

# RECORD OF PROCEEDINGS

---

## MINUTES OF THE CONTINUED SPECIAL MEETING OF WATERFALL METROPOLITAN DISTRICT NO. 1

HELD  
May 20, 2015

A Continued Special Meeting of the Board of Directors of the Waterfall Metropolitan District No. 1 was held at the offices of McWhinney, 2725 Rocky Mountain Ave, Suite 200, Loveland, Colorado 80538 on May 20, 2015 at 1:00 p.m.

### ATTENDANCE

#### Directors in Attendance Were:

Kim Perry, President  
Cole Evans, Asst. Vice President & Asst. Secretary  
Tammi Lau, Treasurer & Asst. Secretary  
Mike Bergerson, Vice President & Asst. Secretary

#### Also in Attendance Were:

Alan Pogue; Icenogle Seaver Pogue, P.C.  
Brendan Campbell and Carla Hawkins, Pinnacle Consulting Group, Inc.  
Jim Niemczyk; McWhinney

### CALL TO ORDER

The meeting was called to order at 1:02 p.m. by Director Perry as President, noting that a quorum was present. The Directors confirmed their qualifications to serve on the Board.

### MEETING NOTICE

Mr. Pogue, legal counsel reported that notice of the meeting 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

Mr. Pogue noted that notices disclosing all potential conflicts of interest for all Board Members were filed 72 hours in advance of the meeting with the Colorado Secretary of State's Office and with the Board. 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

## RECORD OF PROCEEDINGS

---

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. Upon motion duly made by Director Bergerson, and seconded by Director Lau it was unanimously

**RESOLVED** to approve the agenda as presented.

---

### PUBLIC COMMENT

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

---

### LEGAL ITEMS

Appointment for Vacancy on Board of Directors, Affidavits of Qualifications, Conflicts of Interest: Notice of the existence of a vacancy on the Board of Directors was published in the Reporter Herald on May 4, 2015. The vacancy results from the resignation of Jay Hardy, effective as of 5:00 p.m. on April 24, 2015. The Board did not receive any letters of interest from any qualified eligible electors in the District seeking to serve on the Board. Therefore, the Board discussed appointing Jim Niemczyk to the Board of Directors. Mr. Pogue mentioned in anticipation of Mr. Niemczyk appointment, conflicts of interest disclosures were filed with the Secretary of State seventy-two hours prior to the meeting. Mr. Niemczyk agreed to accept an appointment to the Board. Upon motion duly made by Director Lau, and seconded by Director Evans, it was unanimously

**RESOLVED** to appoint Jim Niemczyk to a term expiring in May 2016.

Appointment of Officers: After discussion and upon motion duly made by Director Evans and seconded by Director Bergerson, it was unanimously

**RESOLVED** to elect Director Niemczyk as Secretary.

Approval of Amended and Restated Grounds Maintenance Resolution: Ms. Hawkins reviewed the District maintenance maps, historical actual and budgeted expenses, and grounds fee comparison worksheet handouts with the Board. The Board discussed allocating common area expenses on a per

## RECORD OF PROCEEDINGS

---

acre basis and site maintenance expense allocations to individual property owners. Director Bergerson noted that this methodology was contradictory to the original intent of fee structure when the project was first contemplated. The Board discussed future expenses as the project develops. Under the existing method as each site is developed, maintenance costs for all owners would continue to increase. The consensus of the majority of the Board stated it was more equitable for the site owners to pay for their own expenses. Director Bergerson noted concern for consistency in the level of service on each site. Mr. Pogue noted the Association through the District has covenant enforcement powers to ensure owners maintain their sites. After further discussion and upon motion duly made by Director Lau, seconded by Director Evans a vote was taken. With Director Bergerson opposing the motion, it was

**RESOLVED** to approve an Amended and Restated Grounds Maintenance Resolution to impose a grounds maintenance fee, for common area expenses, on a prorated developable acreage basis; and to give property owners the option of performing on-site maintenance directly, or contracting with the District to perform the on-site work and pass the costs directly to the specific site owners.

The Board further directed Mr. Pogue and Ms. Hawkins to work with the property owners for those who wish to self-perform on-site maintenance work, and to evaluate any amendments to the CCRs necessary to implement the wishes of the property owners.

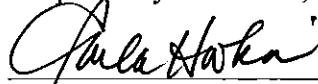
\_\_\_\_\_  
ITEMS FROM  
DIRECTOR

No additional items were brought before the Board.  
\_\_\_\_\_

ADJOURNMENT

There being no further business brought before the Board, the meeting was adjourned at 1:38 p.m.

Respectfully submitted,



\_\_\_\_\_  
Carla Hawkins  
Secretary for the Meeting