

Blue Mountain Translator District
Board of Directors Regular Meeting
August 4, 2020

Regular Meeting: 6:30 PM
Conference Number: 253-215-8782
Meeting ID: 89434971892

Public Participation: BMTD is required by law to permit participation at a public location. In compliance with Executive Order 20-16, members of the public may participate via phone. The meeting will be streamed online at www.bmtd.org/now.

Agenda

1. Call to Order and Roll Call Vote
2. Declaration of Conflict of Interest
3. Reports
 - a. Director Report
 - b. Staff Report
4. Old Business
 - a. Safety
5. New Business
 - a. Mt. Fanny Management
 - b. Expenditures
 - c. Minutes
 - d. 2020-21 Supplemental Budget
 - e. Personnel
 - f. RFP 2020-4 20192-2020 Fiscal Year Audit
 - g. Blue Mountains Now/Engineering
 - h. Legislative Affairs
6. Public Comment
7. Scheduling of Next Meeting and Adjournment

5.a. Mt. Fanny Management

Staff Summary - Mt. Fanny Powerline Fund

In 2018, the Board of Directors passed Resolution 2018-3: Resolution Creating Mt. Fanny Powerline Reserve Fund. A pre-existing bank account utilized to deposit and spend lease fees for access to BMTD's powerline on Mt. Fanny is governed by this Resolution. Form LB-11, utilized to write the annual budget for use of these funds, is described by the Oregon Local Budgeting Manual as, "used to show the resources and requirements of a reserve fund. All or part of the amount in a reserve fund may be budgeted as 'reserved for future expenditure.' Alternatively, all or part of the amount in a reserve fund may be budgeted for any expenditure items that fall within the purpose for which the reserve fund was created. Expenditure items should be subtotaled by expenditure category and appropriated. The amount reserved for future expenditure should not be appropriated." Reserve funds are governed by ORS 294.346.

Lease fees paid to BMTD under contract by 8 lessees are public money, and these funds have been appropriately budgeted as a reserve fund since 2018. It is unknown how fees were governed prior to Board action in 2018. Under ORS 294.346, if the Board decides to abolish the Mt. Fanny Powerline Reserve Fund, the money would statutorily be added to the General Fund in express violation of contracts made with lessees. Furthermore, documentation of the Reserve Fund, including financial reports generated by District staff and contractors, are public records without any exemption under ORS 192.345 or 192.355.

In 2019, a lessee requested that BMTD begin providing annual reports regarding the Mt. Fanny Powerline Reserve Fund. Fund income is already reported on BMTD's monthly financial reports prepared by Payroll & Accounting Services, PC, and posted online. Fund revenue, along with opening and closing balances, is already included in annual LB-11 budget forms for prior years as required by law. An annual finance report to lessees is thereby composed of public information that would take additional time for a lessee to collate by themselves, while District staff already possess this information and can produce a digital copy in less than five minutes.

A Director disputes that the Mt. Fanny Powerline Reserve Fund is subject to public record, despite state law and past actions of the Board expressly governing this fund as a public Reserve Fund under state law, and opposes the disclosure of Fund financial reports to lessees. It is suggested that the Board ask the District's attorney to verify whether all money possessed by a government agency is government money, and that records related to this government fund are subject to disclosure aside from standard exemptions related to financial disclosures under ORS 192.345 and 192.355.

Staff Summary - Site visit with USFS

Below is the text of an email (dated 7/9/2020) sent to Directors, contractors, and tenants regarding a site visit to Mt. Fanny that occurred on 7/8/2020:

"Yesterday I visited Mt. Fanny with the District Ranger, Bill Gamble, and we looked at options for site improvements. I've included site pictures and a video of the building site so that we know what we are working with.

"First off, the road to Mt. Fanny is impassable with regular vehicles right now. About 3.5 miles out from the tower site, there's a fallen tree blocking the road, and a good chunk of the road after this is covered with snow, so even if the tree is removed you're not going to get much further with a regular motor vehicle. One of the attached photos shows a vehicle some techs from OPB used to get to the site. Bill and I had to hike to the site.

"When reviewing the site, Bill was hard pressed to figure out how the building could possibly be expanded given the limited land around it. Using a rock drill to install stilts for a building would reverberate through the massive rock outcropping where the building is situated will disturb neighboring peregrine falcon nests, so that's basically a non-starter.

"Based on what we saw at the site, Bill's best recommendation would be to build our new facility near the helipad and then send cables up the hill, similar to what we discussed last time. The helicopter pad needs to be destroyed because it's just a bunch of rotting wood. Bill isn't sure about the need to replace it specifically. The central conceit of the helicopter pad is to access the site by air in winter, but at the point that snow would cause enough trouble that helicopters would be needed, the helicopter pad would be buried, too. He is committed to getting trees thinned so that we can get a helicopter up there.

"Given the snow/road conditions, it's unlikely that the road is going to be navigable by vehicle this month. If we want to visit the site, we're going to need to hike quite a distance, or rent some ATV's like 4-wheelers or the vehicle OPB used. The trap is additionally hazardous because a good portion of the road after Moss Springs has been consumed by a stream of snow runoff. The stream gets bigger and erodes more of the road as the heat of the passing day causes increased snowmelt, so getting as far up the road as we did is going to require 4-wheel drive and real offroad driving skill. The snow levels are higher than expected, and Bill believes the roads are going to be this way through the rest of the month. So, if we want to do a site visit, we should probably wait until August, unless we're all comfortable with driving under current conditions and taking a hike."

5.b. Expenditures

Payee	Expenditure	Requirement	Amount
Alex McHaddad	Mt. Fanny trip mileage	Travel & Education	\$31.63
Baum Smith	Haines Stampede/CARES Act Review	Professional Services	\$830.00
Chaves Consulting	Billing Expenses	Consultant	\$180.00

Staff Summary - Internet ACH

BMTD has the option of paying for monthly Internet service via ACH, ensuring timely payment of Internet bills. Staff recommends that BMTD begin paying Internet bills to EONI via ACH.

Suggested Motion: *I move to pay bills from EONI by ACH.*

Staff Summary - RS Technology Invoice 4516

An invoice from BMTD's contractor includes services rendered to both BMTD and Skyline Tower. An email from Skyline Tower included this message from RS Technology: "I reached out to Rob about looking over the invoice for the work he provided, and to parse out and invoice what he thought the Skyline costs incurred were. He mentioned that there were really no costs he could define as Skyline incurred costs." The Board can choose to pay the whole bill, or ask RS Technology for a new invoice delineating costs.

5.c. Minutes

Minutes

- 7/7/2020 Regular Meeting Minutes

5.d. 2020-21 Supplemental Budget

Staff Summary

BMTD was reimbursed for local channel expenses by the State of Oregon using CARES Act Funding due to the COVID-19 National Emergency. Deliberations by the Board during this item will direct the Executive Director's drafting process for a Supplemental Budget to be presented to the Board of Directors in August. Funds were awarded in the following amounts:

- Fees: \$5,400.00. Covered TelVue setup services.
- Equipment: \$21,325.93. Covers the purchase of the TelVue HyperCaster, TelVue TeleCast, Trilithic EASyCAP, and BlackMagic Design SDI Distribution 4K device (for playout system feed splitting).
- Wages: \$1,700.00. Covers additional hours for the Executive Director that the District could not afford to compensate in the 2019-20 Budget.
- TOTAL: \$28,425.93

BMTD's attorney advises that, "funds are to be used for expenditures incurred due to COVID-19 during the period of March 1, 2020 through December 30, 2020. This would not mean it has to be spent during that time, only that it has go to paying qualifying expenses that are incurred during that time." At this time, the reimbursement money can be counted toward the District's Unappropriated Ending Fund Balance, and can be incorporated into the 2021-2022 Budget. The only modification that can be made this year within the framework is expanding the Wages Requirement to backfill unpaid wages to the Executive Director as a result of the COVID-19 National Emergency. The Board is asked to consider additional action related to supplemental budget changes.

5.e. Personnel

Staff Summary - Employee Handbook Violations

BMTD employee paychecks are currently written by the accounting service and signed by two Directors. Paychecks are not provided to staff with any predictability or regularity. The Employee Handbook includes the following terms:

- II.H. "Paydays are generally the last working day of each month, for both non-exempt and exempt employees."
- II.H. "Net pay will be directly deposited into the employee's bank account, unless an employee requests otherwise."
- II.H. "In the event you believe that the Blue Mountain Translator District has made any improper deductions, has failed to pay you for all hours worked or for overtime, or has failed to properly calculate your wages in any way, you must immediately report the error to Board of Directors."
- II.H. "No employee will suffer retaliation or discrimination because he or she has reported any errors or complaints regarding the Blue Mountain Translator District's pay practices."

It is hereby reported to the Board of Directors:

- In violation of Employee Handbook section II.H., the Executive Director has not been paid via auto deposit since the beginning of employment in July 2017, despite never requesting otherwise.
- In violation of Employee Handbook section II.H., the Temporary Office Assistant has not been paid via auto deposit since the beginning of employment in June 2020, despite never requesting otherwise.
- In violation of section II.H., both employees of the District have not been paid for the June 26, 2020 - July 25, 2020 pay period.

Requested redress of violations: The District should instruct Payroll & Accounting Services, PC that automatic deposit of paychecks is a preexisting contractual obligation of BMTD. BMTD employees should receive payment for the previous pay period by close of business on August 7, 2020.

Staff Summary - Temporary Office Assistant Recommendations

According to Employee Handbook VI.C., "All requests for references or recommendations must be directed to Board of Directors." The Executive Director recommends that the Board of Directors authorize writing a letter of recommendation for Mr. Curtis Carson, signed by the Board of Directors. Mr. Carson has been an exemplary employee, and the Board should proudly recommend his employment to future employees.

Suggested Motion: *I move to authorize the Executive Director to write a letter of recommendation for Mr. Curtis Carson to be signed by the Board.*

Staff Summary - Employee Handbook Amendment First Reading

BMTD's Employee Handbook was not written with the District's workforce in mind. The Executive Director is part-time and thus not entitled to benefits under the handbook Section II.B.2.

Suggested changes to Section II.B.2.: "Regular Part-time: Employment requiring less than 40 hours of work per week. Normally a part-time schedule, such as portions of days or weeks, will be established. Occasional workweeks of over 40 hours will not constitute a change in status from part-time to full-time. Regular, part-time employees are not eligible for benefits including paid time off, leaves or medical insurance except those mandated by applicable law **or authorized by the Board of Directors.**"

Suggested motion: *I move to approve the first reading of the amendment to Section II.B.2 of the employee handbook.*

Staff Summary - Sick Pay

In order to improve working conditions, it is requested that the Employee Handbook grants sick pay to part-time employees when authorized by the Board.

III.C.: Employers that employ fewer than 10 employees working anywhere in this state shall implement a sick time policy that allows an employee to earn and use up to 40 hours of unpaid sick time per year. Unpaid sick time shall accrue at the rate of at least one hour of unpaid sick time for every 30 hours the employee works or 1-1/3 hours for every 40 hours the employee works. Sick days may be used after they are earned, following Blue Mountain Translator District's regular call-in policy. Any more than three consecutive days of absence due to illness must be supported by a doctor's statement and a release to allow the employee to return to work.

The Board may implement a sick time policy that allows full and part-time employees to earn and use up to 30 hours of paid sick time per year. Paid sick time shall accrue at the rate of at least one hour of paid sick time for every 30 hours the employee works. Sick days may be used after they are earned, following Blue Mountain Translator District's regular call-in policy. Any more than three consecutive days of absence due to illness must be supported by a doctor's statement and a release to allow the employee to return to work. Sick leave is not accumulated while an employee is on a leave of absence without pay.

Employees are not entitled to be paid for earned but unused sick days, either before or when their employment is terminated for any reason.

Employees who abuse sick leave or violate this policy will be subject to discipline, up to and including termination.

Suggested Motion: *I move to approve the first reading of the amendment to Section III.C. of the Employee Handbook.*

5.f. RFP 2020-4 2019-2020 Fiscal Year Audit

Staff Summary - Audit

BMTD will issue RFP 2020-4 to seek a qualified firm to conduct an audit for fiscal year 2019-2020. The Board of Directors will approve a supplemental budget to fund the cost of an audit once a proposal has been accepted. An audit is estimated to cost approximately \$10,000.00.

Suggested Motion: *I move to approve RFP 2020-4.*

5.g. Blue Mountains Now/Engineering

Staff Summary - Channel Lineup Changes

On July 28, Portland stations cooperatively transitioned two channel licenses, KRCW 32 (RF 33) and KPDX 49 (RF 30), to ATSC 3.0. Channel 33 now broadcasts ATSC 3.0 versions of The CW, ABC, and CBS, while Channel 30 now broadcasts ATSC 3.0 versions of MyNetworkTV, NBC, OPB, and Fox. ATSC 1.0 versions of KRCW and KPDX network affiliates and subchannels were spliced into existing ATSC 1.0 subchannels, and are now relayed to BMTD's translators as follows:

- KGW carries 8-1 to 8-3, 49-2, and 49-4
- KOIN carries 6-1 to 6-3, and 32-2 to 32-4
- KPTV carries 12-1 to 12-4, 49-1, and 49-3
- KATU carries 2-1 to 2-4, and 32-1
- BMTD RF Channel K31NG-D still broadcasts KRCW on Mt. Fanny
- BMTD RF Channel K23DB-D still broadcasts KPDX on Mt. Fanny

As a result of the ATSC 3.0 repack, all BMTD viewers now have access to KPDX and KRCW, which had previously been relayed only from Mt. Fanny. This means that Mt. Fanny viewers also have duplicates of KPDX and KRCW unless BMTD changes the channel lineup. The following possible changes are suggested for K31NG-D and K23DB-D:

- Repurpose one license to broadcast Blue Mountains Now, and curate other subchannels. KDOV in Medford, OR and Blue Mountains TV in Walla Walla, WA have discussed rebroadcasting over a subchannel of Blue Mountains Now.
- Relay KFFX on a subchannel to improve reception in La Grande and northern Baker County. KFFX is the Yakima DMA Fox affiliate, currently based in Spout Springs and reaching northern Union County with consumer-grade antennas, and as far south as Baker City with more expensive, higher quality antennas.
- Relay Idaho Channel 22, a Boise-area superstation with 12 channels. The owner of this independent station has granted retransmission to BMTD should the District desire to translate. Relaying Idaho Channel 22 to Mt. Fanny would necessarily require a new channel on Beaver Mtn. Idaho Channel 22 includes the following affiliates: NewsMax, This TV, Heroes & Icons, Decades, Movies, Start TV, Light TV, Retro TV, KTSY Radio, KOAY Radio, ShopLC, Radio Weather. RS Technology has verified that BMTD can choose which channels to retransmit with additional equipment.
- Rebroadcast Blue Mountains TV, an independent station based in Walla Walla. BMTV has previously discussed being rebroadcast as a subchannel of Blue Mountains Now.
- Find two existing Channel/Subchannel combinations to rebroadcast, or create two new combinations of Channels/Subchannels to rebroadcast.
- Transition one or both channels to ATSC 3.0.

5.h. Legislative Affairs

Staff Summary - Special Districts Provide Essential Services Act

The Special Districts Association of Oregon requests that special districts in Oregon submit letters of support to the state's Congressional delegation for H.R. 7073 and S. 4308. Provisions include:

- Would require states to distribute 5 percent of future Coronavirus Relief Fund allocations to special districts within their respective state within 60 days of receiving funds from the U.S. Treasury.
- Special districts applying for funding would submit information to their state demonstrating the degree to which they have experienced or anticipate they will experience COVID-19-related revenue loss, grant/inter-governmental revenue loss, or increased COVID-19-related expenditures.
- Limits allocations such that a special district may not receive funding that exceeds the amount the district expended in any quarter of 2019. Special districts providing services the federal Cybersecurity and Infrastructure Security Agency deems to be within a "critical infrastructure sector" would be exempt from limitations.
- Provides flexibility for states with excess funds reserved for special districts that make a good faith effort to distribute funds to districts within the state. States file a waiver with U.S. Treasury after 60 days demonstrating how the state distributed its special districts funding. If approved, the state may use the balance of the funds for other COVID-19 response purposes.
- "Special district" would be defined as a "political subdivision of a State, formed pursuant to general law or special act of the State, for the purpose of performing one or more governmental or proprietary functions."
- Would direct the U.S. Department of Treasury to consider special districts as eligible issuers to take advantage of the Municipal Liquidity Facility, as established in the CARES Act, for access to capital during the current financial downturn.

Suggested Motion: *I move to take a position of support for HR 7073 and S 4308.*