
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT February 27, 2008

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., February 27, 2008 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
- John Forstmann
- Robert Gary
- Ernie Elsner

Absent and excused was Director:

Also in Attendance were:

- James Collins, Esq. Collins Cockrel & Cole
- Ken Marchetti, CPA Robertson and Marchetti, P.C.
- Clyde Hanks, General Manager
- Kathy Lewensten, Recording Secretary
- Heather Nolan, Administrative Assistant
- Dawn Friedman, BC Property Owners Association
- Jim Funk, BC Public Safety
- Susan Hoffman-LeBlanc, BC Property Owner
- Tony O'Rourke, BCRC

Call to Order

The Regular 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

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Forstmann is a board member of the Beaver Creek Club; Mr. Ernest Elsner is a board member of the Beaver Creek Property Owners Association; Mr. Michael Balk is a director of the Beaver Creek Property Owners Association and a director of the Vilar Center for the Arts; and Mr. Robert Gary is a member of the Beaver Creek Property Owners Association and the Vilar Center for the Arts Committee. 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 23, 2008 Regular Meeting. Upon motion duly made and seconded, it was unanimously,

RESOLVED to approve the minutes of the January 23, 2008 Regular Meeting as presented.

Agenda

Director Friedman requested time to update the Board regarding ERFPD matters.

Future Meetings

The Board reviewed the 2008 meeting dates schedule included in the packet. The next regular meeting will be March 19, 2008 at 8:30 a.m. in the same location.

Public Input

Mr. Hanks requested an update from Mr. Funk on an incident which occurred within the District yesterday. Mr. Funk stated yesterday at approximately 3:30 p.m. an icicle had fallen from the Highlands building and hit a main gas valve. Public Safety and ERFPD responded. The building was evacuated, Offerson Road was closed to traffic and persons nearby at the Meadows were instructed to stay in place. Xcel Energy responded within the hour to make the necessary repairs. The Board asked how often this type of incident occurs with gas lines and whether BC Public Safety personnel have adequate knowledge of main shut off valves when responding to such situations. Mr. Funk responded there are similar incidents approximately two to three times per year. The Board recommended Mr. Funk review the matter to see if more training may be beneficial.

An update was presented regarding the ongoing litigation between Bachelor Gulch Metro District, Vail Resorts, BCPOA and the

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Strawberry Park Homeowners Association. It was noted the Judge had mandated a mediation session to help resolve positions related to the responsibility of the cost of attorney's fees for the entities. The mediation was not successful in providing a solution. BCPOA, VR and SPHOA are asking for a summary judgment regarding the claim for attorney's fees. BGMD has filed an amended pleading which requests clarification stating the ruling applies to new construction only not remodels. The Judge made the temporary injunction permanent and set a briefing schedule for the matter.

ERFPD

Director Friedman gave a brief overview of where matters stand with ERFPD. He noted the original 10 Year Agreement is in full force and effect. Negotiations are underway concerning a possible amendment to clarify matters related to training and certification. The Board stated it is important that staff from BC Public Safety or ERFPD is competent and properly trained with appropriate certifications so they can perform up to expectations. Under consideration for the amendment are the following issues; For ERFPD to accept basic certifications for Firefighter 1 and EMT from the State of Colorado regardless of where the training was completed with the understanding ERFPD would not be asked to attest to outside training they did not watch; BC public safety staff would be expected to complete an orientation session which would include training on equipment and an introduction to ERFPD staff that would be responding and working with them; BC Public Safety has asked that ongoing training and any needed additional training sessions for preparations related to unusual circumstances be held during the shoulder seasons. ERFPD does not appear to have any objections to accommodating this request but noted it may not be possible to schedule all training sessions during the shoulder seasons. Director Friedman and Director Elsner will be having another meeting with ERFPD representatives and hope to present a draft amendment for consideration in the near future.

Director Forstmann asked whether the pay scale for BC Public Safety is adequate in comparison with the pay scale for ERFPD personnel with similar certifications. Mr. Funk explained he does review the matter regularly. Director Forstmann requested Mr. Funk prepare a comparison for review.

Market Square

Mr. Hanks and Mr. Collins stated the Market Square conveyance is moving forward. Mr. Collins presented a resolution authorizing

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the conveyance of real property for consideration by the Board. He explained the District will reserve rights to perpetual non-exclusive easements and rights of way for vehicular (roadway) and pedestrian (walkways and escalators) access. He noted BCRC will be responsible for the maintenance and upkeep of the escalators. He recommended approval of the resolution and authorization of the conveyance. Mr. O'Rourke stated BCRC has no issues related to the conveyance. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the Resolution Authorizing the Conveyance of Real Property which is hereby attached.

General Manager Update

TOA Parking Lot Bus Agreement: Mr. Hanks informed the Board the service levels that have been provided by the Town of Avon for the parking lot buses have been unsatisfactory. The TOA has not been able to adequately staff the service this season. The drivers have not been interacting positively with riders and are not providing expected announcements regarding stops. The matter was brought to the attention of TOA but they were not able to address the issues due to a lack of drivers. After discussions Vail Resorts expressed an interest in taking over the service. Mr. Hanks stated no increase in operating costs is expected, VR has indicated it will try to lower the costs if possible. The District funding is limited to the amount of property tax generated by the transportation mill levy; any remaining costs are funded by BCRC. Mr. O'Rourke explained BCRC requested the change since the current service provided by the TOA has not been up to standards expected. It is hoped by having VR provide drivers for the service a more full time, year round staff can be maintained and trained to the standards expected. Mr. Hanks reminded the Board the maintenance for the bus vehicles would remain with the TOA as it is performed under a separate agreement. The Board reviewed the draft termination letter included in the packet. Upon motion duly made and seconded, it was unanimously

RESOLVED to authorize the execution and delivery of the Termination Letter regarding the Parking Lot Bus Service Agreement with the TOA.

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Bus Vehicle Purchase: Mr. Hanks noted the planned bus purchases for 2008 will increase in cost and referred to the memo included in the packet. Mr. Lubbers explained he would prefer to order buses from Gillig instead of Optima for 2008. He noted the Optima Bus Company was sold last year and has not been able to meet deadlines. He explained the Gillig busses are a better product and have lower maintenance costs however they are more expensive. BCRC has approved the increased costs. The Board approved the 2008 purchase of parking lot busses from Gillig. It was noted a budget amendment will be needed later in the year due to the increase in the costs associated with the change in vendor.

DAR Bus Vehicle Request: It was explained four DAR buses will be replaced this year. Three of them will be taken to auction. A request from BCRC for the title to one Dial-a-ride bus was included in the packet. The Board considered the request. BCRC wishes to dedicate the bus to the Red Canyon High School. The Board discussed the matter noting the Resort Company is the primary financing partner in the transportation operation. The Board had no objection to the request and therefore authorized the conveyance of one Dial-a-ride bus title to BCRC.

Roadway Easements: Mr. Hanks reported he has met with Mr. Collins and Ms. Arnold regarding the revisions needed to the roadway easements. They are developing an approach for addressing the various revisions that are needed. He expects to have a plan for review at the March meeting. It is expected the revisions to the easements will be complete by April.

Snowplowing Matters: Mr. Hanks reported staff has continued to make extra efforts to keep driveways cleared of snow. To help with the effort a plow was purchased for the Kawasaki Mule. He explained the District will be reviewing options prior to next season including considering contracting with an outside service specifically for the driveways. The Board asked if additional equipment might help noting keeping the roadways open is a priority. Mr. Hanks replied the District equipment is fine for a normal year. He noted one concern would be having adequate staff to operate additional equipment. He stated maintenance has also been an issue this year. He explained during a normal season the equipment has downtime in between snow storms for any maintenance to be performed. This season the equipment has been

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used almost seven days a week leaving little time to perform needed maintenance. He noted the TOA has been accommodating to the District and has been performing maintenance when the equipment is available, even at odd hours. The Board suggested it would be open to adding additional equipment if a review of the equipment needs of the District reflects this would be beneficial.

Beaver Creek Beautification “Resortscape”

Mr. Hanks reported Requests for Interest (RFI) for the “resortscape” project have been sent out as noted on the memo included in the board packet. The request allows firms until March 14th to respond. After the deadline the list of firms will be narrowed down to two or three for further consideration. At that time the working committee which will be made up of representatives from BCRC, BCPOA and the District will meet to narrow the field and choose the finalist. Mr. O’Rourke stated the BCRC representatives will be Mr. Donohue and Mr. Kaylor. The BCPOA representative is Ms. Forstmann. The District will choose its representatives at the March Board meeting.

General Manager Update, Cont.

Avondale Sidewalk: Mr. Hanks presented a map of the sidewalks currently in the area of the proposed Avondale sidewalk as had been requested at the last meeting. The Board asked whether the proposed sidewalk would be within District right of way or easement. Mr. Hanks believed it will be but will confirm it prior to the next meeting. The Board asked Mr. Collins if this is an appropriate project for review by the District. Mr. Collins confirmed this is an appropriate District function. They asked about potential cost sharing. Mr. O’Rourke stated BCRC was willing to contribute to the project. The Board asked whether the Charter had been approached about potentially contributing to the project. The Charter has not yet been approached since the scope or extent of the project is still unclear. The Board was open to continued discussions on the project. Mr. Hanks was directed by the Board to contact several engineering firms to look at the project to offer cost estimates and options for the proposed sidewalk.

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Vilar: Mr. Hanks reported he had received a recap from Mr. Sable of the 2007 Vilar capital projects with copies of the related invoices. He noted these tied out to the budget that had been presented last June. He stated this report would be available for review. He asked the Board if it would mind if the District is thanked publicly during Vilar Performances. He explained Mr. Sable generally thanks contributors prior to performances but had not been mentioning the District. The Board thought the recognition would be a nice way for the Vilar to thank the Districts property owners for the support. Mr. Hanks will follow up with Mr. Sable.

UERWA

Director Friedman reported the settlement regarding Denver water rights is still generating some interest. He stated there were no other updates at this time.

Other Business

Mr. Collins provided a hand out of material that had been prepared by the Eagle County Property Taxpayers for Common Sense which had been presented to attendees at their February meeting. He noted the Ballot language from the Districts 1996 election had been included in the hand out as an example of language used to circumvent TABOR limits. He suggested the District may wish to respond to the Eagle County Property Taxpayers for Common Sense by providing a letter that explains the District has not exercised the right or opportunity to increase the property taxes by more than the 5.5% limitation. Mr. Marchetti noted at the Eagle County Property Taxpayers for Common Sense meeting the District was recognized as a “good guy” since it had kept the tax increase to 5.5%. The Board directed Mr. Collins to draft a letter as discussed to be sent to the Eagle County Property Taxpayers for Common Sense.

Financial Statements

The Board reviewed the January 2008 preliminary financial statement included in the packet. Mr. Marchetti mentioned the purchase of the parking lot buses ordered in 2007 was delayed and the purchase will be reflected in 2008, this expenditure will require a budget amendment. He noted the forecasted interest income has been lowered due to the decrease in rates. Upon motion duly made and seconded, it was unanimously

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RESOLVED to approve the January 2008 preliminary financials as presented.

Accounts Payable The Accounts Payable listing was reviewed. 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) C.R.S. for the purpose of discussing negotiations. The Board entered into Executive session at 10:25 a.m. and returned at 11:00 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 February 27, 2008.

Respectfully submitted,

Kathy Lewensten
Secretary for the meeting