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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 March 22, 2011**

A Regular Meeting of the Board of Directors of the Berry Creek Metropolitan District, Eagle County, Colorado was held on March 22, 2011 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
- George Gregory
- Dan Godec

Also in attendance were:

- Eric Johnson, SPOA
- Kim Ahmad, Community Manager
- 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 March 22, 2011, at 9:00 a.m. noting a quorum was present.

#### **Minutes**

The Board reviewed the minutes from the February 22, 2011 Regular meeting. Upon motion duly made and seconded it was unanimously

**RESOLVED** to approve the minutes of the February 22, 2010 Regular Meeting with revisions.

#### **Agenda**

Director McInerny added open space to the agenda.

#### **Public Input**

There was no public input.

#### **Community Manager**

Ms. Ahmad provided the Community Manager report in the Board packet. Peak Transportation has offered to provide transportation to the local ski areas from the Community Center. There would be a cost to participants and it could be reduced by a contribution from the District or the Association. The Board questioned whether the Sonnenalp Golf Club was still allowing residents to use their Skier

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Transportation Service. Ms. Ahmad will obtain follow-up information from the Sonnenalp Club.

The American Red Cross has requested the use of the Community Center for emergency situations. The liability will be the responsibility of the American Red Cross. The Board agreed to allow the American Red Cross the use of the facility. Mr. Marchetti suggested making sure this is not a conflict with the same service being provided by the Salvation Army. By motion duly made and seconded it was unanimously

**RESOLVED** to allow the American Red Cross to use the facility, subject to confirmation there is not a conflict with the Salvation Army.

#### **Operations Report**

There was a sewer line break in the lines to the Community Center. Mr. Carlson contracted with T. Nottingham Excavating to make repairs to the line. Resulting landscaping repairs will be completed in the spring. The rock wall was replaced in the original location and Director Budd questioned replacing the wall in the same location in case there are future repairs necessary. Mr. Carlson stated he did not think there would be a need for future repairs at that location but would keep that in mind for future maintenance items.

Mr. Carlson questioned when the Board wanted the green stakes removed protecting the landscaping and the Board suggested waiting until after the probability of a major snow storm has passed. The Christmas lights have been removed for the year.

Impact Graphics would be available at the next Board meeting to show the Board vinyl screening for the utility boxes. Director Budd stated there were no funds in the budget for a screening project.

The bathrooms at the Chip Ramsey Park will be opened in April. Mr. Carlson will clean up along the District's road when the snow melts. Director Budd questioned the date of the Community Clean-up. Ms. Ahmad stated SPOA is coordinating the Community Clean-up with the I-70 clean-up day. Director Godec suggested including the Community trails on the designated clean-up day. Director Budd requested Mr. Carlson make a list of roads in Singletree that require asphalt patching or crack sealing so that a letter can be sent to Eagle County requesting maintenance.

Mr. Carlson reported on a large volume of water draining out of a culvert when the weather warmed up. The Board directed Mr. Carlson to work with the County to repair the culverts. Director Gregory cautioned the Board that the property

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owners have landscaped into County easements, which can affect drainage on individual properties. Director Gregory suggested including an item in the newsletter to notify residents of their responsibility to maintain culverts. It was questioned whether the District or SPOA should be responsible for the culvert issues and it was agreed the District should take the lead with support of the SPOA Board. Director Budd stated staff should gather information on cleaning the culverts and report at a future meeting.

Mr. Johnson questioned whether the District has a requirement for the removal of Christmas lights. The Board informed Mr. Johnson this is a covenants issue.

#### **ERFPD Mill Levy Increase**

Director Gregory reported he has not had any contact from Ed O'Brien so there is no report this month. The Board discussed the need for all Government entities to control expenses and try to not increase taxes with the anticipated reduction in assessed values.

#### **Goals & Objectives**

Director Budd discussed holding a work session to discuss the goals and objectives of the District. It was suggested holding a joint work session with the SPOA Board to review which entity has the ability to provide the specific services based on the District's Service Plan and the Association's Declaration. The Board directed Ms. Ahmad to determine a date that the majority of the Board members would be available.

The Board discussed the general responsibilities of the two organizations recognizing that the District's responsibility is more aligned with the physical assets and infrastructure and SPOA's responsibility is for design review, covenant enforcement and to stay involved in Community issues that could negatively affect Singletree.

#### **Replacement Reserve Policy**

Director Godec has developed a Reserve Policy from the Financial Policy that he asked Director Budd to review prior to distribution to the Board. Director Gregory confirmed with Mr. Marchetti that the Board is meeting the fiduciary responsibility to its constituents. Director Godec questioned the percentage of reserve necessary for the District and the Board agreed to coordinate with Mr. Marchetti to determine the amount needed in reserves.

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#### **I-70 Landscaping**

##### **Project**

Directors Godec and Luhman presented the plans and the contract amount of the roundabout and west entrance landscaping project to the SPOA Board requesting funding assistance for the project. The SPOA Board agreed to contribute \$50,000 to the project, contingent on the ability to review invoices for the project.

Director Godec questioned the maintenance of Area 2 (Singletree's area). Mr. Marchetti reported Berry Creek will be responsible for maintenance of Area 2 but will get a credit from ECA for the amount that ECA would have spent on ECA if ECA maintained Area 2.

Mr. Marchetti reported Edwards, Arrowhead and Cordillera have agreed to fund their percentage of the additional landscape installation costs. By motion duly made and seconded it was unanimously

**RESOLVED** to approve funding an additional \$56,768 for the I-70 Landscape Installation project.

There is a meeting scheduled later today with CDOT to determine when ACC will complete construction allowing the landscaping construction to begin. Director Budd suggested clarifying whether landscaping construction can begin after ACC completes construction or if acceptance by CDOT or FHWA is required before construction can begin. It was questioned whether the timing would affect the contract with Rocky Mountain Custom Landscaping. It was reported these items would be addressed at the meeting with CDOT.

Mr. Marchetti suggested that the Board authorize an officer of the District to enter into the construction contract for the landscaping project. Director Budd requested a separate bank account for the project funds with Directors Godec and Luhman as signers on the checks. Upon motion duly made and seconded it was unanimously

**RESOLVED** to authorize entering into the landscape installation contract with Rocky Mountain Custom Landscapes, Inc. for an amount not to exceed \$513,212 and to authorize any officer of the District to execute the contract upon completion. The Board further

**RESOLVED** to authorize staff to setup a separate bank account to keep track of the funds from Edwards, ECA and Berry Creek related to this contract, with Directors Godec and Luhman as signers on that account. The Board further

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**RESOLVED** to authorize the District to contribute \$56,831 to the Edwards Community Authority for the landscape installation in Area 1, which includes \$46,000 for the originally budgeted contribution for the landscape installation in Area 1, \$3,450 for Sones Landscaping construction management and oversight for Area 1, and \$7,381 for the contract amount above the original budgeted amount for Area 1. The Board further

**RESOLVED** to transfer \$149,387 (recognizing the \$50,000 contribution from SPOA) into the separate bank account for to be used to pay the cost of Area 2 of the project.

#### **Communication**

**Update** The Committee is continuing looking at website designs. Ms. Ahmad and Mr. Reisinger are setting up protocol for emailing residents.

#### **WECMRD**

**Field House** The next Committee meeting will be held on March 30. The most desirable solution is screening. WECMRD is still not receptive to painting the roof which is reported to void the warranty, but would consider it as a back-up option. The color of the screen has not been determined, although the same color of roof has been suggested. Director Gregory informed Director Godec of the prior process and questioned the protocol. The screens would only be in place during the summer months and therefore would not address the winter reflective issues. Snow stops would also be installed that could assist in breaking up the roof by shading parts of the roof. The Board encouraged the committee to look at other options that would provide a twelve month solution. The Board believes painting would be the best option.

#### **Trails**

Mike Larson has staked out the lower June Creek trail for construction. April would be the optimal period to complete construction. There is \$600 remaining from last year's payment. An additional \$2,000 is requested to complete the project. Director Budd questioned whether the District should be constructing a trail on land that could owned by Avon in the future. Director Gregory stated the District should take advantage of Lee Rimel's leadership, noting a trail would benefit Singletree residents. If eventually Avon owns the property, the trail would already be in place and an additional agreement would not be necessary. The Board agreed to fund the \$2,000 for the June Creek trail and will request a reimbursement from SPOA.

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#### **Financial Report**

The February 28, 2011 Financial Statements were included in the Board packet. It was noted the contribution from SPOA was increased to \$50,000 and the I-70 entrance landscaping contracted amount will be increased to \$150,000.

By motion duly made and seconded it was unanimously

**RESOLVED** to accept the February 28, 2011 financial statements as presented.

#### **Miller Ranch Open Space**

Director Gregory requested clarification on the \$4,491 contribution for the Miller Ranch Tract J open space. Mr. Marchetti explained the Board had previously agreed to fund one-third of the cost to place the parcel in a conservation easement with Arrowhead and Edwards Metropolitan Districts each funding one-third of the costs. Lake Creek Metropolitan District and Cordillera Metropolitan District are not contributing to the cost of the conservation easement.

#### **Accounts Payable**

By motion duly made and seconded it was unanimously

**RESOLVED** to approve the March 2011 accounts payable list as presented.

#### **SPOA**

Mr. Johnson reported three new Board members were elected at the March Annual meeting. Officers were elected at the March 17, 2011 meeting. The committee members will be appointed at the April meeting.

SPOA has requested temporary irrigation for an area adjacent to Area 2 of the roundabout landscape project. Directors Godec and Luhman agreed to review the request noting the District does not have the ability to plant or irrigate on CDOT property.

#### **UERWA**

Director Gregory reported \$2 million for the Flat Tops water rights was received by the Authority. UERWA is investigating additional water rights at Camp Hale. UERWA is also looking at additional water tiered rate increases to discourage excessive landscape watering. Director Gregory will not be able to attend the April meeting and Director Luhman as the alternate can attend the meeting in Director Gregory's absence.

#### **ECA**

The landscaping contract was the primary item discussed at ECA's March meeting.

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#### **Executive Session**

Director Budd reported that an executive session was needed for the purpose of discussing the extension of the sidewalk from the new roundabouts into Singletree, which is a matter currently under negotiations. Upon motion duly made and seconded it was unanimously

**RESOLVED** to enter into executive session at 11:40 a.m. pursuant to §24-6-402(4)(e), *C.R.S.*, to determine positions relative to matters that may be subject to negotiations.

The Board agreed to adjourn from executive session at 12:05 p.m.

#### **Other Business**

Ms. Ahmad has received requests to clean up the mud near the entrance newspaper boxes. The Board will ask the County to put gravel at that location to mitigate the mud problem.

**Continuation** There being no further business to come before the Board, 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 22nd day of March, 2011 to 2:00 p.m.

Respectfully submitted,



Cheri Curtis  
Secretary for the Meeting