
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT September 27, 2006

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., September 27, 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
- Robert Gary

Absent and excused were Directors:

- Ernie Elsner

Also in Attendance were:

- Clyde Hanks, General Manager
- 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
- Glen Palmer, Alpine Engineering
- Frank Smith, BC Property Owner
- Tom Edwards, Candidate for Eagle County Commissioner
- Sara Fisher, Candidate for Eagle County Commissioner
- Jim Telling, East West Partners

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

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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; 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 August 23, 2006 Regular Meeting. Upon motion duly made and seconded, it was unanimously,

RESOLVED to approve the minutes of the August 23, 2006 Regular Meeting as presented.

Agenda

Mr. Hanks asked to add an item for discussion of the encroachment at 490 Holden Road.

Future Meetings

A Special Meeting will be held Wednesday, October 11, 2006 at 8:30 A.M. to discuss the preliminary 2007 budget. The next regular meeting is scheduled for Wednesday, October 25, 2006, at 8:30 a.m. in the same location.

Vilar Arts Foundation Funding

Director Balk inquired as to the status of the payment of the related property taxes to the Vilar Center Arts Foundation since the Memo of Understanding was now in place. Mr. Hanks explained the District was waiting for notification from the Vilar Center Arts Foundation that a separate account has been set up for the funds as required. The Board noted it is expecting a detailed report of expenditures for review at next June's regular meeting. Director Forstmann stated he would appreciate receiving updates as to how the money is being expended prior to next June, suggesting a quarterly update.

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Public Input

Mr. Edwards and Ms. Fisher, candidates for Eagle County Commissioner introduced themselves to the Board. They thanked the Board for taking time to speak with them and for allowing them to share their points of view and backgrounds.

Mr. Edwards stated he was an architect by trade and explained his background. He noted he has been active in the community including being a current Town of Gypsum council member and a member of the Home Rule committee. He explained his campaign is based on “ABC” which stands for Accountability, Balance and Collaboration. He shared his views on the issues stating there should be a good balance between preservation and development growth. When asked he expressed support for the Home Rule Charter.

Ms. Fisher explained she wanted to take this opportunity to put a name with a face and provide background information. She noted she previously held the office of Eagle County Clerk and Recorder and was a consultant for Systest Labs which provides support for electronic voting equipment for elections. She shared her positions on issues she felt were important to consider including future development and social and physical infrastructure. When asked she expressed support for the tax increase for Early Childhood Education and the Home Rule Charter.

The Board asked several questions of the candidates related to the home rule charter on the ballot and the treasurer fee rate. The Board expressed concern over the lack of representation for Beaver Creek in relation to the percentage of taxes paid to Eagle County. Both candidates assured the Board they would be open to listening to any concerns that were brought to them if they were elected. After discussion the Board thanked the candidates for appearing.

BC Landing and Village Walk

Mr. Telling informed the Board both BC Landing and Village Walk projects were proceeding well. He stated he would be bringing some additional easements and encroachments related to the projects to a future meeting for consideration by the Board. Mr. Hanks asked Mr. Telling to remain vigilant in restricting

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deliveries to BC Landing between the hours of 10:00 A.M. and 2:00 P.M. Mr. Telling will reiterate this to the suppliers.

Director Forstmann asked about the landscaping by the upper gondola terminal. Mr. Garnsey replied they were working with Mr. Miner of the BC Golf Course regarding the placement of the landscaping in the area.

Village Road Slope Failure

Mr. Hanks reported on the status of the Village Road Slope Failure project. He provided copies of a memo which had been provided to the Board by email prior to the meeting. The memo reviewed the related costs for the project, including the sidewalk and options for the replacement of the guardrail.

The slope remediation work is ahead of schedule. Half of the micropiles and related wall have been complete. This part of the project should be complete by the end of next week. The second phase of the project is the bench below with the soil nails and the shotcrete walls. This work will be complete prior to the beginning of ski season.

Mr. Hanks drew the Boards attention to the matter of the guardrail. He explained it is not possible to reuse the current guardrail with the improvements being made to the roadway. The guardrail requirement for automobiles is two feet. The requirement for a pedestrian path is forty two inches. Referring to the memo the Board stated option number three was not acceptable as it did not allow for a pedestrian path to be constructed in the area. Discussion regarding the other options followed. Mr. Hanks noted the upper half of the guardrail should be completed this fall and explained the lower portion is slated for work next spring. The upper half of the concrete wall will be constructed this fall in such a way to allow for the proper finishes to be added to it next spring during the sidewalk project. The proposed design of the guardrail consists of a concrete wall including columns with horizontal railings between the columns and sleeves for placements of flags. The aesthetic options for the concrete portion of the guardrail and shotcrete wall were reviewed. The option of adding color or stain to the concrete was suggested as a first step. Mr. Palmer noted the color/stain could be done for minimal costs. If the results were not satisfactory a rock fascia could be added at a later date. Director

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Friedman reminded the Board the Districts main responsibility is to stabilize the roadway and the aesthetics of the wall will be accommodated with the understanding it will not be at District expense. It was noted as prior meetings BCRC has agreed to cost share the sidewalk and up to \$250,000 in aesthetic improvements.

The Board asked what decision was needed today noting the sidewalk and lower half of the guardrail would not be done until next spring allowing some time for discussion. It was pointed out the decision whether to include color or stain in the concrete needs to be made now. After additional discussion Mr. Garnsey stated coloring should be added to the concrete this fall. Mr. Schouten stated the BCPOA would consider a request for funding of a rock fascia for a portion of the project if it became necessary. Mr. Hanks requested the Board consider approving 430 feet of wall and column construction for this fall with an estimated cost of \$80,000. Mr. Palmer will consult with a landscape architect to obtain estimates for a rock fascia. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve construction of the upper portion of the concrete guardrail wall at an estimated cost of \$80,000.

Front Gate Project

Mr. O'Rourke reported the Front Gate Project was on schedule. He noted a water line had been broken causing some disruption at the sight. Director Forstmann noted the sight appears to be disorganized and asked for it to be brought to the attention of the general contractor. Mr. O'Rourke agreed to do so. At this time it appears the project will be completed on time.

Wildfire Mitigation

Mr. O'Rourke stated it is hoped a new draft of the wildfire mitigation plan will be available for review by mid October. Once the plan is available copies will be provided to the Board for review. Mr. Schouten requested a copy be provided to BCPOA. It is the target of the committee to submit the plan by January.

General Manager Update

BC Fire Station Capital Improvements: Mr. Hanks reported Arapahoe Roofing was the contractor chosen for the roof

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improvements at the fire station. This project includes a new roof, heat tape and gutters. The project timeline anticipates completion by the end of October.

BGMD Construction Traffic Regulations: It was reported this matter will go before the court on October 19th. The District is not a party to this matter. Mr. Garnsey explained if the judge rules the new road regulations are enforceable it will stop traffic from using the construction access.

Prater Road Parking Request

The Board reviewed the request for parking along Prater Road for the coming ski season which was included in the packet. Mr. Garnsey briefly reviewed the background concerning parking along Prater Road. He stated more days were being requested this season in anticipation of what may actually be required for use. Mr. Simmons explained the last two years of history was reviewed to estimate the use that may be needed. Mr. Hanks noted the parking was used 7 days last year. The guidelines for use of parking along Prater as described in the memo in the packet were reviewed. The Board stressed there should be no parking along Prater until all parking in the lower lots has reached capacity and that only one side be used for parking until it reaches capacity. Director Forstmann expressed concern related to parking along Prater due to the additional traffic and happenings by the BC Landing area and requested parking not be allowed on both sides. The Board stressed the management of the parking was imperative and instructed Mr. Hanks to work closely with Mr. Funk to monitor the matter. Upon motion duly made, by a vote of 3 Ayes and 1 Nay (Director Forstmann), it was

RESOLVED to approve the request for Parking along Prater Roadway subject to the guidelines as presented in the September 20, 2006 memo and as discussed.

General Manager Update

Encroachments: Mr. Hanks reported he had received a letter from Mr. Powers regarding the encroachment at 490 Holden Road. He provided a copy of the letter, in it Mr. Powers requests the District reverse the decision to grant the encroachment. His concern stems from landscaping the current owner installed over a

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recreational access easement. It is Mr. Powers contention the landscaping makes the easement appear to be private property and discourages use. Mr. Hanks reported he had checked with Mr. Roberts to see whether the improvements the homeowner has made would in any way hinder the grooming of the easement in the winter. Mr. Roberts responded it would not. Mr. Smith shared his understanding of the matter, asking who owns the property. It is the understanding of the District the land is owned by the property owner, the District has an easement for the portion of land necessary and then allows encroachments per the District policy. Mr. Hanks offered to confirm the property is owned by the homeowner. It was noted there is no physical impediment to using the access. Mr. Schouten stated better communication regarding the location of the skiways and access areas may be needed to help with the confusion. It was suggested some type of signage may be useful. Mr. Smith expressed concern regarding the process for encroachments noting the prior owner had used the encroachment to attempt to create a water feature. He noted it was thought the current homeowner will be applying for another encroachment for a change to the garage area. Director Friedman stated the District does not allow encroachments to have physical structures which impede access. The current encroachment does not contain any physical structures to prevent access. After further discussion the Board agreed the encroachment will not be revoked as there does not appear to be sufficient grounds for reversing the encroachment. Upon motion duly made and seconded, it was unanimously

RESOLVED to direct Mr. Hanks to respond to Mr. Powers notifying him the of Boards position as stated above.

Home Rule: Mr. Hanks asked for time to review the home rule charter. The Board noted it appeared little thought had been given to Beaver Creek when the district boundaries were created.

Amendment 38: Mr. Hanks briefly reviewed Amendment 38 and the detrimental effects it would have on the District. He strongly encouraged the Board to oppose this amendment. Mr. Collins will be contacted to provide a resolution for consideration by the Board at the special meeting on October 11.

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Transportation Agreement

Amendments:

Mr. Hanks asked for the Transportation Amendments to be tabled until the next meeting to allow Mr. Simmons and Mr. Collins to be present for the discussions.

Operations

Director Friedman informed the Board that Bachelor Gulch Metropolitan District (BGMD) had severed their operations contract with Vail Resorts (VR) for the coming year. This does not have direct implications for the District. It may be prudent for the District to take this opportunity to review the operations agreement. Mr. Hanks reported he had begun reviewing the matter to see what options are available to the District. He stated the pay rates for the operations employees under VR are inadequate compared to related positions throughout the valley. He stated it was his impression the current employees like working at Beaver Creek and are satisfied with the working conditions but are dissatisfied with their compensation. Mr. Hanks will bring more information back to the Board for consideration such as a comparative analysis of wages for similar positions in the area. He is hoping to develop alternatives for dealing with the matter. The Board asked Mr. Marchetti to provide a financial analysis of contracting for the services versus providing them in-house. Director Friedman offered to discuss the matter with Mr. Garnsey. After further discussion the Board directed Director Friedman to speak to Mr. Garnsey, directed Mr. Hanks to inform the employees the District is looking into the matter and directed Mr. Hanks to offer alternatives for solutions.

2006 Budget Amendment

Mr. Marchetti explained the improvements for the Village Road Slope Repair have created a need to amend the 2006 budget. The public hearing was opened. After a brief discussion the matter was tabled to the October 25, 2006 meeting and the public hearing was continued to the same meeting.

Financial Statements

Mr. Marchetti reviewed the August 2006 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

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RESOLVED to approve the August 2006 preliminary financials as presented.

Accounts Payable The Accounts Payable listing was reviewed. The Board asked for the payment of \$250,000 to the Vilar Center Arts Foundation be included. By motion duly made and seconded, it was unanimously

RESOLVED to approve the accounts payable list with the addition of a payment to Vilar Center Arts Foundation of \$250,000.

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 September 27, 2006

Respectfully submitted,

Kathy Lewensten
Secretary for the meeting