
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT March 28, 2007

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., March 28, 2007 in the Conference Room of the District Administrative and Operations Facility, Eagle-Vail, Eagle County, Colorado.

Attendance

In Attendance were Directors:

- Stephen Friedman (via phone)
- Mike Balk (via phone)
- Ernie Elsner
- John Forstmann
- Robert Gary

Absent and excused were Directors:

Also in Attendance were:

- Clyde Hanks, General Manager
- Ken Marchetti, CPA, Secretary
- Kathy Lewensten, Recording Secretary
- Heather Nolan, Administrative Assistant
- Tom Schouten, BCPOA
- John Garnsey, COO Beaver Creek
- Tony O'Rourke, BCRC
- Bill Simmons, Operations
- Jim Telling, East West Partners
- Jim Funk, Public Safety
- Glen Palmer, Alpine Engineering, Inc.
- Glen Ellison, Land Designs by Ellison

Call to Order

The Regular Meeting of the Board of Directors of Beaver Creek Metropolitan District was called to order by Director Forstmann, Acting Chairman of the Board, noting that a quorum was present. Director Forstmann 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,

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District March 28, 2007 Meeting Minutes

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 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 24, 2007 Regular Meeting and the February 15, 2007 Special Meeting. Upon motion duly made and seconded, it was unanimously,

RESOLVED to approve the minutes of the January 24, 2007 Regular Meeting and the February 15, 2007 Special Meeting as presented.

Agenda

No Changes were made to the agenda.

Future Meetings

The Board reviewed the meeting schedule included in the packet. The next regular meeting is scheduled for Wednesday, April 25, 2007, at 8:30 a.m. in the same location.

Public Input

No public input was offered.

BC Landing and Village Walk

Mr. Telling informed the Board Village Walk units have begun closing. The landscaping work will start at the upper half of the project and work out from there throughout the summer.

BC Landing closings for the first building are expected to begin in mid May; the second building closings are expected to begin in late July. The landscaping will be done near the end of August. The work on the public plaza is set to begin this spring at the end of the ski season.

The Board asked who would be providing Dial a Ride (DAR) service to BC Landing. It was explained since BC Landing is located within the PUD of Beaver Creek, it is expected Beaver

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District March 28, 2007 Meeting Minutes

Creek DAR will be providing this service. The Board asked if this was appropriate since Bachelor Gulch Metropolitan District (BGMD) would be receiving the property taxes. Mr. Garnsey pointed out the Bachelor Gulch DAR service is funded by Bachelor Gulch Village Association (BGVA) not by the property taxes. He noted the Beaver Creek DAR service was partially funded by BCRC in combination with the District property taxes. Director Elsner suggested the matter should be explored further. The Board generally agreed.

Gondola Rope Pull

Mr. Hanks reported he had been approached by Mr. Gunion from the Confluence Metropolitan District (CFMD) regarding a request for temporary closure of Prater Road from 6:00 A.M. on April 16th to 6:00 A.M. on April 20th to allow a rope to be pulled and spliced by Doppelmayer for the new gondola. Mr. Hanks explained a letter agreement had been reached with (CFMD) regarding the matter. A copy of the letter and the related timetable was included in the packet. The letter describes the conditions for the closure, indemnifies the District, notes all related expenses, including traffic control, are the responsibility of CFMD and requires a public education plan regarding the closure. He noted it is expected Doppelmayer will be working around the clock to complete the splice in the rope in the allotted time. Director Forstmann asked if there were any consequences if the rope pull was not complete in the time frame agreed to. Mr. Hanks stated there were not. Director Forstmann suggested in the future penalties or consequences be included.

Village Road Slope Failure

Mr. Hanks reported bids for the spring work on the Village Road Slope project had been requested from Ewing and Mountain States. Mountain States declined to provide a bid. Ewing provided a bid of \$801,220 for the work which includes a 10% contingency. He noted this amount is more than what was budgeted. He explained BCRC has agreed to fund \$350,000 towards the total project with the understanding the project will include the rock fascia, railings, sidewalk and flag poles. He noted Vail Resorts will be asked to fund approximately \$17,500 which represents the balance remaining on the \$125,000 cost share amount promised last year. He stated the flagpole columns will have wiring roughed in for installation of lighting down to the sidewalk at a later date. The

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District March 28, 2007 Meeting Minutes

Board asked if Mr. Garnsey would agree to install and choose the fixtures at Vail Resorts expense. Mr. Garnsey stated it seemed fair however without sufficient detail he would not agree to this but stated he could appreciate the Boards question. Director Elsner stated his concern that the project was not publicly bid which he felt contributed to the increase in the price of the project. Upon motion duly made and seconded, it was by a vote of four (4) Ayes and one (1) Nay (Director Elsner)

RESOLVED to accept Ewing Constructions bid of \$801,220 for the project as described which includes rough in service for lights.

Mr. Schouten asked about potential road closures on Village Road. Mr. Hanks responded Village Road may be reduced to one lane during construction but reassured Mr. Schouten it will not be closed at all during the closure of Prater Road for the rope pull at the gondola.

Wildfire Mitigation

Mr. Hanks stated the final draft of the wildfire plan had been sent to Eagle County for an initial review by the Wildfire Mitigation Specialist Mr. Lovgren. Mr. Lovgren had provided suggested comments and plan modifications to the document. Mr. Hanks drew the Boards attention to Mr. Lovgren's comments which were included in the board packet. Mr. Hanks requested the Board consider approving incorporation of the comments into the plan prior to officially submitting it to Eagle County. He noted BCRC's Board will be asked to approve the revisions to the document also.

Director Friedman asked for clarification of defensible space zone one. Mr. O'Rourke and Mr. Funk described and clarified the definition of defensible space zone one in more detail including how the 15 to 30 foot boundary related to structures. Mr. Funk explained part of the implementation of the wildfire plan would include having Anchor Point review the area's with this designation including both open spaces and private homes. After review, mitigation measures would be offered. It is hoped the mitigation measures recommended would remove as little vegetation as possible. He stated the intent would not be to denude all vegetation. He mentioned in particular stands of lodge pole pine will be looked at. BCRC and VR have committed to

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District March 28, 2007 Meeting Minutes

reviewing the open spaces with Anchor Point this year and to move ahead with mitigation measures within the open space areas. Director Friedman restated that from the above discussion his understanding is that BCRC and VR are committed to cleaning up the open space within a reasonable amount of time. Mr. Garnsey and Mr. O'Rourke both confirmed this understanding. Upon motion duly made and seconded, it was unanimously

RESOLVED to accept modifications to the Wildfire Plan as suggested by Mr. Lovgren, Eagle County Wildfire Mitigation Specialist.

General Manager Update

ERFPD Letter and concerns: Mr. Hanks reviewed the letter included in the packet from ERFPD which expressed concerns related to training, certification and medical oversight of BC Public Safety Staff. He explained three individuals from out of state had joined the BC Public Safety Staff this season. They had submitted the appropriate paperwork to transfer their firefighting and EMT certification to Colorado. For the firefighting certification they were required to obtain more Hazardous Material Training. This has been complete and filed with the State. Unfortunately, in the meantime the state had been notified the three individuals did not have current Colorado certifications; this notification has caused an additional delay with the paperwork. Mr. Hanks noted ERFPD had been okay with the staff responding while the paperwork was processed. Mr. Funk stated he has contacted the ERFPD Training Officer and the State directly to help resolve the matter.

Mr. Hanks expressed concern at ERFPD's comments and response to the issues. He suggested setting up quarterly meetings with ERFPD and BC Public Safety to discuss pertinent matters such as training and medical oversight in the future. It was suggested there may be some interest on the part of ERFPD to amend the current agreement with the District to replace the two BC Public Safety staff members with ERFPD employees. Mr. Funk explained BC Public Safety Staff are generally the first to arrive on the scene since they are out within the Beaver Creek area on a daily basis. Mr. O'Rourke noted there are always at least two certified staff members on each shift. The Board discussed the matter. It does not appear to be in the best interest of the District to change the

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District March 28, 2007 Meeting Minutes

two BC Public Safety Staff members with personnel from ERFPD. The Board directed Mr. Hanks to draft a response letter to ERFPD stating the Boards positions as discussed.

Public Safety Agreement: Mr. Hanks referred to the memo and draft agreement included in the packet related to public safety. He explained the draft agreement had been done in 2005 but has not moved forward since that time. Mr. O'Rourke stated he did not anticipate any major issues with the agreement. The agreement will be brought back to a future meeting for consideration.

Mr. Hanks referred to the memo in the packet which described the negotiated amount of \$417,011 as full payment for the Public Safety services provided by BCRC for the last two quarters of 2005 and all of 2006. He requested the Board consider approval of this payment. The District has been accruing the expense for the services but has not yet paid BCRC. Mr. Hanks noted the above amount had been presented to the BCRC Board and they were willing to accept \$417.011 as full payment for past services. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve payment of \$417,011 to BCRC as full payment for the Public Safety Services provided for the last two quarters of 2005 and all of 2006.

Director Forstmann expressed his continued dissatisfaction with the staffing at the front gate. He noted in his opinion the Bachelor Gulch Gate Staff had more traditional uniforms and presented a more professional appearance. Mr. Funk explained the Bachelor Gulch Gate was used in a slightly different capacity as they do not deal with the high volume of traffic which the front gate to Beaver Creek experiences. The front gate provides first contact with the resort visitors and security screening into Beaver Creek. Mr. Garnsey stated at the beginning of the season it had been decided the Alpine Sweater would be a more welcoming uniform for the front gate. Mr. O'Rourke and Mr. Garnsey explained the pay rate has been increased to help attract a higher level of employee. The Board requested the opportunity to review future uniforms prior to any decisions being made. Mr. Garnsey and Mr. O'Rourke stated the choices will be made available to the Board for comment in the future.

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District March 28, 2007 Meeting Minutes

Encroachment Appeal: 436 Borders Road: Mr. Hanks introduced Mr. Ellison to the Board explaining Mr. Ellison wished to appeal the decision to deny an encroachment for 436 Borders Road. Mr. Hanks explained the encroachment had been denied as it proposed putting a permanent retaining wall structure within the District easement. Mr. Ellison explained the improvements and provided a drawing for the Board to review. He showed the existing driveway noting the improvements would realign the driveway to increase the number of parking spaces and improve the grade. Mr. Ellison asked if a boulder retaining wall would be acceptable explaining he did not view a boulder wall as a permanent structure. The Board denied the appeal stating the Districts policy is to not allow permanent structures within the District easements and that a boulder wall is considered a permanent structure.

Avondale Sidewalk (Base Mtn Sports): Mr. Hanks reported the project to move the curb and sidewalk back to allow three more parking spaces in front of Base Mountain Sports had been reviewed. The estimated costs for the project are \$70,000 to \$80,000. He explained the District had not budgeted for this expenditure for 2007 and recommended the project be considered during the budget process for 2008. The Board asked if any cost sharing possibilities had been explored and suggested this be done for the project. Mr. Hanks reported he had been approached by the manager at Villa Montane after reviewing the project. The manager asked for the District to consider extending the other side of the sidewalk to the stairwell. This work is not included in the estimate above. The Board stated the project will not be considered for 2007 but can be brought up for consideration for the 2008 budget and suggested any opportunities for cost sharing be researched as part of the process.

Colorado Mosquito Control: Mr. Hanks asked for approval to continue the Districts relationship with Colorado Mosquito Control for the coming year. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the execution of the Colorado Mosquito Control Agreement by Mr. Hanks.

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District March 28, 2007 Meeting Minutes

Fuel Berm – B & B Excavating, Inc.: Mr. Hanks reported he had received a bid of \$38,485.95 from B & B Excavating, Inc. for installation of the fuel berm that is required as part of the spill containment plan for the fuel farm. He noted the project has to be completed by September 1, 2007. Mr. Boyd had reviewed the bid and compared it to a similar project reporting the cost seemed reasonable. Mr. Hanks stated the project had been included in the 2007 budget for \$20,000, the increase in the price of concrete may have contributed to the increase in cost. Director Forstmann offered to provide the name of another contractor that could be contacted to see if there would be interest in providing a bid. The Board directed Mr. Hanks to proceed with the project using the lowest responsible bid.

Prater Road and Hwy 6 Intersection

Mr. Palmer presented information related to the alternatives for improvements at the intersection of Prater Road and Highway 6. He noted some of the work would be within the District's rights of way and explained he was appearing before the Board to ask for understanding as to whether the District will allow access on the rights of way before continuing with further planning. He briefly reviewed the pros and cons of a round a bout or an improved signal at the intersection. He explained the entrance to the Bear Lot will need to be relocated. Mr. Palmer stated there were several entities involved in the planning including the Town of Avon, Vail Associates, CDOT, Eagle County and BCRC. The Board asked if any financial commitment is expected from the District. Mr. Palmer responded he was not asking for any financial contribution for the planning just confirmation it would be okay for the planning to move forward. The Board discussed the sketch plan. Director Forstmann stated the relocated entrance for the Bear Lot as presented in the sketch plan was not acceptable. The Board responded it would be willing to look at further plans but would not commit to anything at this time.

The Board continued discussion of the project. It was noted BCRC and VR were taking the lead on this project. At the last meeting it had been mentioned the District may be asked for a funding contribution for the project in the future. For any improvements that are to be constructed over District rights of way the District will need to be asked to give permission to allow them. The

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District March 28, 2007 Meeting Minutes

Board will look for a more definite plan before making any decisions.

Front Gate Project

Mr. O'Rourke reported he anticipates work on the front gate will resume around April 16 and is expected to last through June. Director Forstmann stated the turning radius for the owner's gate appears to be wrong. He also pointed out the curb located on the southside is situated at an angle that is not consistent with the Roadway. He asked if these could be reviewed so they could be corrected. Mr. O'Rourke responded this had not been a problem that he was aware of.

First Amendment TOA Transportation Agreement

Mr. Hanks reported he and Mr. Simmons had reviewed the final budget numbers for the First Amendment IGA to Transportation Services Agreement which covers the parking lot bus system with the Town of Avon. The agreement will be presented at the next meeting for action.

Financial Statements

Mr. Marchetti reviewed the February 2007 preliminary financial statement included in the packet. He explained the overall effect of the Village Road project increased costs on the 2007 budget noting a budget amendment will be needed to allow for the additional expenditure. He stated the overall fund balance for 2007 remains at a stable level. The Board asked Mr. Marchetti to compare the cost of leasing the major equipment purchases of the loader and snowplow to outright purchase of the equipment for review. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the February 2007 preliminary financials as presented.

Accounts Payable

The Accounts Payable listing was reviewed. Mr. Hanks wanted the Board to be aware that a check may be needed for a deposit on the rock that will be needed for the Village Road Slope project prior to next months meeting. The Board gave its approval if a check is needed. Upon motion duly made and seconded, it was unanimously

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District March 28, 2007 Meeting Minutes

RESOLVED to approve and ratify the accounts payable list as presented.

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 28, 2007.

Respectfully submitted,

Kathy Lewensten
Secretary for the meeting