

RECORD OF PROCEEDINGS

AMENDED MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE VALAGUA METROPOLITAN DISTRICT

Held: Thursday, March 12, 2009 at 11:00 a.m., at 4000 Gypsum Creek Road, Gypsum, Colorado.

Attendance

The special meeting of the Board of Directors of the Valagua Metropolitan District was called and held as shown above and in accordance with the statutes of the State of Colorado. The following Directors, having confirmed their qualification to serve on the Board, were in attendance:

Vernon L. Brock
C. Michael Budd
Robert M. Savage

Absence Excused: Russ E. Hatle

Also present were Ian Hause, Clearwater Development, Inc.; Eric Weaver, Robertson & Marchetti, P.C.; Joan Fritsche, Foster Graham Milstein Miller & Calisher; and Chief Vroman, Gypsum Fire Protection District.

Call to Order

Director Savage noted that a quorum of the Board was present, verified that notice of the meeting was posted in three locations within the District and that the Directors had confirmed their qualification to serve, and therefore called the meeting of the Board of Directors of the Valagua Metropolitan District to order.

Disclosure Matters

Ms. Fritsche advised the Board that pursuant to Colorado law, certain disclosures by the Board members may be required prior to taking official action at the meeting. The Board reviewed the agenda for the meeting, following which each Board member disclosed his conflicts of interest, stating the fact and summary nature of any matters, as required under Colorado law, to permit official action to be taken at the meeting. The Board determined that the participation of the members present was necessary to obtain a quorum or otherwise enable the Board to act.

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Director Savage reported that he is an owner of real property within the District and an employee of Clearwater Development, Inc. Clearwater Development, Inc. is a property owner and developer within the District, which may have a right to reimbursement costs from the District. This disclosure is associated with approval of items on the agenda, which may affect his interests or those of his employer.

Director Budd reported that he is an owner of real property within the District and that he is engaged as a real estate broker with Prudential Colorado Properties to sell properties within the District. Clearwater Development, Inc. is a property owner and developer within the District, which may have a right to reimbursement costs from the District. This disclosure is associated with approval of items on the agenda, which may affect his interests or those of Clearwater Development, Inc.

Director Brock reported that he is an owner of real property within the District and a consultant to Clearwater Development, Inc. Clearwater Development, Inc. is a property owner and developer within the District, which may have a right to reimbursement costs from the District. This disclosure is associated with approval of items on the agenda, which may affect his interests or those of Clearwater Development, Inc.

Written disclosures of these interests were filed with the Secretary of State and the Board prior to the meeting.

Written disclosures for Director Hatle were filed with the Secretary of State and the Board prior to the meeting.

Public Comment

There was no public comment.

Meeting Minutes

The minutes of the special meetings of the Board of Directors held on November 20, 2008 and January 14, 2009 were read. Upon motion duly made by Director Budd, seconded by Director Brock and unanimously carried, the minutes were approved by the Board of Directors as presented.

Appointment of
Director

Ms. Fritsche advised the Board that Ian K. Hause has met all qualifications to serve on the Board. Robertson & Marchetti received no response to the notice of Board vacancy published in the *Eagle Valley Enterprise* on January 8, 2009. Upon motion duly made by Director Brock, seconded by Director Budd and unanimously carried, the Board approved the appointment of Mr. Hause to fill the vacancy created by the resignation of James Higgins in December, 2008. Mr. Hause's term expires in May, 2010. Mr. Hause took his oath of office as Director.

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Annual Administrative Matters

Ms. Fritsche discussed a number of administrative matters with the Board, which are generally addressed at the Board's first meeting of the year, in accordance with Colorado laws:

Ms. Fritsche asked the Directors to complete affidavits confirming each Director's qualification to serve on the Board.

Ms. Fritsche asked the Directors to review the information previously provided to each Director by her firm, describing how to identify a conflict of interest, and the requirements under Colorado law for disclosure of such conflicts of interest by each Director. Ms. Fritsche asked each Director to review the contents of the letter, and to identify all existing and potential conflicts of interest each Director may have in connection with serving as a member of the Board of Directors of the District and to update the disclosure form to be returned to her office.

The Board determined to compensate each director for service to the District in amount of \$100 per meeting, not to exceed \$1,600 per year.

The Board reviewed and determined to continue to use the *Eagle Valley Enterprise* for publication of legal notices.

The Board determined to hold its regular 2009 meetings at 10:00 a.m. on the second Wednesday of every other month: April 8th, June 10th, August 12th, October 14th and December 9th at 4000 Gypsum Creek Road, in Gypsum, Colorado. In addition, the Board identified its regular meeting notice posting locations as the entrance to the Clearwater Development office at 4000 Gypsum Creek Road, the entrance to the Trailhead Building, 3870 Gypsum Creek Road, and the fence post on the southern boundary of the District at the Gypsum Creek Road right-of-way, all within the boundaries of the District.

The Board appointed Lynette Sander at Robertson & Marchetti to serve as the Designated Election Official for the District for its election activities. The Board set the District's polling place as the Clearwater Development office at 4000 Gypsum Creek Road Gypsum, Colorado.

The Board reviewed its existing insurance coverage and found it to be adequate for 2009.

The Board affirmed the District's current indemnification resolution that indemnifies the District's directors and any District employees hired in the future.

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Finally, the Board reviewed the proposed form of resolution presented by Ms. Fritsche to memorialize its determinations concerning actions to be taken by its consultants. Upon motion by Director Budd, seconded by Director Brock, the Board unanimously approved the Resolution as amended and ratified actions taken by its consultants to date.

Records Retention Schedule

Upon motion duly made by Director Budd, seconded by Director Brock and unanimously carried, the Board approved a resolution adopting the Colorado Special District Records Retention Schedule prepared by Colorado State Archives.

Engagement of Consultants and Compliance with Amendment 54

The Board reviewed the engagement of its consultants, Foster Graham Milstein Miller & Calisher, LLP, serving as the District's legal counsel and depository of the District's records; Robertson & Marchetti, P.C. serving as the District's accountant and manager; Vision Land Consultants, Inc. providing engineering services and Chadwick, Steinkirchner, Davis & Co. for audit services. Most of the District's consulting contracts fall within the definition of sole source contracts contained in Amendment 54, passed by voters in November 2008. Upon motion duly made by Director Budd, seconded by Director Brock and unanimously carried, the Board approved retaining its consultants for 2009 and approved addenda to such contracts requiring the sole source contract holders to comply with the requirements contained in Sections 15 and 17(2) of Article XXVIII of the Colorado Constitution (Amendment 54).

Financial Report/Payables

Mr. Weaver reviewed with the Board the District's financial reports dated December 31, 2008 and payment of claims dated March 12, 2009. Upon motion by Director Budd, seconded by Director Brock and unanimously carried, the Board accepted the financial reports and approved and ratified the payment of claims as presented in the amount of \$96,154.47.

2008 Audit

Upon motion by Director Brock, seconded by Director Hause and unanimously carried, the Board accepted the District's 2008 draft audit prepared by Chadwick, Steinkirchner, Davis & Co., subject to final review and approval by Mr. Weaver.

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- District Investments Upon motion by Director Budd, seconded by Director Brock and unanimously carried, the Board approved and ratified the transfer of District funds from UMB's CSAFE account into CDARS held by Millennium Bank. The transactions were processed by UMB, Trustee of the District's Series 2008 Bond Funds.
- General Obligation Limited Tax Bonds, Series 2008, in the principal amount of \$21,000,000 Upon motion by Director Budd, seconded by Director Hause and unanimously carried, the Board determined to appoint Mr. Weaver, Director Savage and Director Budd to a committee to revise the District's absorption schedule published at the time of issuance of the District's General Obligation Bonds, Series 2008. The committee will review preliminary assessed valuation prepared by the Eagle County Assessor and prepare a schedule accurately reflecting current market conditions.
- Pursuant to CDI and the District's continuing disclosure obligations, Mr. Weaver's office will file a continuing disclosure containing an updated report on the status of operations and development in Brightwater Club for 2009 in addition to the quarterly reports currently filed by the District.
- Acceptance of Public Improvements Mr. Ross informed the Board via e-mail to Mr. Weaver that additional invoices have been approved for the public water and sanitation improvements accepted by the District for Filing 5 – Wrangler's Crossing, including: Storm Crossings Staking: \$985.00 for Archibeque Survey; Soil and Compaction Testing for Waterlines: \$263.51; Town of Gypsum for Construction Observation and Testing Reports Review: January \$196.28 and December \$2,231.93. After discussion, upon motion by Director Budd and seconded by Director Brock and unanimously carried, the Board approved the additional costs bringing the total amount of public water and sanitation improvements installed in Filing 5 (Wranglers' Crossing), conveyed by bill of sale from Clearwater Development, Inc. Mr. Ross will issue the Engineer's Certificate of Improvements and Costs in the amount of \$788,376.15. Ms. Fritsche will prepare an amended resolution accepting the improvements for execution by the Board.
- Status of On-site Valley Road Improvements Director Hause distributed a copy of a Gypsum Town Council Resolution 2009-11 accepting the Dedication of Public Improvements of Valley Road within the Brightwater Club Subdivision Filing I and Resolution 2009-12 entering into a Dedication and Acceptance Agreement with Clearwater Development, Inc., dated March 10, 2009 and a copy of the fully executed agreement, dated March 5, 2009. Interestingly, the District is listed as a party to the Agreement in the

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introductory paragraph and then never referred to again in the body of the Agreement or as a signatory. The District Board and Ms. Fritsche had no involvement with the terms of, or the drafting of such Agreement. The Agreement does not appear to obligate the District.

Lot 1, Filing 6

The Board discussed the status of the conveyance of Lot 1, Filing 6 with Chief Vroman of the Gypsum Fire Protection District. Chief Vroman conveyed his Board's anger and frustration over the deadlock that has occurred concerning conveyance of the proposed fire station parcel. The Board determined it could take no further action in the matter, except to extend the terms of the escrow agreement with Land Title for conveyance of the parcel. Upon motion by Director Budd and seconded by Director Hause and unanimously carried, the Board directed Ms. Fritsche to extend the Escrow Agreement for an additional 90 days.

District
Communications

Director Hause requested Ms. Fritsche prepare a handout discussing the roles of the various entities (District, property owners association and developer) in connection with the Brightwater Club development.

Adjournment

There being no further business to come before the Board, and upon motion duly made by Director Hause and seconded by Director Budd and unanimously carried, the meeting was adjourned.


Secretary for the Meeting