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# RECORD OF PROCEEDINGS

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## MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT March 16, 2006

The Special Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 10:30 a.m., March 16, 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
- Kathy Lewensten, Robertson & Marchetti, P.C.
- Dan Cokley, Schmueser Gordon Meyer
- Tom Schouten, BCPOA
- Ernie Elsner, BC Property Owner
- Mike Balk, BC property Owner
- Robert Gary, BC Property Owner
- Suzanne Hoffman-LeBlanc, BC Property Owner
- Don Hoffman, BC Property Owner
- John Garnsey, COO Beaver Creek
- Tony O'Rourke, Beaver Creek Resort Co

### Call to Order

The Special 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. 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

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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.

### Front Gate Project

Mr. O'Rourke stated he had been working with Mr. Hanks and Director Friedman regarding the plans for the front gate project and thanked the Board for having a special meeting to review the project. He presented several sketch plans of the project. He explained the project costs have increased from \$1.85 million to \$2.25 million for the originally proposed project. The project includes a new building at the front gate entrance, a new building at the Prater Road entrance, repaving of Village Road from the round a bout to the front gate and a bus acceleration lane on Village Road. He stated BCRC would like to start the Prater Road gate improvements this spring, then on September 7<sup>th</sup> start the front gate improvements for completion by the beginning of ski season. Director Friedman asked if the major objective for this project was to improve the aesthetics of the entrances. Mr. O'Rourke replied this was true, but added it was also to improve the traffic flow for the property owners at the front gate by shifting the owner's entrance to the left, away from the bus acceleration lane.

Mr. O'Rourke referred to the memo which had been provided by e-mail to the Board prior to today's meeting noting Option #5 was the preferred choice of BCRC. Option #5 contemplates tearing down and rebuilding the front gate access on the current site. This option does not require any relocation of utilities. This option would allow ingress and egress during construction while still coming in within budget. The board questioned the logic of starting with the improvements on Prater Road in the spring while expressing a desire to have the Front Gate on Village Road begun first to allow sufficient time for completion if any unforeseen delays happened. Mr. O'Rourke explained he would need to see if the contractor would consider this.

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Mr. O'Rourke recognized the District's concerns related to the potential closure of the front gate access for the several months of construction. The Board discussed why they were not in favor of closing either Village Road or Prater Road during construction. Mr. O'Rourke suggested the bus lanes by the Elk lot be considered as an alternate ingress during construction as noted in Option #5. The Board asked whether turning left from highway 6 onto the bus lanes would pose any issues. Mr. O'Rourke replied they were checking with CDOT, however the buses currently turned left at that location so it appears there is not an issue. This alternative would also allow for a temporary gate or security screen which could be placed on the bus lanes during construction.

The Board asked about the inclusion of a sidewalk along Village Road. Mr. O'Rourke stated the current plan did not have a sidewalk; the sidewalk was removed and thought to be a project for a later date. The Board expressed a strong desire to have the sidewalk project done concurrently with the front gate as was originally proposed last fall. The prior District meeting minutes had been reviewed and reflected the Board's willingness to help with the funding of the sidewalk. The Board was surprised to learn the sidewalk had been removed from the project supposedly due to the District not being willing to fund it. Mr. O'Rourke stated he would put the sidewalk back into the project. The Board stated it would be logical for a cost share for the sidewalk to be one third from the District, BCRC and Vail Resorts. Mr. Garnsey stated this project was not included in the approved capital projects for VR for the coming fiscal year so they could not contribute. The Board then offered a cost share of one half from both the District and BCRC. It was agreed this seemed reasonable. Mr. O'Rourke stated he would need to check with the contractor to see if it was possible to do the sidewalk concurrently with the improvements. Mr. Hanks stated Mr. Cokely had reviewed the plans and stated there was sufficient room to do both a bus acceleration lane on the south side and a sidewalk on the north side of Village Road.

Ms. Hoffman-Leblanc asked how contractors would be regulated during construction. Mr. Garnsey explained this was a matter which has been reviewed. He stated the subcontractors do need to have access to their vehicle during construction; however the employees who do not need vehicles are encouraged to be bused to

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the locations. The Board stated this was a subject that will need to be addressed at a later meeting.

Director Wells noted the District acts as the trustee of the roadways and has a responsibility to understand clearly any project which is undertaken so as to minimize any disruptions. The Board expressed a desire to see more specific plans prior to making any final decisions. Mr. Hoffman asked about any penalties if the construction is not concluded on time. It was suggested the District should ask for a copy of the penalties provisions in the contract between BCRC and the contractor. Director Forstmann inquired as to whether the fire department had been contacted regarding any potential issues with the Village Road ingress through the bus lanes or the potential closure of Prater Road. Mr. O'Rourke stated they will be. The Board reiterated that prior to Prater Road being closed the District would need to give its consent. Director Wells stated the District approves the projects concept as discussed however before moving forward with a formal approval would need to articulate the details. The Board will expect this to happen prior to the regular meeting scheduled for next Wednesday, March 22<sup>nd</sup>.

Director Wells summarized the District position. He stated the District was in general support of Option #5 for reconstruction of the front gate and the Prater Road gate in substantially the form presented at today's meeting. It is understood no utilities will be disturbed or relocated. Both ingress and egress will be provided at the front gate by lanes that exist or in combination with bus lanes. To the greatest extent possible the front gate project will take place as early as possible. Detailed plans will be presented to the General Manager for review by the Districts own consultants. No work will be undertaken until it has received the approval of the General Manager. The work will be performed under a specific schedule with no additional work to be commenced unless the prior work has been signed off. There will be specific guidelines with consequences if they are not met. The District will require appropriate insurance and indemnity to be in place. The approval presumes the inclusion of the sidewalk on the north side of Village Road, the acceleration lane for the buses, a new front gate building with an asphalt repave of the roadway from the round a bout to the gate and a remodel of the Prater gate building. The cost of the sidewalk will be shared by one half being provided by the District

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and one half being provided by BCRC with the possible reimbursement of one third of the costs by VR at a later date. A traffic movement and safety plan will be submitted to the General Manager for approval prior to the commencement of the project.

Director Friedman requested public safety be given the ability to enforce the guidelines included without concern of repercussions for that enforcement.

The Board directed Mr. Hanks to work with Mr. O'Rourke to prepare the information needed prior to next weeks meeting. Mr. Hanks suggested considering a compliance deposit which may be returned at the end of the project. Mr. Elsner asked if the District had considered paving the remaining portion of Village Road from the gate house up to the intersection with Prater. Mr. Hanks will look into the matter.

Mr. O'Rourke stated he had enough information to move forward and would provide the needed information and work with Mr. Hanks with the goal of providing detailed information at next Wednesday's meeting.

### 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 March 16, 2006.

Respectfully submitted,

Kathy Lewensten  
Secretary for the meeting