

RECORD OF PROCEEDINGS

MINUTES OF THE SPECIAL MEETING OF

WATERFALL METROPOLITAN DISTRICT NO. 1
WATERFALL METROPOLITAN DISTRICT NO. 2

HELD
November 15, 2010

The Coordinated Special Meeting of the Boards of Directors (collectively, “Board”) of the Waterfall Metropolitan District No. 1 and Waterfall Metropolitan District No. 2 was held at the Orthopaedic Center of the Rockies, PC, 3470 East 15th Street, Loveland, Colorado 80538 on November 15, 2010, at 5:30 p.m.

ATTENDANCE

Directors in Attendance Were:

Mike Bergerson – District No. 1
Cole Evans – District Nos. 1 & 2
Tammi Lau – District Nos. 1 & 2
Troy McWhinney – District Nos. 1 & 2
Steve Schroyer – District Nos. 1 & 2

Also in Attendance Were:

Alan Pogue, Icenogle, Seaver & Pogue, P.C.
Peggy Dowswell, Pinnacle Consulting Group Inc.
Carla Hawkins, Pinnacle Consulting Group Inc.
(See attached signup list)

CALL TO ORDER

The meeting was called to order at 5:30 pm by Director McWhinney as Chairman, noting that a quorum was present. The Directors confirmed their qualifications to serve on the Boards.

COMBINED MEETINGS

The Districts are meeting in a combined board meeting. Unless otherwise noted, the matters set forth below shall be deemed to be the actions of the Waterfall Metropolitan District No. 1, with concurrence by the Waterfall Metropolitan District No. 2. Mr. Pogue, Legal Counsel, explained the order of business.

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MEETING NOTICE

Ms. Carla Hawkins reported that Notice of the Meetings had been properly posted within each District's boundaries, and that Notice was sent to the Larimer County Clerk and Recorder for posting. The notice also included agenda items.

CONFLICT OF INTEREST DISCLOSURE

Mr. Pogue, legal counsel, noted that notices of potential conflicts of interest for all Board Members were filed with the Colorado Secretary of State's Office, disclosing potential conflicts. Mr. Pogue advised the Board that pursuant to Colorado law, certain disclosures by the Board Members might be required prior to taking official action at a meeting. The Board reviewed the agenda for the meeting, following which each Board Member present confirmed the contents of the written disclosures previously made stating the fact and summary nature of any matters as required under Colorado law to permit official action to be taken at the meeting. Additionally, the Board determined that the participation of the members present was necessary to obtain a quorum or otherwise enable the Board to act.

APPROVAL OF AGENDA

The Board reviewed the agenda and approved the agenda with changes.

APPROVAL OF MINUTES

The minutes of the October 28, 2010 Special Meeting were presented and reviewed. Upon motion duly made by Director Bergerson and seconded by Director Schroyer, it was unanimously

RESOLVED to approve the Minutes of the October 28, 2010 Waterfall Metropolitan District No. 1 Special Meeting, as presented.

Upon motion duly made by Director Schroyer and seconded by Director Evans, it was unanimously

RESOLVED to approve the Minutes of the October 28, 2010 Waterfall Metropolitan District No. 2 Special Meeting, as presented.

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APPROVAL OF PAYABLES

Ms. Dowswell presented the Schedule of Payables as updated as of November 15, 2010 totaling \$9,650.39 for October 2010 invoices. Upon motion duly made by Director Schroyer and seconded by Director Evans, it was unanimously

RESOLVED to approve the Schedule of Payable as noted above.

2010 AUDIT EXEMPTION

Ms. Dowswell reported that Districts Nos. 1 and 2 qualify for 2010 audit exemptions. Each will need to be prepared and filed with the State Auditor by March 31, 2011. Upon motion duly made by Director Schroyer, seconded by Director Bergerson, it was unanimously

RESOLVED to authorize Pinnacle Consulting Group to prepare the 2010 audit exemptions for District No. 1.

Upon motion duly made by Director Schroyer, seconded by Director Lau, it was unanimously

RESOLVED to authorize Pinnacle Consulting Group to prepare the 2010 audit exemptions for District No. 2.

2010 AMENDED BUDGET HEARING & ADOPTION OF RESOLUTIONS

Director McWhinney opened the Amended 2010 Budget Hearing to the public. Mr. Pogue reported that notice of the hearing had been published in accordance with state budget law. After further general discussion, the public hearing portion of the budget was closed. Ms. Dowswell reviewed the budget and answered questions pertaining to estimated year end revenues and expenditures, and operation and maintenance assessments to finance the district. With that the board considered the following:

District No. 1

Mill levy is 0.00 mills.

General Fund Expenditures: \$88,127

Funded by Operation and Maintenance Assessments.

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After further review and discussion, and upon motion duly made by Director Schroyer and seconded by Director Evans, it was unanimously

RESOLVED, for District No.1, to approve the Resolutions to Adopt the Amended 2010 Budget and Appropriate budgeted funds and approve all other documents related to the Amended 2010 Budget.

2011 BUDGET HEARING & ADOPTION OF RESOLUTIONS

Director McWhinney opened the 2011 Budget Hearing to the public. Mr. Pogue reported that notice of the hearing had been published in accordance with state budget law. Mr. Pogue gave a history of the District and the Property Owners Association. He noted that the Property Owners Association had been established for maintenance of the common areas of which the Association would establish an assessment to cover the expenses. The District was formed to pay for public infrastructure within the development. Historically, due to the pace of development, the District has been maintaining the common areas pursuant to an agreement with the Property Owners Association. Ms. Dowswell reviewed the budget and answered questions pertaining to the mill levy scenarios, estimated revenues and expenditures, and operation and maintenance assessments to finance the district. Director McWhinney stated there was a note currently incurring interest for capital improvements accepted by the District. Director McWhinney stated that the District's mill levy should be set to begin paying for debt. Per the service plan, the maximum mill levy is 45 mills. The Board discussed certifying a 45 mill levy for the debt service fund. Director Bergerson suggested looking long term. He stated he would like to see the district build out more and have a better tax base before setting the maximum mill levy. During the new ownership transition, he would like the Board to consider a mill levy of zero mills in 2011. Upon motion duly made by Director McWhinney and seconded by Director Schroyer, the Board considered setting the mill levy at 25 mills for each of the Districts. During the discussion, the physicians expressed that they were not happy with idea of establishing a mill levy. The Orthopaedic Center is the anchor tenant and represents 80% of the property tax revenue. They would like to see additional buildings built before a mill levy is established. They also said they are well connected to both Medical Center of the Rockies and McKee and could influence other

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physicians to build within the development. After further general discussion, Director McWhinney amended his motion to set the mill levy at 22.5 mills. Director Schroyer seconded the motion and it was

RESOLVED to set the mill levy at 22.5 for District Nos. 1 and 2.

After further discussion the public hearing portion of the budget was closed. The board considered the following:

District No. 1

Mill levy is 22.5 mills.

General Fund Expenditures: \$80,500

Funded by Operation and Maintenance Assessments.

Capital Fund Expenditures: \$0

Debt Service Fund: \$64,285

District No. 2

Mill levy is 22.5 mills.

General Fund Expenditures: \$7,435

After further review and discussion, and upon motion duly made by Director McWhinney and seconded by Director Schroyer, it was unanimously

RESOLVED for each District, to approve the Resolutions to Adopt the 2011 Budget and Appropriate budgeted funds with final certification of values received from the County, and approve all other documents related to the 2011 budget including certifying a 22.5 mill levy. The District Manager is authorized to make minor modifications that may be necessary with receipt of final assessed values.

IRS RULING RE:
EMPLOYEE STATUS

Mr. Pogue stated he had received a letter from the IRS stating they have ruled elected officials (i.e. Board members) are to be considered employees; and therefore, subject to withholding taxes, etc. Pinnacle will prepare and file the necessary paperwork for compliance. The District is also required to have worker's compensation, of which a policy will be bound through the Special District Liability Pool in 2011.

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LEGAL UPDATE

PROMISSORY NOTE FOR 15TH STREETSCAPE

The Board tabled discussion on this matter.

ANNUAL ADMIN RESOLUTION

Mr. Pogue presented the 2011 Annual Administrative Matters Resolution; noting that it outlines the operations of the Board, directs District's legal counsel and consultants in their administration of the District and directs them to make all necessary filings. Upon motion duly made by Director McWhinney and seconded by Director Schroyer, it was unanimously

RESOLVED to approve the 2011 Annual Administrative Resolution; reaffirm the current slate of officers; appoint Icenogle, Seavers & Pogue, P.C. legal counsel, and appoint Pinnacle Consulting Group Inc., district manager, accountant and administrator and establish regular meetings for the 4th Thursday of the Quarter at 10:00 am at the offices of McWhinney.

TRANSPARENCY NOTICE

Mr. Pogue noted the District is required to publish the transparency notice annually. The notice will be published on the SDA Website prior to January 15, 2011.

O & M COSTS/BLV OWNERS ASSOC UPDATE

Mr. Pogue noted the District has an O & M Agreement with the Boyd Lake Village Property Owners Association. It was decided to continue this agreement with the Association.

OTHER MATTERS

It was suggested that the Waterfall Metropolitan District No. 1 Board be increased. The Board agreed to consider this matter.

DEVELOPMENT UPDATE

Director McWhinney gave a development update stating the old water park site was being considered for a federally funded affordable housing project.

PUBLIC COMMENT

The Board opened the meeting to further public comments. Upon receiving no further comments, this portion of the meeting was closed.

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ADJOURNMENT

There being no further business to come before the Board at this time, the meeting was adjourned at 7:24 pm.

Respectfully submitted,



Carla Hawkins
Secretary for the Meeting