

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS

OF

WESTERLY CREEK METROPOLITAN DISTRICT

Held: Wednesday, February 17, 2021 at 8:00 A.M. held via Zoom Conferencing at 1-253-215-8782; meeting ID: 921 1171 7886 Password: 613387.

Due to Executive Orders issued by Governor Polis and Public Health Orders implementing the Executive Orders, issued by the Colorado Department of Public 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:

Tim Thornton  
Tom Downey  
Katie Dell  
Dave Ungemah  
Justin Ross

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 & Wheeler, District Accountant;
- Carol Roberts, Front Porch Publication;
- David Greher, Esq., Collins Cockrel & Cole;
- Shannon Gifford and Michael Kerringan, City and County of Denver Mayor's Office; and
- Marcus Lock, Esq., and Jacob With, Esq., Law of the Rockies.

**ADMINISTRATIVE MATTERS**

Call to Order

Ms. Murphy 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 directors' 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 reviewed the proposed agenda for the meeting. Following discussion, upon motion by Mr. Ungemah and seconded by Mr. Thornton, the Board unanimously approved the agenda as amended.

**PUBLIC COMMENT** Ms. Roberts presented a list of questions from the Front Porch to the Board. Mr. Ungemah responded that the Board would review the questions with legal counsel.

**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 by Ms. Dell and seconded by Mr. Ross, the following items on the consent agenda were unanimously approved, ratified and adopted:

- a. Minutes from November 20, 2019 Special Meeting
- b. Minutes from December 9, 2020 Special Meeting
- c. Unaudited Financial Statements from December 31, 2020
- d. Claims as of February 17, 2021 (\$27,422.06)

**SDC UPDATE**  
Updates from SDC The Board deferred this agenda item.

**MATTERS RELATED TO**

**PARK CREEK  
METROPOLITAN  
DISTRICT**

Update from Park Creek Metropolitan District The Board deferred this agenda item.

Discuss Volunteers for Attendance at Next Park Creek Metropolitan District Meeting Ms. Dell noted that she will attend the next Park Creek Metropolitan District meeting.

**LEGAL MATTERS**

Discuss Potential Board Vacancy and Appointment Process Mr. Downey noted that he will be moving out of the District at the beginning of March and that this would be his last meeting. The Board engaged in discussion regarding the process of soliciting letters of interest from eligible electors interested in serving on the Board. Ms. Roberts noted Front Porch would be willing to publish a Notice of Vacancy. Following discussion, upon a motion duly made by Mr. Ungemah and seconded by Mr. Downey, the Board unanimously directed legal counsel to publish a Notice of Vacancy with the Front Porch and on the District's website.

**FINANCIAL MATTERS**

Discuss and Consider Bill.com for Processing of Payments for Claims Mr. Simmons presented the Bill.com process with the Board. Following discussion, upon a motion duly made by Mr. Ungemah and seconded by Ms. Dell, the Board unanimously approved the use of Bill.com and selected Mr. Ross and Mr. Ungemah as those Board members with authority to approve invoices.

2020 Auditor Engagement Mr. Simmons noted that he will request an engagement letter to perform the 2020 audit.

**EXECUTIVE SESSION**

Regarding receiving legal advice as it relates to SDC Reduced Operations Plan and Intergovernmental Financing and Construction Agreement with Park Creek Metropolitan District and pursuant to § 24-6-402(4)(e), C.R.S., for the purpose of determining positions Upon motion of Mr. Downey, seconded by Mr. Ungemah, and upon an affirmative vote of at least two-thirds of the quorum present, the Board entered in executive session at 8:32 A.M. for the purpose of obtaining legal advice related to the SDC Reduced Operations Plan and Intergovernmental Financing and Construction Agreement with Park Creek Metropolitan District 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

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.

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 Board reconvened in regular session at 9:16 A.M.

**OTHER BUSINESS**

Next Meeting

The next meeting of the District is scheduled for April 21, 2021.

**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.

*Catherine Dell*

Catherine Dell (Apr 29, 2021 12:49 MDT)

Secretary for the District

The foregoing minutes were approved by the Board of Directors on the 21<sup>st</sup> day of April, 2021.

**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 8:32 A.M. on February 17, 2021 for the sole purpose of discussing the SDC reduced operations plan and Intergovernmental Financing and Construction Agreement with Park Creek Metropolitan District 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 G. Murphy*  
Megan Murphy, Esq.