
RECORD OF PROCEEDINGS

MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT February 15, 2007

The Special Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., February 15, 2007 in the Conference Room of the District Administrative and Operations Facility, Eagle-Vail, Eagle County, Colorado.

Attendance

In Attendance were Directors:

- Stephen Friedman
- Mike Balk
- Ernie Elsner
- John Forstmann
- Robert Gary

Absent and excused was Director:

Also in Attendance were:

- James Collins, Esq. Collins Cockrel & Cole
- Clyde Hanks, General Manager
- Kathy Lewensten, Recording Secretary
- Heather Nolan, Administrative Assistant

Call to Order

The Special Meeting of the Board of Directors of Beaver Creek Metropolitan District was called to order by Director Friedman, 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 member of the Beaver Creek Arts Foundation which operates the performing arts facilities within Beaver Creek; Mr. John Forstmann is a board member of the Beaver Creek Club; Mr. Ernest Elsner is a board member of the Beaver Creek Property Owners Association; and Mr. Michael Balk is a director of the Beaver Creek Property Owners Association and a director of the Vilar Center for the Arts. The Board noted for the record that these

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disclosures are restated at this time with the intent of fully complying with laws pertaining to potential conflicts.

Agenda

No Changes were made to the agenda.

Future Meetings

The next regular meeting is scheduled for Wednesday, February 28, 2007 at 8:30 a.m. in the same location.

Village Road Slope Failure

Mr. Hanks asked the Board to consider the Resolution for Sole Source Contract for the completion of the Village Road project which had been e-mailed to the Board prior to the meeting. He stated the resolution had been prepared to address the time constraints related to completing the project and additional work not included in the original bid that came to light as the project progressed. The new work includes repair of cracks in the roadway and extension of the wall as discussed at the last meeting. He explained the General Contractor, Ewing Construction, from the original contract has a portion of the project to finish this spring. He stated Ewing Construction has done a good job on the project and has come in under budget. At the beginning of the project it was contemplated the same contractor and subcontractors would be used to complete the project. The benefit of having the same contractor complete the project using the same subcontractors was discussed.

Mr. Hanks noted the timeline for the project is tight with construction scheduled to begin in mid-April with completion by mid-June. He explained that due to the time constraints he was recommending the District allow Ewing Construction to provide a bid for the new portions of work and, if the bid received is reasonable, to contract with them for completion of the project. He expressed concern that if the new portions of the project were bid out the time line could not be met. He noted either way Ewing Construction will be on sight at the project this spring to finish the work related to the original contract. Director Elsner expressed concern the normal bid process would not be followed stating he did not feel this was an emergency situation. The Board asked if any economies would be realized by using Ewing Construction. Mr. Hanks explained the jersey barriers along the site are Ewing Constructions. He stated if they were not chosen as general

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contractor the new contractor would likely charge for mobilization and replacement of the jersey barriers. The Board discussed the pros and cons of the resolution. It was noted the District relies on engineers to provide an independent opinion of the costs related to the project to use as a basis for comparison with bids for the work to be completed. The Board asked if the roadway was now stabilized. Mr. Hanks stated it was, explaining the work done had a one year guarantee. The Board directed Mr. Hanks to request a letter from the structural engineer which states the work had been done in accordance with the engineers plan and specifications. Upon motion duly made and by a vote of four (4) Ayes and one (1) Nay (Director Elsner), it was

RESOLVED to approve the Resolution for Sole Source Contract subject to the receipt of a reasonable bid from Ewing Construction and the decision by Mr. Hanks to accept the bid.

Executive Session

Upon motion duly made and seconded, it was unanimously

RESOLVED to enter into executive session citing §24-6-402(4) (b)C.R.S. for the purpose of receiving legal advice from counsel. The Board entered into Executive session at 9:00 a.m. and returned at 9:50 a.m.

Upon return to regular session a motion was made which stated the District would agree to the request to abandon the required 30 foot easement at the noted location for acceptance of a 20 foot easement while recognizing this creates issues for the District which may be partially compensated by payment to the District of a sum of \$100,000 and by providing indemnity to the District against third party claims against the District for accepting a reduced easement. Any costs related to the filing of the easement will not be the Districts responsibility. The Board requested Director Friedman contact East West to explain the Board's position. The Board directed Mr. Collins to provide the appropriate terms and conditions at the February 28, 2007 regular meeting if the terms are agreed to by East West. Upon motion duly made and seconded, it was by a vote of four (4) Ayes and one (1) Nay (Director Elsner)

RESOLVED to approve the motion as stated.

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Adjournment

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

RESOLVED to adjourn the Special Meeting of the Beaver Creek Metropolitan District Board of Directors held on February 15, 2007.

Respectfully submitted,

Kathy Lewensten
Secretary for the meeting

I hereby affirm that all of the discussion in Executive Session constituted attorney-client communications.

James Collins, Esq., Collins, Cockrel & Cole