
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT August 23, 2006

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., August 23, 2006 in the Conference Room of the District Administrative and Operations Facility, Eagle-Vail, Eagle County, Colorado.

Attendance

In Attendance were Directors:

- Stephen Friedman
- John Forstmann
- Mike Balk (via phone)
- Ernie Elsner
- Robert Gary

Absent and excused were Directors:

Also in Attendance were:

- Clyde Hanks, General Manager
- Jim Collins, Esq., District Counsel
- Ken Marchetti, CPA, Secretary
- Kathy Lewensten, Recording Secretary
- Tom Schouten, BCPOA
- John Garnsey, COO Beaver Creek
- Tony O'Rourke, BCRC
- Bill Simmons, Operations
- Jim Funk, BC Public Safety
- Don Cohen, Eagle County Home Rule Committee
- Glen Palmer, Alpine Engineering

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

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District August 23, 2006 Meeting Minutes

member of the Beaver Creek Arts Foundation which operates the 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; and Mr. Michael Balk is a director of the Beaver Creek Property Owners Association and a director of the Vilar Center for the Arts. 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 July 26, 2006 Regular Meeting. Upon motion duly made and seconded, it was unanimously,

RESOLVED to approve the minutes of the July 26, 2006 Regular Meeting as presented.

Agenda

No changes were made to the agenda.

Future Meetings

The next regular meeting is scheduled for Wednesday, September 27, 2006, at 8:30 a.m. in the same location.

Wildfire Mitigation

Mr. Hanks reported the wildfire mitigation work along Beaver Creek Drive public lands is complete. The consultants will be contacted to re-evaluate the site to see if it can now be classified as a low risk area. The Wildfire group has scheduled the next meeting in September.

General Manager Update

Market Square: Mr. Hanks reported the dispute with Market Square concerning past dues has been settled. The legal matter has been dismissed.

The transfer of the Market Square unit to the VVF is still under consideration by VVF.

BC Fire Station Capital Improvements: Mr. Hanks reported the notice for bids for the fire station roof project has been sent for publication. The roof material to be used will be a plastic

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District August 23, 2006 Meeting Minutes

composite shake shingle that is fire resistant. The funding for the roof project is included in this year's adopted budget. The projected preliminary budget for 2007 is proposed to be used for siding. It is anticipated the remodel of the interior will be budgeted for in 2008.

Minor Encroachments: Mr. Hanks reported there were three minor encroachment requests related to driveways or landscaping, all of which were within the guidelines.

Village Road Slope Failure

Mr. Hanks reported on the status of the Village Road Slope Failure project. Ewing construction provided bid numbers for the project. The work proposed includes micropiles, soil nails and wall for 200 feet to stabilize the upper slope and roadway. The recommendation is to continue the micropiles, soil nails and wall an additional 230 feet down the roadway and slope for a total of 430 feet. Mr. Hanks stated the micropiles, soil nails and wall will stabilize the roadway. This work requires removing the guardrail and flagpoles. As a safety measure, jersey barriers will be put in place after removal of the guardrail and be present during the project and throughout the winter season. This work is scheduled to begin on September 5th if all necessary permits can be obtained. The bid for the road stabilization work is \$788,543 with an anticipated timeframe of 30 days. Director Balk asked what the funding source for the work would be since it was not budgeted. Mr. Marchetti responded the District would use discretionary funds from the fund reserve balance. He stated a budget amendment will be needed to cover the expense.

Two options were bid for the slope stabilization portion of the project. A bid of \$118,380 was given for grading and re-vegetation of the slope. A bid of \$633,750 was given for installing Tecco mesh along the slope. It was noted the District's responsibility is to stabilize the roadway, the slope stabilization would appear to be the responsibility of Vail Resorts therefore it would not necessarily be a District decision as to which option is chosen. The Board participated with Mr. Garnsey and Mr. Palmer in a discussion of the pros and cons of both options. After further discussion it was decided the Tecco mesh option would not be chosen. It would be most efficient to coordinate the road and slope stabilization work to be done concurrently. Director Friedman

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District August 23, 2006 Meeting Minutes

reported he had briefly met with Mr. Garnsey to discuss a contribution from Vail Resorts to cover the costs of the slope stabilization since the District's responsibility is to stabilize the roadway. Mr. Garnsey stated he would authorize a reimbursement to the District for the slope and grading work on a not to exceed basis of \$125,000.

As discussed at prior meetings the project presents a good opportunity to improve the aesthetics of the entrance by improving the landscaping along the slope stabilization area, or through adding a rock fascia to the micropile wall. Mr. Garnsey reported the BCRC Board had been presented with a line item for landscaping in the most recent budget. Mr. O'Rourke informed the Board a budget of \$250,000 for landscape and aesthetic improvements had been approved. He stated the budget had not been specific but noted he would appreciate being involved in the cosmetic aspects of the project. Mr. Hanks stated the aesthetics of the remaining slope and walls are not imperative to complete this fall.

The guardrail replacement and sidewalk proposal were then discussed. Director Forstmann asked if the design for the slope repair project will include the sidewalk that has been discussed. Mr. Palmer stated the design will include the proper allowances for a sidewalk and curb and gutter. In relation to replacing and upgrading the appearance of the guardrail one alternative being looked at would be to build a raised rock wall along the edge of the sidewalk. There could be a smaller wall with guardrail on top, or a larger wall with the flagpoles on the top. Mr. Palmer stated the design of the micropile wall will be done to allow a raised wall to be built later along the sidewalk. The design will be done so to insure none of the roadway or micropile wall work would need to be tore out or removed to allow for placement of this raised rock wall. It was noted BCRC and the District had agreed previously to share in the cost of the sidewalk. The Board asked if there would be a possibility of cost sharing the guardrail improvements suggested such as a raised rock wall along the sidewalk noting the District could meet its safety obligations by just putting the old guardrail back in place. Mr. Garnsey stated BCRC has not yet been presented with a project for a raised guardrail rock wall along the sidewalk and no cost estimates are available for the work so he could not answer that.

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District August 23, 2006 Meeting Minutes

Mr. Palmer stated there will be curb and gutter along the sidewalk. Director Forstmann asked if drainage issues have been reviewed. Mr. Palmer stated the curb and gutter would direct storm water drainage down the hill. Director Forstmann asked if there was a storm water retention plan. Mr. Palmer stated as part of the grading permits there was a drainage report done which found the pipes at the bottom of the hill are big enough to handle the storm water drainage. Director Forstmann expressed concern regarding the change in the drainage flow caused by placing a sidewalk and curb and gutter along the roadway. He noted the water currently can drain down the hill and over the side of the roadway he explained that after the curb and gutter are in place the water will no longer be able to flow over the side of the roadway increasing the flow downhill. The Board stated it would assume the design has been engineered appropriately for storm water drainage and asked if there was an indemnity available if there was a significant failure in the design. Mr. Palmer stated it was his opinion the drainage would not be an issue.

Director Elsner proposed a motion which approved beginning work on 430 feet of micropiles, soil nails and related wall on September 5, 2006 to stabilize the roadway with the understanding the project will be designed to accommodate future improvements such as a raised guardrail wall at a later date; the overall design will include sidewalk and curb and gutter and will not require design changes or significant modifications if the sidewalk portion of the project is not begun until spring of 2007. The Board discussed the motion. It was pointed out if the project including the sidewalk can be completed this fall it should be. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the motion as stated.

Mr. Hanks handed out drawings which depicted the coordinated traffic control plan for Village Road during the construction of the slope failure project and the front gate project. He explained the uphill lane of Village Road will need to be blocked off for approximately one month. The outbound traffic will be allowed down Village Road and out through the bus lane until Mid-October. It is hoped in Mid-October the outbound traffic will be able to exit through the main round a bout. All inbound traffic will be re-routed through Prater Road. Mr. Funk noted he will have

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District August 23, 2006 Meeting Minutes

additional personnel at the Prater gates to allow use of both gates for access. Mr. Funk stated he has requested CDOT increase the timing of the left turn signal from Prater Road onto Highway 6 during the hours of 4:00 p.m. to 6:00 p.m. to help with the traffic flow. Mr. Hanks requested funds to purchase an electronic sign. He explained there will be four electronic signs guiding traffic, two will be borrowed from the Town of Avon, Public Safety is purchasing one and the District is being asked to purchase one. The Board asked that the message be kept brief. The Board asked if the retail sector will be notified of the plan. Mr. O'Rourke stated they will be. Mr. Hanks stated he plans on attending the Bachelor Gulch Metropolitan District meeting later today as a courtesy to inform them of the plan. Mr. Schouten offered to provide this information to BCPOA members along with a request to limit the times for running errands between 10:00 a.m. and 2:00 p.m. as much as possible. East West Partners has agreed to monitor delivery times. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the traffic control plan as presented, and

FURTHER RESOLVED to approve the purchase of one electronic message sign.

Public Input Home Rule

Mr. Cohen addressed the Board regarding Home Rule for Eagle County. He pointed out an outline of the Home Rule Charter had been included in the packet. He explained he is attending various meetings to ask for official endorsements for the plan. The Board asked how the plan would improve representation for the Beaver Creek Area. Mr. Cohen stated he takes a global view of the matter and feels replacing the current three commissioners with five non-partisan commissioners would improve the dynamics and provide better representation to all of Eagle County. He stated the proposed commissioner district boundaries were developed using full time residency numbers from the U.S. Census. He explained the proposed charter is somewhat restrictive and does not opt out of state statutes for land use. He stated the final version of the proposed charter will be available on the website after September 4, 2006. The Board thanked Mr. Cohen for his presentation.

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District August 23, 2006 Meeting Minutes

General
Manager
Update

Bachelor Gulch Construction Traffic Regs: Mr. Schouten reported to the Board a court date of October 18th has been set for this matter. BCPOA and SPHOA have jointly drafted a motion for summary judgment which argues the documents in place are clear regarding construction access through Bachelor Gulch. Mr. Hanks requested time in executive session to discuss this matter.

Encroachments: Director Gary asked if the District had sent a letter to the neighbor who is displeased with the encroachment that was granted at 490 Holden Road. Mr. Collins had noted he had issued a legal opinion letter on the subject. Mr. Hanks indicated it would be mailed to the property owner shortly.

Public Safety Risk Assessment: The prior security study has not yet been located, it will be provided to the Board when it is.

**Vilar Center
Funding:**

Director Elsner presented the revised Memo of Understanding with the Vilar Arts Foundation regarding the voter approved funding from the District. He stated he recommended approval. Director Forstmann stated he would like to see the annual report required by June of each year to allow sufficient time for comments. The Board discussed the timing, noting if the annual report was received prior to the June meeting it would allow two meetings for comment and discussion. It would be expected that a representative of the Vilar would attend the pertinent meeting to discuss the request. A revision to Section 4 was suggested as follows “....annual report on or before *seven days prior to the regularly scheduled June BCMD meeting.....*” Director Forstmann expressed the opinion the capital plan submitted did not clearly define the specifics the funding would be used for. Director Elsner pointed out since this is the first year for the funding request the capital plan can only show the budget. He stated the District needs to have confidence the next annual report will be detailed regarding prior expenditures as well as forward expenditures. After discussion it was agreed this would be adequate for the first year however the Board expects the annual report format to address the expenditures in detail for subsequent year’s requests. The Board asked if the interest earned on the account needed to be included in section 1. Mr. Collins suggested the second sentence

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District August 23, 2006 Meeting Minutes

be revised as follows "...in a separate restricted bank account and such funds *including interest* may be expended...." The Board directed Mr. Hanks to meet with the representative from the Vilar Arts Foundation to develop a format for the annual report. Director Forstmann reiterated the capital projects need to be presented in detail and stated he would be more comfortable with a formal agreement than a Memorandum of Understanding. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the Memorandum of Understanding with the Vilar Arts Foundation subject to the revisions as described in Section 1 and Section 4, and

FURTHER RESOLVED to approve the capital plan as presented.

Financial Statements

Mr. Marchetti reviewed the July 2006 preliminary financial statement included in the packet. Mr. Marchetti stated the bid amounts related to the slope failure project will be included in the forecast budget in next month's statements. He reported he is working with Director Elsner to review the Districts investment policies. These will be brought to the Board at a future meeting. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the July 2006 preliminary financials as presented.

Accounts Payable

The Accounts Payable listing was reviewed. By 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) (b) C.R.S. receiving legal advice related to the litigation currently pending regarding Bachelor Gulch and Beaver Creek Metropolitan Districts. The Board entered into Executive session at 10:50 a.m. and returned at 11:00 a.m.

RECORD OF PROCEEDINGS

Beaver Creek Metropolitan District August 23, 2006 Meeting Minutes

Mr. Collins affirmed that all of the discussion in Executive Session constituted attorney-client communications.

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 August 23, 2006

Respectfully submitted,

Kathy Lewensten
Secretary for the meeting