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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 June 22, 2005

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., June 22, 2005 in the Conference Room of the Beaver Creek Club, Beaver Creek, Colorado.

### Attendance

In Attendance were Directors:

- Stephen Friedman
- Al Mielcuszny
- Tommie Campbell
- John Wells

Absent and excused was Director:

- John Forstmann

Also in Attendance were:

- Larry Grafel, General Manager
- Ken Marchetti, CPA, Secretary
- Kathy Lewensten, Robertson & Marchetti, P.C
- James Collins, Esq. District Counsel
- Bill Simmons, Village Operations
- Bob Rakich, Bach Gulch Metro Dist Board Member
- Paul Jardis, Bach Gulch Metro Dist Board Member
- Tom Schouten, BCPOA
- Jim Funk, BC Public Safety
- Matt Lydens, Project Mgr, Vail Resorts Development Co
- Tracy Walters, CPA, McMahan & Associates, PC
- Bob McIlveen, Vail Resorts
- Bob Herbst, Alpine Engineering, Inc
- Jack Hunn, Vail Resorts
- Tony O'Rourke, BCRC
- Jim Telling, East West Resorts

### 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 Friedman 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.

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### 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. Stephen Friedman is a board member of the Beaver Creek Arts Foundation which operates the performing arts facilities within Beaver Creek; Ms. Beatrice "Tommie" Campbell is a member of the Beaver Creek Communications Committee; 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 May 25, 2005 Regular Meeting. Upon motion duly made and seconded, it was, unanimously,

**RESOLVED** to approve the minutes of the May 25, 2005 Regular meeting.

### Future Meetings

The Board reviewed the meeting schedule, the next meeting will be Wednesday, July 27, 2005.

### Agenda Changes

No changes were made.

### Public Input

No public input was offered.

### BC Landing Lot 4 Access

Mr. McIlveen addressed the Board asking for comment on a variety of issues concerning Prater Road, including the access to Lot 4. Prior to the meeting the Board had been provided with a letter from VR regarding the Lot 4 access, parking on Prater Road and pedestrian traffic in the Bear lot including sketches of the options. Director Wells asked whether Bachelor Gulch Metropolitan District (BGMD) had reviewed or commented on the information. Mr. Jardis explained BGMD will be discussing the above matters at the board meeting today at noon, therefore at this time they had not been considered. The Board suggested a

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comprehensive look be taken at the Prater Road area which includes the various proposals for access, parking, and landscaping including the proposed Gondola so no project would need to be torn out or redone after completion.

The Board inquired about the proposed Gondola project noting the District has an obligation to review the project as the Gondola crosses Prater Road and will be located within the District boundaries. They requested the District be included as a participant in the planning process instead of being presented with final plans for consideration without any opportunity to offer input during the planning process. Mr. Jardis stated BGMD was interested in such an opportunity as well. Mr. McIlveen replied he had come to the meeting to receive feedback and listen to the comments given and understood the District's concerns. He remarked the upper terminal for the gondola was a fairly set point and asked the Board to not tie the Lot 4 access issue with the gondola since the timeframe for the gondola project is unknown while the Lot 4 access is needed this year.

Turning the Board's attention to the Lot 4 access Mr. McIlveen reported traffic consultants (TDA) hired by Vail Resorts had reviewed the various access options and recommended option # 23 for access to Lot 4. Option # 23 has traffic to Lot 4 entering off of Prater Road and exiting onto Bachelor Gulch Trail through the current Tarnes driveway. Director Friedman asked if any Prater Road traffic information had been brought to this meeting as he had requested at the last meeting. Mr. McIlveen stated he had the information and would see that it was provided to the Board as soon as possible. Mr. Grafel expressed concern with traffic exiting from the Tarnes driveway, suggesting it be a right turn only exit. Mr. Lydens stated the line of sight from the Tarnes exit will be addressed and that it is intended to be a right turn only exit.

The Board asked what mix of residential and retail was expected within the project. Mr. Telling stated there would be limited retail spaces for skier services and a possible coffee shop with the rest of the project being residential units. The Board again requested the traffic studies be provided to better understand the volume of traffic in the area. The matter was tabled until BGMD has had an opportunity to comment on the matter.

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### Prater Road

Mr. McIlveen drew the Boards attention to the sketch of the proposed Prater Road Parallel Parking. He explained the proposal showed adding 7.5 feet of pavement to the shoulder width to allow for sixty nine (69) parallel parking spaces along the roadway. It is anticipated these spaces would be for use on exceptionally busy days, such as during the World Cup races. The Board asked how enforcement would be handled to prevent use on a daily basis. Mr. Simmons explained there would be no parking signs along the roadway which would be covered up on the days it would be in use. Public Safety will be instructed to direct traffic to the lots until they are full and to enforce the no parking status of the spaces. Mr. Schouten stated BCPOA was concerned about security issues and the visual corridors along the expanded shoulders. Director Wells suggested a condition be added to any approval which only allows use of the spaces for a limited number of days unless prior approval is received from the District Board or General Manager. Mr. Simmons stated he has a listing of the projected days parking is expected to be over capacity which he can provide to the District. The Board stated the project appeared okay in principle but requested a written proposal for enforcement and the days of use be brought back to the Board before they consider formal action.

### 2004 Preliminary Audit

Mr. Walters from McMahan and Associates introduced himself to the Board explaining he would be presenting the 2004 Preliminary Audit. He stated the District would be receiving an unqualified opinion. He explained all financial information had been presented in accordance with Generally Accepted Accounting Principals (GAAP) and briefly reviewed the audit information. He pointed out the audit included the reporting of the impairment of the Vilar Center transportation area asset in accordance with Governmental Account Standards Board (GASB) pronouncement 42. The Board asked to be provided a red-lined version of the notes which are part of the audit for further review. Mr. Walters will provide this to the Board prior to the July meeting. The Board tabled the matter until July.

### Main Entry Gate

Mr. Grafel reviewed the information included in the packet regarding the remodel at the front main entry gate being proposed by BCRC. Mr. O'Rourke explained BCRC was interested in

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enhancing the entry to make a more positive statement by updating the look and ease of entrance to Beaver Creek. It is hoped the property owners would benefit by improving the electronic access and making it a more direct route. Mr. O'Rourke noted BCRC would pay for the project in its entirety and would not ask for any funding from the District. The Board asked if any thought had been given to rerouting a portion of the East Lot bus traffic route from Village Road to Highway 6. Mr. O'Rourke responded it had not, but that it would be taken into consideration. The sketches included in the packet were considered. Mr. O'Rourke asked which of the options would be preferred. After discussion regarding traffic flow and the pros and cons of each option it was noted that option 1 would be favored however the placement of the island needed to be more defined. It is anticipated the project would be done in the spring, with some preliminary work being done in the fall if possible. Mr. O'Rourke will refine the plan and bring it back to the July meeting for further consideration.

### Legal

**Market Square:** Mr. Collins handed out a letter received from the Market Square Association Attorney requesting payment of the prior quarter's payments. He explained the District is on record disputing the amounts. He will keep the Board informed of any developments.

**November Election:** Mr. Collins handed out a memo regarding the November Election. In order to complete the election resolution for the next meeting he asked the Board whether they wanted a coordinated election with the County in November. The Board stated they would prefer an independent mail ballot election. Ms. Lewensten will be appointed the Designated Election Official. The election questions will be discussed in detail at the July meeting. A brief discussion of the TABOR limits and Gallagher effect followed. Director Friedman and Director Mielcuszny will be attending the BCPOA meeting June 28<sup>th</sup> to discuss the election. In anticipation of this meeting Mr. Marchetti had prepared an updated election memo and Director Mielcuszny had prepared a one page summary regarding the operating mill levy issue.

### Wild land Fire Mitigation

Mr. O'Rourke stated he was in receipt of the revised information from the District regarding the defensible space and enforcement for the wildfire regulations and that it is under review. He felt

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there were still questions concerning the process of enforcement. Director Wells stated the enforcement being proposed was supported by the county regulations which state the local agency has jurisdiction. The Board inquired about the use of wood shingles stating it had been their understanding that new design review guidelines had been adopted some time ago which prevented the use of wood shingles. Mr. O'Rourke responded the new guidelines had been presented with a recommendation they be adopted however as of now they have not been adopted and wood shingles are not currently prohibited. The Board expressed disappointment and concern that the guidelines had not been adopted and were surprised by this as they had been under the impression that they had been adopted some time ago. Mr. O'Rourke explained the approval had been delayed until the total plan is ready to be adopted. The Board stated that it wished to strongly encourage that the design guidelines be adopted soon and expressed a desire to do what is necessary to see that this is accomplished. The Board directed Mr. Grafel to draft a letter to BCRC to express this concern and disappointment.

### General Managers Update

**Eagle-Vail Admin/Maint Facility:** Mr. Grafel reported the specifications and drawings are still being prepared. Hyder has been given a letter to proceed but is doing minimal work until an agreement is in place. Mr. Grafel will keep the Board informed of any new developments.

### Directors Fees

The Board reviewed the resolution regarding the increase in future director's fees included in the packet. It was explained the increase from \$75 per meeting/\$1200 per annum to \$100 per meeting/\$1600 per annum would only apply to Directors chosen or appointed to a term of office commencing after July 1, 2005. Current board members would remain at the lower rate until the end of their term. Upon motion duly made and seconded, by a vote of three (3) in Favor and one (1) Opposed (Director Friedman), it was

RESOLVED to approve the Resolution Regarding Directors' Fees. The Resolution is attached and hereby becomes part of the minutes.

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### UERWA

Director Friedman reported there will be four seats up for election next May on the Eagle River Water and Sanitation District Board. One seat up for election is the one which represents the area the District is in. The seats are elected "at-large" but represent a specific area. He noted the Board may want to consider if they have interest in suggesting or supporting any candidates for the election.

The water supplies appear to be adequate for the summer.

### Financial Statements

Mr. Marchetti reviewed the May 2005 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to approve the May 2005 preliminary financials as presented.

### Accounts Payable

The Accounts Payable listing was reviewed. Ms. Lewensten asked to add a payment to Mirage Electric for \$12,386.73 for repairs to street lights and ballasts to the listing. By motion duly made and seconded, it was unanimously

**RESOLVED** to approve the accounts payable list including the additional payable to Mirage Electric.

### Tract Q Cost Share

There was nothing new to report regarding the Tract Q cost share.

### 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 June 22, 2005.

Respectfully submitted,

Kathy Lewensten  
Secretary for the meeting

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## RESOLUTION REGARDING DIRECTORS' FEES

**WHEREAS**, Senate Bill 05-012 authorizes members of the Board of Directors of Special Districts to receive as compensation for their service \$100 per meeting attended, not to exceed \$1,600 per annum (January 1 – December 31); and

**WHEREAS**, this Legislation takes effect July 1, 2005, but is applicable only to Directors serving a term of office commencing on or after that effective date, which has been interpreted to mean that any Board Member appointed after July 1, 2005, or elected at the 2006 or 2008 elections (or thereafter), can receive the \$100 per meeting/\$1,600 per annum compensation; and

**WHEREAS**, all current Directors remain limited to a maximum of \$75 per meeting, up to \$1,200 per annum.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the District, that Senate Bill 05-012 is hereby implemented to allow Board Member Compensation of \$100 per meeting, up to \$1,600 per annum, for terms of office commencing on or after July 1, 2005.

**PASSED** this \_\_\_\_ day of \_\_\_\_\_, 2005, by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.