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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 November 24, 2009

A Regular Meeting of the Board of Directors of the Berry Creek Metropolitan District, Eagle County, Colorado was held on November 24, 2009 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:

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

Also in attendance were:

- Mike Beltracchi, Property Owner
- Steve Russell, WECMRD
- Mike Glass, WECMRD
- Dan Carlson, Maintenance
- Eileen Jacobs, Community Manager
- Ken Marchetti, Robertson & Marchetti, P.C.
- Cheri Curtis, Secretary to the Meeting (Via Telephone)

**Call To  
Order**

The Regular Meeting of the Board of Directors of Berry Creek Metropolitan District was called to order by Director Cohen, on November 24, 2009, at 9:00 a.m. noting a quorum was present.

**Changes to  
Agenda**

Discussions on the WECMRD Field House was added to the agenda and the executive session was moved to the bottom of the agenda to discuss personnel matters.

**Minutes**

The Board reviewed the minutes from the October 27, 2009 Regular meeting. By motion duly made and seconded it was unanimously

**RESOLVED** to approve the minutes of the October 27, 2009 Regular Meeting as presented.

**Community  
Reports**

Ms. Jacobs reported Eagle County has replaced a street sign at the corner of Rawhide and Winslow with an old sign and post. A resident requested it be

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consistent with other signs in Singletree and has also asked that a street light be installed on that quadrant of the intersection. There is already a street light on another quadrant of that intersection and residents generally are requesting less lighting. Board agreed that one light per intersection is adequate. It was agreed to replace the sign and post with the standard Singletree sign and post.

Discussion followed regarding the "Children at Play" signs at Miller Place. The Board is okay with the signs at that location.

Ms. Jacobs questioned whether there was a plan to update signage throughout the community. The Board stated signage would be addressed by the Beautification Committee, probably on a phased basis but not part of current beautification master plan.

The District is now able to accept credit cards for exercise cards and community center rental.

Ms. Jacobs attended a coalition on Covenant Enforcement. Steve Elzinga, the County Weed Control employee has left the County and will not be replaced.

The speed display sign on Charolais Circle has been repaired. Residents have complained about the strobe light, which was adjusted. Director Budd suggested making the speed display sign look like Cordillera signs to make it more acceptable to residents. Discussion followed on installing consistent street signs throughout the community.

**WECMRD** Director Gregory expressed concerns regarding the design approval process related to the Miller Ranch Field House. Director Gregory met with John McCaulley to discuss residents' dissatisfaction with the roof, the overall design, and WECMRD's failure to comply with the Miller Ranch guidelines. The building design was on a very fast tract and Singletree did not have adequate opportunity to give input.

SPOA has unanimously approved a petition that will be sent to WECMRD and the Board of County Commissioners asking for some level of mitigation regarding the pitch and reflectivity of the Field House roof. SPOA said they received a 37 page response from the County and it does not show that a variance was granted. The County's minutes reflect that a variance was requested but never denied or approved.

Mike Glass and Steve Russell explained the design review process WECMRD went through for the building including height issues, cupolas, and roof colors on both the upper and lower roofs. The County would not approve the same color on

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both roofs and they had limited roof colors available from the manufacturer to select from and a limited color palette to work with in the design review guidelines. The roof color was chosen for energy savings reasons. Director Dewton noted this process was not the same process Colorado Mountain College went through for the design of the adjacent CMC campus. WECMRD is working with the architect to find a way to mitigate the reflective issue and is interested in being a good neighbor in the community. Mr. Russell reported WECMRD is willing to make cosmetic changes, but structural changes are not feasible at this stage.

It was noted the County Commissioner minutes did not reflect proper approval of plans. The District and SPOA Boards have both noted that the County needs to improve the approval process and should consider including an architect on the DRB for the County approval process. The County ignored the guidelines and they should participate in developing a solution.

Regarding the cost to use the new Field House, punch cards will be available to all participants for \$5 per day. WECMRD residents will be able to purchase a yearly pass for a reduced price. The Field House will open on December 11, 2009. The Board gave WECMRD the check for \$29,000 as a contribution toward construction costs, which is equal to the tap fee that was received for the building.

#### 2010 Landscaping

**Contracts** The Board reviewed the 2010 maintenance contracts. Mr. Carlson clarified the contracts for the Board stating basically all contract prices are consistent with 2009 contract prices.

Director Budd questioned whether the Winslow Road underpass was included in the STI bid since Concrete Works of Colorado included warranty in their contract through July 31, 2010. Mr. Carlson will obtain a revised bid for with the removal of maintenance at the Winslow Road underpass.

The Garden Creation bid includes installation and maintenance at the west entrance that will not be necessary. The maintenance cost on the Winslow Road entrance appears high. The Board questioned maintenance of flowers without water. Mr. Carlson will revisit the bid with Garden Creations and obtain a revised bid without the entrance and with reduced costs for the Winslow Road entrance. *By motion duly and seconded it was unanimously*

**RESOLVED** to allow Mr. Carlson to execute the maintenance contracts for the District with the revisions discussed.

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Ms. Jacobs questioned whether the District wanted to spray vacant lots and bill property owners for the cost. It was decided liability issue could be a problem and no action was taken.

Director Dewton stated the Valley Crest two-year maintenance bid for \$16,000 is consistent with what was previously agreed upon. The Board discussed whether to pay \$1,300 for fabric to cover the mulch. The Board agreed that Valley Crest should provide the fabric if they felt it is necessary to guarantee plantings.

Neil Tretter with the Sonnenalp Golf Course has not given an opinion on the asphalt patch. Director Gregory will look at the warranty to determine whether asphalt patching is addressed. If not included, Mr. Tretter will need to sign off on payment release. Valley Crest has indicated if the corners of the gutters are trimmed down it could compromise the integrity of the gutter pans. Director Gregory believes Valley Crest needs to address the pan issue to conform to County requirements and Chris Dunn needs to be responsible to the District as its contract representative. The Board agreed Valley Crest should be responsible for trimming the gutter pans and installing fabric. The Board agreed to release the payment to Valley Crest and use retainage to fix pans and clean up mulch, if necessary. By motion duly made and seconded it was unanimously

**RESOLVED** to approve releasing the check to Valley Crest after Ms. Jacobs communicates to Mr. Dunn and Mr. Talocco the following requirements:

- The gutter pans need to be trimmed down
- The Board suggests Valley Crest should lay down fabric but if not, they will be responsible for clean-up in the spring
- Neil Tretter needs to sign off on the asphalt patch

#### **Landscape Project**

Director Dewton received a contract to provide design and construction management from Dunn + Kiley. Director Dewton believes the contract does not address the reduced scope of work for Phase II. There will be additional cost for surveying. Director Budd informed the Board that SPOA approved their 2010 budget with \$50 increase in dues to contribute approximately \$20,000 to \$25,000 for capital projects.

Director Gregory questioned whether the District received adequate value for the construction of Phase I. Discussion followed on value and it was agreed it was bid out and Valley Crest was considerably lower than the other bidders. Director Budd suggested the Beautification Committee look at options before making a decision to use Chris Dunn for Phase II. Director Gregory will obtain additional

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bids for the landscaping design and construction management. Bids will be solicited for Phase II construction. Director Gregory will also obtain engineering bids for the Berry Creek Road intersections at Stagecoach, Charolais, Rawhide and Singletree Road.

To mask utility boxes, pictures have been taken to prepare films that can be installed on a utility box for the Board to review for approval.

The Board discussed installing a lighted rock sign for Singletree Community Center and Chip Ramsey Park that would be placed closer to the road. Director Gregory suggested using Colorado Buff Sandstone, which was used on Winslow Road. Mr. Carlson was directed to get ideas and prices. Director Dewton asked if the Singletree Sign was included in the I-70 interchange project plans. Mr. Marchetti indicated a sign has been included in the sketch plans but the installation cost will be the responsibility of the District.

#### **2010 Budget**

The Public Session was held at the October 27, 2009 meeting. Based on the preliminary assessed value, the Board has agreed to lower the debt service mill levy and approved a temporary mill levy decrease for the general fund. By motion duly made and seconded it was unanimously

**RESOLVED** to approve the 2010 budget, set the mill levy rates and appropriate funds as documented in the formal budget resolutions, a copy of which is incorporated herein by this reference.

#### **Financial Report**

The October 31, 2009 Financial Statements were included in the Board packet. By motion duly made and seconded it was unanimously

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

#### **Accounts Payable**

Mr. Marchetti presented an updated list of payables for the Board to review. Ms. Curtis stated the final payment for the Winslow Road project was advertised on November 12 and November 24. By motion duly made and seconded it was unanimously

**RESOLVED** to approve the November 2009 accounts payable list as presented. The check to Concrete Works of Colorado will be held until the warranty booklet is received and reviewed.

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**SPOA** Mr. Budd reported the SPOA Board approved the 2010 budget and chose March 6, 2010 at 4:00 p.m. for the annual meeting. The meeting was moved to a Saturday to allow out-of-town members to attend the meeting. SPOA is considering accepting resumes from candidates for the open Board seats. Nominations will be accepted from the floor at the meeting.

After considerable discussion, it was agreed temporary signs will not be installed in the road until after the snow season.

**UERWA** Ms. Dewton reported the UERWA did a policy revision regarding the refund of water rights cash-in-lieu payments. Under the new policy, funds will only be refunded if the County Land Use Authority rescind the corresponding development rights.

The deadline for the completion of an alternate management plan for the river segments to be designated as Wild and Scenic is November 30, 2009. This is a Federal designation and rivers must be natural and free-flowing to receive this designation. A portion of the Colorado River in Glenwood canyon has become a candidate for this designation. UERWA is concerned that if this designation is granted, it may have an unintended impact on future water storage projects like Camp Hale or Wolcott Reservoir. A conference call was held with Jon Stavney who is Eagle County's representative on the River District Board to express the concerns.

**Executive  
Session**

By motion duly made and seconded, at 11:45 a.m. it was unanimously

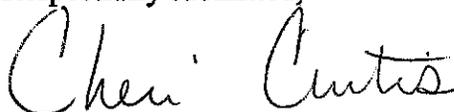
**RESOLVED** to enter into executive session pursuant to CRS 24-6-402(4)(g) for the purpose of discussing personnel matters.

The Board adjourned from executive session at 12:30 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 24th day of November, 2009.

Respectfully submitted,



Cheri Curtis  
Secretary for the Meeting