

MINUTES OF SPECIAL MEETING OF THE BOARD
OF DIRECTORS

OF

MIDTOWN AT CLEAR CREEK METROPOLITAN
DISTRICT

Held: Tuesday, August 20, 2019 at 6:00 p.m.
The Shed at Midtown, 1625 W. 67th Ave., Denver,
Colorado.

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:

Matthew Zielinski
Stephen B. Clark – *by phone*
Rachel Williams
Chris Petro

Also present were Kristen D. Bear, Esq. and Eve M. Grina, Esq., White Bear Ankele Tanaka & Waldron, Attorneys at Law, District general counsel; Kimberly Johanns, Simmons & Wheeler, District accountant; Desiree Wingo, MSI, District Manager; Barrett Marrocco, IDES, LLC, District Engineer; Will Scherman, Brookfield Residential.

Please see the attached sign in sheet for additional attendees.

**Call to Order/Declaration of
Quorum**

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

Director Disclosures

Ms. Grina advised the Board that, pursuant to Colorado law, certain disclosures might be required prior to taking official action at the meeting. Ms. Grina reported that disclosures for those directors with 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. Mr. Zielinski noted that a quorum was present and 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 Board determined that 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. Following discussion, upon motion duly made and seconded, the Board approved the agenda, as amended to move Financials Matters to item 4-A and to add the Engineer's Report as item 4-B.

Public Comment

Ms. Amanda Fitzgerald presented information regarding her mother's proposal for little libraries, suggesting that these little libraries could be placed near the Garden and her mother's house. Ms. Bear explained that installation of a little library on private property would need to go through the ARC review process and installation on District property would need to be approved and directed by the District. The Board requested that Ms. Fitzgerald and her mother provide a more detailed written proposal for the Board's consideration, including maps of proposed locations and cost estimates. Director Zielinski suggested that he would prefer residents to take the lead and install little libraries on private property and was hesitant to put District resources to this proposal, considering that property owners within the District already pay taxes to support public libraries. Director Williams expressed that she would prefer the District to take the lead on the little libraries, should the effort proceed, in order to maintain a uniform look for the project.

Financial Matters

Consider Approval of Payables and Acceptance of Financials

Ms. Johanns presented the paid claims to the Board for consideration. Following discussion, upon motion by Director Williams and seconded by Director Zielinski, the Board approved the payables and ratified the paid claims.

Ms. Johanns presented the payables to the Board for consideration. Following discussion, upon motion by Director Williams and seconded by Director Petro, the Board approved the payables and ratified the paid claims.

Ms. Johanns presented the current financial statements through June 2019. Director Williams raised the issue of corrections pointed out by the auditors in the 2018 Audit. Based on corrections needed, the Board discussed taking

action to reject the financial statements, but instead determined to take no action at this time.

Discussion of 2018 District Audits

Ms. Johanns presented that the 2018 Audit was filed timely, but will need to be amended to address an issue related to an outstanding liability for developer reimbursements. Ms. Bear explained to the Board that legal counsel has been working with the District's accountant to clarify the amount of the District's liability to the developer for advances made in excess of the District's debt limit set in the Service Plan, in light of the Series 2017 bond issuance and related to the District's agreements with the developer. Legal counsel and the District accountant will coordinate and work with the auditor to amend the 2018 audit.

District Engineer's Report

Mr. Marrocco presented the Board with a Project Status Report and discussed the status of improvements that were initially accepted by the District on July 26, 2017, and explained that the developer has requested final acceptance of the improvements. Ms. Bear reminded the Board that the District holds Warranty Bonds from the developer for the improvements initially accepted on July 26, 2017. Mr. Marrocco reviewed the status of the landscaping and lighting improvements that the developer requested the District accept. The Board engaged in a discussion with Mr. Marrocco and Ms. Wingo regarding the status of the landscaping and lighting improvements, and resident feedback received, as applicable. The Board determined that additional review and investigation were required and tabled the discussion until the next meeting.

Pond Maintenance Contract

Mr. Marrocco presented the Board with a renewed proposal form LT Environmental, Inc. for maintenance of the District detention ponds. After discussion, Director Williams moved that the Board conditionally approved the proposal, in an amount not to exceed \$7,500.00. Director Petro seconded the motion and the Board approved the motion unanimously. Mr. Marrocco is to get an updated written proposal from the contractor.

Developer Report

Mr. Sherman presented the status of development in the District.

East Side

Mr. Sherman noted that construction on the large park is anticipated to start spring 2020. The temporary dog park will eventually be replaced by the permanent dog park,

which will be surrounded by landscaping that blends with the nearby pond. The dog park gravel is being adjusted to be a softer material, in response to feedback from the community. The material from the temporary park will be used to top-dress the existing dog park when the new permanent dog park is constructed.

Filing 11

It was noted that foundations will begin to be laid in Filing 11 before the end of the year. The homes in that area will be larger, three-story townhouses. The filing is currently in the development approval process.

Filing 6

Landscaping and construction is under way. Developer is aware of the issue with weeds growing in the dog park and is addressing the situation. They are also working on the design for the 36-acre park and finalizing environmental impact reports.

Director Zielinski recommended that the developer install sidewalks to connect the District to the train station ahead of the park completion. Mr. Sherman informed the Board that the developer has contributed funds to the County for such a sidewalk connection and the County would be the entity to construct the sidewalk.

District Manager's Report

Financials

Ms. Wingo presented the check registers and invoices for May, June and July for approval and asked the Board to ratify the extension granted to homeowners for replacing dead trees. Following discussion, upon motion duly made by Director Williams and seconded by Director Petro, the Board approved the extension unanimously.

Landscaping Proposals

Ms. Wingo presented the Board with multiple landscaping proposals, including proposals to replace dead vegetation and based on resident requests. After discussion, the Board requested that Ms. Wingo provide proposals for “like-for-like” replacement of plant material, working with Brightview to determine if certain plants will be more likely to survive in the present conditions, and present the Board with prioritized proposals, emphasizing those that are most urgent based on community feedback.

Hearing Regarding Covenant Violation Notice

Director Zielinski opened the hearing on the covenant violation notice. Mr. McNeal presented his position to the Board, explaining that he had not initially understood that the violation related to his use of his garage for storage. He explained that one of his vehicles is too long to fit in his garage, and so it is parked in the driveway. He also raised the issue of his dispute with his neighbor, which the Board explained was not a District matter. The Board confirmed for Mr. McNeal that his violation had been cured and that the District did not consider his vehicle parked in his driveway to be a violation, as the violation cited was for use of his garage for storage. The Board took his request to amend the covenants under advisement.

Landscape Committee Report

Mr. Smith presented the Board with the Committee's progress on removing tree stakes and informed the Board that they were able to resolve the issue with lights shining into homes by talking to the neighboring business.

District Manager's Report Continued

The Board discussed the proposal for changes to the irrigation controller related to a request from the Montessori school and determined to reject the proposal, but instructed Ms. Wingo to adjust the water service so that it is not time-restricted.

The Board took the Homeowner Requests/Feedback and Work Orders/Maintenance Update sections of the Manager's Report under advisement and took no further action.

Ms. Wingo informed the Board that she is working with Brightview to develop their proposal for the 2020 landscaping contract.

Ms. Wingo informed the Board that homeowners have requested that the water feature contract be extended beyond Labor Day. The Board instructed Ms. Wingo to obtain a proposal for a two-week extension from the contractor and circulate it to the Board for review.

Approval of May 14, 2019 Special Meeting Minutes

Ms. Grina presented the May 14, 2019 meeting minutes to the Board. Following discussion, upon motion duly made by Director Williams and seconded by Director Petro, the Board approved the minutes, with Director Zielinski objecting.

Legal Matters

Ratify Access and Maintenance Easement Agreement for Landscape and Hardscape Improvements – Lot 10, Block 1, Filing 9; Access and Maintenance Easement Agreement for Landscape and Hardscape Improvements – Lot 11, Block 1, Filing 9; Access and Maintenance Easement Agreement for Landscape and Hardscape Improvements – Lot 12, Block 1, Filing 9; Access and Maintenance Easement Agreement for Landscape and Hardscape Improvements – Lot 13, Block 1, Filing 9; Access and Maintenance Easement Agreement for Landscape and Hardscape Improvements – Brookfield Townhome Lots, Filing 9; and Access and Maintenance Easement Agreement for Landscape and Hardscape Improvements – Filing 11

Ms. Grina presented the Access and Maintenance Easement Agreement for Landscape and Hardscape Improvements for Lot 10, Block 1, Filing 9; Access and Maintenance Easement Agreement for Landscape and Hardscape Improvements – Lot 11, Block 1, Filing 9; Access and Maintenance Easement Agreement for Landscape and Hardscape Improvements – Lot 12, Block 1, Filing 9; Access and Maintenance Easement Agreement for Landscape and Hardscape Improvements – Lot 13, Block 1, Filing 9; Access and Maintenance Easement Agreement for Landscape and Hardscape Improvements – Brookfield Townhome Lots, Filing 9; and Access and Maintenance Easement Agreement for Landscape and Hardscape Improvements – Filing 11. Following discussion, Director Zielinski moved to ratify all six of the Access and Maintenance Agreements as presented. Director Williams seconded the motion and the Board ratified the Easement Agreement as presented.

Consider Adoption of Resolution Regarding Electronic Posting of Meeting Notices

Ms. Grina presented the Resolution Regarding Electronic Posting of Meeting Notices. Following discussion, upon motion by Director Zielinski and seconded by Director Williams, the Board adopted the Resolution.

Discuss declarant control period and the process for making any changes to the Declarations

Ms. Grina presented the declarant control period and process for making any changes to the Declarations. The Board engaged in a general discussion, no action was taken.

Other Business

RTD Eco Pass

The Board engaged in a general discussion, no action was taken.

Adjourn

There being no further business to come before the Board

and upon motion duly made by Director Zielinski, seconded by Director Petro, 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