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# RECORD OF PROCEEDINGS

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## MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT March 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., March 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
- John Forstmann
- John Wells
- Vacancy

Absent and excused were Directors:

- Al Mielcuszny

Also in Attendance were:

- Clyde Hanks, General Manager
- Jim Collins, Esq., District Counsel
- Ken Marchetti, CPA, Secretary
- Steve Boyd, McBoyd Construction Solutions LLC
- Tom Schouten, BCPOA
- Ernie Elsner, BC Property Owner
- John Garnsey, COO Beaver Creek
- Jim Funk, BC Public Safety
- Bill Simmons, Operations
- Jim Telling, East West Partners
- Suzanne Hoffman-LeBlanc, BC Property Owner
- Dan Cokley, Schmueser Gordon Meyer
- Tony O'Rourke, Beaver Creek Resort Co

### 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. 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.

### Minutes

The Board reviewed the minutes of the February 22, 2006 Regular Meeting. Upon motion duly made and seconded, it was, unanimously,

**RESOLVED** to approve the minutes of the February 22, 2006 Regular Meeting as presented.

### Future Meetings

The next regular meeting is scheduled for Wednesday, April 26, 2006, at 8:30 a.m. in the same location.

### Agenda Changes

No changes were made to the agenda.

### Village Walk and BC Landing Updates

Mr. Telling informed the Board the Village Walk project was approximately two to three weeks behind schedule due to weather. The road disruption is substantially done and a concerted effort is being made to keep Elk Track Road clean.

The BC Landing project is four to six weeks behind schedule. The steel work is underway. The roadway has not been kept clean and a meeting has been set up with the contractor to address this issue. They are considering placing concrete part way to the site since the gravel is not working well.

### Front Gate Project

Mr. O'Rourke distributed a memo which addressed some of the concerns that had been raised at the March 16<sup>th</sup> meeting regarding the front gate remodel and the related timeline. The current plan

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leaves the front gate at the same location. It is not possible to have the building permits in place to begin the Village Road front gate project this spring. Mr. Hanks explained the recreation path/sidewalk on Village Road from the front gate to Prater Road will be done this spring with the rebuild of the front gate house being done in the fall. Director Forstmann wanted to be sure access to the merchants and hotels are maintained during the projects. Director Friedman would like to review alternative options for traffic during the front gate remodel in the fall. This would include looking at alternatives on how the bus lanes could potentially be used to detour the traffic. It was suggested input should be obtained from the merchants regarding the traffic options. One unresolved matter concerns the placement of the island inside of the front gate. The Board stated Mr. Hanks should be receiving copies of any pertinent plans and can approve them or bring them to the Board for review if necessary. Mr. Collins presented a resolution regarding the front gate improvements. The Board reviewed the resolution including the attached conditions. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the Resolution regarding the Front/Prater Gate Improvements as presented which is attached hereto to become part of the minutes.

### Prater Road Recreation Path

Mr. Schouten reported the BCPOA would like the District to consider extending the recreation path down Prater Road to Highway 6. He mentioned one funding source could be the "Adam Aron Fund" where there may be approximately \$100,000 in undesignated project funds available. It was suggested Bachelor Gulch should be approached to see if they would participate in providing funds for this path. The Board directed Mr. Hanks to develop a plan and cost estimate for this path for consideration at a later meeting

### Eagle-Vail Admin Maint Facility

Mr. Boyd reported work on the punch list continues. There are several exterior items that will need to be completed. He has a list of the items that remain with the value to complete. He reported Hyder has asked for release of the full amount of retention being held. The Board requested that Mr. Boyd prepare a list of things

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still to be done and a list of things that need to should be watched over time to insure they were done correctly for consideration at the next meeting. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to decline Hyder's request for release of the full retention amount at this time.

Mr. Hanks presented a list of change orders to the Board. The change orders cover the items approved by the District such as the upgraded carpet, the punch button locksets, an increase in the size of the unit heater in the garage, and other various changes. The net amount of these changes is \$3,602 which is reflected in the latest pay application being presented. Mr. Hanks stated one more change order is expected which will cover the revisions needed related to the electrical portion of the project. It was noted the District may have recourse against the engineers that provided the electrical design because there were significant issues with the plans. The Board stated no one except the Board has been authorized to approve any change orders.

### Transportation Vehicles

Mr. Hanks reported the transportation vehicles are being ordered as presented in the vehicle replacement plan that was reviewed in May 2005 and that the cost is within the budgeted amount.

Mr. Schouten asked if the new ski portal at Beaver Creek Landing has resulted in any reduction in bus traffic. Mr. Simmons stated this has not happened yet but they are still working to train the bus drivers to encourage skiers to use this portal. Director Forstmann expressed concern the buses are traveling to fast. The Board discussed the electronic speed indicator signs that are under consideration. Alternative measures for enforcement of the speed limit will need to be reviewed.

Mr. Hanks will review the practice of allowing the Town of Avon to use the parking lot buses for limited purposes in the summer. Currently the District receives \$20 per hour for the use. The use is minimal.

### Public Safety

Ms. Hoffman-Leblanc stated the pedestrian crossings and crosswalks need to be studied. The painted crosswalks which are

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currently in place may need to be enhanced. Areas of concern include in front of the Hyatt, at Offerson and Village Roads, and at Elk Horn. Mr. Garnsey stated the pillar at the bridge in Strawberry Park is another area. In addition to enhancement of the crosswalks it may be a matter of educating the public. Mr. Funk offered to review the matter and bring back a report.

**Prater Parking:** Mr. Funk reported he has one wildcard day remaining for parking along Prater Road. He did not need to use March 18<sup>th</sup>.

Ms. Hoffman-Leblanc stated there have been persons parking along Hay Meadow. Mr. Funk replied this is private property, a complaint would need to be filed prior to any enforcement. Several other areas of concern regarding parking were brought to Mr. Funk's attention.

### Legal Matters

**Market Square:** Mr. Hanks still needs to meet with the litigation attorneys to pass along the amount the District agreed to offer as settlement for the back dues. Mr. Hanks was working with Mr. Sable regarding the conveyance of the District unit however the Vilar has asked Ms. Folz to take over responsibility for this conveyance which has caused a delay in the process. Director Friedman stated it was his sense the Vilar and Vail Valley Foundation want to be certain they do not end up with a liability for the past issues which have not yet been resolved.

**Vilar Capital Funding:** Mr. Wells asked where the proposal from the Vilar was for the capital funds being collected by the District through the new mill levy. Mr. Hanks explained that Ms. Folz and her committee are reviewing the matter. Mr. Schouten stated he was on the committee and reported a draft agreement is under review and should be submitted shortly. Mr. Hanks stated he had prepared the draft agreement and had provided it to the Board and Mr. Sable for review.

The Board discussed the Vilar mill levy and directed that this mill levy be collected in full each year with any excess amount over \$250,000 to be escrowed until the last year of the levy.

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### General Manager Update

**Eagle County Land Use Regulations:** Mr. Hanks reported the District had received a notice of proposed changes to the Eagle County Land Use Regulations expanding the restriction on ridgeline development from construction that can be seen from Highway 6 or I-70 to areas that can be seen from approximately 40 roadways in the County, none of which are in Beaver Creek. The Board directed Mr. Hanks to draft a response and circulate it to the Board for review.

**Fire Station:** Mr. Hanks reported that with the heavy snow this winter an ice buildup has occurred at the fire house and we are bringing someone in to remove the buildup.

**Wireless Network:** Mr. Hanks and Mr. Collins will be working with a lawyer who specializes in this area to investigate the legal ability of the District to provide this service. He will keep the Board informed of his progress.

### Financial Statements

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

**RESOLVED** to approve the February 2006 preliminary financials as presented.

### Accounts Payable

The Accounts Payable listing was reviewed. The Board agreed to include the payment to Hyder for \$39,474.10. By motion duly made and seconded, it was unanimously

**RESOLVED** to approve the accounts payable list as presented including the payment to Hyder.

### 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 March 22, 2006.

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Respectfully submitted,

Ken Marchetti  
Secretary for the meeting