
RECORD OF PROCEEDINGS

Minutes of the Regular Meeting Of the Board of Directors Berry Creek Metropolitan District April 28, 2009

A Regular Meeting of the Board of Directors of the Berry Creek Metropolitan District, Eagle County, Colorado was held on April 28, 2009 at 8:30 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
- Mike Budd
- Heather McNerny, By Telephone

The following Directors were absent and excused:

- Doris Dewton
- George Gregory

Also in attendance were:

- Susan Weber, SPOA
- Eileen Jacobs, 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 April 28, 2009, at 8:44 a.m. noting a quorum was present.

Minutes By motion duly made and seconded it was unanimously

RESOLVED to approve the minutes of the March 24, 2009 Regular Meeting as revised.

**Changes to
Agenda**

There were no changes to the agenda.

**Public
Input**

There was no public input.

**Staff
Reports**

The Board noted the report was included in the Board packet.

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Exercise

Equipment Ms. Jacobs presented information to support the bids that were included in the Board packet. The equipment from Commercial Fitness is commercial grade and they can deliver, set-up and provide the necessary signage. The equipment available from the Brightwater Club is the same equipment used at the Sonnenalp Club and although it is not commercial grade it would be satisfactory for Singletree's level of usage. The existing equipment will be donated to a non-profit agency that preferably has the ability to pick up the equipment.

Director Cohen suggested purchasing the needed equipment available from the Brightwater Club and then purchasing the additional items from Commercial Fitness. Director McInerny questioned the maintenance on the non-commercial equipment. Ms. Jacobs stated none of the bids included maintenance but she anticipates hiring Maximum Comfort to provide maintenance. By motion duly made and seconded it was unanimously

RESOLVED to approve purchasing the needed equipment available from the Brightwater Club and purchasing the remaining items from Commercial Fitness.

Landscape

Design

Contract

The proposal from Dunn + Kiley was previously distributed to the Board. Originally the Board budgeted \$15,000 for the construction drawing services. The proposal presented is for \$16,000 due to higher surveying costs. Mr. Marchetti sent the proposal to Matt Dalton for comment and received approval. By motion duly made and seconded it was unanimously

RESOLVED to approve the contract for \$16,000 with Dunn + Kiley.

Mr. Marchetti suggested appointing an owners representative related to this contract and the Board agreed to ask Director Dewton or Gregory if they would serve in this capacity.

Director Budd questioned the restrictions related to screening utility boxes with landscaping. It was noted Dunn + Kiley needs to address the applicable restrictions during the design process.

Financial

Report

The March 31, 2009 Financial Statements were included in the Board packet. The interest income is anticipated to be \$30,000 lower than budgeted. Director Budd questioned the expense for the Edwards Community Authority and Mr. Marchetti explained that this is an annual charge and there will be no further

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expenses this year and although that line item is over budget, the forecast for the Edwards Spur Road has been reduced to offset the difference. By motion duly made and seconded it was unanimously

RESOLVED to accept the March 31, 2009 financial statements as presented.

Accounts Payable

The Board reviewed the April 2009 accounts payable lists. By motion duly made and seconded it was unanimously

RESOLVED to approve the April 2009 accounts payable list as presented.

Director McInerny left the meeting at 9:05 a.m.

Winslow Road

Construction The memo from Sara Flick clarifying issues was discussed. Director Budd noted June 19, 2009 is the deadline to complete the project before penalties are assessed again Concrete Work of Colorado (CWC) and May 22, 2009 is the deadline for CWC to receive compensation for completing the project early. Director Budd reported the batch plant will open on May 12, 2009 with paving of Winslow Road is scheduled for May 13, 2009. A company from California will be staining the walls over a ten to twelve day period that can be completed during the paving process. Concrete Works of Colorado was able to work 74 of 108 work days over the winter so it was beneficial to not shut-down the project over the winter months.

The landscaping will start as soon as trees in the area start budding. The District received a refund of \$3,310.17 from CenturyTel towards the cost of relocating the telephone line. Director Budd reported the project can substantially be completed by May 22, 2009 with the road open at that time. It is anticipated the project will come in close to budget even though some items have exceeded the bid amount, since other items will be less than bid. Director Cohen requested the Board budget for a graffiti fixative. Director Budd agreed to discuss available products with the contractor.

Edwards Committee For Noise Abatement

A letter was sent to the Edwards Committee for Noise Abatement responding to their requests. The District and SPOA have agreed to continue efforts to mitigate the noise with plantings and by requesting CDOT reduce the speed limit on I-70.

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Once the I-70 sound study is completed, a meeting with the homeowners will be scheduled for late May or early June to present the results. Notice of the meeting will be posted on the website and a postcard notification of the meeting will be sent to all property owners in Singletree. A letter will be sent to all petitioners on Hackamore with the results of the study. It was suggested two meetings be scheduled; one during the week and one on the weekend.

SPOA The letter from Allan Mattson requesting the Boards obtain input from property owners that do not meet the state statutes to be able to vote in District elections was discussed. Director Budd reported the issue has also been discussed by SPOA. Mr. Marchetti apprised the Board of the actions other districts in the area have taken to give all property owners a voice, typically through a survey conducted of all property owners. Singletree has used surveys in this manner in the past and anticipates the continued use of surveys to obtain input from all property owners. For future major issues, the survey process can be “formalized” to allow all property owners an opportunity to express their “vote” or voice.

UERWA Report Director Cohen represented the District at the UERWA meeting. Ginn is continuing with its efforts to obtain the Columbine Ditch water rights. Settlement of the Minturn case is pending due to a change in the water court judge.

Investments Mr. Marchetti presented current CDARS rates of 1.85% for 12 months and 2.4% for 18 months at Alpine Bank. It was suggested to move \$750,000 to a 12-month term and \$750,000 to an 18-month term. Director Cohen suggested obtaining rates from JP Morgan Chase since they hold District bonds. The rates from JP Morgan Chase will be distributed to Board members. It was agreed to move \$1.5 million of District funds to obtain a better rate of return.

Staff Ms. Jacobs reported the database is working great and she is working on obtaining e-mail addresses from property owners to be able to mail District and SPOA documents and newsletters in the future.

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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 Berry Creek Metropolitan District Board of Directors this 28th day of April, 2009.

Respectfully submitted,



Cheri Curtis
Secretary for the Meeting