

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS

OF

WESTERLY CREEK METROPOLITAN DISTRICT

Held: Monday, September 27, 2021 at 8:00 A.M. held via Zoom Conferencing at 1-720-707-2699; meeting ID 828 1503 0009; passcode: 145610.

ATTENDANCE

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

Katie Dell;
Dave Ungemah; and
Kristin Rozansky.

Director Ross and Director Thornton were absent. All absences are deemed excused unless otherwise noted in these minutes.

Also present were:

- Megan J. Murphy, Esq., WHITE BEAR ANKELE TANAKA & WALDRON, Attorneys at Law, District General Counsel;
- Marcus Lock, Esq. and Jacob With, Esq., Law of the Rockies;
- John Simmons, Simmons & Wheeler;
- Jim Chrisman, Brookfield Properties Development and
- David A. Greher, Esq., Collins Cockrel & Cole.

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 Ms. Dell, the Board unanimously approved the agenda as amended.

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

- a. Minutes from July 15, 2021 Special Meeting;
- b. Minutes from August 18, 2021 Special Meeting;
- c. Minutes from August 26, 2021 Special Meeting;
- d. Minutes from August 31, 2021 Special Meeting; and
- e. Claims as of September 27, 2021 - Revised to (\$12,445.83).

SDC UPDATE

Updates from SDC

Deferred.

FINANCIAL MATTERS

Presentation of 2020 Audit and Consider Acceptance of Same and Approval of Client Representation Letter

Mr. Simmons presented the 2020 Audit to the Board for consideration. Mr. Simmons noted that the monitoring fee line item was from when SDC was completing the budget. He explained that there have been no expenses in this line item. Following discussion, upon a motion duly made by Mr. Ungemah and seconded by Ms. Dell, the Board unanimously approved the Audit subject to final review by legal counsel, Board member comments and receipt of a clean opinion from the auditor.

Acceptance of June 30, 2021
Financial Statements

Mr. Simmons presented the June 30, 2021 Financial Statements to the Board. Mr. Simmons noted that “Specific Ownership Taxes” are generally budgeted as 7% of property tax revenue but due to COVID-19, lack of inventory of new cars, and other factors specific ownership taxes are behind budget. He explained that the largest payment for specific ownership taxes comes from registering a new car and after the first year of registration the specific ownership taxes from each car begins to decline. Mr. Ungemah requested Mr. Simmons write a letter to Adams and Denver County Assessor requesting additional information regarding to tax projections. Following discussion, upon a motion duly made by Ms. Dell and seconded by Mr. Ungemah, the Board unanimously accepted the financial statements.

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 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. Ungemah seconded by Ms. Dell, and upon an affirmative vote of at least two-thirds of the quorum present, the Board entered in executive session at 8:38 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)(e), 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 Board reconvened in regular session at 9:04 A.M. No action was taken.

MATTERS RELATED TO PARK CREEK METROPOLITAN DISTRICT

Updates from Park Creek
Metropolitan District

None.

Discuss Volunteers for Attendance at Next Park Creek Metropolitan District Meeting Ms. Dell tentatively volunteered to attend the next Park Creek Metropolitan District Meeting.

Appointment of Canvass Board Member for the Park Creek Metropolitan District 2021 Election Ms. Murphy presented a request from the Park Creek Metropolitan District Board for the District to designate one Board member to serve on the Canvass Board Member for the Park Creek Metropolitan District November 2021 Election. Following discussion, upon a motion duly made by Ms. Rozansky and seconded by Mr. Ungemah, the Board unanimously appointed Ms. Dell to serve on the Canvass Board and Mr. Ungemah as an alternative.

Appointment of Ex-Officio Board Members to the Park Creek Metropolitan District Board of Directors Ms. Murphy presented the opportunity for the Board to appoint up to two Ex-Officio Board Members to the Park Creek Metropolitan District Board of Directors. Following discussion, upon a motion duly made by Ms. Dell and seconded by Mr. Ungemah, the Board unanimously appointed Mr. Ungemah as the Ex-Officio Board Member.

Approval of Letter Agreement with Park Creek Metropolitan District Ms. Murphy presented the Letter of Agreement with Park Creek Metropolitan District. Mr. Ungemah noted there have been a number of meetings and discussions regarding the District's outstanding concerns. He requested that the District provide a timeline for the Stapleton Development Corporation to review and finalize the letter. Ms. Dell noted she thought thirty days should be more than enough time to review and approval the letter. Following discussion, upon a motion duly made by Mr. Ungemah and seconded by Ms. Rozansky, the Board unanimously approved Mr. Ross to execute all three letter agreements as presented in the meeting packet provided: (1) all three letter agreements are executed by the other parties; (2) subject to minor revisions to the SDC letter presented by SDC counsel as agreed to by Mr. Ross; (3) all three letters must be fully executed by November 1, 2021. Ms. Dell informed the Board that she has was abstaining from voting on the letter agreements.

Approval of Letter Agreement with Brookfield Properties Development, LLC

Ms. Murphy presented the Letter Agreement with Brookfield Properties Development, LLC. Mr. Ungemah noted there have been a number of meetings and discussions regarding the District’s outstanding concerns. He requested that the District provide a timeline for the Stapleton Development Corporation to review and finalize the letter. Ms. Dell noted she thought thirty days should be more than enough time to review and approval the letter. Following discussion, upon a motion duly made by Mr. Ungemah and seconded by Ms. Rozansky, the Board unanimously approved Mr. Ross to execute all three letter agreements as presented in the meeting packet provided: (1) all three letter agreements are executed by the other parties; (2) subject to minor revisions to the SDC letter presented by SDC counsel as agreed to by Mr. Ross; (3) all three letters must be fully executed by November 1, 2021. Ms. Dell informed the Board that she has was abstaining from voting on the letter agreements.

Approval of Letter Agreement with Stapleton Development Corporation “SDC”

Ms. Murphy presented the Letter Agreement with Stapleton Development Corporation “SDC”. Mr. Ungemah noted there have been a number of meetings and discussions regarding the District’s outstanding concerns. He requested that the District provide a timeline for the Stapleton Development Corporation to review and finalize the letter. Ms. Dell noted she thought thirty days should be more than enough time to review and approval the letter. Following discussion, upon a motion duly made by Mr. Ungemah and seconded by Ms. Rozansky, the Board unanimously approved Mr. Ross to execute all three letter agreements as presented in the meeting packet provided: (1) all three letter agreements are executed by the other parties; (2) subject to minor revisions to the SDC letter presented by SDC counsel as agreed to by Mr. Ross; (3) all three letters must be fully executed by November 1, 2021. Ms. Dell informed the Board that she has was abstaining from voting on the letter agreements.

LEGAL MATTERS

Other Legal Matters

None.

OTHER BUSINESS

Next meeting – October 20, 2021 (2021 Budget Hearing)

The Board confirmed the October 20, 2021 meeting.

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.

Katie Bedard Dell
Katie Bedard Dell (Oct 21, 2021 14:03 MDT)

Secretary for the District

The foregoing minutes were approved by the Board of Directors on the 20th day of October, 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 8:38 A.M. on September 27, 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 J. Murphy
Megan J. Murphy, Esq.