

MINUTES OF A REGULAR MEETING OF THE BOARD  
OF DIRECTORS

OF

MIDTOWN AT CLEAR CREEK METROPOLITAN  
DISTRICT

Held: Tuesday, November 16, 2021 at 6:00 p.m. via Zoom  
Teleconference

**Attendance**

The meeting referenced above was called and held in accordance with the applicable statutes of the State of Colorado. The following Directors were in attendance:

Rachel Williams  
Sam Delp  
Stephen B. Clark  
Travis Tully  
Matthew Zielinski

Also present was Eve M.G. Velasco, Esq., White Bear Ankele Tanaka & Waldron (WBA), District General Counsel; Desiree Wingo, MSI, District Manager; Kimberly Johanns, Simmons & Wheeler P.C., District Accountant; Barrett Marrocco and Chase Hanusa, IDES, District Engineer; and Amanda Fitzjerald, resident.

**Administrative Matters**

Call to Order/Declaration of  
Quorum

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

Director Conflict of Interest  
Disclosures

Ms. Velasco advised the Board that, pursuant to Colorado law, certain disclosures might be required prior to taking official action at the meeting. Ms. Velasco reported that disclosures for those directors that provided WBA 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. Velasco 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 agenda and approved the agenda as presented.

**Public Comment**

None.

**Committee Reports**

Amanda Fitzjerrald from the Garden Committee presented a request to include a beehive in the Community Garden and answered questions from the Board. The Board determined to gather more information ahead of the next meeting to consider the request.

**Consent Agenda**

Ms. Velasco reviewed the items on the consent agenda with the Board. Ms. Velasco 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:

- October 19, 2021 Meeting Minutes
- Second Addendum to Agreement with BrightView for Snow Removal
- Addendum to Agreement with BR&D Landscape for Water Feature Maintenance
- Addendum to Agreement with Ramey Environmental for Sewer Maintenance
- Agreement with FM Building Services for Janitorial Services
- Renewal of Property and Liability Insurance Limits and Deductibles

**Infrastructure Matters**

Review Infrastructure Acceptance Reports No. 7 and No. 8

Mr. Marrocco and Mr. Hanusa presented the Infrastructure Acceptance Reports for No. 7 and No. 8 and answered questions from the Board. Ms. Velasco provided a status update from Brookfield.

Consider Approval of Resolution Regarding Initial Acceptance of

The Board reviewed the Resolution Regarding Initial Acceptance of Public Improvements (IA Report #7).

Public Improvements (IA Report #7) Following discussion, upon a motion duly made and seconded, the Board adopted the resolution.

Consider Approval of Resolution Regarding Initial Acceptance of Public Improvements (IA Report #8) Ms. Velasco presented the Resolution to the Board. After discussion and upon the recommendation of the District Engineer, the Board determined to table this Resolution to the next meeting to allow Developer time to repair construction damage to neighboring District-owned property prior to granting initial acceptance.

Update on Infrastructure Acquisition Report No. 4 Mr. Hanusa presented the Infrastructure Acquisition Report No. 4 to the Board and previewed the likely final acceptance package in the Spring.

Storm Drainage Ponds Ms. Wingo discussed the compliance and remediation issues identified by Adams County related to the detention and retention ponds within the District and the proposals received from WSP to complete the work. Mr. Marrocco informed the Board that he is working with another vendor who plans to provide a plan that is significantly less costly to address the issues identified by the County as being necessary remediation. Following discussion, the Board approved up to \$14,000 for 2021 storm water remediation, subject to final approval by the Board via an email vote. The Board further determined to terminate the contract with WSP for pond management services and instructed Ms. Wingo not to authorize payment of additional invoices for maintenance to WSP.

Other Director Clark requested the IDES review the Reserve Study and present updates and recommendations to the Board at the February meeting.

**Financial Matters**

Consider Approval of Payables Ms. Johanns presented the payables to the Board. Following discussion, upon a motion duly made and seconded, the Board approved the payables.

Consider Acceptance of Financials Ms. Johanns presented the financials to the Board. Following discussion, upon a motion duly made and seconded, the Board accepted the financials.

Consider Adoption of Resolution Adopting 2022 Fee Schedule Ms. Velasco presented the Resolution adopting the 2022 Fee Schedule to the Board. Following discussion, upon a motion

Public Hearing on 2022 Budget      duly made and seconded, the Board adopted the resolution, with Mr. Zielinski opposed.

Consider Adoption of Resolution Approving 2022 Budget      Director Williams opened the public hearing on the proposed 2022 Budget. Ms. Velasco noted that the notice of public hearing was provided in accordance with Colorado law. No written objections have been received prior to the meeting. There being no public comment, the hearing was closed.

Ms. Velasco reviewed the 2022 Budget Resolution with the Board. Following discussion, upon a motion duly made and seconded, the Board unanimously adopted the Resolution adopting the 2022 Budget, as revised, appropriating funds therefor and certifying 5.505 mills for the general fund and 49.558 mills for the debt service fund.

Consider Engagement of WipFli for 2021 Audit      The Board engaged in a general discussion regarding engagement with WipFli for the 2021 audit. Following discussion, upon a motion duly made and seconded, the Board approved engagement with WipFli in an amount not to exceed \$4,900.

**Legal Matters**

Discuss School District Request for Metro District to Maintain Tree Lawn      Ms. Velasco presented update on the discussions with the School District regarding the School District’s request that the District maintain the tree lawn north of the school property. Based on the information presented, the Board determined not to begin providing maintenance of the tree lawn north of the school property.

Discuss Memo Re: Free Speech and Sign Regulation      Ms. Velasco reviewed the Memo regarding Free Speech and Sign Regulation with the Board and answered questions. Following discussion, upon motion duly made and seconded, the Board recommended removal of the time limitations on noncommercial signs from the Covenants and directed legal counsel to request Midtown LLC’s approval of revisions.

Consider Approval of Resolution Calling May 3, 2022 Election      The Board reviewed the Resolution calling May 3, 2022 Election. Following discussion, upon a motion duly made and seconded, the Board adopted the Resolution, confirming that the Call for Nominations will be posted to the District’s website.

Consider Adoption of 2022 Annual Administrative Resolution      The Board reviewed the 2022 Annual Administrative Resolution. Following discussion, upon a motion duly made

and seconded, the Board adopted the resolution, noting that regular meetings will be held in person meetings.

Discuss Engagement of Special Counsel for Foreclosure Cases      The Board engaged in a general discussion regarding engagement of special counsel for foreclosure cases. Following discussion, upon a motion duly made and seconded, the Board approved engagement of Winzenburg Leff Purvis and Payne for collections and foreclosure legal services in addition to the covenant enforcement legal services.

**District Manager's Report**

Financials/Checks      The Board reviewed the financials and checks. Following discussion, upon a motion duly made and seconded, the Board approved the financials and checks.

- July Check Register/Financials
- August Check Register/Financials
- September Check Register/Financials

Ratification Items      The Board reviewed the ratification items. Following discussion, upon a motion duly made and seconded, the Board ratified all items.

- August Invoice Approval
- September Invoice Approval
- October Invoice Approval

Contract Renewal 2022

- Landscaping      The Board reviewed the Addendum to Agreement with BrightView for Landscape Maintenance for 2022 services. Following discussion, upon a motion duly made and seconded, the Board approved the Addendum.

The Board reviewed the proposals from BrightView for Perennial and Annual Plantings and Annual Flower Maintenance. Following discussion, upon a motion duly made and seconded, the Board approved the proposals in an amount not to exceed \$12,226.41 for plantings and an amount not to exceed \$1,946.77 for maintenance.

- Midtown Metro District Retail Cost Share      The Board reviewed the proposal from BrightView for cost-sharing of maintenance in the Retail Area. Following discussion, upon a motion duly made and seconded, the Board approved the proposal in the amount of \$7,692.00.

- Water Feature Maintenance	Ms. Wingo presented an update on the 2021 expenses for the Water Feature and the remaining allocated budget. Following discussion, the Board determined to table the recommended maintenance items to the February 2022 meeting.
Community Survey	The Board directed Ms. Wingo to prepare a draft communication requesting community input on interest in a list of options for District-funded capital improvements (shade (sail or structure), benches, etc.). The Board also requested that Ms. Wingo prepare a communication to the community regarding the fee increase, noting the increased costs of service (trash, snow removal, vendor price increases), landscape with increased areas of responsibilities, and the need to build reserves for future repairs. The Board directed Ms. Wingo to provide a draft for Board review.
Concrete Steps	Ms. Wingo noted a potential trip hazard issues within the District and cracks on bike path, the most pressing being the steps around the Shed, which are deteriorating. The Board directed Mr. Marrocco is to confirm lighting requirements for the stairs. Following discussion, upon a motion duly made and seconded, the Board approved the proposal from Rock Property Services in the amount of \$13,844.00 to repair the steps.
Reclaimed Water Sprinkler Heads/Box Switch Out-Crestview Request	Ms. Wingo informed the Board that her discussions with Crestview indicate that District will be required to replace the mislabeled non-potable sprinkler heads and boxes with potable ones. The Board directed legal counsel to seek response and remediation from Brookfield.
Homeowner Requests/Feedback	Ms. Wingo presented the homeowner requests and feedback and noted the bee hive.
Add/Repair Ground Lighting	Ms. Wingo noted that homeowners have requested additional lighting and repairs for safety reasons. The Board suggested investigating increasing wattage in existing lights. Ms. Wingo is to include as an option in the community survey
Century Link Damage Common Area Grading	Ms. Wingo noted that she's reached out to CenturyLink and Brookfield for remediation.
Weeds by West side dog park	Ms. Wingo noted that she is investigating who owns this area and is responsible for maintaining.

Mailroom Package Theft

Ms. Wingo noted recent incidents of packages being stolen from the mailroom and relayed homeowner requests to put surveillance in the mailroom. Ms. Wingo noted that she had requested quote from A-1 Security. The Board directed Ms. Wingo to seek additional clarification from US Postal Service regarding their justification for leaving packages in mail room without security. The Board determined to consider options for addressing this situation at the February meeting.

Work Orders/Maintenance Update

Ms. Wingo provided an update and noted some vandalism at the Pump House, which vendors have indicated may not be reparable.

Architectural and Maintenance Update

Ms. Wingo noted that homeowner applicants to join the AMC are under review by the current AMC members.

Covenant Enforcement

- Trash Can Storage
- Improvements without submitting for approval
- Landscape Maintenance
- Parking

Ms. Wingo provided an update on these matters.

**Adjourn**

There being no further business to come before the Board and upon motion duly made and seconded, unanimously carried, the meeting was adjourned.

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

Travis Tully  
Travis Tully (Feb 21, 2022 12:21 MST)

Secretary for the Meeting