
RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT October 25, 2006

The Regular Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., October 25, 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)
- Robert Gary (via phone)
- Ernie Elsner

Absent and excused were Directors:

Also in Attendance were:

- James Collins, Esq. Collins Cockrel & Cole
- Clyde Hanks, General Manager
- Ken Marchetti, CPA, Secretary
- Kathy Lewensten, Recording Secretary
- Heather Nolan, Administrative Assistant
- Tom Schouten, BCPOA
- John Garnsey, COO Beaver Creek
- Tony O'Rourke, BCRC
- Bill Simmons, Operations
- Jim Telling, East West Partners
- Ceil Folz, Vail Valley Foundation
- Suzanne Hoffman-Leblanc, BC Property Owner
- Mark Unicume, BC Property Owner
- Doug DeChant, Architect

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.

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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 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 September 27, 2006 Regular Meeting and the October 11, 2006 Special Meeting. Upon motion duly made and seconded, it was unanimously,

RESOLVED to approve the minutes of the September 27, 2006 Regular Meeting and the October 11, 2006 Special Meeting as presented.

Agenda

No changes were made to the agenda.

Future Meetings

The Board discussed the November and December meeting dates. After discussion it was determined the November 15, 2006 and the December 20, 2006 meeting would be cancelled and combined into a regular meeting scheduled for Wednesday, December 6, 2006, at 8:30 a.m. in the same location.

Public Input

World Cup Transportation: Ms. Ceil Folz appeared before the Board to ask for support for the 2006 Visa Birds of Prey World Cup Races. She handed out a memo with the preliminary transportation schedule. She explained that in the past the District had provided transportation and snow removal for the World Cup Races. There will be an expansion of the parking lot bus service on November 30th to service the "Public Pick" event. There is no cost to the District. She expressed appreciation for the District's continued support. Upon motion duly made and seconded, it was unanimously

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RESOLVED to approve the request for transportation support and snow removal services in the same manner as past years for the World Cup Races.

Market Square Condo: The Board asked Ms. Folz about the status of the District's conveyance offer for the District Market Square Condominium Unit (the "District Unit") to the Foundation. Ms. Folz explained the Foundation was still interested but the Foundation Board had some concerns with the liability issues concerning the use of the area by transportation vehicles. She will have the Foundation's attorney contact a representative of the District to review the matter. The Board stated they are interested in completing the conveyance in the near future and suggested a proposal be brought back for consideration to the December 6th meeting. Ms. Folz agreed to work towards moving the matter forward by then.

BC Landing and Village Walk

Mr. Telling stated both BC Landing and Village Walk projects were proceeding as expected. Paving will begin in Village Walk this week. The first homeowners are expected to close in December.

Mr. Telling explained a water line easement is needed for the portion of the line which crosses the fire station driveway. He reminded the Board this matter had been presented at a meeting last fall at which time it was explained the formal easement request would be made at a later date. Mr. Hanks stated the water easements currently in place had inadvertently not included this small section.

The Board asked for additional information regarding the berm located along Dally skiway at the Village Walk project site. Mr. Telling explained DRB had requested a berm at this location. The design and materials used in the berm were discussed. Mr. Schouten recalled discussions held regarding the matter and offered to follow up. The Board noted this matter was more directly related to DRB.

Skier Bridge Accident

Mr. Hanks reported the skier bridge located north of the interfaith chapel had been hit by a truck hauling a piece of equipment. The

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Board had been informed of the incident prior to today's meeting by email. The bridge girder that was hit was structurally compromised and must be replaced. He reported professionals had stated the bridge could not be used until the repair was made. He explained the damaged girder has been removed by Edward Kraemer & Sons, Inc. It was fortunate they were in the area and available to do the work on an emergency basis. They will also be asked for a proposal to install the replacement girder as soon as it is available. A claim has been filed with the insurance carrier of the trucking company involved. Their insurance adjuster has been to the sight gathering information. The response from their insurance company has been cautious noting they would be looking at the matter in detail. The District's insurance carrier has been informed of the incident. The District may need to cover the expenses until reimbursement is received from the insurance carrier. It is estimated the project will cost approximately \$150,000. Mr. Hanks is working with Mr. Collins regarding the matter. Mr. Collins noted he strongly supported the actions taken by Mr. Hanks and drafted a motion for consideration. The Board considered the motion suggesting a minor modification. Upon motion duly made and seconded, it was unanimously

RESOLVED to authorize the General Manager to proceed with the repair of the skier bridge damage based upon a finding that an emergency exists due to the factors of:

1. The risk to the public of the damaged girder;
2. The imminent advent of adverse weather which will increase costs of repair;
3. The imminent risk of damages and economic loss which may be claimed by third parties;
4. The fortuitous opportunity to mitigate the cost of repair by utilizing contractors currently operating in the area.

The Board questioned why the skier bridges are owned by the District. Mr. Collins explained it was logical for the District to control the structures over the roadways. He noted this is not the first accident at this site. A similar incident occurred in 1992. The Board asked for more information concerning the skier bridges noting they would like to understand the matter better. Mr. Collins offered to research the matter and report back to the Board.

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The Board suggested it may be prudent to have contractors contact Public Safety prior to such equipment moves in the future.

Village Road Slope Failure

Mr. Hanks reported the Village Road Slope project was progressing on schedule. The soil nails and shotcrete walls are under construction. It is anticipated this work will be complete prior to the beginning of ski season.

Front Gate Project

Mr. O'Rourke reported the Front Gate Project should be completed by November 18. Mr. Schouten asked when the property owners radio activated entry gate system will be operational. Mr. O'Rourke stated there will be a short period where both the bar codes and the new radio frequency system will work for entry. He will provide more information regarding the new system and the anticipated timing to Mr. Schouten who offered to communicate the information to the property owners.

Wildfire Mitigation

Mr. Hanks reported the consultants are in the process of reviewing the wildfire rating regulations. The consultants made a site visit to Beaver Creek Drive to see if the rating can be lowered. Mr. Schouten requested a copy of the draft Wildfire plan. Mr. O'Rourke will provide this.

General Manager Update

BGMD Service Plan Amendment: Mr. Hanks reported a public hearing will be held on November 21st at Eagle County regarding the request by BGMD for an amendment to their service plan. BGMD is seeking to add security and covenant enforcement functions.

BGMD Construction Regulations: No decisions have been handed down by the judge regarding information presented at the hearing held on October 19th regarding this matter. The District is not a party to this matter.

Encroachments: Mr. Hanks introduced Mr. Unicom and Mr. DeChant who wished to discuss a new encroachment request for 490 Holden Road. The request concerns the location of a new driveway/garage area and landscaping in the skiway. Mr. DeChant presented a drawing to the Board for reference. He explained the

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proposal has been shared with the neighbor, Mr. Smith, who did not express any issues with the proposal. The applicant had also tried to contact Mr. Powers, another neighbor, however he was not available. Mr. Hanks noted he had toured the site and made suggestions for some minor modifications which have been agreed to. These modifications include the driveway being eleven feet from the roadway and a limited depth for the rock pool for drainage purposes. From a functional standpoint the skiway area will appear more independent from the property after the improvements. Mr. Hanks recommended approval of the encroachment subject to the conditions noted. Mr. DeChant then requested the Board consider allowing the homeowner to place wood planking and three to four foot faux bridge piers on the site. The Board refused this additional request noting the District does not allow encroachments to have physical structures which impede access. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the encroachment at 490 Holden Road as discussed above.

UERWA Easement: Mr. Hanks requested Board approval to execute the Water Line Easement for UERWA related to the water line that crosses the fire station driveway as discussed earlier in the meeting by Mr. Telling. The Board authorized Mr. Hanks to execute the easement.

Transportation Agreement Amendments

Mr. Simmons presented the Transportation Agreement Amendments for consideration.

First Amendment TOA Transportation Agreement

The First Amendment IGA to Transportation Services Agreement which covers the parking lot bus system with the Town of Avon was reviewed. Mr. Simmons explained the exhibits were updated to include the latest vehicles being provided by the District for the service. He stated he was generally satisfied with the level of service being provided. He explained the budget provided by the TOA is still being reviewed. A meeting is scheduled for next week to continue discussions on the budget in order to get more

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information on the increases budgeted related to the fixed costs. The Board requested the matter be tabled until the budget is known.

3rd Amendment Inter-village

Mr. Simmons reviewed the Third 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. The hourly rate has been increased 3% to cover maintenance costs. Upon motion duly made and seconded, it was unanimously

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

5th Amend DAR Transportation Agreement

Mr. Simmons reviewed the Fifth Amendment to First Restated and Amended Transportation System Services Agreement included in the packet. This agreement provides for the Dial a Ride services (DAR). There is an increase in costs of approximately 3%. Upon motion duly made and seconded, it was unanimously

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

2006 Budget Amendment

Mr. Marchetti explained the public hearing for the 2006 budget amendment had been continued to this meeting. The public hearing was opened. No public comment was offered. He pointed out the revisions that had been made from the originally adopted 2006 budget. He recommended transferring the net interest and specific ownership taxes from the debt service fund into the general fund. He also recommended adding a contingency of \$150,000 to the Capital Improvements fund to cover any expenses related to the unexpected bridge repair discussed earlier in the meeting. A revenue line item would also be added reflecting the expected reimbursement from the insurance company. The Board requested Mr. Marchetti make the proposed changes and bring a clean copy of the 2006 amended budget to the next meeting for

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action. The Board tabled the matter to the December 6, 2006 meeting and continued the public hearing to the same meeting.

2007 Budget

This meeting had been published for the 2007 budget hearing. The public hearing was opened. Mr. Marchetti referred to the memo and 2007 preliminary budget included in the packet. The Board discussed the revenues and expenditures projected for 2007. Director Forstmann expressed a desire to have a balanced budget for 2007. It was noted the unexpected expenditure for the Village Road slope failure in 2006 will have a carryover effect to 2007. Mr. Marchetti reviewed the parameters the District has regarding reserve balances in the funds. He noted the 15% general fund reserve is met in the 2007 budget. The contingencies that are allowed for within the general fund, the capital improvements fund and the capital projects were discussed. The Board requested these contingencies be reviewed and a schedule provided for review. A list of any capital improvement projects which may be discretionary was also requested. Mr. Marchetti and Mr. Hanks will work together to tighten the budget and prepare the requested items. The Board tabled further discussion on the 2007 budget and continued the public hearing to the December 6, 2006 meeting.

Public Safety

Director Forstmann commented the Prater Road Gate house personnel have not met expected standards lately. He noted the gate house staff has not been in a consistent uniform. It also appears vehicles without stickers or proper identification are not being stopped consistently. Mr. Simmons offered to follow up on the matter and address the concerns.

Ms. Hoffman-Leblanc expressed her concern regarding public safety within Beaver Creek. She asked about the report included in the packet and noted two vandalism incidents she was aware of were not mentioned. Mr. Hanks explained that if an incident report is written up those are the matters which appear in the report. Ms. Hoffman-Leblanc stated she believes security is a hot issue with BCPOA as it relates to both access gates and roadways and would like the matter to stay in front of the Board.

Legal

The Board asked Mr. Collins about the status of any response from Vail Resorts regarding the Districts request for additional information regarding the alpine slide proposal. Mr. Collins stated he was not aware of any response being received. The Board

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requested Mr. Collins draft a letter to the Eagle County Commissioners articulating the Districts concerns regarding the matter.

Financial Statements

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

RESOLVED to approve the September 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.

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 25, 2006

Respectfully submitted,

Kathy Lewensten
Secretary for the meeting