
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT January 26, 2005

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., January 26, 2005 in the Conference Room of the Beaver Creek Club, Beaver Creek, Colorado.

Attendance

In Attendance were Directors:

- Stephen Friedman
- John Wells
- Al Mielcuszny
- John Forstmann

Absent and excused was Director:

- Tommie Campbell

Also in Attendance were:

- Larry Grafel, General Manager
- Ken Marchetti, CPA, Secretary
- James Collins, Esq., District Counsel
- Kathy Lewensten, Robertson & Marchetti, P.C.
- Bill Simmons, Village Operations
- John Garnsey, COO Beaver Creek
- Tony O'Rourke, BCRC
- Ginny Forstmann, BCPOA
- Tom Schouten, BCPOA
- Mark Donaldson, Victor Mark Donaldson Architects
- Bob McIlveen, Vail Resorts
- Jim Telling, East West Partners

Call to Order

The Regular Meeting of the Board of Directors of Beaver Creek Metropolitan District was called to order by Director Wells, Chairman of the Board, noting that a quorum was present. Director Wells confirmed that prior to the meeting each of the Directors had been notified of the meeting and that written notice was duly posted at the Eagle County Clerk and Recorder's Office and at three public places within the District.

Conflicts

The Board noted that it had received certain disclosures of potential conflict of interest statements more than seventy-two hours prior to the meeting for each of the following Directors,

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indicating the following conflicts: Mr. Stephen Friedman is a board member of the Beaver Creek Arts Foundation which operates the performing arts facilities within Beaver Creek; Ms. Beatrice "Tommie" Campbell is a member of the Beaver Creek Communications Committee; Mr. Albert Mielcuszny is an owner of a retail store which leases and contracts with Vail Associates or Affiliates; and Mr. John Wells is President of The Pines Townhomes at Beaver Creek Condominium Association; Mr. John Forstmann is a board member of the Beaver Creek Club. The Board noted for the record that these disclosures are restated at this time with the intent of fully complying with laws pertaining to potential conflicts.

Minutes

The Board reviewed the minutes of the November 17, 2004 Regular Meeting. Upon motion duly made and seconded, it was, unanimously,

RESOLVED to approve the minutes of the November 17, 2004 Regular meeting.

Future Meetings

The Board reviewed the 2005 meeting dates schedule included in the packet. The regular meeting day will be the fourth Wednesday of the month. Due to holidays, the November and December meetings are scheduled for the third Wednesday. Upon motion duly made and seconded, it was unanimously

RESOLVED to adopt the 2005 meeting schedule as presented.

Agenda Changes

No changes were made to the agenda.

Public Input

Ms. Forstmann informed the Board that BCPOA had formed a committee to review the proposed mill levy election issues. Mr. Schouten is the head of the committee. He stated the committee would like to obtain historical information and any other pertinent information regarding the mill levy and the proposed changes. He explained BCPOA is looking to better understand the issue so it can keep the homeowners informed of the matter and the BCPOA position. The Board thanked BCPOA for its interest. The Board

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will appoint representatives to meet with the committee and will notify Mr. Schouten.

Mr. Garnsey presented an update on the recently opened lifts at Beaver Creek Landing. One objective of this project was to decrease the number of buses that travel on Village Road. He stated that utilization at the Landing is approximately 50% by skiers arriving on buses and 25% of all skiers. There are still a significant number of skiers downloading by bus from the main area instead of riding the lifts back down to Beaver Creek Landing. Bus drivers and resort personnel are being encouraged to communicate information to the public regarding the BC Landing and how to best utilize the area. Mr. Garnsey explained the objective of reducing the bus traffic remains at the forefront.

Tract M

Mr. Grafel introduced Mr. Jim Telling from East West Partners to the Board. Mr. Telling explained he wished to begin a dialogue with the District about various matters concerning the Village Walk Development on Tract M. He asked whether the Board would consider acceptance of the roadway after completion if it is built to District standards. He referred the Board to the site plan provided in the packet. The roadway will not be restricted. The Board stated that in principal it did not have any current issues with considering the roadway. Mr. Marchetti pointed out that there is a procedure that will need to be followed if the District is formally asked about the road conveyance.

Mr. Telling reported that preliminary discussions had been held with Mr. Grafel regarding the relocation of the utilities. He explained East West Properties intends to relocate the existing utilities at no cost to the District, but pointed out that if the District was interested in making significant improvements to the utilities during the relocation process that the District may be asked to pay for those improvements. The Board asked what type of improvements may be needed and whether any cost estimates were currently available. At this time that information is not available. The concerns of the Board regarding the project include the following: the utility relocation issue is reviewed to better understand what the developer considers over and above standard relocation costs and any easement issues; the fire station not have any interruption of service due to the relocation of the utilities; and the roadway be constructed to District standards for consideration.

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Resolution for Posting Places

The Board reviewed the resolution to set posting places for notices. The posting places currently used are the First Bank in Beaver Creek, the Beaver Creek Club, and the District Office. Upon motion duly made and seconded, it was unanimously

RESOLVED to post notices of the District's 2005 meetings as follows:

Notices of meetings of the District's Board of Directors required pursuant to Section 24-6-401, et. seq., C.R.S., shall be posted within the boundaries of the District at least 24 hours prior to each meeting at the following location:

First Bank, 0026 Avondale Lane, Beaver Creek.

Notices of regular or special meetings required to be posted at three public places within the District and at the office of the County Clerk and Recorder at least 3 days prior to said meeting shall continue to be made pursuant to Section 32-1-903(2), C.R.S.

UERWA

Director Friedman reported there had been a change in the UERWA board representative from Arrowhead Metropolitan District. This change will necessitate a change in the representative from UERWA to the Eagle Park Reservoir board. At the next UERWA meeting this representative will be chosen. The consolidation/merger discussion concerning UERWA and ERWSD is ongoing. At this point the District's position continues to be that there are no compelling arguments for the consolidation.

Cordillera Metropolitan District (CMD) and Edwards Metropolitan District (EMD) need to do an inclusion election in the coming year to rectify an oversight regarding the areas covered for sanitation services. There had been preliminary discussions about expanding the election to include a question regarding the inclusion of CMD and EMD into the Eagle River Water and Sanitation District for sanitation and water service. Neither CMD nor EMD Boards approved submitting this question to the voters at this time.

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The snow pack is currently above average, depending on the thaw rate it appears the water supply will be adequate for this year. The UERWA continues to monitor the possibility of calls due to the low levels in Lake Powell.

General Managers Update

Eagle-Vail Maintenance Facility: Mr. Grafel and Mr. Donaldson reported on the results of the Districts location and extent hearing at Eagle County. The Eagle County Planning Commission Board gave unanimous approval of the application with seven conditions. The conditions can be found in the packet under the general managers update. Mr. Collins recommended the Board adopt a resolution which overrules the conditions and expresses the continuing intent of the District to be cooperative in the building process. The Board discussed with Counsel the pros and cons of the matter. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve a resolution regarding the location and extent of operations and maintenance facility, which is hereby attached to become part of the minutes.

It was reported that eleven contractors have expressed interest in the project. The current project timeline includes solicitation of bids from February 3rd through February 21st. On February 21st there will be a public bid opening. Mr. Grafel and Mr. Donaldson will present a compilation of the bids to the Board at the February meeting. Director Forstmann stressed that the project needs to meet the budget set of \$1.6 million. Mr. Donaldson stated that he had received two rough estimates on the project, one was close to budget the other was closer to \$2 million.

Mr. Grafel asked the Board to consider the Amendment to Reciprocal Easement and Maintenance Agreement which had been provided by Vail Resorts. Mr. Grafel had emailed this to the Board on Monday. The new exhibits and revised agreement identify the easements with legal descriptions that are needed for the re-platting and titling of the parcels. Upon motion duly made and seconded, it was unanimously

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RESOLVED to approve the Amendment to Reciprocal Easement and Maintenance Agreement with Amended exhibits subject to District Counsel review.

**Wild land
Fire Mitigation:**

Mr. O'Rourke reported the defensible space criteria and language regarding enforcement was still being reviewed in the Beaver Creek wildland fire mitigation plan. The meeting with two of the Eagle County Commissioners in December had gone well. Anchor Point has been asked to review the higher risk areas to see what can be done to get to a lower risk rating. The Board asked about the clearing of deadfall, "catch up" maintenance costs and how the cost regarding private property is handled. Mr. O'Rourke explained that if BCRC personnel remove deadfall from private property the owner will be billed. If the property is not private the costs are shared between the District and BCRC. The Board asked about land owned by Vail Resorts. Mr. O'Rourke stated it would depend on whether the land was used as public access even though it is considered privately owned by Vail Resorts. Mr. O'Rourke was asked about synthetic shingles and whether they are acceptable. There is some confusion regarding the matter, he responded that they are and that he will contact the appropriate parties to clear the misunderstanding up.

**Tract Q
Reimbursement
Payment**

The Board reviewed the response received from Vail Resorts regarding the VAI direct expense costs included in the \$112,361.33 reimbursement payment request for the Districts share of the Tract Q costs that had been included in the packet. Mr. McIlveen stated the VAI direct expenses were for planning services provided by VR employees for this specific project. He pointed out that the services were necessary and would have been provided by a third party if not done by VR employees, therefore the cost was perceived by VR as being appropriate. The Board noted that at the time it agreed to share the costs it did not have any input or control over the type of expenditures and expressed discomfort that the planning costs had grown to over \$700,000. The Board had thought the costs would have been in the \$200,000 range. Mr. McIlveen stated the planning costs increased to accommodate the redesigns as the project changed during negotiations and that they reflected how close the project was to

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being put out for bid, including preparation of all pertinent bid documents. Director Wells offered a motion to compromise by asking VA to remove the direct cost and paying the appropriate portion of the remaining costs. The motion did not receive a second. The Board asked counsel to review the record and the contracts regarding the matter for any clarification and asked that further discussion of the matter be done in executive session.

Legal

Mr. Collins discussed the timeline for the November election. The Board expects to ask for a change in the mill levy. The Board appointed a subcommittee of Director Mielcuszny and Director Friedman to review the matter. They will meet with Mr. Marchetti to review the history and details of the mill levy, then they will meet with Mr. Schouten to share the information. The Board asked Mr. Collins to provide suggested language for ballot questions without including any numbers. The Board also asked for a suggested question regarding the Vilar Center Funding.

Mr. Collins reported it appears the matter with Strawberry Park Condominium Association may be coming to a resolution. He stated the easement agreement has been received. Several details are left but he is hopeful the Board will be able to authorize payment of the agreed upon amount of \$16,633.99 by the next meeting.

Mr. Collins referred to the correspondence from Market Square in the packet. A response had been made that the District did not object to the proposed review. Mr. Collins explained what this meant to the District since it had previously notified Market Square that it would not be paying dues until the matter is reviewed further. Mr. Collins stated the District may receive a proposal regarding this matter from BCRC for consideration in the near future.

The Board asked Mr. Collins about the Districts rights and easements regarding matters relating to the front gate remodel and Prater road. Mr. Collins will review the matter and report back to the Board.

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Financial Statements

Mr. Marchetti reviewed the December 2004 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the December 2004 preliminary financials as presented.

Accounts Payable

The Accounts Payable listing was reviewed. The Tract Q Payment will continue to be held as discussed above. By motion duly made and seconded, it was unanimously

RESOLVED to approve the accounts payable list as presented.

Other Business

The Board asked Mr. Grafel if he had been approached by BCRC about the valet parking service and any future plans for relocation. Mr. Grafel responded he had not. The Board discussed the matter briefly noting that they had extended the agreement for one season only at the current location. Ms. Forstmann reported that at the BCRC meeting it had been mentioned that the valet service had preliminary discussions with Strawberry Park Condo's to see if they could use some of the parking spaces for the service.

SDA Insurance Resolution

The Board reviewed the SDA Insurance resolution and agreement included in the packet. A discussion of governmental immunity, coverage levels and the type of coverage followed. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the execution of the Resolution and Intergovernmental Agreement for the Colorado Special Districts Property and Liability Pool

Executive Session

Upon motion duly made and seconded, it was unanimously

RESOLVED to enter into executive session citing §24-6-402(4)(b),(e) and (f) C.R.S. for the purpose of receiving advice from counsel, discussing legal and personnel matters, and contract negotiations regarding Tract M, Tract Q expenses, Eagle-Vail Admin and Maintenance facility,

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and personnel matters. The Board entered into Executive session at 11:20 a.m. and returned at 12:40 p.m.

After returning from Executive Session, upon motion duly made and seconded, it was unanimously

RESOLVED to renew the annual employment contract of Mr. Grafel.

Adjournment

There being no further business to come before the Board, by motion duly made and seconded, it was unanimously

RESOLVED to adjourn the Regular Meeting of the Beaver Creek Metropolitan District Board of Directors held on January 26, 2005.

Respectfully submitted,

Kathy Lewensten
Secretary for the meeting