

RECORD OF PROCEEDINGS

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF

GVR METROPOLITAN DISTRICT

Held: Wednesday, September 16, 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 6:34 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 for cause)
Joanne True, Director
Charles Britton, Director (arrived at 6:42 p.m.)

Also present were:

Andrew Pimental, District Manager; Evan D. Ela, legal counsel; Nick and Linda Streno; Amy Bennett; Timothy Emily III; Timothy Clark; Art Connolly; Paul Gilberto; Eric Gravenston; Charlie Foster, Town Center Metropolitan District; James and Fenna Tanner; Elaine Smith; and Tom Gibbons.

1. Call to Order and Establish a Quorum

Chairwoman Brown called the meeting to order at 6:34 p.m. and noted the presence of a quorum of five directors.

2. Approve Agenda

Chairwoman Brown suggested a revision to the Agenda to add an Executive Session for the purpose of discussing a personnel matter. **Upon motion by Director George, seconded by Director Schumer, the Board unanimously approved the Agenda with the revision.**

3. Approve Minutes from Prior Meetings

a. August 19, 2009 Regular Board Meeting

The Board reviewed and discussed one revision to the draft minutes to indicate that Director Perry had been excused from attending all meetings through the end of 2009 due to the illness of her father. **Upon motion by Director Schumer, seconded by Director True, the Board unanimously approved the minutes as revised during discussion.**

b. September 1, 2009 Special Board Meeting

The Board reviewed the minutes with minor revisions made by legal counsel. **Upon motion by Director Schumer, seconded by Director True, the Board approved the minutes as revised by a vote of three in favor, with two (Directors George and Noble) abstaining.**

Director Britton entered the meeting at 6:42 p.m.

4. Conflicts of Interest Disclosures

None were disclosed.

5. Comment Period

a. Master Homeowners Association Representative

No report from the Homeowners Association.

b. Citizens Advisory Board Representative

Ms. Elaine Smith, not currently active on the CAB, reported that a forum of DPS Board candidates has been planned for the near future.

c. Developer Representative

No report was given.

d. Graffiti Committee Representative

Paul Gilberto and Art Connolly addressed the Board concerning the activities of the Graffiti Committee. Mr. Gilberto reported that the number of graffiti incidents has declined by two-thirds from the prior year and that only \$416 of the District's Budget had been spent to date. He described partnerships that have been forged between the Committee and the City of Denver's Solid Waste and Parks and Recreation Departments to provide paint, and with the District to perform power washing. He reported that use of the telephone hotline is well below the levels seen in prior years and he presented a map of the District showing the locations where graffiti occurs most commonly. Director True inquired whether the "Adopt a Spot" program was successful, and Mr. Gilberto reported that the program has been less necessary than anticipated because of an established network of observers that provide the Committee with regular reports of graffiti. The Board discussed the overall success of the Committee's efforts, and Mr. Gilberto estimated that costs for graffiti control in 2010 should be even less than 2009, certainly no more than the \$1,000 budget allocated by the District for 2009.

e. **Public**

No comments were made.

6. Legal Report

a. **District Bond Refunding**

Mr. Ela reported that the Bond Refunding is expected to close during the first week of October. He stated that the pricing of the refunding bonds has not yet occurred, but the revised Preliminary Official Statement had been released to the bond market so that pricing can occur.

b. **Notice of Lien - Ferguson**

Mr. Ela informed the Board that the District has received two notices of intent to file mechanic's liens on behalf of a plumbing subcontractor who worked on the carwash and the public storage project located within the District on Tower Road. He stated that the subcontractor is mistaken in believing that the District owns the property and that the lien, if filed, would be effective only against HC Development, the property owner of record.

Mr. Ela inquired whether the carwash was open for business, and asked if water usage reports were being received by the District. Manager Pimental stated that he would inquire with Denver Water to ensure that water usage reports are provided to the District every month.

c. **Pirnack Refund**

Manager Pimental reported that he had received a letter from Mr. Pirnack in response to the District's letter requesting refund of the roughly \$300,000 deposit for steel for the proposed Community Center building. The Board reviewed the letter and determined that Mr. Pirnack did not offer to refund any portion of the advance. After discussion, the Board determined to table this matter until the October regular meeting, at which time the Board may know whether this is a project that the community would like to pursue, or not.

7. Director Items

Director True inquired when the District's forensic audit will be released for the public to review. Chairwoman Brown reported that the final report remained confidential, but had been provided to the Colorado Attorney General's Office and the Denver District Attorney's Office for determination whether a criminal investigation needed to occur. Mr. Ela stated his advice that the report not be released to the public until the two law enforcement agencies had completed investigations.

Director Britton made comments on the following matters:

- The community survey concerning the District’s level of services had not been received by several of his neighbors. The Board discussed possible reasons for non-delivery by the U.S. Post Office.
- Director Britton stated that he refused to pay the \$174 assessment imposed by the Master HOA in July of 2009.
- He stated his belief that the process followed by the Board for the performance evaluation of Manager Pimental was flawed.
- He stated his belief that the District Manager was working under a contract with the District that provided financial incentives for marketing the use of the proposed Community Center building. Legal counsel and the Board discussed the fact that the District Manager is an “at will” employee of the Board, and the terms of his employment are not governed by any type of contract providing incentives or otherwise. The Board then entered a long discussion concerning the desirability of establishing a pay grade structure for District employees similar to that used by the federal government and certain other organizations.

Director Noble informed the public that, as a result of the forensic audit conducted by the District, the Board was investigating improved internal controls in the financial transactions of the District. He stated that he and other members of the Board and the District Manager will be working in the coming months to establish and implement improved procedures.

**8. Board Reports
Agenda**

a. Financials

i. Financial Statements

Director Noble verbally summarized the District’s financial balance sheet. Director Britton asked for an explanation of the actual costs of installation of the community garden and Manager Pimental stated he would provide a report on that project at a later time. The Board also discussed the line item costs of improvements made to the District’s Office building. **Upon motion by Director Schumer, seconded by Director George, the Board voted five in favor and one (Director Britton) opposed to approve the financial report.**

ii. Check Detail, Payroll and Vouchers Payable

Director Noble directed the Board’s attention to the vouchers payable and payroll for the current month. **Upon motion by Director Schumer and seconded by Director George, the Board approved all payments by a**

vote of four in favor and two (Directors Britton and True) opposed.

iii. Consider requests to transfer funds between budget categories

Director Noble directed the Board's attention to fund transfer requests that had been discussed at a prior regular Board meeting and the need for the transfer of money from the District's contingency funds to cover unforeseen additional legal expense and the forensic audit expense that had occurred during the year. The Board discussed the continued need for using a written request process for transferring funds among budget line items. Director Noble stated he would be investigating whether that procedure needs to be revised. **Director Schumer moved to transfer \$107,000 to cover legal expenses and \$55,197 to cover the costs of the forensic audit, and the motion was seconded by Director Noble. Director True offered an amendment to the motion increasing the amount transferred to cover the costs of the forensic audit to \$65,197, the expected final invoice amount from the forensic auditors. Director Noble seconded the amended motion and the Board approved the transfer of funds by a vote of five in favor, with one (Director Britton), opposed.**

b. District Manager Report

Director Pimental directed the Board's attention to the Manager's Report provided in the Board packets and offered the following comments:

- Concrete replacement will occur in front of the District Office building during the week of September 21, 2009.
- In the Office, the hot water heater was recently replaced.
- The City of Denver's arborist met with Mr. Pimental and improved visibility of stop signs will occur throughout the District by (i) pruning of trees, (ii) removal of trees, or (iii) installation of new signs that will not be affected by the tree branches.
- Manager Pimental reported that the shrubs in front of the office had been trimmed as requested, and reflective tape installed on the office steps to improve safety and visibility.
- The Board inquired about improvements to the condition of signs in the District used for posting of notices of meetings. Director True stated that the signs are the property of the Master HOA and she would look into the necessary improvements.

**9. Discussion
Items –
Unfinished
Business**

a. Consider Use of Trademarked Logo by Master HOA

The Board discussed and recapped the status of its dispute with the Master HOA Board concerning the use of the District's logo. The Board confirmed that the HOA's temporary license for the use of the logo was rescinded and a notice sent to that effect; the Master HOA was provided a 90-day period to cease using the logo; and if the Master HOA fails to cease using the logo, the

District may pursue federal trademark protection of the logo, or implement a community involved process in developing a new logo. Further action was tabled to a later meeting.

b. General Counsel Selection Recommendation

Manager Pimental directed the Board's attention to his memorandum to the Board summarizing the committee's recommendations stemming from the legal firm interviews. The summary indicated that Directors Schumer and Brown supported the hiring of the McGeady Sisneros firm, with Director True supporting the hiring of the Seter Vander Wall firm. Director Noble asked the Committee members to each explain the reasons for their support of their preferred firm, which they did. The Board discussed the issues raised by bond counsel concerning a change of general counsel during the Bond Refunding process, and the advantages of effecting the change in legal firms as of January 1, 2010. Mr. Ela advised that the change should occur no later than early 2010 because of the need for the new firm to coordinate the District election to be held in May of 2010. After a long discussion, **Director Noble moved, and Director Schumer seconded, that the firm of McGeady Sisneros be hired based on the recommendation of the committee and that transition to the new firm occur as of January 1, 2010, allowing for some of the transition process to occur prior to that time. The motion failed to pass on a vote of three in favor, two (Directors Britton and True) opposed, and Director George abstaining.**

Further discussion ensued with the Board directing Manager Pimental to invite representatives from both firms to participate in ½ hour interviews with the entire Board during an Executive Session called an hour before the regular scheduled Board meeting in October. The Board also confirmed by consensus the firm of Collins Cockrel & Cole continuing as general counsel through the end of 2009, principally to ensure a seamless closing of the Bond Refunding, preparation and approval of the 2010 Budget, and a smooth transition process to new general counsel by January 1, 2010.

c. Community Survey Concerning Community Center

Manager Pimental informed the Board that the Community Survey had been mailed and all responses were due back by September 26th.

d. Response from HOA – New Agreement

Chairwoman Brown called the Board's attention to a letter she sent earlier in the day to the Master HOA Board of Directors requesting that the new President and Board consider a meeting to discuss the terms of a Covenant Enforcement Agreement for 2010. She noted that the litigation Settlement Agreement with the Master HOA provided a deadline of October 1 for coming to an agreement on a new Covenant Enforcement Agreement. The

Board discussed the possibility that the recent change in leadership at the Master HOA could create an opportunity for renewed discussions.

**10. Discussion
Items – New
Business**

a. Consider Contract with Green Valley Ranch Landscape for Medians Project

Manager Pimental directed the Board’s attention to the proposal he had received from Green Valley Ranch Landscape totaling \$19,684 to complete the medians project pursuant to the IGA between the District and Denver, plus an additional \$975 to replace a backflow prevention device at one of the irrigated medians. Manager Pimental informed the Board that the proposal is less in cost than originally estimated in the IGA with Denver, and described the urgency of getting the project finished so the money can be obtained from the City of Denver during the 2009 Budget year **Upon motion by Director George, seconded by Director Noble, the Board approved the hiring of Green Valley Ranch Landscape to complete the medians project and instructed Manager Pimental to seek reimbursement from the City of Denver within the 2009 Budget Year by a vote of five in favor, with one (Director Britton) opposed.**

b. Assessed Valuation

Director Noble reported to the public and the Board that the District’s preliminary assessed valuation provided from the Denver Assessor’s Office determined a 25% reduction in total assessed valuation. Director Noble equated this to a reduction of approximately \$600,000 in tax revenues projected for 2010 compared with what was received in 2009.

c. Budget Process

Director Noble stated the need to obtain a final answer from the Master HOA on whether to seek a Covenant Enforcement Services Agreement during 2010 by October 1st for budgeting purposes. He stated that if the terms of an agreement cannot be reached by October 1st, The District will be forced to establish its budget for 2010 without any consideration for providing covenant enforcement

**11. Executive
Session**

Chairwoman Brown requested a motion to go into Executive Session as needed to discuss a personnel matter as allowed by § 24-6-402(4)(f), C.R.S. **Upon motion by Director George, seconded by Director Schumer, the Board voted to enter Executive Session at 9:16 p.m. by a vote of five in favor and one (Director Britton) opposed.**

The Board reconvened its regular meeting from Executive Session at 9:30 p.m.

12. Other Matters Manager Pimental explained to the Board the evaluation process he had conducted for employee Tom Gibbons, and stated that he brought this matter to the Board's attention as he had been instructed during his own evaluation. He stated that the Board had requested more involvement with employee evaluations. The Board then entered a long discussion with Manager Pimental concerning the method that merit and cost of living increases are established by the District's performance scoring procedure and determined that a simpler process would be advantageous. To that end, the Board determined to establish a Compensation Committee consisting of the Board members, Directors Noble, Schumer and Brown, and Manager Pimental. The Committee will have the task of reviewing the performance evaluation policies of the District, and suggesting improvements to the process. The Board also directed Manager Pimental to obtain the most current cost of living data from the Mountain States Employer Council and to utilize that data in projecting employee costs for the 2010 Budget preparation. The Board also discussed the need for the Compensation Committee to evaluate a pay grade system for the District employees to simplify future year budgeting for employee costs.

13. Adjournment **Upon motion duly made and seconded the meeting was adjourned at 10:18 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 21st day of October, 2009.

Respectfully submitted,

/s/ Mary Schumer

Mary Schumer, Secretary