
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT February 23, 2005

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., February 23, 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
- Tommie Campbell

Absent and excused was Director:

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
- Chris Juergens, Victor Mark Donaldson Architects
- Jim Kaylor, Property Owner
- Jim Funk, BC Public Safety

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

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hours prior to the meeting for each of the following Directors, 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; 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 January 26, 2005 Regular Meeting. A clarification was made under Wildland Fire Mitigation. Upon motion duly made and seconded, it was, unanimously,

RESOLVED to approve the minutes of the January 26, 2005 Regular meeting as revised.

Future Meetings

No changes were made to the meeting schedule; the next meeting will be Wednesday, March 23, 2005.

Agenda Changes

No changes were made to the agenda.

Public Input

No public input was offered.

General Managers Update

Eagle-Vail Admin and Operations Facility: Mr. Grafel and Mr. Donaldson reported on the results of the Bid opening that occurred on Monday, February 21 for the Administration and Operations Facility project in Eagle-Vail. Although seven interested parties attended the mandatory pre-bid meeting only two bids were submitted. Mr. Grafel commented he was disappointed in the bid results and provided the Board with a handout which recapped and compared the two bids. Both bids submitted were approximately \$2.4 million which exceeds the projects budget amount of \$1.6 million. Director Forstmann asked why this was the case when the Board had stressed that the project was to be designed within the

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budget. Mr. Donaldson explained that part of the variance is due to circumstances beyond the control of planning and design, such as the market place demand for construction services. Mr. Grafel pointed out that through the planning process the project had increased from 7,950 sq. ft. to 9,330 sq. ft. Director Friedman stated he had not understood that the changes and revisions that had been discussed at previous meetings were causing an overall increase in the square footage. The Board reviewed the cost comparison provided in the hand out.

The Board asked Mr. Collins what options were available regarding the bids. Mr. Collins stated the Board had several options, the Board can accept a bid, or it can reject all bids and try to negotiate a bid, or re-bid a “new” project after redesigning. The Board asked if the contractors who did not bid were contacted to see why they had not submitted a bid. Mr. Donaldson reported they had been contacted, several were already busy with other projects and were no longer interested, and one was not able to comply with the bonding requirement.

After further discussion the Board agreed the bids were unacceptable. Mr. Grafel was directed to attempt to negotiate lower bids and look at options available to decrease costs and report back to the Board at the next meeting. Director Forstmann offered to meet with Mr. Grafel to assist in looking at options and costs. Upon motion duly made and seconded, it was unanimously,

RESOLVED to reject all bids submitted.

Parking Lot Bus Service: Mr. Grafel referred to the memo included in the packet regarding a change in the operations of the parking lot buses. Vail Associates would like to replace the Town of Avon for operations. It is anticipated that the maintenance, parking, and washing of the buses would continue to be provided by the Town of Avon. Mr. O’Rourke reported the Town of Avon is aware of this matter and there are no apparent issues. It was noted that Beaver Creek Resort Company approved the change in operators at their last meeting. The Transportation Agreement requires the approval of the District before any changes can be made. The Board asked for more detail regarding the cost of the change but agreed in principal contingent upon the maintenance and parking continuing with the Town of Avon. Mr. O’Rourke

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responded that he will provide final detailed information as soon as he is able.

Wild land

Fire Mitigation:

Mr. Grafel reported Anchor Point was reviewing the Beaver Creek Drive area and should have a recommended work plan to help lower the wildfire rating in the area. Eagle County has been reviewing a resolution that will amend the defensible space and enforcement regulations at the County level. Mr. O'Rourke believes the resolution is a positive thing and is expecting to meet with Eagle County Commissioner Runyon to discuss the matter. Director Friedman asked if the Strawberry Park area is being reviewed by Anchor Point for a work plan to lower the wildfire rating there. Mr. O'Rourke stated that the area was not being reviewed at this time and offered to provide more information to the Board when it becomes available.

Legal

Mr. Collins referred the Board to the Strawberry Park Easement Agreement and Settlement Agreement and Release which were included in the packet. He reported the agreements and subsequent payment by the District of \$16,633.99 will bring the matter to resolution. He recommended approval. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the execution of the Settlement Agreement and Release and the Easement Agreement.

Mr. Collins stated he would provide draft November election questions to the Board for review and comment next week. It was reported that Director Mielcuszny and Director Friedman had completed some preliminary work with Mr. Marchetti concerning the election.

UERWA

Director Friedman informed the Board that he had been appointed as the UERWA representative to the Eagle Park Reservoir board. There were no other new issues to report.

Financial

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Statements Mr. Marchetti reviewed the January 2005 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the January 2005 preliminary financials as presented.

Accounts Payable The Accounts Payable listing was reviewed. By motion duly made and seconded, it was unanimously

RESOLVED to approve the accounts payable list as presented.

**Tract Q
Reimbursement
Payment**

The Board discussed the \$112,361.33 reimbursement payment request for the Districts 22 % share of the Tract Q costs currently being held. The Board expressed concern over the magnitude of the costs. It had been the Board's impression the preliminary costs would be in the neighborhood of \$200,000 with any additional costs subject to review and further additional approval pending the signing of an agreement regarding Tract Q. The reimbursement request reflects costs of approximately \$550,000. Mr. Garnsey stated he remembered the project undergoing several redesigns which contributed to the higher costs. Mr. Garnsey offered to facilitate a meeting with representatives from the District to discuss and review the details of the matter to see if a consensus could be reached. The Board appointed Director Miencusny and Director Friedman to represent the District and report back to the Board.

Kathy 4/4/05 9:14 AM

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**Other
Business**

Director Forstmann inquired about an area by the guardhouse that seems to remain icy after it snows. Other Board members stated that Village Road has an area that stays icy as well and asked that the snow banks along Holden be pushed back for better line of sight. Mr. Grafel stated he will address the concerns with the operations staff.

Executive Session Upon motion duly made and seconded, it was unanimously

RESOLVED to enter into executive session citing §24-6-402(4)(b) and (e) C.R.S. for the purpose of receiving advice

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from counsel, discussing legal matters and contract negotiations regarding insurance coverages, wildland fire matters and the Eagle-Vail Administration and Operations facility. The Board entered into Executive session at 10:25a.m. and returned at 11:25a.m.

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 February 23, 2005.

Respectfully submitted,

Kathy Lewensten
Secretary for the meeting