



MEETING MINUTES

DATE: July 9, 2021

TIME: 9:00AM

LOCATION: Video Conference Only

STATE OF COLORADO)

COUNTY OF EAGLE) SS.

REGULAR BOARD MEETING

Due to Governor Polis' declaration of a state of emergency resulting from the COVID-19 pandemic, the meeting was held via webinar.

ATTENDANCE

Via webinar: David Bentley, President; Eugene McGuire, Vice President; Cheryl Foley, Treasurer; John Van Deusen, Secretary; and Dan Roberts, Assistant Treasurer/Assistant Secretary.

Others Present via Webinar: Trevor Broersma, acting general manager; Alan Pogue, general counsel for CMD; Ron Hoppner, information technology administrator; Claudia Wells, finance manager; Paula Kurtz, executive assistant to gm; Cliff Simonton, community planning manager; Samuel Lazar, operations manager; Brian Beven, legal counsel to Keith Tucker, Petitioner; Matt Stovell, legal counsel to Keith Tucker, Petitioner, Iris, court reporter and 36 members of the public.

CALL TO ORDER

Director Bentley called to order the Regular Board Meeting of the Cordillera Metropolitan District at 9:23 a.m.

DECLARATION OF QUORUM/CONFLICT OF INTEREST DISCLOSURE

Board members acknowledged receiving notice of the meeting at least 24 hours in advance. No conflicts of interest were noted.

APPROVAL OF AGENDA

Motion: Director Foley moved to approve the Meeting Agenda for July 9, 2021. The motion was seconded by Director Van Deusen. Motion duly made and seconded, the Board approved the agenda for July 9, 2021.

APPROVAL OF MINUTES

Director Foley moved to approve the minutes for the regular meeting of May 14, 2021, and the minutes for the special meetings held on June 6, 2021, and June 25, 2021. The motion was seconded by Director Van Deusen.

Motion duly made and seconded, the Board approved the minutes for the regular meeting of May 14, 2021, and the minutes for the special meetings held June 6, 2021, and June 25, 2021.

PUBLIC HEARING ON PETITION TO EXCLUDE REAL PROPERTY

Pursuant to CRS Section 32-1-501, a public hearing was opened by Director Bentley at 9:24am to consider a Petition to Exclude Real Property (Lots 1 and 2, Filing 33) from Cordillera Metropolitan District boundaries. The property is

owned by Starview Reality Investments LP, Mr. Keith Tucker, president. It was confirmed that statutory requirements for the Exclusion hearing had been met. Alan Pogue presented rules and protocols for the hearing.

Brian Bevan, Counsel for the Petitioner, presented the background, history and details supporting his client's request, including a review of the eight (8) statutory criteria that must be considered for Exclusion. In summary, it was asserted that the owner does not utilize or enjoy CMD amenities and does not require CMD services commensurate to the taxes he pays on the property. The findings for each of the eight Exclusion criteria were outlined in a manner that supported the Petitioner's request. Examples were also provided of previous requests for exclusion from the CMD, one involving the Rothkopf property, which was denied, and one involving properties on Timber Springs Road which was accepted. In closing, Mr. Bevan noted that no written comments or objections from Cordillera property owners had been received at the time of the hearing.

Representing the District, Mr. Pogue and Mr. Boersma then presented, providing additional information and detail on CMD services rendered, a history of previous litigation involving the property, and resulting contractual arrangements surrounding the issue of access, services, and taxes. Mr. Pogue also reviewed the eight required Exclusion criteria, offering findings contrary to those of the partitioner on most points.

Both presentations are available upon request through the CMD.

Public comment was opened. A resident asked whether exclusion from CMD would impact the affiliation of the property to the Cordillera Property Owners Association. Assurance was if it would not, and that in the event of exclusion CPOA assessments would still be required.

Board Comment was opened. Director Bentley confirmed the deadline for written comments/objections to the Exclusion as the day of the hearing. He noted that, if allowed, the removal of the property from The District's boundary would be permanent, running with the land and not ownership of the land. He confirmed that if excluded the Petitioner would still be responsible to pay 063 taxes (District debt) until the bonds were retired. Director Bentley finished by noting that numerous outstanding visual attributes of the Cordillera Subdivision are enjoyed by travelers on Squaw Creek Road for its entire length.

Director McGuire reiterated that the Exclusion, if allowed, would be permanent. He asked about the potential for density increases on the subject property post Exclusion, noting that any new density would likely also be excluded. Director McGuire questioned why the Board was being asked to consider this Exclusion again, when past litigation had essentially determined an outcome.

Director Roberts reiterated the fact that the owner was fully aware of access issues and ownership/tax responsibilities when he purchased the property, and that CMD had provided many improvements to the property including a paved road and utilities. Mr. Bevan offered his view that the property was purchased by the Petitioner from the District, and improvements made to the property by The District at that time were part of purchase negotiations.

Director Foley asked if the owner of Lots 1 and 2 had access to District owned open space located north of the property. She confirmed that The District was responsible for plowing the access road to Lots 1 and 2 (Sendero Verde) for a fee of \$1 per year per a previous settlement, and that this plowing agreement could not be terminated by the CMD unless the property was sold. She noted that contrary to previous statements by the Petitioner, CMD Public Safety personnel have responded to the property. Director Foley also questioned the price of a home in Cordillera quoted by Mr. Bevan as "average" in his presentation of financial impacts to Cordillera homeowners was accurate. Finally, Director Foley confirmed that CMD plows the entire length of Squaw Creek Road, a benefit to the Petitioner.

Mr. Bevan noted that many properties outside District boundaries benefit from the plowing of Squaw Creek Road. Closing comments and clarifications were provided by Mr. Bevan and Mr. Pogue.

Motion was made by Director Van Deusen to take the matter under advisement until the regularly scheduled CMD Board Meeting of September 10, 2021. Director Foley seconded the motion. Motion duly made and seconded, the Board approved forwarding the Hearing for Petition to 9:30 am on September 10, 2021.

AGENDA ITEMS

FINANCIAL REVIEW

Noting exceptional work by staff to produce a current set of financial statements, CMD Treasurer Cheryl Foley presented a review of April 2021 and May 2021 financials. She indicated that The District was on track to meet the approved budget. No Board action was required.

CMD AUDIT

Director Foley indicated that draft audit statements had been received, and that the audit is moving toward final documentation. A final report should be available by the next CMD Board meeting. No Board action was required.

PUBLIC COMMENT

Director Bentley opened public comment, requesting that comments be directed specifically at the four resolutions being considered. Comments included a request for greater detail and a summary of the resolutions. After a summary and explanation of the four resolutions was provided public comment resumed. Public comment consisted of support of resolutions designed to get Water Fund monies back to the property owners as the board's first consideration should be giving the monies back. Feedback was split in support of CMD buying the Grouse property and leasing back to the CPOA, as well as a one-time abatement of the mill levy.

WATER FUND MOVE RESOLUTION

Director Foley introduced the Water Fund Move Resolution, which reads as follows:

WHEREAS, the Cordillera Metropolitan District ("District") entered into the Amended and Restated Water Service Agreement, dated March 25, 2004 between the District, the Edwards Metropolitan District, and the Upper Eagle Regional Water Authority (the "Water Service Agreement") that, among other things, required the District to fund specified capital improvements ("Required Capital Improvements") to the Cordillera water infrastructure that provided water services to property owners and properties located within the District's boundaries; and

WHEREAS, the District imposed an \$18.50 per month surcharge on the water bills of all property owners in the District to fund such Required Capital Improvements and established a dedicated capital fund on its books and accounts (the "Water Enterprise Fund") to record the collection and disbursement of the amounts necessary to fulfill its obligations to fund the Required Capital Improvements; and

WHEREAS, the District terminated the monthly surcharge as of May 1, 2017 after the District determined that it had fully funded the Required Capital Improvements and thus had fulfilled all of its infrastructure funding obligations under the Water Service Agreement; and

WHEREAS, as of June 30, 2021, the unaudited Water Enterprise Fund balance was \$2,270,627.82; and

WHEREAS, the District has the discretion to transfer the monies in the Water Enterprise Fund to other funds for use for other public benefits; and

WHEREAS, the District desires to transfer such balance into the General Operating Fund to provide greater flexibility for its use in the future;

NOW THEREFORE, the District hereby resolves to transfer the entire balance of the Water Enterprise Fund as of July 9, 2021 into its General Operating Fund and to terminate the existing Water Enterprise Fund and remove it from its books and accounts.

Director Foley further provided a brief history of the Water Fund and explained that it needed to be transferred to the General Fund to allow access to the money for use by the CMD on projects of public benefit.

Director Foley moved the Water Fund Move Resolution be approved as presented. *The motion passed unanimously.*

WATER FUND “GROUSE” PURCHASE RESOLUTION

Director Foley introduced the Water Fund “Grouse” Purchase Resolution, which reads as follows:

WHEREAS, the Cordillera Metropolitan District (“District”) has, on July 9, 2021, transferred all of the funds from its Water Enterprise Fund (approximately \$2,270,627.82) into its General Operating Fund, creating a balance in the General Operating Fund of approximately [\$ _____]; and

WHEREAS, the Cordillera Property Owners Association (“CPOA”) is undertaking a large capital improvement plan that includes, among other things, a potential \$2,200,000 purchase of the real estate, building, and parking lot commonly known as the Grouse-on-the-Green (the “Grouse”), which is immediately adjacent to the CPOA’s Short Course golf amenity; and

WHEREAS, the CPOA will hold a proxy vote on July 20, 2021 in which property owners will be asked to approve and ratify the Grouse real estate purchase contract, authorize annexation of the Grouse property, and authorize potential assessments in financial support of the purchase; and

WHEREAS, the CPOA has requested that, if the community votes to approve the proposed ballot measure, the District provide financial support to either: (i) reduce the amount of any assessment the CPOA may otherwise levy to fund the purchase or (ii) provide a temporary tax reduction to compensate residents for all or part of the assessment to be levied; and

WHEREAS, the District believes that ownership of the Grouse, if approved by Cordillera property owners in the CPOA ballot initiative, would provide an important public recreational benefit to the Cordillera community; and

WHEREAS, the District has determined that its General Operating Fund balance, including the \$2,270,627.82, referenced above, is at a robust level, and that \$2.2 million could be released to support, either directly or indirectly, a purchase of the Grouse; and

WHEREAS, the District has identified two funding options (the “Funding Options”) that it would be willing to use to provide financial support to aid in the Grouse purchase, if approved by Cordillera property owners in the CPOA vote: (i) a “Sale/Leaseback” under which it would purchase the Grouse from the CPOA and immediately enter into a long-term, low cost lease with the CPOA, with an option for the CPOA to repurchase the property at any time during the term of the lease, thus allowing the CPOA to reduce dollar-for-dollar any proposed assessment on property owners; or (ii) a one-time or multi-year tax refund to property owners through a mill levy reduction that would reduce real property taxes by a total of \$2.2 million and thus free up money from each individual resident’s tax burden to fully or partially compensate them for the CPOA special assessment; and

WHEREAS, the District desires to explore the pros and cons of each of the Funding Options with the CPOA and the Cordillera community over the next few weeks, so that it will be able to make a final decision as to which Funding Option would be most beneficial to the overall community in the event that property owners vote to approve the proposed purchase of the Grouse.

NOW THEREFORE, in the event that the Cordillera property owners vote to approve the proposed purchase of the Grouse, the District hereby commits \$2.2 million from its General Operating Fund to financially aid the community to fund such purchase using one of the Funding Options described above.

Director Foley noted the strength of CMD's current financial condition and moved to approve the Water Fund "Grouse" Purchase Resolution as presented. Director Roberts seconded the motion.

Discussion disclosed two basic positions, one that information known is sufficient to approve funding the purchase of the Grouse, the other that additional information is needed.

The motion failed 3 to 2, with Directors Bentley, Van Deusen and McGuire voting against and Directors Foley and Roberts voting for.

TAX RELIEF RESOLUTION

Director Bentley requested this resolution be withdrawn from discussion given its direct association and reliance on approval of the Water Fund "Grouse" Purchase Resolution. The Board agreed.

COMMIT TO TAX RELIEF RESOLUTION

Director Roberts presented the Tax Relief resolution, which reads as follows:

WHEREAS, the Cordillera Metropolitan District ("District") currently has an overage of greater than \$2.2 million in its General Fund for the year 2021; and

WHEREAS, the District's reserve funds are deemed adequate; and

NOW THEREFORE, the District resolves and commits to the residents of Cordillera, except in the event of acts of God or other extraordinary events, to utilize these excess funds to reduce budgetary needs for 2022 by at least \$2.2 million, which will result in a one-time reduction in the mill levy for 2022.

Director Roberts emphasized the fact that the CMD has \$2.2 million in the general fund belongs to the community, regardless of situations surrounding the purchase of the Grouse, and that it should be returned to the property owners. He requested that CMD commit to returning \$2.2 million to the community and moved to approve the Tax Relief Resolution. Director Foley seconded the motion.

Discussion again disclosed two basic positions, one that information known is sufficient to approve returning these funds to the Community, the other that additional information is needed.

The motion failed 3 to 2, with Directors Bentley, Van Deusen and McGuire voting against and Directors Foley and Roberts voting for.

MANAGEMENT TEAM REPORT

The Board welcomed Trevor Broersma in his new position Acting General Manager.

Trevor presented the Management Team Report and answered board questions regarding:

- proposed new financial software; a meeting with Directors Bentley and Foley has been scheduled, with a decision on the new software coming very soon.
- the community gardens: The corrugated metal has finally arrived, and the beds will be completed and ready for planting soon.
- trailer parking, all 50 spaces have been rented and there is a waiting list. The spaces are available only to Cordillera owners.

PUBLIC COMMENTS

Director Bentley re-opened public comment. Comments included disappointment that the resolutions releasing the Water Fund were not approved, lack of action on water fund matter maintains uncertainty and may bias the upcoming CPOA vote, water fund money needs to be returned to the community, and that the board's actions/lack of actions are misleading.

EXECUTIVE SESSION

Motion: At 12:54, Director Foley moved, and Director Van Deusen seconded a motion to enter executive session pursuant to Section 24-6-402(4)(a), C.R.S. to discuss personnel matters (general manager). At 1:30 p.m. Director Foley moved, and Director Roberts seconded a motion to conclude executive session. No action was taken in executive session.

ADJOURNMENT

Motion: Director McGuire moved to adjourn the Regular Meeting of the Cordillera Metro District at 1:32 p.m. Seconded by Director Foley. Upon motion duly made and seconded, the Board adjourned the Regular Meeting of the Cordillera Metro District.