

**RECORD OF PROCEEDINGS**

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MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS

OF

CONSOLIDATED METROPOLITAN DISTRICT

Held Thursday, the 25<sup>th</sup> day of January 2007 at 9:00 a.m. at 398 Arroyo Drive, Battlement Mesa, Colorado.

Attendance

A regular meeting of the Board of Directors of the Consolidated Metropolitan District, Garfield County, Colorado was called and held as shown above and in accordance with the applicable statutes of the State of Colorado, with the following Directors present and acting:

George Cathey  
Bill Nelson  
Bill Wilde  
Frank Lancaster

Lynn Shore, Bob Jasper, Anne Huber and Sandy Yeager were also in attendance.

Call to Order

Director Nelson called the meeting to order at 9:00 a.m. and established that a notice of the meeting had been posted as required by statute. Director Nelson noted that a quorum was in attendance.

No potential conflict of interest disclosures were noted or filed on behalf of any of the Directors.

December Meeting Minutes

A motion was made by Director Wilde to accept the December 28, 2006 meeting minutes as presented; Director Cathey seconded the motion and the motion carried unanimously.

December Financial Statements

The December 31, 2006 financial statements were reviewed. A motion was made by Director Lancaster to accept the financials as presented, subject to audit; Director Wilde seconded the motion and the motion carried unanimously.

## Lynn Shore Request

Lynn Shore, representing Eagle's Point Subdivision, appeared before the Board to present his viewpoint on the Recreational Assessment charged to developers of new subdivisions. He stated that once the final plat for a new subdivision has been filed with Garfield County, the Recreational Assessment becomes due on all lots within the platted subdivision, even though there is no infrastructure in place, no homeowners, no impact on the Activity Center and no BMAC services are received. He believes that the annual fees should be raised for all residential lots and charged to the property owner, once the developer sells the lot, and not to the developers of the subdivisions since they receive no benefit from the assessment. Mr. Shore offered two alternatives to the current policy: 1) Begin charging the assessment at the issuance of the water and sewer permit for hookup; 2) Begin charging the assessment at the issuance of the certificate of occupancy. His final request was that the Board rescind the policy to charge the developer at the time of final plat. Director Wilde reminded Mr. Shore that the Recreational Assessment was initiated by the original developer of Battlement Mesa and they were happy to support the operation, as the Center has been a large part of marketing the area for home/lot sales. Director Wilde also pointed out that from a historical standpoint, the BMAC has been the focal point of the entire community. Director Cathey mentioned it would be a big risk if the assessment were to go away.

## Weight Room Expansion

Per the Board's request at the December 2006 meeting, Larry Huber met with Jeff Tonder of Tonder Construction to negotiate a new contract amount for the weight room expansion. Portions of his original contract have been reduced by using less expensive alternatives for doors, etc., and by subcontracting some of the services out. With the changes made, the original contract amount of \$249,600 was reduced to \$219,510. Director Wilde moved to award the negotiated contract to Tonder Construction; Director Lancaster seconded the motion and the motion carried unanimously.

## District Boundaries

District Manager Jasper reported that the District is required to submit a map of the District to DOLA annually, something that has not been done for the past few years. On the maps he has, the Town Center and the BMAC were included in the District. He had WestWater Engineering take these properties out, as he does not believe they are a part of the District. Mr. Jasper would like to get the District boundaries defined in order to end the confusion. He suggested two alternatives to include all properties in the PUD in the District boundaries: 1) go to the voters and have them approve

the boundaries; 2) fracturally include properties into the District as we have been doing in the past. Director Wilde thinks that punching out the District boundaries to include the entire PUD (service area) and getting the vote of the public is the best way to go.

#### Water Rights

District Manager Jasper reported that the District's reporting to the state, in regards to water returned to the river, has not been correct. Particularly in the winter months, water taken from the river should go back, but there is only about a 40% return. His best shot for an answer is the metering of the Parachute influx. Our meter numbers are higher than Parachute's meter numbers, and if we use Parachute's numbers our return to the river goes way up. He has made an offer to the Town of Parachute to have their meter calibrated and to install a telemetry device, at the District's cost, at our plant to monitor the numbers on a daily basis. Mr. Jasper stated that one advantage of a greater return to the river is it gives us more water during dry times. He was told that the District has enough water for 25,000 people, but he believes we only have enough for 9-10,000 people, maybe less. District Manager Jasper mentioned that he would like to meet with Eric Schmela to revise the water agreement in order to put all the water back together to optimize the rights. Director Wilde stated that before Mr. Jasper meets with Mr. Schmela, he needs to thoroughly go through the 1982 Augmentation Plan and fully understand it and what our water rights really are.

#### BMAC Finances

District Manager Jasper mentioned that in the 2007 budget, the Activity Center has nearly a \$600,000 shortfall. He has asked the auditor if the debt to the water and sewer fund can be forgiven. From his viewpoint, if depreciation is taken out, the Activity Center has not lost any money for the past six years, and he cannot justify asking the community for money to supplement the Center if that is the case. He will continue to investigate the issue and report back to the Board.

#### BMAC Impact Fee

Currently the District is charging a \$1,250 Activity Center Impact Fee at the time of lot purchases. District Manager Jasper reported that per the 2000 Service Plan, the impact fee was capped at \$1,000. He has spoken with Matt Dalton about this issue and Mr. Dalton suggested to him that we rename the water and sewer tap fees and the BMAC impact fee and call them a system development fee and use the proceeds only for capital purposes. Director Wilde raised the issue of the system development fee in regards to how it would be structured. He stated he liked the

terminology of the system development fee, but we would need charges for residential, which pays water and sewer tap fees and the BMAC impact fee, another rate for commercial which pays water and sewer taps but no impact fee and still another rate for the Town of Parachute that simply pays sewer tap fees. Also confusing the issue are the Battlement Mesa Partners prepaid taps. District Manager Jasper mentioned that it would need to be a flexible plan.

#### Possible Election Issues

Director Wilde summarized that the District has three potential issues that the Board may want to take to the electorate: 1) BMAC Recreational Assessment Fee; 2) extension of District boundaries; 3) BMAC Impact Fee. He also mentioned that issues #2 and #3 have no downside to the residential population.

#### Matt Dalton Conference Call

Matt Dalton was contacted for a conference call with the Board to discuss several of the above issues. Regarding the BMAC impact fee, Mr. Dalton confirmed that the fee was capped at \$1,000 per the Service Plan. His recommendation was to discontinue collecting water and sewer tap fees and a BMAC impact fee and simply call it a system development fee. These fees would be collected with the intent to fund capital needs. All the funds would go into a capital account and could be allocated to where the District needs them. The BMP prepaid taps could complicate the change, but he feels this could be worked out. Director Lancaster asked if there would be a cap to this fee and Mr. Dalton's reply was, no cap. Director Wilde asked, aside from the BMP prepaid taps, aren't there other complications with the Parachute Intergovernmental Agreement for Sewer Charges? Mr. Dalton's response was we would need to differentiate between commercial and residential rates. Perhaps residential would pay a flat rate and commercial could pay either by square footage or by employment counts. Director Wilde asked what do we do in the interim on the \$1,250 impact fee now being collected, and Mr. Dalton said to stop charging that amount and go back to the \$1,000 fee. Director Wilde moved to establish the Battlement Mesa Activity Center Impact Fee to the maximum allowed by the amended service plan; Director Lancaster seconded the motion and the motion carried unanimously.


Regarding the District boundaries, Mr. Dalton mentioned that since our District doesn't tax anyone at this juncture, there is no monetary gain. There are two ways to include property within the PUD service area into the District: 1) Draw a line around the areas not included in the District and ask those in that area to vote for inclusion into the District; 2) Ask the District electorate to vote on

including those areas outside the District, but within the PUD service area. Director Wilde mentioned that we need to clean up what is in the District and what is not. We need to check the District Court records for CMD to determine what inclusions have been completed. District Manager Jasper asked if Matt Dalton's staff could do this, and Director Wilde replied that he thought Mr. Jasper should do it with some guidance from Matt Dalton's office.

Adjournment

There being no further business to come before the Board, and upon motion made by Director Cathey and seconded by Director Lancaster and unanimously carried, the meeting was adjourned at 11:25 a.m.

The foregoing constitutes the true and correct minutes of the above referenced meeting and was approved by the Board of Directors of the Consolidated Metropolitan District on the 22<sup>nd</sup> day of February, 2007.

  
Secretary