

## RECORD OF PROCEEDINGS

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### MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF PLUM CREEK METROPOLITAN DISTRICT HELD August 7, 2009

A special meeting of the Board of Directors of the Plum Creek Metropolitan District was held on Friday, August 7, 2009 at 8:00 a.m., in the offices of Folkestad Fazekas Barrick & Patoile, P.C. located at 18 S. Wilcox St., Suite 200, Castle Rock, Colorado. The meeting was open to the public.

#### Attendance

In Attendance were the following Directors:

David Littler  
James Ellington  
Curtis Maddock  
Peter Rinehart, via telephone

Also in Attendance were:

James Folkestad, John Clark, Adriana Miller and Karen Oliver; Folkestad Fazekas Barrick & Patoile, P.C.  
Kevin Collins; Clifton Gunderson, LLP, via telephone  
Joe Culkin; Nolte Associates, Inc., via telephone

#### Call to Order

The meeting was called to order by Director Littler and a quorum was declared.

#### Disclosure of Potential Conflicts of Interest

The Board noted that disclosures of potential conflict of interest statements for all Directors required to file such disclosures, pursuant to law, are on file and that the statements were filed at least 72 hours prior to the meeting in accordance with Colorado statutes.

#### Legal Matters

- A. Consider estimates for completion of non-warranty work in connection with public improvements located in Plum Creek South Filing No. 1.

Joe Culkin reported to the Board that about three weeks ago he contacted the contractors regarding a punch list received from the Town of Castle Rock (the "Town"). All corrective work requested in the punch list pertains to improvements located in the McCracken Lane right-of-way.

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Concrete Curb & Paving, Inc. reviewed the punch list and agreed that about 75% of the "Sidewalk, Curb and Gutter" corrective work specified in the punch list was covered by its warranty. It agreed to do the other 25% for \$3,132.30.

Joe Culkin stated that Schmidt Construction, Inc. ("Schmidt") reviewed the "Asphalt sections" corrective work specified in the punch list on three separate occasions, insisted that none of it is covered by its warranty and further stated it is not interested in performing the non-warranty work. The estimated cost to complete that work, per Rocky Mountain Payment, is \$4,633. Joe Culkin recommended that the District retain Rocky Mountain Pavement to perform the work immediately.

Peter Rinehart and Jim Ellington inquired why Schmidt did not believe the corrective work was their obligation. Joe Culkin stated that there is a settlement in the road around the manholes that he is "only 50% certain" was caused by Schmidt; the other possibility is that the road shrunk away from the manholes due to improper maintenance by the Town of Castle Rock. ERS was the pipe contractor for the project; however, Joe Culkin did not contact ERS since he does not believe that the settlement in the road was caused by the work completed by ERS.

The Board members discussed Rocky Mountain Pavement completing the work and then pursuing the maintenance bond provided by Schmidt. Jim Folkestad suggested that a letter be sent to Schmidt regarding their denial to perform the corrective work, giving them certain number of days to respond and then pursuing the maintenance bond, if no response or negative response is received from Schmidt.

Joe Culkin stated that there are two separate issues – 1) concrete, and 2) pavement. The concrete issues have to be resolved first. Peter Rinehart inquired whether there any of the corrective work applies to improvements located outside the McCracken Lane right-of-way. Joe Culkin responded that he was not aware of any.

David Littler brought up the warranty bond from Travelers Casualty and Surety Company of America which the District was required to provide to the Town on top of the contractor bonds. The Board members discussed letters to the Town, the contractors and the insurance companies to recover the funds. Jim Ellington inquired about the timing. The warranty bonds expire on August 29, 2009. Kevin Collins stated that if certain transfers were made, the District has funds available to cover the cost of corrective work.

Peter Rinehart inquired about a warranty for the corrective work. Joe Culkin responded that once the corrective work is completed and the

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Town accepts such work, the Town will have no further recourse against the District.

A motion was made by Peter Rinehart and seconded by Curtis Maddock to enter into agreements with Concrete Curb and Gutter, Inc. and with Rocky Mountain Pavement to complete corrective concrete and asphalt work in the amount not to exceed \$10,000. Jim Folkestad will prepare letters to the contractors, the Town and insurance companies as discussed above. The Board appointed a committee consisting of Peter Rinehart and Dave Littler and authorized them to work on resolving this matter. The motion passed unanimously.


### Other Matters

Kevin Collins reported to the Board that the CDs were about to mature. He requested an authorization from the Board to roll over the CDs for additional 90 days. Upon a motion was made by Curtis Maddock, seconded by Jim Ellington and, upon vote, unanimously carried, the CDs were rolled over for additional 90 days. Dave Littler and Kevin Collins are to discuss and present a plan for these funds after the November bond payment.

### Adjournment

There being no further business to come before the Board, upon a motion duly made by Jim Ellington, seconded by Dave Littler and, upon vote, unanimously carried, the Board adjourned the meeting at 8:30 a.m.

The foregoing record constitutes a true and correct copy of the Minutes of the above referenced meeting.

  
Secretary