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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 August 25, 2009

A Regular Meeting of the Board of Directors of the Berry Creek Metropolitan District, Eagle County, Colorado was held on August 25, 2009 at 3:00 p.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
- Mike Budd
- George Gregory

The following Director was absent and excused:

- Heather McInerny

Also in attendance were:

- Steve Russell, WECMRD
- John McCaulley, WECMRD
- Mike Glass, WECMRD
- Mike Larson, SPOA
- Ben Gerdes, Eagle County Engineering Department
- 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 August 25, 2009, at 3:00 p.m. noting a quorum was present.

#### **Minutes**

The Board reviewed the minutes from the July 28, 2009 Regular meeting. Director Budd questioned the value of the easement being provided to Eagle County and asked that it be included in the minutes. The By motion duly made and seconded it was unanimously

**RESOLVED** to approve the minutes of the July 28, 2009 Regular Meeting as revised, subject to final approval with the inclusion of the easement value.

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#### **Changes to the**

#### **Agenda**

The discussion on the wildlife fence was moved on the agenda and placed under the WECMRD request.

#### **WECMRD**

Representatives from WECMRD were present to discuss the financial needs for the Miller Ranch Field House. WECMRD has received a grant from DOLA, a donation from EMD, and a deferral of the sewer tap fees from ERWSD and a deferral of the plant investment fee from UERWA. The building has been designed to reduce energy costs. WECMRD is designing a green fitness area that will generate its own power along with a children's climbing area that are not currently funded. The membership cost will be lower than the Gypsum Recreation Center to encourage Edwards area youth to participate in activities at the center.

Director Cohen indicated the Board would consider making a contribution for an amenity but they want a guarantee that Singletree residents would receive an in-district rate for use of the facility along with program costs. Mr. McCaulley stated a summit is being developed by Eagle County to encourage all recreation providers in Eagle County to provide cooperative programs that may eliminate in-district and out-of district fees.

Director Gregory stated with the anticipated assessed values decreasing in the future, the Board is hesitant to commit funds to projects, while being sensitive to the recreation needs of constituents. Director Gregory expressed his dissatisfaction with the design of the facility stating it did not follow the guidelines established for Miller Ranch.

Director Cohen requested visuals for the building that could be provided to constituents. Mr. Russell will provide a PDF file to Mrs. Jacobs to be put on the website. Mr. Russell reviewed the schedule that will allow time for youth, middle school, high school, and adult programs. The facility will be open from 9:00 a.m. to 10:30 p.m. with a mandate to have the building completely shut down by 11:00 p.m.

Director Cohen stated the Board will take the request into consideration during the 2010 budget process. Director Dewton requested that WECRMD notify the Board of any decisions related to charges of in- or out-of-District fees for Singletree residents.

#### **Road**

#### **Easements**

Mr. Gerdes was present to discuss the execution of the Easement Agreement for the I-70 interchange project. The Board directed Mr. Gerdes to provide an

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economic value for the easement prior to the Easement Agreement being executed.

#### **Wildlife Fence**

Singletree residents became upset with the installation of the wildlife fence so Mike Larson held a meeting with Joe Elsen to discuss the design for the wildlife fence on the south side of Singletree. A meeting was held with CDOT representatives and Singletree residents to determine an acceptable solution for both parties.

Director Cohen had a telephone discussion with Martha Miller, the Colorado Department of Transportation (CDOT) representative for Eagle County and she agreed on behalf of CDOT to accept a \$20,000 commitment from Berry Creek Metropolitan District for the requested changes to the wildlife fence.

Mr. Larson explained there was a Memorandum of Understanding (MOU) drafted in 2007 between Berry Creek and CDOT. The MOU was then changed with Eagle County replacing the District as party to the MOU. In the MOU, CDOT agreed to fund up to \$150,000 for a low visibility fence with the understanding that if the costs exceeded \$150,000, Berry Creek Metropolitan District would be responsible for up to \$50,000 of additional costs.

Mr. Larson reported CDOT terminated the contract with the previous fence installer and executed a new contract with Double D who only installs the standard fencing. There is currently 800 feet of standard fence installed on the east end of Singletree that Double D will be moved to a bench closer to the Interstate, increasing the amount of fencing required. The next 2,000 feet of fence will be the standard fence that will be moved closer to the Interstate and away from the sight of the twenty-eight residents in that area. The remaining 2,000 feet of fence will be the standard fence with 2/3 of the posts being replaced with metal stays.

Director Cohen agreed to continue working with Martha Miller to resolve the issues related to the wildlife fence adjacent to Singletree. Mr. Larson expressed concerns with the fact that there is no map for the location of the fence posts for the project. Director Cohen will pass that concern on to Ms. Miller

#### **Community Center Reports**

Ms. Jacobs reported a representative from CDOT expressed concerns with two trees that were planted and are now on the south side of the wildlife fence. Director Budd reported Concrete Works of Colorado planted two new trees on the

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north side of the fence anticipating the other two trees will not receive sufficient water to survive.

Mr. Carlson has had a lot of work completed on Charolais Circle to improve the park and pond issues presented by residents on Charolais Circle.

Dennis Stephens, who is a representative on the Beautification Committee, requested the District contract for another cutting of the native grasses. It would cost the District \$3,500 and the Board agreed it was not necessary this late in the season.

The road signs in the Singletree are faded and need to be replaced. The current wording is creating a problem for the Sheriff Department when they are ticketing residents for parking on the streets. The residents claim they are parking on the shoulder and not the road, which results in dismissal of the tickets by the court. Mrs. Jacobs will continue working with Eagle County to replace the signs with the correct wording.

Mr. Carlson continues to have a problem finding a pole for the digital sign. The Board directed Mrs. Jacobs to work with Mr. Carlson to obtain a pole.

### **Landscaping Project**

The pre-construction meeting was held on August 24, 2009. Mr. Gerdes has indicated no additional permits are needed for the project. Valley Crest Landscaping has indicated in order to provide a warranty on the plants it will be necessary to water the plantings this fall after the project is completed. Valley Crest Landscaping has offered to have a water truck come up from Denver a couple of times to water the plantings.

Director Gregory stated once the installation is completed, the warranty period would go into place. The Board agreed the maintenance should be completed by the contractor to guarantee the warranty.

Director Budd suggested requesting the landscaping contractor for the Winslow Road project work with Valley Crest Landscaping to combine the reseeded for both projects, providing a possible cost savings for the District.

Chris Dunn will be the District liaison for the project and will approve all invoices and forward them to the District for payment. Mr. Marchetti requested that Valley Crest Landscaping provide a budget for the 2010 maintenance costs to be discussed during the 2010 District budget process.

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Director Dewton reviewed the construction schedule and the irrigation plans with the Board.

#### **WECMRD**

**Contribution** With great difficulty the Board agreed to reinvest the water tap fees in the Miller Ranch Field House and will request WECMRD's policies and rate information for Singletree residents before determining whether to contribute additional funds. Director Cohen suggested including in the budget a contribution for 2010 giving the Board the ability to decide during the year whether to actually contribute the funds in 2010. By motion duly made and seconded it was unanimously

**RESOLVED** to contribute an amount equal to the water tap fees collected by the District to be used for an amenity in the Field House.

A letter will be sent to WECMRD informing them of the Board's decision along with a request to obtain rate information and current usage data for Singletree residents.

#### **Financial Report**

The July 31, 2009 Financial Statements were included in the Board packet. Director Budd questioned revenue and expense items that were clarified by Mr. Marchetti. Director Budd requested a break-out of the Winslow Road project costs. By motion duly made and seconded it was unanimously

**RESOLVED** to accept the July 31, 2009 financial statements as presented.

#### **Accounts Payable**

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

**RESOLVED** to approve the August 2009 accounts payable list as presented.

#### **SPOA**

Lengthy discussions about bear proof containers, covenant enforcement, and defining commercial vehicles were held during the August meeting. Director Budd reported there is a vacancy on the SPOA Board.

SPOA received a judgment against a certain property owner that stipulates the property owner enter into mitigation with the Association to remedy the violation by October 1, 2009. In another case, the attorney for the property has requested an extension that will most likely be denied.

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SPOA has the ability to send the newsletter electronically to 60% of the residents. 40% of the email addresses have not been provided so the newsletter will still need to be mailed to those residents. Director Cohen encouraged SPOA to keep the newsletter simple and reference back to website for additional information. The website will be updated monthly with new items.

**UERWA** CDOT will not allow UERWA to install a pipe under the Interstate during construction of the I-70 interchange roundabout project. This decision will force the Authority to complete the installation of the pipe prior to the construction of the roundabout project.

The meeting with the State Engineer and Colorado Water Conservation Board to settle litigation was cancelled. The meeting has not been rescheduled.

Discussions with the City of Aurora continue regarding future water needs of the 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 25th day of August, 2009.

Respectfully submitted,



Cheri Curtis  
Secretary for the Meeting