

MINUTES OF THE  
SPECIAL BOARD OF DIRECTORS MEETING OF  
BEAVER CREEK RESORT COMPANY OF COLORADO  
November 17, 2023

The Special Meeting of the Board of Directors of the Beaver Creek Resort Company of Colorado, a Colorado non-profit corporation (the “Company”), was held via zoom on Friday, November 17, 2023.

Mr. Bobby Murphy called the meeting to order at 12:03 p.m. Erin Jarvis verified the Notice of Meeting sent and a quorum established for the purposes of the meeting. The following members of the Board of Directors were present via zoom:

Bobby Murphy	Jeff Luker
Phil Metz	Bob Boselli
Tim Maher	Peter Dann
Jim Donohue	Brian Nolan
John Dawsey	

Representing the Company were Jim Clancy, Executive Director; Karen Braden-Butz, Treasurer, Erin Jarvis, Secretary.

Attendance in Public Session via zoom:

Clint Huber- BCRC	Sam Hearn – BC DRB -
Inno Martino- BCRC	Thad Renaud – BC DRB Legal
Vanja Belic	Steve Nusbaum-BC DRB
Justin Brown - VPAC Dir of Ops	Blake Harnick – Creekside Condo Owner
Jon Puricelli – BCRC Legal	Dave Eickholt - BCMD
Brendan Caffrey – Creekside Condo Assist Mgr	Lou Kreig- BC Homeowner
Mark Miscio-BCMD	Wendy LaPointe – Mountain Lodge Owner
Olivia Lyda- BCRC	Kerry Wallace- Creekside HOA Legal

1. Public Comment. Wendy LaPointe reviewed the presentation she received from Clint Huber at the Hyatt Mountain Lodge meeting. She expressed concerns around rock placement creating potential hazards. Owner since 98 who hasn’t spent summers in the last ten years but doesn’t remember music there before. Mentioned lack of picnic tables and grills from the renderings. Blake Harnick, owner at Creekside, wanted to be noted that he was on the call as an owner at Creekside.

2. Appeal of Decision of Beaver Creek Design Review Committee, Tract A, Block 4, Lot 5- Creekside Park – Approval of Playground Area Improvement. Bobby Murphy introduced the action item and handed the floor to Kerry Wallace, Legal Counsel for Creekside Condominium Association.

Ms. Wallace, Creekside Condo Association Legal Counsel, presented the appeal request on behalf of Creekside Condo Association of the Beaver Creek Design Review Committee’s affirmed decision on October 18, 2023 of the Creekside Park Playground Improvement. Counsel stated that the Creekside Park property is owned by Vail Resorts with multiple easements granted, with one to BCRC. Creekside HOA has stressed its concerns with the developments and more specifically the expansion of the facilities.

Counsel stated there is no authority under the declaration or easement for the expansion of the park. All property granted to BCRC under the Declaration must be owned and operated for the common interest of all owners, which would include Creekside owners. Article 9.3 of the Declaration incorporates the easement. 8.2 of Declaration requires any additions or changes of the property must go through the

Design Review process. Vail Resorts is the Declarant of the Declaration which obligates BCRC to maintain and further the common interests of all owners. Counsel states the easement regarding the park is a very limited grant and that replacement of structures must be on existing facility footprints. Creekside HOA also feels that the new structures are not harmonious with nature and landscaping.

Counsel stated the proposed redevelopment violates the easement and declaration, is not in the best interest of all owners and Creekside Condo Association will pursue further legal actions if needed.

Steve Nusbaum reviewed the DRB's decision and the Beaver Creek Village Design Guidelines. He stated that the DRB considered the design theme requirements during their decision. There was conceptual review of the project on August 16, 2023. Final plan review with site visit and approval on September 20, 2023. Request for reconsideration on October 18, 2023. Agendas are all posted on the DRB website one week prior to every meeting.

Mr. Renaud, DRB Legal Counsel, stated that the DRB's decision was not arbitrary and capricious as suggested by Creekside HOA's legal counsel. There is CO case law that interprets this standard if it is supported by competent evidence on the record. DRB Counsel suggests that the evidence presented for this redevelopment project was deemed to be visually harmonious with the terrain and surrounding sites and structures as well as within the scope of the easement.

Mr. Puricelli, BCRC Legal Counsel, reviewed the scope of the easement and the authority granted to BCRC. Counsel reviewed the guardhouse and air quality management easements which are limited grants of authority over a portion of the tract or block. The Creekside Park easement is over the entire tract and block which allows BCRC to place and replace structures over the park. Counsel stated that BCRC's authority granted within the easement does not restrict the location of structures being improved as suggested by the appeal. He also advised that there was no legal authority to support the assertion that the structures being improved and replaced had to be identical to the existing structures on the land. Counsel stated that he was unaware of any legal definition in CO that supports such an interpretation of the word "replace", and that the plain meaning of the easement language did not present an impediment to the proposed improvements.

Upon motion made by Mr. Metz and seconded by Mr. Donohue, the Board unanimously

**RESOLVED** To uphold the decision of Beaver Creek Design Review Board, Tract A, Block 4, Lot 5- Creekside Park – Approval of Playground Area Improvement.

3. Adjourn. With no further business to come before the board and upon motion made by Mr. Dann and seconded by Mr. Maher and the Board unanimously

**RESOLVED** to adjourn the meeting of the Beaver Creek Resort Company Board of Directors held Friday, November 17, 2023 at 12:34pm

Respectfully submitted,

Erin Jarvis  
Beaver Creek Resort Company  
Secretary