
RECORD OF PROCEEDINGS

MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS BEAVER CREEK METROPOLITAN DISTRICT November 9, 2005

The Special Meeting of the Board of Directors of the Beaver Creek Metropolitan District (the "District") was held at 8:30 a.m., November 9, 2005 in the Conference Room of the Beaver Creek Club, Beaver Creek, Eagle County, Colorado.

Attendance

In Attendance were Directors:

- Stephen Friedman
- Al Mielcuszny
- John Forstmann
- John Wells
- Vacancy

Absent and excused were Directors:

Also in Attendance were:

- Ken Marchetti, CPA, Secretary
- Kathy Lewensten, Robertson & Marchetti, P.C.
- Steve Boyd, McBoyd Construction Solutions LLC
- Ginny Forstmann, BCPOA
- Tom Schouten, BCPOA
- John Garnsey, COO Beaver Creek
- Chief Moore, Eagle River Fire Protection District
- Ludwig Kurz, BCRC
- Tony O'Rourke, BCRC
- Jim Funk, BC Public Safety
- Bill Simmons, Village Operations
- Jim Telling, East West Partners
- Kathy Aalto, Land Designs by Ellison

Call to Order

The Special 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 Wells 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; 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 October 26, 2005 Regular Meeting. Upon motion duly made and seconded, it was, unanimously,

RESOLVED to approve the minutes of the October 26, 2005 Regular Meeting.

Future Meetings

The Board reviewed the meeting schedule. The December meeting was cancelled; the next regular meeting is scheduled for Wednesday, January 25, 2006.

Agenda Changes

No changes were made to the agenda.

Fire Station Improvements

Chief Moore stated he was appearing to ask for approval for interior improvement expenditures to the Beaver Creek fire station. The improvements would include painting the interior, new carpeting and window coverings. Proposals for the work had been included in the packet. Mr. Marchetti noted improvements at the fire station had been included in the 2005 budget. He went on to explain in the 2006 budget the fire station improvement budget was larger in anticipation of larger projects, such as siding and roofing of the station. Chief Moore explained the amounts included in 2006 were estimates only. There was a brief

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discussion concerning the age of the building and whether the major projects could be done over several years. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the interior improvement expenditures for the Beaver Creek fire station consisting of interior painting, carpet, and window covers for a total not to exceed \$15,000.

Fire Station Lease

Chief Moore asked the Board to consider the Lease included in the packet relating to the Beaver Creek Fire Station. He explained ERFPD's insurance carrier requested this lease as a condition for providing coverage on the building to ERFPD. It was noted Mr. Collin's office had prepared the lease. There would be no rent exchanged. The Board stated they agreed to the concept but requested time to review the presented lease as it relates to the current agreement and to speak with counsel regarding the matter. Chief Moore agreed. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the execution of the Addendum to Agreement for Fire Protection and Emergency Services Lease subject to final review by Director Wells.

Eagle-Vail Admin Maint Facility

Mr. Boyd reported the paving of the lot at the Eagle-Vail Admin/Maint facility would be completed in the next week. He stated the mechanical and electrical have been roughed in. He noted there have been no material changes to the plans. One matter he wanted to make the Board aware of concerned the completion date for the landscaping portion of the contract. Although the buildings will be complete the last part of January, the landscaping will not be completed until May due to weather issues. The Board asked if Mr. Boyd would be with the project through the punch list for the project, Mr. Boyd stated he would be. The Board reviewed the latest pay application (number four). Director Wells asked if it was feasible for parts of the project to be 100% complete as was being reflected on the invoice. Mr. Boyd explained the items in question were mostly related to the shared

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costs of the infrastructure and were substantially complete, he then pointed out there was a 10% retention amount withheld from each payment to insure punch list items are completed to the satisfaction of the Board. The Board asked if the appropriate lien waivers have been received from the subcontractors. Mr. Boyd stated they were being received on a timely basis.

Encroachment Agreements

The Board began discussion regarding encroachment agreements. The Board asked what procedure had been followed in the past for encroachments, as it seemed there were quite a few being presented for consideration over the past few months. In the past the General Manager had reviewed the encroachment agreements and made site visits to meet with the owners and their representatives. Mr. Simmons explained the DRB has become more stringent in requiring encroachments prior to approval of projects where as in the past the process was a bit more lenient. Ms. Forstmann asked whether the process was backwards, as it seems property owners appear before DRB then are sent to get approval from the District. She expressed concern that if DRB gives approval the property owner is led to believe this covers all needed aspects and the project can move forward. It was explained the DRB provides conditional approval noting the property owner must get approval of the encroachment from the District before proceeding. The Board discussed concerns regarding the process for encroachments and how to best review the pros and cons of the applications. The Board agreed it would like to establish clearer procedures and guidelines for the process.

148 S. Fairway Encroachment: The Board began discussing the encroachment application made on behalf of 148 S. Fairway. Ms. Aalto introduced herself to the Board explaining she had come to answer any questions the Board may have regarding the application. She explained the property owner was interested in placing trees on the other side of the road, down the bank along the golf course. There was concern as to how the trees would handle stress related to the plowing of the roadway and how they would be irrigated while being established. Ms. Aalto explained water would be hauled in to water the trees from the roadway until they were established. She stated the property owner understood if any tree did not survive it would be the property owner's responsibility

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to replace it. Director Forstmann asked whether the golf committee had been asked to review the plans. Ms. Aalto stated they had not; she had spoken with the golf superintendent who saw the project as a positive addition to the golf course. The Board expressed concern the encroachment was not contiguous to the property, stating they did not wish to set a precedent which may not be in the District's best interest. After further discussion the Board chose to table the matter until the Board has time to clarify the guidelines and procedures for all encroachments. Ms. Aalto asked whether she would need to provide anything further at this time. The Board explained they will contact her.

Lot 26 Strawberry Park Encroachment: Mr. Simmons reviewed the encroachment agreement for Lot 26 Strawberry Park.. The agreement is for tree plantings in the utility easement along the property. Mr. Kurz explained DRB had given sketch plan approval to the project conditional upon receiving an encroachment from the District. The Board tabled the matter until a site visit can be made by staff and the guidelines are reviewed.

DAR Amended Exhibits

Mr. Simmons discussed the amended exhibits for the Dial a Ride agreement which had been included in the packet. He explained the increase in the cost of the agreement was due to an escalation in the cost of fuel and maintenance which had not been anticipated. He stated BCRC had reviewed the changes and stated they were acceptable. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve Amended Exhibits "A-2", "B", "C" and "E" to the Fourth Amendment to First Restated and Amended Transportation System Service Agreement.

Inter-Village Exhibits

Mr. Simmons reviewed the amended exhibits to the Intervillage agreement stating these had increased for the same reasons stated above. Upon motion duly made and seconded it was unanimously

RESOLVED to approve Amended Exhibit "A", "B" and "C" to the Second Amendment to Intervillage Transportation System Agreement conditional upon acceptance by Beaver Creek Resort Company.

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Town of Avon
Maintenance
Agreement

Mr. Simmons presented the Town of Avon Maintenance agreement included in the packet. This is the same agreement currently in place with the TOA for maintenance services performed on the operations equipment owned by the District. The changes noted in the agreement were an increase in the hourly rate from \$85 per hour to \$90 per hour and the effective dates to January 1, 2006 through December 31, 2006. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the execution of the Town of Avon Maintenance Agreement as presented.

Village Road
Guardrail Inquiry

The Board reviewed the inquiry included in the packet from Dr. Howe regarding adding guardrail along Village Road near the intersection with South Holden Road. The Board asked Mr. Funk whether additional guardrail would be beneficial or necessary. Mr. Funk stated it would be worth studying. The Board discussed the improvements made along the intersection of Village Road and South Holden Road over recent years such as the widening of the road and better signage. They noted the roadways are constantly under review for any safety improvements which can be made. The Board recommended the matter be reviewed by the General Manager and directed staff to draft a response letter to the homeowner.

Legal Matters

There were no updates concerning legal matters.

Ritz Carlton
Bus Shelter

Mr. Garnsey asked the Board to consider moving forward with the request from the Ritz to construct a bus shelter at the Bear Lot this year. He reminded the Board the refurbishment of the bus shelters located at the Elk Lot, the Bear Lot and the Wolf Lot has been discussed as a future capital project for the last few years. The prior design considered for the shelters would have been fairly expensive to construct. He was recommending the design for the shelters be redone to see what could be reasonably constructed. He

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stated the District was involved since the shelters are considered a part of the transportation function of the District. The Board asked whether Vail Resorts, BCRC and/or Bachelor Gulch Metropolitan District had been asked to share in the cost. Mr. Simmons explained they had and it was anticipated the cost would be split among the four entities. He estimated a reasonable shelter with water and power could be constructed for approximately \$75,000. Mr. Garnsey suggested the Bear Lot structure be built this year, with the other two being scheduled for next year. The Board suggested the Bear Lot shelter be done as a test with the other two being discussed at a later date. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve moving forward with a bus shelter at the Bear Lot with the District paying one fourth share of actual costs on a not to exceed basis of \$20,000.

Valet Parking

Mr. Kurz reported to the Board that the location for the Valet Parking service for this season remains under review. One thought suggested would be to use several spaces on the Hyatt side of the Village Hall Parking Structure. There are concerns related to this space which would need to be worked out. The Board stated it did not want traffic backed up on the road while waiting for the service. They asked how inappropriate use of other parking spaces in the structure would be handled and whether the safety concern of cars stopping at inappropriate places to drop off skiers prior to taking the car to the valet service had been looked at. Mr. Garnsey explained all of these issues would be studied. He stated the matter was still under review, so no proposal was being presented for action at this time.

East West Project Updates

Mr. Telling presented a quick update of the Village Walk and BC Landing projects.

The Village Walk project will be holding broker open houses the week of December 5. Mr. Telling asked permission to allow parking along the roadway from noon to two o'clock on Tuesday and Wednesday of that week. He explained he would have appropriate traffic control in place. Mr. Funk stated he would

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provide staff to help with traffic control. The Board agreed and asked Mr. Telling to work with Mr. Funk regarding the matter.

Mr. Telling wanted the Board to be aware that he would be seeking an access easement and an encroachment agreement for some grading and landscaping that will be done at the BC Landing project in the near future.

Public Input

Ms. Forstmann explained her term of office on the BCPOA board would be complete in the near future so she would no longer be attending District meetings. She thanked the Board for allowing BCPOA to participate in the meetings and encouraged the Board to continue seeking input. She congratulated the Board on the successful election and encouraged the District to continue holding mail ballot elections for all future elections. The Board thanked Ms. Forstmann for her participation and wished her well.

2005 Budget Amendment

The Board opened the public hearing on the 2005 budget amendment. No public comment was offered and the hearing was closed. Mr. Marchetti presented the 2005 budget amendment resolution explaining the amendment was necessary due to the unexpected expenditures for the construction of the Eagle-Vail Maintenance Facility and a slight increase in transportation expenses. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the 2005 Budget Amendment and appropriations as amended.

2006 Budget Public Hearing

Director Wells noted the meeting had been published as the public hearing for the 2006 budget. No public comment was offered. The board reviewed the 2006 budget. Mr. Marchetti noted the 2006 budget proposed the elimination of the water fund. Director Wells asked if it was necessary to eliminate this fund. Mr. Marchetti explained it was not necessary but could be done to simplify the financial statements of the District. Director Wells pointed out the District will be receiving tap fees from the Village Walk project over the next several years and suggested the fund be left in place until the tap fees have been collected. The Board

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reviewed the capital projects and equipment replacements. Director Mielcuszny asked about the reduction in special ownership tax revenues. Mr. Marchetti explained the special ownership taxes are based on a percentage of the total property taxes for the District. Since the District property tax is decreasing so will the special ownership tax. The operating mill levy rate will be 7.469 mills, transportation mill levy rate will be 8.934 mills, and the debt service mill levy rate will be 5.000 for a total mill levy rate of 25.226 mills. Upon motion duly made and seconded, it was unanimously

RESOLVED to adopt the 2006 budget and appropriate the sums of money for Beaver Creek Metropolitan District as revised subject to receipt of final assessed valuation, and

FURTHER RESOLVED to certify the mill levy for Beaver Creek Metropolitan District

Financial Statements

Mr. Marchetti reviewed the October 2005 preliminary financial statement included in the packet. Upon motion duly made and seconded, it was unanimously

RESOLVED to approve the October 2005 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.

Executive Session

Upon motion duly made and seconded, it was unanimously

RESOLVED to enter into executive session citing §24-6-402(4)(f) C.R.S. for the purpose of discussing personnel matters. The Board entered into Executive session at 11:40 a.m. and returned at 12:05 p.m.

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Upon returning to regular session the following motion was made regarding the General Manager replacement. Upon motion duly made and seconded, it was unanimously

RESOLVED to authorize an offer be made to the chosen applicant under the terms and conditions as discussed in executive session.

Adjournment

There being no further business to come before the Board, by motion duly made and seconded, it was unanimously

RESOLVED to adjourn the Special Meeting of the Beaver Creek Metropolitan District Board of Directors held on November 9, 2005.

Respectfully submitted,

Kathy Lewensten
Secretary for the meeting