

RECORD OF PROCEEDINGS

MINUTES OF A REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
WESTOWN METROPOLITAN DISTRICT (THE “DISTRICT”)
HELD
FEBRUARY 21, 2024

A Regular Meeting of the Board of Directors of the Westown Metropolitan District (referred to hereafter as the “Board”) was convened on Wednesday, February 21, 2024, at 6:00 p.m. This District Board Meeting was held via Zoom videoconference. The meeting was open to the public via Zoom.

ATTENDANCE

Directors In Attendance Were:

Cindy Baldwin, President
William (“Bill”) Whitney, Treasurer
Pamela (“Pam”) Benigno; Assistant Secretary

Also, In Attendance Were:

Suzanne Meintzer, Esq. and Lisa A. Jacoby; McGeady Becher P.C.
Jerry Jacobs, Brittany Barnett and Corey Pilato; Timberline District Consulting, LLC (“Timberline”)
Diane Wheeler and Gavan Archibald; Simmons & Wheeler, P.C.
Breann Bellio; Resident
Serge Pshichenko; Resident
Ryan Anderson and Robbie George; Xfinity/Comcast Representatives (for a portion of the meeting)

DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST AND QUORUM

Ms. Jacoby noted a quorum was present. The Board discussed the requirements pursuant to the Colorado Revised Statutes to disclose any potential conflicts of interest or potential breaches of fiduciary duty to the Board of Directors and to the Secretary of State.

Ms. Jacoby requested members of the Board disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting and incorporated for the record those applicable disclosures made by the Board members prior to this meeting in accordance with statute. No potential conflicts of interest were disclosed and it was noted that all Directors are residents of the District.

ADMINISTRATIVE MATTERS

Agenda: The Board reviewed the Agenda for the meeting. Following discussion, upon motion duly made by Director Benigno, seconded by Director Whitney, and upon vote unanimously carried, the Board approved the Agenda, as amended.

Meeting Location/Posting Notice: The Board entered into discussion regarding the requirements of Section 32-1-903(1), C.R.S., concerning the location of the District’s Board meeting.

Following discussion, and upon motion duly made by Director Benigno, seconded by Director Whitney, and upon vote unanimously carried, the Board determined to conduct this meeting via Zoom videoconference and encouraged public participation via Zoom. The Board noted that notice of this meeting and Zoom meeting information was duly posted and the Board had not received any objections to the Zoom meeting or any requests that the meeting be changed by taxpaying electors within the District's boundaries.

Designation of 24-Hour Posting Location: Following discussion, upon motion duly made by Director Benigno, seconded by Director Whitney, and upon vote unanimously carried, the Board determined that notices of meetings (as required to be designated the first regular meeting of each year pursuant to Section 24-6-402(2)(c), C.R.S.), shall be posted on the District's website at least 24-hours prior to each meeting.

Vacancies on the Board of Directors: The Board noted that they had received a candidate questionnaire/application from Breann Bellio. The Board discussed and determined to meet with Ms. Bellio socially at a location and time to be determined. Attorney Meintzer reminded the Board regarding open meetings law. Board members determined later in the meeting to meet with Ms. Bellio one on one individually.

Public Comment: Ms. Bellio discussed the submission of the board member questionnaire/application in December and that she did not realize that she needed to provide anything else; but, indicated that she was okay with meeting informally with the Board Members before the May Board Meeting.

Mr. Serge Pshichenko mentioned that he was a new community member and thanked the Board for their work, noting that he may be interested in serving on the Board.

FINANCIAL MATTERS

Claims: The Board reviewed the payment of claims dated February 15, 2024, totaling \$110,862.12

Following discussion, upon motion duly made by Director Baldwin, seconded by Director Whitney, and upon vote unanimously carried, the Board ratified and or approved, as appropriate, the payment of claims dated February 15, 2024, totaling \$110,862.12.

Unaudited Financial Statement: Ms. Wheeler began review of the unaudited financial statements for the period ending December 31, 2023; however, due to questions posed by the Board, presented the draft 2023 Audit instead, noting that the Audit provided the most up to date information, rendering the unaudited financial statements for the period ending December 31, 2023 unnecessary. Ms. Wheeler explained the Audit process and the differences between the unaudited end of year financials and the draft 2023 Audit.

Director Benigno inquired whether the financials/budget could be presented in a different format. Ms. Wheeler provided information regarding the presentation being as required by the State.

Following discussion, Ms. Wheeler recommended that the acceptance of the 2023 Audit be addressed at the May Board Meeting. There was no Schedule of Cash Position presented.

Ms. Wheeler left the meeting at 6:40 p.m.

CONSENT AGENDA The Board considered the following items under the Consent Agenda:

- Approval of November 15, 2023, Regular Meeting Minutes.
- Approval of November 15, 2023, Statutory Annual Meeting Minutes.
- Ratification of engagement of Colorado CPA Company PC to perform 2023 Audit.

Following review, upon motion duly made by Director Benigno, seconded by Director Baldwin, and upon vote unanimously carried, the Board approved the Consent Agenda items, as presented.

LEGAL MATTERS **Xfinity Communities Service Agreement:** Attorney Meintzer presented and summarized the Xfinity Communities Service Agreement. Representatives from Xfinity/Comcast noted that the agreement was necessary for their team to legally be onsite to install necessary improvements, without trespassing. Further, they stated that the District's revision comments to the agreement had been passed onto their legal team for response. It was again noted that installation of the proposed improvements was at no cost to the District.

Following discussion, upon motion duly made by Director Whitney, seconded by Director Baldwin, and upon vote unanimously carried, the Xfinity Community Services Agreement was approved, subject to final legal review.

Representatives from Xfinity/Comcast left the meeting at this point.

COMMUNITY MANAGEMENT / COVENANT ENFORCEMENT MATTERS **Landscape Maintenance Matters; Prioritization and Approval of Enhancement Proposals:** The Board discussed extensively landscape improvement matters.

Following discussion, upon motion duly made by Director Baldwin, seconded by Director Whitney, and upon vote unanimously carried, the Board approved the following:

- Installation of 10 pre-purchased trees at \$250 per tree, and purchase and installation of 6 trees at an estimated amount of \$1,050 per tree, for a total estimated amount of \$8,800;

- Installation of rock mulch not to exceed \$10,000;

The Board then discussed extensively proposed improvements/maintenance for the location between 2 condo units, broken down into 4 quadrant areas - considering river rock, synthetic turf and treated pea gravel options.

The Board discussed if there was any restriction with inquiring if the HOA could contribute towards this proposed project. Attorney Meintzer and Mr. Jacobs explained the 5% cost sharing provision under the Cost Sharing Agreement with the HOA, but noted that there was no restriction in asking the HOA to contribute towards the proposed project.

Following discussion, upon motion duly made by Director Baldwin, seconded by Director Whitney, and upon vote unanimously carried, the Board authorized contributing approximately \$3,000 to 2 quadrants and for Mr. Jacobs to contact the HOA to see if the HOA would contribute approximately \$3,000 for the other 2 quadrants, with the river rock option being the chosen application.

Pool Opening Matters: The Board extensively discussed pool opening matters, including: repair to the pool storage doors, new pool umbrellas and replacement of ADA pool accessible chair.

Timberline staff discussed 3 options for repair to the pool storage doors; 1) painting; 2) plywood bonding and painting; and 3) replacement of the pool storage doors.

Following discussion, upon motion duly made by Director Benigno, seconded by Director Baldwin, and upon vote unanimously carried, the Board authorized Timberline to obtain pricing for the plywood bonding and painting option for the pool storage doors, for further consideration and approval by the Board via email.

Following discussion, upon motion duly made by Director Baldwin, seconded by Director Benigno, and upon vote unanimously carried, the Board approved the purchase of new pool umbrellas, not to exceed \$1,500.

Following discussion, upon motion duly made by Director Baldwin, seconded by Director Benigno, and upon vote unanimously carried, the Board approved Foothills Facilities Maintenance proposal to purchase and install a replacement ADA pool accessible chair and additional battery, for an amount of \$9,931.77, plus amount for shipping to be determined.

Covenant Violation / Delinquent Accounts: The Board reviewed the Covenant Violation and Delinquent Accounts reports. No action was necessary.

The Board then discussed extensively the number of covenant violation walks performed by Timberline pursuant to the existing Policies and Procedures Governing the Enforcement of the Protective Covenants of Westown (“Policies and

Procedures”). Staff explained the different Class Violations and the pros/cons of fewer violation walks. The Board expressed concern regarding the costs of Timberline and legal staff related to covenant enforcement. Attorney Meintzer explained that should the Board desire to amend the Policies and Procedures, that Timberline should take the lead on drafting new Policies and Procedures, and that covenant enforcement counsel and general counsel would comment on same. Attorney Meintzer estimated that her time would amount to approximately \$900.

Mr. Jacobs addressed concerns raised by the Board regarding travel and mileage expense billed by Timberline for the covenant enforcement walks. Mr. Jacobs confirmed that staff travel time was not billed; however mileage was. Ms. Barnett noted that another Timberline staff member closer to the community will be performing covenant enforcement walks going forward.

Following discussion, the Board determined to reassess at the August Board Meeting the covenant enforcement costs, and then determine if new or updated Policies and Procedures should be addressed.

LEGAL MATTERS
CONTINUED

Foothills Facilities Maintenance, LLC Service Agreement (effective September 7, 2021): Ms. Jacoby described the new terms of the Foothills Facilities Maintenance, LLC Service Agreement for Pool/Cabana and Miscellaneous Maintenance.

Following discussion, upon motion duly made by Director Baldwin, seconded by Director Benigno, and upon vote unanimously carried, the Board approved the Foothills Facilities Maintenance, LLC Service Agreement for Pool/Cabana and Miscellaneous Maintenance, effective September, 7, 2021.

Loan Agreement by and between the District and BBVA Mortgage Corporation pertaining to Loan in the Aggregate Principal Amount of \$6,700,000 (the “Loan Agreement”): Attorney Meintzer explained how the Loan Agreement did not allow for adjustment of the combined general fund and debt service mill levy over 90.000 total mills (even though the debt service mill levy can be adjusted pursuant to the District’s Service Plan); and that for 2024, the difference of 3.240 mills was approximately \$35,000 in revenue projected for the general fund that would not be collected. Further, should legislature drop the assessed ratio again, the District would not be able to capture revenue, that, although permitted by the District’s Service Plan, was not permitted by the Loan Agreement, in excess of 90 total mills.

Following discussion, the Board determined to not amend the Loan Agreement at this time.

General Counsel Representation and Title 32 Legal Services: Attorney Meintzer noted that her firm provided the best Title 32 legal services in the State for a reasonable amount, and, if the Board did not agree, and given the tone of some

of the Board questions/comments during this meeting, that possibly it was time to change legal counsel. Attorney Meintzer asked the Board to contact her if they wanted to review new general counsel proposals at the May Board Meeting.

OTHER BUSINESS

Website Options: Ms. Jacoby and Ms. Pilato discussed other website platform/hosting options related to ADA website compliance matters. Following discussion, the Board authorized Director Benigno as the Website Committee to work with Ms. Pilato, and authorized approval, if necessary, of another website platform/hosting provider.

Director Comments:

Rescheduling of the August 21, 2024 Board Meeting: Director Benigno addressed the Board regarding rescheduling of the August 21, 2024, Board Meeting. Following discussion, it was determined to discuss further at the May Board Meeting.

Open Meetings Law Matters: Director Benigno inquired regarding confirmation of open meetings law matters. Attorney Meintzer corrected a misstatement she made earlier in the meeting, noting that a quorum of the Board consisted of two Board members, when a Board only consists of three total Board of Directors.

The Board further discussed, reconsidered, and determined to individually meet with Ms. Bellio, rather than in a social setting. Ms. Jacoby noted that Ms. Bellio could be appointed at a special meeting before the May regular meeting if the Board so desired. Director Baldwin expressed concern regarding the cost of having an additional Board Meeting.

ADJOURNMENT

There being no further business to come before the Board at this time, upon vote unanimously carried, the Board adjourned at 8:15 p.m.

Respectfully submitted,

By *Lisa Jacoby*
Secretary for the Meeting