

RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS

OF THE

GVR METROPOLITAN DISTRICT

Held: Wednesday, November 15, 2023, at 6:30 P.M. at the GVR Metropolitan District Office, 18650 East 45th Avenue, Denver, Colorado. Also available to the public via Zoom.

Attendance

The regular meeting of the Board of Directors of the GVR Metropolitan District was called and held as shown above in accordance with the statutes of the State of Colorado. The following Directors, having confirmed their qualifications to serve on the Board, were in attendance:

Anthony Noble, President
Matt Stallman, Secretary/Treasurer
Eric Gravenson, Director
Lyman West, Director
Joyce Bennett, Director
Charles Britton, Director

Absent: None.

Also in attendance were Micaela Duffy, District Manager, GVR Metropolitan District; and Russell Newton, Seter & Vander Wall, P.C., legal counsel.

Call to Order

Chairman Noble noted that there is a quorum of the Board in attendance and called the regular meeting of the Board of Directors of the GVR Metropolitan District to order. He noted a vacancy on the Board created by Director Thomas' resignation from the Board. Director Gravenson asked why a resignation letter was not in the meeting packet and Director West inquired why he resigned and if the Board could view the letter. Mr. Newton advised that he would review statutory requirements for disclosing director communications.

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Approval of Agenda The Board reviewed the agenda. A motion to approve the agenda was made and seconded, and upon a unanimous vote, the Board approved the agenda as presented.

Conflict of Interest /
Disclosure Matters The Board had been previously advised that pursuant to Colorado law, certain disclosures by the Board members might be required prior to taking official action at the meeting. Legal counsel advised that written disclosures of the conflicts of interest previously submitted by the applicable Directors had been filed with the Secretary of State prior to the meeting.

No additional conflict disclosures were announced.

Public Comment Period:

- Denver Police Dept. There were no comments from the Denver Police Department.
- Master HOA There were no comments from the Master HOA.
- CAB There were no comments from the CAB.
- Councilwoman Gilmore's Office There were no representatives from Councilwoman Gilmore's office present for comment.
- Public Comment There were no public comments made at this time.

Director Items Director Gravenson stated that the COVID pandemic is over and there is no further need for facial coverings and social distancing. Directors on the Board must take responsibility to attend Board meetings in person. Director Gravenson made a motion to disallow the use of District facilities and equipment for virtual meetings. Director Britton seconded the motion, and discussion ensued. Director Noble stated that not everything is back to normal and that hybrid meetings are the new standard. Upon a vote of 4-2 (Directors Noble and Stallman opposing) the Board approved the motion.

Director Gravenson noted that certain Board Directors are not receiving the SDA newsletters. Ms. Duffy advised that all Board Directors are set up to receive the newsletters by electronic or hardcopy, and that she can change the distribution method if Directors state their preference.

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Director Noble reiterated that no individual Director can encumber or speak on behalf of the Board without prior authorization from the Board. The Board acts as one and Directors are not covered for liability if they act outside of the scope of their authority. He reported that he has received troubling comments regarding Director interaction with others. Mr. Newton confirmed that the Colorado Governmental Immunity Act does not immunize a Director from actions that are taken outside of the scope of their authority. Further, he noted that the General Assembly recently amended the statute covering fiduciary duties for Directors by elevating the consequence of a breach to a criminal misdemeanor. Mr. Newton will distribute the statute to the Board.

Director Britton stated that judicial and governmental systems are unfair, and this applies to HOA and metro district Boards, both past and present. He stated that taxes are collected at the maximum amount and the Board should give some benefit back. He made a motion to provide sidewalk snow removal for people in need, such as the elderly or disabled. Beneficiaries would need to apply to verify eligibility for the program. Director Noble suggested that the program is a good idea if it is feasible and should be considered in the 2024 budget. There was consensus that the program should be investigated for 2024.

Director Bennett proposed a motion to make volunteer appreciation gift cards from Walmart instead of various restaurants that recipients may not use. Ms. Duffy advised that the HOA and District customarily make joint gifts and she would follow up with the HOA to discuss a plan for this year.

Director West made a motion to have legal counsel invoices for the current month and prior three months distributed to the Board outside of Board meetings. He stated that Directors need more time to review the invoices and perform their fiduciary responsibilities. Mr. Newton requested clarification as to whether the invoices would be distributed with redactions or unredacted. He advised that only the Board may determine whether to waive privileged information. A Director could inadvertently waive the Board's attorney client privilege if unredacted copies are not properly handled. Director West clarified that his motion is for unredacted copies of the invoices, and Director Britton seconded the motion. Upon further discussion, the Board approved the motion by a vote of 4-2 (Directors Noble and Stallman opposing).

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Approval of Minutes

The minutes of the regular meeting of the Board of Directors held September 20, 2023, were read. Following discussion, and a motion by Director Noble, seconded by Director Britton, and unanimous vote, the minutes were approved as presented.

The minutes of the regular meeting of the Board of Directors held October 18, 2023, were read. Following discussion, and a motion by Director Noble, seconded by Director Gravenson, and unanimous vote, the minutes were approved as presented.

The minutes of the special meeting of the Board of Directors held October 25, 2023, were read. Following discussion, and a motion by Director Noble, seconded by Director West, and unanimous vote, the minutes were approved as presented.

Attorney's Report

Mr. Newton directed the Board members to counsel's written legal report. He noted the report topics on the agenda for discussion later in the meeting. He reported on Denver's new sidewalk fee and that the District must pay the fee for its sidewalks based on Denver's rate schedule.

Board Reports:

- September 30, 2023 Financials; October 31, 2023 Financials

Director Stallman presented the financial report and claims payable for the period ending September 30, 2023, including the financial overview, and noted a decrease in water expenses compared to the prior year but that the latest invoice may be the highest on record. Following discussion, Director Noble made a motion to approve the financial report and claims as presented. There was no second and the motion failed.

Director Stallman presented the financial report and claims payable for the period ending October 31, 2023, including the financial overview. Director West inquired whether TruGreen's invoice was for the final service of the year, and Ms. Duffy answered that there may be one more. Director West stated that the last service was incomplete or possibly not performed because there were no flags placed in the area of service, and the Board should be made aware when contractor performance falls short of the required performance. Following discussion, Director Noble made a motion to approve the financial report and claims as presented. There was no second and the motion failed.

- 2022 Audit

Ms. Duffy reported that the District filed its 2022 audit, which received a clean opinion, with the State Auditor. Mr. Newton

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advised that the Board is required to take action to accept the auditor's report and opinion for it to be final. Director Stallman made a motion to accept the 2022 audit, Director Noble seconded the motion, and upon a vote of 2-4 (Directors Stallman and Noble in favor), the motion failed.

Director Noble questioned the four opposing votes and requested that the Board reconsider the motion. Mr. Newton stressed that the Board should accept the audit, because it demonstrates that the District's 2022 financial records met governmental accounting standards. He also advised that District future tax revenue could be withheld if the District does not approve the audit. Director West stated he wants to better understand the audit before approving it. Director Gravenson suggested a special meeting work session to go over and explain the audit. Director Britton stated that he presented the audit to his CPA, and the CPA stated that the governmental accounting standards differ from other accounting standards and there are only so many CPAs that specialize in the field, which Mr. Newton confirmed was true. There was no reconsideration of the motion.

- District Manager's Report

Ms. Duffy presented her report to the Board. She reported on the bus sale price comparisons in Colorado, and requested the Board's input on what price to list the District's "blue bus", noting the District purchased the bus in 2016 for approximately \$30,000 and it is a fully depreciated asset. Director West reported on his research regarding the resale market for buses, including that most companies he spoke with do not purchase smaller buses and going to auction may be a potential option. He also recommended calling National Bus Sales as they do sometimes purchase them and could potentially give a quote.

Ms. Duffy reported that the District received two quotes for sidewalk repair, and she did not hear back from others that she had reached out to for quotes.

Ms. Duffy reported that the deck replacement contractor discovered more damaged deck material in need of repair that was not visible upon visual inspection of the deck. She reported that she exercised her change order discretion, but it did not cover the full cost of the additional work. She requested that the Board approve a change order for an additional \$6,000 to cover the proposed additional repair work. Upon motion by Director Gravenson, second by Director West, and unanimous vote, the Board approved the requested changed order.

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Ms. Duffy reported on two quotes for audio visual equipment for recording Board meetings, noting that they are very different in scope. The Board noted the proposed costs and discussed whether a robust audio/visual system is needed for the District's purposes. The Board discussed whether meeting recordings would serve as the official record of proceedings or as a supplement to written minutes. They noted that recordings are the most accurate but that minutes must be preserved in perpetuity and made available to the public, which in the long term will require significant digital storage and could be expensive to administer. There was consensus that if written minutes will continue as the official record and recordings serve as a supplement, that purchase of a camera, which would amount to roughly 5% of the proposal costs, may be all that the District requires for audio/visual equipment. Ms. Duffy reported that the Board was able to test one of the cameras, but the other comparable option is not offered for testing. She noted that there is a 30-day return policy for the other option. Upon motion by Director Britton, second by Director West and a vote of 5-1 (Director Noble opposing), the Board approved purchase of the other option to test the camera within the 30-day return period.

The Board reviewed the 2024 regular Board meeting schedule.

Discussion Items /
Unfinished Business:

There was no unfinished business for discussion.

Discussion Items / New
Business:

- District Manager Agreement Renewal
The Board noted that discussion and potential vote on this item would be discussed after Ms. Duffy's evaluation in open or executive session. Ms. Duffy provided her consent for the Board to conduct the evaluation in executive session.

- Review of 2024 Engagement Letter with Seter & Vander Wall, P.C.
Mr. Newton presented legal counsel's engagement letter for 2024 legal services. Mr. Newton reported that legal counsel is no longer offering the flat fee rate of bundled services pertaining to meeting preparation, attendance, minutes and other meeting related services. He reported that the letter's terms are not negotiable. Director Britton stated that the engagement letter feels like an ultimatum, and if counsel were a doctor, it would need to improve on bedside manner. Director Noble made a motion to approve the engagement letter, Director Stallman seconded the motion, and by

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a vote of 2-4 (Directors Noble and Stallman in favor) the motion did not pass.

Director Noble asked the Board what the plan is for legal counsel beginning in 2024. There was consensus from some of the Board that attorneys should not attend all regular meetings and should offer services on an as-needed basis. Director West stated that he spoke with Ann Terry from the Special District Association and that HOA and district attorneys do not always attend meetings. Director Noble suggested that the Board approve the letter and keep counsel until the District has identified a satisfactory replacement. Mr. Newton advised that the engagement can be terminated at any time, and his firm would stay engaged and help make any transition to new counsel, if that is the direction the Board would like to take. There was not further discussion on this topic.

- Quotes for Sidewalk Repair / Replacement

Ms. Duffy presented proposals for sidewalk repair and replacement work. Director West stated he would like to see proposals from smaller contractors, similar to the deck replacement contractor. Director Britton agreed that the proposed costs appear unreasonable and noted that there is no phasing of work in the proposal. The Board discussed whether the work is necessary given Denver will be responsible for sidewalk repair and replacement going forward. Mr. Newton advised that the Board is not covered by governmental immunity if it allows certain dangerous conditions to exist on District sidewalks, and that some repair might be warranted if it is at the level of a dangerous condition. The Board discussed whether to obtain additional proposals or to table the discussion indefinitely to see what Denver may do or require. Upon motion by Director Noble to table the discussion indefinitely, second by Director Gravenson, and a vote of 5-0 (Director West abstaining), the Board determined to table the discussion indefinitely.

Executive Session

Upon motion by Director Noble, second by Director Stallman, and unanimous vote, the Board entered into executive session at approximately 10:04 p.m. pursuant to §§ 24-6-402(4)(b), (e), and (f) for the purpose of discussing personnel matters related to the evaluation of the District Manager, negotiation positions regarding the renewal of the District Manager's employment agreement, and for purposes of obtaining legal advice regarding the evaluation and employment agreement.

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Upon motion by Director West, second by Director Britton, and unanimous vote, the Board exited executive session at approximately 11:04 p.m.

The Board did not take action regarding Ms. Duffy's employment agreement renewal.

Adjournment

There being no further business to come before the Board, and upon motion duly made, seconded and unanimously carried, the meeting was adjourned at approximately 11:08 p.m.

Secretary for the Meeting