
RECORD OF PROCEEDINGS

Minutes of the Regular Meeting Of the Board of Directors Berry Creek Metropolitan District April 26, 2011

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

Also in attendance were:

- Bob Drab, 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 April 26, 2011, at 9:00 a.m. noting a quorum was present.

Agenda

Additions to the agenda:

- The letter from Peter Bergh was added to the agenda.
- A suggestion has been made that SPOA consider obtaining a parcel of land from the District so they would own common property to meet a CCIOA requirements.
- The executive session will be moved to the end of the agenda.
- The Replacement Reserve Policy will be reviewed.

Minutes

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

RESOLVED to approve the minutes of the March 22, 2010 Regular Meeting with revisions. The Board further reviewed and

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RESOLVED to approve the minutes from the March 22, 2011 Continuation Meeting as presented.

Public Input There was no public input.

Operations Ms. Ahmad contacted Eagle County to discuss drainage issues. Eagle County Road and Bridge indicated that maintenance of culverts installed for driveway access for individual properties are the property owner's rather than the County's responsibility. The Board discussed whether the District needs to establish a policy requiring property owners to maintain the culverts running under driveways.

Trails Director Budd questioned the timing of the \$2,000 contribution from SPOA for the cost of completing the June Creek Trail. Director McInerny reported she is in the process of requesting a reimbursement from the Town of Avon for a portion of the June Creek Trail. The Board agreed SPOA should be the entity responsible for the cost of installing and maintain trails adjacent to Singletree.

Community Manager Ms. Ahmad gave the Board an update on Dan Carlson's surgery. Mr. Carlson has temporary personnel available during his recovery time.

Ben Gerdes reported to Ms. Ahmad that Eagle County Engineering Department will perform a traffic study to determine if a stop sign is required for the Singletree/Berry Creek intersection.

The community clean-up is scheduled for May 7, 2011 and Ms. Ahmad requested Board member's attendance. Families will be picking up trash in Singletree and other residents will be participating in the I-70 clean-up adjacent to Singletree. There will be a barbecue following the clean-up at the Broken Arrow Cafe in Arrowhead.

Director Luhman again complimented staff on the joint meeting with the SPOA Board. Ms. Ahmad reported the staff will continue to provide an orientation session on an annual basis.

**ERFPD
Mill Levy
Increase**

There was no presentation made by the Eagle River Fire District. The Board discussed that several taxing entities may be requesting mill levy increases after the preliminary assessed values are released.

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Tree

Replacement Peter Bergh has requested the Board replace the Lanceleaf Cottonwood trees that have been damaged or died along Berry Creek Road. Mr. Bergh estimated the cost to be approximately \$2,000. Director Budd suggested considering replacing the trees with something other than Cottonwoods. Director Gregory stated Peter Bergh is a licensed landscape architect with extensive professional background. Director Gregory volunteered to meet with Mr. Bergh and flag the trees that need to be replaced so the Board can then determine a replacement plan

SPOA Property

Acquisition The SPOA Board has noted the Association's CCIOA status could be challenged since it does not own common property. The SPOA Board has considered obtaining a parcel from the District to resolve this potential CCIOA issue. Director Budd reported that this issue has been challenged and the Court has ruled an Association does not have to own property to be subject to CCIOA.

Director Budd stated SPOA made a presentation in 2010 to improve Charolais Circle Park and he suggested taking ownership and maintenance of the Charolais Circle Park could fulfill any CCIOA requirement for SPOA to own common property. After discussion it was agreed SPOA needs to determine their purpose and the benefit to be achieved by acquiring property before an acquisition is pursued.

Reserve Policy

Director Godec presented a Reserve Policy recommending the District establish an operating reserves range from a minimum of \$402,926 to a maximum of \$671,543 and a replacement reserves range from a minimum of \$323,763 to a maximum of \$465,175. The proposed policy also recommends maintaining a Capital Reserve in addition to the operating and replacement reserve. Due to the District's policy to levy a debt service mill levy in the amount necessary to cover the debt service, a debt service reserve has not been addressed. Upon motion duly made and seconded it was unanimously

RESOLVED to approve the proposed Reserve Policy with a caveat that the replacement reserve can only be used with a vote of at least four out of five Directors approving using the funds.

I-70 Landscaping Project

Directors Luhman reported there is an executed contract and construction schedule with Rocky Mountain Custom Landscaping (RMCL). Landscaping construction is scheduled from June 15 to September 2, 2011. There will be a committee meeting with RMCL on April 29, 2011 to discuss the construction schedule prior to construction commencing.

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Director Godec, Mr. Marchetti and Ms. McInerny as ECA's president will attend a meeting with Eagle County Commissioner to present the landscape plan.

The Edwards Community business owners have been negatively affected by the roundabout construction and requested construction be postponed until after Labor Day. A response has been drafted to business owners addressing their concerns.

RMCL is continuing to work on obtaining a bond for the project. Their other option is to secure a letter of credit. The Board discussed the importance to get the surety in place and directed Director's Luhman and Godec to work with Mr. Head from RMCL to get a bond or letter of credit in place as quickly as possible.

Mr. Marchetti questioned the status of the irrigation and 2011 maintenance contracts. Director Luhman stated the Board is planning to sign the irrigation portion of the maintenance contract. Director Budd stated there should be a Memorandum of Understanding executed between the District, Edwards Metropolitan District, and the Edwards Community Authority for the irrigation portion of the maintenance contract.

Sidewalk Design

Update

Director Godec reported the County is completing the sidewalk design for the I-70 interchange project and will be obtaining bids on the project. The County is working on establishing funding for the project. The Board questioned the estimated cost of the project for the District and Mr. Marchetti reported he has suggested the funding be divided between the County, the Shaw Medical Center, and Edwards Metropolitan District, noting that Berry Creek Metropolitan District has already conveyed the right-a-way with significant value for the roundabout project. The District has previously agreed to maintain the portion of the sidewalk entering Singletree.

Communication Committee

Update

The Committee is hoping to have a survey completed by June 1, 2011. The first newsletter was sent in January 2011. The next newsletter will be sent in May 2011. The website prototype should be ready by June for the Board to review and provide comments.

WECMRD Field House

Cohesion tests of an acrylic product to cover the Field House roof were performed in April 2011. One test was successful and it was determined it will be possible to install a new product that would reduce the reflectiveness of the roof. The cost

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of the install the product is estimated at \$50,000 and the WECMRD Board is supportive of the recommendation. Funding will possibly be provided by WECMRD, the District/SPOA, and Eagle County. The Board agreed a request should be made that any contribution from SPOA be matched by WECMRD for landscaping improvements. Director Gregory suggested proposing breaking up the massiveness of the roof by using a darker trim color in specified areas, as long as it does not derail the process.

Eric Johnson has recommended a solar panel solution. The cost of the solar panels could run up to \$500,000 and the cost would be prohibitive and may not solve the problem.

Financial Report

The March 31, 2011 Financial Statements were included in the Board packet. Director Budd requested removing line items that are not being used; moving the property taxes interest refunded as a separate item, and the James Lee Karate payment be broke out as a separate line item. The Board also questioned the reimbursement from the other entities for the landscaping project. Upon motion duly made and seconded it was unanimously

RESOLVED to accept the March 31, 2011 financial statements as presented with suggested revisions to be shown on future financial statements.

Director Luhman questioned whether the status of the bond market could affect the District's bonds. Mr. Marchetti reported the District's bonds were issued at a fixed interest rate and future changes in bond markets will not affect the current outstanding bonds.

Accounts Payable

Director Budd questioned whether the Sones Landscaping invoices are the responsibility of the District or ECA. Mr. Marchetti will verify that the Sones Landscaping invoices are billed per area for construction management supervision prior to releasing the check. By motion duly made and seconded it was unanimously

RESOLVED to approve the April 2011 accounts payable list as presented with clarification on the Sones Landscaping invoice.

SPOA

Mr. Drab stated SPOA is working on a mission statement and goals. The Board also discussed updating the Design Guidelines, with input from the Design Review Committee.

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Mr. Drab suggested holding the Joint Board Orientation Session annually as it is beneficial for new Board members. Discussion followed on the possible need for a liaison between the DRC and the SPOA Board.

UERWA Director Gregory gave a brief update on the UERWA meeting.

ECA Mr. Marchetti gave a brief update on the ECA meeting.

**Executive
Session**

Director Budd reported that an executive session was needed for the purpose of reviewing correspondence from Legal Counsel on 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)(b) and (e), C.R.S., to receive a report from legal counsel related to matters subject to negotiation.

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

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 26th day of April, 2011.

Respectfully submitted,



Cheri Curtis

Secretary for the Meeting