
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT February 22, 2006

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., February 22, 2006 in the Conference Room of the District Administrative and Operations Facility, Eagle-Vail, Eagle County, Colorado.

Attendance

In Attendance were Directors:

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

Absent and excused were Directors:

Also in Attendance were:

- Clyde Hanks, General Manager
- Jim Collins, Esq., District Counsel
- Ken Marchetti, CPA, Secretary
- Kathy Lewensten, Robertson & Marchetti, P.C.
- Steve Boyd, McBoyd Construction Solutions LLC
- Tom Schouten, BCPOA
- Ernie Elsner, BC Property Owner
- Mike Balk, BC property Owner
- John Garnsey, COO Beaver Creek
- Ludwig Kurz, BCRC
- Jim Funk, BC Public Safety
- Bill Simmons, Operations
- Clyde Schlegel, Operations
- Chris Sable, Vilar Center for the Arts
- Jim Telling, East West Partners
- Jim Adams, East West Partners
- Andy Gunion, East West Partners
- Shana Widmer, RMT Architects
- Scott Sones, SonesMac

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.

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District February 22, 2006 Meeting Minutes

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, 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; 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 25, 2006 Regular Meeting. A correction to the last name of Mike Miner will be made as it was incorrectly stated as Meyer. Upon motion duly made and seconded, it was, unanimously,

RESOLVED to approve the minutes of the January 25, 2006 Regular Meeting with the revision noted.

Future Meetings

The next regular meeting is scheduled for Wednesday, March 22, 2006, at 8:30 a.m. in the same location.

Agenda Changes

The Board chose to delay the tour of the new facility until the end of the meeting.

Village Walk and BC Landing Updates

Mr. Telling asked the Board to consider two encroachments and a vacation of utility easement for the BC Landing Project. He reminded the Board the matter had been briefly discussed at a prior meeting. The project will require two encroachments, one for the gas service connection and one for part of the driveway. Mr. Telling provided a sketch reflecting the proposed encroachments

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District February 22, 2006 Meeting Minutes

for the Board to review. The Board stated they were reviewing a new form of the District encroachment application later in today's meeting, the new application would be required for any encroachments discussed today. Mr. Telling stated he was aware of the new application as he had been working with Mr. Hanks and Mr. Collins regarding the matter. After discussion Mr. Telling stated he could wait until the project was further along for the driveway encroachment, but would like the gas line encroachment as soon as possible. The Board discussed the potential issues which may affect the location of the gas line encroachment such as road realignment. Director Wells suggested the Board approve the encroachment with the understanding the project has a perpetual right to connect to gas service, however the District needs to maintain the right to relocate the roadway if it chooses with the expense of any reconnection or relocation costs related to the gas line being the sole responsibility of BC Landing. Mr. Telling agreed. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the encroachment agreement for the gas line subject to conditions discussed above after final review by counsel and the Board.

Mr. Telling explained the vacation of easement being requested involved an unused utility easement which runs through the middle of the property. A new utility easement had been obtained for the relocation of the utilities at the beginning of the project however the old one needs still needs to be vacated to clear the title. He explained Comcast was the utility affected. He was not aware of Comcast having any known issues with the vacation of the easement. After discussion the Board asked for written confirmation from Comcast that they did not oppose the vacation of the easement. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the execution of the application for Vacation of Easement subject to written verification from Comcast stating they do not oppose the vacation of the easement.

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District February 22, 2006 Meeting Minutes

Eagle-Vail Admin Maint Facility

The Board was meeting in the conference room of the new District building for the first time. Mr. Hanks stated he had asked Mr. Schlegel to be available for tours of the facility if the Board is interested. Mr. Boyd reported the punch list work is currently underway. He explained there appeared to be only minor issues left at this time. The District is currently holding the full amount of retention and has not made a final payment on the contract. Mr. Boyd is working with Hyder to negotiate the amount to be withheld for the completion of the spring work. He explained the District will need to publish a notice prior to releasing any retention, this process generally takes at least 30 days. The Board stated they wished to follow the payment requirements of the contract and asked staff to review the matter with the recommendation the full amount of the retention be held until the project is complete. The Board asked Mr. Boyd to provide a summary of the project costs showing the bid, budget and actual costs with any variances noted for review

Mr. Boyd reported on an electrical matter concerning the fuel tank. The original drawings did not have appropriate conduit under the concrete pad for the fuel station as required by code. This created a need for alternate wiring to be run to the fuel tanks. The matter is under review to see where the responsibility for the error may have occurred. It will also be reviewed to see if any recourse is available to the District from any of the design professionals. The cost estimate for the additional electrical to the fuel tank is approximately \$5,000. Mr. Hanks stated he was working on a spill prevention and collection plan as required by the State of Colorado and the E.P.A. Once the plan is signed off by engineers it will be provided to the necessary persons. A spill pan will need to be constructed around the area by October. Mr. Hanks will look into the matter further and bring back cost estimates as they become available.

Mr. Hanks reported he had been working with Mr. Funk to obtain bids for a camera security system for the building. It appears the cost will be in the \$13,000 range. Public Safety will be able to monitor the cameras from the gatehouse. The system will record and store up to two weeks of data. Mr. Hanks noted this expense had not been separately budgeted for the building.

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District February 22, 2006 Meeting Minutes

Mr. Hanks will be looking into heat tape and gutters for the roof at several area's located around doorways. Director Forstmann advised caution noting gutters can become clogged and frozen in the winter.

BC Landing Plaza/ Upper Gondola Terminal

Mr. Gunion and Mr. Adams presented the landscape conceptual plans and drawings for the BC Landing Plaza and the Upper Gondola Terminal. They have met with Mr. Miner of the BC Golf Course who was pleased with the design from a golf perspective. They are hoping to do some of the landscape work this spring including relocating the tee box. It is anticipated the tee box work will be complete by June 1.

It is necessary for the gondola path to traverse Prater Road. A draft resolution was presented for consideration which acknowledges the crossing. Mr. Collins explained the District needs to give its approval for the gondola crossing. Director Forstmann expressed concern that the Board has only seen conceptual plans and stated he wished to see a definite plan prior to considering any resolution. Mr. Gunion stated the gondola lift line had been surveyed and would follow the same course presented. The placement of the landing of the gondola is reflected accurately too. He explained that until the manufacturer of the gondola is chosen and the gondola is ordered the tower placement would not be known. After a brief discussion the Board stated it did not have any objections to the gondola but would prefer a more specific resolution for consideration.

Vilar Center

Mr. Sable of the Vilar Center appeared before the Board. He expressed a desire to begin the process of providing the information needed to obtain the funding generated by the mill levy approved by the BC voters in the November election. He provided a hand out which reviewed the objectives and types of capital improvements which are under consideration at the Vilar. He noted several property owners have taken a tour of the facility which they found helpful in understanding the projects and offered to provide the tour if the Board was interested. He explained the capital projects included a variety of items from stage equipment and computers used for the productions to the recovering of the theater seats. The Vilar is interested in maintaining a world class

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District February 22, 2006 Meeting Minutes

facility, to do so it needs to stay on top of maintenance and provide top quality systems to the users of the venue. Director Forstmann expressed the opinion the District funds should be used for capital expenses that are not easily funded by other means. Director Friedman stated he did not feel it was appropriate for the District to dictate the Vilar budget details. Director Miencusny stated he wished to find a compromise position which allows the District an understanding of which capital projects the funds would support. It was the understanding of both parties the funds would not go for normal operating costs of the Vilar but to capital projects. After further discussion the Board asked Mr. Sable to return with a proposal for the first year with specific capital requests and estimated costs.

Encroachment Agreements

28 Strawberry Park Court Encroachment: Mr. Sones and Ms. Widmer appeared before the Board to discuss the application for an encroachment for landscaping at 28 Strawberry Park Court. Mr. Hanks reported he and Mr. Schlegel had visited the site. He had made recommendations for several revisions as to the placement of trees around the drive and private roadway to allow for better snow removal and storage. The road is private and the District is not responsible for snow removal. Mr. Sones and Ms. Widmer presented a revised sketch plan for the Board to review and discuss. The Board asked if the applicant understood that if it is necessary for the District to access items within the encroachment that any cost of repairs to damage done to the landscaping would be the responsibility of the owner not the District. They responded this was understood. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the encroachment at 28 Strawberry Park Court subject to the new encroachment policy and application.

Front Gate Project

Mr. Kurz reported to the Board a presentation for the front gate project was being developed. He stated the project is slated to begin in mid-April. He explained the project currently contemplates the closure of the roadway and entrance for

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District February 22, 2006 Meeting Minutes

approximately two months while utilities are being relocated. The Board expressed their surprise at this closure, noting they had not been aware of any utility relocations or road closures until this moment. Mr. Kurz explained the contractor had recommended the closure noting it would allow the utility relocation work to be completed in a shorter period of time. The Board again expressed concern the District had not been contacted about the closure noting the roadway cannot be closed without the District's permission. Mr. Kurz was asked if anyone had considered whether the roadway closure could be reduced to one lane of traffic to keep it partially open. Mr. Kurz responded he would need to look further into the matter. The Board directed Mr. Collins to draft a letter to BCRC reminding them the District's authorization is needed prior to any closure of the roadway. The Board asked whether the utility relocation would cause any interruptions of service and for how long. Mr. Kurz stated the utilities which include a water line, sewer and electrical service need to be relocated or they would be under the new building. He would need to find out if there would be any interruption of services. The Board again stressed the District has not been aware of nor been asked for authorization for any closures or utility relocations.

It was reported a discussion had taken place at the BCRC meeting concerning a new bar code system for access by the property owner's which was being considered. It had been suggested a fee of \$50 per car be charged to cover the cost of the new system. One alternative suggested was to allow one free bar code then charging for any others. This would mean the property owner's would subsidize approximately half of the cost of the new system. It was pointed out the District has authorization for this matter and should be part of the discussions.

It was reported to the Board the walkway/path along Village Road which was to be part of the front gate project had been removed. It had been stated at the BCRC meeting that the District had refused to fund the project. The Board was surprised at this. They remembered that last fall they had requested the walkway be included as part of the project and had offered to participate in the funding of the costs suggesting a 50/50 split. Mr. Hanks stated the last plans he had reviewed had contained the walkway. The matter will be looked into and brought back to the Board.

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District February 22, 2006 Meeting Minutes

Legal Matters

Mr. Collins informed the Board about a pending water matter that concerns the District. He explained it would be in the best interest of the Board to reserve the ability to have a say in the Minturn Water Rights matter application that is being considered by the State. He recommended passing a resolution authorizing a statement of opposition to the application be sent on the District's behalf. Director Friedman stated this would provide a place mark on behalf of the District to allow it to respond if the matter becomes one of concern. He noted much of this matter is unclear at this point. Director Forstmann suggested if the matter moves forward it may be prudent for the District to hire an outside water attorney for the matter since Mr. Porzak represents so many of the entities involved. Upon motion duly made and seconded, it was by a vote of 3 ayes and one nay

RESOLVED to adopt the Resolution concerning the Minturn Application for Changes of Water Rights, a copy of which is hereby attached to become part of the minutes.

Mr. Collins reported a term sheet was being drafted for the conveyance of the Market Square Unit. Mr. Hanks was working on negotiations for the back fees due to Market Square.

Revised Encroachment Guidelines/Policy And Application

The Board discussed the encroachment guidelines and policy and the revised encroachment application included in the packet. The Board stated it would like Mr. Hanks to do the preliminary review of future encroachment applications. If the applications appear to meet the guidelines they can be placed on the consent agenda for the Boards consideration at the next meeting. The applications that would be heard directly by the Board would include any unusual or questionable applications or any appeals if Mr. Hanks refused an encroachment. It was recommended this be implemented for a trail basis of 60 days. Mr. Schouten asked the Board for time for the BCPOA to review the proposed guidelines and policy to provide comment and input. Mr. Collins noted the Board could approve the documents and modify them if necessary after receiving comments and input from the BCPOA at a later meeting. Upon motion duly made and seconded, it was unanimously

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District February 22, 2006 Meeting Minutes

RESOLVED to adopt the revised Encroachment Guidelines and Policy and approve the revised Encroachment Application as presented.

General Manager Update

Wireless Network: Mr. Hanks informed the Board he was investigating if it would be possible to place a wireless network in Beaver Creek. He spoke with the representatives at the Town of Vail who will be installing a wireless network in Vail this summer. If it proves to be possible the plan would be to have it available to both property owners and guests. He explained the types of service available. He had asked Mr. Collins to review the ability of the District to provide such service and to review whether voter authorization may be needed. He will keep the Board informed of his progress.

Village Road Entrance: Director Mielcuszny asked whether the potholes by the front gate were being repaired any time soon. Mr. Hanks explained the operations crews had applied a cold patch to fix them previously however it had disintegrated. A proposal for hot patch has been requested, it is expected the patch will be completed in the next week.

UERWA Update

Director Friedman reported discussions were ongoing regarding the Town of Minturn and water matters related to the potential annexation of the Ginn project. The Town of Minturn had appeared before the board explaining they were hoping to work cooperatively on related water matters. The board remains concerned with the impact to the river but were receptive to working cooperatively.

The May election will be held to fill 5 seats on the UERWA Board. Due to the ward boundaries being realigned prior to the election, Beaver Creek is now represented by the Edwards ward seat, this seat is not up for re-election this May.

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District February 22, 2006 Meeting Minutes

Financial Statements

Mr. Marchetti reviewed the January 2006 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the January 2006 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.

Public Safety

Mr. Funk asked the Board for two additional wildcard days to be used along Prater Road for parking. He explained he has used two of the four days the District had originally provided but was concerned he may need two additional days in the later part of March and April due to the good snow conditions, spring break, and the snowshoe shuffle. The Board asked whether traffic control has been provided in the area on the days of use. Mr. Funk stated it has been. The Board suggested he use the two remaining wildcard days prior to requesting the two additional days. The Board directed Mr. Funk to contact Mr. Hanks as the days are used up and with any request for the two additional days if needed. Upon motion duly made and seconded, it was unanimously

RESOLVED to authorize the General Manager, Mr. Hanks to approve two additional wild card days as the need arises.

Mr. Funk asked if the Board had any concerns regarding the response to the bomb threat which occurred in the Village. He explained the Eagle County Sheriff's office was the lead agency with his office providing assistance. The Board briefly discussed the matter asking whether there was adequate staff for this type of situation. Mr. Funk replied the staff responding had done the best they could under the circumstances. The Board asked about liability matters if anyone had been injured in such circumstances and suggested it may be worth reviewing whether the District is in a better position to offer this for the future.

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District February 22, 2006 Meeting Minutes

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. and §24-6-402(4)(e) C.R.S. for the purpose of receiving legal advice and determining positions related to the District's Market Square Unit. The Board entered into Executive session at 11:55 a.m. and returned at 12:20 p.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 22, 2006.

Respectfully submitted,

Kathy Lewensten
Secretary for the meeting