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## RECORD OF PROCEEDINGS

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### Minutes of the Regular Meeting Of the Board of Directors Berry Creek Metropolitan District February 26, 2013

A Regular Meeting of the Board of Directors of the Berry Creek Metropolitan District, Eagle County, Colorado was held on February 26, 2013 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:

- George Gregory
- Mike Budd
- Ann Darby
- Dan Godec
- Herb Luhman

Also in attendance were:

- Steve Penrose, SPOA
- Dan Carlson, Operations
- Joan Fritsche, Collins Cockrel & Cole (Via Telephone)
- Ken Marchetti, Robertson & Marchetti, P.C.
- Cheri Curtis, Secretary to the Meeting

#### **Call To Order**

A Regular Meeting of the Board of Directors of Berry Creek Metropolitan District was called to order by Director Gregory, on February 26, 2013, at 9:00 a.m. noting a quorum was present.

#### **Agenda**

Director Gregory asked if there were changes to the agenda. The Board agreed to change the agenda to allow Joan Fritsche to address the engagement letter and the contract for the roundabout landscape contract at the beginning of the meeting.

**Public Input** There was no public input.

**Minutes** The January 22, 2013 Regular Meeting minutes were reviewed. Upon motion duly made and seconded it was unanimously

**RESOLVED** to approve the January 22, 2013 Regular Meeting minutes as presented.

#### **Legal Engagement**

**Letter** Ms. Fritsche presented the engagement letter provided by Collins Cockrel & Cole to provide legal services for the District. Upon motion duly made and seconded it was unanimously

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**RESOLVED** to approve the engagement letter with Collins Cockrel & Cole as presented.

**Contracts** The Board has agreed contract with Rocky Mountain Contract Landscaping (RMCL) for enhancement of the roundabout landscaping in 2013. Ms. Fritsche will work with Eric Jorgensen at Collins Cockrel & Cole to draft the contract between RMCL and the District since he has already drafted the landscape construction contract for ECA. The District's portion of the landscaping project will be \$60,000 with SPOA contributing an additional \$50,000 for the project.

**Operations** Mr. Carlson reported the elliptical machine is not operating and will be repaired. A door lock in the Community Center kitchen has been repaired. The stereo in the Community Center is not working and is still under warranty. Mr. Carlson will have it replaced.

Mr. Carlson received a proposal from Stan Huffman to paint both inside and outside of the Community Center for \$7,500. Mr. Huffman does not believe the inside needs painting and will look better with cleaning, touch up paint, and painting the window sills. Mr. Carlson has not worked with Mr. Huffman but has received great recommendations from others who have used his services. Director Gregory suggested getting an additional bid to make sure the bid is competitive.

Mr. Carlson received a bid of \$10,600 to install four additional security cameras outside the Community Center. The bid includes computer upgrades and installation. Directors Gregory and Budd apprised the Board on the incident that started discussion for additional cameras at the Community Center. Director Godec questioned the District's property insurance deductible amount. [Upon subsequent review it was determined that the property deductible is \$1,000]. The Board agreed to table discussion on the purchase of additional cameras and computer upgrades based on costs. The Board did direct Mr. Carlson to obtain a bid for one camera.

Mr. Carlson presented a proposal of \$14,000 from Rock Solid to resurface the Community Center floor surface. Their proposal involves grinding off the top layer of the floor and then resurfacing and finishing the floor. Rock Solid also suggested the District purchase a machine costing approximately \$4,000 to clean the floor. The Board suggested getting a second bid from Service Master and does not believe spending \$14,000 is justified.

The deck the Community Center needs to be sanded and stained back to the natural color. There were no concrete footings installed when the building was constructed. Mr. Carlson will make the necessary repairs and refinish the deck.

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The roads will be striped this spring. The roads have not been striped for two years since the funds were used to resurface the parking lot and paths in 2012.

#### **UERWA**

##### **Resolution**

Director Gregory presented the UERWA Resolution to increase water usage rates. Director Budd had questioned the perpetual lien that was explained by Ms. Fritsche outside of the meeting indicating all water fees are attached to the property per State statutes and will be collected at the time a property changes ownership. Director Budd also questioned the designation of funds and the amount of debt anticipated. Director Godec questioned the expected increase in the base rate along with the expected amount of improvements to the system. Director Gregory will present the Board's concerns to the Authority Board. The Board's concerns include establishing a ceiling amount on the bonds, keeping the users informed of the necessary improvements to the system, being apprised of the ongoing status of the construction project, and re-evaluating bond interest rates to ensure the best rates are being obtained. Upon motion duly made and seconded it was unanimously

**RESOLVED** to approve the UERWA resolution to increase base rates to cover debt service payments on the Authority's upcoming bond issuance for fund capital projects. A copy of the resolution is incorporated herein by this reference.

#### **Custodians of**

##### **District Files**

The Board reviewed the Resolution regarding Custodians of the District Files to clarify the storage of electronic files. Upon motion duly made and seconded it was unanimously

**RESOLVED** to adopt the resolution appointing Robertson & Marchetti as the Custodian of the District's files. A copy of the resolution is incorporated herein by this reference.

#### **West Entrance**

##### **Landscaping**

Director Godec presented the plans for the landscaping on the north side of the Edwards interchange. A contract has been negotiated with Rocky Mountain Custom Landscapes for a gross amount of \$122,000 but with a credit of \$12,000 for the warranty obligation for the 2011 plantings for a net price of \$110,000. The Board discussed the design and the plants. The Board acknowledged Kathleen Cope needs to be brought into the discussion on the plans since it is expected that Garden Creations will eventually maintain the landscaping. The Board would like to have color with plants blooming the entire summer season. SPOA has agreed to contribute funds on or around June

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1, 2013 for the project. Upon motion duly made and seconded it was unanimously

**RESOLVED** to enter into the contract with Rocky Mountain Custom Landscapes for \$110,000 with a contribution of \$50,000 from SPOA. The Board further authorized Directors Godec and Luhman to execute the contract.

#### **Irrigation Project**

The Board agreed to spend up to \$38,000 for the irrigation project moving the park irrigation from the domestic water system to golf course irrigation water, noting that the District would recoup these costs over time. Director Darby questioned whether golf course crossings could also be funded. The Board reviewed the budget and determined there could also be funds available for the golf course crossings in 2013. The Board discussed constructing the crossing on Berry Creek Road at Stagecoach and on Winslow Road near the I-70 underpass. Upon motion duly made and seconded, it was unanimously

**RESOLVED** to enter into a contract with the Sonnenalp Golf Course for an amount not to exceed \$38,000 for the irrigation project. The Board further authorized Directors Godec and Budd to execute the contract.

**Beautification** Director Gregory suggested the Board allocate funds to complete the golf course crossings as funds become available. Director Godec and Darby will work on the priority list for completion of golf course crossings.

#### **Eagle County Charter**

**Academy** The Board is still waiting for information from Eagle County Planning on the design and materials being used for the construction of the Eagle County Charter Academy. Ms. Curtis agreed to follow up and provide information at the next meeting.

#### **Community Manager**

**Position** Director Luhman has the split out of the duties for the Community Manager position between the District and SPOA. Director Gregory indicated the current arrangement with Terri Martinez-Johnson is working well so the Board agreed to table the discussion on hiring a Community Manager at this time. Director Budd stated that the Board still needs someone to stay involved as the representative for the Community with Eagle County and local government entities. Director Luhman stated that person could be Board member and not an employee.

#### **Financial**

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**Report** The preliminary January 31, 2013 financial report was included in the Board packet. There hasn't been much activity in 2013 so far. Director Godec questioned the status of the contribution to the ECA. Mr. Marchetti stated that since the District is taking responsibility for the landscaping on the north side of the I-70 interchange, ECA will issue a refund for Berry Creek's contribution to ECA for landscaping.

The traffic study for the Spur Road will be discussed at the next ECA meeting. ECA had allocated \$125,000 in 2013 for the Spur Road study with another \$125,000 planned for 2014. These funds are to be matched by Eagle County and the combined ECA and Eagle County funds will be matched by CDOT. When the District agreed to spend \$60,000 for landscaping, the funds for the Spur Road Study were reallocated for the landscaping. ECA has agreed to spread the cost of the Spur Road Study over three years so the District could receive a request for funding for a small portion of the Spur Road Study in 2013. Director Gregory will attend the next ECA meeting and wants to discuss the Spur Road Study and the Sub-Area Master Plan with the ECA representatives. Director Luhman and Steve Penrose think it is premature to pay for a study until the funding of the project is determined. Director Godec requested input from Mr. Marchetti, who indicated he is the facilitator of the meetings and the ultimate decision will be made by the ECA Board.

Upon motion duly made and seconded it was unanimously

**RESOLVED** to accept the January 31, 2013 financial report as presented.

**Accounts  
Payable**

The Board reviewed the accounts payable list for February. The Board agreed to terminate the services provided by Scott Sones and obtain the final bills from Ceres+ Landscaping. Upon motion duly made and seconded it was unanimously

**RESOLVED** to approve the February 2013 accounts payable list as presented.

**SPOA**

Mr. Penrose stated the SPOA Annual meeting will be held on Saturday, March 23, 2013. There are three Board positions up for election. Mr. Penrose is hoping to set goals for 2013 with the seating of new board members.

**UERWA**

The minutes from the January meeting were in the Board packet and the rate increase was previously discussed.

**ECA**

The Spur Road Traffic Study was discussed. Another project that will be undertaken by ECA is to work with Eagle County to update the Edwards Sub-

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Area Master Plan. The Board indicated that ECA should enter into an agreement with Eagle County stipulating that any variances from the new Sub-Area Master Plan will require the approval of both Eagle County and ECA.

CDOT is planning to overlay Highway 6 between Squaw Creek Road and Avon in 2014 at an approximate cost of \$5,000,000. Eagle County would like to widen the shoulders in conjunction with this project at a cost of \$350,000 (\$235,000 in the Edwards Area and \$115,000 in Avon). However, the CDOT funding can only be used for the overlay and not for the shoulder widening. Eagle County is requesting funding participation from ECA and Avon. ECA has agreed to contribute \$10,000. Mr. Marchetti presented the plans for the improvements. Director Godec asked about the status of developing a funding District for ECA. Director Budd stated one of ECA's 2013 goals is to investigate other funding mechanisms.

**Open Items  
List**

The Community Center floors will be added to the open item list. The construction contract template has been completed.

**EV Land  
Exchange**

The Eagle Valley Land Exchange will be completed soon. Representative from the Eagle Valley Land Trust may want to attend the March meeting to discuss funding and cooperation.

**Future  
Meetings**

The Board agreed to move the meeting times to 8:30 a.m. Upon motion duly made and seconded it was unanimously

**RESOLVED** to approve changing the time of the Regular Meeting to 8:30 a.m.

**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 26th day of February, 2013.

Respectfully submitted,



Cheri Curtis  
Secretary for the Meeting