

RECORD OF PROCEEDINGS

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF

GVR METROPOLITAN DISTRICT

Held: Wednesday, April 15, 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 6:38 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, not excused)
Joanne True, Director
Charles Britton, Director

Also present were: Andrew Pimental, District Manager; Linda G. Alexander, legal counsel; Eric Gravenson; Paul Gilberto; TJ Stone; Charlie Foster; Jim and Fenna Tanner; Walt Cross; Herlinda Nandin; Nate Eckloff, RBC Capital Markets; Micaela Duffy arrived at 7:00 p.m.; Joe Dickerson and Pamela Kerr, of Financial Forensic Services arrived at 8:45 p.m.

1. Call to Order and Establish a Quorum Chairman Brown called the meeting to order and established that a quorum of Directors was present. Chairman Brown noted that all Directors were present except for Director Perry, who had emailed the Board to state that she had a conflict with attendance. **Director Schumer made a motion to excuse Director Perry's absence, but receiving no second the motion failed. Director Perry's absence was noted on the record as unexcused.**
2. Approve Agenda The Board reviewed the published Agenda **and upon motion by Director George, seconded by Director Britton, the Board unanimously approved the Agenda without revision.**
3. Approve Minutes
 - a. **March 18, 2009 Regular Board Meeting**
The Board reviewed the draft minutes from the March 18, 2009 Board Meeting. Director True commented that on the third item in the District Manager Report there was a misstatement regarding her comments. Director

True requested that the District Manager Report be reflected to state that, “Only information discussed at the meeting will be included in the minutes,” instead of the current text which relates to dates of HOA meetings being properly posted. Director Britton additionally requested a change to the Minutes related to committee meeting attendance by Director Britton. Chairman Brown stated her opinion that the minutes accurately reflect the discussion on that topic. **Upon motion by Director George, seconded by Director Schumer, the Board approved the minutes, as modified with Director True’s comments, by a vote of 5 in favor and 1 opposed (Director Britton).**

4. Conflicts of Interest Disclosures

Director True stated her belief that she no longer has a conflict of interest in discussions related to the Master Homeowners Association for Green Valley Ranch, due to her resignation from the Board of the Master Homeowners Association as of April 8, 2009. Director True further stated that she has been, as of the same date, appointed as the Acting Manager for the Master Homeowners Association. Director True stated her belief that the paid position with the HOA does not create a conflict of interest regarding any future discussions of the District Board in Executive Session concerning the litigation between the Master HOA and the District.

5. Comment Period

a. **Developer Representatives**

No comments were provided.

b. **Master Homeowners Association Representative**

Mr. TJ Stone was in attendance and stated that he had no comments.

c. **Citizens Advisory Board Representative**

Ms. Elaine Smith was not in attendance; however, Mr. Paul Gilberto reported that a Citizens Advisory Board meeting is scheduled for April 21, 2009 at the Recreation Center.

Chairman Brown followed that announcement with two additional community announcements as follows:

- The 9Health Fair will be held from 9:00 a.m. to 12:00 p.m. at the Green Valley Ranch Medical Center.
- Earth Day celebration will be held from 12:00 p.m. to 4:00 p.m. at the District Recreation Center.

Both events are scheduled for April 19, 2009.

- d. **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)

Mr. Nate Eckloff of RBC Capital Markets introduced himself and stated that he worked with the District in the past regarding the outstanding 1999 bonds. Mr. Eckloff described several options to refinance the District bonds due to the call date of December 1, 2009. Options include the following:

- Do nothing and stay at the current APR (5.6%);
- Refinance. The current rate if the District were to refinance as of the meeting date would be 3.5%. Mr. Eckloff estimated that, at that rate, the savings with this option could range from \$50-60,000 over the life of the debt. The bonds would need to be marketed and refinanced in accordance with the call date of December 1, 2009;
- Pay off the bonds, or a portion of the bonds early;
- A combination of refinancing and paying off the bonds could also be entertained;
- Questions were entertained from the public as well as Board Members. It was agreed that the next step would be to have RBC and/or additional lenders work with Director Noble, the District Manager and legal counsel, to produce a more detailed financial analysis which could be discussed by the Board of Directors at the May Board meeting.

Mr. Eric Gravenson commented on the Senate Bill which sought to allocate reserve funds from Pinnacol Assurance to the State's General Fund. Mr. Gravenson questioned whether this could occur to special district reserves and inquired of legal counsel regarding the same. Discussion ensued on this topic, including an opinion given by legal counsel that as separate governmental agencies, special districts are likely protected by the laws of the State from such actions. A further comment came from the public that the Senate Bill was killed as of the date of the meeting.

Mr. TJ Stone inquired about the damaged monument located on the South side of 45th Street monument, and commented that summer would be a good time to fix the monument.

6. Legal Report

a. **VPGTWO, LLC**

The District Manager updated the Board that the VPGTWO, LLC checks had been received and were paid in full. The Manager commented that the water recycling system and the related system development fees for VPGTWO would be analyzed going forward to determine if any future adjustments were warranted.

b. Litigation Update

Legal counsel noted that the District's special legal counsel, Andy Fisher, was not in attendance, but that there had been a hearing on April 13, 2009, at which Chairman Brown was in attendance. Chairman Brown explained the details of the hearing. The Judge strongly suggested mediation in May, with a purpose to reach an agreement on all of the issues pending between the HOA and the District regarding the Services Agreement. The Judge stated that he will appoint the mediator. Chairman Brown entertained questions from the public regarding the status of the contract between the District and the HOA. Director George commented that it appears that services are now being duplicated at no cost savings to the residents. Chairman Brown confirmed that the HOA has moved some equipment and services to the HOA offices from the District offices as of the date of the meeting.

c. Other Matters

"Consideration of Options for Board Member Compensation" was moved from the Discussion items to the Legal Report. Legal counsel presented a summary of a legal opinion that Board Members should be reporting and withholding income generated from Board Member fees to the Internal Revenue Service on Form W-2. This will require Directors to fill out a W-4 form in order to receive their Board Member compensation. Director Britton made several comments related to his opinion to the contrary. Director Britton further inquired about the background check/fingerprinting requirements of the District and was advised that this is a different issue than the I.R.S. issue discussed in the legal opinion. Director Britton restated his desire to donate all of his Director fees to a charitable organization. Chairman Brown advised Director Britton that he must complete the appropriate I.R.S. forms before he can receive his Board Member compensation.

7. Director Items

Director Britton inquired of staff regarding the March 26, 2009 snowstorm and the determination to send staff home early on that date. The District Manager responded that all staff was sent home during the severe snowstorm on March 26th and that the maintenance people returned early in the morning on March 27th to plow District premises, pursuant to the District's Personnel Manual. Director Britton stated his belief that the Board is not representing the members of the GVR community equally.

Director Noble stated that he has done more research regarding the opportunity to possibly refinance the District's bonds and wished to correct his statements from the March 2009 Board meeting. Director Noble wished to reiterate the comments of Nate Eckloff during Public Comment regarding the opportunities for the District to consider refinancing the bonds late in 2009.

Director George, in response to Director Noble's comments, stated his belief that legal counsel had given inaccurate information in the past related to the bonds. **Whereupon, Director George stated a motion to terminate the legal services of Collins Cockrel & Cole and immediately call for bids for new legal counsel, which motion was seconded by Director Britton.** A lengthy discussion ensued regarding Director George's motion. Director Noble commented that all contracts should be reviewed annually and that the legal services contract was no different; however he was not sure about the process of reviewing legal services. Legal counsel advised the Board that the current engagement agreement with the firm provides that the services are at the will and direction of the Board and may be terminated at any time. A comment was made by Mr. Eric Gravenson that the Board may wish to consider allowing a replacement of current general counsel with another attorney of Collins Cockrel & Cole. **An amended motion was made by Director George, seconded by Director Schumer and approved by a vote of five in favor, with Director Noble abstaining due to his stated concerns about deviating from the proposed procedure of reviewing all contracts annually, to seek bids for alternate legal counsel, including a possible proposal from Collins Cockrel & Cole for replacement of general counsel.**

Joanne True stated that she had received a copy of a document from the Denver District Attorney regarding dismissal of a complaint filed by Chairman Brown regarding an allegation of failure by the District to pay fair market value for the Argonne property. Director True stated her desire that the record reflect that the previous board did nothing wrong, as confirmed by the lack of action taken by the District Attorney's Office. Chairman Brown replied that the District Attorney's document was incorrect and that she did not file any such complaint. Director Schumer requested a copy of the document from Director True. Legal counsel also requested a copy of the same document. Director True and Mr. TJ Stone stated that legal counsel could obtain a copy of the document from the Denver District Attorney's Office. Legal counsel requested and obtained permission from the Board to obtain the document.

8. Board Reports
Agenda

a. **Financials**

i. **Financial Statements**

Director Noble provided a verbal report to the Board of the financial statements, concluding that since the last meeting, expenditures have exceeded \$513,000 against revenues of \$1,212,000, resulting in a net of \$699,000. Director Noble also directed the Board's attention to the actual versus full year budget which was included in the Board packets and stated his intention to further report on this basis in future Board meetings. Director Noble reported that the HOA is still billing the District. **Upon**

motion by Director Schumer and seconded by Director George, the Board approved the financials by a vote of four in favor and two (Directors Britton and True) opposed. Director Britton stated he was opposed because he believes the District has no control over the dollars spent. Director True stated that she was opposed because she was not comfortable with the District's process of allowing the District Manager to approve any financials or checks payable. Whereupon discussion ensued regarding the policy in place for staff to sign checks. The District Manager stated that he does not sign any checks. Director True stated that she still has concerns that the policy permits the District Manager to sign checks, even if he is not currently doing so.

ii. Check Detail, Payroll and Vouchers Payable

Director Noble reported that legal line items remain high due to the continued litigation with the HOA. Director Noble directed the Board's attention to one bill for legal services which was over the budgeted limit by \$2,000. Discussion ensued regarding the allocation of budget overages and reallocation process from one line item to another for individual budget matters. Director Noble pointed out that the line item for HOA legal services was over budget but the general category of professional services was not over budget and inquired of the Board whether it is necessary in the current policies to approve a change form or to simply move items from one line to the next. **Upon motion by Director Schumer, seconded by Director George, the Board approved payment of all identified vouchers payable except for the identified bill for legal services by a vote of four in favor and two (Directors True and Britton) opposed.**

iii. Budgetary Payment Procedures

Chairman Brown stated that she would like the Board to review the budget and expenditure policies and reconsider same at the May Board meeting in light of Director True's stated objections to the policy. Director George inquired whether Director True's objections were addressed in the draft bylaws. Director Schumer responded that they were not, and that the issues raised might be better addressed in individual policies instead of the proposed bylaws. Director Britton stated his belief that he has been excluded from the Bylaws Committee meetings.

b. District Manager Report

Mr. Pimental directed the Board's attention to the Manager's report provided in the Board packets. Comments were made as follows:

- Director True commented that Director George should be identified as the Vice-President of the Board in all community reports.
- Director True inquired about the protective covenant signs which

were ordered by Mr. Pimental, because she thought that the Board had not decided to proceed with ordering the signs. Mr. Pimental stated that the signs were competitively priced at approximately \$155 per sign and that this was a good opportunity to purchase the signs. They will match those on 45th. Discussion ensued about the desirable location for each Homeowners Association sign. Mr. Pimental stated that if there was objection to the purchase of the signs he could cancel the purchase order, whereupon Director True commented that she did not desire the cancellation of the purchase and only wished to see a copy of what was to be ordered.

- Director True inquired about the gas cards with Global Fleet. Mr. Pimental responded that the gas cards include approximately 30 gas companies and will allow the purchases of gas in other locations besides King Soopers, which has required payment at the counter and has presented some efficiency difficulties for staff.
- Director True inquired about the community garden discussion and stated that she thought the District would not be proceeding with the idea unless interest was expressed. Director George and Mr. Pimental responded that a permit was required to proceed with the community garden this season and so work began in anticipation of the lengthy permitting process. More information will be provided on the community garden in Item 9.g later on the Agenda.
- Director True inquired about District vehicles, and stated her belief that the car is rarely being driven. Director True stated that she would like to see the car being driven more frequently than the more expensive to maintain SUVs owned by the District. Mr. Pimental responded that the HOA services which rely upon the Explorer require a higher height vehicle. Discussion among the Board ensued about analyzing mileage and vehicle costs, along with the need for all District vehicles. Mr. Pimental stated that a report could be provided to the Board on all vehicles including gas mileage of each vehicle, cost of maintenance, and whether the use of each vehicle justifies the maintenance of it for further discussion and planning purposes. No limitations were placed on which vehicle the Community Observer could drive.

9. Discussion Items
– Old Business

a. Consideration of Proposed Bylaws

Director Schumer discussed replacement of the proposed Bylaws with the several policies that had been provided to the Board for their review. Director Schumer requested the Board to review the draft policies and provide comments for consideration by the Board at the May Board meeting.

b. Planning/Implementation Committee Update

Director Noble reported that at the last meeting, approximately one-half of the members attended and that there was a positive discussion. The

Committee meets on the second Thursday of each month and will continue to meet at the District Offices.

c. District Newsletter

Director Britton stated that he submitted a draft article for the District Newsletter and inquired about the process for publication. Mr. Pimental stated that the process is for the Committee to review submissions, that the Board members on the Committee included Directors Schumer and True, and that submissions are due by May 1st for the May Newsletter. Chairman Brown stated that all submissions must be based on factual information, not opinion. Director Schumer further commented that the desire was to focus on positive information for the community. Director Britton then stated his belief that he was taken off the Newsletter Committee and inquired as to why.

d. Community Garden at 4000 Argonne Street

Director George provided an update regarding the current plans for the community garden. Director George has received an offer for free roto tilling, along with an offer of free top soil from Oakwood Homes. Additionally, a friend of Director George's offered to do survey and grid work. Water supplies for the community garden are not yet completed. Director George presented a budget estimate (\$6,557 to \$7,875), along with a list of "wants and needs" for the community garden. Discussion ensued concerning the opportunities for fencing and benches to be placed at the garden, along with the process for signing up for a plot. Director George confirmed that a sign up list is currently available. Mr. Eric Gravenson commented that the District should notify all neighboring properties of the community garden, and Director Noble expressed his concurrence with the notice issues.

e. Forensic Audit of District Financial Records

Mr. Joe Dickerson and Ms. Pamela Kerr of Financial Forensic Services, LLC were introduced by Chairman Brown. Mr. Dickerson explained his services as being fraud and forensic accounting analysis, along with ability to work with the District's legal counsel to recover any funds if they discover a problem in the District books. The Directors inquired of the scope of services which may be provided. Chairman Brown stated that the parameters of the intended investigation and related security arrangements would be discussed during Executive Session later in the meeting.

10. Discussion
Items – New
Business

a. **Consideration of Options for Board Member Compensations**

It was noted that this item was discussed in the Legal Matters section. No additional discussion or action was taken.

11. Executive
Session

Executive Session *(as needed to receive confidential legal advice on specific legal questions 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., all in connection with ongoing litigation filed against the District by the Master HOA).*

Per § 24-6-402(4)(d), C.R.S., “Specialized details of security arrangements or investigations (in connection with the engagement of forensic auditing, accounting and investigation services of Financial Forensic Services, LLC).

Chairman Brown identified the need for an Executive Session as noted in the Agenda. **Upon motion by Director Schumer, seconded by Director Noble, the Board voted to enter Executive Session at 9:00 p.m. by a vote of four in favor and two (Directors True and Britton) opposed.** Director True stated her objection to being excused from Executive Session discussions that involve the lawsuit filed against the District by the Master HOA, an organization upon which she sat as a member of the Board of Directors and now is a paid staff person. Director Britton stated his objection to the Executive Session in general as being unnecessary to discuss items without the public. Additional persons present were Mr. Pimental, Ms. Kerr, Mr. Dickerson, and Ms. Alexander. Director True was excused and left the meeting and the District Office.

The Board reconvened its regular meeting from Executive Session at 10:44 p.m.

12. Other Matters

In accordance with Director Noble’s presentation regarding financial matters, and as a point of clarification, the Board further discussed the policy and the need for a change order for the legal billing from Preeo Silverman to be sent through the HOA and for the HOA to identify funds to be allocated over the budgeted line item. **Upon motion by Director George, seconded by Director Noble, and unanimously approved by the remaining five Directors in attendance, the Board determined to hold the check requested for payment under the HOA Legal budget line item and request a written funding allocation from the HOA in accordance with current District policy.**

In furtherance of the discussion regarding Financial Forensic Services, LLC, a discussion of the qualifications of the firm was directed to Chairman Brown, who stated her reasons for recommending their services. **Upon motion by Director Schumer, seconded by Director George, and unanimously approved by the remaining five Directors in attendance,**

the contract with Financial Forensic Services, LLC, was approved with a \$5,000 retainer authorized, subject to the following contract limits and terms being negotiated by Chairman Brown: Phase One analysis is limited to the years 2003 to 2006; a progress update with hours stated and monthly billing to date will be provided to the District rather than at the end of delivery of a report; Ms. Kerr is to do most of the Phase One investigation work; Chairman Brown and Mr. Pimental are to be the contacts for Ms. Kerr; the Board desires a status update of approximately 0.5 hour from Ms. Kerr approximately every other week during the Phase One analysis.

In accordance with Mr. Pimental's request for formal action to be taken related to the purchase of a gas card for staff use and because the item was not approved during the Manager's Report, **a motion was made by Director George, seconded by Director Schumer and unanimously approved by the remaining five Directors in attendance to authorize Mr. Pimental to apply for a gas card with a \$750 per month approved limit on the application.**

13. Adjournment

Upon motion duly made and seconded the meeting was adjourned at 11:19 p.m. Legal counsel was notified to contact Director True in the morning and update Director True on the motions which were heard and entertained during the Other Matters section of the Board meeting.

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 20th day of May, 2009.

Respectfully submitted,

/s/ Mary Schumer

Mary Schumer, Secretary