
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT July 25, 2007

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., July 25, 2007 in the Conference Room of the District Administrative and Operations Facility, Eagle-Vail, Eagle County, Colorado.

Attendance

In Attendance were Directors:

- Stephen Friedman
- Mike Balk
- John Forstmann
- Ernie Elsner
- Robert Gary

Absent and excused was Director:

Also in Attendance were:

- Ken Marchetti, CPA Robertson and Marchetti, P.C.
- Clyde Hanks, General Manager
- Kathy Lewensten, Recording Secretary
- Heather Nolan, Administrative Assistant
- Tom Schouten, BCPOA
- Tony O'Rourke, BCRC
- Bill Simmons, Operations
- John Garnsey, COO Beaver Creek
- Jim Funk, BC Public Safety
- Rick Johnson, Esq., Johnson & Repucci LLP

Call to Order

The Regular Meeting of the Board of Directors of Beaver Creek Metropolitan District was called to order by Director Friedman, 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.

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

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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; Mr. Michael Balk is a director of the Beaver Creek Property Owners Association and a director of the Vilar Center for the Arts; and Mr. Bob Gary is a member of the Beaver Creek Property Owners Association and the Vilar Center for the Arts Committee. 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 June 27, 2007 Regular Meeting. Upon motion duly made and seconded, it was unanimously,

RESOLVED to approve the minutes of the June 27, 2007 Regular Meeting as presented.

Agenda

Mr. Hanks requested time to update the Board on a water matter in Strawberry Park.

Future Meetings

The Board reviewed the meeting schedule included in the packet. The next regular meeting is scheduled for Wednesday, August 22, 2007 at 8:30 a.m. in the same location.

Village Road Project

Mr. Hanks reported the stonework along Village Road has been delayed as they ran out of capstone. Ewing was able to acquire additional capstone yesterday which may be sufficient to complete the project. After the stonework is complete the area will be cleaned up. Mr. Garnsey remarked that if the project will not be complete in the next few days he would like to request that the area be cleaned up in the mean time. Mr. Hanks reported the north side of the retaining wall has been painted and BCRC is expected to plant trees along the base of the wall in the near future.

General Manager Update

Wildland Fire Mitigation: Mr. Funk reported the Eagle County Planning Commission reviewed the Beaver Creek Wildland Fire Plan. The feedback was very positive. The Planning Commission unanimously approved the plan. The Eagle County

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Commissioners are set to review the plan on July 31st. Directors Balk and Gary will attend the hearing on the Districts behalf.

The Board discussed mitigation measures that are under consideration. Mr. Funk explained a study of pine beetle infestation in the lodge pole pine trees in the Strawberry Park area had been completed. A copy of a memo regarding this with a related map had been included in the packet. Mr. Funk has requested bids for removal of approximately 1300 infected trees this year and for spraying next year. The Board discussed the location of the infected areas. It appears a majority of the trees are located on Vail Resorts property or open space. Mr. Garnsey stated VR is negotiating with the Forest Service in regards to a tree removal fee they generally impose for removing trees to see if it can be waived for removal of the infected trees.

Mr. Funk stated the next step related to mitigation matters is to have consultants generate a state report. This report can then be used to apply for federal grants to assist with funding of mitigation measures. The Board asked who was funding the study. It was reported BCRC was considering the matter at their meeting tomorrow. Mr. Hanks reported the District has \$50,000 in the 2007 budget for wildland fire matters. The Board discussed the District responsibilities for funding as it relates to mitigation. The District will be responsible for mitigation measures within District easements, common spaces or rights of way. Director Friedman stated it is his understanding that any mitigation measures that are needed on private property will be the responsibility of the property owner. If the property owner does not take appropriate action within a reasonable amount of time the work will then be completed and the property owner charged for the cost.

Mr. Schouten stated the BCPOA would like to have its representative's meet with Mr. Funk to discuss an evacuation plan in conjunction with the Wildland Fire Plan.

Mr. Hanks reported he had met with Mr. Nickson, operations manager from Bachelor Gulch Metropolitan District (BGMD) to discuss wildland fire matters per the Board's direction at the last meeting. He had shared the Wildland Fire Plan with him. It appears BGMD is interested in developing a similar plan for their area.

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Public Safety

Mr. Funk provided samples of the new uniforms for the front gate attendants and the patrol staff. The gate attendant's uniform will consist of a dark shirt, light pants, and a sweater if needed. The patrol staff uniform will be a tan shirt with an embroidered emblem and black cargo type pants. The winter coat presented used material with reflective qualities. A knit dark colored winter cap will be available. The uniforms will be laundered for both groups. Mr. Funk stated it will take approximately 3 months for full implementation of the new uniforms to occur. Director Forstmann asked if there was a program for training. Mr. Funk stated there is a program in place along with training manuals which cover all aspects of the job. He explained the training program continues to evolve as needed. The standards and professional expectations are included as part of the training. The Board appreciated seeing the uniforms and agreed they looked appropriate.

Director Elsner asked if there has been an increase in bear incidents this year. Mr. Funk stated bear incidents are way up all over the state. It is believed the late frost caused berries to appear later than normal. The patrol staff is handing out pamphlets with educational information regarding dealing with bears. The Board asked about bear proof trash cans and commented they would like to see better enforcement of the times trash cans are allowed out. Public Safety will continue to pass out warnings for violations. Mr. Funk stated Eagle County recently passed bear regulations and violators can now be cited in court for violations related to the new regulations.

Prater Road Overlay

Director Friedman reported he had met with a representative of Bachelor Gulch Metropolitan District (BGMD) to discuss the possibility of BGMD contributing towards the expenses associated with Prater Road such as the proposed overlay. Prater Road falls under a non exclusive Joint Easement Agreement. BGMD is now reviewing the Easement agreement to help determine its position. Director Friedman was asked to attend the BGMD meeting later today to discuss the matter in more detail.

Although the Easement agreement does not address costs it seems reasonable for the District to expect the costs associated with a

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joint easement would be shared. The Board discussed methods that could be used to determine appropriate percentages for cost sharing. After the BGMD meeting today it should be known if a reasonable proposition is forthcoming. If the matter needs to be negotiated it would not allow sufficient time for notification to the contractor for the overlay proposed for this fall. Mr. Hanks noted he needs to let B & B Excavating know by August 10th if the overlay will occur to allow time for the materials to be ordered. If the overlay is not done this year, some maintenance and repairs of the current roadway are anticipated. The responsibility of routine plowing, patching or repair expenses will need to be determined too. It was pointed out the Prater Road guardhouse will be remodeled this fall and it was suggested it may be prudent to delay the overlay until this work was complete.

The Board directed Mr. Hanks to delay the overlay unless an agreement regarding potential cost sharing can be reached.

Strawberry Park Water Matter

Mr. Hanks reported water service to Strawberry Park had been interrupted yesterday due to the failure of a pump. The crews had replaced the broken pump with another pump to temporarily restore service in the meantime. They have requested Strawberry Park Homeowners restrict their water usage until the tanks can be refilled. Director Friedman reported he had spoken with the manager of ERWSD and the new pump is expected today.

Front Gate Project

Mr. O'Rourke stated the kiosk by the owner's lane at the front gate should be complete soon. He stated the lay out for the striping is available however he pointed out the District is responsible for painting the lines.

Public Input

Mr. Schouten mentioned several items:

Homeowners are concerned about skateboarding that is occurring on the roadways. Mr. Funk stated he will follow up with his patrol staff and ask them to be more aware of the matter.

Mr. Schouten asked if the cracks along the recreation paths will be addressed. Mr. Hanks explained the work was being done today.

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The BCPOA has requested DRB check to see if Tuscany or Blue Moose Pizza are encroaching on the easement for the ice skating rink.

**First Amendment
TOA Transportation
Agreement**

Mr. Simmons stated the TOA Parking Lot Agreement is now finalized. He requested it be executed. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve execution of the First Amendment to the TOA Transportation Agreement.

Executive Session

Upon motion duly made and seconded, it was unanimously

RESOLVED to enter into executive session citing §24-6-402(4)(b) C.R.S. for the purpose of receiving legal advice from Special Counsel, Mr. Rick Johnson, Esq. related to Eagle River Fire Protection District. The Board entered into Executive session at 9:40 a.m. and returned at 10:55 a.m.

**General Manager
Update**

BC Fire Station Improvements: Mr. Hanks reported Hess Contracting has begun work on the new siding and windows at the BC fire station. It is expected the project will be complete in mid September.

Board Retreat: Mr. Hanks reported the dates of the Board retreat will be Thursday, September 27th and Friday, September 28th. It will be held at the Hotel Tiatro in Denver.

**Financial
Statements**

The Board reviewed the June 2007 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the June 2007 preliminary financials as presented.

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

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 July 25, 2007.

Respectfully submitted,

Kathy Lewensten
Secretary for the meeting

I hereby affirm that all of the discussion in Executive Session constituted attorney-client communications.

Rick Johnson, Esq., Johnson & Repucci LLP