
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT May 25, 2005

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., May 25, 2005 in the Conference Room of the Beaver Creek Club, Beaver Creek, Colorado.

Attendance

In Attendance were Directors:

- Stephen Friedman
- Al Miencuszy
- John Forstmann

Absent and excused was Director:

- Tommie Campbell
- John Wells

Also in Attendance were:

- Larry Grafel, General Manager
- Ken Marchetti, CPA, Secretary
- Kathy Lewensten, Robertson & Marchetti, P.C.
- Bill Simmons, Village Operations
- John Garnsey, COO Beaver Creek
- Paul Jardis, Bach Gulch Metro Dist Board Member
- Ginny Forstmann, BCPOA
- Tom Schouten, BCPOA
- Jim Funk, BC Public Safety
- Matt Lyden, Vail Resorts Development Co
- Diane Johnson, Vail Rec District
- Bob McIlveen, Vail Resorts

Call to Order

The Regular Meeting of the Board of Directors of Beaver Creek Metropolitan District was called to order by Director Friedman, Acting Chairman of the Board, noting that a quorum was present. Director Friedman 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, indicating the following conflicts: Mr. Stephen Friedman is a board

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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 April 27, 2005 Regular Meeting. Upon motion duly made and seconded, it was, unanimously,

RESOLVED to approve the minutes of the April 27, 2005 Regular meeting.

Future Meetings

No changes were made to the meeting schedule; the next meeting will be Wednesday, June 22, 2005.

Agenda Changes

No changes were made.

Public Input

Ms. Forstmann informed the Board of a BCPOA landscape project planned for the creekside park area. She explained the street lights which are located within the park area appear to need some tending to as several are crooked or in need of some sprucing up. She requested the lights be scheduled for maintenance. Mr. Grafel will schedule the maintenance. He noted that several lights in the same area are privately owned and offered to contact the owner to ask for their cooperation in tending to their fixtures.

Village Walk Tract M

Director Forstmann asked if the Elk Track Property Owners had been individually notified of the Temporary Easement regarding Tract M access that had been executed by the District. Mr. Garnsey stated that he had spoken directly with Mr. Timothy Dalton, the representative of the Elk Track Property Owners Group. Mr. Dalton had stated he would take care of notifying the property owners. A letter written from Mr. Garnsey to Mr. Dalton

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regarding this matter was included in the Board Packet. Mr. Garnsey also reiterated the offer to shut down the project if the Elk Track Property Owners notice any of the commitments made in the letter not being honored.

BC Landing Lot 4 Access

Mr. Garnsey reported VR was currently researching two new alternatives for access to Lot 4. These alternatives are not yet ready for presentation; it is believed they will be ready later next week. Mr. Garnsey suggested the alternatives be presented for discussion and comment at a meeting of representatives from the District, BGMD, VR, and EW before presentation to the Board in June. The Board agreed this was acceptable and asked to be notified of the meeting.

Prater Road

Mr. Garnsey stated that at a meeting held in early May to discuss the prior Lot 4 access options with representatives of the District and BGMD several issues concerning Prater had been brought to his attention. One concern was the unfinished portion of the Prater Road round a bout. Another concern was the parking allowed on Prater Road during busy times. Director Friedman pointed out that the Prater Road issues should be considered independent of the access to Lot 4. Mr. Garnsey explained that for practical reasons VR was looking at the entire area to develop an overall plan to be sure nothing is done on Prater that may affect access to Lot 4 and vice versa, but that he did understand they were separate.

Mr. Garnsey reported last season there were 20 days when parking for approximately 140 cars was allowed on Prater. He explained there would be approximately 150 more parking lot spaces available this coming season which should help to alleviate the need for parking along Prater. He did ask for consideration of an idea in which Prater would be widened from the landing to the guard gate to allow parallel parking along the road way if necessary. The widening would be done at Vail Resorts expense. The Board expressed concern regarding how the parking along Prater would be monitored to prevent use except in unusual circumstances. Mr. Garnsey assured the Board it would be carefully monitored and regulated to prevent misuse. Mr. Garnsey will bring the matter back to the Board with more specifics for further discussion.

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Mr. Lydens and Mr. Garnsey presented sketches of the proposed finishing of the Prater Road round a bout including landscaping. The round a bout will be finished this summer if the plans as proposed are acceptable to the District and BGMD. One concern expressed by Mr. Jardis was line of sight. Mr. Garnsey pointed out several improvements that had been made in the design including relocating the stone pillars now at the entrance to Bachelor Gulch Trail further down Prater Road, redesigning the overall shape of the round a bout and including an apron around the center island to allow for oversize vehicles. The berm design height on the south east corner will be revisited to see if any improvements can be made regarding line of sight. After further discussion the Board stated they had no objections to VR proceeding with the Prater Road round a bout as presented today. Director Friedman asked if any traffic studies were available for Prater Road traffic. Mr. McIlveen stated he had those and would provide them.

Mr. Garnsey presented the sketches related to improved sidewalks and crosswalks by the bear parking lot. Director Forstmann suggested the buses be allowed to drop off on both sides of the road to help discourage people from crossing Prater Road. Mr. Garnsey agreed to look at this option.

General Managers Update

Website: Mr. Grafel reported the District Website is Beavercreekmetro.com and is now available for use while in development. An initial login has been set up for each Board member and Mr. Grafel will provide the access information for the Board portions of the site to the Board in the coming week.

Eagle-Vail Admin/Maint Facility: Mr. Grafel reported the draft agreement for the construction of the Eagle-Vail Admin/Maintenance facility for \$1.95 million has been sent to Mr. McLagan, President of Hyder Construction for review. The final plans and specifications which are needed before the agreement can be executed are currently being developed. Mr. Collins stated the agreement had been provided to Mr. Grafel by his office and contains the requested language designed to prevent change orders, once the final plans and specs are provided it will be ready for execution. Hyder is mobilized on site and has been given a notice to proceed with the infrastructure and excavation for the site. Director Forstmann asked who was supervising the construction.

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Mr. Grafel responded he would be supervising the project as he had understood that to be the direction from the Board at the last meeting. He will request a timeline and payment schedule from Hyder once the agreement is executed.

Wild land Fire Mitigation

The Board should have received an updated version of the resolution concerning wildland fire via email from Mr. Collin's office. Mr. Collins reported that Director Wells had worked with his office to simplify the resolution particularly in the areas of appeal and enforcement. Mr. Collins reported that he and Director Wells were comfortable that the current resolution will allow the District to meet its role quite well. The resolution has not been presented to BCRC as Mr. Collins understood the wildland fire committee would do so. The Board asked if any mitigation work had begun this year, the answer was not yet. The wildland fire committee will provide the revised resolution to BCRC for comment.

Director Mielcuszny asked if the new development at Village Walk, Tract M, would be subject to and use fire resistant roofing. Mr. McIlveen and Mr. Grafel will check on the matter and report back.

Main Entry Gate

The Board asked about the information included in the packet concerning the main entry gate. Mr. Grafel explained the information had been provided by Mr. O'Rourke for informational purposes only. No action has been taken on any of the options. Ms. Forstmann reported that at their May meeting BCRC had expressed a desire to have the project done by fall. Director Friedman stated it was unclear as to what problem exists that needs to be solved by the new proposed designs included in the packet. The project was originally described as being a "facelift" when first mentioned several meetings ago. The designs as presented go beyond cosmetic changes. One option shows a proposed round a bout by Village Road and the Mirabelle access road. The Board expressed substantial reservations concerning a round a bout at this location. Mr. Simmons explained one issue being addressed was moving the property owner lane inside for easier access. He stated the planning process was in the beginning stages and agreed the District should be included. He will make sure Mr. Grafel is aware

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of all future plans and is included as part of the process. Director Friedman asked that the problem be more fully explained with any future presentations of solutions. The Board stated the District has a right and obligation to be part of the planning as it is responsible for the road and easement in the area. The Board requested Mr. Simmons convey the Boards reaction to Mr. Garnsey.

Legal

November Election: Mr. Collins handed out draft ballot questions for the November election for discussion purposes only. The concept of a floating operating mill levy with a sunset was discussed. The time frame for sunset was briefly discussed. One item offered for consideration was the fact that assessed valuations for this year had recently been received by property owners and most properties had experienced a significant increase. Due to this assessed valuation increase it may be more prudent to consider a fixed mill levy instead of a variable one. Mr. Marchetti pointed out that the Board needed to consider whether it would be interested in opting out of the 5.5% limitation for the proposed operating mill levy increase. Mr. Collins and Mr. Marchetti explained the 5.5% limitation, the Gallagher limitations and TABOR as they apply to current mill levies and future mill levy increases. The District opted out of TABOR (de-bruced) several years ago. At that time the District chose to leave the 5.5% limitation in place. After discussion the Board asked for an analysis of how the 5.5% limitation affects the long range plan. The Board asked Mr. Marchetti to revise the long range plan using 3% inflation, and allowing for the 5.5% limitation to see what fixed mill levy rate would be needed. A mill levy in the neighborhood of 3 to 4 mills is anticipated. It was recommended any new mill levy ballot question include wording to “de-bruce” it while leaving the 5.5% limitation in place. The Board asked about the timeframe for the ballot question. Mr. Collins explained the question needed to be certified to the County Clerk and Recorder by September 7th (later changed to September 2nd by act of legislature). The possibility of a ballot question regarding funding for the Vilar Center was briefly discussed. The discussion was tabled until the June meeting.

Pending: Mr. Collins informed the Board that the District has been named as a third party in a lawsuit over an easement issue in Strawberry Park (Harts vs. Krisek). The insurance company is

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paying for the defense and no significant consequences or monetary damages are anticipated to be incurred by the District.

UERWA

Director Friedman reported that a special election held in May by ERWSD to eliminate term limits was not successful. There was a very low turnout for the election. He suggested the District may want to consider whether it would like to support or propose a candidate for the vacancies on future ERWSD Boards in light of prior discussions regarding dissolution of UERWA at some point in the future.

Vail Recreation District Request

Director Friedman stated there was a request from the Vail Recreation District in the packet for funding for programs used by several Beaver Creek residents. He explained that after funding the request last year the Board had asked that a presentation be made in person for any future requests. Ms. Johnson of the Vail Recreation District was present to discuss the funding and information on usage. She reviewed the information included in the packet regarding the participation levels. She explained that if the District pays the funding request the Beaver Creek families can participate at the "Eagle County Student" rate for the programs, if the funding request is not approved the rate charged is the non resident rate or approximately \$17 difference in the daily fee. The Board asked whether any other special districts in the valley pay this type of fee for the reduced rates. Ms. Johnson stated there were not, the District was the only one asked this year due to inquiries by Beaver Creek residents to VRD. It was noted that Bachelor Gulch residents or residents of other districts outside of Vail would pay the non resident rate for use of the programs. Ms. Johnson informed the Board of other programs in the area including the day camp program within Beaver Creek for school age children (ages 5 to 12) that is run by VR. The Board asked if BCRC had been contacted to see if they would be interested in making the payment on behalf of Beaver Creek. Ms. Johnson stated BCRC had not been contacted regarding the matter. The Board thanked Ms. Johnson for coming.

The Board continued the discussion of VRD's request. Taking into consideration that no other districts were contributing in this manner, and the concern as to whether this type of request was an appropriate use of the Districts funds the Board decided to deny

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the request and asked Mr. Grafel to notify VRD and BCRC of their decision.

Financial Statements

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

RESOLVED to approve the April 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 Cost Share

Mr. Garnsey had provided a letter and copies of the May, June, and July 2003 invoices from RNL to Director Friedman with some information as to the work performed. Director Friedman asked to discuss the matter in executive session.

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 from counsel and discussing positions and developing strategy relative to matters under negotiation. The Board entered into Executive session at 11:00 a.m. and returned at 11:20 a.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 May 25, 2005.

Respectfully submitted,

Kathy Lewensten
Secretary for the meeting