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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 October 23, 2012

A Regular Meeting of the Board of Directors of the Berry Creek Metropolitan District, Eagle County, Colorado was held on October 23, 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:

- Leslie Grooters
- Paul Dike, Brush Creek 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 October 23, 2012, at 9:00 a.m. noting a quorum was present.

#### **Agenda**

Director Gregory requested changes to the agenda. Paul Dike with Brush Creek Landscaping will be present later in the meeting to discuss tree maintenance.

#### **Minutes**

The September 25, 2012 minutes were not distributed prior to the meeting. Discussion on the minutes was tabled until the November meeting.

#### **Public Input**

Leslie Grooters requested the Board consider recycling at the Singletree Community Center. Ms. Grooters has discussed recycling with Vail Honeywagon and Waste Management. Waste Management has presented a proposal to provide single stream recycling along with trash removal for prices comparable to Vail Honeywagon but Vail Honeywagon was not able to provide a proposal for recycling prior to the meeting. .

Director Gregory explained Vail Honeywagon has supported the community in the past during clean-up days. There is also a cost associated with recycling that the District is not in a position to fund with the reduced property tax income.

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Ms. Curtis and Mr. Carlson agreed to work with Ms. Grooters to determine if there is a viable option for recycling and present it to the Board.

**Operations** Mr. Carlson has installed the stereo system and the barbecue area at the Community Center. Director Gregory and Mr. Carlson found the stairs on Community Center deck in need of repair. Mr. Carlson plans to make those repairs.

The Board directed Mr. Carlson to implement a system for the District to use water from the Charolais Circle Pond for irrigation of the Charolais Circle Park.

#### **Tree**

**Maintenance** Paul Dike gave a presentation on recommended maintenance for the District's trees. The lack of snow last year and the summer drought followed by the monsoon rains in August has stressed the trees. The concern with Aspen trees is Oyster Shell Scale. Cottonwood trees attract aphids that spread Oyster Shell Scale. As an arborist, Mr. Dike recommends treating the trees to keep them healthy in lieu of over spraying. Healthy trees can naturally fight off the damage from pests.

All of the new spruce trees have been fed. Mr. Dike stated new trees can be in shock for the first three to five years. Brush Creek Landscaping has provided a proposal for the budget to sustain the trees.

#### **Bond Counsel Engagement**

**Letter** The engagement letter from Peck Shaffer to provide bond counsel services was presented to the Board. Mr. Marchetti explained the Board had requested a proposal in addition to the Spencer Fane proposal and Peck Shaffer was chosen because they are normally competitively priced and because they are involved with the transaction on behalf of Colorado State Bank. Since the parties are not in adverse roles in this transaction, while the potential of a conflict always exists, no conflict is expected. After discussion the Board agreed to waive any potential conflict with Peck Shaffer.

Peck Shaffer's original proposed fee for bond counsel services was \$10,000 but they were agreeable to reduce it to \$8,000 to match the Spencer Fane proposal. Director Budd requested that an updated proposal be obtained from Spencer Fane Grimshaw for the general counsel services. Upon motion duly made and seconded it was unanimously

**RESOLVED** to approve engaging Peck Shaffer for an amount not to exceed \$8,000. The Board further

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**RESOLVED** to approve engaging Spencer Fane Grimshaw to provide legal counsel for an amount not to exceed \$2,000.

The Board acknowledged the negotiations by Mr. Marchetti on behalf of the District.

#### **West Entrance**

**Landscaping** There were no updates on the proposed plans for the west entrance. Director Budd noted the improved look of the entrance into Singletree just by mowing the native grass, giving it a more finished look.

#### **Beautification**

**Process** Director Darby reported the District has received a proposal for installation of golf cart crossing at a cost of \$4,900 per crossing. That price includes road cuts and stamped asphalt crossings. Director Darby is recommending the District complete the three cart path crossings on Winslow beginning at the one south of Rawhide Road, the bike path at the intersection of Winslow and Berry Creek Road, and the cart path north of Berry Creek Road. Director Gregory reminded the Board there are maintenance costs associated with stamped asphalt. There are ten proposed cart crossing areas with seven areas requiring landscaping. With irrigation costs and landscaping the estimated total is \$25,000 for the three crossings. The Board noted \$25,000 has already been budgeted for the improvements around the entrance sign. It was suggested requesting \$50,000 from SPOA to cover the costs of the three cart crossings and entrance sign landscaping. Director Budd suggested continuing to move forward on the plans for the golf course crossings, completing the ones that can be completed with the funds available. The plans will include the concrete stamping, boulders, plantings, and irrigation. Discussions on the golf course crossings will be tabled until after the Board determines the funds required for ECA for the roundabout landscaping improvements and the District's entrance improvements.

Director Luhman suggested having discussions with Rocky Mountain Custom Landscapes (RMCL) for the entrance landscaping including the plant warranty. The District has irrigated the native grass at the roundabouts for two years and they are optimistic that the native grass won't require irrigation in 2013, saving the District money. Director Gregory suggested presenting landscaping plans for tiered areas to RMCL. RMCL is also working with Scott Sones on an alternate design for the roundabouts.

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#### Legal

**Representation** Director Gregory reiterated the District is planning to continue with the current legal counsel through the completion of the issuance of the bonds and to then look into alternatives.

#### Community

**Manager** Directors Gregory and Luhman will be meeting with Ms. Ahmad on employment items.

#### 2013 Budget

**Hearing** The Board held a Special meeting on October 18, 2012 to review the 2013 budget. The changes requested by the Board at that meeting have been included in the current 2013 proposed budget that was distributed with the Board packet and made available to the public. The meeting was opened for public comment and upon hearing no public comment the public hearing was closed.

Director Luhman suggested spending reserve funds to complete the beautification process in 2013. The Board explained that property tax revenues will be decreasing with assessed values decreasing. The Board acknowledged Director Luhman's desires but believes it prudent that the Board keep the fund balance as presented. Upon motion duly made and seconded it was unanimously

**RESOLVED** to adopt the 2013 budget as revised and presented; to set the debt service mill levy at 8.100 mills and the operating mill levy at 8.746 mills, for a total mill levy of 16.846 mills; and to appropriate funds for spending in 2013, all as documented in the formal budget resolution but subject to minor adjustment for any further adjustments to the assessed values. A copy of the formal budget resolution is incorporated herein by this reference.

#### Financial Report

The September 30, 2012 Financial Statements were included in the Board packet. Upon motion duly made and seconded it was unanimously

**RESOLVED** to approve the September 30, 2012 financial report as presented.

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#### **Accounts**

##### **Payable**

The Board reviewed the accounts payable list. The Board commended Garden Creations on the work provided in 2012. Director Gregory recommended obtaining pans to place under the pots on the Community Center deck and run drainage to the ground to avoid further damage to the deck. Upon motion duly made and seconded it was unanimously

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

#### **2011 Audit**

##### **Engagement**

The McMahan and Associates 2012 audit engagement letter was presented to the Board. The proposal is a fixed fee at \$5,200 which is same fee charged to prepare the 2011 audit. By motion duly made and seconded, it was unanimously

**RESOLVED** to approve the McMahan and Associates audit engagement letter to audit the District's 2012 financial statements.

#### **SPOA**

There was no October meeting and no report.

#### **UERWA**

Director Gregory reported the UERWA November meeting will be held on November 15, 2012. Director Godec volunteered to attend the November meeting in Director Gregory's absence. Eagle River Water and Sanitation District is facing new regulations for sewer operations that will require implementation of expensive enhancements to the treatment plants. The UERWA Board will be requested to approve a 3.7% increase in water usage rates.

#### **ECA**

There has been no meeting since District's last meeting. Semi truck drivers have requested the rest area be moved due to the difficulty of navigating the roundabouts.

#### **Open Items**

##### **List**

Director Darby reported the letter to the School District was drafted. She will forward the letter to Ms. Curtis to be sent to the School District.

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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 25th day of September, 2012.

Respectfully submitted,



Cheri Curtis  
Secretary for the Meeting