

RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE EBERT METROPOLITAN DISTRICT HELD June 11, 2024

A Regular Meeting of the Board of Directors of Ebert Metropolitan District, City and County of Denver, Colorado was held virtually on June 11, 2024, at 7:00 p.m. The meeting was open to the public.

In attendance and participating were Directors:

Bruce Shibles, President & Co-Treasurer
Cynthia Barclae, Secretary
Louis Kennedy, Treasurer
Leslie Young, Assistant Secretary
Katherine Haynes, Assistant Secretary

Also participating were:

19 Members of the Public
Evan Ela, Cockrel Ela Glesne Greher & Ruhland – General Legal Counsel
Alyssa Ferreira, Clifton Larson Allen, LLP – District Accountants
Brittany Barnett, Timberline District Consulting
Bill Schmidt, Town Center Metropolitan District
Kurt Schlegel, Special District Solutions – District Manager

CALL TO ORDER:

Mr. Schlegel called the role and noted that a quorum of the Board was present. Director Shibles called the meeting to order at 7:04 p.m.

**CONFLICTS &
DISCLOSURE
STATEMENTS:**

Conflict Disclosure Statements have been filed with the Secretary of State's Office.

**APPROVAL OF
AGENDA:**

Director Shibles moved that the Board amend the agenda by moving Item #9 – Consideration of Approval to Transfer \$297,309.93 from the “Capital expenditures to be approved by Ebert” line item of the Ebert Metropolitan District (EMD) Capital Projects Bond Proceeds Series 2018 Fund to the Town Center Metropolitan District (TCMD) based on the request by TCMD for reimbursement for capital projects completed in 2021 to follow item #3 – Consent Agenda, and approve the agenda as amended. Upon a second by Director Young a vote was taken, and the motion carried unanimously.

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CONSENT AGENDA: Director Shibles moved that the Board remove the Approval of Minutes from the Regular Meeting of March 26, 2024 from the Consent Agenda and approve the Consent Agenda, consisting of the following item, as amended:

- Ratification of Payments Made Since March 26, 2024

Upon a second by Director Kennedy a vote was taken, and the motion carried unanimously.

MARCH 26, 2024 MEETING MINUTES: Director Shibles stated a concern centered on whether the Memorandum of Understanding (MOU) between the EMD and the TCMD had been formally approved by the Board at the March 26, 2024 Board meeting. Attorney Ela stated that the recorded motion passed by the Board under the topic of Other Business at the March 26, 2024 Board meeting, which motion had directed legal counsel to seek a stay in ongoing legal action between the two Districts on the basis of the terms contained in the MOU, had implicitly and formally approved the MOU. Following discussion Director Shibles moved that the Board approve the minutes from the March 26, 2024 regular meeting as presented. Upon a second by Director Kennedy a vote was taken, and the motion carried unanimously.

CORRESPONDENCE: None

PUBLIC COMMENT: Ms. Bell commented on the fact that residents were not briefed on or consulted with regarding monies being paid to the TCMD for landscaping work performed and completed in 2021, and that she is disappointed in the quality of work that has been done at the park located at Espana & 58th Place.

Ms. Turner stated that she is displeased with the notice received from the TCMD regarding storm damage repair requests and the required time frame for reviews of proposed exterior home repairs to be done.

Mr. Klink also stated his displeasure with the 30-day requirement for repair request submissions.

Mr. Schmidt spoke on behalf of the TCMD regarding hail damage repair submissions. Mr. Schmidt stated that a clarification to the policy has been sent to residents today and residents will not be held to a 30-day submission deadline for requests for review of repairs.

Mr. Klink submitted a letter to the Board earlier this year regarding a restoration project that the City of Aurora completed on a 1st Creek Interceptor Project. The restoration of the disturbed area is lacking and there is an abundance of bare dirt remaining after the completion of the project.

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DIRECTOR'S ITEMS / Mr. Puffer echoed the concerns addressed by the other residents.
COMMENTS: None

UNFINISHED
BUSINESS:

Consideration of Approval to Transfer \$297,309.93 from the "Capital expenditures to be approved by Ebert" line item of the EMD Capital Projects Bond Proceeds Series 2018 Fund to TCMD based on a request by TCMD for reimbursement for capital projects completed in 2021.

Director Shibles moved that the Board approve the transfer of funds as requested. The motion received a second from Director Kennedy to begin debate.

Ms. Barnett discussed recent tours that she conducted with EMD Directors to view areas associated with the request that had been repaired and stated that all landscape installations and repairs have been completed. The Directors asked Ms. Barnett about the amount of time that has lapsed since 2021 and processes for future similar funding requests. Concerns were voiced about the need for the EMD Board to review and approve all future expenditures.

Director Haynes moved to amend the motion as follows: That TCMD be required to provide a budget for the \$297,309.93 and a commitment to that budget prior to any movement of dollars from one account to the other and that EMD is to be notified of that budget and those line items prior to the transfers that take place after 6/11/24. Mr. Schlegel then summarized Ms. Haynes motion as follows: requiring TCMD to provide a budget or receipts for work associated with this funding request that have been accomplished before the money is transferred. Director Shibles seconded the motion to amend. A vote was taken on the amendment, which passed with three (3) Directors voting in favor of the motion to amend and two (2) Directors in opposition.

A vote was then conducted on the amended motion to approve the Transfer of \$297,309.93 from the "Capital expenditures to be approved by Ebert" line item of the EMD Capital Projects Bond Proceeds Series 2018 Fund to TCMD based on a request by TCMD for reimbursement for capital projects completed in 2021 and require a budget or receipts for work associated with this funding request before the funds are transferred. The amended motion was approved by a vote of three (3) Directors voting YES and two (2) Directors voting NO.

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Update on Litigation Status with the TCMD: Mr. Schmidt provided a written progress report to the Board and briefly explained the MOU that was approved by the EMD and TCMD. Changes prompted by the MOU will take place over the next two years. As a result of this MOU the EMD once again has representation on the Landscape Committee and the TCMD District Manager is now much more involved in the Covenant enforcement process.

Director Recall Election Related Expenses: Director Shibles stated that the recall election was held on February 13, 2024 and since that date the District received an invoice from the Denver County Clerk & Recorder in the amount of \$93,270.00 for the conduct of the recall election. This cost has been apportioned for both the 2023 and 2024 budgets, and at this time should not cause the District to amend its budgets for these fiscal years.

NEW BUSINESS:

Potential Director Vacancies: Director Shibles stated that due to potential property sales and relocation out of the District, there may soon be vacancies on the EMD Board of Directors. If this occurs a notice of vacancy will be published, and the Board will appoint an eligible elector to fill any vacancy in the prescribed manner and timeline.

In-Person Board Meetings: Interest has been expressed by residents of the community to return to in-person business meetings and continue a virtual capability as well. The Directors and staff are working to identify possible locations that may be sufficient and available.

FINANCIAL ITEMS:

Review of Cash Position and Financial Statements: Ms. Ferreira presented the District's unaudited Financial Statements dated April 30, 2024, for the Board's review.

District Payables: Ms. Ferreira presented the District's payables for the period of March 22, 2024 through June 6, 2024 for the Board's review. Director Shibles moved that the Board ratify and approve payments made in the amount of \$136,904.44. Upon a second by Director Kennedy a vote was taken, and the motion carried unanimously.

2023 Audit: Ms. Ferriera stated that the 2023 Audit is currently in the "Field Work" stage and presented the Independent Auditor's Draft Audit Report for the Board member's review and consideration. The Directors discussed and asked Ms. Ferriera a few questions

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regarding content and process. Following discussion Director Kennedy moved that the Board Accept the 2023 Financial Audit as presented, subject to final revisions by the Auditor and final legal review. Upon a second by Director Shibles a vote was taken, and the motion carried unanimously. Ms. Ferriera stated that the 2023 Audit will be filed with the State Auditor's office no later than July 31, 2024.

DISTRICT MANAGER'S REPORT

Covenant Control and Restrictions (CCR) Status Report: A report was received from Westwind Property Management late today and has been emailed to the Directors.

District Work Order Status Report: No Report

Statutory Compliance: Mr. Schlegel stated that the District is in compliance with the required submissions, and that the next item due is the annual financial audit, which is due by July 31, 2024.

OTHER BUSINESS:

Director Barclae stated that she is seeing many home repair yard signs in the District, which is not allowed by the Covenants. Mr. Schlegel stated that he will contact Westwind regarding their enforcement policy and procedure for yard signs.

EXECUTIVE SESSION:

Director Shibles moved that the Board enter into an Executive Session, pursuant to C.R.S. Section 24-6-402(4)(b), for the purposes of receiving legal advice on specific legal questions regarding enforcement of covenants and improvements within the District and eventual transition of District functions from TCMD.

Upon a second by Director Kennedy a vote was taken, and the motion carried unanimously. The board members were placed into a breakout room and the Executive Session commenced at 8:42 p.m.

Following discussion, Director Shibles moved that the Board conclude the Executive Session and reconvene the public session. Upon a second by Director Kennedy a vote was taken, the motion carried unanimously, and the Executive Session was terminated at 9:15 p.m., and the public session was reconvened.

Following the Executive Session the Directors discussed Covenant Enforcement and the process of transitioning that responsibility from the TCMD to that of the EMD. Director Kennedy stated that this has been a discussion topic for a long time.

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Director Shibles moved that the Board authorize legal counsel to publish and provide Denver County with a 45-day notice regarding the EMD's intent to add design review and covenant enforcement as an additional service of the District authorized by its Service Plan. Upon a second by Director Barclae a vote was taken, the motion carried unanimously.

NEXT MEETING:

The Board's next regular meeting will take place virtually on Tuesday – September 10, 2024, at 7:00 p.m. and shall be noticed in accordance with CRS 32-1-902 and 24-6-402, on the District's webpage <https://www.ebertmetrodistrict.org/> .

ADJOURNMENT

There being no further business to come before the Board, upon motion duly made, seconded, and unanimously carried, the meeting was adjourned at 9:24 p.m.

Respectfully Submitted:

Kurt Schlagel

Secretary for the Meeting

Please reach out to Westwind Management Group for questions and concerns related to Green Valley Ranch North.

Association Business Manager

April Delgado

(303) 369-1800 ext. 135 April@westwindmanagement.com

Administrative Assistant


Audrey Brown

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CERTIFICATION CONCERNING RECORD OF
EXECUTIVE SESSION HELD ON JUNE 11, 2024

I hereby certify that it is my opinion that the discussion held during the executive session convened near the end of the regular meeting of the Board of Directors of Ebert Metropolitan District held June 11, 2024, was properly noticed and constituted privileged attorney-client communication, and therefore no record or electronic recording was required to be kept for such executive session pursuant to Section 24-6-402, C.R.S. I further certify that I was in attendance by Zoom tele-video conference and participated in the discussions for the entire executive session commencing at 8:42 pm and adjourning at 9:15 pm. The privileged discussions during executive session concerned specific questions of legal counsel concerning enforcement of covenants and improvements within the District and eventual transition of District functions from TCMD, all in accordance with Section 24-6-402(4)(b), C.R.S.

Dated this 14th day of June, 2024.

By: 

Evan D. Ela, General Counsel
Ebert Metropolitan District

00:04:41 Natasha Turner: Hello- Do you generally have camera on or off?

00:18:22 Viktor Slovanic:there is no evidence in the public record that an MOU was approved

00:21:51 Viktor Slovanic:how does this board approve expenditures exceeding 30 months ago?

00:24:15 Viktor Slovanic:the 2018 IGA clearly distinguishes how the Bond Fund and CRRF funds may be allocated...and the contemplated expenditure is NOT a Capital Project...its Maintenance

00:27:30 Viktor Slovanic:Mr. Schibles is making it up as he goes...no recitation of the terms of the IGA that prescribe how funds are to be allocated.

00:28:28 Viktor Slovanic:The President does not have the authority to set District policy unilaterally.

00:30:08 Viktor Slovanic:The Board members should reject approval of the proposed transfer until they get their facts straight.

00:31:36 Natasha Turner: I agree!

00:31:43 Nick:I agree board members should reject this

00:32:08 Viktor Slovanic:The invoices are from over 2 years ago. No landscaper would tolerate being unpaid for over 2 yrs.

00:32:16 Nick:Thank you two for speaking up

00:33:22 Viktor Slovanic:So Mr. Kennedy just admitted that TCMD is raiding Ebert's Bond Fund.

00:34:28 Viktor Slovanic:Ms. Haynes would do well to acquaint with the 2018 IGA

00:35:39 Viktor Slovanic:Ebert has to be PRESENTED with requests PRIOR to the proposed project.

00:36:35 Viktor Slovanic:TCMD is once again looking to raid Ebert's Bond Fund and CRRF.

00:37:20 Nick:This should be denied

00:37:21 Viktor Slovanic:Vote NO and move on

00:40:04 Viktor Slovanic:Thank you, Mr. Kennedy. Thats correct. The bills have been paid.

00:40:22 Viktor Slovanic:Vote NO

00:41:27 Viktor Slovanic:DO NOT APPROVE THE 297

00:42:12 Viktor Slovanic:Thank you, Ms. Haynes. Excellent requirement.

00:42:44 Viktor Slovanic:No approvement! Vote No!

00:46:45 Viktor Slovanic:excellent point! thank you Gail!

00:50:41 Steve Jennings: I agree that one month is not enough time to submit plans

00:52:01 Viktor Slovanic:TCMD, compliments of their Board, have done an absolutely miserable job at maintaining the District. Look at the turf areas along GVR Blvd from Himalaya Dr to Tower. Pat Hammill would be livid.

00:52:47 Bill Schmidt: GVR Blvd area will be fixed soon

00:56:15 Viktor Slovanic:Fixed soon? Pure comedy. TCMD contracted Westwind. Look no further than their Board members to understand the results.

00:57:13 Laurel Mills: So everyone has to submit plans to Westwind for any repairs or renovations within 30 days? We are very confused.

00:57:16 Viktor Slovanic:Covenants? More comedy.

00:59:45 Viktor Slovanic:Wow...this Board doesn't know WTF the requirements are? Is this the best Board leadership that the community can elect?

01:03:33 Steve Jennings: I agree with Kelvin's points. We need oversight to restore the property or it will be ignored

01:04:45 Viktor Slovanic:District Management? That didnt change. Timberline District Consulting (TDC) is still the DM. Director Schmidt said the TCMD changed the DM. Pure lie. Employee 'Brittany' is a TDC employee. The DM didnt change! It's still TDC.

01:06:22 Viktor Slovanic:Pure lip service.

01:07:03 Viktor Slovanic:Good luck with that, Ms. Turner.

01:08:18 Leticia: Thank you Khadij!!!!

01:08:30 Nick:I 2nd that

01:08:55 Rogene Howe: One can look to the Denver City Counsel who approved this project when

asked by Aurora without input from constituents.

01:11:37 iPadGail Bell: The Ebert Board members are elected to represent and to advocate for the residents of the District!

01:13:21 Viktor Slovanic: Good point, Ms. Bell. Mr. Schmidt is NOT an Ebert Director, and was NOT elected to Board service on the TCMD Board.

01:14:11 Viktor Slovanic: Not at liberty to discuss...Secret Society

01:15:33 Viktor Slovanic: So, the Recall Election cost over \$85,000

01:16:25 Viktor Slovanic: Did the Recall Election campaign take this into consideration?

01:17:39 Viktor Slovanic: Did that campaign even consider who would be paying for it?

01:18:22 JPuffer: Will there be a break down of the costs for the recall election?

01:19:23 Viktor Slovanic: MOU? Where is the MOU on the District website?

01:20:02 Viktor Slovanic: Board vacancies? Who's leaving?

01:21:14 Viktor Slovanic: When are the vacancies anticipated?

01:22:19 Nick: Who's leaving?

01:22:33 Viktor Slovanic: In person Board meetings HIGHLY desired!

01:23:25 Viktor Slovanic: Seems that TCMD found a place...Fairway Villas Clubhouse

01:23:58 Viktor Slovanic: Follow TCMD's lead

01:25:12 jeffreyskelton: Replying to "TCMD, compliments of..."

IF PAT CARED, HE WOULD PAY FOR IT.

01:26:15 Leslie Young: course, Pat has moved on.

01:26:31 jeffreyskelton: Replying to "Did the Recall Elect..."

It was not an issue of cost.

01:27:21 Bill Schmidt: Replying to "Did the Recall Elect..."

01:28:29 Bill Schmidt: Replying to "Did the Recall Elect..."

Do you know this Victor "person?"

01:33:34 Viktor Slovanic: Replying to "Did the Recall Elect..."

So, the campaign didn't care about who would bear the burden of the cost of the recall? They just set cost aside as inconsequential?

01:34:36 Bill Schmidt: Replying to "Did the Recall Elect..."

i was not involved. so I do not know

01:36:03 Viktor Slovanic: Replying to "Did the Recall Elect..."

The campaign members had a member whose last name was Schmidt. No relationship?

01:36:40 Bill Schmidt: Replying to "Did the Recall Elect..."

Wife; Chinese Wall

01:37:37 Bill Schmidt: Replying to "Did the Recall Elect..."

I did not want her on the committee, but was not going to get a divorce over the issue

01:37:42 jeffreyskelton: Replying to "Did the Recall Elect..."

Viktor, the recall was not an issue of expense. Send me your email if you would like to discuss further.

01:37:49 Viktor Slovanic: Replying to "Did the Recall Elect..."

How Clinton-esque

01:40:27 Patricia Davis: Would that also include real estate/for sale signs in individual yards?

01:42:28 Viktor Slovanic: Ms. Bell is wrong. The Covenants do not suspend no matter the circumstances. But, she wouldn't know that.

01:43:53 Viktor Slovanic: Real estate signs are addressed in the Covenants as well.

01:45:13 Viktor Slovanic: It would be helpful if the residents of the community made "knowing" the Covenants, their business.