

MINUTES OF A SPECIAL MEETING OF THE BOARD
OF DIRECTORS

OF

MIDTOWN AT CLEAR CREEK METROPOLITAN
DISTRICT

Held: Tuesday, May 18, 2021 at 6:00 p.m.
Via Zoom Video Conferencing.

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, Attorneys at Law, District general counsel; Desiree Wingo, MSI, District Manager; Kimberly Johanns, Simmons & Wheeler P.C., District Accountant; Barrett Marrocco and Andrew Gaitens, Independent District Engineering Services, LLC, District Engineer; Michelle Simutis, Social Committee, Kate Farmer Rojas, Garden Committee and various members of the public.

Administrative Matters

Call to Order/Declaration of
Quorum

Director Williams noted that a quorum of each 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 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. 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 as amended.

Approval of March 10, 2021 and February 16, 2021 Meeting Minutes

Ms. Velasco presented the March 10, 2021 and February 16, 2021 Meeting Minutes. Following discussion, upon a motion duly made and seconded, the Board approved the minutes.

Discuss Return to In-Person Meetings

The Board engaged in a general discussion regarding returning to in-person meeting. Following discussion, the Board determined to return to in person meetings at the Shed starting with the August regular meeting.

Public Comment

Dittiman Singh requested that the Board continue providing for virtual access to the meetings for members of the public, requested that fence extensions be permitted in the community and requested a quicker response timeline for the ARC.

Anahita Behrad asked about plans for the temporary and permanent dog parks on the East Side of the community. She noted that the shorter fence heights required in the community contribute to security issues and requested that fence extensions be allowed. She also noted that there are properties within the community that may be in violation of the covenants for yard maintenance.

Carlyn Ackerman raised concerns about security in the community and requested that the Board consider installing security cameras to monitor vehicles on the roads through the community. The Board engaged in a general discussion regarding security concerns and requested that Ms. Wingo contact the Adams County Sherriff regarding options for improving security.

Michelle Simutis noted that the dog park facilities on the East Side of the community are insufficient to meet the demand of residents and that the maintenance of the dog parks has been substandard.

B. Jackson informed the Board that he and other residents had received notices that their fence heights were not in

compliance with District covenants and requested that the Board take action to allow fence extensions. The Board noted that this item was on the agenda for discussion.

Resident Requests

Discuss Organized Sports Usage of District Parks Ms. Wingo informed the Board that a resident had requested District permission to use the turf in Home Plate Park for organized children’s soccer practices on a regular basis. The Board engaged in a discussion of the issue, noting the anticipated additional wear on the turf, the District’s lack of established policies for park usage, and liability concerns. Ms. Wingo and Ms. Velasco responded to questions from the Board. Following discussion, the Board approved the request, provided that the coaches and parents or guardians of all participants sign waivers prior to use of the District’s fields.

Discuss Request to Construct Sponsored Structures on District Property Ms. Wingo presented a request from certain resident real estate agents in the community to sponsor construction of structures in the District parks and display their business contact information on the structure. Following discussion, the Board determined not to approve the request and noted that the Board would consider constructing shade structures in the parks without private sponsorship.

Committee Reports

Social Committee Ms. Simutis presented the Committee’s plans to hold several events in the second half of 2021, contingent on public health restrictions, including for the Fourth of July, newcomers, Halloween, holiday decorations and a Midtown artist showcase.

Landscape Committee Ms. Wingo provided an update on the Committee’s activities

Communications Committee Ms. Wingo provided an update on the Committee’s activities, noting that the next newsletter would be circulated.

Garden Committee Ms. Farmer Rojas informed the Board that the Summer Market would take place on June 12th and that all costs would be borne by vendors. She also provided an update on the community garden, noting that the water was turned on without major issues and that the shrub removal project was largely completed.

Financial Matters

- Consider Approval of Payables and Claims Ms. Johanns presented the payables and claims to the Board. Following discussion, upon a motion duly made and seconded, the Board approved the payables and claims.
- Consider Acceptance of Financial Statements Ms. Johanns presented the financial statements to the Board. Following discussion, upon a motion duly made and seconded, the Board accepted the financial statements.
- Discuss CTF Revenue Report Ms. Johanns presented the CTF revenue report to the Board. No action was taken.
- Discuss Duplicate Payment of Developer Fees Ms. Johanns informed the Board that the accounting and management teams had identified several development fee invoices that the developer had paid twice and had corrected the issue.

Developer's Report

- Consider Approval of Amendment to Filing 11 Final Development Plan Ms. Velasco presented the summary received from the developer's engineer explaining the changes. Following discussion, upon a motion duly made and seconded, the Board approved the amendment.

Infrastructure Matters

Mr. Gaitens noted that there was no new information regarding infrastructure acquisition to report.

Legal Matters

- Consider Approval of Proposal from IDES for General District Engineer Services The Board engaged in a general discussion. Following discussion, upon motion duly made and seconded, the Board approved the proposal, with the condition that Ms. Wingo seek Board approval for any project under this agreement which would exceed her delegated authority budget limits before submitting the request to IDES. It was noted that Ms. Velasco is to draft the Intergovernmental Construction Agreement.
- Consider Approval of Second Addendum to Agreement with IDES for Infrastructure Acquisition Engineering Services The Board reviewed the Second Addendum to Agreement with IDES for Infrastructure Acquisition Engineering Services. Following discussion, upon a motion duly made

and seconded, the Board approved the addendum to the agreement.

Consider Proposals for Covenant Enforcement Legal Services

Director Clark presented his review of the proposals to the Board and recommended that the Board engage with Winzenberg Leff Purvis and Payne as special counsel for covenant enforcement legal services. Following discussion, upon a motion duly made and seconded, the Board approved the engagement of Winzenberg Leff Purvis and Payne as special counsel for covenant enforcement legal services.

Update on Discussions Concerning Filing 12 Park

Directors Clark and Director Tully provided an update on their discussions with representatives from Hyland Hills Park and Recreation District and Brookfield Residential regarding the Filing 12 Park planned by Brookfield. They noted for the Board that Hyland Hills Park and Recreation District is interested in owning and maintaining the Park and developing a park that meets the community's needs. The parties have set up recurring bi-weekly meetings to discuss the next decision points, including the desired amenities to be developed and the eventual owner. Hyland Hills Park and Recreation District is interested in changing the currently planned disc golf course out for sports fields and a natural pathway. The Board determined that they would prefer the District retain ownership of the Dog Park and detention pond tract that neighbor the future Park site. The Board discussed the next steps and the process for gathering community input on the options. The Board determined to seek community input through a survey and to distribute the survey via email and regular mail.

Consider Approval of Memorandum of Understanding with Hyland Hills Park and Recreation District and Brookfield Residential (Colorado), LLC

The Board reviewed the Memorandum of Understanding with Hyland Hills Park and Recreation District and Brookfield Residential (Colorado), LLC. Following discussion, upon a motion duly made and seconded, the Board approved the memorandum of understanding.

District Manager's Report

Discuss Reopening of the Shed and District Amenities

The Board approved reopening The Shed to rentals, provided that all renting parties must sign a COVID Release in addition to the normal rental paperwork

Discuss Fencing Covenant
Violations

Ms. Wingo presented an overview of the issue to the Board, noting that there are residents with strong opinions on all sides of the issues. She noted that the County requires fences to be no higher than 72 inches tall, while the District's guidelines restrict the height to 60 inches. The ARC had requested Board direction on whether to request that the Declarant revise the guidelines concerning fence heights. The Board discussed the issue and noted related concerns about the efficiency of the ARC's reviews, particularly given that the Declarant-appointed members of the ARC have recently fully turned over. The Board provided direction to the ARC to change the height limit for fencing to 72 inches, to match the County's limit, and directed legal counsel to prepare a letter to the Declarant requesting increased resident involvement and control of the District's governing documents, including at a minimum, appointment of 3 residents to the ARC.

Financials and Payables

The Board reviewed the January, February and March Check registers and financial statements. Following discussion, upon a motion duly made and seconded, the Board approved all the check registers and financial statements.

Ratification Items

The Board reviewed the February, March and April Invoices. Following discussion, upon a motion duly made and seconded, the Board ratified the invoices.

The Board reviewed the WAS Retention Pond Maintenance expense and the Dog Park Gate Latch replacement expense. Following discussion, upon a motion duly made and seconded, the Board ratified the expenses.

New Business

Ms. Wingo provided a grounds update and an overview of the report from Brightview regarding the walkthrough of District property.

Ms. Wingo presented a list of proposals from Brightview for grounds projects in response to safety concerns and resident complaints. The Board authorized Ms. Wingo to prioritize the safety-related proposals and to compare the remaining proposals to the remaining allocated budget for such projects and present her recommendation to the Board.

Ms. Wingo presented an update to the Board on the tile repairs and preparations to open the Water Feature for Memorial Day Weekend.

Homeowner Requests/Feedback

Ms. Wingo informed the Board that this park is still under Brookfield's maintenance and that she has flagged the maintenance issues for them. Board instructed Ms. Wingo to get a proposal from the District's pet waste service provider for adding pet waste facilities to the dog park and to seek an agreement from Brookfield to cover the cost of these services to the East Side Dog Park.

Lighting Concerns

Ms. Wingo provided an update on the issues noted and answered questions from the Board

Shade Structures and Benches

The Board instructed Ms. Wingo to contact the developer's design engineer regarding designs for shade structures in the District's parks and the cost associated with providing such designs if they are not readily available.

Work Orders/Maintenance Update

Ms. Wingo provided an overview of the work orders and their completion. She noted that she is seeking solutions for the mail room maintenance issues and twice-weekly cleaning services.

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 (Aug 18, 2021 12:41 MDT)

Secretary for the Meeting