

RECORD OF PROCEEDINGS

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

Held: Wednesday, August 26, 2009 at 1:00 p.m., at 296 Village Club Drive, 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:

C. Michael Budd
Ian K. Hause
Russ E. Hatle
Vernon L. Brock*

Also present: Eric Weaver, Robertson & Marchetti, P.C.; Joan Fritsche, Foster Graham Milstein & Calisher, LLP; Russell Thrasher, Thrasher, LLC; the following property owners: Carl Luppens, Diane Luppens, Lynn Janklow, Robert Melun, and Jack Holt; Don Dotson, contractor; and Sammy Yantzer and Chief Dave Vroman, Gypsum Fire Protection District.*

* Arrivals and departures where indicated.

Call to Order

Director Budd 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 Budd reported that he is an owner of real property within the District and that he is a real estate broker with Prudential Colorado Properties and represents property owners within the District. This disclosure is associated with approval of items on the agenda, which may affect his interests.

Director Brock reported that he is an owner of real property within the District and has had a consulting contract with 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.

Director Hatle reported that he is an owner of real property within the District and that he has an ownership interest in 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. In addition, Director Hatle reported that he has investments in Imprimis LLC; Mt. 20 LLC; and Hares Ear LLC. This disclosure is associated with approval of items on the agenda, which may affect his interests or those of Clearwater Development, Inc.

Director Hause 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.

Election of Officers

Director Budd noted that Robert Savage resigned from the Board of Directors prior to the meeting and that a new President needed to be elected. Upon motion duly made by Director Hatle, seconded by Director Hause and unanimously carried, the Board elected Director Budd Chairman of the Board and President of the District. Upon motion duly made by Director Budd, seconded by Director Hatle and unanimously carried, the Board elected Director Hause Secretary/Treasurer of the District, to replace Director Budd.

Public Comment

There was no public comment.

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Meeting Minutes

The minutes of the special meeting of the Board of Directors held on July 21, 2009 were read. Upon motion duly made by Director Hatle, seconded by Director Hause and unanimously carried, the minutes were approved by the Board of Directors, as amended.

* Director Brock arrived at this time.

Financial Report/Payables

Mr. Weaver reviewed with the Board the District's financial reports dated July 31, 2009 and payment of claims dated August 26, 2009. Upon motion by Director Hause, seconded by Director Hatle and unanimously carried, the Board accepted the financial reports and approved and ratified the payment of claims as presented. Mr. Weaver discussed the status of County property valuations with the Board and possible changes to the District's debt service mill levy. The Board determined to continue to monitor the situation and no action was taken.

Remaining Debt Authorization

A discussion followed concerning allocation of capital costs and remaining debt authorization by category. Don Bieber, District's Bond Counsel, confirmed with Mr. Weaver the legality of moving certain improvements acquired by the District under its park and recreation voter authorization to its streets authorization. Mr. Weaver was able to move \$70,000 in capital improvements originally allocated under the District's park and recreation authorization to streets, freeing up \$70,000 for fence improvements to be allocated under the District's park and recreation authorization. Upon motion duly made by Director Hatle, seconded by Director Brock and unanimously carried, the Board authorized Robertson & Marchetti to move the allocation of engineering costs in the amount of approximately \$25,000 incurred to certify public improvements for District acceptance from the general fund budget and into the capital improvements budget for fiscal years 2008 and 2009.

Filing 6 - Letter of Credit

Upon motion duly made by Director Hatle, seconded by Director Brock and unanimously carried, the Board approved and ratified the resolution authorizing the District to (1) terminate its existing Letter of Credit with American National Bank, (2) to enter into a new Letter of Credit with FirstBank of Avon for significantly lower fees, (3) authorizing Director Budd to execute documents on behalf of the District, and (4) authorizing Robertson & Marchetti to transfer capital projects funds to FirstBank. In addition, upon motion duly made by Director Hatle, seconded by Director Brock and unanimously carried, the Board authorized Directors Budd and Hause to execute any documents necessary to terminate the existing Letter of Credit with American National Bank or to complete the transactions contemplated above.

* Chief Vroman and Mr. Yantzer arrived at this time.

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Filing 5, Wranglers
Crossing

Upon motion duly made by Director Hause, seconded by Director Brock and unanimously carried, the Board approved the second Amended Resolution Authorizing and Accepting Facilities by Amended Bill of Sale from Clearwater Development, Inc. in the amount of \$788,466.49 for the public water and sanitation improvements installed in Filing 5 (Wranglers' Crossing) initially approved by the Board on January 14, 2009, approving an increase of \$90.44 over prior invoiced amounts for additional costs incurred.

Filing 6, Lot 1

Ms. Fritsche reminded the Board that the Board had directed her to contact Chief Vroman to determine if the Fire District wanted the District to extend the Escrow Agreement with Land Title concerning the conveyance of the fire station parcel - Lot 1, Filing 6. Chief Vroman stated that the Fire District is requesting a termination of the existing IGA with the Metro District and is requesting the Metro District pay the \$80,000 in impact fees that had been credited to the Metro District in exchange for Lot 1. Upon motion duly made by Director Hause, seconded by Director Brock and unanimously carried, the Board directed Ms. Fritsche to terminate the Escrow Agreement with Land Title and have the funds transferred to the Fire District as payment of the impact fees.

* Chief Vroman and Mr. Yantzer departed at this time.

Construction
Management Contract

Upon motion duly made by Director Hause, seconded by Director Brock and unanimously carried, the Board approved and ratified the Agreement for Construction Management Services with Thrasher, LLC for construction management services related to the installation of fencing along Valley Road and for additional services, as amended.

License and
Maintenance
Agreement

Upon motion duly made by Director Hause, seconded by Director Brock and unanimously carried, the Board approved and ratified the Nonexclusive Right-of-Way License and Maintenance Agreement between the District and the Town of Gypsum related to installation of the fencing along Valley Road.

Award of Fencing
Contracts

Mr. Thrasher reviewed with the Board the eight bids received by the District for the Valley Road Fence project. The two lowest bids submitted by GH Daniels and M&J, LLC were \$32.44 apart. (\$72,788.00/\$72,820.44 respectively) The Board determined that, in addition to cost, other factors it should consider in awarding the contract included selecting a local company, the main business of the company and personal experience with the contractors. Upon motion made by

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Director Hause, seconded by Director Brock and unanimously carried, the Board determined to award the fence contract to M&J, LLC because of its bid price, it is a local company that specializes in fencing and prior positive personal experience with the Company. Mr. Thrasher will prepare the notice of award.

Board Vacancy

The Board directed Ms. Fritsche and Mr. Weaver to provide notice to property owners of the Board vacancy created by the resignation of Robert Savage by publication and a District newsletter. The Board will appoint a director to complete Mr. Savage's term (May, 2010) from the property owners who submit a letter of interest to Robertson & Marchetti.

2010 Budget Hearing

Based upon the County tax sale date and statutory mill levy certification requirements, the Board determined to hold its statutory budget hearing on October 14, 2009, as scheduled, and to continue that meeting to November 13, 2009 to adopt its 2010 budget, appropriate funds and certify its mill levies.

District Engineer

The Board scheduled four interviews with engineering firms to act in the capacity of District engineer following the resignation of Ken Ross. Brock Consulting gave the first presentation. *Director Brock departed after giving his presentation on Brock Consulting and answering questions. Representatives from Vision Land Consulting, Schmuesser Gordon Meyer and Sopris Engineering followed. After discussion, upon motion made by Director Hause, seconded by Director Hatle, and unanimously carried, the Board determined to continue its engagement of Vision Land Consulting as the District's engineering firm.

Adjournment

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

Secretary for the Meeting