

MINUTES OF A REGULAR MEETING OF THE BOARD
OF DIRECTORS

OF

CLEAR CREEK STATION METROPOLITAN DISTRICT
NOS. 1-3

Held: Thursday, December 8, 2016 at 6:00 p.m.
The Shed at Midtown, 1625 W. 67th Ave., Denver, CO 80221

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:

Marc Savela
Neil Simpson
Ashley Tarufelli
Chris Petro
Matthew Zielinski—Dist 2 only

All directors' absences are deemed excused unless a contrary notation is recorded in these minutes.

Also present were Kristen D. Bear, Esq., White Bear Ankele Tanaka & Waldron, Attorneys at Law, District General Counsel, Kimberly Johanns, Simmons & Wheeler, District Accountants, Chris Sveum, IDES; John Field, MSI, District Manager. See attached sign in sheet for additional attendees.

Call to Order/Declaration of
Quorum

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

Director Disclosures

Ms. Bear advised the Boards that pursuant to Colorado law, certain disclosures by the directors may be required prior to taking official action at the meeting. The Boards reviewed the agenda for the meeting, following which each director confirmed the contents of any written disclosure previously made stating the fact and summary nature of any matters as required under Colorado law to permit official action to be taken at the meeting. Additionally, the Boards determined that the participation of the Directors present were necessary to obtain a quorum or otherwise enable the Boards to act.

Approval of Agenda

Ms. Bear presented the Boards with the proposed agenda for the meeting. After consideration, a motion was duly made on

behalf of each of the Boards and seconded to approve the agenda with amendments. The motion was unanimously approved by the Boards.

Approval of Minutes/Ratification of Actions from the September 21, 2016 Meeting.

Ms. Bear presented the minutes of the meeting held September 21, 2016 to the Boards. After review and discussion, a motion was duly made and seconded by each of the Boards to approve the minutes as presented. The Boards approved the minutes unanimously.

District Manager's Report

The District Manager provided an update on covenant violation and reservations at The Shed.

The Social, Landscape, Garden and Communications Committees provided reports to the Boards. Those reports are attached to these minutes.

The Boards discussed a proposal for additional layering to the current GIS mapping through Geolens. No action was taken on this matter.

Marsha Pryor and Mark Fischer with Brightview made a brief presentation and introduction as to Brightview and the services they are currently providing to the community through the Districts.

Public Comment

Various members of the public addressed the Boards on topics of interest to the public. A transcript of public comment is not provided as part of the minutes or otherwise available. The minutes note a summary of major topics and actions addressed. A copy of the sign in sheet for those members of the public that were presented is attached to these minutes.

A proposal was submitted to the Boards to establish an Executive Committee, which is attached hereto. The Districts indicated that this proposal will be taken into consideration.

A request was submitted for Director Zielinski to resign from the Board of District No. 2, as attached hereto.

Public comments were made and submitted in regards to a CORA request for inspection of public records, as attached hereto.

Traffic Safety

Director Zielinski brought up an issue regarding traffic safety at 68th and 67th and Pecos. Director Petro indicated that the

lights have been approved for 68th and Pecos and are anticipated to be installed in the first quarter of 2017 with the lights at 67th and Pecos to be installed thereafter.

**Conduct 2017 Budget Hearings
and Consider Approval of 2017
Budget Resolutions**

Director Savela opened the public hearings on the 2017 budgets for the Districts. Ms. Bear noted that publication of Notice stating that the Boards would consider the 2017 budgets, and the date, time and location of the public hearing was made in a newspaper having general circulation within the Districts'. No written objections were received prior to the public hearing. After no public comment was made, the hearing was closed.

Ms. Johanns presented the proposed 2017 budget to the District No. 1 Board for consideration. Following review and discussion, a motion was duly made by Director Taruffelli and seconded by Director Petro to approve Resolution authorizing the 2017 budget as presented and to appropriate revenues as indicated therein. Director Petro seconded the motion. The motion was approved unanimously.

Ms. Johanns presented the proposed 2017 budget to the District No. 2 Board for consideration. Following review and discussion, a motion was duly made by Director Zielinski and seconded by Director to approve Resolution approving the 2017 budget as presented, to appropriate revenues as indicated therein and authorize certification of a debt service mill levy of 42 mills and a general fund levy of 8 mills. Upon calling the question, Director Zielinski voted in opposition of the Resolution and Directors Savela, Taruffelli and Petro voted in favor. The motion was approved by a 3 to 1 vote.

Ms. Johanns presented the 2017 budget to the District No. 3 Board for consideration. Following review and discussion, a motion was duly made by Director Taruffelli and seconded by Director Simpson approve Resolution approving the 2017 budget as presented, to appropriate revenues as indicated therein and authorize certification of a general fund levy of 50 mills. The motion was approved unanimously.

Legal Matters

**District Nos. 1-3: 2017 Annual
Administrative Resolution**

Ms. Bear presented the 2017 Annual Administrative Resolution to the Boards for consideration. Following a review, a motion was duly made and seconded to approve and adopt the Resolution by each of the Boards. The motion was passed unanimously.

District Nos. 1-3: Insurance Matters: Ms. Bear presented the 2017 Insurance renewal to the Boards for review and consideration. Following a review and discussion, a motion was duly made and seconded to authorize the renewals for 2017. The motion was passed unanimously.

Property and Liability Schedule Limits

Discuss Additional Insurance Information

District No 1: Consider Ratification of Agreement with Brightview Landscape Services, Inc., for Snow Removal Services for 2016-2017 Winter Season

Ms. Bear presented the Agreement with Brightview Landscape Services, Inc., for Snow Removal Services for 2016-2017 Winter Season to the Board for ratification. Following a review, a motion was duly made and seconded to ratify the agreement by the District No. 1 Board. The motion was unanimously passed.

District No. 1: Consider Ratification of Agreement with Brightview Landscape Services, Inc., for 2017 Landscape Maintenance Services

Ms. Bear presented the Agreement with Brightview Landscape Services, Inc., for 2017 Landscape Maintenance Services to the Board for ratification. Following a review, a motion was duly made and seconded to ratify the agreement by the District No. 1 Board. The motion was unanimously passed.

Financial Matters

Payables/Financials

Ms. Johanns presented the Boards with paid claims for ratification and payable for approval. Following a review and discussion, a motion was duly made and seconded by each of the Boards, to approve and ratify the paid claims and authorize payment of the payables presented by the Boards. The motion was approved unanimously.

Ms. Johanns presented the September 2016 financials to the Boards for consideration. Following a review and discussion, a motion was duly made and seconded by the Boards to accept the financial statements as presented by the Boards. The motion was approved unanimously.

District Nos. 1-3: Conduct 2016 Budget Amendment Hearing and Consider Approval of Resolutions Amending 2016 Budgets

No budget amendments were deemed necessary.

District Nos. 1-3: Consider Approval of Resolution Establishing Guidelines for the Processing and Collection of Delinquent Fees and Charges

Ms. Bear presented the Resolution Establishing Guidelines for the Processing and Collection of Delinquent Fees and Charges to the Boards for consideration. Following a discussion a motion was duly made and seconded to approve and adopt the resolution by each of the Boards. The motion was passed

unanimously by the Boards. Director Zielinski abstained on behalf of District No. 2.

District Nos. 1-3: Consider
Approval of 2017 Fee Addendum

Ms. Bear presented the 2017 Fee Addendum to the Boards for consideration. It was noted that Filing 4 needed to be added to the Landscape Maintenance Area Fee. Following discussion, a motion was duly made and seconded by the Boards to approve and adopt the fee addendum with the revision as discussed. The motion was passed unanimously.

District Nos. 1-3: Consider
Auditor Proposals for 2016 Audit.

Ms. Johanns presented the audit proposals for District Nos. 1 and 2 from L. Paul Goedecke to the Boards for consideration. Following a review, a motion was duly made and seconded by the District No. 1 and No. 2 Boards to approve and accept the proposals. The motion was passed unanimously.

Construction Matters

Construction Management Report

Ms. Sveum presented the construction report and presented the following contracts for Board ratification:

1. Arrow J. Landscape and Design Inc., Midtown Landscaping Bid Package #1, \$1,324,777.62
2. Brightview Landscape Development Inc., Midtown Landscaping Bid Package #2; \$1,902,995.43

Following a review and discussion a motion was duly made and seconded to ratify the contracts by District No. 1. The motion was passed unanimously.

The following change orders were presented to the Board for ratification or approval:

1. CO1, Arrow J Landscape and Design Inc., (-\$28,604.11)
2. CO2, Arrow J Landscape and Design Inc., (-\$363,802.14)
3. CO3, Arrow J Landscape and Design Inc., (\$2,172.35)
4. CO1, BrightView Landscape Development Inc., (\$9,225.00)
5. CO2, BrightView Landscape Development Inc., (\$15,201.00)
6. CO3, BrightView Landscape Development Inc., (-\$102,172.71)
7. CO4, BrightView Landscape Development Inc., (-\$107,142.93)

Following a review and discussion a motion was duly made and seconded to ratify or approve the above change orders by District No. 1. The motion was passed unanimously.

The following work orders and task orders were presented for approval or ratification:

1. TO1, AG Wassenaar Inc., (\$4,000)
2. TO2, AG Wassenaar Inc., (\$1,800)
3. TO3, AG Wassenaar Inc., (\$12,535)
4. TO1, Aztec Consultants Inc., (\$8,000)
5. TO2, Aztec Consultants Inc., (4,300)
6. TO3, Aztec Consultants Inc., (\$27,870)
7. WO1, Page Manufacturing Inc., (\$11,730)
8. TO3, IDES, LLC, (\$100,000)
9. Stormwater Asset Protection, LLC (\$15,000)

Following a review and discussion a motion was duly made and seconded to ratify or approve the task orders by District No. 1. The motion was passed unanimously.

Other Business

None.

Next Meeting

The next meeting will be a regular meeting held on March 8, 2017 at 6:00 p.m.

Adjourn

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

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



Secretary for the Meeting

The foregoing minutes were approved on the 8th day of March, 2017.

SIGN IN SHEET

NAME	ADDRESS
David A L Smith	6630 Fern Dr, Denver, CO 80221
Kathy Mullin	6610 Fern
Scott Shadler	1901 W 67th Ave. Denver CO 80221
CLAUDIA SHADLER	1901 W 67th Ave DENVER CO 80221
Warren Hyland	6652 Larsh Dr
Marylou Pini	6652 Larsh Dr 80221
Philip Smith	1836 W 68th Ave Denver CO 80221
Alex Frazier	6756 Larsh Drive Denver, CO 80221
Marcia Piny	8417 W. Calumet Littleton, CO 80123
Mark Esklar	Brightview Landscape Maintenance
Rachel Webster	1837 W. 67th Pl Denver 80221
Caren Baginski	1978 W 67th Pl Denver, CO 80221
Sara Lueders	1941 W 66th Ave Denver, CO 80221
Erin Brumleve	1902 W. 67th Ave. Denver, CO 80221
LARA FEITZ	1400 W 67th Ave DENVER, CO 80221

Shed and Social Committee

Members: Rachel Webster, Alexandra Frazier, David Smith, Marci Colb, Mia Zaffuto, Dan Dolquist, Cynthia Thome, Chandler Stewart

Statement of Purpose:

Committee will plan, coordinate and manage monthly activities for all homeowners, to be held at Midtown Common Amenities locations, as well as manage the public online calendar for Shed Rentals. We request that the Metro District Board vote to approve our committee and the specific requests that follow.

PROPOSED 2017 BUDGET:

1. \$4000 to equip the Shed with a Big Screen TV, Surround Sound speakers/equipment, Computer Jack for Computer Presentations/Power Point Presentations and a DVD Player for movies and video presentations.
2. \$1000 for projector and outdoor screen for movies
3. \$4,000 budget for all 2017 Children's and Adult Programs.
4. \$600 for storage unit rental or on-site storage shed.

Events already planned (and Shed reserved) for 2016

-December 31: New Years Eve (Shed) - approx \$400 remains in 2016 budget

2017 Proposed Events (dates to be finalized January 2017)

Sunday February 28- Oscar Party (Shed)

Saturday April 15- Easter Egg Hunt/Easter Party (Shed/Garden)

May 13 or 20- Spring Market (Shed)

Tuesday July 4- Annual Bike Parade and Potluck (Shed/Garden and Park)

August 5 or 13- Midtown Cleanup and Brunch (Shed/Garden)

Saturday Sept 9 or 16 Home Brewfest Competition (Shed/Garden)

Saturday Oct 28- Halloween Party (Shed/Garden and/or Park)

Thursday Nov 23- Midtown Turkey Trot

December 2 or 9- Fall/Holiday Market (Shed)

Friday Outdoor Summer Film Series: (Shed or Park)

May 26, June 23, July 23, Sept 1

Landscape Committee Meeting

October 12, 2016

1. Waste Management – Do something to protect electric boxes from damage and consider ways to avoid running over corner properties.
2. Irrigation – Repairs after concrete work should be billed to Brookfield so that they can be passed on to the appropriate contractors. Clocks should be set for watering between 10 pm and 6 am.
3. Water Park
 - a. Dogs are not allowed in the water!
 - b. Install dog drinking fountain
 - c. Where is the new sign with Park rules? Agreed verbiage months ago!
 - d. Keep dogs out of the Playground area
 - e. Dogs kept on a leash if people or other dogs are around
 - f. Install steel fence along Larsh Dr
 - g. Turn on and shut down water feature based on weather patterns in 2017
 - h. Get approval for Crossing Hump and signs
 - i. How to enforce Park rules??
4. Modify south side Tea Light walkways to improve drainage and avoid slip & falls
5. Repair concrete alleys on 67th Pl both east and west of Larsh Dr.
6. Where are the new trash cans? (??)
7. Community Rules – where are they?
8. Snow removal
 - a. What is the plan? Looking for efficiency
 - b. Who plows main streets
 - c. Use non-corrosive salt that is pet friendly
 - d. Communicate varying responsibilities to residents based on house type
9. There is now a big hole in the south side fence next to the bike path.
10. Consider motion sensors on all exterior lights to reduce crime in the neighborhood.
11. Repair latches on Dog park and Community Farm
12. Consider best type of fertilizer/weed kill/pesticide for tree lawns and parks
13. Create a 'Neighborhood Watch' program – MSI??
14. MSI – send 'Introductory Letter' to all residents outlining the community guidelines
15. Brookfield to consider connecting bike path with Clear Creek Path at west end??
16. Overlook had a recommended plants document on their website. It should be reviewed to get rid of plants that shouldn't be at Midtown – like ash trees. Does MSI have a better version?

To promote community involvement and provide representation of the residents who live in Midtown while the Metro District Board of Directors is predominately staffed by Brookfield employees, a committee of qualified and interested homeowners could review the annual budget, interface with the property manager and coordinate recommendations from the various committees. Ideally, the chairperson of the Executive Committee is also a member of the Metro Board and a resident of Midtown.

The Executive Committee would have the following responsibilities and through the chairperson report to the Metro District Board:

1. Review the annual budget and recommend modifications as appropriate.
2. Interview residents who are being considered for appointment to the Metro Board
3. Coordinate activities and communication between various Midtown committees and the property manager as well as the Metro Board.
4. Review contracts for a variety of services needed at Midtown and provide recommendations to the property manager.
5. Recommend changes/modifications to the covenants and rules of Midtown.
6. Evaluate and recommend appropriate changes to the monthly homeowner fee structure from time to time.
7. Confirm Architectural Committee submissions that require outside review by architect.

Initial Executive Board Member are:

Marci Colb	Rachel Webster
David Smith	Joe Solomon
Phil Smith	Scott Shadler
Deborah Radman	Mary Ann Rini
Virginia McAllister	Warren Hyland

December 8, 2016: Statement to the Clear Creek Metro District Board

In Nov., 2016 I requested under CORA a copy of all legal billing to the District from White, Bear, and Ankele. I received a statement of only the total monthly billing for 2016 and only for Dist. ~~1~~. I received nothing for District ~~2~~ and 3. Furthermore, I was denied the request for detailed billing that explained the hours performed and the nature of the work. Counsel denied this request based on the position of attorney client privilege.

I am challenging the position of counsel in her decision to deny my CORA request. This privilege does not apply to a governmental entity according to DOLA. Further, a governmental entity is required to make fully transparent all expenses and the basis for these costs. Such expenses are open for review by citizens.

I am again requesting that I receive, no later than the end of business Monday Dec. 12, 2016, a complete statement of all legal billing, including hours, and the nature of the work performed. In other words, I want a complete copy of the bills sent to the District 1, 2, and 3 for payment, with all supporting documents to back up the expenses.

If I do not receive this information, I will have two options: File a complaint with the District Attorney and File a grievance with the Colorado Bar association. The decision of counsel will also be reported to DOLA and the State Department which manages Metro District Association.

 12-8-16
Mary Ann Rini

Kristen:

We have submitted a Freedom of Information request under CORA and you have refused to provide us, the Homeowners at Midtown, a statement of your billing expenses that shows the hourly rate and what you are billing us for.

We have contacted both the Colorado of Secretary of State's office and the Colorado Department of Local Affairs and both have advised us that under CORA you must provide us with a breakdown of your billable hours and what the hours are for.

We will take whatever action is required to get this information for the Homeowners of Midtown.

Thank you.

David A.L. Smith



Fwd: CORA information

David and Pam Smlth <italy00dp@gmail.com>
To: Warren Hyland <whyland1@gmail.com>

Thu, Dec 8, 2016 at 11:38 AM

Email from CO Sec of State's office on CORA.
----- Forwarded message -----
From: **Megan Waples** <Megan.Waples@sos.state.co.us>
Date: Thu, Dec 8, 2016 at 10:40 AM
Subject: CORA information
To: "italy00DP@gmail.com" <italy00DP@gmail.com>

Good morning,

Following up on our conversation this morning, here is a link to the Colorado Open Records Act statutes for your review. I am going to give you two links, one to a PDF version and one to the LexisNexis online version, so you can choose whichever is easier to navigate:

PDF: http://www.sos.state.co.us/pubs/info_center/files/CORA_Act.pdf.

LexisNexis: Public Records

Section 24-72-204 addresses several reasons a custodian can or must deny inspection, as well as remedies for individuals whose requests are denied.

In addition, the Office of Legislative Legal Services has prepared a summary of CORA and its requirements that might be helpful to you, available here: http://tornado.state.co.us/gov_dir/leg_dir/oills/PDF/CORA.pdf.

Thank you,

Megan

Megan E. Waples
Colorado Secretary of State's Office
1700 Broadway, Suite 200
Denver, CO 80290

Megan.Waples@sos.state.co.us

Matt:

After asking you nicely to resign your Metro Board seat and you refusing we're now asking you publicly to resign.

As the State of Colorado Code of Conduct Policies and Procedures states:

"Even the appearance" of misconduct or impropriety is reason to disqualify you from a government position or board.

And it says that conduct perceived by a REASONABLE PERSON to impair the ability to carry out official responsibilities, with fairness, impartiality, objectivity and integrity.

We are REASONABLE PEOPLE, Matt, but letting your house go into foreclosure means that you should not be on the board voting on somebody else's fees and charges when you haven't paid your own.

Having said that, we request that you resign today, effective immediately.

David A.L. Smith

State of Colorado



William Leone, Chair
Bob Bacon, Vice-Chair
April Jones, Commissioner
Matt Smith, Commissioner

Independent Ethics Commission
1300 Broadway, Suite 240
Denver CO 80203
Phone: (720) 625-5697
www.colorado.gov/iec

Dino Ioannides, Executive Director

Independent Ethics Commission Code of Conduct Policies and Procedures

1. **Purpose.** The purpose of these policies and procedures is to describe how the Colorado Independent Ethics Commission handles conflicts of interest, potential conflicts of interest, or the appearance of impropriety among its commissioners, executive director, and/or legal counsel.
2. **Definitions.** The following definitions apply to these Policies and Procedures unless the context requires otherwise:
 - a. "Appearance of impropriety" means conduct perceived by a reasonable person to impair the ability to carry out official responsibilities with fairness, impartiality, objectivity, and integrity.
 - b. "Conflict of interest" means a situation in which an individual's personal or financial interest conflicts with the individual's official responsibilities.
 - c. "IEC" means the Colorado Independent Ethics Commission.
 - d. "Individual" means any one of the IEC's commissioners, executive director, or legal counsel.
 - e. "Potential conflict of interest" means a situation in which an actual conflict of interest does not yet exist but may exist in the foreseeable future. "Potential conflict of interest" does not include a merely hypothetical or possible conflict of interest.
3. **Policies:**
 - a. The IEC and the individuals governed by these policies and procedures shall perform their duties and responsibilities with fairness, impartiality, and objectivity, and shall maintain the integrity of the public trust vested in them.
 - b. The individuals governed by these policies and procedures shall not permit family, social, political, financial, or other personal interests or relationships to influence the individual's conduct or judgment.
 - c. The individuals governed by these policies and procedures shall not participate in any official IEC action if said individual has a financial interest in the outcome. The

individuals governed by these policies and procedures may not receive compensation or economic benefit from decisions made by the individual or in consideration of a vote in which the individual was involved, except as permitted by law.

- d. The individuals governed by these policies and procedures shall avoid conflicts of interest, appearances of impropriety, and other situations that erode the public trust.
- e. Nothing in these policies and procedures is intended to conflict with legal counsel's obligations under the Colorado Rules of Professional Conduct. In the case of any such conflict, the Colorado Rules of Professional Conduct are deemed to control.
- f. Due to the manner of IEC commissioner appointments, nothing in these policies and procedures is deemed to mandate a commissioner's recusal for merely contributing to a political campaign prior to the commissioner's deliberations in a case involving the recipient of the contribution. A commissioner should disclose the contribution and consider the totality of the circumstances in deciding whether to recuse himself or herself.
- g. In limited circumstances, the rule of necessity applies and allows commissioners to hear a case in which the requisite number of other commissioners would also have a disqualifying interest or the case could not otherwise be heard.
- h. Nothing in these policies and procedures are intended to interfere with the IEC's independent internal governance; the IEC may deviate from these policies and procedures to the extent it deems necessary and as permitted by law.

4. Procedures:

a. Recusals.

- i. **Mandatory recusal.** An individual governed by this policy is disqualified and shall recuse themselves from any official duty, responsibility, or privilege, when a conflict of interest exists or when the individual's participation would create the appearance of impropriety.
- ii. **Permissive recusal.**
 - 1. An individual governed by this policy may, in their own discretion, recuse themselves from any official duty, responsibility, or privilege, when a potential conflict of interest exists.
 - 2. An individual considering whether to permissively recuse should take into account the particular circumstances giving rise to the potential conflict of interest and whether failure to recuse would erode the public trust or the individual's fairness, impartiality, objectivity, and integrity.
 - 3. An individual who does not recuse themselves when there exists a potential conflict of interest should disclose that fact to the IEC and, if permitted under the Commission's confidentiality requirements, to the public. Such a disclosure should explain the reasons why fairness, impartiality, objectivity, and integrity will not or are not expected to be adversely impacted.
 - 4. A potential conflict of interest that ripens into an actual conflict of interest requires mandatory recusal.

iii. **Manner of recusals.** When an individual governed by these policies and procedures recuses himself or herself, he or she shall do so by making a public announcement of the recusal, if and when possible, or by making an announcement of the recusal to the IEC immediately after entering executive session if that is the case. For a recusal occurring during deliberation, the affected individual should leave the room in which the deliberation is occurring.

b. **Roles and Functions.**

i. **Commissioners.** Nothing in this policy is intended to prevent any commissioner from voting on a motion to enter executive session.

ii. **Executive Director.**

1. Any duties or responsibilities necessary for the proper administrative functioning of the IEC that cannot be fulfilled due to the executive director's recusal may be transferred to the IEC's legal counsel.

2. Due to the limited staffing of the IEC, nothing in these policies or procedures mandates recusal of the IEC's executive director from mere ministerial duties or responsibilities, provided the IEC is satisfied that fairness, impartiality, objectivity, and integrity are maintained.

iii. **Legal counsel.** When legal counsel recuses himself or herself, the IEC may obtain alternate legal counsel.

iv. **Executive Director and Legal Counsel.** When both the IEC's executive director and legal counsel recuse themselves, the IEC may obtain alternate legal counsel who will also perform necessary administrative functions.