
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT July 27, 2011

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., July 27, 2011 in the Conference Room of the District Administrative and Operations Facility, Eagle-Vail, Eagle County, Colorado.

Attendance

In Attendance were Directors:

- Mike Balk
- Louis Kreig
- James Power
- Robert Gary
- Ernie Elsner

Also in Attendance were:

- Clyde Hanks, General Manager
- Jim Collins, Esq, Collins Cockrel & Cole
- Ken Marchetti, CPA, Robertson & Marchetti, PC
- Jennie Fancher, BC Admin Assistant,
- Kathy Lewensten, Recording Secretary
- Sam Parker, BC Public Safety
- Bill Simmons, Director of Operations
- Dawn Friedman, BCPOA
- Tim Baker, BCRC Executive Director
- Jim Stovall, Esq
- John Oltman, Property Owner
- Paul Heding, Land Design by Ellison

Call to Order

The Regular Meeting of the Board of Directors of Beaver Creek Metropolitan District was called to order by Director Balk, Chairman of the Board, noting that a quorum was present. It was 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. Ernest Elsner is a member of the Board of Directors for Beaver Creek Property Owners Association; Mr. Michael Balk is a member of the Board of

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District July 27, 2011 Meeting Minutes

Directors for Beaver Creek Property Owners Association and a director of the Vilar Center for the Arts; Mr. Robert Gary is a member of the Board of Directors for Beaver Creek Property Owners Association, Vail Valley Foundation Board and the Vilar Center for the Arts Committee; Dr. Louis Kreig is a member of the Board of Directors for Beaver Creek Property Owners Association; and Mr. James Power is a Director of the Beaver Creek Property Owners Association. 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 June 22, 2011 Regular Meeting. Mr. Baker requested a revision. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the minutes of the June 22, 2011 Regular Meeting as revised.

Agenda

Mr. Hanks requested time for discussion of several additional matters under the general managers update.

Future Meetings

The next regular meeting is scheduled for Wednesday, August 24, 2011 at the same time and location.

Public Input

121 Borders Rd: Mr. Stovall introduced himself to the Board explaining he was appearing on behalf of his client Mr. Oltman. Mr. Oltman has concerns over language in the District's standard Encroachment Agreement. Mr. Stovall provided a red line version of the standard agreement to facilitate discussion of the revisions being proposed. The Board listened to the presentation. It was noted the District has no issue with the improvements which are being proposed within the District easement. Mr. Oltman offered pictures of the area. Under advisement of Mr. Collin's the Board stated they would take the matter up in executive session.

Mill Levy

Mr. Hanks began discussion of the shortfall expected in the transportation fund in 2012. The 2012 preliminary budget reflects a reduction in property tax revenue due to the decrease in the assessed valuation. The reduction in property tax revenue will result in a shortfall of approximately \$650,000 in the transportation fund. Alternatives for addressing the shortfall may include options

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District July 27, 2011 Meeting Minutes

such as additional funding from BCRC, reductions in service levels, or a voter approved increase in the mill levy.

The Board agreed service levels and expenses should be reviewed to see if there are any cost savings that can be realized by reductions in service. Director Kreig mentioned looking for any redundancies in routes and discontinuing them if possible. Mr. Baker stated he would like to find any efficiency which may be available.

Mr. Baker said he reviewed the transportation agreements stating he did not see where the property tax revenue was defined as being the funding source for only Dial a Ride (DAR). Director Balk stated the agreement may not have accurately reflected the spirit of the discussions and intentions for transportation services. He pointed out in the past year a letter agreement had been drafted which clarified the Districts primary responsibility for DAR and BCRC's primary responsibility for the parking lot service. Ms. Friedman noted that in the past when property tax revenues exceeded DAR expenditures the excess was used to help cover the parking lot expenses. Director Power stated that even though the parking lot service has benefited from excess property taxes in the past that does not change what is needed moving forward. He noted the DAR service can clearly be supported by the District as benefiting the constituents therefore the Districts main concern should be to cover DAR expenditures with property tax revenue.

Mr. Baker discussed the potential source of additional funding from BCRC stating it may require the imposition of a common assessment. He expressed a willingness to not impose a common assessment if a mill levy increase was approved. He noted a property tax would be tax deductible where the common assessment is not. He requested consideration of a November Ballot question asking for imposition of a 2.24 mill levy increase for transportation funding. He explained a 2.24 mill levy increase would generate the same amount of property tax revenue as is currently collected. Ms. Friedman agreed a property tax was more palatable than a common assessment however she stated she was not speaking in support of an election in November. The Board suggested Mr. Baker approach BCPOA with the matter to see if they are open to or supportive of an election for a mill levy increase. It was noted the District would need to approve a ballot

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District July 27, 2011 Meeting Minutes

question no later than September 2nd if it chose to have a November election.

Director Elsner asked if BCRC has considered other funding sources such as a hotel tax. A 2% hotel tax would generate sufficient revenue to cover the shortfall and would provide a funding source from guests who use the transportation system. Mr. Baker stated he would look into the idea.

Public Input

60 Wayne Creek Rd: Mr. Heding introduced himself as the landscape architect for 60 Wayne Creek Rd. and explained he was present to discuss improvements located within an encroachment. It was his understanding an encroachment agreement was approved by the District based on the original plans prior to the beginning of construction. He explained improvements had been relocated to provide better stability and reductions in slope for the property. He was appearing to request an amended encroachment agreement to allow for the changes. He stated he had approached Mr. Hanks in June when the changes were made regarding the need for an amended encroachment agreement. Mr. Hanks noted he did not approve the amended encroachment agreement as he is not authorized to accept permanent structures within the District easement. He had explained the matter would need to go before the Board. The Board asked if the improvements had already been constructed. Mr. Heding responded they had explaining they had to move forward with construction of the boulder walls and improvements due to “dangerous conditions” on site during construction. The Board pointed out because of this the project did not follow proper procedure where an encroachment is granted first then the improvements are constructed.

Mr. Hanks stated he is concerned with two permanent boulder retaining walls within the District easement. The boulder walls are permanent structures that would not be easily moved if an issue should develop which requires access to the easement. Mr. Heding stated the owner was aware of this risk and was open to covering the cost of removal and replacement if necessary. The Board discussed the ramifications and costs related to removing a boulder retaining wall and how to maintain stability of the area in such circumstances.

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District July 27, 2011 Meeting Minutes

The Board pointed out to Mr. Heding it had the authority to request the removal of any improvements that had been constructed within the easement without an encroachment agreement. After discussion the Board determined it would not request removal of the improvements but would impose a fine for not following proper procedure and to partially prefund potential costs related to removal of the boulder wall. It was pointed out construction removal costs within the easement would be the District's responsibility but all collateral damage repair costs would be the responsibility of the owner. The Board would consider approving an amended encroachment agreement after confirming with DRB the new design had been approved. Upon motion duly made and seconded, it was unanimously

RESOLVED to impose a fine of \$10,000 for not following proper procedure, and

FURTHER RESOLVED to authorize Mr. Hanks to approve an amended encroachment agreement subject to confirmation from DRB of approval of the new design.

General Manager Update

Fire Station: Mr. Hanks reported Mr. Katz is still reviewing the information provided to him. No additional information is known at this time.

ISO Rating: Mr. Hanks and Director Gary met with the consultant regarding the ISO rating. As reported at the last meeting the District does not have its own ISO rating but is included in the rating for ERFPD. The consultant has requested additional information from ERFPD to help determine if it would be beneficial for Beaver Creek to obtain its own ISO rating or to be rated as a sub-district under ERFPD. Director Gary reported it appears the District's commercial properties may realize a benefit of 10-15% reduction in insurance premiums if the ISO rating can be improved.

Project Legacy Signs: Mr. Hanks reported progress continues to be made on the sign project. The signs have been received and will be installed in the coming month. The repainting of the poles is substantially complete.

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District July 27, 2011 Meeting Minutes

Equipment: Mr. Hanks reported the District will be able to replace the loader for less than budgeted. The budget was for \$175,000 and a proposal has been received for approximately \$120,000. He reported one of the 2005 Ford F350 pick ups is having mechanical issues and is out of service. Mr. Hanks explained it would be too costly to repair. He explained the truck was budgeted for replacement next year but requested moving the purchase into this year. Director Elsner asked for more information concerning the cause of the mechanical failure. The Board authorized obtaining a replacement for the pick up.

Insurance Claims: There are no claims currently outstanding.

Other Matters: Mr. Hanks reported he was contacted by a property owner whose dog had been hit by a rock from the mowing operations. He has instructed operations staff to suspend mowing if there are cars, pedestrians or animals present.

Mr. Hanks reported a concern with water drainage at 543 Holden. Water comes down and over the driveway. It is undermining a retaining wall. The homeowner is currently looking into options for redirecting the water off of the driveway. Mr. Hanks will be meeting with the owner and engineer to see what options exist. This is an informational matter only.

Mr. Hanks stated he had been contacted by the BC Golf Course Superintendent regarding the dredging of the pond by the clubhouse. The pond is part of the Districts drainage system. The estimate for dredging is approximately \$36,000. The superintendent would like to schedule the work for this fall at the same time as the golf course has their pond dredged. Mr. Hanks is reviewing how this was handled in the past and will report back at a later meeting.

Roadways

Mr. Hanks stated the bid package for the roadway work discussed at the last meeting has been provided to interested persons. The bid package requests individual bids for sections of the project such as the overlay on Holden Road, patching and drainage work so the District can determine which parts it wants to proceed with. The Board discussed the overlay on Holden Road. The overlay may be delayed for a year or two due to additional construction traffic related to construction of two new homes. It may be better

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District July 27, 2011 Meeting Minutes

to delay the overlay until completion of the homes. The bids will be available for discussion at the August meeting.

Financial Statements

The Board reviewed the June 2011 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

RESOLVED to accept the June 2011 preliminary financials as presented.

Accounts Payable

The Board reviewed the Accounts Payable listing that had been included in the packet. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the accounts payable list as presented.

Executive Session

Upon motion duly made and seconded, it was unanimously

RESOLVED to enter into executive session citing §24-6-402(4) (e) and (f) C.R.S. for the purpose of determining positions subject to negotiations related to the encroachment agreement, fire station relocation and personnel matters. The Board entered into executive session at 10:50 a.m. and adjourned the executive session at 12:40 a.m.

Upon returning to regular session the Board finalized discussions related to Mr. Oltman's proposed changes to the standard Encroachment Agreement. Director Power stated he would like to accommodate Mr. Oltman's request in some fashion since he had made an effort to follow proper procedure. One concern expressed by other Board members is that by allowing any revisions to the encroachment agreement it would open the agreement to negotiation by other applicants. The revisions that were proposed were not substantive. It was noted this form of encroachment agreement is used by other districts in the area and has proved to be adequate. Upon motion duly made and seconded, it was by a vote of four (4) ayes and one (1) nay (Director Power)

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District July 27, 2011 Meeting Minutes

RESOLVED to notify Mr. Oltman that his proposed revisions will not be accepted but that the District is prepared to approve its Standard Encroachment Agreement.

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 July 27, 2011.

Respectfully submitted,
/s/ Kathy Lewensten

Kathy Lewensten
Secretary for the meeting