
RECORD OF PROCEEDINGS

Minutes of the Regular Meeting Of the Board of Directors Berry Creek Metropolitan District September 28, 2010

A Regular Meeting of the Board of Directors of the Berry Creek Metropolitan District, Eagle County, Colorado was held on September 28, 2010 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:

- Mike Budd
- Herb Luhman
- Heather McInerny
- Dan Godec
- George Gregory (Attended by Telephone for limited period)

Also in attendance were:

- Pat Horvath, SPOA
- Dan Carlson, Operations 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 Budd, on September 28, 2010, at 9:00 a.m. noting a quorum was present.

Appointment Of Director

By motion duly made and seconded it was unanimously

RESOLVED to approve the appointment of Dan Godec to the Board to the Board to serve until the May 2012 election, at which time the remaining two years of the term will be up for election.

Director Godec completed the Oath of Office.

Director Luhman resigned as Secretary/Treasurer of the Board. By motion duly made and seconded it was unanimously

RESOLVED to appoint Director Godec as Secretary/Treasurer of the Board.

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Minutes The Board reviewed the minutes from the August 24, 2010 Regular meeting. Director Budd reviewed the wording in the minutes related to the landscaping of the west entrance landscaping project. Director McInerny stated there are two large areas that will require landscaping and the District may only have the funds to landscape one area in 2011. Director McInerny explained the District may be using a portion of the \$250,000 in the proposed 2011 budget for the Beautification Project. The Board agreed to review the west entrance landscaping during the budget process.

Director Luhman stated his dissatisfaction with releasing the retainage funds to Valley Crest Landscaping without scheduling an inspection with their representatives and requesting replacement plants. Director Budd stated it was a fair comment and explained the Board depended on the Landscape Architect, who failed to follow through on the project. The Board agreed there needs to be an approval process in place before releasing any future retainage funds. There needs to be an official walk-through on future landscaping phases prior to the warranty expiring. The Board will have photos taken of the landscaping improvements completed by Garden Creations. Ms. Cope with Garden Creations reported none of the plants had died; the plantings had just bloomed late.

By motion duly made and seconded it was unanimously

RESOLVED to approve the minutes of the August 24, 2010 Regular Meeting as presented.

Changes to the

Agenda Director Budd suggested consolidating items needing Director Gregory's attention. Director Gregory will be called later in the meeting.

Public Input There was no public input.

Community

Manager The Hoyos family has been adversely affected by the roundabout construction, including numerous utility interruptions. Their concerns have been directed to Eagle County and CDOT and while Berry Creek is sympathetic to the Hoyo's concerns, it was agreed that this issue is primarily the responsibility of CDOT and the construction contractor, American Civil Constructors.

Ms. Ahmad presented a request for a new copier reporting that it could be purchased for less than \$500. By motion duly made and seconded it was unanimously

RESOLVED to approve the purchase of a new copier.

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Operations Reports

The aerator in Charolais Circle Pond has stopped working. The algae' spraying has been successful and the Board agreed to not fix the aerator at this time.

Kathleen Cope from Garden Creations, David Sobek from STI Services, Director Budd and Mr. Carlson did a walk through the District parks to evaluate maintenance. There were problems with the irrigation system installed by Valley Crest. Screens were installed that alleviate some of the problems. Mr. Carlson stated that the landscaping contractors need to coordinate irrigation line sizes with the Sonnenalp when using golf course water.

Garden Creations is planting additional plants in Phase I of the landscaping project. Mr. Carlson questioned the size of the poles needed to protect the plantings during the winter from snow plows and other vehicles. Staff will drive around with County snowplow drivers prior to the first snowfall to establish snow storage locations. It was noted the Easement Agreement addresses the fact that the District cannot impede road maintenance by the County. The Board agreed to use steel stakes to protect the new landscaping. The Board directed Mr. Carlson to obtain stake prices for the next meeting.

Director Godec suggested contacting Garden Creations to see if the beds should be covered in the fall to protect the plantings.

The Board agreed to use white Christmas lights and put them up only at the Community Center.

Mr. Carlson received landscaping bids for the 2011 budget. Most landscaping contractors held their prices consistent with 2009 and 2010 prices. There are added cost for the additional landscaping maintenance and irrigation. The landscaping maintenance within the roundabouts will be the responsibility of the Edwards Community Authority.

Mr. Carlson was directed to obtain competitive bids if he felt it was necessary but the Board authorized Mr. Carlson to continue using the existing contractors if their bids are acceptable.

Financial Report

The August 31, 2010 Financial Statements were included in the Board packet. Director Godec questioned the interest rate being earned on District funds. Mr. Marchetti reported the District funds are protected by the Public Protection Deposit Act (PDPA) and the interest rate being paid by most banks for PDPA

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funds is very low. The Board reviewed the revenues and expenditures. The anticipated assessed values for 2012 were discussed.

The 2011 budget previously reviewed by the Board had \$250,000 for future Spur Road and I-70 Interchange improvements and landscaping. Mr. Marchetti has tentatively broken that number into the three different line items in this iteration of the budget, one line item related to the landscaping within the roundabouts, currently budgeted through ECA, one line item for landscaping at the west entrance outside of the roundabouts and the third line item for engineering design of phase II of the Edwards Spur Road.

The Board discussed the 2011 budget and the mill levies in future years. The Board requested a forecast using the assumptions that the assessed values decrease by both 25% and 30%. The SPOA representative indicated they are working on a five-year plan to determine the amount they will have available to contribute to the District for capital projects. By motion duly made and seconded it was unanimously

RESOLVED to accept the August 31, 2010 financial statements as presented.

**2011 Budget
Session**

The Board agreed to hold the 2011 budget planning meeting in late October.

**Financial
Policy**

The Board reviewed the proposed financial policy. Director Budd suggested that this be reviewed by Director Godec and considered by the Board at the next meeting.

**Accounts
Payable**

By motion duly made and seconded it was unanimously

RESOLVED to approve the September 2010 accounts payable list as presented.

Director Gregory was called.

**November
Ballot
Issues**

After a presentation by John McCaulley with the SDA, SPOA agreed to not take a position on Amendment 60, Amendment 61, and Proposition 101. Director Luhman suggested the Board take a position by passing a resolution to oppose these Ballot Issues. Director Gregory suggested a Board member attend a SPOA

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meeting and encourage them to disseminate the information to residents. By motion duly made and seconded it was

RESOLVED to oppose Amendment 60, Amendment 61 and Proposition 101.

Mr. Dalton will be asked to provide a formal resolution documenting the Board's opposition.

Power Line Project

Director Luhman reported Alpine Engineering is working on the easements for the power line project. The trench location has been staked and the shallow utilities are being located. The bid packages are complete and the project has been advertised. There is a mandatory pre-bid meeting on October 7, 2010 at 10:00 a.m. Bids are due by October 13, 2010 at 10:00 a.m. The bid will be awarded on October 18, 2010 with a December 1, 2010 expected completion date.

WECMRD

Joan Fritchse with the law firm Foster, Graham, Milstein, & Calisher, LLP has been engaged by the District and is considering sending a letter to WECMRD requesting a meeting. The District will continue to work on a resolution of the field house roof issue. The Board is hoping to discuss the issues with the roof manufacturer to establish a feasible solution.

Roundabout Sidewalk Connector

The Board suggested scheduling a meeting with Eagle County to discuss funding for the connector sidewalk connecting the Berry Creek Road path to the roundabout sidewalks. Eagle County has pledged \$60,000 toward construction of this sidewalk and the Beard Creek Road connector sidewalk. Ben Gerdes with Eagle County Engineering Department is working on an updated cost estimate for the project but the current estimate is that the cost of these two sidewalks is approximately \$240,000.

By motion duly made and seconded it was unanimously

RESOLVED to schedule a meeting with Eagle County to discuss the Edwards Field House roof and sidewalk funding. Director Budd and Gregory will attend the meeting for the District.

Beautification Update

There is a meeting scheduled with Scott Sones on October 5, 2010 to review the landscape plans for the roundabout project.

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UERWA There was no update.

SPOA John McCaulley, with the Colorado Special District Association gave a presentation to SPOA on Amendments 60, 61 and Proposition 101. SPOA agreed to not get involved with the Amendments since they are political issues.

SPOA received a court ruling allowing them to reconstruct a deck which was the subject of a lawsuit with the property owner. The District has requested an additional \$11,000 from SPOA for landscaping projects.

ECA Director Budd thanked Mr. Marchetti for the white paper and the information provided on the Edwards Community Authority.

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 September, 2010.

Respectfully submitted,



Cheri Curtis
Secretary for the Meeting