
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT August 26, 2009

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., August 26, 2009 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
- James Power
- Louis Kreig

Also in Attendance were:

- Clyde Hanks, General Manager
- Jim Collins, Esq. District Counsel
- Ken Marchetti, CPA, Robertson & Marchetti, PC
- Kathy Lewensten, Recording Secretary
- Jennie Fancher, Administrative Assistant
- Tony O'Rourke, BCRC
- Sam Parker, BC Public Safety
- Frank Smith, BC property Owner
- Bill Simmons, BC Operations
- Glen Palmer, Alpine Engineering Inc
- Ceil Folz, Vail Valley Foundation
- Dean Davidson, Vilar Center
- Mark Unicume, BC Property Owner

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; Dr. Louis Kreig is a member of the Board of Directors for Beaver Creek Property Owners Association; and Mr. James Power is a Director of the 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 July 22, 2009 Regular Meeting. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the minutes of the July 22, 2009 Regular Meeting as presented.

Future Meetings

The Board reviewed the 2009 meeting dates. The next regular meeting is scheduled for Wednesday, September 23, 2009 at the same time and location.

Agenda

Director Balk requested an agenda item be added for discussion of several BCPOA inquiries including beautification of the drainage area along Beaver Creek, options for widening Village Road for emergency exit, and an inquiry from a BC property owner regarding the Strawberry Park gate and maintenance of Strawberry Park roads.

Public Input

Mr. Hanks explained he had received a request from a BC property owner who wished to discuss speed control along the roadways with the Board. He offered to place an item on the agenda however the property owner was not in attendance. He had also encouraged the property owner to discuss the matter with Public Safety and BCRC. The property owner indicated he had previously spoken with a representative of BCPOA to share his concerns.

Vilar Center

Ms. Folz stated she was in attendance to discuss the District's mill levy which is used to support the capital needs of the Vilar Center.

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She noted the original election question approved collection of the mill levy for five years. The authorization will end in 2010. She requested consideration of extension of the mill levy for another five year term. She referred to the memo which had been included in the packet which detailed the capital expenditures and long range plans for the Vilar Center. She noted the funding has allowed the Vilar to catch up on needed capital projects and allowed installation of technical improvements. The improvements have allowed the Vilar Center to attract a higher level of performers and acts. She was asked whether \$250,000 would be adequate to cover the future capital needs of the Vilar. She replied based on the long range projections it would. Director Elsner asked if the District has a direct representative on the VVF Board. Ms. Folz stated the District does not currently have a designated seat on the VVF board but noted VVF would consider any individuals recommended by the District for a VVF board seat. She explained a board seat could not be appointed to the District in general but would need to be a specific individual. She stated VVF will be considering new board members in October. The Board asked if the Vilar has adequate funding sources for ongoing daily operations for the next five years considering the current economic conditions. Ms. Folz replied the Vilar has a long term agreement with BCRC for ongoing operations funding. She stated VVF continues to look for additional resources on an ongoing basis. She thanked the Board for taking the time to meet with her. Upon motion duly made and seconded, it was unanimously

RESOLVED to [pursue obtaining voter approval for an extension](#) of the Vilar Center mill levy for an additional five years.

General Manager Update

Wayne Creek Settling Pond: Mr. Hanks reported a term sheet regarding sediment removal from the Wayne Creek Settling pond has been provided to Ms. Kross for her review and comment. He is currently waiting for her response.

Rosenbaum - Wayne Creek: It was reported Mr. Rosenbaum has received approval from DRB for the landscape plans as presented to the Board in a prior meeting. The work will begin shortly and should be completed this fall.

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Sidewalk along Flagpoles: Director Power asked whether the surface of the sidewalk along the flagpoles was showing any more deterioration. Mr. Hanks stated the colored surface marks easier than expected however it does not appear to be showing any signs of unexpected deterioration. He reported due to normal settling a gap has appeared in some areas between the sidewalk and the curb and gutter. He explained an epoxy will be applied to seal this gap.

Legal

Joint Resolution Prohibiting Skateboarding on Roadways: The Board considered the Joint Resolution Prohibiting Skateboarding on Roadways that had been included in the packet. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the Joint Resolution Prohibiting Skateboarding on Roadways which is hereby attached to become part of the minutes.

Village Road

Mr. Palmer reported he had met with Mr. Decker to evaluate the results of the traffic study and core test information for Village Road. He referred to the memo included in the packet. He reported no immediate repairs beyond patching the failed areas appear necessary at this time. He explained it is expected failures similar to the ones seen over the last few years will appear in other areas as the initial layer of asphalt continues to deteriorate however no catastrophic failure is anticipated. The estimated cost for patching each year is in the \$20,000 to \$25,000 range. He explained it is expected the roadway could be maintained in this manner for the next few years which would allow sufficient time for a long term solution to be studied and developed. The roadway could be overlaid which may extend the life of the roadway for several years, but would not correct any underlying problems. A longer term fix would be the removal and replacement of the initial layer of asphalt by a complete rebuild of the roadway.

The Board discussed rebuilding Village Road. Potential construction timelines, from completing the work in one season to spreading the work over several seasons, traffic control issues and estimated costs were reviewed. A rough cost estimate of \$4 to \$5 million was thought to be realistic. This amount was expected to include replacement of the guardrail and improvements to the intersection of Prater and Village Roads. Mr. Palmer suggested

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meeting with potential contractors to receive their input regarding the logistics of such a project.

The Board noted it would be necessary for the District to obtain voter approval for any long term debt issuance that would be needed for funding. It would be possible to include a question on the ballot for the May 2010 election or to wait and hold an election in November 2010 or November 2011. After further discussion the Board generally agreed it would be prudent to begin planning a long term solution. Due to the anticipated cost of the project, Director Elsner suggested obtaining a second opinion on the matter from another engineering firm. Mr. Hanks will obtain more information regarding the amount of patching that will be necessary this year.

General Manager Update (cont.)

490 Holden Road: Mr. Hanks reported he had met with Mr. Unicum and Mr. Smith yesterday regarding the skiway at 490 Holden Road. He explained the following changes were being proposed as a result of the meeting; the rock pit area would be brought up level using similar rocks; and a three foot wide designated recreation path will be developed along the left side of the skiway, it will be clearly marked as a public access. By leveling the rock area it was believed the skiway will be available earlier. Mr. Smith stated he was okay with using rocks for filling in as it would allow easier access to the drain if it were ever necessary. The changes will be done prior to October 1 at District expense. It is estimated the total cost will be under \$5,000. Director Power noted in general it is not fair to other property owners when the skiways no longer look public but appear to be part of the adjacent properties. He stated it is important the skiways are groomed all the way down and that any recreation paths are clearly marked. The Board asked if there was an updated drawing which reflected the proposed changes. Mr. Hanks will obtain such a drawing. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve leveling of the rock area and installation of a rustic access path as discussed on the 490 Holden Road skiway **contingent upon approval of a drawing of the proposed work being** provided and recorded with an Encroachment Agreement.

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Transportation Budget

An updated memo from Mr. O'Rourke regarding proposed transportation budget revisions was provided to the Board. Mr. O'Rourke stated the transportation committee had met to discuss the transportation budgets and expected shortfalls. The first step being taken was a review of costs and services to see if there were any changes that could be made to improve the efficiencies of the services provided. If the noted revisions are implemented a cost savings of approximately \$671,746 may be realized. He reviewed the proposed route changes and extended wait times presented in the memo. He explained ridership for all routes was reviewed to determine what service would fit best for each route. He noted BCRC had discussed and approved the implementation of the revisions at their last meeting.

Mr. O'Rourke pointed out the Holden Road route would change from a fixed route to an on demand Dial A Ride service only route. Various other routes wait times will increase from 5 to 7 minutes to 10 to 15 minutes. Director Kreig stated he was disappointed a fixed route would no longer be offered on Holden Road and suggested looking at a fixed morning/afternoon route instead of none at all. Mr. O'Rourke replied this had been considered but the cost savings would not be as great and that it was believed on demand would work better for this route. Director Kreig stated he does not agree with discontinuing the fixed Holden route, noting no other non parking lot fixed route had been discontinued entirely. Director Gary noted there were no hotels located along Holden Road which would be reflected in lower ridership numbers and questioned whether hotels are contributing a fair share of the cost of providing transportation services on the affected routes. Mr. O'Rourke noted the transportation committee will continue working on reviewing the services but that these suggested revisions were a start. If after implementation they appear to not be working they can be adjusted accordingly.

Mr. Hanks stated the philosophy of the transportation fund was for the District to cover the Dial A Ride (DAR) expenses, and BCRC to cover the parking lot expenses. Mr. O'Rourke agreed this was the basic philosophy but noted the proposed revisions would allow the transportation committee a year or so to continue working on the matter without requesting any additional funding from either entity. If approved the revisions to the transportation service

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would become effective October 1, 2009. The Board asked when updates on the effectiveness and overall satisfaction with the revisions would be provided. It was suggested an update be provided at the January meeting. Upon motion duly made and seconded, it was by a vote of four (4) Ayes and one (1) Nay (Director Kreig)

RESOLVED to approve the revisions in the transportation services as outlined in the August 21, 2009 memo from Mr. O'Rourke to be implemented beginning October 1, 2009.

BCPOA Matters

Director Balk reported on several matters of concern by the BCPOA. He explained BCPOA has asked whether the District has a drainage easement along Beaver Creek. If so, there is interest on the part of BCPOA in seeing what improvements could be made around the park area. BCPOA may be willing to help fund the improvements. The Board suggested Mr. Hanks look into the matter and report back. The BCPOA has asked if the District would review the costs of expanding Village Road by an additional lane. It was thought an additional lane may be helpful in an emergency evacuation situation. It was pointed out both lanes of Village Road could be used as outbound in an emergency situation. The Board asked Mr. Hanks to provide a rough estimate of the cost of an additional lane along Village Road. A property owner has asked about access through the Strawberry Park gate and using District property taxes for maintenance of the Strawberry Park roadways. Director Balk suggested Mr. Collins provide information regarding the matter for review at a future meeting.

Financial Statements

The Board reviewed the July 2009 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the July 2009 preliminary financials as presented.

Accounts Payable

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

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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. for the purpose of receiving legal advice regarding the Extension of the Vilar Center mill levy and §24-6-402(4) (e) C.R.S. for the purpose of determining positions related to Village Road and the Fire Station. The Board entered into executive session at 10:10 a.m. and adjourned the executive session at 10:45 a.m.

Upon returning from executive session the Board directed the following actions be taken.

Village Road: The Board directed Mr. Hanks to obtain cost estimates for additional improvements along Village Road. these improvements include the widening of the corner at Prater Road and replacement of the guardrails. The Board directed Mr. Hanks to obtain a second opinion on the Village Road material from an independent engineer.

Fire Station: Director Balk reported after some basic research it appears a viable alternative for a new fire station may be to determine the market value of the selling the current site to finance construction of a new fire station on other available sites. Mr. Hanks will continue looking into alternatives.

November 3, 2009 Election to Extend the Vilar Mill Levy:
The Board determined to hold a November 3, 2009 Election for placing a question on the ballot regarding Extension of the Vilar Mill Levy for an additional five year term. An election resolution and draft ballot question was provided for review. The election will be a mail ballot election. Ms. Lewensten was appointed the designated election official. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the Election Resolution hereby attached to become part of the minutes.

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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 26, 2009.

Respectfully submitted,
/s/ Kathy Lewensten

Kathy Lewensten
Secretary for the meeting