
RECORD OF PROCEEDINGS

Minutes of the Regular Meeting Of the Board of Directors Berry Creek Metropolitan District October 26, 2010

A Regular Meeting of the Board of Directors of the Berry Creek Metropolitan District, Eagle County, Colorado was held on October 26, 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
- Dan Godec
- George Gregory

The following Director was absent and excused

- Heather McInerny

Also in attendance were:

- Eric Johnson, SPOA
- Kim Ahmad, Community 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 October 26, 2010, at 9:00 a.m. noting a quorum was present.

Minutes

The Board reviewed the minutes from the September 28, 2010 Regular meeting. By motion duly made and seconded it was unanimously

RESOLVED to approve the minutes of the September 28, 2010 Regular Meeting as revised. The Board further

RESOLVED to approve the minutes of the October 18, 2010 Special Meeting as presented.

**Changes to the
Agenda**

Director Budd suggested moving the discussion on the budget to the budget work session immediately following the Regular meeting. The discussion regarding the person who drove on the District property was added to Old Business section.

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Public Input There was no public input.

Community Manager The Board reviewed the Community Manager report in the Board Packet.

Financial Report The September 30, 2010 Financial Statements were included in the Board packet. Director Godec questioned the variances in the expenditures. Mr. Marchetti explained the major variances noting some variances were timing issues.

2010 Amended Budget Hearing Mr. Marchetti noted the District needs to amend the 2010 budget due to the Power Line project that was not anticipated when the 2010 budget was approved. It was noted the meeting was published as a public hearing on the proposed amended 2010 budget. The meeting was opened to public input and upon hearing no public input; the public input session was closed. Upon motion duly made and seconded it was unanimously

RESOLVED to approve the resolution amending the 2010 budget, a copy of which is incorporated herein by this reference.

Power Line Project Director Luhman reported that the project bids have been received and the amount of the Power Line Project contract is \$383,432 and the resolution previously approved by the Board needed to be revised to reflect this amount. It was reported this is the gross amount and SPOA will be contributing \$50,000 toward payment of this contract. By motion duly made and seconded it was unanimously

RESOLVED to amend the amount authorized for the Power Line project contract to \$383,432.

Director Gregory questioned the size of projects which require bonding under Colorado statutes. Mr. Marchetti reported projects over \$50,000 require bonding.

Audit Engagement Letter Mr. Marchetti reported McMahan and Associates has been providing the audit for the District for several years and has submitted their engagement letter to perform the 2010 audit. Director Budd questioned the amount of the proposal and asked Mr. Marchetti to request an explanation from McMahan and Associate supporting the cost.

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2011 Budget

Hearing

It was noted that meeting had been published as the public hearing on the proposed 2011 budget. The meeting was opened to public input and upon hearing no public input the public session was closed. The Board deferred review of the budget to a work session to be held immediately following the regular meeting.

Accounts

Payable

Upon motion duly made and seconded it was unanimously

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

Ms. Curtis reported some payables will be held until Dan Carlson has time to review and approve the invoices. The process for releasing retainage on the Whittaker Contract will be directed to Sones Landscaping.

Financial

Policy

Director Godec distributed an updated Financial Policy for the Board to review. The Board will review the policy, provide comments to Director Godec, and approve the Policy at the November meeting.

Power Line

Project

Schofield Excavating was the low qualified bidder and has been awarded the contract. Director Luhman reported Holy Cross has brought in material and equipment. Construction is temporarily postponed due to weather.

Roundabout

Update

Mr. Marchetti reported CDOT has found an additional \$107,000 under their Enhancement Grant Program to be used in Eagle County for path and sidewalk projects and the Eagle County project with the next highest prioritization is the Beard Creek Road/Berry Creek Road sidewalk connections. There are still some logistical issues to be resolved regarding this funding and it is not fully available for three years but it is believed these issues can be worked out so the project can be constructed in 2011.

Beautification

Update

The second phase of the Beautification Project is near completion. Sones Landscaping is preparing additional landscaping plans for the west entrance.

Discussion followed on the Public Improvement Agreement, the Encroachment Easement Agreement, and the Corporate Bond without Sureties. Upon motion duly made and seconded it was unanimously

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RESOLVED to approve the Public Improvement Agreement and the Encroachment Easement Agreement, authorizing Director Budd to execute the Agreements on behalf of the District.

Winslow Road

Project Director Budd reported the District agreed to split the cost of reseeding the area south of Winslow Road with Concrete Work of Colorado

ECA Mr. Marchetti reviewed the financial statements and budget for ECA including the cost of landscaping the centers of the roundabouts for the I-70 Interchange Project which has been budgeted at \$200,000. Director Budd explained the need to understand the purpose of ECA, the financial responsibility, and the political ramifications. Director Gregory inquired as to the matters in Edwards performed by Eagle County and what portion of the work in Edwards would require funding of maintenance by Special Districts.

Mr. Marchetti stated one option that has been discussed is formation of an overlapping District to fund improvements in the Edwards area. A resolution was presented to commit funds to the design of the Edwards Spur Road with additional funds coming from the other ECA partners, Eagle County, and CDOT matching funds. The plans need to be prepared so Edwards is ready to go on the second phase of the Spur Road project if money becomes available for construction. The Board requested the Berry Creek financial statements break out each ECA expense by line item. Upon motion duly made and seconded it was unanimously

RESOLVED that the Board of Directors of the Berry Creek Metropolitan District hereby documents its funding commitment to fund 23% of Edwards Spur Road Phase II Engineering Design Project, to a maximum commitment of 23% of \$250,000, provided such funds are matched dollar for dollar by both Eagle County and CDOT and with the stipulation that this funding commitment is subject to annual appropriation in the District's annual budgeting process, and this Resolution is further contingent upon each of the Edward's Community Authority members contributing their pro rata share of future incremental assessments of the Edwards Spur Road Phase II Engineering Design Project.

Old Business Ms. Ahmad reported the family of the youth who drove across the landscaping questioned being contacted a year later for restitution. The Board agreed and directed Ms. Ahmad to respond accordingly.

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UERWA Director Gregory reported Mr. Porzak is up and walking after his climbing accident. The UERWA Board discussed the operations agreement between UERWA and ERWSD at the last meeting.

SPOA Mr. Johnson reported on the update from the SPOA meeting.

**Continuation
And Adjournment**

By motion duly made and seconded it was unanimously

RESOLVED to continue the Regular Meeting of the Berry Creek Metropolitan District Board of Directors this 26th day of October, 2010 to after the budget work session.

Upon return from the budget work session, there being no further business to come before the Board at this time, upon motion duly made and seconded, it was unanimously

RESOLVED to adjourn the meeting of the Berry Creek Metropolitan District Board of Directors this 26th day of October 2010.

Respectfully submitted,



Cheri Curtis
Secretary for the Meeting