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# RECORD OF PROCEEDINGS

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## MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT October 24, 2007

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., October 24, 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 (via phone)
- Robert Gary

Absent and excused was Director:

Also in Attendance were:

- James Collins, Esq., Collins, Cockrel & Cole
- Ken Marchetti, CPA Robertson and Marchetti, P.C.
- Clyde Hanks, General Manager
- Kathy Lewensten, Recording Secretary
- Heather Nolan, Administrative Assistant
- Suzanne Hoffman-Leblanc, BC Property Owner
- Dawn Friedman, BC Property Owner
- Bill Simmons, BC Operations
- Jim Funk, BC Public Safety

### 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 performing arts facilities within Beaver Creek; Mr. John

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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. Robert 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 September 26, 2007 Regular Meeting. Upon motion duly made and seconded, it was unanimously,

**RESOLVED** to approve the minutes of the September 26, 2007 Regular Meeting as presented.

### Agenda

Several additions were made to the agenda; Mr. Hanks requested time to report on TOA transportation services agreements and the Avondale sidewalk improvement cost share discussion held with Mr. O'Rourke; Director Friedman requested time to report on his meeting with Mr. Wolfe, TOA Mayor and on the meeting with Bachelor Gulch Metro District representatives.

### Future Meetings

The Board reviewed the meeting schedule included in the packet. The next regular meeting is scheduled for Wednesday, November 28, 2007 at 8:30 a.m. at the District Administration Facility.

### Public Input

Ms. Hoffman-LeBlanc requested a report on the status of the plans for emergency evacuation and fire. Director Friedman stated Mr. Hanks and Mr. Funk would respond to her request with reports later in the meeting.

### General Manager Update

**Recreation Path Fence:** Mr. Hanks reported the fence along the recreation path is being installed.

**Village Road and Prater Road Intersection:** Mr. Hanks noted several trees located at the Village Rd and Prater Rd Intersection have been tagged for relocation to help with the line of sight at that location. He is working with the BC Golf Course and BCRC to find the proper spot for relocation. It is anticipated they will be

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moved in the next few weeks. A turn arrow will be painted on the roadway and additional signage is being considered.

**Avondale Sidewalk Improvement:** Mr. Hanks stated he had met with Mr. O'Rourke to inquire about the potential for cost sharing of the Avondale sidewalk improvements project proposed by Base Mountain Sports. The improvements requested would provide additional parking spaces that will cause the sidewalk and snowmelt system to be relocated. Mr. Hanks reminded the Board the project is estimated at \$100,000. Mr. O'Rourke had stated to Mr. Hanks BCRC would be open to discussions regarding the matter. The Board discussed whether this is an appropriate project for the District since it appears it primarily increases the parking spaces for convenience and is not a general road improvement. It was suggested the parties which requested the project could fund the construction and then approach the District regarding maintenance. Director Friedman offered to meet with Mr. Garnsey to discuss the matter further.

**BC Fire Station Improvements:** Mr. Hanks reported the new siding and windows at the BC fire station have been completed. He reported repairs have been made to the garage door. The boiler is being replaced, once it is finished all improvements for this year will be done.

**Wildland Fire Mitigation:** The tree trimming for this year is done. The credit for the purchase of the trees by the vendor was used to create a net cost per tree. The Board asked if an accounting of the total number of trees removed was available. Mr. Hanks will try to obtain this information.

**Decorative Lighting:** Mr. Hanks reported Mr. O'Rourke had informed him the resort will be using the "warm white" decorative lights this year. The "pure white" decorative lights which have a blue tint were returned.

**Emergency Planning:** Mr. Hanks reported the testing session for emergency services which would include BC Public Safety staff, the Sheriff's office, the Eagle County Emergency Response Manager and ERFPD has not yet been held. It is hoped it will be organized in the near future. It has been necessary to reschedule

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the event several times due to the unavailability of ERFPD personnel.

Mr. Funk reported a test is being conducted today on the phone system. The reverse 911 system includes land lines only. Ms. Hoffman-LeBlanc asked how effective this is for guests and if cell phones could be included. Mr. Funk stated he will be watching a demonstration of new software which would allow cell phone and pager numbers tomorrow.

Ms. Hoffman-LeBlanc asked how the emergency plan will be distributed once it is complete. Mr. Funk explained once the exercises are complete and the plan is finalized the intent is to meet with BCPOA representatives to go over the information and to ask for their assistance in dissemination of the information. It was noted the information will need to be provided to everyone in Beaver Creek whether they are a member of BCPOA or not, ways to cover the gap will need to be found.

Director Friedman and Director Balk had met with representatives of Bachelor Gulch Metro District (BGMD). One topic of discussion had been in regards to the use of the construction road between BG and Strawberry Park as part of BC and BG emergency evacuation plans. The BG representatives expressed no objection to using the road for this purpose. Director Balk asked whether Vail Resorts (VR) has been contacted since the roadway is theirs. It was thought VR would have no objections. Mr. Hanks explained a three way agreement formalizing the understanding will be drafted once emergency plans for BC and BG are formalized. Currently the roadway is open during the summer and plowed and maintained by VR in the winter.

**FYI:** Mr. Hanks reported an accident had occurred involving the new Unimog snowplow. Due to a mechanical failure the wing of the snowplow had released and damaged the snowplow truck. No other parties were involved. The wing has been removed and the snowplow can be used while the damages are assessed and repaired.

**Eagle County Affordable Housing Guidelines:** Mr. Hanks reported the District had received the proposed affordable housing

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guidelines from Eagle County for review and comment. He will provide these to the Board for review.

### Legal

**Market Square:** Mr. Collins reported on the Market Square conveyance matter. He explained there is a February target date for completion of the conveyance. Mr. Hanks reported the BCRC budget reflected assuming the escalator costs in March 2008.

**Fire Station Door:** Mr. Collins reported he had recommended ERFPD file an insurance claim for the cost of repairs to the BC Fire Station garage door which had been damaged by the fire engine.

### Town of Avon Transportation Agreements

Mr. Hanks reported the Town of Avon had recently provided two draft Transportation Agreements to BCRC and the District for review. He recommended no action be taken today to allow time for review.

The first agreement continues the parking lot bus service. The renewal provision was revised to be automatic unless there is notification to the TOA prior to July 15<sup>th</sup>. The agreement will be reviewed for any other revisions from last year's agreement.

A new agreement called the "Ski School Express" (SSE) agreement was also provided. This agreement came out of negotiations between BCRC and TOA in response to concerns expressed by BCRC with ski school participants being able to reach the Village due to cutbacks in the scheduled service from Avon. Mr. Hanks had attended the meetings related to this agreement. Director Friedman reported that in his meeting with Mr. Wolfe, TOA Mayor, Mr. Wolfe had expressed the TOA position that it would like to see BC Landing used as it was meant to function which is as a second portal to the ski area. In addition, the TOA would encourage a ski school at the BC Landing location. Director Friedman stated Mr. Wolfe expressed a willingness and desire by TOA to further develop a positive relationship between the TOA and the District. The Board discussed the impact of the new service on Village Road traffic. Mr. Simmons stated there would be fewer buses on Village Road than there are now with the new agreement. He noted this will be a trial year for the service. Mr. Hanks briefly reviewed some of the issues with the draft

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agreement, the overhead burdens need to be reviewed; the voucher system proposed seems cumbersome; and several provisions concerning hours and service appear one sided. The agreement will be revised and returned to the TOA for comment.

The Board discussed the Districts role in transportation, whether it should be a passive provider or an active participant. The funding for transportation services from the District is limited to the property taxes collected. BCRC funds the remaining transportation costs that exceed the property taxes. Mr. Hanks noted both agreements use the same vehicles so no additional vehicles are needed. The Board discussed how proactive the District is interested in being if BCRC is negotiating the agreements and is willing to pay for the services. The Board pointed out it is interested in having equitable agreements. The agreements will be brought back to the November meeting.

### **Prater Gate Project**

Mr. Hanks reported he been told Prater Road will be opened to outbound traffic on November 5<sup>th</sup>. The entire roadway is tentatively scheduled to reopen on November 15<sup>th</sup>. Mr. Funk noted no personnel can be in the guardhouse until a Temporary Certificate of Occupancy (T.C.O.) is issued. The target date is November 15<sup>th</sup>.

### **Other Business**

Director Forstmann asked about the two stone towers being constructed by the front gate. Mr. Simmons and Mr. Funk explained they are welcome monuments into Beaver Creek and will contain traffic information. Director Forstmann asked if they had been part of the approved plan for the area. Mr. Hanks will look into the matter and report back.

Mr. Funk reported the public safety gate staff is being issued their new uniforms. They should all be changed over by the end of the week. The public safety patrol staff will be given their new uniforms in the next phase. Director Forstmann asked if the wages had been adjusted to help secure personnel. Mr. Funk responded they had. In addition a new recruiting technique of sending flyers to fire science schools and programs had been used which has generated positive response.

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### 2008 Budget

This meeting had been published for the 2008 budget hearing. The public hearing was opened. Mr. Marchetti referred to the 2008 preliminary budget included in the September 2007 financial statements in the packet. He explained the numbers had changed slightly from the 2008 preliminary budget presented at the October 10<sup>th</sup> work session. The Board requested Mr. Marchetti to provide a memo by email to the Board that summarizes the changes in the budget from the work session held in October. Ms. Hoffman-LeBlanc asked if funds had been earmarked for crosswalk improvements. Mr. Hanks explained \$50,000 was included in the 2008 budget for crosswalk improvements and briefly reviewed the anticipated improvements. Ms. Hoffman-LeBlanc requested the curve on Offerson Road by the Vilar where the path comes out be looked at for improvement. The Board tabled further discussion on the 2008 budget and continued the public hearing to the November 28, 2007 meeting.

### Financial Statements

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

**RESOLVED** to approve the September 2007 preliminary financials as presented.

### Accounts Payable

The Accounts Payable listing was reviewed. The Board was informed of the potential purchase of two public safety vehicles from Big Horn Toyota prior to the next meeting. Upon 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)(e) C.R.S. for the purpose of determining positions and strategies related to Prater Road cost share negotiations and ERFPD matters. The Board entered into Executive session at 10:15 a.m. and returned at 10:55 a.m.

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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 October 24, 2007.

Respectfully submitted,

Kathy Lewensten  
Secretary for the meeting