

RECORD OF PROCEEDINGS

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF

GVR METROPOLITAN DISTRICT

Held: Wednesday, December 9, 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, unexcused)
Joanne True, Director
Charles Britton, Director

Also present were: Andrew Pimental, District Manager; Evan D. Ela, legal counsel; Jim and Fenna Tanner, Milton Johnson, Elaine Smith, LaVerne Palmer, Eric Gravenson and Ron Greening.

- 1. Establish a Quorum** Chairwoman Brown noted the presence of a quorum of six directors. Chairwoman Brown discussed the Board's expectation that Director Perry would be at the December meeting and that none of the Board members had received notice from Director Perry of her absence. **Upon motion by Director True, seconded by Director Noble, the Board voted five in favor and one (Director Britton) opposed to not excuse Director Perry from the meeting.**
- 2. Approve Agenda** The Board reviewed the published Agenda and approved the Agenda without revision by a vote of five in favor and one (Director Britton) opposed.
- 3. Conflicts of Interest Disclosures** None were announced.

4. Approve Minutes from Prior Meetings

a. November 18, 2009 Regular Board Meeting

The Board reviewed and discussed the draft minutes provided at the meeting. Manager Pimental noted a necessary revision correcting the statement that two-thirds of the registered voters in the District had requested a mail ballot. The minutes were revised to state the fact that approximately one-third of registered voters in the District have requested mail ballots in all elections. **Upon motion by Director George, seconded by Director Schumer, the Board voted five in favor and one (Director Britton) opposed to approve the minutes as revised during discussion.**

5. Comment Period

a. Master Homeowners Association Representative – Roger Rohrer

Mr. Ron Greening, Vice-President of the Master HOA Board, expressed the Board's interest in cooperating with the District Board on all matters of common interests to the overall community. The Board, Mr. Greening, and members of the public then discussed plans to hold discussions with the purpose of formulating a new services agreement between the District and the Master HOA that will allow the District to provide and fund certain HOA and District staff functions with tax funds as intended by passage of 2007 Ballot Issue 5A.

b. Citizens Advisory Board Representative – Elaine Smith

No report was given.

c. Developer Representative

No representative was present.

d. Public

No members of the public requested the opportunity to make comments.

6. Legal Report

a. Termination of Community Center Contract with Pirnack-Walters

Mr. Ela informed attendees of the meeting that the facts and legal strategies regarding termination of the contract would be discussed in the executive session, with advice from special counsel Ben Tracy.

b. Possible Claim against Chavez Concrete

Mr. Ela reported that the small claims court is the proper venue for the District to pursue a refund of a downpayment made on a contract with Chavez Concrete to replace concrete in front of the office building. He noted that the staff can prosecute the claim in small claims court and the mere filing of the claim may be enough to prompt a payment from Chavez Concrete. Manager Pimental informed the Board that Mr. Chavez has promised payment several times without delivering. Director True inquired if a payment plan offer had been made and Mr. Pimental stated that it had not. The Board then discussed various options to provide incentive to Mr. Chavez to refund the money. The Board was emphatic that any costs associated with collection, such as court costs and any other extra costs involved would also have to be paid by Mr. Chavez. **Upon motion by Director George, seconded by Director Noble, the Board voted four in favor and two (Directors Britton and True) opposed directing District Manager Pimental to send a second demand letter to Mr. Chavez requiring payment within ten days or legal action would be initiated in the Court.**

**7. Director
Items**

None offered.

**8. Board
Reports
Agenda**

a. October Financials Restated

i. Restatement of Financial Reports

Director Noble stated that due to adjustments made to the October financial reports, the District's auditor recommends Board approval of the restated financial reports to properly track the 2009 bond proceeds received by the District and liabilities incurred by the 2009 bond refunding. **Upon motion by Director Schumer, seconded by Director True, the voted five in favor and one (Director Britton) opposed to approve and accept the restated October financial reports.**

b. November Financials

i. Financial Statements

Director Noble stated that the final statements were not ready for review due to some outstanding invoices. He stated that the final statements through December 31st would be presented at the next occurring Board meeting.

ii. Check Detail, Payroll and Vouchers Payable

Director Noble directed the Board's attention to the list of vouchers payable in the Board packets and noted copies of additional invoices provided at the meeting for legal services by Collins Cockrel & Cole and computer services by another vendor. **Upon motion by Director Schumer, seconded by Director True, the Board approved payment of all vouchers presented by a vote of five in favor and one (Director Britton) opposed.**

c. District Manager Report

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

- Mr. Pimental described a proposal to produce a combined newsletter containing content provided by both the Master HOA and District Boards and the District staff. He described the practicalities of producing such a combined newsletter in a black and white format and proposed that the costs could easily be shared on a per page basis. He estimated that the January/February edition would cost approximately \$3,470 to produce 16 pages, with approximately 10 pages dedicated to District content and six pages allocated to Master HOA content based on the relative size of prior newsletters. He suggested that this particular newsletter be conventionally mailed to all District residents, but that future editions would be provided electronically to all residents who have requested electronic transmittals; he mentioned that such electronic transmittals would further reduce the cost of producing the newsletter. **Upon motion by Director George, seconded by Director Noble, the Board voted four in favor and two (Directors True and Britton) opposed to proceed with the cooperative publication of a combined newsletter. The Board directed**

Manager Pimental to work with legal counsel to draft a memorandum of understanding for presentation to the Master HOA Board at its meeting, so that the deadlines for the January/February newsletter can be met, with the understanding that a more formal agreement covering at least a one-year term will be developed for approval of both Boards during their respective meetings in January.

- Manager Pimental explained the Great Outdoors Colorado (GOCO) grant cycle in which the District will participate with regard to its improvements to detention ponds upon its property. He stated that 12 letters of support had been received for the District's proposal, but that the District should expect significant competition for the GOCO grant funds. He described his meeting with the U.S. Corps of Engineers, and reported that Nolte Engineering has requested the Corps of Engineer's approval of the wetlands disturbance. He estimated that the formal application to GOCO would be submitted prior to the next Board meeting. He also mentioned that the next regular grant cycle has begun, and the District will apply for funds to assist in the development of the 41st and Ensenada Retention Pond Project.
- Director True inquired about progress by the District staff to update the District's GIS irrigation system map. Manager Pimental responded that updating the system has been a low priority, but that progress continues to be made and could be accomplished through the winter season.

**9. Discussion
Items –
Unfinished
Business**

a. Board Discussion/Deliberation of Amendments to 2009 Budget

Mr. Ela and Manager Pimental directed the Board's attention to Resolution 12-9-09(A), by which the Board will formally amend its 2009 budget. Director Pimental explained the revisions to the 2009 Budget numbers and prior drafts of the Resolution as being necessary to accommodate proper tracking of the proceeds received from the 2009 bond refunding as well as the additional liabilities occurred by the 2009 bond refunding. Overall, the appropriation of funds increased by a net amount of approximately \$5.3 million, the substantial portion of which is explained by the \$4.1 million cash payment made by the District, approximately \$250,000 in issuance costs, and a carryover amount in the Debt Service Fund of approximately \$200,000. He explained that the funds were available for these unappropriated expenditures in the fund balance held by the District, and this budget amendment merely acknowledges

appropriation of previously unappropriated funds held in the General fund balance.

i. Consider Resolution 12-9-09(A), Amendment of 2009 Budget

Following discussion and **upon motion made by Director Schumer and seconded by Director Noble, the Board voted four in favor and two (Directors True and Britton) opposed to approve Resolution 12-9-09(A).**

b. **Board Discussion /Deliberation of 2010 Draft Budget**

Manager Pimental directed the Board's attention to the revised 2010 budget and explained that revisions were based on comments heard at the public hearing and suggested adjustments by the staff and the Budget Committee. Mr. Ela explained for the public the categories of mill levy, and the changes in the mill levy from the 2009 certification of mill levies. Manager Pimental described the overall budget appropriation of \$2,144,503, in combination of all funds, and the assessment of a total operations mill levy of 13.165 (including a temporary mill levy reduction to effect a refund to GVR homeowners/taxpayers equal to 3.527 mills) and assessment of a debt service mill levy of 8.837 mills. The total resulting mill levy certified for collection in 2010 equals 22.002 mills- a reduction of 8.272 mills from the total 30.274 mill levy imposed in 2009.

i. Consider Resolution 12-9-09(B), Approval/Appropriation for 2010 Budget and Certification of Mill Levies

Following the discussion, **upon motion by Director Noble, seconded by Director George, the Board voted four in favor and two (Directors Britton and True) opposed to approve Resolution 12-9-09(B), adopting a budget for 2010, appropriating funds thereunder, and certifying the necessary mill levies to fund the budget.**

c. **Board Discussion/Deliberation of Resolution 12-9-09(C), 2010 Election**

Chairman Brown briefly explained the election resolution as being necessary for the required election to be held in May 2010. She mentioned that the first four-year terms of Directors Perry, True and George will end in May, and therefore three (3) Board seats will be

open for election. None of the three are term-limited, meaning that any of them can run for re-election. Chairman Brown also explained that the election resolution will authorize a polling place election, with the understanding that any of the registered voters within the District who request permanent mail-in ballot status will be able to participate by mail ballot. **Upon motion by Director George, seconded by Director Schumer, the Board voted five in favor and one (Director Britton) opposed to pass Resolution 12-09-09(C).**

**10. Discussion
Items – New
Business**

a. Consider Contracts for Landscaping Services for 2010

Manager Pimental described the three proposed contracts for renewing landscape services to be provided in 2010. He proposed that the Board renew its contract with TruGreen for chemical applications, Swingle Tree Care for tree pruning spraying and monitoring, and Urban Farmer for turf maintenance. He stated that bids had been evaluated from several firms for all inclusive services, but only one of those (submitted by Urban Farmer), was less cost than the three separate contracts. He also reported the Landscape Committee’s recommendation that Urban Farmer not be given the all inclusive contract due to questions about their abilities to adequately perform all three services. The proposed compensation under the three contracts are as follows:

TruGreen	\$19,860.00
Swingle Tree Care	\$46,575.48
Urban Farmer	\$59,100.00
TOTAL:	<hr/> \$125,535.48

The Board and the public then engaged in a long discussion of the pros and cons of having the maintenance of the community open space by District staff or contracted companies. Many comments were heard concerning the prompt service and better care provided by District staff, and the excessive cost of emergency calls made by contractors. Manager Pimental acknowledged that certain aspects of the landscape maintenance services require specialized certifications, licenses, or expertise that cannot efficiently be provided by the District staff. Following discussion, the Board agreed to table further discussion of these contracts pending a review of the contracts by incoming general legal counsel.

b. Consider Contract with Haynie & Co. for 2009 Audit Services

Manager Pimental presented the proposed contract with Haynie & Co. in the amount of \$4,000 for performing the District's required governmental audit in 2010. The Board tabled approval of the contract pending legal review by incoming general legal counsel.

c. Director Britton Breach of Board Confidentiality

Chairwoman Brown informed the Board and the public of Director Britton's letter to Mr. TJ Stone (former President of the District Board and litigant, as President of the Master HOA, against the District during 2008 and 2009) by which Director Britton provided a copy of confidential legal memorandum without authority of the Board. Chairwoman Brown requested a motion from the Board to exclude Director Britton from the ensuing executive session due to his unwillingness to keep matters discussed therein confidential. Director Britton volunteered not to attend the executive session, the Board accepted and agreed with his offer, and Chairman Brown called for a motion to convene the executive session without Director Britton's attendance.

11. Executive Session

Upon motion by Director Britton, seconded by Director Noble, the Board voted unanimously to enter Executive Session at 8:25 p.m. for the purpose of receiving 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 and instructions to negotiators for same per § 24-6-402(4)(e), C.R.S., all related to the Board's termination of the Community Center construction contract with Pirnack-Walters Enterprises.

The Board reconvened its regular meeting from Executive Session at 9:00 p.m.

12. Other Matters

The Board discussed the need for a special meeting with new general counsel early in 2010 to discuss the terms and expectations of the legal representation. Manager Pimental was directed to continue working with Board members and Barbara Vander Wall to establish a time during the first week of January for such special meeting.

13. Adjournment **Upon motion duly made and seconded the meeting was adjourned at 9:12 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 20th day of January, 2010.

Respectfully submitted,

/s/ Mary Schumer

Mary Schumer, Secretary

