

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS

OF

WESTERLY CREEK METROPOLITAN DISTRICT

Held: Thursday, April 23, 2020 at 10:15 A.M. held at via Zoom Conferencing at 669-900-9128; meeting ID 121850.

Due to Executive Orders issued by Governor Polis and Public Health Orders implementing the Executive Orders, issued by the Colorado Department of Health and Environment (CDPHE), and the threat posed by the COVID-19 coronavirus, the meeting was held via teleconference.

**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  
David Ungemah

Director Thornton was absent. All 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;
- John Simmons, Simmons and Wheeler, P.C.; District Accountant;
- Andrew Johnston and Shannon Gifford, City and County of Denver; and
- Jan Bevier, Stapleton Development Corporation.

**ADMINISTRATIVE MATTERS**

Call to Order

Director Ungemah noted that a quorum of the Board was present and called the meeting to order.

Declaration of Quorum and Confirmation of Director Qualifications 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. Murphy 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 that provided White Bear Ankele Tanaka & Waldron with notice of 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 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 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 by Mr. Ungemah and seconded by Mr. Downey the Board unanimously approved the agenda as presented.

**PUBLIC COMMENT** None.

**CONSENT AGENDA** Ms. Murphy reviewed the items on the consent agenda with the Board. Ms. Murphy advised the Board that any item may be removed from the consent agenda to the regular agenda upon the request of any director. Upon a motion duly made and seconded, the following items on the consent agenda were unanimously approved, ratified and adopted:

- a. Minutes from February 5, 2020, Special Meeting
- b. Minutes from February 27, 2020, Special Meeting
- c. Resolution No. 2020-04-01: Establishing an Electronic Signature Policy
- d. Resolution No. 2020-04-02: Declaring Emergency Procedures and Authorizing Teleconferencing for Regular and Special Meetings
- e. Unaudited Financial Statements

**SDC UPDATE**

Discuss Reduced Operations Plan Ms. Murphy provided an update to the Board regarding the Citizens Advisory Board (“CAB”) meeting that took place on April 16, 2020.

Ms. Murphy noted that the Park Creek Metropolitan District (“PCMD”) Board discussed the letter from the District requesting additional appointments during executive session at their meeting on April 23, 2020 at 9 a.m., and no official action was taken. Ms. Dell noted that the CAB Board is interested in the District’s position on appointing a member(s) of the community to the PCMD Board. No action was taken.

**MATTERS RELATED TO  
PARK CREEK  
METROPOLITAN  
DISTRICT**

Update from Park Creek Metropolitan District Ms. Dell presented an update to the Board regarding the PCMD held on April 23, 2020 at 9 a.m.

Discuss Volunteers for Attendance at Next Park Creek Metropolitan District Meeting None.

**FINANCIAL MATTERS**

Update on Bank Accounts Mr. Simmons informed the Board that a checking account has been opened in the District’s name. The Board engaged in general discussion with Mr. Simmons regarding direct deposit of property taxes into the District’s checking account. Mr. Johnston commented that the bond documents for PCMD’s debt may or may address where property taxes are to be deposited and should be reviewed. Ms. Bevier stated that she is waiting on clarification from PCMD regarding the direct deposit of property taxes into the District’s account. Ms. Dell requested that legal counsel send an email to PCMD clarifying how the District will receive funds from property taxes imposed by the District.

Review and Consider Acceptance of 2019 Draft Audit Mr. Simmons presented the draft Audit to the Board. Mr. Ungemah asked why there was two payments to PCMD. Mr. Simmons noted that one is for the debt and one is for operations. Mr. Ungemah asked if next year’s specific ownership tax will decrease. Mr. Simmons noted that most likely it will because it is based on the sale of vehicles which are projected to decline during the Coronavirus pandemic. Mr. Downey asked if there was going to be any impact on property taxes from Coronavirus. Mr. Simmons and Ms. Tanaka noted that there will likely be an impact on sales tax but not the other taxes such as property taxes. Following discussion, upon motion made by Mr. Downey and

seconded by Mr. Ungemah, the Board unanimously accepted the draft audit subject to final legal and accounting review.

## **LEGAL MATTERS**

Resolution No. 2020-04-03: Ms. Murphy presented the Board with the Resolution Concerning the Location of Special and Regular Meetings to the Board. Ms. Murphy noted that the Board needs to select a new physical meeting location. Mr. Ross noted that Stapleton Recreation Center is an option for regular meeting locations and stated that the Board would like to keep the 8:00 a.m. regular meeting time. No further action was taken.

Update on May 5, 2020 Election Ms. Murphy provided an update to the Board regarding the May 5, 2020 election.

## **EXECUTIVE SESSION**

Regarding receiving legal advice pursuant to § 24-6-402(4)(b), C.R.S. as it relates to SDC reduced operations plan and Intergovernmental Financing and Construction Agreement with PCMD and determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, instructing negotiators pursuant to § 24-6-402(4)(e), C.R.S. Upon motion of Mr. Downey, and upon an affirmative vote of at least two-thirds of the quorum present, the Board entered in executive session at 11:00 A.M. for the purpose of obtaining legal advice related to the SDC Reduced Operations Plan and Intergovernmental Financing and Construction Agreement with PCMD pursuant to Section 24-6-402(4)(b), C.R.S.

Pursuant to Section 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 legal counsel to the District, constitutes privileged attorney-client communication pursuant to Section 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 11:20 A.M.

Following discussion, upon motion made by Ms. Dell and seconded by Mr. Downey, the Board unanimously provided the following directives: (1) the Board directed Mr. Simmons to request a response in writing from the Denver County Treasurer and Adams County Treasurer stating why they cannot remit all property taxes revenues from property taxes imposed by the District directly to the District; and (2) the Board directed legal counsel to contact Stapleton Development Corporation and ask for a response in writing regarding why PCMD is withholding funds from the District and how bills are being paid.

**OTHER BUSINESS**

None.

Next Meeting

The next regular meeting of WCMD is scheduled for June 17, 2020.

**ADJOURNMENT**

There being no further business to come before the Board, upon motion, second and unanimously carried, the Board determined to adjourn the meeting.

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

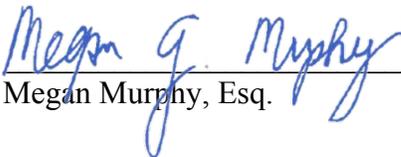
  
Tom Downey (Jun 30, 2020 11:23 MDT)

Secretary for the District

The foregoing minutes were approved by the Board of Directors on the 17th day of June, 2020.

**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 at a special meeting of Westerly Creek Metropolitan District convened at 11:00 A.M. on April 23, 2020 for the sole purpose of discussing the SDC reduced operations plan and Intergovernmental Financing and Construction Agreement with PCMD 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.

  
Megan Murphy, Esq.

# Westerly Creek Execution Packet

Final Audit Report

2020-06-30

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|-----------------|--|
| Created:        | 2020-06-30                                   |
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## "Westerly Creek Execution Packet" History

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