- BMTD needs to address signal interference issues on Mt. Fanny prior to launching an LPTV station. It is projected that this will require fencing and a NEPA study for the fence, perhaps around \$5,000.00.
- BMTD's health insurance expenses through SDIS will increase slightly.
- Most existing budget requirements are recommended to stay the same. The US economy is entering uncharted territory, and the financial impact on the District may be positive (cheapest TV option) or negative (revenue fell annually during the last recession). As with the last few years, the District should budget for minimum revenue with maximum engineering contingency needs.

**5.e. Contract Review Board - Inter-Governmental Agreement with Union
County 4-H & Extension Service District**

Staff Summary

The Intergovernmental Agreement between BMTD and Union County is up for renewal in October, 2020 and will be approved by Union County Commissioners at that time. Proposed changes to the agreement requested by OSU Extension staff and BMTD are **bolded**.

INTERGOVERNMENTAL AGREEMENT

Blue Mountain Translator District and Union County 4-H & Extension
Service District

This Intergovernmental Agreement is made and entered into between Blue Mountain Translator District, hereinafter "Blue Mountain" and Union County 4-H & Extension Service District, hereinafter "4-H."

RECITALS

WHEREAS, Blue Mountain has a need to occupy an agreed upon space of a storage building of 4-H to allow it access to the Windwave Switch available in the building and to house electrical equipment together with approximately four (4) square feet of an existing tower base.

WHEREAS, Blue Mountain and 4-H have determined that it is to their mutual benefit and the benefit of the general public if 4-H provides access to the Windwave switch, storage building and tower base.

WHEREAS, pursuant to ORS 190.010, units of local government may enter into agreement with other units of local government for the performance of any and all functions and activities that the parties to the agreement, its officers and agents have the authority to perform; and

WHEREAS, each party is a unit of local government, authorized to enter into this Agreement pursuant to ORS 10.010;

NOW, THEREFORE, THE PARTIES, in consideration of the mutual covenants set forth herein, agree as follows:

1. Term. This Agreement shall be effective upon the date of execution by both parties and shall continue for a period of 5 years

beginning October 22, 2020 and terminating October 21, 2025, unless terminated earlier as provided herein.

2. Renewal. As long as Blue Mountain is not in default under this Agreement, the parties will consider renewal at the end of said term. 4-H is under no obligation to renew this Agreement with Blue Mountain. Scope of Services.

3. Scope of Services.

3.1 4-H shall provide Blue Mountain space that is limited to approximately six (6) square feet inside the storage building to house electrical equipment and approximately four (4) square feet using the existing tower base, which will be for the satellite tower, located outside the Extension storage building north of the main Extension building.

3.2 The 4-H Extension Service District shall allow access to the main Extension building for Blue Mountain to install a communications cable (cat 5e) from the Windwave Communications switch in the main building over to the storage building **to connect to the Skyline Tower television equipment**, and install a four foot microwave dish on a tower next to the storage building. As a public service to the residents of Baker and Union County, there will be no rent charged for using the aforementioned space and existing tower base.

4. Additional Costs for Installation and Operation of Equipment. Any additional costs for internet, installation, and low power usage are the responsibility of Blue Mountain.

5. Utilities. Blue Mountain will pay monthly when due all charges for power incurred in connection with use and operation of its equipment as determined herein. The electrical usage of the Skyline Towers television equipment housed in the storage building will be determined with an in-line meter to measure power usage. This usage can be cross-checked against historical electrical records for verification. The current estimate of power usage based on actual equipment draw is equivalent to one 100 watt light bulb per month. This power usage will be the only cost to Skyline Tower and Blue Mountain.

6. Access. Blue Mountain or its technicians, be that Skyline Tower **or other contractors including RS Technology**, will be granted

24/7 access to their equipment in case of an outage or need for repair. Keys for locks will be held by the **President** of Blue Mountain.

7. Insurance. 4-H is not responsible to insure the equipment of Blue Mountain and it shall be the responsibility of Blue Mountain to insure its equipment.

8. Indemnification. Blue Mountain shall forever indemnify, reimburse, and hold 4-H harmless and, at 4-H's election, defend 4-H for, from and against any and all claims, costs, expenses (including attorney fees) losses, damages, fines, charges, actions, or other liabilities of any description suffered directly or from a third-party claim arising out of or in any way connected with Blue Mountain's possession or use of the property.

9. Termination.

9.1 This Agreement shall be terminated without further notice if Blue Mountain ceases to exist as a special district under Oregon law for any reason.

9.2 This Agreement may be terminated by either party giving sixty (60) days prior written notice to the other party.

9.3 Upon termination of this Agreement, Blue Mountain shall remove all equipment from the premises and repair any physical damage resulting from removal. Any equipment or personal property not removed within 30 days of termination shall be deemed abandoned and 4-H may dispose of it.

10. Notice. Any notice required under this Agreement shall be effective when actually delivered or, if mailed, when deposited in the United States mail, sent registered or certified mail, addressed as follows:

Blue Mountain Translator District
P.O. Box 901
La Grande, OR 97850

Union County 4-H & Extension Service District
10507 N. McAlister Road
Island City, OR 97850

11. Assignment. The parties may not assign this Agreement or sublet any portion of the structure without prior written consent of the other party.

12. Entire Agreement and Amendment. This document is the entire, final and complete agreement between Blue Mountain and 4-H regarding the subject matter contained in it, and supersedes and replaces all prior or existing written and oral agreements between the Blue Mountain and 4-H. No amendment to this Agreement shall be effective unless first reduced to writing and signed by the parties.

13. Waiver. Waiver of either party of strict performance of any provision of this Agreement shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or any other provision.

Tim Wallender, President
The Board of Directors
Blue Mountain Translator
District

Dated: _____, 2020

Dated: _____, 2020

Paul, Commission Chair
4-H & Extension Service District

Donna Beverage, Commissioner
4-H & Extension Service District

Dated: _____, 2020

Matt Scarfo, Commissioner
4-H & Extension Service District

Dated: _____, 2020