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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 September 25, 2012**

A Regular Meeting of the Board of Directors of the Berry Creek Metropolitan District, Eagle County, Colorado was held on September 25, 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:

- Jeff Glas, Wells Fargo Bank
- Paul Watkins, Wells Fargo Bank
- Scott Sones, Ceres Landscaping
- Kathy Aalto, Ceres Landscaping
- 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 September 25, 2012, at 9:00 a.m. noting a quorum was present.

**Agenda** The bond refunding was moved to the top of the agenda.

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

#### **Bond Refunding**

The District's 2002 bonds will be eligible for refunding on December 1, 2012. Mr. Marchetti sent a RFP to eight local banks and received four proposals. A comparison of the interest rates, fees, and other provisions was distributed to the Board.

Jeff Glas and Paul Watkins with Wells Fargo Bank gave a presentation on the Bank and the benefits Wells Fargo can bring to the District. Director Gregory questioned whether Wells Fargo Bank would consider reducing fees and the interest rate to be comparable with the low bidder, Colorado State Bank. Mr.

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Watkins indicated that was probably not possible but would look into the possibility of reducing fees and interest rates. Director Godec and Mr. Marchetti indicated the Board plans to make a decision by the October meeting.

Mr. Marchetti stated one advantage Wells Fargo Bank maintains over the other banks responding to the RFP is the ability to lock in the rates ninety days in advance. Mr. Glas and Mr. Watkins stated Wells Fargo is working with the local Community to give back by working with Habitat for Humanity, the United Way Campaign and other local non-profit organizations. Wells Fargo is hoping to build an ongoing banking relationship with the Singletree community.

Mr. Glas and Mr. Watkins left the meeting at 9:20 a.m. Mr. Marchetti will work with Director Godec to make a recommendation to the Board on the preferred bank to use for the bond refunding.

#### **Entrance**

**Landscaping** Edwards Community Authority (ECA) has received comments from Edward's area citizens on the appearance of the roundabouts at the Edwards I-70 Interchange. Scott Sones and Kathy Aalto presented an updated concept plan for the roundabouts. The original plans included natural grasses and wildflowers. Over 50% of the original wildflowers did not survive and native grasses have invaded the landscaping. Paul Golden with the Edwards Station has offered to fund enhancements and corresponding maintenance of the roundabouts. The landscape installation contractor, Rocky Mountain Custom Landscapes (RMCL), is obligated under the construction warranty to replace the dead plants and they have acknowledged their obligation. They have also offered to grant a credit to ECA for the replacement cost of the dead plants to be used toward installation of the new landscape plan if desired.

The alternative concept plan presented to the Board includes more sod and perennial flowers. Tall grasses would be pulled with over-seeding of low grass and flowers. Mr. Sones will be working with Bobby Head from RMCL to obtain cost estimates for the District and ECA prior to completion of the final plans that will be presented to the Board for approval. The Board recommended designing the north side consistent with the south side and adding more color, especially in front of the Singletree sign. Ms. Aalto pointed out the scope presented by the Board expands beyond the original scope of the project.

The Board plans to include additional funding for landscaping improvements for the west entrance in the 2013 budget. The Board directed Mr. Carlson to have the northeast side of the off-ramp and around the Singletree entrance signs mowed.

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**Minutes**      The Board reviewed the minutes from the August 28, 2012 Regular Meeting. Upon motion duly made and seconded it was unanimously

**RESOLVED** to approve the minutes of the August 28, 2012 Regular Meeting with revisions.

**Legal  
Representation**

Director Gregory requested a proposal from Jim Collins to provide legal representation. Mr. Collins advised Director Gregory that in order to provide a legal opinion on the bonds, Mr. Collins would need to review the District's records to provide an opinion and that would cost the District triple the cost of using the District's current counsel. Discussion followed on changing legal counsel. A work session is scheduled for October 18, 2012 for preparation of the 2013 budget and to meet with Glenn Porzak and Linn Brooks on the District's water rights. The Board suggested meeting with Mr. Collins on that day as well to discuss changing legal representation.

**Community  
Manager  
Report**

Ms. Ahmad provided a report to the Board.

**Operations**

Mr. Carlson reported the park restrooms and irrigation system will be shut off on October 15, 2012. Mr. Carlson questioned the maintenance contract with RMCL for the entrance roundabout landscaping and expressed concerns with irrigation problems in the roundabout. The Board directed Mr. Carlson to work directly with RMCL and not use outside contracts that would be billing the District.

Due to the drought this year the District's trees are being affected. Mr. Carlson would like to invite the arborist to attend a future meeting to discuss the tree care program.

Mr. Carlson confirmed with the Board that they are satisfied with Garden Creations & STI Services and there is no need to bid out their services. Mr. Carlson will obtain bids for painting the Community Center. The Board directed Mr. Carlson to obtain bids for any services he believes necessary and present them at the October meeting.

The stereo and speakers have been installed. Mr. Carlson will need to exchange the amplifier, at no cost to the District. The microphone has been purchased and will be connected with the new amplifier. Director Gregory stated the Chip Ramsey sign prohibiting slack lining is being prepared and will be installed.

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Director Luhman complimented the beauty of the flowers on the corners and Miller Ranch/Winslow Road.

#### **Beautification**

**Process** Director Darby has met with Eric Johnson and Director Luhman on the landscape design for the cart path and pedestrian crossings. The committee is recommending stamped concrete for the crossings. Plant materials will be discussed at the next committee meeting and recommendations will be forwarded to Scott Sones.

Director Gregory indicated twelve crossings would significantly increase operational costs for maintenance. Director Luhman stated the cart path and pedestrian crossings would be phased in and this is the last phase of the beautification process.

The meeting between Directors Budd and Godec, Johannes Faessler, and Neil Tretter to discuss using Sonnenalp's raw water irrigation for the District's parks went well. Director Gregory suggested allowing Directors Budd and Godec to proceed with the process; if it is determined the costs to connect to the raw water system will be offset by reduced domestic water usage over the next three years. Neil Tretter has indicated the Sonnenalp Golf Course personnel might be interested in installing the system to connect the District's parks irrigation to the raw water system and bill the District for the cost.

The Board prioritize the capital improvement goals in the following order; the northeast corner of the west entrance, connecting to the raw water system, and then the balance of the capital budget used for the next phase of the beautification process.

**Utility Boxes** Mr. Carlson has been authorized to paint the large utility boxes and the one intermediate utility box on Mesquite Drive.

#### **Freedom Park**

The Board received a request for a letter of support for an Eagle County grant to pave the Freedom Park parking lot. Upon motion duly made and seconded it was unanimously

**RESOLVED** to have Director Gregory send a letter to the Eagle County Commissioners supporting the paving of the parking lot at the Freedom Park Field House.

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#### **Charter School**

The Board discussed how Battle Mountain High School looks aesthetically pleasing and blends well with the community. The Board does not like the conceptual plans for the Charter School that is proposed to be built in Miller Ranch. The Board directed Director Darby to draft a letter to the Charter School with the Board's comments on the conceptual plans.

#### **Bond Refunding (Continued)**

Mr. Marchetti displayed the costs savings to the District using both Colorado State Bank's (CSB) and Wells Fargo Bank's proposals. The Board discussed using CSB if they will be flexible with the requirement to move the District funds to CSB. The Board prefers to use a local bank for daily deposits with the ability to transfer funds to CSB as necessary. Mr. Marchetti was directed to determine what the tax exempt opinion letter requirements are for issuing bonds through a local bank.

#### **Financial Report**

The August 31, 2012 Financial Statements were included in the Board packet. . Upon motion duly made and seconded it was unanimously

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

#### **Accounts Payable**

The Board reviewed the accounts payable list and presented question that were answered by Mr. Carlson and Ms. Curtis. Upon motion duly made and seconded it was unanimously

**RESOLVED** to approve the September 2012 accounts payable list as presented.

#### **SPOA**

There was no report.

#### **UERWA**

Director Gregory reported at the preliminary budget meeting with the Authority and the District a 3% increase on tier rates, a 5% on base rates, plus a \$5 capital reserve increase was suggested by Stan Bernstein. The long range plans indicated the District will need to issue \$47 million in bonds for capital projects in future years. The system is currently built to regulatory standards in place at the time of construction. Regulatory standards have been increased and the District is trying to comply.

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Director Gregory and Tom Leonhardt, from Arrowhead Metropolitan District, attended the Colorado River Water Conservation District meeting.

**ECA** The Highway 6 intersection study process has begun. The CDOT rest stop was briefly discussed. The next ECA meeting will be in November after receiving the Edwards roundabout costs for the 2013 budgeting process.

**Open Item  
List**

The Board reviewed the Open Item List and removed completed items.

**Staff** The Board discussed Ms. Ahmad's medical condition and future employment. The Board directed RMPC to look into benefits and employment options for her during the recovery period, if necessary.

**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 25th day of September, 2012.

Respectfully submitted,



Cheri Curtis  
Secretary for the Meeting