
RECORD OF PROCEEDINGS

Minutes of the Regular Meeting Of the Board of Directors Berry Creek Metropolitan District August 28, 2012

A Regular Meeting of the Board of Directors of the Berry Creek Metropolitan District, Eagle County, Colorado was held on August 28, 2012 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
- Herb Luhman
- Ann Darby
- Dan Godec

Also in attendance were:

- Mike Reisinger, SPOA
- Steve Penrose, SPOA
- Dan Carlson, Operations
- 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 August 28, 2012, at 9:00 a.m. noting a quorum was present.

Agenda There were no changes to the agenda.

Public Input There was no public present.

Minutes The Board reviewed the minutes from the July 24, 2012 Regular Meeting. Director Darby questioned the noise at the Community Center and whether an amplifier or just a microphone was approved. The Board explained the noise rules for the Community Center and Singletree, indicating all noise should be stopped by 10:00 p.m. Upon motion duly made and seconded it was unanimously

RESOLVED to approve the minutes of the July 24, 2012 Regular Meeting with revisions.

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**Community
Manager
Report**

There was no report.

**Beautification
Process**

The Board agreed to look at the next phase of landscaping after they determine the non-potable water available for the District's landscaping areas.

ECA has been meeting to discuss the look of the Edwards roundabout landscaping. ECA and Edwards Business owners are dissatisfied with the appearance of the landscaping project. Mr. Sones has determined that only about half of the wildflower plants survived. Mr. Marchetti reported Rocky Mountain Custom Landscaping is prepared to replace plants and work with the ECA committee on improving the look of the Edwards Roundabouts.

Director Luhman expressed concerns with ECA approving the plans and now expressing dissatisfaction with the project. The Board agreed to be very mindful of the costs associated with redesigning the project. ECA needs to look at reducing water usage overall for the project as well.

Utility Boxes Director Luhman and Mr. Reisinger met with a representative from Holy Cross Energy to discuss painting the Holy Cross utility boxes. Director Luhman and Mr. Reisinger requested a waiver on the required deposits for painting utility boxes but the waiver was denied. They then requested a five year payment schedule for the deposits. Holy Cross agreed to grant a three year payment plan for the painting deposits. The estimated deposit is \$21,400 to paint all switchgear boxes, three phase transformers and single phase transformers. It was determined the deposits would be paid as the boxes are painted. Director Luhman and Mr. Reisinger suggested painting the nine switchgear boxes and the ten three-phase transformers as they are larger. The single phase transformers are not as noticeable. SPOA is willing to contribute \$3,000 in 2012 for the painting of the switchgear boxes and one three phase transformer box on Mesquite. Mr. Reisinger indicated SPOA would probably contribute \$3,000 in 2013 to paint the additional three-phase transformers. It was noted the Board previously approved \$3,000 for the project so no further action is required.

SPOA requested the District spread grass seed on the barren areas around certain utility boxes.

**Operations
Report**

Mr. Carlson has received the as-built plans of the trees and beautification projects. The as-built plans show the placement of the irrigation system, sprinklers and plants.

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Brush Creek Landscaping presented a proposal to maintain the District's trees. Steve Tarrant with Brush Creek Landscaping recommended removing the stakes around the newly planted Spruce trees. The Board directed Mr. Carlson to work with Brush Creek Landscaping to recommend the services necessary to protect the trees, with extra protection for the trees near I-70 that will be inadvertently sprayed by magnesium chloride. The Board agreed to leave the stakes around the trees this year and evaluate removing them again in 2013.

Graffiti continues to be a problem on the Community Center benches and it the Chip Ramsey bathrooms. Mr. Carlson will continue to paint or clean areas as necessary.

The native grass will be mowed once in the fall for an estimated cost of \$4,000. Director Budd suggested mowing down the north quadrant of the roundabout project. Director Gregory questioned mowing the north quadrant area, which would reseed the native grasses. If new plantings are decided upon, the cost could increase to remove additional native grasses.

The District received a proposal from Meadow Mountain Plumbing for \$948.85 to maintain Community Center plumbing and heating system. The Board agreed to obtain a second proposal.

Mr. Carlson reported an irrigation clock is not working and will need to be replaced. The Board agreed the clock is the responsibility of RMCL. Additional rain sensors will be installed.

Bond Counsel

Engagement The proposal from Spencer Fane & Grimshaw to provide bond counsel services was presented to the Board. The Board questioned the cost for the legal representation for refunding the District's bonds. Mr. Marchetti explained most firms would be more expensive and the proposal from Spencer Fane & Grimshaw is reasonable. The Board discussed moving the legal representation for the District from Spencer Fane & Grimshaw to Collins Cockrel and Cole. Director Gregory will contact Jim Collins requesting they provide bond counsel services to the District for the same costs as the Spencer Fane & Grimshaw proposal.

Bond RFP Mr. Marchetti explained the most feasible process to refund the existing bonds is to contact local banks requesting proposals to refinance the existing bonds. Director Budd questioned whether there was a requirement to provide future financial predictions during the process. It will be noted the District does not have additional voter approved bonding authority and the Board does not have plans at this time to request voter permission to issue additional bonds. The

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District received an “A” rating in 2010 from Standard and Poor’s previously and is not planning to seek a new rating.

Legal Counsel

The Board reviewed the letter regarding the merger of Grimshaw & Harring with Spencer Fane and Grimshaw. There was no further discussion.

Other Business

CEBT indicated they do not provide long-term disability insurance. Director Gregory requested the District look into long-term disability insurance. Director Gregory explained the current medical condition of Ms. Ahmad and discussed the Board’s position moving forward, noting the Board’s support of Ms. Ahmad. Mr. Reisinger is working with Ms. Martinez-Johnson on prioritizing the needs of the Community manager position in Ms. Ahmad’s absence.

Director Darby has been meeting with members of the Beautification committee to discuss proceeding with the next phase of the Beautification process. Director Darby is meeting the Eric Johnson tomorrow and would like to proceed with an RFP for Scott Sones to design the next phase of the Beautification process for 2013. The Board cautioned there could be roundabout landscaping costs in 2013 that would reduce the funds available for the next phase of the Beautification process. Director Darby is working with the Beautification Committee to standardize the look of the community, including both entrances. Director Luhman reported the road cuts for the cart paths are not as expensive as originally estimated.

Insurance

The Board discussed increasing the deductible to \$1,000 for both the general liability and public officials policies. Upon motion duly made and seconded it was unanimously

RESOLVED to approve increasing the deductible to \$1,000 for both the general liability and public officials policies.

Financial Report

The July 31, 2012 Financial Statements were included in the Board packet. Mr. Marchetti stated the assessor’s property sales within the District for the period from January 2011 to June 2012 were incorporated into a graph and included with the financial report. The 2013 budget includes the preliminary assessed value with the 2014 preliminary budget showing an anticipated 15% decrease in assessed values. Upon motion duly made and seconded it was unanimously

RESOLVED to approve the July 31, 2012 financial report as presented.

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Accounts Payable

The Board presented questions on the water and irrigation usage. Upon motion duly made and seconded it was unanimously

RESOLVED to approve the August 2012 accounts payable list as presented.

SPOA

Mr. Reisinger has reviewed the responsibilities of the Community Manager. Mr. Reisinger suggested scheduling a meeting between SPOA and District representatives to discuss the responsibilities.

Mr. Gregory made a presentation at the August SPOA meeting on the DRC approved roofing materials. Mr. Reisinger indicated the materials presented received SPOA's approval.

UERWA

Director Gregory reported the U.S. Geological Service recently performed routine maintenance on the Eagle River gage near the Avon Waste Water Treatment Plant, which demonstrated that recent flows in the Eagle River were actually lower than originally thought. Mr. Carlson reported the District has already cut back irrigation usage in the District's parks by 25%. All irrigation users are being contacted to reduce usage. A few Mountain Star owners continue to over use water and Mountain Star is looking for alternatives to bring in water rights. The Traer Creek litigation is moving forward.

ECA

ECA discussed the roundabout landscaping in detail at the last meeting. Nancy Alexander was elected President of ECA. The Board is discussing goals and objectives for ECA. The County is willing to look at a study for the Highway 6 & Spur Road intersection. The status of the current rest area was discussed. Pole banners for events were also discussed.

Open Item List

The Board reviewed the Open Item List and removed completed items. Director Gregory stated Singletree is split between medium and high level fire levels. The Board raised questions on the number of days the Edwards Fire Station is closed in relation to the number of eligible electors in the Edwards area.

Board members met with Toby Spunk regarding the Eagle Valley Land Exchange. Mr. Spunk made a request for funding from Berry Creek for the West Avon parcel. Director Gregory noted the Board is in support of the land exchange but since property owners already pay into the open space tax they are not interested in contributing further toward the land exchange.

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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 August, 2012.

Respectfully submitted,



Cheri Curtis
Secretary for the Meeting