

RECORD OF PROCEEDINGS

MINUTES OF A SPECIAL MEETING OF
THE BOARD OF DIRECTORS OF THE
CONSERVATORY METROPOLITAN DISTRICT
HELD
FEBRUARY 22, 2010

A special meeting of the Board of Directors of the Conservatory Metropolitan District, referred to hereafter as ("Board"), was convened on Monday, the 22nd day of February, 2010, at 9:00 A.M., at the Conservatory Clubhouse, 2665 South Jebel Way, Aurora, Colorado. The meeting was open to the public.

ATTENDANCE

Directors In Attendance Were:

Ronald "Dick" R. Dailey; Acting President
Dan Staley
Laverne Palmer
Judson R. Davis, Jr.

Following discussion, upon motion duly made by Director Staley, seconded by Director Palmer and, upon vote, unanimously carried, the absence of Don G. Samsel was excused and Ronald "Dick" R. Dailey was appointed Acting President.

Also In Attendance Were:

AJ Beckman; Special District Management Services, Inc.

Jennifer Tanaka, Esq.; White Bear & Ankele, P.C.

John Simmons; Simmons & Wheeler, P.C.

Vicki Keevak; The Brickman Group

Cass McKenzie Esq.; McKenzie, Rhody & Hearn, LLC.

CALL TO ORDER

Director Dailey noted that a quorum of the Board was present and called the meeting to order.

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DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

Attorney Tanaka advised the Board that, pursuant to Colorado law, certain disclosures might be required prior to taking official action at the meeting. The Board reviewed the Agenda for the meeting, following which each Board member confirmed that they had no conflicts of interest in connection with any of the matters listed on the Agenda.

ADMINISTRATIVE MATTERS

Agenda: Mr. Beckman distributed, for the Board's review and approval, a proposed Agenda for the District's special meeting.

Following discussion, upon motion duly made by Director Staley, seconded by Director Palmer and, upon vote, unanimously carried, the Agenda was approved, as amended.

CONSENT AGENDA

The Board considered the following actions:

- Review and approve Minutes from the January 25, 2010 special meeting
- Acknowledge Homeowners' Association Meeting Reports/Updates.

Following discussion, upon motion duly made by Director Palmer, seconded by Director Staley and, upon vote, unanimously carried, the Board approved the above actions.

There were no reports or updates by the Homeowner's Association.

COMMUNITY COMMENTS

It was noted that no members of the general public were present.

OPERATIONS AND MAINTENANCE

The Green Plan - Monthly Report: Ms. Keevak reviewed the monthly report from the Brickman Group with the Board. Ms. Keevak reported that the fence at Conservatory Parkway and Yale was hit by a car. She will follow up with Mr. Beckman with specific

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information. Mr. Beckman reported that he will obtain a copy of the police report and file an insurance claim.

Ms. Keevak also discussed the need for Blue Gramma grass. The Board discussed irrigation and water consumption. Director Davis asked if the Board had considered turf varieties that require less water. Ms. Keevak reported that she is anticipating planting a test area on Tract U this spring with Blue Gramma grass seed. Director Staley discussed the need to balance the water requirements of turf and trees in specific areas.

Landscape Annual Expenditures Matrix: Mr. Beckman reviewed with the Board the estimated Annual Landscape Expenditures Matrix. He noted that the estimated Holiday lights and annual color expenses are included.

Proposal by The Brickman Group for Annual Flowers Installation: Ms. Keevak reported The Brickman Group will include a combination of perennials and annuals. She also reported that the perennials will not have a warranty for all of 2010. She further reported that The Brickman Group will work with the Board of Directors regarding plant selection and will keep within the discussed budget. Ms. Keevak noted that she will revise the proposal for Annual Flowers Installation and present it at the next meeting. The Board expressed its concern regarding the total amount of \$16,800.

Dead or Damaged Trees on Tracts JJ and MM: Discussed under Contract Approvals.

Creation and Maintenance of GIS Map: Director Staley discussed the benefits of tracking landscape improvements on a GIS map and pointed out that the data would need to be maintained on an ongoing basis. The Board discussed the possibility of maintenance by the Brickman Group or SDMS and directed Mr. Beckman to inquire as to the ability and cost of each to maintain such data. Director Staley volunteered to

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create and maintain the map for the foreseeable future. The Board directed Mr. Beckman to request GIS mapping data related to the District from the City of Aurora.

Relocation of Mailboxes: The Board discussed the status of research regarding the potential relocation of the mailboxes. Director Dailey will work with Mr. Beckman to finalize the communication to the Postmaster requesting permission for relocation.

Clubhouse Bulletin Board: The Board directed Mr. Beckman to develop a condensed agenda for posting prior to each meeting in order to minimize the space used on the bulletin board. The Board also discussed posting notices on the website and directed Mr. Beckman to advise the community of the posting location on the Community Update and follow up with Director Samsel on the matter as well.

FINANCIAL MATTERS

Claims: Mr. Simmons distributed and reviewed the claims for the period ending February 22, 2010 totaling \$27,764.55.

Following discussion, upon motion duly made by Director Staley, seconded by Director Palmer and, upon vote, unanimously carried, the Board approved the payment of claims through the period ending February 22, 2010 totaling \$27,764.55, as amended. Director Dailey noted that the monthly expenditures for Special District Management Services, Inc. ("SDMS") and White, Bear and Ankele, P.C. were over the monthly budget. Attorney Tanaka advised the Board that she had previously capped the fees for annual meeting expenditures. Mr. Beckman explained that SDMS's fees will fluctuate from month to month. Mr. Beckman also noted that costs associated with collections for past due fees and inquiries by members of the community about the recent change to collection of all revenue through property taxes has taken more effort than anticipated. Mr. Simmons informed the Board that refunds are due to homeowners as a result of the new tax process. The number and

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amount of the refunds are not known at this time.

Director Palmer voiced concern about the expenses associated with collections given that the Board did not budget for collections in 2010. She also requested specific information on the results made from the collection efforts be made clear on the financials.

Financial Statements: Mr. Simmons presented the unaudited financial statements for the period ending January 31, 2010 for Board review.

Following discussion, upon motion duly made by Director Dailey, seconded by Director Palmer, and upon vote, unanimously carried, the January 31, 2010 unaudited financial statements were accepted.

Cash Flow Projection: Mr. Simmons reviewed the cash flow projection through March 31, 2011 with the Board.

Directors' Compensation: Mr. Simmons discussed Directors' fees with the Board and recommended that the District not withhold income taxes for amounts paid to Directors.

Attorney Tanaka discussed a recent Revenue Ruling in which public officials were deemed to be employees of the District. She recommended that income tax be withheld from Directors' Fees.

Following discussion, upon motion duly made by Director Staley, seconded by Director Davis and, upon vote, unanimously carried, the Board determined that income tax not be withheld for Directors' Fees.

Director Dailey pointed out that withholding is not an issue unless Directors receive compensation.

Director Palmer noted for the record that effective immediately she will decline Directors Fees. Her reasons for declining Board compensation included unbudgeted expenditures and she noted that she did

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not want to create adverse impacts to homeowners. She is refunding \$200 for December 2009 and January 2010 compensation to the District.

2009 Budget Amendment Hearing: The Acting President opened the public hearing to consider the Resolution to Amend the 2009 Budget and discuss related issues. It was noted that publication of Notice stating that the Board would consider adoption of a Resolution to Amend the 2009 Budget and the date, time and place of the public hearing was made in a newspaper having general circulation within the District. No written objections were received prior to this public hearing. There were no comments from the public in attendance and the public hearing was closed.

Following review and discussion, Director Staley moved to adopt the Resolution to Amend 2009 Budget, Director Palmer seconded the motion and, upon vote, unanimously carried, the Board adopted the Resolution to Amend the 2009 Budget. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

DELINQUENT FEES REPORT

Delinquent Account Report: Mr. Beckman reported that he expects to receive approximately \$8,500 from DR Horton within the next few days, and that he has not received payment from Westside Conservatory LLC. in the approximate amount of \$19,000; however Mr. Warnick is following up with them on this matter. The balance of approximately \$50,000 is due from individual accounts for which SDMS and White, Bear and Ankele, P.C. will follow the District's collection policy ultimately resulting in the filing of liens on properties having delinquent accounts.

LEGAL MATTERS

Structural Inspection on Picnic Shelter Located in Tract V: Attorney Tanaka discussed the possible acceptance of the picnic shelter and warranty for improvements. She reported that the District has not accepted ownership of the picnic structure but that the District wants a warranty bond. She further

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reported that the District has an obligation to maintain the grounds pursuant to an agreement with the developer but is not required to accept the picnic shelter. She noted that she is waiting for DR Horton to report back on the issue after discussing with their Counsel.

Tract JJ Easement: Attorney Tanaka reported that she is working with the City to obtain the easement.

Ownership and Maintenance of Fences Separating District and Private Property: Attorney Tanaka reported that she has reviewed landscape plans and ownership of the white PVC fences is not clear. She noted that she will discuss with the City of Aurora and report back to the Board at the next meeting.

OTHER BUSINESS

Community Outreach: Items for Community Update. The Board requested that Mr. Beckman include information on the following matters in the March edition of the Community Update:

- Plant selection, and locations, for annual color.
- Posting meeting notices to the District's website.
- Information from Attorney McKenzie regarding the status of litigation

Website. The Board directed to staff to forward the meeting agendas to Director Staley to upload to the District website.

Action Items Status Matrix: Mr. Beckman reviewed and discussed the action items with the Board. Director Dailey reported that there is still no power or lights at the monument at Ireland Way. Mr. Beckman reported that this is due to a broken power line. The repairs were previously halted due to the District's cash position. The repairs will be initiated once adequate revenue has been received.

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BOARD MEMBER
INPUT

See Community Outreach section above.

NEW BUSINESS

New Business: There was no new business to discuss.

CONTRACT
APPROVALS

Proposals involving the Expenditure of Funds received from The Brickman Group and Ninth Addendum to Independent Contractor Agreement with The Green Plan, Inc.: The Board directed Mr. Beckman to request a revised quote for trees and flowers from Ms. Keevak with The Brickman Group.

LEGAL MATTERS
CONTINUED

Litigation against D.R. Horton, Status of Notice of Claim for Dead and Declining Trees and Compliance Matters and Financial Status of District: EXECUTIVE SESSION: Pursuant to Sections 24-6-402(4)(b) and (e) of the Colorado Revised Statutes, upon motion duly made by Director Dailey, seconded by Director Palmer and, upon an affirmative vote of at least two-thirds of the quorum present, the Board convened in executive session at 11:21 a.m. for the purposes of discussing legal matters as authorized by Section 24-6-402(4)(b) C.R.S. and discussing matters subject to negotiation pursuant to Section 24-6-402(4)(e), C.R.S.

Furthermore, pursuant to Section 24-6-402(2)(d.5) (II)(B), C.R.S., no record will be kept of those portions of the executive session that, in the opinion of the District's attorney, constitute privileged attorney-client communication pursuant to Section 24-6-402(4)(b), C.R.S.

The Board reconvened in regular session at 11:42 a.m. No action was taken by the Board.

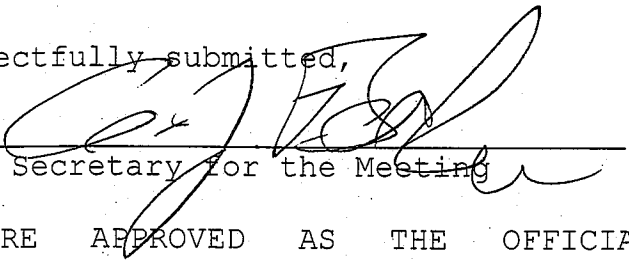
ADJOURNMENT

There being no further business to come before the Board at this time, upon motion duly made, seconded and, upon vote, unanimously carried, the meeting was adjourned.

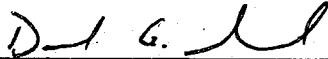
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Respectfully submitted,

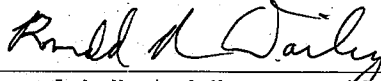
By


Secretary for the Meeting

THESE MINUTES WERE APPROVED AS THE OFFICIAL
FEBRUARY 22, 2010 MINUTES OF THE CONSERVATORY
METROPOLITAN DISTRICT BY THE BOARD OF DIRECTORS
SIGNING BELOW:



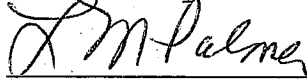
Don G. Samsel



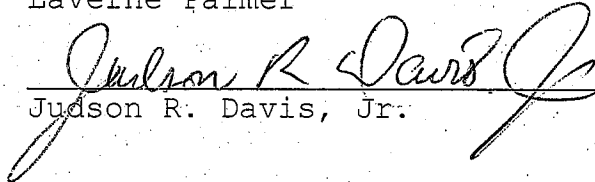
Ronald "Dick" R. Darley



Dan Staley



Laverne Palmer



Judson R. Davis, Jr.