
RECORD OF PROCEEDINGS

**Minutes of the Regular Meeting
Of the Board of Directors
Berry Creek Metropolitan District
January 27, 2009**

A Regular Meeting of the Board of Directors of the Berry Creek Metropolitan District, Eagle County, Colorado was held on January 27, 2009 at 8:30 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:

- Don Cohen
- Doris Dewton
- George Gregory
- Heather McInerny
- Mike Budd

Also in attendance were:

- Wally Carey, CVCMD
- Emily Egan, CVCMD
- Steve Russell, WECMRD
- Mike Glass, WECMRD
- Dan Carlson, Parks and Community Center Maintenance
- Eileen Jacobs, 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 Cohen, on January 27, 2009, at 8:30 a.m. noting a quorum was present.

Minutes By motion duly made and seconded it was unanimously

RESOLVED to approve the minutes of the December 23, 2008 Regular Meeting as amended.

**Public
Input**

WECMRD Steve Russell and Mike Glass, representing WECMRD, presented the Board members with jackets to thank them for their continuing contribution to the Youth recreation programs for equipment.

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Mr. Russell stated R.A. Nelson was chosen as the general contractor for the construction of the Field House that will be built on the Berry Creek 5th filing. The plans for the facility were approved in the summer of 2008 and the facility will include space for gymnastics, basketball, and indoor soccer and other field type sports. The metal building will be delivered in March 2009 with construction to occur over the summer with a December 1, 2009 opening date scheduled.

It was noted that historically the District would collect tap fees and then reinvest the funds in the Berry Creek 5th Filing. Mr. Glass asked the Board to consider reinvesting the tap fees into the field house. Since Berry Creek is not located within the WECMRD boundaries, WECMRD would consider allowing Singletree residents the ability to pay the in-district fees for a period of time in exchange for the funds being reinvested. The Board explained that the District only collects the water tap fee. The sewer tap fee is paid to Eagle River Water and Sanitation and the plant investment fee is paid to Upper Eagle Regional Water Authority. The Board also noted that they were not prepared to waive the tap fee but that they would consider reinvesting part or all of it in the Field House. The Board asked that the amount of the tap fee be determined before they took action on this matter.

The County will be responsible for the parking lots at the Field House; however, WECMRD is hoping the parking lots will be paved during the construction process.

Overlook Parcel

Wally Carey and Emily Egan with the Cordillera Valley Club Property Owners Association and Metropolitan District presented information to the Board and requested support related to opposing the Overlook Parcel improvements plan. The 680 acre Overlook property has historically been a grazing land for sheep and an elk migration area. The land was originally purchased for \$100,000 in the 1970's and recently sold for \$9 million to a developer who would like to develop the parcel into nineteen home sites of 35 or more acres. The development could have negative impacts on both Singletree and Cordillera Valley Club.

Although the Forest Service would prefer to not have the property developed, they are obligated to provide access to the property. Previous owners had attempted to negotiate a land swap, without success. Mr. Carey proposed assisting the current property owners in negotiating a land swap that would allow for a similar development that would have less impact on the environment and provide a better alternative. The public comment to the US Forest Service on the proposed access is due by February 6, 2009.

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Mary Morgan with the Forest Service's Glenwood Springs' office will make the final decision on the location of the road based on the impact to the area while still allowing reasonable and necessary access. The Developer is hoping to keep the County out of the building approval process although the County will need to provide a grading permit. Ms. Egan requested that everyone provide written comment to the Forest Service stating there is existing access to the property and there should be no additional improvements granted. By motion duly made and seconded it was unanimously

RESOLVED to submit a letter from the Board to the Forest Service regarding access to the Overlook parcel.

It was agreed that the letter should come from the District with a separate letter from SPOA. Ms. Jacobs will draft the letter that will be sent to Director Gregory for review before being distributed to the Board.

Staff Reports

Mr. Carlson reviewed the bids for flowerbed maintenance from Garden Creations, Stevens Home Care, and Land Design by Ellison. Garden Creations was the lowest bidder and Mr. Carlson has confidence in Kathleen Cope.

With the round-a-bout project not planned in 2009, the entrance will require additional plantings. By motion duly made and seconded, it was unanimously

RESOLVED to approve awarding the contract to Garden Creations.

Charolais Pond

The aerators have been turned off at the Charolais Circle Pond. Mr. Carlson reported without the aerators additional maintenance will be required. Discussion followed on the safety, maintenance costs, and community relations related to Charolais Circle Pond. The Board directed Ms. Curtis to prepare an analysis for the last three years for capital and maintenance costs for the pond.

Mr. Carlson left the meeting at 9:05 a.m.

Exercise Equipment

The Board reviewed the spreadsheet provided by Ms. Jacobs recommending improvements to the exercise room. Director Budd will provide information on used equipment that will allow the District to purchase the requested equipment and remain within the District Budget.

Posting Location

Notice By motion duly made and seconded it was unanimously

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RESOLVED to adopt the posting notice resolution establishing the Singletree Community Center as the location for posting the 24 hour posting notice required by Section 24-6-401, et. seq., C.R.S., and posting two notices other places within the District boundaries and at the Eagle County Clerk and Recorder's office for notices required pursuant to Section 32-1-903(2), C.R.S. A copy of the resolution is incorporated herein by this reference.

Meeting Dates and Times

The Board reviewed the meeting calendar and discussed moving the meetings in the summer months during May to September to 5:00 p.m. By motion duly made and seconded it was unanimously

RESOLVED to adopt the schedule for regular meetings to be held on the fourth Tuesday of each month with the meeting time to be at 8:30 a.m. for all months except May, June, July, August and September and the meeting time for those months will be 5:00 p.m.

Winslow Road

Construction Director Budd reported there was a questionable inclinometer reading that will be monitored, although it does not appear to be an issue. Director Budd has been in contact with CenturyTel trying to negotiate a refund of the costs associated with the telephone line that they failed to report to the District. Otherwise, construction is proceeding as scheduled.

Director Dewton reported the water authority is planning on installing a pipe at the west Entrance to Singletree and questioned the timing of the Winslow Road project completion. The Water Authority would like to plan construction in June, as long as the Winslow Road underpass is no longer closed. Director Budd feels confident the project will be completed as scheduled.

Concrete Works of Colorado requested the District submit the draw request funds by ACH. The Board considered their request but due to concerns related to financial controls, the Board agreed to send the checks via FedEx if necessary.

Landscape Plan An Implementation

Director Dewton reported the Board had budgeted \$125,000 in 2009 for the planning and first phase of construction of the beautification plan but with new input, phases I and II of the master landscape plan will cost \$65,000 and the implementation of the first phase of the plan is expected to cost \$100,000. After

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discussion, it was agreed to break the 2009 budget for landscape improvements out as follows:

Development of Master Plan	\$ 65,000
Implementation of First Phase of Plan	<u>100,000</u>
Total	\$165,000

The landscape budget will be balanced by taking \$40,000 out of the Capital Projects contingency so the overall budget has not changed.

By motion duly made and seconded it was unanimously

RESOLVED to award the landscape master planning contract for phases I and II to EDAW Inc. for a contract price of \$65,000.

Financial Report

The December 31, 2008 Financial Statements were included in the Board packet. Mr. Marchetti reported the District finished the year financially as anticipated. Director Budd suggested the Field House tap fee may affect the 2009 budget.

By motion duly made and seconded it was unanimously

RESOLVED to accept the December 31, 2008 financial statements as presented.

Accounts Payable

The Board reviewed the January 2009 accounts payable lists. By motion duly made and seconded it was unanimously

RESOLVED to approve the January 2009 accounts payable list as presented.

SPOA Report

Director Budd reported the Association approved conforming to the Colorado Common Interest Ownership Act (CCIOA) and they are waiting for documentation from their legal counsel before giving property owners the thirty day notice of the change.

A document has been prepared that establishes the procedure for covenant enforcement that is being reviewed by the SPOA Board and will hopefully be adopted at the February SPOA Board meeting.

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SPOA changed their fiscal year end from June 30 to December 31 so and the Annual meeting will be held on March 11, 2009, within 90 days after the new fiscal year end. Board elections will be held at the 2010 meeting.

The Board discussed how the economy could affect both SPOA and the District's budget based on interest rates and property values. The District does not expect to see the significant effects on its budget based on the property assessed values until 2012. The Board can mitigate adverse impacts by reserving funds, increasing the debt service mill levy, and controlling spending in the operating budget.

**UERWA
Report**

Director Dewton reported the Authority and the City of Aurora continue talks to attempt to purchase water rights in the Columbine Ditch that would provide additional water to the Authority in dry years.

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 27th day of January, 2009.

Respectfully submitted,



Cheri Curtis
Secretary for the Meeting

RESOLUTION

REGARDING POSTING NOTICES FOR MEETINGS

WHEREAS, Special Districts are required by Subsection 24-6-402(2)(c), C.R.S., to designate annually at the District's Board of Directors' first meeting of each calendar year, the place at which notice will be posted at least 24 hours prior to each meeting.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BERRY CREEK METROPOLITAN DISTRICT AS FOLLOWS:

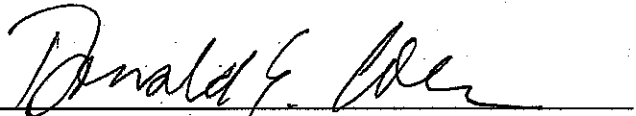
1. Notices of meetings of the District's Board of Directors required pursuant to Section 24-6-401, et. seq., C.R.S., shall be posted within the boundaries of the District at least 24 hours prior to each meeting at the following locations:

Singletree Community Center
1010 Berry Creek Road
Edwards, Eagle County, Colorado

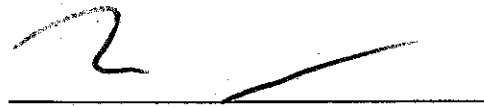
2. Notices of regular or special meetings required to be posted at three public places within the District and at the office of the County Clerk and Recorder at least 3 days prior to said meeting shall continue to be made pursuant to Section 32-1-903(2), C.R.S.

ADOPTED this 27th day of January, 2009.

BERRY CREEK METROPOLITAN DISTRICT


Chairman

Attest:


Secretary