
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT May 26, 2010

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., May 26, 2010 in the Conference Room of the District Administrative and Operations Facility, Eagle-Vail, Eagle County, Colorado.

Attendance

In Attendance were Directors:

- Mike Balk (via phone)
- Robert Gary (via phone)
- Louis Kreig
- James Power
- Ernie Elsner

Also in Attendance were:

- Clyde Hanks, General Manager
- James Collins, Esq, Collins Cockrel & Cole
- Ken Marchetti, CPA, Robertson & Marchetti, PC
- Kathy Lewensten, Recording Secretary
- Jennie Fancher, BC Admin Assistant
- Tony O'Rourke, BCRC
- Sam Parker, BC Public Safety
- Bill Simmons, BC Village Operations
- Dan Cudahy, McMahan & Associates

Call to Order

The Regular Meeting of the Board of Directors of Beaver Creek Metropolitan District was called to order by Director Kreig, Acting Chairman of the Board, noting that a quorum was present. It was 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. Ernest Elsner is a member of the Board of Directors for Beaver Creek Property Owners Association; Mr. Michael Balk is a member of the Board of Directors for Beaver Creek Property Owners Association and a

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director of the Vilar Center for the Arts; Mr. Robert Gary is a member of the Board of Directors for Beaver Creek Property Owners Association and the Vilar Center for the Arts Committee; Dr. Louis Kreig is a member of the Board of Directors for Beaver Creek Property Owners Association; and Mr. James Power is a Director of the Beaver Creek Property Owners Association. 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 March 24, 2010 Regular Meeting and May 10, 2010 Special Meeting. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the minutes of the March 24, 2010 Regular Meeting and May 10, 2010 Special Meeting.

Future Meetings

The Board reviewed the 2010 meeting schedule included in the packet. The next regular meeting is scheduled for Wednesday, June 23, 2010 at the same time and location.

Agenda

No changes were made to the agenda.

Oaths of Office

Three Board members had been re-elected in the May election for terms through 2014. The Oath of Office was executed by Director Elsner. Directors Balk and Gary had executed their oaths prior to today's meeting.

Election of Officers

The Board discussed the election of officers. It was decided the current slate of officers would remain unchanged. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the following officers:
Director Balk as the Chairman/President of the Board.
Director Elsner as Vice Pres, Treasurer
Director Gary as Vice Pres, Assistant Secretary/Treasurer
Director Power as Vice Pres, Assistant Secretary/Treasurer.
Director Kreig as Vice Pres, Assistant Secretary/Treasurer.
Mr. Marchetti, Secretary

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Appointment Of Delegates

The Board discussed the delegates it would need to appoint to Upper Eagle Regional Water Authority (UERWA) board. The Board appointed Director Power as the delegate with Mr. Hanks as the first alternate. Upon motion duly made and seconded, it was unanimously

RESOLVED to appoint Director Power as the delegate to UERWA, with Mr. Hanks as the alternate.

Public Input

No public input was offered.

2009 Audit

Mr. Cudahy from McMahan and Associates began discussion of the 2009 Audit. He reported a meeting had been held in March between Director Elsner, Director Gary, Mr. Hanks, Mr. Marchetti and himself to review the 2009 Audit in detail. All requested revisions had been made as discussed at the meeting. Director Elsner requested a red line version of the audit for final review. Mr. Cudahy presented the 2009 audit report in detail stating the District is in good financial condition. The District will receive a “clean” unqualified opinion. Upon motion duly made and seconded, it was unanimously

RESOLVED to accept the 2009 Audit subject to final authorization by the audit committee.

General Manager Update

Village Road: Mr. Hanks reported he had requested additional testing and data for inclusion into the Village Road comprehensive information package. The additional information was obtained from four new testing trenches and from deflection testing of the entire roadway. Director Power asked if the additional testing results substantiated the finding of the prior tests. Mr. Hanks stated nothing new or different had been found. The package will be complete in June, and will be provided to the Board as soon as it is available.

Holden Road: Mr. Hanks reported staff was waiting until the end of May to revisit Holden Road to see if the roadway settled back down. It appears the heaving was due to frost. No course of action has been determined. One remedy may be to make repairs by the affected driveways perhaps by removing a section of roadway at

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the end of the driveway, placing insulation and road base then repaving. It is anticipated the cost for any remedial work will not be significant.

BCRC **Transportation**

Mr. O'Rourke referred to the memos from him to the Board regarding transportation. He began discussion on the proposed transportation service level upgrades memo which had been provided to the Board via email prior to the meeting. BCRC would like to recommend an increase in Dial A Ride service hours as noted in the memo but would prefer to schedule the end service for midnight instead of 2:00 a.m. He explained utilization of DAR service between 12:00 a.m. to 2:00 a.m. is not significant. He recommended the parking lot bus service hours be increased to bring wait times back to 5 to 10 minutes and reinstatement of the employee shuttle service. These changes are being proposed in response to the feedback received this past season after the service hours were reduced. The net effect of the changes would increase the cost of service by approximately \$56,000. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the proposed transportation service level upgrades as described in Mr. O'Rourke's memo to the Board dated May 10, 2010.

Mr. O'Rourke turned the attention of the Board to the memo concerning a possible amendment to the 1999 Transportation Agreement which had been included in the packet. The District is considering taking responsibility for DAR services with BCRC taking responsibility for the parking lot service. Director Power stated he does not wish to see the District continue to support the parking lot bus service expenses. Mr. O'Rourke explained BCRC has reviewed the matter and has identified two concerns.

The first concern is the fiscal impact to BCRC if it were to take over the parking lot bus service. He explained BCRC is still determining the effects of the economy on their overall budget and is scrutinizing all expenses. As pointed out in the memo BCRC would not benefit from a change in the current agreement. He noted a separation would negatively impact BCRC financially until at least 2012. Mr. O'Rourke stated prior to 1999 transportation was paid for by a common assessment, which was not tax deductible.

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The voters approved a transportation mill levy of 12.2 mills which has declined over the years to 7.449 mills. The only way to increase the mill levy would be an election. The Board asked if BCRC intends to continue the special assessment. Mr. O'Rourke explained this will be looked at during the upcoming budget process. He noted it will likely remain for one more year but the amount is yet to be determined. It was asked whether any type of fee for parking in the lots was ever considered. Mr. O'Rourke replied this has been considered but nothing has been decided. Director Balk pointed out the District may experience a drop in assessed valuation in the coming years which may cause DAR to have a deficit and asked what position BCRC might take. Mr. O'Rourke stated he would suggest working together to take a long term look at the services and funding.

Mr. O'Rourke stated the second concern with the proposed amendment related to the lack of mutual consent for service levels. He noted BCRC would like to have the ability to have input regarding the service levels for DAR. He suggested this matter was more a matter of semantics, such as being able to define minimum service levels. He expressed in his opinion the language could likely be worked out.

Mr. O'Rourke stated BCRC would not be in a position to seriously consider the separation of the DAR and Parking lot bus services for at least one more year. The Board directed the transportation committee to meet with Mr. O'Rourke to continue discussion of the matter.

Project Legacy

Mr. O'Rourke requested time to discuss project legacy. He explained BCRC is considering moving forward with portions of the project as funds become available. He said BCRC has set aside approximately \$200,000 for improvements related to project legacy in the village core. The intention is to do the improvements this fall. He noted BCRC is not expecting any funds from the District for this. He suggested the District and BCRC request the completion of the protocol and guideline document this year. The approximate cost would be \$50,000 which would be split 50/50. The Board stated it was their understanding that all project legacy projects would be split 50/50. There was concern that if projects and percentage of funding is done on a piecemeal basis it may cause complexity that is not necessary. Mr. O'Rourke stated the

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project split would not always need to be 50/50; for instance RC would provide some funds towards an upgrade at the intersection of Prater and Village Roads but perhaps not as much as 50%, on the other hand it would not expect the District to contribute 50% towards the village core project either. The Board stated from the beginning the concept had been a complete 50/50 cost share on the entire project to facilitate the project moving forward without concern as to who was responsible for which portion. It was thought costs would even out overall. It was pointed out the funding memo from a year ago also contemplated a 50/50 split. Mr. O'Rourke stated he was open to discuss the matter and noted the good news is they are trying to get the project moving forward. The Board suggested the subcommittee meet to review in detail the funding split and prepare a time table for projects for further discussion.

General Manager Update Cont.

Tree Trimming: Mr. Hanks referred to the memo included in the packet outlining the proposed tree trimming schedule for this year. The Board agreed with the proposal.

Wildland Fire Truck: Mr. Hanks reported the new wildland fire truck has arrived. Prior to the meeting the Board was able to inspect the vehicle. Mr. Hanks explained he had researched the value of the old truck. He has found the resale value of the old truck is approximately \$25,000. In light of this he was recommending selling the vehicle instead of donating it. The Board tabled the discussion to executive session.

Legal

Proposition 101, Amendments 60 and 61: Mr. Collins informed the Board there are several measures on the November Ballot that may negatively affect the District if they pass. He explained Proposition 101, Amendments 60 and 61 would restrict or limit taxes and the ability to issue debt by special districts and other entities. If passed they would have a detrimental effect on finances for governmental entities. His office will be preparing a more in depth look at the matter in the near future which will be provided for review by the Board.

Real Estate Trends

Mr. Marchetti referred to the information included in the packet related to recent sales data for the District. He reported he spoke

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with the Eagle County Assessors office to inquire as to how they are expecting to interpret the data in the next re-valuation. If there are not enough transactions they may consider going further back, such as to June 30, 2008 instead of starting at January 1, 2009. The preliminary analysis shows a decline in single family home assessed values of approximately 12%, and in condominiums of 14%. Director Elsner stated his interpretation of the data reflected a 1% decline in single family homes and a 7.5% decline in condominiums. It was pointed out the way the Eagle County Assessor interprets the data will determine the effect on assessed values. Mr. Marchetti stated he will be monitoring the matter in the coming months and will continue to report as necessary. The Board directed a request be sent to the Eagle County Assessor asking for the formula that will be used to determine the assessed valuation during the next revaluation period. Upon motion duly made and seconded, it was unanimously

RESOLVED to authorize a request be sent to the Eagle County Assessor asking for the formula that will be used to determine the assessed valuation during the next revaluation period

Financial Statements

The Board reviewed the April 2010 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the April 2010 preliminary financials as presented.

Accounts Payable

The Board reviewed the Accounts Payable listing. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve and ratify 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) (b) and (e) C.R.S. for the purpose of receiving advice of counsel and determining positions related to matters subject to negotiation regarding transportation

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services and disposal of the old wildland fire vehicle. The Board entered into executive session at 10:30 a.m. and adjourned the executive session at 10:50 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 May 26, 2010.

Respectfully submitted,
/s/ Kathy Lewensten

Kathy Lewensten
Secretary for the meeting