

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS

OF

WESTERLY CREEK METROPOLITAN DISTRICT

Held: Monday, November 8, 2021 at 8:00 A.M. held via Zoom Conferencing at 720-707-2699; meeting ID: 820 2778 5052 Password: 525052.

**ATTENDANCE**

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

Tim Thornton,  
Kristin Rozansky,  
Katie Dell,  
Dave Ungemah,  
Justin Ross;

Also present were:

- Megan J. Murphy, Esq., WHITE BEAR ANKELE TANAKA & WALDRON, Attorneys at Law, District General Counsel;
- Shannon Gifford, City and County of Denver Mayor's Office;
- Jacob With, Esq. and Marcus Lock, Esq., Law of the Rockies; and
- Brian Fennelly and Jim Chrisman, Brookfield Properties Development.

**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 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 reviewed the proposed agenda for the meeting. Following discussion, upon motion by Mr. Ungemah and seconded by Ms. Rozansky the Board unanimously approved the agenda as amended.

**PUBLIC COMMENT**

Mr. Fennelly read the following statement into the record: "Good morning. As most of you know, my name is Brian Fennelly and I am here, along with my colleague Jim Chrisman, representing Brookfield Properties Development and Forest City, the developer of this Central Park project. I'd like to read a statement from the developer.

We would like to encourage the Westerly Creek Board to rescind their threat of Litigation against Park Creek Metro District. As a property owner, we believe it is in all Central Park property owners best interest that Park Creek Metro District be able to issue bonds as soon as possible to pay off higher cost debt. Lowering the cost of outstanding debt will save all taxpayers money. Park Creek can issue a \$70 million dollar bond and pay off \$70 million in 8.5% debt, while paying approximately 3.25% on these new bonds. That equates to a savings of \$3,675,000 a year, or \$10,068 a day. This \$10,068 a day will be a direct cost to Central Park taxpayers, a cost that they can never get back. While some folks may not believe that this threat of litigation is holding up this bond deal, I promise you that it is!

We feel it is the fiduciary responsibility of this board, as well as all boards within the Central Park community to do everything possible to keep all property owners taxes as low as possible.

Brookfield/Forest City understands Westerly Creeks desire to ensure the Park Creek Board has Central Park resident control or at least influence by the end or 2023, and we will continue to support the Westerly Creek board in that endeavor."

Mr. Ungemah noted that the dispute between Westerly Creek Metropolitan District (“WCMD”) and Brookfield Property Development is almost resolved. He asked Mr. Fennelly regarding if there is any appointment mechanism to Park Creek Metropolitan District (“PCMD”) that does not involve Stapleton Development Corporation (“SDC”). Mr. Fennelly stated no.

Mr. Ross asked Mr. Fennelly if this same request was being asked of PCMD and SDC. Mr. Fennelly noted that the same dialogue is being discussed with PCMD and SDC.

Mr. Ross asked Mr. Fennelly if WCMD did rescind the threat of litigation, would the same ongoing issue with SDC prevent the bonds from being issued. Mr. Fennelly noted that the City is doing to work with SDC to alleviate the WCMD Board’s concerns about SDC.

**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. Thornton the following items on the consent agenda were unanimously approved, ratified and adopted:

- a. Minutes from October 20, 2021 Special Meeting.

**SDC UPDATE**

Updates from SDC

The Board deferred this agenda item.

**MATTERS RELATED TO  
PARK CREEK  
METROPOLITAN  
DISTRICT**

**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

Upon motion of Ms. Dell seconded by Mr. Thornton, and upon an affirmative vote of at least two-thirds of the quorum present, the Board entered in executive session at 8:10 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.

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.

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 8:53 A.M. No action was taken.

Discuss Appointment of Ex-Officio Board Members to the Park Creek Metropolitan District Board of Directors

The Board deferred this agenda item.

Consider Approval of Letter Agreement with Park Creek Metropolitan District

The Board deferred this agenda item.

Consider Approval of Letter Agreement with Brookfield Properties

The Board deferred this agenda item.

Consider Approval of Letter Agreement with SDC

The Board deferred this agenda item.

**OTHER BUSINESS**

Next Meeting

The Board requested legal counsel coordinate a meeting in early December.

**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.

*David Ungemah*

David Ungemah (Feb 16, 2022 17:07 MST)

Secretary for the District

The foregoing minutes were approved by the Board of Directors on the 16<sup>th</sup> day of February, 2022.

**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 8:10 A.M. on November 8, 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.