
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT August 24, 2005

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., August 24, 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
- John Forstmann

Absent and excused was Director:

Also in Attendance were:

- Ken Marchetti, CPA, Secretary
- James Collins, Esq. District Counsel
- Kathy Lewensten, Robertson & Marchetti, P.C.
- Steve Boyd, McBoyd Construction Solutions LLC
- Tom Schouten, BCPOA
- Ginny Forstmann, BCPOA
- Bob McIlveen, Vail Resorts
- Tony O'Rourke, BCRC
- Jim Funk, BC Public Safety
- John Garnsey, COO Beaver Creek
- Bill Simmons, Village Operations
- Matt Lydens, Vail Resorts Development Co
- Andy Gunion, East West Partners
- Chuck Madison, East West Partners
- Jim Telling, East West Partners
- Henry Bornstein, BC Property Owner
- Doug Rippetto, BC Property Owner
- Bob Herbst, Alpine Engineering Inc.

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

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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 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 July 27, 2005 Regular Meeting and the August 8, 2005 Special Meeting. Upon motion duly made and seconded, it was, unanimously,

RESOLVED to approve the minutes of the July 27, 2005 Regular meeting and the August 8, 2005 Special Meeting.

Future Meetings

The Board reviewed the meeting schedule; the next meeting is scheduled for Wednesday, September 28, 2005.

Agenda Changes

A revised agenda was handed out which included Prater Lane Parking and Gondola presentation under public input.

Prater Lane Parking

Mr. Garnsey stated he was present to ask for final approval for overflow parking on Prater Road. He explained alternatives are under review for the future but the parking spaces would be needed in the interim. He will meet with the Board at the end of the season for review and comment on how it worked and to consider

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if it would be continued next season. The ultimate goal is for it to be no longer needed within the next several years. He explained the comments from the last meeting were taken under consideration and presented an updated plan to the Board. The safety concerns and aesthetics comments have been addressed as much as possible. Prater Road shoulders will be widened and paved east of the round-a-bout at Vail Resorts expense to allow use of approximately 75 parking spaces under specific circumstances. Negotiations concerning the dates and conditions under which the parking spaces will be available for use followed. The conditions proposed included the following: parking on Prater Road west of the round-a-bout will be prohibited at all times; parking on Prater will only be allowed when all other lots are completely full; "No Parking" signs will be installed and strictly enforced when parking is restricted; no parking will be allowed on the south side of Prater Road on weekdays; the speed limit will be reduced to 15mph when parking is in use. There will be 11 specifically identified days with 4 floating "wildcard" days which must be used on a Friday, Saturday or Sunday. The landscaping portion of the project was discussed. The Board recommended the Golf Committee of the Beaver Creek Club be consulted for appropriate tree placement including possible additional tree plantings. The Board asked for a monthly report during the season noting if any condition was violated the District would withdraw permission at any time. The terms as negotiated are noted in detail in the attached resolution. The Board requested that Vail Resorts sign off on the conditions prior to execution by the District. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the Resolution Regarding Prater Road Parking which is hereby attached to become part of the minutes.

The Board asked Mr. Funk about the parking along Prater on the Fourth of July and whether any control measures were possible. Mr. Funk replied his department does the best they can for that evening but that it can get overwhelming. The Board suggested they work together to see if a plan can be created to better control it for next year.

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Gondola

Mr. Madison addressed the Board regarding the proposed Gondola project from the Confluence site in Avon to BC Landing. He explained the project was in the early stages but it was the desire of East West to keep the Board up to date and receive input regarding the project. It is anticipated the Confluence Metropolitan District will be funding and building the gondola project. He explained the Town of Avon was interested in the project as it would provide a connection to the ski mountain from the new bus center the Town is considering. If the gondola site can be used as the access point to Beaver Creek for Avon it may reduce the number of bus trips into Beaver Creek. The gondola will operate during ski season initially. A sketch plan of the gondola terminal at the BC landing area was presented. The Board asked about the clearance between Prater Road and the Gondola cars. Mr. Madison explained there would be clearance of a minimum of 14.5 feet from the roadway with an additional 5 feet above that as required by regulations for a total of 19.5 feet. The Board expressed concern over how the terminal at BC Landing affected the ninth tee of the BC Golf Course. Several alternative locations for the tee boxes were presented. A retaining wall will be needed and depending on the location of the tee boxes it may be able to keep it relatively small. The Board suggested the Beaver Creek Club Golf Committee be consulted regarding the changes proposed to receive input regarding placement of the tee boxes and landscaping. Director Forstmann pointed out the terminal building as presented would be less than appealing in the summer and suggested the outside finishes or landscaping be considered to minimize the visual impact of the building. The Board thanked Mr. Madison for the presentation.

Eagle-Vail Admin Maint Facility

Mr. Boyd updated the Board on the progress of the Eagle-Vail Admin/Maint facility. He stated Hyder Construction had begun work on July 27th with an anticipated finish date in late January 2006. The footers and foundations were under construction, the shared utilities are in place with the next priority being the paving before the weather becomes unfavorable. He explained that as a proactive measure he had met with Hyder representatives and clarified the specifications to assure expectations on both sides were the same. He reported there had been several minor changes in the scope of work found during the review. He is keeping a log

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of the changes as they become apparent to help with any issues that may arise in the future. Mr. Collins was asked whether the agreement was a lump sum contract and properly protected the District. Mr. Collins stated the process of signing the agreement had been a bit awkward. He referred to the prior minutes which indicated the agreement had been signed while the specs and drawings were still being finalized. He stated that although it was awkward the agreement has the appropriate language for the District. The Board reiterated to Mr. Boyd that no change orders were expected and that none would be allowed without Board review and approval. Mr. Boyd reported the first payment request had been received along with the appropriate lien waivers. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve payment of Hyder Construction Pay Application # 1 for the Eagle-Vail facility

Mr. Boyd asked whether the Board had any input regarding the 8 foot fence which appears in the plans around the entire project. He wondered if it was accurately portrayed. The Board noted in prior discussions a fence was needed on the West side of the project between the District facility and the Animal Hospital but were unsure whether the intent was to continue it around the front where a berm and trees were to be placed or down the entrance. Mr. Boyd will look into the matter.

Mr. Boyd asked the Board for direction concerning “submittals” and their review. He explained Hyder will be asking for paint colors, stone samples, windows and such to be reviewed and approved. He stated he had the color sketch for the project to compare some of the items to. The Board appointed Director Friedman and Director Forstmann to assist in the submittal process.

November Election

The Board turned its attention to the November Election. Mr. Schouten reported the BCPOA would support the increase in both the operating mill levy and the Vilar funding mill levy along with the notion of a contract regarding Vilar capital improvements and the linking of the two issues as discussed in the BCPOA meeting held earlier. Mr. Collins presented revised ballot questions which

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included the recommendations. The Board requested a change to ballot issue 5B related to Vilar to remove the wording “and to annual appropriation” since the funding will be subject to a contract that will be negotiated at a later date. Director Forstmann expressed his opposition to the Vilar Ballot Issue being on the November ballot. The linking of the two issues was discussed briefly and left in place. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the Election Resolution and related Ballot Issues as discussed, a copy of which is hereby attached to become part of the minutes.

Mr. Marchetti noted the TABOR notice which will be sent to the registered voters of the District allows for both pro and con statements to be placed within it. Mr. Collins reminded the Board that they can support the issues as individuals but cannot expend any District funds supporting the issue. Ms. Lewensten will certify the Ballot prior to the deadline of September 2, 2005.

Main Entry Gate

Mr. O’Rourke handed out a memo with attachments to the Board regarding the main entry gate project. He explained the bus route changes had been reviewed as requested but that it was not feasible to change the routes due to the added time. He pointed out that an acceleration lane had been added to the sketch plan for the buses turning out of the Elk lot onto Village Road. It is proposed the optical scanner for the homeowners be moved back to allow time for the gate to open before the auto arrives. The Board asked it not be moved to far back to allow others to cut in front of the homeowner. Mr. Funk reported they were researching other types of scanners for the entry. The Board asked whether any consideration had been given to locating a recreation path from the front gate up the hill along Village Road. Mr. O’Rourke stated that could be part of the project but noted that would be at District expense with possible contribution from BCRC. The Board asked him to provide a cost estimate to include this as part of the project. Mr. O’Rourke stated the work would be done in the spring of 2006 with minor items to be begun this fall. The Board asked if the acceleration lane could be in place this fall, Mr. O’Rourke agreed it could. Signage regarding merging traffic will also be

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incorporated. The Board reviewed the sketch plan dated August 22, 2005 and conceptual drawing dated August 5, 2005 and provided comment and discussion. Upon motion duly made and seconded, it was unanimously

RESOLVED to grant authority for BCRC to construct the main entry gate over the District Roadway Easement as set forth in the Resolution Regarding Main Entry Gates which is hereby attached to become part of the minutes.

Wild land Fire Mitigation

Mr. O'Rourke informed the Board BCRC has appointed Mr. Donohue and Mr. Kaylor to work on the outstanding issues related to the Wildfire Plan.

TOA Transportation Agreement

The Town of Avon Transportation Agreement included in the packet was reviewed. Mr. Simmons reported the service provided by the Town of Avon last season was satisfactory. He noted that greater emphasis on standards of service were included in this years agreement. An incentive program worth an additional \$20,000 had been incorporated into the agreement as well. The incentive is based on guest survey results similar to the program in place for Dial a Ride. Director Mielcuszny asked what assurances there are that the drivers receive this incentive. Mr. Simmons explained he will require proof that these monies were provided to the drivers.

The Board questioned why there has not yet been a decrease in the number of buses up into BC as promised with the opening of BC Landing. Mr. Simmons explained that many guests are still interested in coming up to the top for the services available. TOA is interested in keeping the guests satisfied and providing this service. If the TOA guests are dropped off only at BC Landing they switch buses which can cause a greater need for parking lot buses on the route to the top. The Board asked whether the Town of Avon would consider limiting the number or regulating the times the buses are allowed up into BC. It seems the contract renewal is an opportunity for the District to address the issue of bus traffic on Village Road to see if any alternatives exist to limit

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the number of daily bus trips. One option may be to offer discounts on tickets or services for guests at BC Landing; another may be for ski school to create a drop off point at BC Landing. The Board suggested the matter be tabled until the next meeting where all interested parties could attend to discuss the matter in detail.

Legal

Union Pacific: Mr. Collins reported the District had received notice from Union Pacific regarding the potential closure of the crossing north of the intersection of Prater Road and Highway 6. This closure would impact the traffic pattern at the Prater Road entrance. The closure was proposed by Union Pacific in response to the request for two additional crossings in Avon for the new bus center and the confluence gondola site. After a brief discussion the Board directed counsel to draft a letter in opposition to the closure. Upon motion duly made and seconded, it was unanimously

RESOLVED to authorize counsel to submit District opposition to the closure of the Union Pacific crossing.

Market Square: Mr. Collins is waiting for a response from Mr. O'Rourke regarding the conveyance of the Market Square unit.

Lot 4 Construction Access Resolution: Mr. Collins reported he was waiting for Ms. Canada to respond with an executed copy of the resolution regarding construction matters which was approved at the August 8 special meeting.

Legal Matters: Mr. Collins reported staff is working on the collection of approximately \$3,000 from Mr. Steve Elliot for a refund of the property taxes the District paid while renting the Villa Montane unit.

The District has been notified of a claim made against it by Jan Miller regarding a slip and fall incident last fall. The matter has been turned over to the District insurance company. The insurance company has appointed counsel and the matter will be handled by them.

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Public Safety Agreement: Mr. Collins reported his office is working on a draft agreement covering the public safety services provided to the District. Mr. Funk is expected to bring a verbal report back to the District at the next meeting reviewing the expenditures made. Mr. Collins explained the District is provided two first responders on a 24/7 basis. The matter will be brought back to the September meeting.

4th Amend DAR Transportation Agreement

Mr. Simmons reviewed the Fourth Amendment to First Restated and Amended Transportation System Services Agreement included in the packet. This agreement provides for the Dial a Ride services (DAR). He noted the automatic renewal clause had been removed as directed by the Board. There is an increase in costs of approximately 4% mostly due to the rise in fuel costs. The fleet replacement is following the budgeted schedule of 3 buses and 1 van per year. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the execution of the Fourth Amendment to First Restated and Amended Transportation System Services Agreement.

2nd Amend Inter-village

Mr. Simmons reviewed the Second Amendment to Inter-village Transportation System Agreement included in the packet. This agreement covers the inter-village routes between Bachelor Gulch, Beaver Creek and Arrowhead. Mr. Simmons pointed out the percentages for Beaver Creek have remained the same, Bachelor Gulch saw a decrease and Arrowhead has an increase. The percentages are based on ridership. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the execution of the Second Amendment to Inter-village Transportation System Agreement.

Wells Fargo Trans Lease

Mr. Marchetti reviewed the proposals from Wells Fargo for the current years Transportation Leases. The lease proceeds are used to fund the purchase of the DAR and Parking Lot vehicles. The

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rates proposed are 3.75% for the 7 year lease for Parking Lot vehicles and 3.5% for the 5 year DAR vehicles. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the execution of the two transportation leases with Wells Fargo with terms as proposed by an officer of the District.

Encroachment Agreement

The encroachment agreement related to 237 Strawberry Park Road was reviewed. Director Friedman reported he was concerned there were two versions of the encroachment. The Board discussed the differences and recommended turning the two versions over to counsel for review. There is concern by the District that snow removal and expectation of clearing of snow be made clear for any encroachment related to access easements. At this time no action will be taken until clarification can be made as to what the encroachment entails.

UERWA

Director Friedman reported the water supplies have been good for the season without any major restrictions being in place.

Financial Statements

Mr. Marchetti reviewed the July 2005 preliminary financial statement included in the packet. He noted the Parking Lot bus refund amount for 2004 had been lower than expected and reported he was looking into the matter. He pointed out the Hyder contract had been given a separate line item on the financials and commented that some of the Hyder costs would need to be moved into 2006 as the project moves forward. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the July 2005 preliminary financials as presented.

Accounts Payable

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

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RESOLVED to approve the accounts payable list as presented.

Tract Q Cost Share

There was nothing new to report regarding Tract Q.

General Manager Replacement

Director Campbell reported the District had received several responses to the help wanted ads. The deadline for applications is August 29th at that time the applications will be reviewed and first interviews will be scheduled.

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 24, 2005.

Respectfully submitted,

Kathy Lewensten
Secretary for the meeting

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Resolution Regarding Prater Road Parking

WHEREAS, Beaver Creek Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado, owns and administers a Roadway Easement on Prater Road, and has adopted certain regulations concerning the use of the District Roadways dedicated to the health, safety and welfare of its constituents; and

WHEREAS, The Vail Corporation, in conjunction with its affiliates, operates a ski area which, on occasion, has excess/overflow parking needs for which it has applied to the Beaver Creek Metropolitan District for permission to accommodate limited parking on Prater Road for the 2005-2006 Ski Season; and

WHEREAS, following discussion and debate, the Beaver Creek Metropolitan District is willing to permit limited parking on Prater Road, pursuant to the conditions provided herein.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Beaver Creek Metropolitan District that limited parking shall be allowed on Prater Road for the 2005-2006 Ski Season, subject to the following restrictions and conditions:

1. All Beaver Creek public parking lots must be full before parking is permitted on Prater road.
2. No parking will be permitted on Prater road west of the roundabout.
3. The speed limit on Prater Road will be reduced to 15 mph when automobiles are parked on Prater road.
4. When parking is allowed on Prater road, the north side of Prater Road will be used for parking first and after the parking is full on the north side, parking will be permitted on the South side.
5. Parking on Prater road will be allowed only on 11 days specified as follows:
 - a. World Cup, (December 2, 3, & 4, 2005)
 - b. Martin Luther King weekend (January 14 & 15, 2006)
 - c. Presidents weekend (February 18 & 19, 2006)
 - d. Saturdays in March (March 4, 11, 18, & 25, 2006)
 - e. Plus 4 additional "wild card" days that will not be a Monday through Thursday (i.e. they will be a Friday, Saturday or Sunday) and if any wild card days are on a Friday then parking can only be on the north side of Prater road. Saturday and Sunday wild card days can use both sides of Prater road.
6. Prater Road will be widened by 7 feet on both sides at the sole expense of Beaver Creek Ski Resort and plans will be submitted to the Beaver Creek Metropolitan District Board for approval prior to construction.

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7. Beaver Creek Ski Resort will submit a monthly report to the Board during ski season related to the parking use on Prater road.
8. Vail Resorts will not remove any trees during construction but may relocate up to two trees to a location to be approved by the Golf Committee of the Beaver Creek Club and additional landscaping will be installed on the south side of Prater Road if required by the Golf Committee of the Beaver Creek Club.
9. Beaver Creek Ski Resort may submit a request for additional days if the 4 wild card days have been used.
10. The Board reserves the right to withdraw this approval if Beaver Creek Ski Resort is not complying with the terms of this approval or if other safety concerns arise.
11. Conditional permission is to be reviewed on a year-to-year basis.
12. This resolution is not effective until both parties have executed a copy agreeing to these conditions.

PASSED UNANIMOUSLY THIS 24th day of August, 2005.

The Vail Corporation agrees to the provisions and conditions contained herein as evidenced by their execution below.

The Vail Corporation

Beaver Creek Metropolitan District

By: _____

By: _____

Date

Date

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RESOLUTION REGARDING MAIN ENTRY GATES

WHEREAS, Beaver Creek Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado, owns and administers a Roadway Easement on which sets the main entry gates to the Beaver Creek Development, and has adopted certain regulations concerning the use of District Roadways dedicated to the health, safety and welfare of its constituents; and

WHEREAS, the Beaver Creek Resort Company, a Colorado non-profit corporation, is undertaking a project to modify the main entry gate and associated improvements over and upon Village Road, and has requested approval from Beaver Creek Metropolitan District; and

WHEREAS, following review and discussion, the Beaver Creek Metropolitan District desires to permit the improvements generally described on the attached Exhibits, pursuant to the conditions provided herein.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Beaver Creek Metropolitan District that Beaver Creek Resort Company is permitted to modify the main entry gate and construct the associated improvements, as described on the Exhibits hereto, subject to the following conditions:

13. Main Entry Gates will be positioned and constructed consistent with the design presented by Mr. Tony O'Rourke dated August 5, 2005 and schematic site plan showing an acceleration lane for buses.
14. All main entry gate and related improvements will be constructed at the sole expense of Beaver Creek Resort Company.
15. To the extent possible the bus acceleration lane improvement should be undertaken in Fall of 2005.
16. This Resolution is not effective until the Parties have each executed a copy agreeing to these conditions.

PASSED UNANIMOUSLY THIS 24th day of August, 2005.

Beaver Creek Resort Company agrees to the provisions and conditions contained herein as evidenced by their execution below.

Beaver Creek Resort Company

Beaver Creek Metropolitan District

By: _____

By: _____

Date

Date