

RECORD OF PROCEEDINGS

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF

GVR METROPOLITAN DISTRICT

Held: Wednesday, January 21, 2009 at 6:30 p.m., at the GVR Metropolitan District Office, 18650 East 45th Avenue, Denver, Colorado

Attendance A regular meeting of the Board of Directors of GVR Metropolitan District, Denver, Colorado, was called to order at 6:33 p.m. and held as shown above and in accordance with the applicable statutes of the State of Colorado with the following directors present and acting:

Earleen Brown, President
Michael George, Vice President
Anthony Noble, Treasurer
Mary Schumer, Secretary
Elana Perry, Director (absent, excused)
Joanne True, Director
Charles Britton, Director

Also present were: Andrew Pimental, District Manager, Evan Ela, legal counsel, Andy Fisher, litigation counsel, Mary Ann McGeady, special counsel.

1. Call to Order and Establish a Quorum Chairman Brown established that a quorum of six directors was present and called for a motion to enter executive session as described on the Notice and Agenda of Meeting.

2. Executive Session **Upon motion by Director Schumer, seconded by Director Noble, the Board unanimously voted to enter Executive Session at 6:33 p.m. for the purpose of obtaining confidential legal advice on specific legal questions related to the lawsuit filed against the District by the Master Homeowners Association for Green Valley Ranch per Section 24-6-402(4)(b), C.R.S. and to determine positions relative to matters related to such lawsuit that may be subject to negotiations, to develop strategy for negotiations and to instruct negotiators per Section 24-6-402(4)(e), C.R.S.**

Director True stated her objection to being dismissed from the Executive Session despite to her active participation, on behalf of the Master HOA, in its lawsuit against the District.

The Board reconvened its regular meeting from Executive Session at 7:15 p.m.

3. Also present at Andrew Pimental, District Manager, Evan Ela, legal counsel, Andy Fisher,

the public meeting were:

litigation counsel, Mary Ann McGeedy, special counsel, Jim and Fenna Tanner, Dorian Fontanella, Dawn Greer, Paul Gilberto, T.J. Stone, Biff Birkenmeyer, and Charles Foster.

Chairman Brown asked for a motion to excuse Director Perry. Upon motion by Director Noble, seconded by Director Schumer, the Board unanimously voted in favor of excusing Director Perry for illness.

4. Approve Agenda

The Board reviewed the published Agenda. Upon motion by Director Schumer, seconded by Director George, the Board unanimously approved the Agenda revised to include two new items in the Legal Report:

- Scheduling a special meeting during the last week of January; and
- Discussion of an invoice received from the City of Denver for a special district fee.

5. Approve Minutes from Prior Meeting

a. December 10, 2008 Regular Board Meeting

The Board reviewed and discussed the draft minutes. **Upon motion by Director George, seconded by Director Noble, the Board approved the minutes by a vote of five in favor and one (Director True) abstained. Director True stated that she had not had an opportunity to review the minutes prior to the meeting.**

b. December 13, 2008 Emergency Board Meeting

The Board reviewed and discussed a minor revision to the draft minutes provided in the Board packets. **Upon motion by Director Schumer, seconded by Director George, the Board approved the minutes as revised during the discussion by a vote of five in favor and one (Director True) abstained. Director True stated that she had not had an opportunity to review the minutes prior to the meeting.**

c. December 15, 2008 Special Board Meeting

The Board reviewed and discussed a minor revision to the draft minutes provided in the Board packets. **Upon motion by Director George, seconded by Director Schumer, the Board approved the minutes as revised during discussion by a vote of four in favor, with Director True abstaining and Director Britton opposing. Director True stated that she had not had an opportunity to review the minutes prior to the meeting, and Director Britton stated that he did not attend the meeting.**

d. January 2, 2009 Special Board Meeting

The Board reviewed and discussed the draft minutes provided in the Board packet. **Upon motion by Director Schumer, seconded by Director George, the Board approved the minutes by a vote of five in favor and**

one (Director True) abstaining. Director True stated that she had not attended the special meeting.

6. Conflicts of Interest Disclosures

None were stated.

7. Comment Period

a. Developer Representative(s)

No comment made.

b. Master Homeowners Association

Director True informed the meeting that welcoming meetings for residents that had moved into the community in 2008 were scheduled for February 10th at 6:30 p.m. and February 14th at 10:00 a.m. She stated that a welcoming package containing numerous coupons and other promotional materials would be provided to each new resident that attends the meetings.

c. Public (limited to 3 minutes per person unless arranged with the Chair well in advance of the meeting date; public comment period limited to 20 minutes in total)

No comments were made by members of the public.

8. Public Hearing

Public Hearing on Possible Amendment of 2009 Budget

Chairman Brown opened the public hearing at 7:30 p.m. and turned the chair over to Director Noble to present the possible budget line item amendments to the District's 2009 budget. Legal counsel, briefly explained the circumstances causing the necessity of potentially amending the District's 2009 budget, that being the lawsuit filed by the Master Homeowners Association for Green Valley Ranch against the District asserting numerous claims, including seeking an injunction against the certification of the District's mill levies and budget. Director Noble then proceeded to describe the process that had been followed by the Board and a budget review committee set up for the purpose of complying with the Court Order issued on December 15th as a result of a hearing on the lawsuit filed by the Master HOA. He described the members of the Committee, and the submission made by the Master HOA of budget requests for consideration.

He stated that the Master HOA had submitted requests totaling \$270,362, the entire total of tax revenues anticipated in the District's operating budget as a result of the revised mill levy certification done in accordance with the Court Order. He also described that the District desired to increase certain line items within its budget to accommodate the circumstances of the Master HOA lawsuit.

He then commenced to describe the minutes from the budget review committee meeting held on January 8, 2009 and the resulting discussion of each line item contained within those minutes. Members of the public and the Board commented on many of the budget line items summarized by Director Noble. **The discussion was closed, and the public hearing ended at 8:25 p.m., upon motion by Director Noble, seconded by Director George, and a unanimous vote of the Board.**

Following the public hearing the Board, by consensus, determined that it would enter into deliberations and act on each of the budgetary line items discussed during the public hearing immediately, rather than waiting to consider it as Item 11.d of the Agenda. Director Noble asked for motions from the Board on each of the line items, or group of line items, presented.

- i. Referencing Item 1, District Legal, \$50,000 requested for legal expense in defense of Master HOA lawsuit and to obtain legal interpretation of Ballot Issue 5A. **Upon motion by Director George, seconded by Director Schumer, the Board unanimously approved this budget line item as being necessary for defending the lawsuit.**
- ii. Referencing Item 2, District Legal, \$20,000 requested for legal expense for participating in mediation between the District and the Master HOA as a result of the lawsuit. **Upon motion by Director George, seconded by Director True, the Board unanimously approved funding this line item in the amount of \$15,000, as the amount more representative of estimated costs.**
- iii. Referencing Item 3, District Legal, \$10,000 requested to participate in amendment of the Services Agreement. **Upon motion by Director True, the proposal to fund this line item failed for lack of a second.**
- iv. Referencing Item 4, 1999 Bond Debt, \$200,000 requested for early repayment of bonded indebtedness of the District. **Upon motion by Director George, seconded by Director Schumer, the Board unanimously approved not funding this line item category.**
- v. Referencing Item 5, Professional Services, \$100,000 requested to investigate the structural measures necessary to bring the District's office building into compliance with current City building codes. **After discussion of the need for this service, and recognizing the lack of urgency to fund this line item, the Board, upon motion by Director George, seconded by Director Schumer, unanimously approved not funding this line item pending development of a plan for approaching improvements to the building.**

- vi. Referencing Item 6, Signage, \$10,000 requested to provide signs at each entrance to the community to inform residents and visitors that the neighborhood is covenant controlled. **After discussion and determining that the signs would not be an effective way to communicate with residents, upon motion by Director George, seconded by Director Schumer, the Board unanimously agreed not to fund this line item.**
- vii. Referencing Item 7, Professional Services, \$10,000 requested to develop a comprehensive community plan. **The Board discussed the lack of urgency on developing this plan and, due to the current state of the economy, upon motion by Director George, seconded by Director Schumer, the Board unanimously agreed not to fund this line item. It was noted by the Board that development of a suitable plan by the Board and staff should continue as staff time permits.**
- viii. Referencing Item 6440, HOA Signs – Events, \$2,500 requested for new signs to advertise community events. The Board discussed with Mr. T.J. Stone on the actual costs for such signs, and determined that the cost would be less than the \$2,500 requested and could be funded from District contingency. **Upon motion by Director True, a motion to fund this line item at \$2,500 failed for lack of a second. Further discussion ensued and it was determined that the amount of money requested for such signs was in addition to a similar amount of money that had already been provided in the District’s budget for such signs. Upon motion by Director Brown, seconded by Director True, the Board voted three in favor and three opposed to funding this line item in the amount of \$2,400, and the measure failed.** Accordingly no funding of this line item will occur.
- ix. Referencing Item 7510, HOA Management Fee, \$3,000 requested for providing a bonus to the District’s staff position of HOA Manager if such person obtains a certification. The Board discussed the fact that the District budget includes funds to reward District’s employees for achieving enhancements to their credentials for performing their jobs, and therefore, this additional amount need not be budgeted under HOA expenditures. **Upon motion by Director George, seconded by Director Schumer, the Board unanimously approved not funding this line item.**
- x. Referencing Item 7515, HOA Office Space Rent, \$1,080 requested for a storage unit and post office box rental for the Master HOA. Upon discussion, the Board determined that the small storage unit is no longer needed due to a larger storage unit being currently used and such expense covered by a District budget item. **Upon motion by Director George, seconded by Director Schumer, the Board**

unanimously approved funding this line item at \$720 to cover the cost of renting a post office box and one storage unit for the Master HOA.

- xi. Referencing Line Item 7520, HOA Legal, \$55,000 requested for legal expenses related to ongoing litigation against the District and Westwind. The Board discussed the amount of legal expense being paid for the community and the already authorized allocation of \$60,000 for the Master HOA's legal expenses within the District's approved budget. **A motion by Director True to fund this line item at \$55,000 failed for lack of a second.**
- xii. Referencing Item 7522, HOA Income Taxes, \$100 requested to pay income tax preparation of the Master HOA. The Board discussed the relatively small amount and determined that if the Master HOA incurred a tax liability for 2008, that amount can be paid from already budgeted contingency funds of the District, and would be paid. **Upon motion by Director George, seconded by Director Schumer, the Board unanimously agreed not to fund this line item.**
- xiii. Referencing Item 7525, HOA Information Technology, \$6,000 additional requested for professional services to maintain computer systems separately from the District's systems. The Board discussed the committee's conclusion that this amount may be excessive for the need in 2009, but anticipates equipment replacement may be necessary. **Upon motion by Director George, seconded by Director True, the Board voted three in favor and three opposed to funding this line item. Therefore, the motion failed, and no funds were allocated for this line item.**
- xiv. Referencing Item 7526, HOA Other Professional Services, \$20,500 requested to pay for services for additional scanning of documents and GIS aerial photos within the shared HOA and District GIS system. The Board discussed the practice of acquiring updated aerial photos for inclusion in the system every two years, rather than every year, and the elimination of approximately \$18,000 that had been projected to obtain outside services for scanning documents. Staff informed the Board that aerial photos had been acquired in 2008, and that the scanning project could be accomplished by District staff, without incurring the expense of outside services. **Director True made a motion to fund this line item at \$5,000, which failed for lack of a second.**
- xv. Referencing Item 7536, HOA newsletter printing, \$29,300, referencing Item 7537, HOA newsletter postage, \$24,100, referencing Item 7539, HOA newsletter editor, \$8,400, and referencing Item 7539, HOA newsletter reporter, \$3,600; in total

these four budget requests equal \$65,400. The Board discussed the existing District budget allocation of \$25,200 for newsletter publishing expenses, that amount based on goal to reduce the newsletter from a 100% paper product to an electronic distribution to the extent possible and the elimination of the need for a newsletter reporter. The District staff is investigating ways to utilize electronic distribution to the extent possible. **Director George moved that no amount of additional funding be allocated to newsletter publishing expenses, which was seconded by Director Schumer. The Board voted five in favor and one opposed, and therefore no amount of funding was allocated to these line items as a group.**

- xvi. Referencing Item 7541, HOA telephone, \$9,000 requested as the allocation of the costs of HOA staff phone expenses as prorated against the District total phone expenses. The Board discussed that this amount should be included in the District's Administrative Overhead budget, but staff was able to confirm that the full cost of providing telephone service for performing the HOA services had already been provided for in the 2009 District budget approved in late 2008. **Upon motion by Director George, seconded by Director True, the Board voted two in favor and four opposed to funding this line item in the amount of \$9,000. Therefore this line item will not be funded.**
- xvii. Referencing Item 7560, HOA Maintenance and Repairs, \$1000 requested to make repairs to office furniture and equipment. The Board discussed ultimately that the fact that all such furniture and equipment is being provided within the District offices and that the existing budget had not provided for this expense. **Upon motion by Director George, seconded by Director True, the Board unanimously approved this line item in the amount of \$1,000.**
- xviii. Referencing Item 7561, HOA Dues, Membership and Registration, \$500 requested for registering and/or renewing HOA Board and Delegates in undocumented organizations and memberships. **Upon motion by Director True to fund this line item in the amount of \$500, the motion failed for lack of a second.**
- xix. Referencing Item 7561, HOA Professional Development, \$999 requested for professional development of delegates and HOA Board members. The Board discussed that \$8,001 has already been included in the District's budget to fund this purpose and that insufficient documentation to justify an additional \$999 had been provided or determined by the committee's discussions. **Director True moved to fund this line item in the amount of \$999, which failed for lack of a second.**

- xx. Referencing Item 7570, HOA Miscellaneous Administration, \$4,978 requested for miscellaneous supplies, GIS maps and storage. The Board discussed and determined that the HOA did not have the need for these additional items since all such items had already been budgeted in the District's budget. **Director True moved to fund this line item at \$5,000, which failed for lack of a second.**
- xxi. Referencing Item 7650, HOA Community Events, \$25,300 requested by the HOA to cover the expenses of various community meetings, annual garage sale, GVR Days, Holiday Lights Tour, and such events. The Board discussed whether the expenses for such items had been included in the District budget, but could not confirm. **Upon motion by Director George, seconded by Director True, the Board unanimously approved funding this line item in the amount of \$25,300.**
- xxii. Referencing Item 7651, New HOA Programs – Pre-Foreclosure, \$1,400 requested for committee expense funding. The committee discussion determined that these expenses could be funded from collection of fees and fines collected by the District through the Covenant Enforcement Program and would not need to be funded by tax dollars. **Director True moved to fund this line item in the amount of \$1,400, but the motion failed for lack of a second.**
- xxiii. Referencing Item 7700, HOA Non-capital Furniture and Equipment, \$10,000 requested for new office space, computer, server and phone systems. The Board discussed whether the HOA needed office space or could utilize the space within its offices. District Manager confirmed that space for HOA to maintain office was available and could be modified if not acceptable for the HOA's needs. **Upon motion by Director George, seconded by Director Schumer, the Board voted five in favor and one opposed to not fund this line item.**
- xxiv. Referencing HOA Allocation from District contingency fund, \$60,805, requested to build an administrative reserve for perfection of past HOA liens against properties for failure to pay fees and fines imposed by the Master HOA. The Board discussed its understanding that the use of tax dollars to effect foreclosures on properties within the District for the purpose of collecting fees would be risky and imprudent as advised by legal counsel. **Director George moved that no amount be allocated to fund this line item, which was seconded by Director Schumer, and the Board voted to approve the motion by a vote of five in favor and one opposed.**
- xxv. Referencing County Treasurer Fee, \$2,700 requested based on an estimate of 1% of the tax funds required. The Board discussed the

fact that the amount requested was an estimate based on the amount of tax revenues collected and instead the amount funded to this line item should be equal to 1% of whatever the tax revenues are in 2009. **Upon motion by Director George, seconded by Director Schumer, the Board unanimously approved funding this line item in the amount of 1% of tax revenues collected during the 2009 fiscal year.**

Director Noble informed the Board that he was uncertain whether the District's denial of the HOA's budget submittal, known as Draft #3, had the effect of voiding the District's prior approval of its 2009 budget on December 10, 2008. He informed the Board that the budget already approved by the District contained \$171,221 allocated for programs and needs of the Master HOA. He suggested that the Board vote to confirm that the amount allocated to the HOA in the existing approved District budget of \$171,221 be continued and any approved line items funded during the current meeting would be in addition to that amount. Director George inquired as to the line items contained within the total HOA allocation of \$171,221. Director Noble produced the breakdown from prior budget documents. The Board determined that any line items funded by its actions in this current meeting that related to HOA requests were in addition to the \$171,221 already allocated in the existing District's budget for 2009. **Upon motion by Director Schumer, seconded by Director True, the Board voted four in favor and two opposed to confirm that the \$171,221 allocation was undiminished by the budget amendment.**

Mr. Ela directed the Board's attention to Resolution No. 1-21-09(B), being a resolution to amend the District's budget. He explained the need to amend the budget to reallocate monies in the general fund and debt service fund categories due to the revised mill levy certification that had occurred on December 15, 2008. The Board reviewed the text of the resolution and determined that the actual effect of the certification of revised mill levies had not yet been calculated in the resolution. Director Noble stated that the calculation could be done once the necessary information was available. **Upon motion by Director Schumer, seconded by Director Britton, the Board voted three in favor and three opposed to approving Resolution 01-21-09(B) and the motion failed.** In discussion following, the Board determined that Director Noble should calculate the change in the budget numbers and provide them to the Board and the Board would reconsider the resolution later in the meeting.

9. Legal Report

a. Suspension of Community Center Contracts

Legal counsel reported that the Board's offer to conclude any remaining contractual relationship with Vastco. A \$1,500 settlement fee offer had been relayed to Vastco, but to date, no response had been received.

b. Master HOA Claim of Material Breach and Notice of Termination of Covenant Enforcement Agreement

Legal counsel stated that the circumstances of the Complaint filed by the Master HOA and subsequent court hearings and mediation had been described earlier in the meeting.

c. Schedule Special Meeting Prior to January 30, 2009

Legal counsel asked the Board to consider scheduling a special meeting following the January 26th Court hearing and prior to certifying the District's budget by the end of January. The Board set a meeting at 6:30 p.m. on January 27, 2008.

d. Invoice from Denver for Special District Fee

Legal counsel described the City of Denver's new program to assess a fee to all special districts within its jurisdiction, and the invoice for a \$3,000 fee from the GVR Metropolitan District. After discussion the Board voted to table discussion on the invoice until the February 2009 meeting.

10. Director Items None were stated.

11. Board Reports
Agenda

a. Financials

- i. Financial Statements, and
- ii. Check Detail, Payroll and Vouchers Payable

Director Noble provided a financial summary to the Board and called the Board's attention to the payroll and vouchers payable paperwork in the Board packet. **Upon motion by Director George, seconded by Director Schumer, the Board unanimously approved the financial report items i and ii, the budgetary payment procedures.**

iii. Budgetary Payment Procedures

Director Noble directed the Board's attention to a draft policy concerning the implementation of the budget and the procedures to be followed by District staff and Board members in approving payments of budgeted funds. The Board discussed the concept and necessity for establishing written procedures due to the fact that none exist at the current time. The Board agreed to provide comments on the draft policy to the District Manager by Monday, January 26, 2009 so that the Board can consider a revised draft at its special meeting on January 27, 2009. The District Manager confirmed that he would provide a copy of the proposed policy to the President of the Master HOA and solicit comments from that organization as well.

b. District Manager Report

The District Manager reported that a portion of the tree project had been completed in recent weeks, and that he would be performing a final inspection on the following day. He also reported on his conversations with the City of Denver Planning personnel concerning the possible uses that could be made of a vacant piece of land, known as the Lutheran property, located at 48th Avenue and adjacent to East Park. He related to the Board that the City staff believes that a joint-use District facility could not be built on the property due to zoning restrictions and that a rezone of the property could not be accomplished.

12. Discussion
Items

a. Consider Resolution Establishing Posting Locations

Legal counsel directed the Board's attention to Resolution 01-21-09(A), the annual resolution for establishing a location for posting 24-hour notices prior to board meetings. **Upon motion by Director George, seconded by Director Schumer, the Board unanimously approved Resolution 01-21-09(A) and established the District offices as the posting location.**

b. Consideration of Proposed Bylaws

Director Schumer reported that the Bylaws Committee was still working on composing a composite draft incorporating all the Directors' comments and asked that the matter be tabled to the February meeting.

c. Consideration of District Committees and Appointments

The District Manager directed the Board's attention to his proposal for standing District committees, the responsibilities of the committees, and the meeting times. The Board was asked to provide comments to the District Manager by January 26, 2009 so that a composite draft can be provided at the Board's special meeting for consideration.

d. Consider Resolution to Possibly Amend 2009 Budget

Director Noble provided the adjusted appropriate amounts for the General Fund and the Debt Service Fund for the District's 2009 budget as discussed earlier in the meeting. He stated that the adjusted amounts are \$4,851,096 in the General Fund and \$3,414,204 in the Debt Service Fund, with a total of \$8,819,245 as the total appropriation of all funds. **Upon motion by Director Schumer, seconded by Director Noble, the Board voted five in favor and one opposed (Director George) to approve and amend the District's 2009 budget as described in Resolution 01-21-09(B).**

e. Joint Meeting of the Master HOA and District Boards

Chairman Brown reported that no progress had been made since the last

meeting.

13. Executive Session

Executive Session (as needed to discuss the purchase of real property per § 24-6-402(4)(a), C.R.S., receive confidential legal advice on specific legal questions on specific legal questions related to the ongoing lawsuit against the District filed by the Master HOA per § 24-6-402(4)(b), C.R.S., and to determine positions relative to matters that may be subject to negotiations, develop strategy for negotiations and instructing negotiators per § 24-6-402(4)(e), C.R.S.)

Upon motion by Director George, seconded by Director Schumer, the Board voted unanimously to enter Executive Session at 10:17 p.m.

Board reconvened its regular meeting from Executive Session at 11:16 p.m.

14. Other Matters

The Board generally discussed its earlier action to pursue purchase of a three-acre piece of property located on Green Valley Ranch Parkway adjacent to East Park, known as the Lutheran property, and its reconsideration that purchase of such property at this time, in light of current economic conditions and in light of zoning information determined by the District Manager, determined to vote again on whether to move forward with the purchase.

Upon motion by Director George, seconded by Director Noble, the Board voted unanimously to cease any further activity to investigate or seek to purchase the subject property.

Director Noble provided the totals of amounts created in the District's General Fund by the recertification of mill levy as directed by the Court Order. He explained that the change in mill levy allocation created \$270,362 increase in funds in the District's General Fund and that the actions of the Board in this current meeting to allocate portions of that amount resulted in an allocation of \$29,720 for HOA requested programs and services, \$65,000 allocated to District requests, and leaving a surplus of \$175,642 in the District's contingency fund. Upon question from the Board, legal counsel explained that the contingency balance could be used for any purpose including towards the early payment of bonded indebtedness, if the Board desired. **Upon motion by Director George, seconded by Director Schumer, the Board instructed Director Noble to create a line item within the General Fund to allocate \$175,642 for early bond repayment.**

15. Adjournment

Upon motion duly made and seconded the meeting was adjourned at 11:22 P.M.

The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting and was approved by the Board of Directors of the District on the 18th day of February, 2009.

Respectfully submitted,

/s/ Mary Schumer

Mary Schumer, Secretary

GVR METROPOLITAN DISTRICT

RESOLUTION NO. 1-21-09(A)

RESOLUTION DESIGNATING LOCATION TO POST NOTICE

WHEREAS, Special Districts are required by Subsection 24-6-402(2)(c), C.R.S., to designate annually at the District Board's first regular meeting of each calendar year, the place at which notice will be posted at least 24 hours prior to each meeting.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF GVR METROPOLITAN DISTRICT AS FOLLOWS:

16. Notices of meetings (regular, special and work sessions) of GVR Metropolitan District Board required pursuant to Section 24-6-401, et seq., C.R.S., shall be posted within the boundaries of District at least 24 hours prior to each meeting at the following location:

GVR Metropolitan District Administrative Offices
18650 East 45th Avenue
Denver, Colorado

17. Notices of regular or special meetings required to be posted at three public places within District and at the office of the County Clerk and Recorder at least three days prior to said meeting shall continue to be made pursuant to Section 32-1-903(2), C.R.S.

ADOPTED this 21st day of January, 2009.

GVR METROPOLITAN DISTRICT

By /s/ Earleen D. Brown
Earleen D. Brown, President

ATTEST:

/s/ Mary Schumer
Mary Schumer, Secretary