

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS

OF

WESTERLY CREEK METROPOLITAN DISTRICT

Held: Wednesday, February 5, 2020 at 8:00 A.M. at 7350 East 29th Avenue, Suite 200, Denver, Colorado.

ATTENDANCE

The meeting was held in accordance with the laws of the State of Colorado. The following directors were in attendance:

Katie Dell
Justin Ross
Tom Downey

All directors' absences are deemed excused unless otherwise noted in these minutes.

Also present were:

- Megan J. Murphy, Esq. and Jennifer Tanaka, Esq., WHITE BEAR ANKELE TANAKA & WALDRON, Attorneys at Law, District General Counsel;
- Andrew Johnston, City and County of Denver Finance Department;
- Shannon Gifford, City and County of Denver Mayor's Office
- Kim Kucera, CRL Associates, Inc.; Lobbyist for Park Creek Metropolitan District
- Tasha Jones, Brookfield Properties Development

ADMINISTRATIVE MATTERS

Call to Order
Declaration of Quorum and Confirmation of Director Qualifications

The meeting was called to order.

A quorum for the Board was confirmed present and the director's qualifications to serve were also confirmed.

Reaffirmation of Disclosures of Potential or Existing Conflicts of Interest

Ms. Tanaka advised the Board that, pursuant to Colorado law, certain disclosures might be required prior to taking official action at the meeting. Ms. Murphy reported that disclosures for those directors with potential or existing conflicts of interest were filed with the Secretary of State's Office and the Board at least 72 hours prior to the meeting, in accordance with Colorado law, and those disclosures were acknowledged by the

Board. Ms. Murphy noted that a quorum was present and inquired into whether members of the Board had any additional disclosures of potential or existing conflicts of interest with regard to any matters scheduled for discussion at the meeting. No additional disclosures were noted. The Board determined that the participation of the members present was necessary to obtain a quorum or to otherwise enable the Board to act.

Approval of Agenda

The Board was presented with the proposed agenda for the meeting. Following discussion, upon motion of Ms. Dell, seconded by Mr. Downey, the Board unanimously approved the agenda.

PUBLIC COMMENT

Ms. Tanaka inquired with Ms. Gifford whether the Mayor has any feedback from the City and County of Denver (“Denver”) for Westerly Creek Metropolitan District (“WCMD”). Ms. Gifford noted that there has been conversation from high level staffers including a conversation with Mr. Downey, Mr. Marchman, and Mr. Salazar in the Spring or Summer of 2019. Mr. Downey noted he felt that his request to have democratically elected representation on the Park Creek Metropolitan District (“PCMD”) Board was explained and Mr. Downey understood that Mr. Marchman was handling the appointment. Since then nothing has happened.

CONSENT AGENDA

The Board was presented with the consent agenda items. Upon motion of Mr. Downey, seconded by Ms. Dell, the Board unanimously took the following actions:

- a. Minutes from December 5, 2019, Special Meeting
- b. Engagement Letter with Hiratsuka & Associates, L.L.P. for 2019 Audit Services
- c. Unaudited Financial Statements for November 30, 2019

SDC UPDATE

Ms. Murphy presented the SDC Reduced Operations Plan to the Board for review. She noted that this is the approved plan from the SDC meeting on January 23, 2020.

Mr. Downey presented his summary of the Citizens Advisory Board (“CAB”) meeting and noted that the CAN Board is in favor of democratic representation on the PCMD Board and wants to study the issue. He noted at the SDC meeting, there was discussion regarding the appointment of a Stapleton resident to the PCMD Board and that the Reduced Operations Plan was approved but noted that there is no timeline set forth in the Plan. Mr. Downey also explained that PCMD decided to issue bonds without the WCMD issuing a No Litigation Certificate. It was noted that the same issues happened in the SDC meeting and Mr. Harris was not responsive the request to appoint a resident to the PCMD Board.

Ms. Tanaka provided an update to the Board. She agreed that there was discussion regarding the current representation on the PCMD board and noted that SDC, the City of Denver and Brookfield Properties all have the agreements regarding who is appointed to the Board. She explained that PCMD has also overqualified the number of people on the Board. Ms. Tanaka confirmed with Ms. Gifford that the Mayor wanted this addressed by the end of the year and Ms. Gifford confirmed that was the message given at a previous meeting. Ms. Tanaka also noted that PCMD declined to add a discussion with WCMD regarding the Board Appointment Letter on the January 23, 2020 agenda but Mr. Cockrel did note he would add it to the February 27, 2020 meeting agenda.

Ms. Tanaka noted that the PCMD Board discussed parking regulations at the January 23, 2020 meeting even though no one on the PCMD Board lives within WCMD.

Mr. Downey commented that there shouldn’t be any pushback from Brookfield regarding having the majority of control because WCMD is only asking for one seat on the PCMD Board. He also noted he doesn’t trust Mr. Cockrel due to an ethics complaint and his history of favoring developers rather than residents.

Ms. Dell asked Ms. Tanaka to explain how the over qualification came to her attention. Ms. Tanaka noted that by law you can only qualify the number of people required the fill vacancies. She explained that Mr. King noted during the PCMD meeting's public comment period that there are three city representatives and three Brookfield Properties representatives and their spouses qualified as electors for PCMD. Ms. Tanaka stated that when these issues continuously get brought up they are simply ignored. Ms. Dell asked what can happen if the Board is overqualified. Ms. Tanaka responded that if PCMD goes to election, WCMD can challenge the election.

Ms. Dell asked what Ms. Jones thought of this. Ms. Jones explained that Brookfield Properties only has two representatives serving on the PCMD Board and noted that she doesn't view this as having control of the Board and that Brookfield does want representation on the Board. Ms. Dell responded that Brookfield Properties is not helping the situation by allowing Mr. Harris to run this.

Mr. Ross noted that he would like an update from the Mayor's office regarding why they would there is no urgency on this issue. Mr. Downey noted that the WCMD Board has pushed for a phased approach to representation starting with one out of five seats held by a resident so that when the Developer is gone, it is an all resident run Board.

Ms. Gifford asked how the WCMD elections had gone in the past. Mr. Downey noted that in the beginning it was the same people on both PCMD and WCMD Boards and the meetings were back to back. Once Northfield was build there were financial issues and the public found out about WCMD Board and three residents ran for the first time in 2014. Ms. Tanaka noted that currently we are Calling for Nominations in the *Denver Daily Journal* for the May 2020 election. She explained that in the May 2018 election, Mr. Teegarden entered his name into the election and did not withdraw his name officially until the ballots were printed but had not been mailed. Mr. Downey explained that he had multiple conversations with Mr. Teegarden regarding withdrawing his name to avoid additional costs to WCMD.

Ms. Dell asked Ms. Gifford for the Mayor's Office to step in and for Brookfield Properties to provide support to this matter. Ms. Jones requested the Board discuss ex officio board residents to PCMD. Ms. Tanaka noted that this was discussed but not an option because ex officio persons cannot vote and are not privy to confidential and privileged discussions. Mr. Downey noted that would only be beneficial short term anyways and noted WCMD is looking for more of a long term solution. Ms. Tanaka noted that WCMD does not want development to stop, wants bonds to be issued, and inclusions to be processed, they are simply wanting one seat on the PCMD Board to provide a voice to the residents.

Mr. Downey noted that he heard from Mr. King that when all the developer advanced debt is repaid, then PCMD will be more willing to allow a resident on the Board. Ms. Tanaka noted that that is expected to happen in four to six years. Mr. Johnston explained that the WCMD ought to be looking at this as a transition plan. He noted that SDC has qualified individuals, PCMD has taxpayer representation because Brookfield Properties is represented and they are the biggest taxpayer. He stated that 2020 is not the year for this transition but eventually there will be residential representation on the PCMD Board.

Mr. Downey stated that asking for one seat on the Board is the lowest end of what WCMD could ask for. He noted he thinks Brookfield does a great job but does have a lot of control over Stapleton MCA and PCMD. Ms. Jones noted that Brookfield no longer has control over Stapleton MCA. Mr. Downey replied noting they have a plurality of seats.

Ms. Dell asked how WCMD should move forward. Ms. Tanaka stated that have heard rumors that Mr. Moye may not running in the May 2020 election and that politically it would be a bad move to appoint someone else to the PCMD Board. Ms. Dell asked Ms. Gifford to talk to the Mayor and let us know. Mr. Downey noted that Mr. Ross would be a perfect candidate as he lives within WCMD.

**MATTERS RELATED TO
PARK CREEK
METROPOLITAN
DISTRICT**

Update from Park Creek None.
Metropolitan District

Discuss Volunteers for Attendance at Next Park Creek Metropolitan District Meeting Ms. Dell and Mr. Downey noted they would attend the next PCMD Meeting on February 27, 2020.

LEGAL MATTERS

Discuss May 5, 2020 Election Ms. Murphy provided an update to the Board. It was noted that there are three seats up and explained the process for submitting names.

EXECUTIVE SESSION

Regarding determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, instructing negotiators and matters subject to legal advice (§§ 24-6-402 (4)(b) and (e), C.R.S.) regarding legal services and related matters. Upon motion of Mr. Downey, and upon an affirmative vote of at least two-thirds of the quorum present, the Board convened in executive session at 9:05 A.M. for the purpose of obtaining legal advice related to the SDC Reduced Operations Plan.

Pursuant to § 24-6-402(2)(d.5)(II)(B), C.R.S., no record will be kept of the portion of this executive session that, in the opinion of WCMD’s attorney, constitutes privileged attorney-client communication pursuant to § 24-6-402(4)(b), C.R.S.

Also pursuant to § 24-6-402(4), C.R.S., the Board did not adopt any proposed policy, position, resolution, rule, regulation or take formal action during execution session.

The Boards reconvened in regular session at 9:39 A.M.

Following discussion, upon motion made by Ms. Dell and seconded by Mr. Downey, the Board unanimously approved establish a bank account at FirstBank and COLA trust account for WCMD. It was noted all revenues will flow to WCMD initially then back to PCMD with WCMD operations fund withheld.

Following discussion, upon motion made by Ms. Dell and seconded by Mr. Downey the Board unanimously approved the engagement of Mr. Marcus Lock of Law of the Rockies for legal services.

OTHER BUSINESS

Next Meeting The next regular meeting of WCMD is scheduled for February 19, 2020.

ADJOURNMENT

There being no further business to come before the Board, upon motion, second and unanimous vote, the meeting was adjourned.

The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

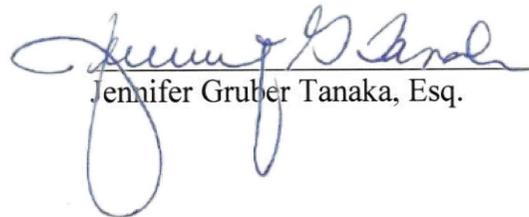


Justin Ross (Apr 29, 2020)

Secretary for the District

**ATTORNEY STATEMENT
REGARDING PRIVILEGED ATTORNEY-CLIENT COMMUNICATION**

Pursuant to Section 24-6-402(2)(d.5)(II)(B), C.R.S., I attest that, in my capacity as the attorney representing Westerly Creek Metropolitan District, I attended the executive session of Westerly Creek Metropolitan District convened at 9:05 A.M. on February 5, 2020 for the sole purpose of discussing the SDC Reduced Operations Plan as authorized by Section 24-6-402(4)(b), C.R.S.. I further attest it is my opinion that all of the executive session discussion constituted a privileged attorney-client communication as provided by Section 24-6-402(4)(b), C.R.S. and, based on that opinion, no further record, written or electronic, was kept or required to be kept pursuant to Section 24-6-402(2)(b), C.R.S. or Section 24-6-402(2)(d.5)(II)(B), C.R.S.



Jennifer Gruber Tanaka, Esq.

Westerly Creek Metro District - Execution Packet

Final Audit Report

2020-04-29

Created:	2020-04-28
By:	Abby Franz (afranz@wbapc.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAA_geN7G7kEU6pnBvUk8eUB-PLiad5JUaT

"Westerly Creek Metro District - Execution Packet" History

-  Document created by Abby Franz (afranz@wbapc.com)
2020-04-28 - 10:50:18 PM GMT- IP address: 172.221.97.10
-  Document emailed to Katie B Dell (kdell@rkmi.com) for signature
2020-04-28 - 10:51:43 PM GMT
-  Email viewed by Katie B Dell (kdell@rkmi.com)
2020-04-28 - 11:18:23 PM GMT- IP address: 107.2.148.66
-  Document e-signed by Katie B Dell (kdell@rkmi.com)
Signature Date: 2020-04-29 - 2:31:06 PM GMT - Time Source: server- IP address: 107.2.148.66
-  Document emailed to Justin Ross (jusross@stapletonmortgage.net) for signature
2020-04-29 - 2:31:07 PM GMT
-  Email viewed by Justin Ross (jusross@stapletonmortgage.net)
2020-04-29 - 2:32:16 PM GMT- IP address: 38.109.210.101
-  Document e-signed by Justin Ross (jusross@stapletonmortgage.net)
Signature Date: 2020-04-29 - 2:43:45 PM GMT - Time Source: server- IP address: 107.77.197.191
-  Signed document emailed to Justin Ross (jusross@stapletonmortgage.net), Katie B Dell (kdell@rkmi.com) and Abby Franz (afranz@wbapc.com)
2020-04-29 - 2:43:45 PM GMT