
RECORD OF PROCEEDINGS

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE CONSERVATORY METROPOLITAN DISTRICT HELD March 15, 2021

A Special Meeting of the Board of Directors (referred to hereafter as “Board”) of the Conservatory Metropolitan District, (referred to hereafter as “District”), was convened. The meeting was open to the public and the conferencing information was posted.

Due to Executive Orders issued by Governor Polis and Public Health Orders implementing the Executive Orders, issued by the Colorado Department of Public Health and Environment (CDPHE), and the threat posed by the COVID-19 coronavirus, the meeting was held via teleconference.

ATTENDANCE

Directors In Attendance Were:

Birgit Baldwin
Joy DeMots
Pedro L. Moczo, Jr.
Robert C. Giles
David E. Altman

Also In Attendance Were:

AJ Beckman; Public Alliance, LLC
Jennifer Tanaka, Esq.; White Bear Ankele Tanaka & Waldron, P.C.
Georgia Harland; Simmons and Wheeler, P.C.
Dawn Schilling; Schilling and Associates
Laverne Morris Palmer, member of the public
Helen Hardin, member of the public

DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST

Disclosures 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 Directors Baldwin, Moczo, DeMots, Giles and Altman, along with each consultant, confirmed that they have no conflicts of interest in connection with any of the matters listed on the Agenda.

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PLEDGE OF ALLEGIANCE

Pledge of Allegiance: Director Giles led the Board in reciting the Pledge of Allegiance.

ADMINISTRATIVE MATTERS

Agenda: Mr. Beckman reviewed the proposed Agenda with the Board for the District's Special Meeting.

Following discussion, upon motion duly made by Director Moczo, seconded by Director Giles and, upon vote, unanimously carried, the Agenda was approved, as amended in which the order of businesses was amended to move the audit to the beginning of financial matters.

Consent Agenda: The Board considered the following actions:

- Approval of Minutes of the January 25, 2021 Special Meeting
- Ratification of Addendum No. 1 to Independent Contractor Agreement with BrightView Landscape Services, Inc. ("BrightView") for Deep Root Tree Watering, in the amount of \$4,609
- Ratification of Addendum No. 2 to the Independent Contractor Agreement with Brightview to Water All New Perennial Rock Beds at Monuments in the amount of \$850.00
- Ratification of Addendum No. 3 to the Independent Contractor Agreement with Brightview for Playground Mulch, in the amount of \$2,195.00
- Ratification of Addendum No. 4 to the Independent Contractor Agreement with Brightview for Utility Trash Pickup, in the amount of \$605.00
- Ratification of Addendum No. 5 to the Independent Contractor Agreement with Brightview for Tree Removal in the amount of \$50.00
- Ratification of Addendum No. 6 to the Independent Contractor Agreement with Brightview for Playground Concrete Removal, in the amount of \$328.15
- Approval of the Independent Contractor Agreement with Masterful Masonry for Wall and Monument Repairs Services in the amount of \$7,566.00
- Ratification of the Independent Contractor Agreement with Ivy Street Design Group, Inc. for Planting Design and Performance Standards Services in the amount of \$2,650.00

Following discussion, upon motion duly made by Director Altman, seconded by Director Moczo and, upon vote, unanimously carried, the Board approved the Minutes of the January 25, 2021 Special Meeting, as amended, and ratified or approved the remaining items on the Consent Agenda.

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COMMUNITY COMMENTS

HOA Reports and Updates: No reports or updates by the Conservatory Homeowners Association (“HOA”) were presented. Director Baldwin recommended that this item be removed from future meetings.

Following discussion, upon motion duly made by Director Giles, seconded by Director Altman and, upon vote, unanimously carried, the Board approved the removal of HOA Reports and Updates from future agendas.

Public Comment: There was no public comment.

FINANCIAL MATTERS

2020 Audit: Ms. Schilling reviewed the 2020 audit with the Board. She discussed the value of the improvements in Tract V as they were accepted by the District for ownership and maintenance in 2020. She explained that the value of the detention pond in Tract V (Pond No. 7) was based on the value of the concrete inlet and outlet structures. Once the anticipated pond refurbishment project is complete, the value of the work will be added. Ms. Schilling then discussed the value of the gazebo and retaining walls on Tract V explaining that the estimates are based on estimated costs per linear or square footage as applicable for similar installations. Director Altman asked about the benefit of quantifying the value of the improvements. Ms. Schilling explained that GASB accounting standards require that a value be included for all capital assets, which will be depreciated over time. Ms. Palmer asked about updating the reserve study. Director Baldwin explained that this has not yet been considered.

Following discussion, upon motion duly made by Director DeMots, seconded by Director Moczo and, upon vote, unanimously carried, the Board accepted the 2020 audit as presented and approved the District Representations Letter.

Claims: Ms. Harland reviewed with the Board the check register for the period ending February 28, 2021, including check numbers 4514 through 4533, totaling \$75,946.03.

Following discussion, upon motion duly made by Director Altman, seconded by Director Moczo and, upon vote, unanimously carried, the Board approved the claims totaling \$75,946.03.

Financial Statements: Ms. Harland reviewed the unaudited financials for the period ending February 28, 2021.

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Following discussion, upon motion duly made by Director DeMots, seconded by Director Moczo and, upon vote, unanimously carried, the Board accepted the unaudited financial statements ending February 28, 2021.

Cash Position: Ms. Harland reviewed the cash position from the period ending March 15, 2021.

OPERATIONS MATTERS

Manager's Report: Mr. Beckman reviewed the District Manager's Report with the Board, attached hereto and incorporated herein by this reference. No action was needed.

Memorandum of Understanding ("MOU") With HOA: Mr. Beckman discussed the intent of the document and the present state of relations with the HOA. Mr. Beckman recommended that the Board not pursue the MOU any further as the document appears to have become a source of contention and further division rather than a clarification of roles and responsibilities for ongoing cooperation.

Following discussion, upon motion duly made by Director DeMots, seconded by Director Moczo and, upon vote, unanimously carried, the Board approved the recommendation discontinue further work on the agreement at this time.

Detention Pond Committee Report: The Board reviewed the report from the committee attached hereto and incorporated herein by this reference. Director Altman asked about the sink hole near Pond No. 4. Director Baldwin explained that the hole appears to have been caused by a leak in the irrigation system owned and operated by the City of Aurora. She further explained that a safety fence was installed around the affected area and the City of Aurora was notified that the irrigation system needs repair. The District will address the erosion issue once the irrigation repairs are completed.

Pest Control Update: Director Moczo reported that he is working with Mr. Beckman to obtain the rate schedule for inclusion in the Independent Contractor Agreement with Orkin Pest Control Services ("Orkin"). Director Altman recommended pursuing proposals from other vendors should Orkin not be responsive to the request. Director Moczo noted that he and Mr. Beckman may take that action if the pricing schedule is not received in the near future.

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Independent Contractor Agreement Orkin: No action taken.

Update Regarding Wall Repairs: Director Moczo reported that he will follow up with Masterful Masonry and Director Giles to refine the scope of work and determine the start date. Director Baldwin explained that the Board can execute an addendum to increase the scope work if necessary. Director Giles and Director Moczo will walk the property to verify or revise the scope of work.

Playground Safety Report: Director Giles explained that the latest report from Playground Safety Solutions noted two deficiencies: the proximity of a concrete pad to the fall zone of the slide, and the depth of the wood mulch. He reported that both items have been addressed and the playground is now in conformance with the recommendations.

LANDSCAPING MATTERS

Landscape Expenditure Budget Tracking Matrix: Mr. Beckman reviewed the matrix with the Board.

BrightView Report: The Board reviewed the report. Director Altman asked if aeration has been completed. Director Baldwin clarified that it had not been completed. Director Giles noted that the process will be more effective when the ground is damp, so later this month or early in April will be ideal.

Update Regarding Tree Planting: Director Giles reported that he has walked nearly all of the District tracts to count and log the status of the trees throughout the property. He reported that he has counted 516 street trees and 1,172 non-street trees, for a total of 1,688 trees. He then explained that he still has a couple of tracts to walk. Director Giles reported that he has found 96 trees missing (trees that have been removed but not replaced); 79 of which are street trees and 17 non-street trees. Director Baldwin noted that if 60 trees are planted this year the District would only have 51 to plant next year to complete the multi-year replacement project.

Director Baldwin then reviewed the tree proposal matrix with the Board. She explained that the Tree Planting Committee is recommending some new species which are reportedly doing well in this area and some familiar species which have done historically well in the District. Director Baldwin also explained that the proposals will include 12 watering visits. Director Baldwin reviewed the pricing for all proposals and noted that BrightView agreed to reduce the cost of their watering which, takes their proposed cost to \$53,661.

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Director Baldwin then polled the Board for thoughts:

Director Giles: Reported that he is leaning toward BrightView considering they reduced the cost of watering and they are the maintenance contractor.

Director DeMots: Explained that she is not extremely knowledgeable but is also leaning toward BrightView.

Director Altman: Discussed each contractor's proposal and noted that he agrees with engaging BrightView.

Director Moczo: Noted that he also favors BrightView.

Following discussion, upon motion duly made by Director Giles, seconded by Director DeMots and, upon vote, unanimously carried, the Board approved the tree planting proposal from BrightView for \$53,661.

Update on Electrical Improvements: Director Baldwin requested that this item be included in the Operations section of the agenda going forward. She advised the Board that there is \$10,000 for electrical improvements to monuments for Holiday Lighting. Other improvements may have to wait until next year. Director Altman explained that some of proposed improvements discussed would include LED lighting for monuments. He then reported that he would follow up with Mr. Beckman regarding a dimly lit monument lamp that was reported via email.

Update on Entry Area Landscape Improvements: Director Baldwin discussed the scope of work and the areas to be redesigned by Ivy Street. She explained that the largest scope of work will be the improvements at the entrance area on Killarney Court where the entire median area and both sides of the entry area will be redesigned. The other areas to be improved include the corner of South Jericho Way and East Hamilton Avenue, and the corner beds located on each side of South Kirk Way at South Conservatory Parkway.

**BOARD MEMBER
INPUT**

Director Baldwin: Requested that the audit be posted to the website following the release of the final version. She advised the Board that Public Alliance has been working through some technical difficulties with the website and encouraged all Directors to actively review the website and provide comments to Mr. Beckman and the management team.

Director DeMots: Expressed her appreciation for all the work by the Committees, Directors, and consultants.

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Director Moczo: Reported that he is eager to meet with Director Giles as soon as possible regarding the tree project.

Director Giles: Nothing to report.

Director Altman: Noted that the some of the agenda numbering was off on sub-items. Director Altman reported that he thought the cost of labor from BrightView for junk removal was higher than expected. He also noted that he would like to ensure the aeration scheduled for March gets completed, and noted that he would like to see trees planted by May 1, 2021.

OTHER BUSINESS

Community Outreach: Director Baldwin mentioned that the HOA has offered to allow the District to publish articles in its newsletter. She noted that the Community Update is presently posted at the mail kiosks and the District's website. Director Baldwin recommended that the District continue with its current process. Directors Giles and Altman explained that they would like to see a paragraph from the District submitted to the HOA for inclusion in the newsletter from time to time. Director DeMots explained that she is not sure the District should post its information in the newsletter, in order to avoid confusion between the two entities. Director Moczo recommended that the District experiment with the HOA newsletter postings. The Board discussed and determined that it would prepare information for the HOA newsletter from time to time when issues warrant distribution by this means.

Matters for the Community Update include:

- 2020 Audit
 - Tree Planting
 - Pond 6 and Pond 7
 - Monument Improvements
 - Wall Repairs
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LEGAL MATTERS

There were no legal matters.

EXECUTIVE SESSION

The Board determined not to enter into executive session.

ADJOURNMENT

There being no further business to come before the Board at this time, upon motion duly made by Director DeMots, seconded by Director Moczo and,

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upon vote, unanimously carried, the meeting was adjourned.

Respectfully submitted,

By: 
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Secretary for the Meeting

DISTRICT MANAGER'S REPORT

To: Board of Directors, Conservatory Metropolitan District

From: AJ Beckman, District Manager

Date: May 11, 2021

Capital Improvements Pond 6: The plans for Pond No. 6 have been reviewed by the City of Aurora and comments were provided to the District. The Pond Committee and Gary Welp, the Engineer with RG and Associates designing the improvements agreed that the City's comments are too onerous and would require the District to make costly and extensive renovations to the pond in order to proceed with the original project scope, which is primarily intended to mitigate safety concerns and reduce erosion. The Committee and Mr. Welp consulted with former District Director and Engineer for the City of Aurora, Ron Degenhart. Mr. Degenhart met with the Committee and Mr. Welp to review the City's comments. A follow up meeting with the City was scheduled, at which the Committee's concerns were expressed. The City recommended that the District resubmit the plans and request a variance from the current design standards required by the City. As part of the resubmittal package a letter (attached to this report) summarizing the Committee's concerns was prepared. The letter has been provided to Mr. Welp for inclusion in the resubmittal package which is being prepared as of the date of this report.

2021 Landscaping Improvements at Entry Areas: Design Options prepared by Wendy Booth with Ivy Street Designs will be presented by Directors Baldwin and DeMots

Electrical Work at Monuments: On January 29th Directors Altman and Giles met with Ms. Warner and me to inspect the monuments and the entry areas and develop a scope of work to improve the efficiency of the holiday lighting installations. The Committee is interested in pursuing additional improvements to the monuments. Ms. Warner has met with three separate electricians to review the scope of work and request proposals. Proposals have been received but are being revised to address the entry monuments only. A bid tabulation will be distributed to the Board once the information has been received. The possibility of addressing this as a capital project will be discussed at the Board meeting. Also, a work order to check the monuments at Hampden and Jericho, and Conservatory Parkway and Dartmouth has been placed with Parker Electric. Their response time is approximately three weeks at present.

Signage, Tract V: Public Alliance is working with BrightView on the installation of signs cautioning the public that icy conditions may exist on the walking path connecting Tract V to the City's walking path. The materials have been received and utility locates have been called. We expect the installation to take place the week of May 17, 2021.

Board Member on Duty:

May 2021	June 2021	July 2021	August 2021	Sept. 2021	October 2021
Joy	Bob	Dave	Birgit	Pete	Joy
Nov. 2021	Dec. 2021	Jan. 2022	Feb. 2022	March 2022	April 2022
Bob	Dave	Birgit	Pete	Joy	Bob

CONSERVATORY METROPOLITAN DISTRICT

355 Teller St., Suite 200

Lakewood, Colorado 80226

Cell: 303-877-6284 • Tel: 303-231-1055 • Cell: • Fax: 303-231-1056

Website: www.yourcmd.org • District Manager's Email aj@publicalliance.com

May 7, 2021

VIA EMAIL

City of Aurora

Public Works Department, Engineering Division

Re: Request for Variance

To Whom It May Concern;

The Conservatory Metropolitan District (“District”) is working with its Engineer, RG and Associates to mitigate an existing safety hazard on District and City of Aurora (“City”) property. The safety issue is the result of the original design of Water Quality Detention Pond No. 6, Conservatory Subdivision Filing No. 1, which abuts the City’s bicycle and pedestrian pathway along the west side of the District, and within the Xcel Energy easement in this area. The inlet to this pond is in close proximity to the edge of the City’s path creating a dangerously steep drop off, into the trench at the pond’s inlet. The District has installed temporary fencing along the path to reduce the existing hazard, however this is not an ideal solution as the fencing is installed at the top of the steeply sloped trench which is subject to ongoing erosion.

The District’s proposed solution involves extending the existing reinforced concrete pipe where the storm drain daylights to the pond, through the trenched area, and covering the pipe once laid in the trench, with appropriate soil and/or fill material. This will eliminate the trench, the steep drop off, and the areas that are highly susceptible to erosion. The District is prepared to fully fund this important improvement in accordance with our Engineer’s original design, however the comments to our recent design review submittal have caused the District to reconsider the project altogether, as an extensive redesign of the pond to meet the City’s current standards would not be economically feasible.

For historical context, it is important to understand that when the pond was constructed by the Developer it was never certified or accepted by the City or the District for maintenance. The District was alerted to this through its own investigative efforts in 2016 when residents began complaining of a foul odor. The pond was full of sediment, cattails and debris. In order to address the condition and ongoing maintenance of this and other ponds within the District, the City and the District entered into the attached Amended and Restated Intergovernmental Agreement, dated August 22, 2016 (“IGA”). The City and the District cooperated in the restoration efforts at great expense to the taxpayers pursuant to the terms of the IGA. Paragraph 5 of which acknowledges that the pond was constructed according to prior standards and reads in part; *The parties acknowledge and agree that the Ponds were constructed prior to August 1, 2009, and, therefore, are not subject to the City’s Rules and Regulations Regarding Stormwater Discharges Associated*

with Construction Activities nor the City's Storm Drainage Criteria, which became effective as of October 11, 2010.

The cooperative efforts of the District and the City resulted in Pond 6 being restored to the designed capture volume (February 27, 2017 Certification attached). The District has since complied with all of the requirements of the IGA and the District's Board and consultants hope to now address the safety hazard resulting from the Developer's original design. We view the District's efforts to eliminate this safety hazard as a continuation of the efforts to correct an undesirable (and unknown until 2016) developer legacy issue.

The District is asking that the City to issue a variance (or variances) to the current design standards, in accordance with the terms of the IGA, for the numerous design upgrades requested by the City in the design review process. This will allow the District to proceed with construction according to our Engineer's design, to address the existing safety and erosion hazards in an economically responsible and mutually beneficial manner. Thank you for your consideration.

Sincerely,

AJ Beckman

AJ Beckman,
District Manager

Cc: Detention Pond Committee, Conservatory Metropolitan District
Board of Directors, Conservatory Metropolitan District
Jennifer Gruber Tanaka, Esq., Attorney