
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT May 27, 2009

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., May 27, 2009 in the Conference Room of the District Administrative and Operations Facility, Eagle-Vail, Eagle County, Colorado.

Attendance

In Attendance were Directors:

- Mike Balk
- Robert Gary
- Ernie Elsner
- James Power

Absent and Excused was Director:

- Louis Kreig

Also in Attendance were:

- Clyde Hanks, General Manager
- Jim Collins, Esq. District Counsel
- Ken Marchetti, CPA, Robertson & Marchetti, PC
- Kathy Lewensten, Recording Secretary
- Bill Simmons, BC Operations
- Tony O'Rourke, BCRC
- Sam Parker, BC Public Safety
- Dawn Friedman, BCPOA
- Scott Turnipseed, Owner Representative Wayne Creek Lot 7
- Louiza?
- Chief Charlie Moore, ERFDP
- Ed O'Brien, ERFDP President
- Jennifer Cartmell-Hays, ERFDP Director
- Carol Gill-Mulson, ERFDP
- Karl Bower, ERFDP
- John Willson, ERFDP
- Lee Rosenbaum, Wayne Creek Lot 9
- Jay Rosenbaum, Property Owner Wayne Creek Lot 9

Call to Order

The Regular Meeting of the Board of Directors of Beaver Creek Metropolitan District was called to order by Director Balk, Chairman of the Board, noting that a quorum was present. Director Balk confirmed that prior to the meeting each of the Directors had been notified of the meeting and that written notice

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District May 27, 2009 Meeting Minutes

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 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 April 22, 2009 Regular Meeting. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the minutes of the April 22, 2009 Regular Meeting as presented.

Future Meetings

The Board reviewed the 2009 meeting dates. The next meeting is scheduled for Wednesday, June 17, 2009 at the same time and location.

Agenda

No changes were made to the agenda.

Public Input

No public input was offered.

General Manager Update

Wayne Creek Lot 7 Encroachment: Mr. Hanks introduced Mr. Turnipseed and Ms. _____ to the Board. They wished to discuss an encroachment for Lot 7 in Wayne Creek. Mr. Hanks referred to the information in the packet regarding the matter. He explained an encroachment was necessary due to grading that was needed to

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District May 27, 2009 Meeting Minutes

prepare the site for building. The improvements as noted on the drawing include a retaining wall and flagstone steps which would be placed within the District easement. He noted the proposed grading and improvements are expected to enhance and safeguard the stream. He stated the plans were reviewed by Mr. Palmer from Alpine Engineering and were deemed acceptable. Mr. Turnipseed explained they wanted to appear before the Board to answer any questions that may arise regarding the proposed plan and to ask for approval of the encroachment. The Board appreciated having the opportunity to review the encroachment noting the owners had followed the proper sequence of seeking appropriate approvals before moving forward with the project. A brief discussion of the improvements followed. The Board directed Mr. Hanks to work with the representatives for Lot 7 to complete the necessary paperwork. Upon motion duly made and seconded, it was unanimously

RESOLVED to find that the proposal adequately protects the drainage way and to approve the Encroachment for Wayne Creek Lot 7 in substantially the form presented.

2008 ERFPD Annual Report

Chief Moore addressed the Board regarding the 2008 ERFPD Annual report that had been provided to the Board prior to the meeting. He explained he wished to review overall operations to share how they are doing. He thanked the Board for the improvements to the current BC fire station. He explained there were several ERFPD members present and that he would like to have them report on various areas of fire services that are provided. Director Balk noted he was not aware of any concerns regarding the level of service provided to the District. He stated the relationship between the District and ERFPD seems to be positive and offered the Board was open to considering future requests from ERFPD for improvements or needs related to fire services. He wanted ERFPD to be aware discussion of the BC fire station will be an active issue for the District

Director Power asked if Chief Moore would like to share any specific thoughts about the future of a BC fire station or equipment needs. Chief Moore stated the volume of calls within Beaver Creek is at a level which indicates it is best to continue having an on site presence. He indicated a new larger wildland fire truck

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District May 27, 2009 Meeting Minutes

could be considered. He explained the current wildland fire truck is smaller and is not designed to go off road.

Director Elsner asked about current wildland fire capabilities. Chief Moore explained the accreditation ERFPD has for wildland fires. He explained ERFPD personnel have or are in the process of obtaining the necessary certifications and requested all BC Public Safety personnel that staff the BC fire station do so too. Mr. Parker agreed to work with ERFPD to reach that goal. Mr. Parker noted he believed all but two or three of the Public Safety personnel had this certification. The Board noted they are trying to be proactive and are working with BCRC on mitigation measures such as removal of trees related to defensible space areas, and changing roof guidelines to no longer allow shake shingles. Chief Moore agreed to help provide information as it becomes available to assist the District in mitigation efforts.

Mr. O'Brien gave a brief history of ERFPD and the growth of the district. He explained structural fires and wildland fires are two very different types of responses. He noted in addition to fire fighting services ERFPD provides code enforcement, review of construction/rebuild plans, fire safety inspections, hazmat, search and rescue, and accident response. He explained ERFPD also coordinates with Homeland Security when visiting dignitaries or sensitive persons are in town.

Mr. Bower reported on ERFPD's goal of accreditation and the procedures being followed and documented to achieve this. He explained ERFPD was currently through a portion of the accreditation process and hoped to complete it in a timely manner. He reported only 5 Colorado fire districts have obtained accreditation noting ERFPD would be the only one on the western slope. Mr. O'Brien added the accreditation uses international standards explaining once it is achieved it will need to be maintained.

Ms. Gill-Mulson shared an incident which occurred this winter. She explained a fire alarm panel had been removed and not replaced during a remodel of a local lodge. She explained it was found after a 911 call had been placed. She noted Colorado does not regulate fire alarm contractors. ERFPD is in the process of putting together a listing of ERFPD approved fire alarm

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District May 27, 2009 Meeting Minutes

contractors that would be available for use by the public. The Board asked if this issue needs to be reviewed in more detail or if regulation of some type was necessary. It was noted the District powers include fire protection which would allow the District the ability to regulate such matters. Mr. Collins noted any regulations would need to be approved by Eagle County also. The Board directed Mr. Hanks to work with ERFPD to develop a procedure/regulation for multiple dwelling fire alarm system remodels. Ms. Gill-Mulson offered to review and update the BC Building codes noting this has not been done in some time and that some of the references in the code are outdated or no longer exist. The Board agreed it would be prudent to update the code and directed this be done.

Mr. Willson presented a brief overview of an incident last spring which required a search and rescue response. He noted it was a well coordinated effort between the responding entities. ERFPD personnel have well rounded experience and certifications which allow a professional and experienced response.

Mr. O'Brien reported on future plans for ERFPD. He explained they are currently planning on the relocation of the Avon station to a new centralized larger station at a site north of I-70 in Avon. He briefly reviewed future staffing, rolling stock and satellite station expectations. He stated ERFPD would like to meet with the District on a quarterly basis to provide an update and to discuss any matters of concern. The Board welcomed this suggestion and reiterated they would be open to consider any requests ERFPD may have regarding improvements that would benefit fire services.

Beaver Creek Beautification "Project Legacy"

Mr. Hanks reported on Sub-Project No. 1 for Project Legacy. He explained six contractors had attended a pre-bid meeting. Bids are due by June 12th. Director Elsner asked if the notice of request for bids had been published. Mr. O'Rourke responded it had not, the bidders were all solicited. He explained those solicited are known for being reliable and doing good work. The work will be done this fall. Mr. Hanks noted some of the perennial landscaping may not be planted until spring. It is expected the bidders may offer alternatives to some of the plans details but that the project will remain within the \$500,000 budget. Ms. Friedman asked if any of

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District May 27, 2009 Meeting Minutes

the material currently on site will be reused. Mr. Hanks stated the current materials will be reused when possible.

General Manager Update cont'd

Village Rd Flagpole Sidewalk: The Board asked if repairs to the sidewalk along the Village Road flagpoles were holding up. Mr. Hanks reported the portion of the sidewalk that had been sealed does not match the original sidewalk. That portion has changed color and is showing scuff marks. The matter is currently being reviewed.

Fire Station: Mr. Hanks stated there are two sites the District has located which may work for a fire station. One site is by the water tower, one is across from the Avondale/Offerson Road intersection. There are access issues that need to be considered at both sites. Vail Resorts is the owner of both parcels. Mr. O'Rourke noted there is a skiway that would need to be considered at the Avondale/Offerson Road site.

Road Overlay: Mr. Hanks reported the District has entered into an agreement with B & B Excavating for the 2009 Road Overlays. B & B has begun work on the overlay for the bridge deck by Ford Hall. They are aware the remaining work will be subject to the findings of the Village Road drainage assessment. Alpine Engineering and staff have begun these assessments. Once it is determined what mitigation measures are necessary for Village Road the remaining road overlay projects will be reviewed to determine if any other overlay work can be completed this year.

Property Tax Town Meeting: Mr. Hanks noted BC Property owners have received their 2009 assessed valuation notices from Eagle County. Many of the notices are reflecting an increase in assessed valuation. Due to the increase it is expected taxing authorities will be under more scrutiny than usual this year. He stated during the budget process the Board will need to determine the mill levy it will use for tax collections in 2010. He suggested the Board may wish to be proactive in communicating its intent to the property owners. The Board discussed options related to the mill levy. Mr. Marchetti suggested the Board can consider a temporary mill levy reduction. This would preserve the ability of the District to return the mill levy to its current level if the assessed valuation decreases at the next reassessment. It was suggested a

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District May 27, 2009 Meeting Minutes

press release may be an effective communication tool. Mr. O'Rourke offered to include a press release in the Resort Report that will be sent out in June. The Board directed staff to draft a press release which states the intent to use a temporary mill levy reduction to voluntarily hold the District to the 5.5% limitation noting in the future it may be necessary to reinstate the original mill levy based on changes in the assessed valuation.

Long Range Plan: Mr. Hanks requested consideration of a work session in early July to review the long range financial plan of the District. It was determined the work session should be held sometime the week of July 6th. Mr. Hanks will follow up with the Board to determine the exact date.

Financial Statements

The Board reviewed the April 2009 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the April 2009 preliminary financials as presented.

Accounts Payable

The Accounts Payable listing was reviewed. Director Power asked about the fee charged by Sherman and Howard related to the Bond Issuance. Mr. Marchetti explained this was a set fee and was comparable to fees charged to other districts for similar bond issuances. 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 determining positions related to matters that may be subject to negotiations. The Board invited Mr. Rosenbaum and his brother to attend a portion of the executive session since the discussion would be related to Lot 9 Wayne Creek. The Board entered into

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District May 27, 2009 Meeting Minutes

executive session at 10:10 a.m. and adjourned the executive session at 11:25 a.m.

Executive Session Upon motion duly made and seconded, it was unanimously

RESOLVED to reconvene into executive session citing §24-6-402(4)(b) C.R.S. for the purpose of receiving legal advice. The Board entered into executive session at 11:25 a.m. and returned at 11:55 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 27, 2009.

Respectfully submitted,
/s/ Kathy Lewensten

Kathy Lewensten
Secretary for the meeting

I hereby affirm that all of the discussion concerning Wayne Creek Lot 9 in Executive Session constituted attorney-client communications.

James Collins, Esq., Collins Cockrel & Cole