
RECORD OF PROCEEDINGS

Minutes of the Regular Meeting Of the Board of Directors Berry Creek Metropolitan District February 23, 2010

A Regular Meeting of the Board of Directors of the Berry Creek Metropolitan District, Eagle County, Colorado was held on February 23, 2010 at 9:00 a.m., at the Singletree Community Center, 1010 Berry Creek Road, Edwards, Eagle County, Colorado, in accordance with the applicable statutes of the State of Colorado.

Attendance The following Directors were present and acting:

- Don Cohen
- Doris Dewton
- Heather McNerny
- Mike Budd
- George Gregory

Also in attendance were:

- Herb Luhman
- Diane Levin, SPOA
- Kim Ahmad, Community Manager
- Ken Marchetti, Robertson & Marchetti, P.C.
- Cheri Curtis, Secretary to the Meeting

**Call To
Order**

The Regular Meeting of the Board of Directors of Berry Creek Metropolitan District was called to order by Director Cohen, on February 23, 2010, at 9:04 a.m. noting a quorum was present.

Minutes

The Board reviewed the minutes from the January 26, 2010 Regular meeting. By motion duly made and seconded it was unanimously

RESOLVED to approve the minutes of the January 26, 2010 Regular Meeting as revised.

Changes to the

Agenda

Discussion of the SPOA Annual Meeting and election of Board members was added to the agenda. The Board also added discussion of the retainage with Valley Crest Landscaping along with a discussion on the WECMRD Field House design.

Public Input There was no public input.

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Community

Reports

The Board reviewed the Community Manager report that was included in the Board packet. Ms. Ahmad updated the Board on the activity since February 8. Ms. Ahmad has received several phone calls for usage of the Community Center and the exercise room. Ms. Ahmad is contacting people trying to obtain another exercise instructor to replace Kelsey Campbell.

Miller Ranch

Field House

Director Gregory updated the Board on his discussions with John McCaulley, WECMRD director, who has made a personal commitment to work on improving the reflective issue with the Miller Ranch Field House roof. Director Gregory has reviewed the correspondence from Pat Hammond, the Planning Commission representative, and believes it would be beneficial to gather more signatures for the petition. It was noted the Board's issues are with the design of the Field House, not the benefits of the facility or the programs.

Director Cohen suggested putting information on the web-site and sending a blast email to constituents encouraging property owners to sign the petition. Ms. Ahmad has the petition available in her office for any resident who wants to sign the petition. She will also contact Steve Russell and let him know she is the new contact for Singletree and question whether there was any resolution from the WECMRD Board meeting last week.

Director McInerny expressed concerns that the petition needs to address the design issue and provide a workable solution that will not affect the cost of the programming. Director Gregory reiterated constituents are upset with the process, not the programming at the Field House.

Beautification

Process

Director Dewton updated the Board on the Phase I plantings in the road right-of-way that were damaged during the snowplow process. Per the Public Improvement Agreement, Eagle County has the ability to use approximately ten-feet of the roadway right-of-way for snow storage. Since the County employees operated within the right-of-way guidelines they are not responsible for replacing plantings that are destroyed during the snowplowing operations.

Ms. Ahmad and Director McInerny met with Gordon Adams with Eagle County Road and Bridge and Ben Gerdes with Eagle County Engineering to review the placement of plantings and landscaping material in Phase I of the Beautification process. Mr. Adams recommended the District's landscape architect work with the County road and bridge personnel to design future landscape improvements which avoid planting in areas the County uses for snow storage. Mr. Adams

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noted if the Singletree landscaping material damages the County equipment, the District would be responsible for the repairs to the County equipment.

Director Dewton stated some of the plantings from Phase I may need to be replaced and the source of funding the cost is being explored. It was suggested SPOA might consider funding the repairs and Director Budd indicated that Board was expecting the request and funds could become available under the 2010 SPOA budget.

Scott Sones is aware of the obstacles and limitations and has suggested installing flagstone pieces that will be placed adjacent to but slightly lower than the County roadway. The County was receptive to the flagstone concept.

Valley Crest Contract

Mr. Marchetti stated the contract with Valley Crest Landscaping states that retainage will be held in the amount of 10% of the first 50% of the contract and no retainage will be withheld thereafter. However, the Valley Crest payment applications deducted 10% retainage for the entire contract and they are now requesting release of half of the retainage. The Board expressed concerns with releasing retainage and being able to make the necessary repairs to the irrigation system and the cart pathways. The Board suggested withholding the invoice from Sonnenalp and the cart path repairs based on an estimate from A-Peak Asphalt. Director Gregory agreed to draft the letter to be sent to Valley Crest Landscaping explaining the Board's position to cover known expenses out of the retainage being released. A check for the retainage being released reduced by the above described costs will be mailed with the letter.

Beautification

Phase II Scott Sones has completed the drawings for Phase II of the Beautification Project and they will be available for review at the SPOA Annual Meeting. The District is planning to move forward with the improvements this spring.

I-70 Interchange

Construction Ms. Ahmad questioned whether there was correspondence available on the I-70 Edwards Interchange roundabout project that could be posted on the District website. Mr. Marchetti reported that the contractor is primarily responsible for development of communication information which is being developed at this time and will be available no later than March 10, 2010 when it will be presented at the ECA meeting and at a public open house.

Ms. Ahmad is reviewing the information created by Ms. Jacobs on the Winslow Road construction for a template to communicate the construction process to constituents.

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The ECA Committee that is interviewing landscaping architects has reviewed qualifications and selected four firms for interviews on March 15, 2010. The plan is to award the landscape design contract to one of the four landscape architect firms shortly after the March 15 interviews. The landscape architects' estimates of installation costs ranged from \$150,000 to \$400,000, depending on what is installed, with the design costs being approximately 10% of that amount which is in addition to the installation costs. The Board discussed funding options for the design and installation costs.

Winslow Road

Accident Director Budd received an estimate of \$57,679.69 from Concrete Works of Colorado to repair the damages to Winslow Road underpass. The estimate will be forwarded to the District's insurance company. By motion duly made and seconded it was unanimously

RESOLVED to approve the proposal for the repairs to the Winslow Road underpass.

May 2010

Election Ms. Curtis reported there are currently two candidates running for three Board seats.

SPOA

Election It was questioned whether the District should vote their 39 properties at the SPOA Annual election for the Board of Directors. The District has received advice of counsel that it does have the ability to vote for candidates. It was noted the meeting will be posted as a Special Meeting to allow the Board members the ability to discuss candidates, if necessary. By motion duly made and seconded it was unanimously

RESOLVED to appoint President Director Cohen with Director Dewton as alternate to vote the District's votes at the SPOA meeting and giving them the ability to confer with other Board members, if appropriate.

Director Cohen will present a Metropolitan District update at the Annual meeting. Directors Gregory and Dewton will present an update on the Beautification Project. Director Gregory and Diane Levin will make a presentation on the status of the Miller Ranch Field House roof issue.

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Audit

Engagement

Letter

The Board reviewed the 2009 audit engagement letter from McMahan and Associates. By motion duly made and seconded it was unanimously

RESOLVED to approve the audit engagement letter with McMahan and Associates for the 2009 District audit.

Financial

Report

The January 31, 2010 Financial Statements were included in the Board packet with one month activity. By motion duly made and seconded it was unanimously

RESOLVED to accept the January 31, 2010 financial statements as presented.

Accounts

Payable

By motion duly made and seconded it was unanimously

RESOLVED to approve the February 2010 accounts payable list as presented.

Berry Creek

Sales Report

The 2009 "sales report" showing real properties in the District which have sold was provided for Board review and to monitor the potential impact on the District's assessed value. The report will be updated periodically through June 30, 2010.

SPOA

Ms. Levin stated the SPOA board is preparing for the Annual Meeting and the discussion related to the dues increase to \$150 annually. There are currently five candidates up for five open seats but additional nominations can come from the floor. There are three 3-year terms, one 2-year term and one 1-year term up for election.

UERWA

Ms. Dewton reported the UERWA meeting is scheduled for this Thursday. The UERWA issued \$20 million in bonds with an average rate of 3.91% for 30 years. Now that the bonds have been issued, the Board will revisit the amount of the water base rate increase that was implemented on January 1, 2010.

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**Edwards
Community
Authority**

The contract for the I-70 Edwards Interchange roundabout project has been awarded by CDOT to American Civil Constructors with construction scheduled to begin around March 15, 2010.

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 Berry Creek Metropolitan District Board of Directors this 23rd day of February, 2010.

Respectfully submitted,



Cheri Curtis
Secretary for the Meeting