
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT June 25, 2008

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., June 25, 2008 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
- Louis Kreig
- James Power

Also in Attendance were:

- James Collins, Esq. Collins Cockrel & Cole
- Ken Marchetti, CPA Robertson and Marchetti, P.C.
- Clyde Hanks, General Manager
- Kathy Lewensten, Recording Secretary
- Heather Nolan, Administrative Assistant
- Dawn Friedman, BC Property Owners Association
- Bill Simmons, BC Operations
- Jim Funk, BC Public Safety
- Ludwig Kurtz, BCRC
- Tracy Walters, McMahan and Associates, LLC
- Stephen Friedman, BC Property Owner
- Ceil Folz, Vail Valley Foundation
- Scott Bluhm, Vail Valley Foundation

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 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

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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; and Dr. Louis Kreig is a member of the Board of Directors for 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 May 28, 2008 Regular Meeting. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the minutes of the May 28, 2008 Regular Meeting as presented.

Future Meetings

The Board reviewed the 2008 meeting dates schedule included in the packet. The next regular meeting will be Wednesday, July 23, 2008 at the same time and location.

Agenda

Three items were added to the agenda for discussion. The District had received a request for comments from the United States Department of Agriculture (USDA) regarding 2008 summer projects related to ski trails on Beaver Creek. The Vilar Center had contacted Mr. Hanks to request an extension to the July meeting for providing the capital projects annual report for 2008. Mr. Funk has provided a hand out which describes the areas targeted for tree cutting this season for wildfire mitigation purposes.

Public Input

Director Kreig stated Ms. Hoffman-LeBlanc had asked about who has permission to use the access gate on the road by Mirabelles. She expressed concerned there was excessive traffic using this roadway. Mr. Funk responded by explaining there is normally an increase in traffic along this road during the golf season since the Beaver Creek golf course maintenance and operations staff use the roadway to get to their facility however they do not access it

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through the gate. The access through the gate is limited to those with the appropriate electronic controls and emergency vehicles.

2007 Audit

Mr. Walters from McMahan and Associates introduced himself and began discussion of the 2007 Audit. He reported a meeting had been held between Director Elsner, Director Gary, Mr. Marchetti and himself to review the 2007 Audit for the District. He explained the District would receive a “clean” unqualified opinion. He mentioned the District has healthy fund balances. The Board discussed the level of the fund balances related to future needs and capital replacement reserves. The Board requested a more in depth review of the fund balances as part of the 2009 budget process. Mr. Walters handed out copies of the management letter explaining the auditors were recommending the District consider elimination of two funds which are no longer necessary. The funds are the water fund and the operations fund (otherwise known as the internal service fund). Mr. Collins and Mr. Marchetti both agreed with the recommendation to eliminate the two funds noting there are no compelling reasons to maintain them. Upon motion duly made and seconded, it was unanimously

RESOLVED to accept the 2007 Audit as presented, and

FURTHER RESOLVED to accept the auditor’s recommendation for elimination of the water fund and the operations fund in 2008.

VVF Cycling Race

Ms. Folz reported the VVF was organizing an international professional cycling event called the Colorado Stage that would take place August 22nd to August 24th. A memo and information regarding the race had been provided in the packet. This race would bring back professional cycling to the area. One of the race courses starts in Breckenridge and ends in Beaver Creek by the Vilar. She explained she would like permission and assistance from the District as described in the memo with temporary closures on Village Road and Avondale Road for the race. It is anticipated the roadways would need to be closed for approximately one hour. She explained the race would consist of 15 professional international cycling teams. The final awards ceremony will be held on the Beaver Creek Plaza area. Mr. Bluhm provided a hand out which noted the estimated time frames for the race which

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concludes in Beaver Creek. He explained the traffic control measures that will be used and noted the Colorado State Patrol has provided support during the planning process. Director Gary asked how the public would be notified about the road closures. Mr. Bluhm explained they were planning on using the variable message signs already in use along Highway 6 and advertising in the local papers to notify the public of the temporary closures. He noted the notifications would begin several weeks prior to the event. It was suggested an email could be sent by BCPOA to its members also. The Board asked Ms. Folz to work with Mr. Hanks to coordinate any matters related to the closure of the District roadways. Ms. Folz thanked the Board for their time. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve and support the temporary closure of Village Road and Avondale Road as requested for the Colorado Stage Bike Race.

Draft Emergency Plan

Mr. Funk began a power point presentation on the Draft Emergency Action Plan that had been provided in hard copy to the Board members prior to the meeting. He explained the Board is being asked for comments at this time. Mr. Funk stated he will provide draft copies of the plan to the BCPOA for comment within the next few days. The goal is to have the final plan in place by the end of the summer. The final plan will be presented to the various governing boards within Beaver Creek for final approval.

He explained the purpose of the plan is to ensure a safe and orderly evacuation of Beaver Creek in the event of an emergency or disaster. He reviewed the entities that will be involved and the steps and procedures for evacuation noting communication is a key component of the plan. The limitations of a hard line phone based system such as reverse 911 were discussed. Mr. Funk noted BC Public Safety is in the process of reviewing "red phone" a private based service which allows more options for contacting the public such as paging, voicemail, cell phones or e-mail in addition to land based phone lines in emergency situations. He informed the Board that Eagle County has a program called "Eagle County Alert". Individuals can sign up for the program on the Eagle County web site. The program will notify participants by text message, page, voicemail or cell phone of emergency situations within the county.

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Director Elsner asked if any consideration had been given to providing a siren warning such as the tornado warning alarms in the Midwest. Mr. Funk explained this option could be considered. Director Kreig had several questions related to details within the plan. Mr. Funk will review the items with him.

The Board asked about the Strawberry Park construction road access and whether this route would be available for use in emergency situations in perpetuity. They questioned whether an agreement related to any such understanding will be required. Mr. Funk explained at this time he was looking for comments on the plan, the next step will be to formalize any needed arrangements such as access on the road. He noted Bachelor Gulch Metro District is also working on the same type of emergency action plan and that all parties appear willing to work toward the same goal.

Mr. Funk wanted to be clear that an emergency plan is currently in place. He pointed out BC Public Safety has always had an emergency plan book which directs who to contact and procedures to follow in the case of emergency situations. The draft plan being presented and developed will provide a public document which formalizes and supplements the procedures currently in place.

The Board designated Director Kreig, Director Elsner and Mr. Hanks to meet with Mr. Funk to review the plan in more detail and report back to the Board.

Public Safety

Mr. Funk provided a brief update on the unfortunate incident which occurred over the previous weekend. A woman fell from a horse into the waters of beaver creek and has not yet been located. He explained that due to runoff the creek is exceptionally high and running quite fast. He described the rescue efforts that were made and the ongoing efforts to locate her. The Board expressed its sympathy for the family of the woman.

Beaver Creek Beautification "Resortscape"

Mr. Hanks reported presentations by Design Group and EDAW for their Resortscape project proposals have been scheduled for July 8th with the committee. The committee will then present the information and their recommendation for the finalist to the various boards to receive input. It is anticipated the proposals will

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provide estimated pricing for the various sections and/or portions of the project so it can be customized as necessary. Once the final project and pricing is known the Boards will be asked for their approval.

General Manager Update

Avondale Sidewalk: Mr. Hanks reported Borne Engineering has completed the preliminary design for the Avondale Sidewalk project. The design anticipates a stone retaining wall. He is expecting the final design with the cost estimate later this week. It is anticipated bids will be requested in the second week of July with a goal to have a final bid by the end of July. Mr. Hanks explained he will follow up with Post Montane and The Charter regarding consideration of cost sharing for the project once the final estimate/bid is available.

Mr. Hanks reported the engineer had looked at the small missing segment of sidewalk on the north side of Oxford Court as requested by Mr. O'Rourke. The engineer has reported in order to provide an ADA compliant sidewalk the skier bridge would need to be moved. As moving the bridge is not a practical solution, at this time this sidewalk has not become part of the project. The Board asked if it is possible to receive a waiver for the ADA requirements. If a waiver could be obtained they asked about the estimated width of a sidewalk in that location. It was noted there is a sidewalk on the other side of the roadway. The Board instructed Mr. Hanks to look into the ADA requirements to see if a waiver is possible, the cost of obtaining such a waiver and the estimated width of a potential sidewalk for the area. He will report back to the Board at the next meeting.

Road Overlay and Asphalt Patch: Mr. Hanks stated the road overlay project related to Upper Prater Road and Village Road has been completed. He explained the overlay work in Strawberry Park has been rescheduled for this fall due to the exceedingly wet conditions in the area. All roadways within the District are being restriped throughout this week. The work to repair potholes will begin shortly.

Mr. Hanks reported a section of roadway between South Holden and Village Road has been experiencing excess water seepage. He

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explained it is being monitored to see if any mitigation measures are needed. He will keep the Board informed of any concerns.

Ladder Truck Discussion: Mr. Hanks provided background on the District ownership of one third of the ladder truck currently used by ERFPD. He referred to the memo and correspondence from ERFPD that had been included in the packet. At this time ERFPD has notified the District it intends to sell the existing ladder truck and would like to know if the District is interested in purchasing it or if it prefers receiving one third of any sale proceeds instead. After a brief discussion the Board determined the District would not be interested in purchasing the ladder truck. They instructed Mr. Hanks to notify ERFPD the District would prefer to receive one third of the sales price. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the request from ERFPD for allowing the sale of the ladder truck with the District receiving one third of the sales price.

Wildfire Mitigation: A hand out which outlined the proposed area for tree cutting this year related to wildfire mitigation was provided to the Board. Mr. Funk explained this was a continuation of the project begun last year. The Board encouraged Mr. Funk to proceed with the project stating they would appreciate seeing as much work done as possible within the budget.

Vilar Capital Projects Annual Report: It was reported the Vilar Center for the Arts had requested an time extension to the next meeting before providing the Annual report to the District. They are still waiting to confirm some of the capital expenditure costs. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve a time extension for the Vilar Capital Projects Annual Report to the July meeting.

USDA projects request: The District received a letter of notification from the USDA regarding projects under consideration by the Beaver Creek Ski Resort for the 2008 summer construction season. The letter requested comments. Mr. Collins explained the District is a public entity and is entitle to an opinion on the matter. Mr. Hanks explained the ski area is interested in expanding some

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of the ski runs and that the impact to the District was minimal. After a brief discussion the Board directed Mr. Hanks to draft a response letter which stated the District did not have any comment at this time but reserved the opportunity to do so at any time.

First Amendment ERFPD

The Board reviewed the First Amendment to the ERFPD agreement included in the packet. Mr. Funk stated the amendment was intended to clarify the expectations related to training matters. Upon motion duly made and seconded, it was unanimously

RESOLVED to ratify the execution of the First Amendment to Agreement for Fire Protection and Emergency Services.

Bond Refunding

Mr. Marchetti referred to the memo and calculations that had been included in the packet related to a potential refunding of the 1998 bonds. He explained the current market may allow the District to save on interest costs. The bonds become eligible for refunding in December. He reviewed two alternative methods for the refunding, a private placement loan or a bond issuance, neither will require prior voter approval since the proceeds will be used to refund previously issued bonds. The Board designated Directors Gary and Elsner to review the matter in more detail with Mr. Marchetti.

Financial Statements

The Board reviewed the May 2008 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the May 2008 preliminary financials as presented.

Accounts Payable

The Accounts Payable listing was reviewed. 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

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RESOLVED to enter into executive session citing §24-6-402(4)(e) C.R.S. for the purpose of determining positions related to negotiations regarding Prater Road matters. The Board entered into executive session at 10:45 a.m. and returned at 11:30 a.m.

Upon returning from executive session Director Elsner stated his concern the District would be giving up significant financial rights for cost sharing of expenses related to the joint portions of Village Road and Prater Road by agreeing to the conditions as set forth in the Memorandum of Agreement. He explained he felt it would be in the Districts interest to further negotiate cost sharing for a portion of both Prater Road and Village Road instead of agreeing to the MOA since the MOA does not appear to depict fair cost sharing responsibility for the roadways by allowing Bachelor Gulch Metro District to only be responsible for expenses related to the lower portion of Prater Road from the round a bout to Highway 6 without recognizing any responsibility for any portion of Village Road. Upon a motion duly made and seconded, by a vote of four (4) Ayes and one (1) Nay (Director Elsner) it was

RESOLVED to approve the Memorandum of Agreement between the District and Bachelor Gulch Metropolitan District.

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 25, 2008.

Respectfully submitted,

Kathy Lewensten
Secretary for the meeting