

RECORD OF PROCEEDINGS

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF

GVR METROPOLITAN DISTRICT

Held: Wednesday, May 20, 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 6:32 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
Joanne True, Director
Charles Britton, Director

Also present were: Andrew Pimental, District Manager; Evan D. Ela, legal counsel; Andy Fisher, special litigation counsel; Mary Ann McGeady, special litigation counsel; Lynn Jordan, special litigation counsel; Charlie Foster, Oakwood Homes; Charles Spratt; Jim and Fenna Tanner; Elaine Smith; Eric Gravenson; and Loraine Munez.

1. Call to Order
and Establish a
Quorum

Chairman Brown established the presence of a quorum.

2. Approve
Agenda

The Board discussed several revisions to the Agenda, including

- Item 5 was moved to the Executive Session because of its relevance to the ongoing litigation with the Master HOA;
- Item 10a was moved to the June meeting Agenda, which will include discussion of operational policies and the development of same.

Upon motion by Director Schumer, seconded by Director Noble, the Board unanimously approved the Agenda as revised.

3. Approve Minutes from Prior Meeting **April 15, 2009 Regular Board Meeting**
- The Board discussed the draft minutes from the Regular Board Meeting held on April 15, 2009. Director Britton identified revisions as did Director True. **Upon motion by Director George, seconded by Director Schumer, the Board unanimously approved the minutes, as revised, by a vote of four in favor and two (Directors Noble and Britton) opposed with Director Perry abstaining.**
4. Conflicts of Interest Disclosures None expressed.
5. Election Matters **a. Legal Report from Lynn Jordan on HOA Delegate and Board Elections**
- Discussion moved to Executive Session.
6. Comment Period **a. Master Homeowners Association Representative**
- No report on HOA activities was provided.
- b. Citizens Advisory Board Representative**
- c.** Elaine Smith provided a report on behalf of the Citizens Advisory Board and noted the following:
- Citizens Advisory Board (the “CAB”) is now a 501(c)(3) non-profit corporation.
 - The meeting is scheduled for May 28, 2009 at 5:30 p.m. at the Wahler School to discuss plans for the new high school.
 - The Economic Committee of the CAB is working on promoting a positive neighborhood image.
 - A block party is being organized for August at the newly rebuilt East Park.
 - The intersection at 56th Avenue and Picadilly Road will begin construction in June.
 - Oakwood home sales are improving.
 - The CAB would like access to post information on the events sign located adjacent to the District offices. The Board and public then discussed the ownership and control of the events sign, and the costs of posting new messages to it. Representatives of the HOA asserted that the HOA controls the content and use of the sign. District staff stated that it has been their responsibility for several years to maintain the sign and place new content on the sign. The Board asked that all options concerning control and the cost of use of the

events sign be put on a future meeting Agenda for full discussion.

- d. Chairman Brown stated that she had been asked by Paul Gilberto if some of the District funds allocated for graffiti cleanup could be used for paint rollers and equipment for use by Community Service participants in that program.

Upon motion by Director George, seconded by Director Schumer, the Board unanimously approved using a portion of the funds for such equipment.

- e. **Public** *(limited to three 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. Charles Spratt asked about a proposed resolution that the Board intended to consider later in the Agenda. The resolution concerned a background check to be done on each Board member and potential board candidates annually by District staff to determine statutory eligibility for service on the Board. Thereupon the Board and the public entered into a discussion about the merits of a public background search of the type proposed. Mr. Eric Gravenson suggested that the Board adopt a duty among themselves to inform fellow Board members of any change in status concerning eligibility for service on the Board. The Board directed Mr. Ela to include this possibility in the language of the resolution.

Mr. Spratt's comments also created the discussion of the appropriateness of Board members providing information from their Board packets to the members of the public prior to the meeting. Director Perry stated her belief that whomever provided Mr. Spratt a copy of the draft resolution from the Board packet committed a breach of the Board's confidentiality. After discussion, the Board determined it should provide copies of certain documents that would be discussed in open session to members of the public at the beginning of public meetings so that the public could participate in discussion of such documents. The Board recognized that it should develop a procedure for determining what packet materials should become public, and when, recognizing that certain packet materials would not be available for public review due to attorney-client, attorney work-product or deliberative process privileges associated with such documents.

Ms. Fenna Tanner asked that the Board adopt a requirement restricting any individual from serving on both the District Board and the Master HOA Board of Directors. Mr. Ela advised the Board that such a requirement could not be legally adopted because the District Board does not possess the authority to change the statutory criteria for determining if individuals are eligible for Board service. The Board recognized that such apparent conflicts can become a political issue during elections, and the electorate can exercise its judgment during an election as to whether membership on both

Boards is a desirable or undesirable characteristic.

Mr. Eric Gravenson asked for a report on the HOA delegate election. Chairman Brown provided her assessment of the HOA delegate election, mentioning that she participated and found it distressing that a huge percentage of proxies were rejected by the HOA election officials without reason. She stated that one new delegate was elected to a vacant position as a result of the election. Other members of the Board, Ms. Lynn Jordan, and the public also provided comments on the conduct of the Master HOA delegate election.

Ms. Loraine Munez, a sitting Master HOA delegate, stated that she had received a letter threatening personal liability for her actions as a delegate. There ensued a discussion about letters provided by the Master HOA to delegates and candidates in advance of the Master HOA delegate selection process.

7. Legal Report

a. Litigation Update

Being directly involved in the litigation settlement mediation, Director Noble provided an update on current negotiations for settlement of the lawsuit brought against the District by the Master HOA. He stated that settlement offers and counter offers have been exchanged.

b. Other Matters

Mr. Ela stated that his office had received a letter from an attorney representing Director Britton, but was unable to tell from the content of the letter what the purpose of the letter was. Mr. Ela reported to the Board that after talking with Mr. Britton's attorney, he had been assured that there were no pending issues between Mr. Britton and the District or his fellow Board members.

8. Director Items

Director Perry opened a discussion with Mr. Britton considering his unwillingness to fully participate as a Board member in the day-to-day business aspects of operating the District. She suggested that he should consider resigning because of his past dissatisfaction with participation on the Board and to allow another person who would be willing to more fully participate.

Director Perry inquired as to whether Director True's paid employment by the Master HOA as HOA Manager creates a conflict of interest with her service on the District Board of Directors. Mr. Ela informed the Board that although it does create conflicts of interest on certain matters, particularly in the ongoing litigation and any contractual matters involving the HOA, her employment situation did not invalidate her statutory eligibility as a District Board member.

Director Schumer addressed Manager Pimental about the usage of District vehicles, and questioned whether it would be more economical for the District to pay employees a mileage reimbursement for the use of their own vehicles rather than maintaining a fleet of District vehicles. Manager Pimental provided calculations to show the actual costs of maintaining the District fleet. No analysis has yet been done to compare the costs of reimbursing employees versus maintaining the fleet.

9. Board Reports
Agenda

a. **Financials**

i. **Financial Statements**

Director Noble directed the Board's attention to the financial documents in the Board's packet. He discussed various line items of revenues and expenses, particularly the cost of information technology services and the irrigation weather controller. **Upon motion by Director Schumer, seconded by Director Perry, the financial report was approved by a vote of six in favor with one (Director Britton) opposed.**

ii. **Check Detail, Payroll and Vouchers Payable**

Director Noble briefly described the accounts payable report for the Board. Director True questioned the total cost of the forensic audit, pointing out that it cost approximately \$26,000 to date. Director Noble informed her that the contract has not yet been completed so the total cost of the audit was not yet known. He also identified for the Board one check that was not included in the accounts payable, and that it would be included for consideration at a future meeting. **Upon motion by Director Schumer, seconded by Director Perry, the Board approved payment of all accounts payable by a vote of six in favor with one (Director True) opposed.**

b. **District Manager Report**

i. Manager Pimental informed the Board that the Master HOA had still not provided the change request form necessary for moving budgeted funds from one HOA line item that had not been exhausted to one that had been exhausted. After Discussion, the Board determined that it would not pay finance charges or late fees incurred as a result of the Master HOA's delay in providing the change request in a timely fashion.

ii. Manager Pimental presented his vehicle fleet analysis for the Board indicating the cost of operating each of the vehicles and the relative value of each vehicle.

iii. Director True inquired about the Junior Leaders, a component of the Summer Youth Program. Manager Pimental stated that little interest

had been shown in that aspect of the program in the prior year.

Director Britton questioned Manager Pimental's report concerning tree replacements under warranty. Manager Pimental explained that trees were being replaced as needed, and explained that 100% survival is not expected with any large tree planting effort.

10. Discussion
Items – Old
Business

a. **Consideration of Proposed Operational Policies**

Discussion moved to June meeting.

b. **Community Garden at 4000 Argonne Street**

Manager Pimental explained that applications were being received for garden plots at the community garden being established on District property at 4000 Argonne Street. He said that the water supply was now available and expected people to begin preparing and planting gardens in the next month.

c. **Forensic Audit of District Financial Records**

Chairman Brown informed the Board and the public that the forensic audit being conducted by the District has created some questions that will be discussed by the Board in the Executive Session. She mentioned that some disparities had been identified in the Youth Program accounts.

11. Discussion
Items – New
Business

a. **Consider Resolution Adopting Annual Background Check Policy**

There was a discussion held earlier in the meeting regarding a revised resolution to be considered at the next Board meeting.

b. **General Counsel Selection Process**

No discussion was held on this matter.

12. Executive
Session

Executive Session *(as needed to receive confidential legal advice on specific legal questions per § 24-6-402(4)(b), C.R.S., 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., and to discuss specialized details of security arrangements or investigation (in connection with the engagement of forensic auditing, accounting and investigation services of Financial Forensic Services, LLC per § 24-6-402(4)(d), C.R.S.*

Chairman Brown requested a motion to enter Executive Session because of the arrival of the forensic auditors and due to the cost to the District of having the auditors and special litigation counsel wait for conclusion of the public discussion topics. Upon motion by Director Schumer, seconded by Director Noble, the Board voted six in favor with one (Director True) opposed to enter into Executive Session for the purposes stated on the published Agenda. Director True was excused from the Executive Session due to the conflict of interest presented by her position as

a paid employee of the Master HOA and as a former Board member of the Master HOA in relation to the matters being discussed in the Executive Session. Director True expressed her objection to being excluded from the executive session with regards to the forensic audit and the discussion with special litigation counsel Lynn Jordan.

After Director True's departure, a member of the public who had not yet exited the building asked the Board to present the bond re-funding options so that members of the public would not have to wait until after Executive Session to hear that discussion. The Board determined to suspend entering Executive Session until after the bond discussion was completed. Manager Pimental's attempt to notify Director True to come back into the meeting before she left the parking lot failed and the discussion proceeded. Prior to leaving the meeting, Director True requested that she not be contacted by her cell phone after executive session.

11c. Bond Re-Finance Options

Director Noble presented the three bond refunding options that he had received from a bond underwriting firm. The three options included a no cash down and a refinancing of the complete balance remaining as of the Fall of 2009, a \$5 million cash early repayment with a refinancing of the remaining balance, and a cash early repayment of \$1 million with a refinance of the balance. In each scenario the amount of interest savings was approximately \$552,000, but the costs of issuance were significantly different. The projected costs of issuance with each scenario were \$190,000 for the no cash early repayment option, \$173,000 for the \$1 million early repayment option, and \$100,000 for the \$5 million early repayment option.

The Board entered into a long discussion of the options and benefits and availability of funds for the options. Ultimately the Board directed Director Noble to have the bond underwriters run a projection that would assume a \$4.5 million early payment from cash reserves available to the District and a refinance of the balance of the outstanding bonds. Director Noble stated he would have this option available for discussion by the Board at a future meeting.

Upon motion by Director George, seconded by Director Perry, the Board voted to enter Executive Session for the purpose of discussing the matters described in the published Agenda, and by a vote of six in favor and none opposed, the Board entered Executive Session at 9:25 p.m.

The Board reconvened its public session at 11:15 p.m.

13. Other Matters

The Board discussed the need to continue the forensic audit for additional years based on discussions held in Executive Session. Chairman Brown was directed to request from the forensic auditors a proposal on continuation of the audit to other years being discussed.

14. Adjournment **Upon motion duly made and seconded the meeting was adjourned at 11:25 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 17th day of June, 2009.

Respectfully submitted,

/s/ Mary Schumer

Mary Schumer, Secretary