



EVRPD Board Meeting Process
(adopted 1/22/2013; updated 10-2015)

Board president:

- 1. Calls Meeting to Order**
- 2. Leads the Pledge of Allegiance**

I pledge Allegiance to the flag
of the United States of America
and to the Republic for which it stands,
one nation under God, indivisible,
with Liberty and Justice for all.

- 3. Conflict of Interest**

Before the meeting commences, the Board President asks:

“Are there any Board Members who need to disclose a conflict of interest related to the agenda items?”

[If there is a conflict, the Board member explains the conflict and then recuses himself/herself from the meeting before the Board discusses that agenda item.]



SPECIAL BOARD MEETING AGENDA

Tuesday November 29, 2016 – 12:00 P.M.

1480 Golf Course Road,

Estes Park, CO 80517

in, direct, organize, and implement recreational programs, manage facilities, and provide public park and recreation opportunities for residents of the District and visitors to the community. The District will implement programs that offer a wide variety of recreational opportunities for all age groups, including both active and passive experiences. The District will provide recreational services and facilities within the financial limitations and scope of the District.

1. CALL TO ORDER

- A. Pledge of Allegiance
- B. Moment of Reflection
- C. Conflict of Interest Disclosures

2. CONSENT AGENDA

- A. Board Minutes:
 - 1. October 14, 2016 Board Work Session
 - 2. October 18, 2016 Regular Board Meeting
 - 3. October 19, 2016 Special Board Meeting
 - 4. November 10, 2016 Board/Budget Work Session

3. APPROVAL OF AGENDA

4. NEW BUSINESS

- A. Land Conveyance Agreement from Park School District (Discussion/Action)
- B. Bank of Colorado Financial Agreement (Discussion)
- C. Discussion of EVCC Alternates and GMP (Discussion)

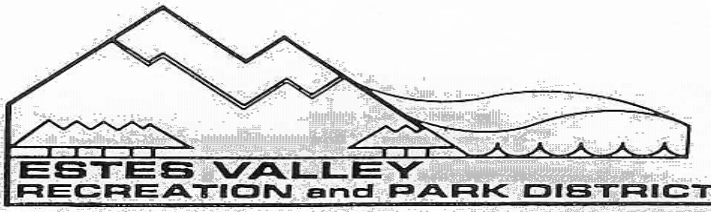
5. FURTHER BUSINESS

- A. Meetings to Schedule

6. ADJOURNMENT

The Board reserves the right to consider other appropriate items not available at the time the agenda was prepared.

Stanley Gengler, Board Secretary



NOVEMBER 29, 2016

AGENDA ITEM: 2

AGENDA TITLE: CONSENT AGENDA

SUBMITTED BY: TOM CAROSELLO

THE CONSENT AGENDA INCLUDES:

A. Board Minutes

1. October 14, 2016 Board Work Session
2. October 18, 2016 Regular Board Meeting
3. October 19, 2016 Special Board Meeting
4. November 10, 2016 Board/Budget Work Session

CONSENT AGENDA PROCEDURE:

All matters listed under the Consent Agenda are considered routine by the Board of Directors, and will be acted upon by a single vote of the Board. There will be no separate discussion of any of these items unless a member of the Board or audience so requests, in which event the matter shall be removed from the Consent Agenda and considered as a separate Action Agenda item.

ATTACHMENTS:

- A. Board Minutes

BOARD ACTION NEEDED:

A motion to (approve or remove an item from) the consent agenda, as presented.

RECORD OF PROCEEDINGS

MINUTES OF BOARD WORK SESSION OF THE BOARD OF DIRECTORS OF ESTES VALLEY RECREATION AND PARK DISTRICT

October 14, 2016
12:00 P.M.

*Estes Park Golf Course Clubhouse
1480 Golf Course Road
Estes Park, CO 80517*

Present: Ken Czarnowski, Ron Duell, Stan Gengler, Dave Kiser, Marie Richardson
Absent: None
Staff: Tom Carosello, Heather Drees
Others: Chuck Jordan (RLH Engineering, Inc.), Travis Guerette RLH Engineering, Inc.),
David Batey (Estes Park)

Prior notice of this work session was given by posting a notice at the Town of Estes Park's Municipal Building, the Estes Park Public Library, Estes Valley Recreation and Park District's Administration Office, the Larimer County Clerk's Office in Estes Park, and the Boulder County Courthouse in Boulder.

Board President Ken Czarnowski, called the meeting to order at 12:05 p.m.

Moved by Marie Richardson, seconded by Dave Kiser, to approve the agenda, as presented.

The purpose of this meeting was for the Board to discuss the Estes Valley Community Center's alternate priority list and funding options for the alternates. Executive Director, Tom Carosello gave an overview of recent events and provided the Board with the current Alternate Priority list, EVCC Project Account Projections, and the EVRPD Cash, Investments and Designated Funds as of 9/30/2016. With this information the Board was presented with two different options in regards to funding items on the alternate priority list. Options included, borrowing an additional \$500,000 from the Bank of Colorado, or borrowing \$500,000 from ourselves (EVRPD Reserves). Interest rates and payment amounts for both options were discussed in length. Also discussed was in addition to borrowing \$500,000, was a possible financial partnership with the Estes Valley Senior Citizen Center Inc., as they currently have over \$680,000 in an endowment fund, which some of the money is to be used for bricks and mortar. Tom Carosello will reach out to the Estes Valley Senior Citizen Center Board to schedule a joint Special Meeting to discuss a possible financial partnership.

This was a work session; no decisions were made by the Board.

Meeting adjourned at 1:15 p.m.

Ken Czarnowski, Board President

Stanley Gengler, Board Secretary

Recorded by Heather Drees

RECORD OF PROCEEDINGS

MINUTES OF REGULAR BOARD MEETING OF THE BOARD OF DIRECTORS OF ESTES VALLEY RECREATION AND PARK DISTRICT

*Tuesday October 18, 2016 – 7:00pm
Estes Park Golf Course Clubhouse
1480 Golf Course Road. Estes Park, CO 80517*

Present: Ken Czarnowski, Ron Duell, Dave Kiser, Marie Richardson
Absent: Stan Gengler - *Excused absence*
Staff: Tom Carosello, Mary Davis, Heather Drees
Others: David Batey (Estes Park), Sharyn Gartner (EPGAC), Chuck Jordan (RLH Engineering, Inc.)

Prior notice of this meeting was given by posting a notice at the Town of Estes Park's Municipal Building, the Estes Park Public Library, Estes Valley Recreation and Park District's Administration Office, the Larimer County Clerk's Office in Estes Park, and the Boulder County Clerk's Office in Boulder.

The meeting was called to order at 7:00pm.

Board President Czarnowski began the meeting with the Pledge of Allegiance and a moment of reflection. Mr. Czarnowski asked if any Board members had conflict of interests related to the agenda. No conflicts of interest were disclosed.

CONSENT AGENDA

The consent agenda for the meeting included:

- A. Board Minutes:
 - 1. September 19, 2016 Regular Board Meeting
 - 2. October 6, 2016, Special Board Meeting
- B. Trails Committee Minutes
 - 1. October 4, 2016 Trails Committee Meeting (Approval)
- C. Staff Reports:
 - 1. Golf Operations
 - 2. Recreation Operations
 - 3. Aquatic Operations
 - 4. Marina Operations
 - 5. Golf Maintenance
 - 6. Parks/Trails Maintenance
 - 7. Campground Operations
 - 8. Human Resources
 - 9. Financial Reports
 - 10. Paid Bills

Moved by Ron Duell, seconded by Marie Richardson, to approve the consent agenda as presented.

No discussion. Ayes – 4 Motion carried unanimously.

APPROVAL OF REGULAR (ACTION) AGENDA

Moved by Marie Richardson, seconded by Dave Kiser, to approve the regular (action) agenda, as presented.

No discussion. Ayes – 4 Motion carried unanimously.

CITIZEN & BOARD COMMENTS

Citizen Comments:

Connie Dedon and Barbara MacAlpine from the Estes Valley Community Garden thanked the EVRPD Board and staff for a successful season. They had 68 garden plots that served about 500 people. They wanted give a big thank you to Tom Carosello, and Herb Loveall for all their help and support. They presented a large "Thank You" banner signed by many of the 2016 Estes Valley Community Garden participants.

RECORD OF PROCEEDINGS

Board Comments:

The Board thanked both Connie Dedon and Barbara MacAlpine and the EVCG Board for doing a great job. Board Member Duell thanked all of the EVRPD Staff for doing a great job this summer – and a special thank you, and great job to John Feeny and Zenda Smith.

Board President Czarnowski closed the Citizen & Board Comments portion of the meeting.

2017 BUDGET PUBLIC HEARING

This meeting serves as the public hearing for the 2017 Proposed Budget and offers community members an opportunity to ask questions about the budget and to provide input into the development of the budget. A legal notice announcing the public hearing appeared in the Estes Park Trail Gazette on October 7, 2016. Managers submitted their proposed budgets to administration in September. A staff-prepared budget was submitted to the Board of Directors on October 14. A budget work session with managers and the Board to discuss the budget will be scheduled for late October or early November. The mill levy is established at the November Board meeting. Budget documentation is due to Boulder and Larimer counties by December 15.

Mary Davis, Financial Director and Budget Officer, started with an overview of the 2017 Budget process with focus on the following areas: Allocating administrative costs, Community Center, and the Aquatic Center. In regards to allocation administrative costs Mrs. Davis explained that she has allocated 75% of administrative costs to each department throughout the District, this will help recover these costs. Also when submitting for reimbursement for a Federal Grant, having administrative costs allocated helps – the District has received comments from the Federal Government stating this in previous requests for reimbursement. In regards to the Community Center effecting the 2017 Budget, key positions and employees for the center will be hired and employed even though the center will not be open until 2018.

Citizen Comments:

Sharyn Gartner, Estes Park Gun and Archery Club (EPGAC) President, submitted a budget request dated 9-12-16 for one-third of the rental fees for a Port-A-Let at the Indoor Shooting Range in Stanley Park. They have also submitted a budget request to the Town of Estes Park to pay one-third of the cost, which the Gun Club will pay for the last third of funding needed. Mrs. Gartner also requested that EVRPD consider placing the lead sedimentation trap, and pistol range shelter on the EVRPD 5 Year Capital Improvement Plan.

No further citizen comments were received. President Czarnowski closed the public hearing portion of the meeting.

Discussion: Board member Duell asked why office supplies, safety supplies, and mileage were budgeted less for 2017. Mary Davis replied that in preparation to our move to the Community Center we do not want to overbuy and have to move excessive supplies. In regards to mileage, not everyone claims mileage and trips to look at other facilities will decrease. Other questions by Board member Duell included, what the Dog Park water item was, and how the swimming lesson revenue would increase. Mr. Carosello explained what the Dog Park water item was, and noted that it is not high on our priority list. He also explained that with Caitlyn now at the aquatic center, she will be able to help with lessons.

EXECUTIVE DIRECTOR REPORT

Tom Carosello, Executive Director, supplied a written report prior to the meeting.

Mr. Carosello referred to his written report, and provided updates on the community center project. Mr. Carosello stated that they are still waiting on the land conveyance from the School District. He also reported that they would be receiving the operation study done by Ballard King next week. In regards to staffing, they will be extending to an offer for the Manager of Recreation Facility Operations tomorrow, she currently lives in Raymond. They will be holding interviews on Monday for the Marketing position. Mr. Carosello also stated that Mr. and Mrs. Crislip will not be able to attend the Special Board Meeting tomorrow with the Estes Park Senior Citizen Center Board. Mr. Carosello asked the Board if they still wanted to meet with the available members of the EPSCC Board, as no commitment is needed tomorrow.

Discussion: Board members were asked if they would like to proceed with the meeting or reschedule to a later date, each member answered they wanted to have the meeting tomorrow as scheduled. Board President Czarnowski then asked when the next public meeting will be scheduled. Mr. Carosello responded early November.

PROJECT MANAGER REPORT

Kim Slininger, Project Manager, supplied a written report prior to the meeting.

Mr. Slininger was not able to attend the meeting. His written report included updates on the following projects; Noels Draw Rock-status, Trails Master Plan, East Portal Waterline, Mary's Lake Sewer Line Rehab/Construction, Fish Creek Trail, and the Homer Rouse Trail Re-route.

Executive Director Tom Carosello noted that Mr. Slininger is managing many jobs, and doing great.

RECORD OF PROCEEDINGS

FINANCE DIRECTOR REPORT

Mary Davis, Finance Director Mary Davis provided a verbal update on the status of the year to date vs. budgeted revenues and expenses. Stating we are doing fine. Golf operations are at 92% with the Marina and Campgrounds over 100%. Mrs. Davis has been working on Mill Levy's and refining the 2017 Budget.

The written financial report for October will be attached to the minutes

OLD BUSINESS

Community Center Project - Owner's Rep Update (Discussion)

Chuck Jordan (RLH Engineering, Inc.), Owner's Representatives for the Estes Valley Community Center project, supplied a written progress report prior to the meeting covering the period from September 19th, 2016 to October 18th, 2016.

Mr. Jordan referred to his written report, the report he submitted details all the meetings and design activities that have happened from September 19th, 2016 through October 18th 2016.

Executive Director Tom Carosello added that they would be viewing the 75% Construction documents on November 7th.

FURTHER BUSINESS

Meetings to Schedule

- **Special Board Meeting:** *A joint meeting with the Estes Park Senior Citizen Center Inc., Board, to discuss a potential partnership*
Wednesday, October 19th – 12:30p.m. – 18-hole Golf Course
- **Next regular Board Meeting:**
Tuesday, November 15 – 7:00 p.m. – 18-hole Golf Course Clubhouse
- **Trails Committee Meeting:**
Tuesday, November 1 – 6:00 p.m. – 18-hole Golf Course Clubhouse
- **Board (Budget) Work Session:**
Thursday, November 10 – 12:00 p.m. – 18-hole Golf Course Clubhouse

Meeting adjourned at 7:51pm

Ken Czarnowski, Board President

Stanley Gengler, Board Secretary

Recorded by Heather Drees, EVRPD Senior Administrative Assistant

RECORD OF PROCEEDINGS

MINUTES OF SPECIAL BOARD MEETING OF THE BOARD OF DIRECTORS OF ESTES VALLEY RECREATION AND PARK DISTRICT

*Wednesday October 19, 2016 – 12:30pm
Estes Park Golf Course Clubhouse
1480 Golf Course Road. Estes Park, CO 80517*

Present: Ken Czarnowski, Stan Gengler, Ron Duell, Dave Kiser, Marie Richardson

Absent: None

Staff: Tom Carosello, Mary Davis, Heather Drees

Others: Judy Fontius (EPSCC, Inc. Board), Susan Robertson (EPSCC, Inc. Board), Carolyn Yarger (EPSCC, Inc. Board) Betty Hull (EPSCC, Inc. Board), David Batey (Estes Park).

Prior notice of this meeting was given by posting a notice at the Town of Estes Park's Municipal Building, the Estes Park Public Library, Estes Valley Recreation and Park District's Administration Office, the Larimer County Clerk's Office in Estes Park, and the Boulder County Clerk's Office in Boulder.

The meeting was called to order at 12:35 p.m.

Board President Czarnowski began the meeting and asked everyone to introduce themselves.

Approval of Agenda

Moved by Ron Duell, seconded by Dave Kiser, to approve the agenda, as presented.

No discussion. Ayes – 5 Motion carried unanimously.

Potential Estes Valley Community Center Partnerships (Discussion /Action)

Executive Director Tom Carosello began the discussion with an overview of past happenings in regards to the Town of Estes Park opting to transfer Senior Services to EVRPD. The IGA with the Town of Estes Park and the Estes Valley Recreation and Park District has been signed, and EVRPD staff and Senior Service staff have been in contact and are looking forward to the transition. Mr. Carosello also stated that the District has made an offer to a candidate for the Manager of Community Center Operations and will be interviewing candidates to fill the Marketing position. These positions will work with all the staff across the District to improve programing. Mr. Carosello then began a PowerPoint presentation which included the 50% Design Plan for the Estes Valley Community Center that was presented at the Public Meeting in August. The EVRPD Board along with members of the EPSCC Inc. Board viewed the 50% Design Plan with all alternates shown. The project is actually at 75% Design Plan but the overall layout has not changed. Mr. Carosello continued, focusing on the design plan for lower level with the materials plan and the alternate multipurpose room and kitchen. The multipurpose room would be about 3,200 square feet and it would have dividers that could create 3 separate rooms. The kitchen which has yet to be defined would be 490 square feet. The total usable space would be 3,500square feet. The construction cost for the multipurpose room is \$768,320 and \$146,500 for the kitchen. The \$146,500 only includes the space, not the equipment for the kitchen. Mr. Carosello stated that the multipurpose room with the kitchen is the number one alternate. Explaining that the EVRPD Board of Directors voted in June to make this area the number one alternate, so when contingency money becomes available this space will be added back into the plan before anything else. Mr. Carosello believes within the next month they should be receiving about \$400,000 back between the owner and general contractor contingency. This \$400,000 will at least pay to “core and shell” the multipurpose room and kitchen. As more contingency funds are released they can add finishing elements to this space. Mr. Carosello also noted that the other alternate in the lower level is a double sided fireplace. Mr. Carosello stated that when the general contractor comes to EVRPD at the end of November with the GMP (guaranteed maximum price) they will be able to, and will make final decisions. The completion date for the community center is January 2018. Mr. Carosello finished the presentation and asked members of the EPSCC Board for their questions.

Questions: Susan Robertson, asked for clarification on how many kitchens the facility would have. Mr. Carosello replied only one, stating that no matter what the center would have a kitchen. The smaller 180-190 square foot residential size kitchen located in the smaller multipurpose room would be removed if/when the alternate multipurpose room and kitchen are added. The smaller kitchen referred to as a “warming kitchen” in fact is a functional residential kitchen, that you could cook in - it would have a stove and oven. Mr. Carosello also stated that no matter what size kitchen is built, a grease trap would be required and installed. Judy Fontius commented that the larger alternate kitchen would be ideal for catering and bringing meals in.

Susan Robertson then asked, if people came in and wanted to have coffee and a donut where would they sit? Mr. Carosello

RECORD OF PROCEEDINGS

replied, there are many options. If it was between 8:00am and 4:00pm they could sit in the seating by the double sided fireplace, or in the game room. The multipurpose room could always be used with the type of flooring that will be installed. In all reality anywhere in the lower level or even the upper level if they wanted to sit up there. The upper lobby will typically be busier than the lower lobby, but will be available. She also asked where the coffee bar would be located. Mr. Carosello replied, the coffee bar could be placed on a couple of different walls, or in the game room, or in the multipurpose room. He best guess would be that the coffee bar would be placed in the multipurpose room adjacent to the kitchen. Carolyn Yarger asked where the offices were located. Tom Carosello referred to the design plan, pointing out the area for offices in the lower level that would be used by the recreation and Senior Service Specialist staff (Kelly and Beth) and pointed out in the upper level the office area for the administrative staff.

Betty Hull asked for more clarification on the GMP and date, in regards to possible funding from the Senior Center, and if a commitment would be needed before the end of November. Mr. Carosello replied, the commitment would not be needed by the end of November, but it would make things flow better and be highly preferable. He explained that the multipurpose room and kitchen are not hard to add to the building plan, and could just be cored and shelled. If the District knew the funds would be available, the multipurpose room and kitchen would no longer be an alternate, but be part of the base design plan. By placing these room back onto the design plan they could commit contingency funds to other alternates on the list. Some of the alternate items further down the list need to be addressed early in construction.

Mr. Carosello also spoke about the library, stating that he had spoken to Claudine Perrault who wishes to add a kiosk feature in the lower level of the new community center. She reported their estimated cost for a touchscreen board with book locker would be around \$250,000. Mr. Carosello stated that if they wish to put this feature in the District has no objections, but with the price involved the District does not want to pay their architects and engineers tens of thousands of dollars to design an area with the specific electrical requirements without an IGA.

Discussion: EVRPD Board member Dave Kiser stated he believes that the kitchen has been the number one source of frustration and misinformation. He asked the members of the EPSCC Board their thoughts after this presentation. Susan Robertson commented that she ideally she wanted to see a commercial kitchen, to continue with their own cook preparing meals and continuing with Meals on Wheels. She now realizes that it is virtually impossible to hire someone. She believes now, that it is important to have a kitchen because they could serve catered meals. She also stated she liked the plans. She likes that they could come together as a large group, or in smaller groups. David Batey commented, the issue was never if you could or couldn't have meals, but how to do it. If you have the larger kitchen area, it would free you up to deal with then the issue of how to do it. There are many options to look into. Judy Fontius asked if the gym would be available to them if needed for larger events. Tom Carosello replied, yes the gym would be available if needed (with scheduling). If extra space is needed, they would not be limited to just the gym, as there are other multipurpose rooms and areas in the community center that would be available for them to use. Betty Hull shared her thoughts in regards to the kitchen, stating that this has been the primary concern for the members.

EVRPD Board Member Marie Richardson continued the discussion asking how we move forward, as we cannot change what has happened. The District has wanted this to be a multigenerational center from the very beginning. We want the partnership with the Senior Center, we as a Board are putting out our welcome mat and saying "please join us with your partnership". When we started this project construction prices were lower, the fact is construction prices are ridiculously higher now. The Estes Valley Recreation and Park District is asking for the Senior Citizens Center, Inc. for their help financially to make this a multigenerational community center. "As a Board we are asking, not demanding..." She asked as a Board, what the District could do to help the Senior Center members feel more involved. Judy Fontius thanked Mrs. Richardson for her honesty, and stated that before this is taken to the members of the Senior Center, she believes that the EVRPD Board needs to talk to the entire EPSCC Board – as there is a division in the Board. She also stated that this does not need to be a win lose situation, it could be a win –win for the whole community, including the seniors.

Betty Hull, also thanked Mrs. Richardson for her honesty, and commented that many seniors feel that there has not been much honesty in regards to this community center. Stating that back in 2013 they were presented with a master plan showing they would have their own 15, 000 square foot wing with a commercial kitchen. They bought into this plan, being a great voting bloc, they helped to pass 1A. Then in 2014 senior members heard they had been reduced to 9600 square feet with a commercial kitchen. Then in 2016, seniors learned from the newspaper that the Town of Estes Park was no longer going to provide meals, and there would not be a commercial kitchen. Mrs. Hull believes this is where the lack of trust started. Mrs. Hull also stated that she has asked 5 other independent contractors about finishing / equipping a kitchen after the center is completed and if it would be too late – all 5 contractors told her it could be done. EVRPD Board member Richardson replied, she does not want to just shell the multipurpose room and hope that there are contingency funds left, or the Senior Center later decides to apply their funds to finishing the space. She wants a fully functioning area for seniors to be ready when the center opens. EVRPD Board member Stanley Gengler stated that yes alternates can be done later, but generally adding in alternates as change orders or waiting until the project is completed will cost more. The numbers you see on the design plan will change – they will be much higher. Mrs. Hull asked for clarification on how much funding EVRPD is asking for. With some discussion, the amount of \$450, 000 was mentioned as the cost of the multipurpose room with the kitchen will be about \$914,820. Mrs. Hull confirmed the end of November, beginning of December as the preferred timeline for an agreement. Members of the EPSCC Board continued with a quick discussion amongst themselves in regards to member involvement, and what could be a Board decision.

RECORD OF PROCEEDINGS

EVRPD Board member Marie Richardson in closing asked again, what the EVRPD Board can do to rebuild the trust with members of the Senior Center. Mrs. Hull replied that she does not believe it is the EVRPD Board they do not trust, it is a general lack of trust the members feel in regards to past happenings, and she also stated she did not know how to rebuild the trust. Susan Robertson stated that members of the EPSCC Board need to sing a positive song, and show excitement towards this project. Judy Fontius also commented, being proactive and positive as a Board. Mrs. Hull commented that as being the Director of Finance she needs to be realistic, she understands EVRPD's timeframe, but that timeline makes it tough.

Next steps were discussed. President Czarnowski suggested that we meet again with their entire Board and redo this presentation and give the other ESPCC Board members a chance to ask questions and get to know the EVRPD Board members.

FURTHER BUSINESS

Meetings to Schedule

• **Special Board Meeting:** *A joint meeting with the Entire Estes Park Senior Citizen Center Inc. Board, to discuss a potential partnership*

Monday, October 24th – 12:30p.m. – 18-hole Golf Course

Meeting adjourned at 2:12p.m.

Ken Czarnowski, Board President

Stanley Gengler, Board Secretary

Recorded by Heather Drees, EVRPD Senior Administrative Assistant

RECORD OF PROCEEDINGS

MINUTES OF BOARD WORK SESSION OF THE BOARD OF DIRECTORS OF ESTES VALLEY RECREATION AND PARK DISTRICT

*Thursday November 10, 2016 – 12:00pm
Estes Park Golf Course Clubhouse
1480 Golf Course Road. Estes Park, CO 80517*

Present: Ken Czarnowski, Stan Gengler, Dave Kiser, Marie Richardson

Absent: Ron Duell - *Excused absence*

Staff: Tom Carosello, Mary Davis, Heather Drees, Kim Slininger, Annie Hanson, Matt Enrietta, John Feeney, Herb Loveall, Mark Miller, Jill Schladweiler,

Others: None

Prior notice of this meeting was given by posting a notice at the Town of Estes Park's Municipal Building, the Estes Park Public Library, Estes Valley Recreation and Park District's Administration Office, the Larimer County Clerk's Office in Estes Park, and the Boulder County Clerk's Office in Boulder.

Board President Czarnowski called the meeting to order at 12:09pm.

The purpose of this meeting was for the Board to further discuss the 2016 revised budget and the 2017 proposed budget with District managers.

Executive Director Tom Carosello, along with Mary Davis, Finance Director, presented key budget points to the Board and gave the Board an overview of the 2016 Revised Budget and the 2017 Proposed Budget. Each manager was asked to give an overview of plans, needs, and proposed budgets for their department. The Board discussed the budget with staff.

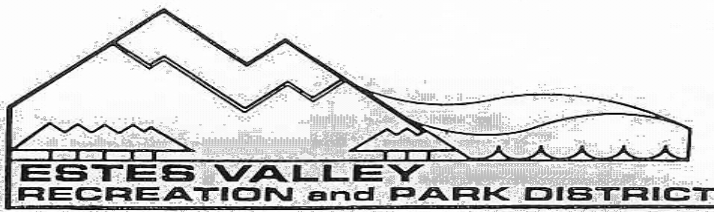
Since this was a work session, no action was taken.

Meeting adjourned at 2:02pm.

Ken Czarnowski, Board President

Stanley Gengler, Board Secretary

Recorded by Heather Drees, EVRPD Senior Administrative Assistant



NOVEMBER 29, 2016

AGENDA ITEM: 3

AGENDA TITLE: APPROVAL OF REGULAR (ACTION) AGENDA

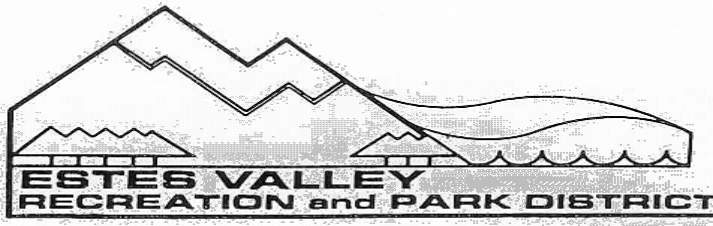
SUBMITTED BY: TOM CAROSELLO

THE ACTION AGENDA INCLUDES:

- 4. New Business**
 - A. Land Conveyance Agreement from Park School District (Discussion/Action)
 - B. Bank of Colorado Financial Agreement (Discussion)
 - C. Discussion of EVCC Alternates and GMP (Discussion)
- 5. Further Business**
 - A. Meetings to Schedule
- 6. Adjournment**

BOARD ACTION NEEDED:

A motion to (approve or modify) the action agenda, as presented.



Nov. 29, 2016

AGENDA ITEM: 4.A

AGENDA TITLE: LAND CONVEYANCE AGREEMENT WITH PARK SCHOOL DISTRICT

SUBMITTED BY: TOM CAROSELLO

BACKGROUND INFORMATION: Prior to the November 3, 2015 election, EVRPD and Estes Park School District R-3 executed a memorandum of understanding outlining the process for conveying approximately 6.49 acres of school district land (plus the aquatics center) to EVRPD in the event the community center ballot initiative passed.

The resulting conveyance documents, which include a restrictive covenant, facility use and development agreement and conveyance agreement, were jointly developed during the past year and approved by the Estes Park School District R-3 Board of Directors Nov. 18.

When approved, the documents will ratify the pre-election decision to transfer ownership of 6.49 acres of school district land and the aquatics center to EVRPD for development, construction and operation of the Estes Valley Community Center.

ATTACHMENTS:

- | | | |
|-------------------------------------|--|---|
| <input type="checkbox"/> Resolution | <input type="checkbox"/> Letters/Scope | <input checked="" type="checkbox"/> Other: Conveyance |
| <input type="checkbox"/> Report | <input type="checkbox"/> Minutes | Documents |
| <input type="checkbox"/> Contract | <input type="checkbox"/> Map | |

STAFF RECOMMENDATION: If acceptable to the Board, staff recommends approval of the conveyance documents.

BOARD ACTION NEEDED: A motion to approve the restrictive covenant, facility use and development and conveyance agreements with Estes Park School District R-3 for development, construction and operation of the Estes Valley Community Center.

Stan Gengler	Yes	No	Ron Duell	Yes	No
Ken Czarnowski	Yes	No	Dave Kiser	Yes	No
Marie Richardson	Yes	No			

AGREEMENT TO CONVEY REAL PROPERTY

THIS AGREEMENT TO CONVEY REAL PROPERTY (the "Agreement") is made and entered into as of the 30th day of November, 2016, by and between the **ESTES VALLEY RECREATION AND PARK DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado ("Recreation District"), and **PARK SCHOOL DISTRICT n/k/a ESTES PARK SCHOOL DISTRICT NO. R-3** a Colorado public school district and political subdivision ("School District"), individually referred to as "Party," and together referred to as the "Parties."

RECITALS

WHEREAS, the School District is the owner of the real property located in the County of Larimer, State of Colorado, comprising approximately 6.49 acres, more particularly described on Exhibit A, attached hereto and fully incorporated herein by this reference (the "Property"), and desires to convey the Property to Recreation District; and

WHEREAS, the Recreation District is offering to purchase the Property from the School District upon the terms and conditions set forth herein; and

WHEREAS, C.R.S. § 32-1-1001 provides that a special district may acquire real property to perform the functions and operations of the special district. Recreation District desires to purchase the real property to, among other lawful purposes, construct and operate a public recreation and community center on the Property ("Community Center").

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, incorporated herein by this reference, and the promises and agreements of the Parties contained herein, the sufficiency of which is hereby acknowledged by each of the Parties, School District and Recreation District do hereby promise and agree as follows:

1. Conveyance. School District shall convey the Property to Recreation District, and Recreation District shall accept the Property from School District, on the terms and conditions and for the consideration set forth in this Agreement and the Restrictive Covenant. The conveyance of the Property shall be by means of quitclaim deed.

2. Consideration. The consideration and inducement for the conveyance of the Property is the Recreation District's acceptance and assumption of certain requirements and use restrictions related to the use of the Property as more fully set forth in the Restrictive Covenant, which is attached hereto as Exhibit B and incorporated herein by this reference, and the grant to the School District of priority access to and right to use the Community Center free of charge for official School District or Board of Education functions as provided in the Facility Use and Development Agreement, which is attached hereto as Exhibit C and incorporated herein by this reference.

3. **Title.** Recreation District shall obtain, at Recreation District's sole expense, a current commitment from the Rocky Mountain Escrow & Title, Inc. (the "Title Company") for an ALTA owner's title insurance policy in an amount equal to the Purchase Price (the "Title Commitment"), together with a copy of any plats, declarations, covenants, conditions and restrictions burdening the Property and copies of any other documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions (together with the Title Commitment, the "Title Documents"). Title to the Property shall be quitclaimed by School District to Recreation District without any warranties and subject to the reservations described in Paragraph 4 herein (the "Quitclaim Deed"), in the form attached hereto as Exhibit D. Recreation District acknowledges and agrees that the Restrictive Covenant, in the form attached hereto as Exhibit B, shall be recorded by School District against the Property prior to Closing and delivery of the Quitclaim Deed.

4. **Reservations.** In the Quitclaim Deed, the School District shall expressly reserve to itself all minerals and mineral rights, including, without limitation, all oil, gas and other minerals underlying the Property and all royalty interests with respect to the Property; and all water rights and claims or title to water owned or used by School District that are appurtenant to the Property.

5. **Site Development.** After Closing, as provided in the Facility Use and Development Agreement, the Recreation District shall undertake and complete in a good and workmanlike manner and in compliance with all applicable federal and state laws, and rules, regulations, and ordinances of those jurisdictions having authority over the construction of the Community Center, the various improvements to the Property at no expense to School District.

6. **Access.** Recreation District, its agents, employees, contractors, or subcontractors may, at all times after the date hereof, at no charge to Recreation District, and until the earlier of the Closing or the termination of this Agreement, have the right of access to the Property to test, inspect, and evaluate the Property as Recreation District deems appropriate. Recreation District shall promptly restore any alterations made to the Property by Recreation District, or at School District's request made ten (10) days prior to the Closing, and Recreation District shall pay for all work performed on the Property by Recreation District, or at the Recreation District's request, as such payments come due. Any and all liens on any portion of the Property resulting from the actions or requests or otherwise shall be removed by Recreation District at its expense. Recreation District shall, at Recreation District's expense, to the extent permitted by law, defend, indemnify, and hold harmless School District from and against any and all obligations, claims, loss, and damage, including costs and attorneys' fees, resulting from or related to Recreation District's access to the Property prior to conveyance.

7. **School District's Representations.** School District hereby represents to Recreation District as of the date of this Agreement and as of the Closing as follows:

7.1 To the best of School District's knowledge, the Property is not in violation, nor has been or is currently under investigation for violation of any federal, state, or local laws, ordinances or regulations;

7.2 This Agreement has been and the documents executed by School District at Closing hereunder will be duly authorized, executed, and delivered by School District and School District has the full right, power, and authority to convey the Property to Recreation District as provided in this Agreement;

7.3 The persons executing this Agreement and all School District's closing documents on behalf of School District have and will have authority to do so;

7.4 The Property is not subject to real property taxation while in School District's ownership; no such taxes are presently due on the Property; and

7.5 Each of the representations made by School District in this Agreement, or in any document or instrument delivered pursuant hereto shall be true and correct in all material respects on the date hereof, and shall be deemed to be made again as and at the date of the Closing and shall then be true and correct in all material respects. The material truth and accuracy of each of the representations and the material performance of all covenants of School District contained in this Agreement are conditions precedent to the Closing.

8. Recreation District's Representations. Recreation District hereby represents to School District as of the date of this Agreement and as of the Closing as follows:

8.1 This Agreement is a legal, valid and binding obligation of Recreation District and is enforceable against Recreation District in accordance with its terms;

8.2 Recreation District is a park and recreation district duly formed and existing under the Colorado Special District Act, §§ 32-1-101, *et seq.*, C.R.S.;

8.3 This Agreement has been and the documents executed by Recreation District at Closing hereunder will be duly authorized, executed, and delivered by Recreation District and Recreation District has the full right, power, and authority to accept the conveyance of the Property from School District as provided in this Agreement; and

8.4 The persons executing this Agreement and all Recreation District's closing documents on behalf of Recreation District have and will have authority to do so.

9. As-is Condition. Recreation District understands and agrees that the Property is being sold strictly "AS IS, WHERE IS." The School District does not warrant the Property in any way.

10. Subdivision Costs. School District shall bear the cost of any subdivision process required to convey the land to Recreation District in an amount not to exceed \$1,000 ("Subdivision Costs"). Recreation District will assume the payment of any costs that exceed the Subdivision Costs.

11. Closing. The closing of the conveyance of the Property from School District to Recreation District (the “Closing”) shall take place on or before November 30, 2016 at a time and location mutually agreed upon.

11.1 At Closing, School District shall execute and deliver the Quitclaim Deed to Recreation District.

11.2 At Closing, School District shall deliver possession of the Property to Recreation District.

11.3 At Closing, the Recreation District shall execute and deliver to the School District the Restrictive Covenant and the Facility Use and Development Agreement.

11.4 At Closing, Recreation District shall pay all recording fees in connection with the Quitclaim Deed.

11.5 The Parties shall each do or cause to be done such other matters and things as shall be reasonably necessary to close the transaction contemplated herein. Recreation District shall pay all charges imposed by the Title Company to prepare the closing documents and provide similar closing services.

12. Potable Water and Sanitary Sewer Taps. School District shall transfer to Recreation District all water and sewer taps, if any, that the School District has obtained to service the Property.

13. Brokerage Commissions. Recreation District and School District each hereby warrant and represent to the other that it has not dealt with any broker in connection with the transaction contemplated herein.

14. Assignment. This Agreement shall be binding and effective on and inure to the benefit of the successors and assigns of the Parties hereto. Any assignment hereof shall be in writing and shall require the prior written consent of School District.

15. Attorneys’ Fees. In the event that a lawsuit is brought to enforce or interpret all or any portion of this Agreement, the prevailing Party in such suit shall be entitled to recover, in addition to any other relief available to such Party, reasonable costs and expenses, including, without limitation, reasonable attorneys’ fees, incurred in connection with such suit.

16. Remedies. In the event of any breach or default under this Agreement by either Party at or prior to Closing, the non-breaching Party may elect to treat this Agreement as terminated, or may elect to treat this Agreement as being in full force and effect and may seek specific performance from a court of competent jurisdiction.

17. Notices. Any notices provided or permitted to be given under this Agreement must be in writing and may be served (i) by depositing the same in the United States mail, addressed to the Party to be notified, postage prepaid, and registered or certified with return receipt requested,

which notice shall be deemed effective three (3) days after its deposit in the mail; (ii) by overnight, third party prepaid courier service requiring signed receipt, which notice shall be deemed effective as of the date of the signed receipt therefore at the recipient's address designated below; or (iii) by delivering the same in person to such Party, which notice shall be deemed effective as of the date of delivery to the recipient's address designated below. Either Party may change its address for notices by notice to the other Party as provided herein. For purposes of notice, the addresses of the Parties shall be as follows:

If to Recreation District:

Estes Valley Recreation and Park District
Attention: Board President
P.O. Box 1379
Estes Park, Colorado 80517

If to School District:

Estes Park School District No. R-3
Attention: Superintendent
1605 Brodie Avenue
Estes Park, Colorado 80517

18. Counterparts; Execution. This Agreement may be executed in counterparts and, when counterparts of this Agreement have been executed and delivered by both of the Parties hereto, this Agreement shall be fully binding and effective, just as if both of the Parties hereto had executed and delivered a single counterpart hereof.

19. Further Instruments. Each Party shall from time to time execute and delivery such further instruments as the other Party or its counsel may reasonably request to effectuate the intent of this Agreement.

20. Entire Agreement. This Agreement contains the entire understanding and agreement between the Parties only with respect to the subject matter hereof and supersedes all prior commitments, understandings, warranties, and negotiations regarding conveyance, all of which are by the execution hereof rendered null and void. No amendment or modification of this Agreement shall be made or deemed to have been made unless in writing, executed by the authorized agents of the Party or Parties to be bound thereby after approval has been obtained from the Board of Directors or Board of Education as the case may be.

21. Governing Law. The validity, interpretation and performance of this Agreement shall be governed by the laws of the State of Colorado.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below intending that it be valid and effective from and after the date first written above.

**PARK SCHOOL DISTRICT N/K/A
ESTES PARK SCHOOL DISTRICT NO. RE-3**

By: _____
Cody Walker, Board of Education President

Date: _____

ATTEST:

By: _____
Eric Adams, Board of Education Secretary

Date: _____

STATE OF COLORADO)
) ss:
COUNTY OF LARIMER)

The foregoing Agreement to Convey Real Property was acknowledged before me this 30th day of November, 2016, by Cody Walker, as President of the Board of Education, and Eric Adams, as Secretary of the Board of Education of Park School District n/k/a Estes Park School District No. R-3, School District.

WITNESS my hand and official seal.

My commission expires: _____.

[Seal]

Notary Public

**ESTES VALLEY RECREATION AND
PARK DISTRICT**

By: _____
_____, President of the Board of
Directors

Date: _____

ATTEST:

By: _____
_____, Board Secretary

Date: _____

STATE OF COLORADO)
) ss:
COUNTY OF LARIMER)

The foregoing Agreement to Convey Real Property was acknowledged before me this 30th day of November, 2016, by _____, as President of the Board of Directors, and _____, as Secretary of the Board of Directors of the Estes Valley Recreation and Park District.

WITNESS my hand and official seal.

My commission expires: _____.

[Seal]

Notary Public

EXHIBIT A

Legal Description of the Property

Lot 2
Estes Park Schools Subdivision
Town of Estes Park, County of Larimer, State of Colorado

EXHIBIT B

Restrictive Covenant

EXHIBIT C

Facility Use and Development Agreement

EXHIBIT D

Quitclaim Deed

When recorded return to:

Coulter M. Bump
Caplan and Earnest LLC
1800 Broadway, Suite 200
Boulder, CO 80302

RESTRICTIVE COVENANT

This Restrictive Covenant (“Covenant”) is made and entered into as of the 30th day of November, 2016, by the Park School District n/k/a Estes Park School District No. R-3, a public school district and political subdivision of the State of Colorado (the “School District”), 1605 Brodie Avenue, Estes Park, Colorado 80517, and is for the benefit of and enforceable by the School District.

WHEREAS, the School District is the owner and claims title to certain land in Larimer County, Colorado, consisting of approximately 6.49 acres, which is more particularly described on Exhibit A, attached hereto and incorporated herein (the “Property”); and

WHEREAS, the School District desires to convey the Property to the Estes Valley Recreation and Park District, a quasi-municipal corporation and political subdivision of the State of Colorado, existing as a park and recreation district under the constitution and laws of the State of Colorado (“Recreation District”), and in so doing wants to promote the best interests of the School District; and

WHEREAS, the School District desires to subject the Property to this Covenant in order to require the Property to be used as a public recreation and community center containing a competitive swimming and diving pool (“Community Center”), to prevent the Property, after conveyance, from being used for purposes prohibited by this Covenant, and to ensure that the School District is entitled to priority access to and use of the Community Center free of charge, all as more fully described herein; and

WHEREAS, after the recording of this Covenant in the real estate records of the County of Larimer, State of Colorado, this Covenant is to be binding upon the Recreation District and any subsequent buyer, devisee, transferee, grantee, owner or holder of title of the Property or any portion thereof, as well as upon any entity or person who leases the Property from the Recreation District.

NOW, THEREFORE, the School District incorporates the foregoing recitals and, as the owner of the Property, together with all rights and appurtenances thereto, for itself, its successors and assigns declares, creates and imposes the following land use covenants, restrictions and limitations on the Property, and any portion thereof, and declares that the Property shall, from and after the date of the recording of this Covenant with the Clerk and Recorder of the County of Larimer, hereinafter be subject to the terms and conditions of this Covenant. This Covenant shall run with the land and the Property, shall be binding upon the Property and shall be binding upon any subsequent owner of the Property, or any portion thereof, and its or their heirs, successors and assigns, and shall be for the benefit of the School District. Acceptance of a deed or other instrument of conveyance of the Property, or any portion thereof, shall constitute acceptance and approval of this Covenant and agreement to be bound by this Covenant without the necessity of expressly providing for such effect with respect to any particular provision herein.

1. Requirements and Restrictions. The Property shall be used solely for the purpose of constructing and operating the Community Center, which, at a minimum, shall include an aquatics center consisting of a competitive swimming and diving pool, which satisfies the standards and requirements of the applicable association or governing entity in Colorado for competitive swimming and diving facilities (including storage of all related School District swimming/diving equipment) that the School District can use free of charge. The Property shall not be used: (i) for any purpose not authorized by law; (ii) for private development; or (iii) for the operation of a private or public preschool or any combination of grades kindergarten through twelfth grade education program including, but not limited to a public, charter, on-line or private school, that would compete, directly or indirectly, with the School District for any combination of preschool through twelfth grade students.

2. Facility Use. As part of the inducement and consideration for the School District to convey the Property to the Recreation District, the School District shall have and enjoy priority access to and use of the competitive swimming and diving pool portions of the Community Center, including pool equipment storage (“Priority Use Facilities”) and access to and use of the other portions of the Community Center, including without limitation, meeting space, gymnasiums, weight rooms and locker rooms (collectively the “Scheduled Use Facilities”) pursuant to the Facility Use and Development Agreement attached hereto as Exhibit B and incorporated herein by this reference, for so long as the School District elects to access and use the Community Center or until such time as the parties mutually agree to terminate any then applicable facility use agreement but, in no event, shall the Recreation District have the right to unilaterally terminate or significantly restrict the School District’s priority access and use of the Priority Use Facilities or access to and use of the Scheduled Use Facilities. The School District shall have access and use of the Community Center for official School District or Board of Education functions including, but not limited to, meetings of administrative groups, PTA/PTOs, and other School District groups; athletic and academic events; leagues; tournaments; practices; and other School District-sponsored activities and events related to instructional programs pursuant to the attached Facility Use and Development Agreement. Usage of the Scheduled Use Facilities shall be in accordance with the schedule coordinated with the Recreation District pursuant to the attached Facility Use and Development Agreement. The School District shall have access to and the right to use the Priority Use Facilities and the Scheduled Use Facilities for official School District activities free of charge for forty (40) years after the date of conveyance of the Property.

3. Binding Effect. Until released or modified by the School District, this Covenant shall run with the land constituting the Property and shall be binding upon any transferee, grantee, or any future owner of the Property or any portion thereof and upon any lessee or licensee of all or any portion of the Property (collectively “Lessee”). Any transferee, grantee, or any future owner of all or any portion of the Property and any Lessee thereof shall be subject to this Covenant and by acceptance of a deed or instrument of conveyance or lease or license, the transferee, grantee or any future owner of all or any portion of the Property or any Lessee thereof, shall be deemed to have consented to this Covenant and the restrictions contained herein.

4. First Right to Purchase and Right of First Refusal.

4.1 The School District shall have the first right to purchase the Property in the event the Recreation District or its successor decides to sell. The Recreation District shall notify the School District in writing of its intent to sell together with the asking price. The School District shall have ten (10) business days to accept in writing the terms put forth by the Recreation District and shall

have an additional thirty (30) days to negotiate a binding purchase and sale agreement with the Recreation District. Both parties agree to negotiate in good faith. If the School District chooses not to accept the Recreation District's price and/or terms, the first right shall terminate. Nothing contained herein shall affect the provisions of Paragraph 4 above, which provisions shall nevertheless remain in full force and effect.

4.2 If the Recreation District or its successor receives a bona fide offer to purchase the Property from a third party, the Recreation District shall immediately notify the School District in writing of such offer and provide a copy. The School District shall have fifteen (15) days to notify the Recreation District in writing of its election to purchase the Property on the same terms and closing shall occur as provided in the original offer unless otherwise modified by the Recreation District and the School District. In the event the School District does not elect to purchase the Property, the provisions of Paragraph 4 above shall nevertheless remain in full force and effect.

4.3 The Parties acknowledge and agree that any lease-purchase financing involving all or a portion of the Community Center that the Recreation District obtains to finance the construction of the Community Center shall not be deemed an offer to sell and shall be exempt from the provisions of this Paragraph 4, notwithstanding the possible conveyance of the Property, in order to implement such lease-purchase financing transaction. All such lease-purchase financing agreements shall provide for the re-conveyance of the Property and/or Community Center to the Recreation District at the expiration of the lease.

5. Restrictions are for the Benefit of the School District. This Covenant and the restrictions contained herein are for the direct benefit of the School District and its successors and assigns, and shall be binding upon and inure to the benefit of the School District and its respective successors and assigns, and any parties claiming under the School District or its successors and assigns.

6. Enforcement. This Covenant may be enforced by the School District, its successors or assigns, and enforcement may be made by any lawful means, including, without limitation, suit for injunctive relief and damages. The prevailing party in such suit shall be entitled to recover its costs and reasonable attorney's fees. Venue for any suit to enforce compliance with this Covenant shall be proper in the District Court for the County of Larimer, State of Colorado.

7. Miscellaneous Provisions.

7.1 Severability. Whenever possible, each provision of this Covenant and any other related document shall be interpreted in such a manner as to be valid under applicable law; but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of such document.

7.2 Waiver. No claim of waiver, consent of acquiescence with respect to any provision of this Covenant shall be valid except on the basis of a written instrument executed by the officers of the Board of Education of the School District and recorded in the real estate records for Larimer County.

7.3 Modifications. Any modifications of this Covenant shall be effective only when made by writings approved by the Board of Education and signed by the officers of the Board of

Education of the School District and recorded with the Clerk and Recorder of Larimer County, Colorado.

7.4 Governing Law. This Covenant, and each and every related document, is to be governed and construed in accordance with the laws of the State of Colorado.

7.5 Successors. Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the School District and its grantees, transferees, successors and assigns.

7.6 Section Headings. Paragraph or section headings within this Covenant are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

7.7 Owner and Successors. The term "Owner" shall mean the person or persons who shall acquire an ownership or leasehold interest in the Property, or any portion thereof, subject to this Covenant; it being understood that such person or persons shall be deemed an "Owner" hereunder only during the period of his, her or their ownership or leasehold interest in the Property, or any portion thereof, and shall be obligated hereunder for the full and complete performance and observance of all covenants, conditions and restrictions contained herein during such period.

**PARK SCHOOL DISTRICT n/k/a
ESTES PARK SCHOOL DISTRICT NO. R-3**

By: _____
Cody Walker, Board of Education President

ATTEST:

By: _____
Eric Adams, Board of Education Secretary

STATE OF COLORADO)
) ss:
COUNTY OF LARIMER)

The foregoing Restrictive Covenant was acknowledged before me this 30th day of November, 2016, by Cody Walker, as President of the Board of Education, and by Eric Adams, as Secretary of the Board of Education of Park School District n/k/a Estes Park School District No. R-3.

WITNESS my hand and official seal.

My commission expires: _____.

[Seal]

Notary Public

EXHIBIT A

Legal Description

In the Town of Estes Park, County of Larimer, State of Colorado:

Lot 2

Estes Park Schools Subdivision

EXHIBIT B

Facility Use and Development Agreement

FACILITY USE AND DEVELOPMENT AGREEMENT

THIS FACILITY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into as of the 30th day of November, 2016 (the "Effective Date"), by and between Park School District n/k/a Estes Park School District No. R-3, a public school district and political subdivision of the State of Colorado ("School District"), and Estes Valley Recreation and Park District, a quasi-municipal corporation and political subdivision of the State of Colorado ("Recreation District"), individually referred to as "Party," and together referred to as the "Parties."

RECITALS

WHEREAS, pursuant to an Agreement to Convey Real Property dated November 30, 2016, the School District conveyed real property legally described as Lot 2, Estes Park Schools Subdivision, in the Town of Estes Park, County of Larimer, State of Colorado ("Property") to the Recreation District;

WHEREAS, the Recreation District plans to build and operate a recreational and community center on the Property, including gymnasiums, performance space, weight room, meeting space, and an aquatics center consisting of a competitive swimming and diving pool and leisure pool (the "Facility"); and

WHEREAS, the School District intends to use the Facility for certain official School District activities or Board of Education functions as described herein; and

WHEREAS, as part inducement and consideration for the School District to convey the Property to the Recreation District, the Recreation District agreed to grant the School District the rights provided in this Agreement and agreed that such obligations would be binding upon the Recreation District and any subsequent buyer, devisee, transferee, grantee, owner or holder of title of the Property or any portion thereof, as well as upon any entity or person who leases the Property from the Recreation District in accordance with the Restrictive Covenant executed by the School District on November 30, 2016, which is incorporated herein by this reference; and

WHEREAS, the Recreation District agreed to provide for such use of its Facility by the School District, subject to the terms and conditions set forth in this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by this reference, the mutual promises and covenants contained herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

1. Purpose and Facility. This Agreement sets forth the terms and conditions by which the School District may use the Facility for its school programs. The School District

anticipates using the competitive swimming and diving pool (“Priority Use Facilities”) within the Facility and certain portions of the Facility for meetings of administrative groups, PTA/PTOs, and other School District groups; athletic and academic events; leagues; tournaments; practices; and other District-sponsored activities and events related to instructional programs (“Scheduled Use Facilities”).

2. Term. The Agreement shall commence upon the effective date set forth above and shall be in full force and effect until terminated by the School District or upon the mutual agreement of the Parties as set forth in Paragraph 8 of this Agreement.

3. Operation of the Facility. The Recreation District, at Recreation District’s cost and expense, shall own and operate the Facility in accordance with applicable law.

4. Facility Usage Fees. The Recreation District agrees to waive all fees and charges for the School District’s use of the Facility under this Agreement for the period of 40 years after final completion of the construction and opening of the Facility to the public (“Free Period”). At least sixty (60) days prior to the expiration of the Free Period, the Parties shall meet and agree upon a reasonable charge for the School District’s continued use of the Facility.

5. Use of Facility.

5.1 At a minimum, the School District shall have priority access to and use of the Priority Use Facilities for the activities and purposes outlined on Exhibit A.

5.2 Within ten (10) days of the issuance of the Certificate of Occupancy, the Parties, through their designated representatives, shall develop a schedule for School District’s use of the Priority Use Facilities consistent with Paragraph 5.1. When the Priority Use Facilities are not scheduled for the School District’s use, then the Recreation District can schedule the Priority Use Facilities for its own programming. In addition, the Parties shall annually develop a schedule for the School District’s use of the Scheduled Use Facilities as identified in Exhibit B.

5.3 The Executive Director of the Recreation District and the Superintendent of the School District, or their designees, by mutual agreement, may modify the schedules developed pursuant to Paragraph 5.2 above.

5.4 In developing the schedule for the Priority Use Facilities, the School District shall have priority over the Recreation District and all other potential users in using the Priority Use Facilities for School District competitions, events, activities, practices, programs, and maintenance. In addition, notwithstanding the schedule developed pursuant to Paragraph 5.2, the School District shall have priority over the Recreation District and all other potential users in using the Priority Use Facilities if previously scheduled competitions, events, and activities must be rescheduled due to unforeseen circumstances such as weather, or when the Priority Use Facilities are required for state playoff competitions.

5.5 The School District shall comply with Recreation District’s rules and applicable law in its use of the Facility, including the Priority Use Facilities and the Scheduled Use Facilities.

5.6 If the School District has reserved the Priority Use Facilities or the Scheduled Use Facilities and later becomes aware that it no longer needs to use such space or spaces within the Facility, it will notify the Recreation District to free up the Facility for other users and to avoid any unnecessary set up by the Recreation District.

5.7 Visitors to the School District or users of the Facility on behalf of the School District may use parking lots adjacent to the Facility for motor vehicle and bicycle parking on a “first come, first served” basis.

5.8 The Recreation District shall install ten (10) parking spaces on its Property in the location agreed to by the School District, which shall be for the School District’s exclusive, perpetual use. The spaces will be marked with signage stating that such parking spaces are “Reserved for School District Use Only” or otherwise indicating that the spaces are to only be used by School District staff or visitors. The Recreation District, with the School District’s cooperation, shall enforce these parking requirements. Such reserved spaces shall be transferred to any substitute parking lot in the event of expansion, relocation, or modification of the initial parking area.

6. Advisory Committee. The Recreation District shall allow at least one School District representative to participate in any meetings relating to the planning and development of the Facility. The Recreation District shall solicit the School District’s feedback concerning the design, construction and ongoing operation of the Facility.

7. Site Development.

7.1 After conveyance of the Property to the Recreation District and no later than December 31, 2017, the Recreation District shall undertake and complete in a good and workmanlike manner and in compliance with all applicable federal and state laws, rules, regulations, and ordinances of those jurisdictions having authority over the construction of the Facility, the various improvements to the Property at no expense to School District (collectively hereinafter referred to as the “Improvements”):

7.1.1 Recreation District shall construct a new entrance to the one-way road that commences at the intersection of Community Drive and Manford Drive and connect the road to the existing bus loop;

7.1.2 Recreation District shall build a fence between the elementary school on the School District’s property and the center of the west side of the parking lot to be constructed on the Property;

7.1.3 Recreation District shall install ten (10) parking spaces on its Property near the elementary school in the location agreed to by the School District, which shall be for the School District’s exclusive, perpetual use;

7.1.4 Recreation District shall install a new entrance to the bus loading area;

7.1.5 If, during construction of the Facility, Recreation District determines that the School District's irrigation lines along Community Drive would be affected by Recreation District's construction, then Recreation District shall incur all costs and assume the sole responsibility of relocating the irrigation lines to an appropriate, alternate location acceptable to the School District in School District's discretion;

7.1.6 School District has agreed to allow Recreation District to connect to its sewer line, but Recreation District shall assume all costs, responsibility, and liability associated with the establishment, ongoing maintenance, and usage of the sewer connection; and

7.1.7 Recreation District shall install, paint, and maintain pedestrian crosswalks and signage in the area between the school buildings, the Facility, and the new bus entrance.

7.2 Prior to commencing initial construction or any repairs on or modifications to the Improvements, the Recreation District shall submit to the School District copies of all drawings, plans, specifications and other construction documents, detailing the proposed design of the Improvements as requested by the School District. The Parties shall meet as necessary to revise the final plans to address any concerns of the School District. The final plans detailing the construction or repair of or modifications to the Improvements shall be considered complete on such date as the School District has issued written approval of same, and the Recreation District may then proceed with the work.

7.3 The School District shall be permitted to periodically inspect the Recreation District's construction of the Improvements.

7.4 Upon completion of the construction of the Improvements or repairs or modifications thereto, the Recreation District shall provide to the School District a letter from a registered professional architect or engineer stating that said Improvements are fully completed and installed in accordance with this Agreement, applicable federal and state laws, and rules, regulations, and ordinances of those jurisdictions having authority over the construction of the Facility.

7.5 If the School District determines that the construction of all Improvements is not complete, or if complete, that they are deficient in any respect, the School District shall inform the Recreation District of the deficiencies and the Recreation District shall repair any deficiencies within a reasonable time.

8. Maintenance; Alterations. Maintenance and repairs to the Facility and Improvements due to wear, periodic replacement, vandalism, or damage shall be the responsibility of Recreation District, except to the extent vandalism or damage is caused by School District's permitted users in which case repairs shall be the responsibility of the School District. The Recreation District shall also be responsible for performing all snow removal as necessary to maintain the Improvements. Maintenance and repairs shall be performed in a timely manner. Each Party shall be responsible for all maintenance and repairs to that Party's apparatus and equipment.

Prior to making any alterations to the dimensions, color, clarity, markings, water level, lane markers, backstroke flags, bulkhead, diving board, water temperature, and chemical balance of the swimming and diving pool, the Recreation District shall notify and obtain the School District's written approval of such alterations.

9. Liability.

9.1 Neither Party shall be responsible or liable for injury to persons or damage to property arising out of or related in any way to the occupancy or use of the Facility by the other Party. To the extent permitted by law, each Party agrees to indemnify and hold harmless the other Party, its officers and employees from and against all liability, claims, demands and expenses, including court costs and attorney fees, on account of any injury, loss, or damage that arises out of or is related to its use or occupancy of the Facility under this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by the acts, errors, or omissions of the Party, any contractor, subcontractor, or subconsultant of the Party, or any of its officers, employees, agents, invitees, servants, successors, or assigns. The Parties hereto understand and agree that both Parties, their respective officers, employees, and agents are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 et seq., as from time-to-time amended, or otherwise available by other provision of law to either Party, their officers, or their employees.

9.2 The Parties agree that neither assumes any responsibility hereunder for providing supervision for participants, employees, or volunteers for any activities or programs under the control of, sponsored by, or conducted by the other Party's use of the Facility. During the period that any portion of the Facility is being used by a Party in a sponsored activity or program, the using entity in each instance shall be responsible for all necessary supervisory or instructional personnel required for such activities and programs.

9.3 The Recreation District certifies that it is insured for property and general liability, with limits and coverages as specified below and shall be written on an occurrence form:

General Aggregate	\$2,000,000
Products - Completed Operations Aggregate	\$2,000,000
Each Occurrence	\$1,000,000
Personal Injury	\$1,000,000

A Certificate of Insurance will be provided to the School District describing the insurance policy terms and naming the School District as an additional insured for the facilities covered by this Agreement. Such policies shall include terms providing that the policy shall not be cancelled or modified without providing thirty (30) days prior written notice to the School District. The School District shall be given a full copy of such insurance policies at any time upon request.

9.4 The School District agrees to immediately notify the Recreation District of any defects or potential defects, dangerous conditions or potential dangerous conditions, claims or potential claims from damage or injury that come to its attention in connection with its usage.

Upon receipt of such notice, the Recreation District shall take prompt action to remedy the same. Within fifteen (15) days after any litigation is commenced against either Party that contains allegations against the other, the Parties will meet to explore efficiencies and determine the course of action in providing a defense, including but not limited to the potential for a joint defense.

9.5 In the use of the Facility, its grounds and equipment under this Agreement, the School District agrees to comply with all applicable federal, state and local laws, regulations, and orders, and to abide by all rules, regulations, and policies established for the use of the Facility.

9.6 In the event of a default in the performance of any material term of this Agreement, the non-defaulting Party shall have such remedies as may be available at law or equity, including the remedy of specific performance.

10. Termination. Upon written notice, the School District may terminate this Agreement in whole or in part if it determines, in its sole discretion that termination is in the School District's best interests. Pursuant to the Restrictive Covenant, the Recreation District may not terminate this Agreement.

11. Miscellaneous.

11.1 This Agreement contains the entire understanding of the Parties and supersedes all prior understandings, agreements, or representations by or between the Parties, whether oral or written, that in any way relate to the specific subject matters of this Agreement.

11.2 Neither Party shall extend the faith or credit of the other Party to any third person or entity.

11.3 This Agreement shall be binding upon the Parties and their successors in interest.

11.4 Any notice required by this Agreement shall be in writing, made by hand-delivery or certified mail, return receipt requested, and addressed to the following:

ESTES PARK SCHOOL DISTRICT NO. R-3
Attn: Superintendent
1605 Brodie Avenue
Estes Park, Colorado 80517

ESTES VALLEY RECREATION AND PARK DISTRICT
Attn: Executive Director
P.O. Box 1379
Estes Park, Colorado 80517

Notice given by hand-delivery shall be effective immediately and notice by mail shall be effective three (3) days after it is deposited in the United States mail depository correctly addressed with sufficient postage for delivery.

11.5 The rights and obligations of the Parties under this Agreement shall be interpreted and construed in accordance with Colorado law.

11.6 The Parties represent that the individuals signing this Agreement on their behalf possess full power and authority to do so in compliance with Colorado law.

11.7 No waiver of any right under this Agreement shall operate as, or be construed to be, a waiver of any subsequent breach of the same or any other provision of this Agreement.

11.8 No provision of this Agreement shall be assigned by either Party without prior written consent of the non-assigning Party.

11.9 Each Party agrees to perform all other acts and execute and deliver all other documents as may be necessary or appropriate to carry out the intent and purposes of this Agreement.

11.10 To the extent this Agreement is construed to create any multiple-fiscal year direct or indirect financial obligation on the part of either Party, such obligation is agreed to be subject to annual budgeting and appropriation.

11.11 Paragraph or section headings within this Agreement are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

11.12 This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. For purposes of executing this Agreement, facsimile or scanned signatures shall be as valid as the original.

11.13 Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the District.

11.14 If any provision of this Agreement is ruled to be invalid or illegal, such ruling shall have no effect upon the remaining provisions, which shall be considered legally binding and given full effect.

11.15 No changes, alterations or modifications to any of the provisions hereof shall be effective unless contained in a written agreement signed by both Parties.

11.16 Except as otherwise provided herein, nothing contained in this Agreement shall alter or affect the terms of any other facility use agreements executed by the Parties, unless the other facility use agreement concerns the same subject matter herein, in which case the Parties agree that execution of this Agreement shall terminate the conflicting facility use agreement, rendering it void and of no effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first written above.

**PARK SCHOOL DISTRICT n/k/a ESTES PARK
SCHOOL DISTRICT NO. R-3**

By: _____
Cody Walker, Board of Education President

**ESTES VALLEY RECREATION AND PARK
DISTRICT**

By: _____

Name: _____

Title: _____

EXHIBIT A
Priority Use Facilities

Swimming and Diving Pool Required Activities

The swimming and diving pool shall satisfy the standards and requirements of the applicable association or governing entity in Colorado for competitive swimming and diving facilities and shall have sufficient storage facilities for all related School District swimming/diving equipment.

- August 1 through May 30, the School District shall have exclusive use of the Priority Use Facilities from 4:30 p.m. to 6 p.m., or an equivalent at minimum 2.5-hour block of time to be determined and scheduled by the Parties. Prior to 4:30 p.m., the School District may use up to three adjoining lanes of the Priority Use Facilities in cooperation with the Recreation District's Watercats program.
- During home athletic competitions, events, and activities the School District shall have access to the Priority Use Facilities area between 2 p.m. and close of business on the day of the event, if such event falls on a Monday through Friday. If the event falls on a Saturday, then the School District shall have access to the Priority Use Facilities from the time the Community Center opens to the public through until it closes to the public, or until sixty (60) minutes after the event concludes, whichever occurs first.
- The Priority Use Facilities will be available during the school day for use by the School District's physical education classes, as notified by the School District after course schedules have been created.
- The School District shall be allowed to host the "pool parties" within the Priority Use Facilities or in the leisure pool upon advance notice and scheduling with the Recreation District.
- During those times that the Community Center is otherwise open to the public, all full-time paid School District employees will have access to the Priority Use Facilities for lap swimming, open swim and fitness classes conducted within the Priority Use Facilities at no cost.
- All School District in-season athletes shall have access to locker rooms at no cost to the athlete or the School District during that athletic season.
- Recreation District will make available to all School District programs the kick boards, pull buoys, and fins.

EXHIBIT B
Scheduled Use Facilities

Gymnasium:

School District may use the gymnasium in the Community Center at no charge for District athletic competitions and practices in accordance with the mutually agreed upon scheduling requirements.

Meeting space:

School District may use the meeting space in the Community Center at no charge for community meetings sponsored by the School District in accordance with the mutually agreed upon scheduling requirements.

Performance space:

School District may use the performance spaces of the Community Center at no charge for School District performances and practices in accordance with the mutually agreed upon scheduling requirements.

Weight Room/indoor track:

School District may use the weight room and indoor track in the Community Center at no charge in association with athletic programs in accordance with the mutually agreed upon scheduling requirements

Locker rooms:

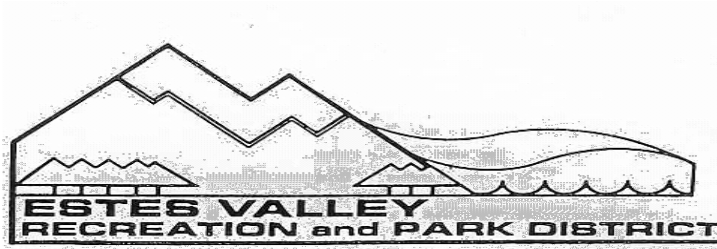
The locker rooms immediately adjacent to the Priority Use Facilities shall be used by the School district at no cost during swim/dive team seasons. Other locker rooms of the Community Center shall be made available for the School District's use at no charge when used in conjunction with a school group/team event.

Golf simulators:

School District may use the golf simulators in the Community Center at no charge for athletic programs in accordance with the mutually agreed upon scheduling requirements.

General facility use:

During the School District's athletic seasons, all student athletes may use the Community Center at no charge during that athletic participant's sport's season. During all other times, students and School District staff shall receive discounted memberships for use of the Community Center.



NOVEMBER 29, 2016

AGENDA ITEM: 5A

AGENDA TITLE: MEETINGS TO SCHEDULE

SUBMITTED BY: TOM CAROSELLO

UPCOMING MEETINGS:

- December 8, 2016 Special Board Meeting to Adopt 2017 Budget
- December 20, 2016 Regular Board Meeting - CANCELLED

ATTACHMENTS:

None

BOARD ACTION NEEDED: