



**MINUTES OF A SPECIAL MEETING
OF THE BOARD OF DIRECTORS OF THE
BENT GRASS METROPOLITAN DISTRICT
HELD APRIL 14, 2020 AT 10:30 A.M.**

Pursuant to posted notice, the special meeting of the Board of Directors of the Bent Grass Metropolitan District was held on Tuesday, April 14, 2020 at 10:30 AM, via electronic means and telephone conference call.

Attendance

In attendance were Directors:

*Randle Case II, President

*Lena Gail Case, Director

*Bryan Long, Vice President

*Brad Lam, Director

Brian Bahr, Treasurer

*= present at meeting site 102 E. Pikes Peak Ave., Suite 200, Colorado Springs, CO 80903

Also in attendance were:

Kevin Walker, WSDM

Pete Susemihl, Susemihl, McDermott & Downie, P.C.

Tiffany Liu Leighman, Sherman & Howard

Zach Bishop, DA Davidson

Ron Waldthausen, Land First Inc

Randy DeYoung, Board member elect

1. Call to Order & Introductions:

President Case II called the meeting to order at 10:30 a.m.

2. Adopt Resolution declaring an emergency to allow teleconference Board meetings:

The Board reviewed the Resolution. A motion was made by Brad Lam; seconded by Lena Gail Case to adopt the Resolution as presented; Motion passed unanimously.

3. Approval of the February 11, 2020 Minutes:

Director Bahr moved to approve the February 11, 2020 Minutes; seconded by Director Lam.

Director Long abstained due to not being present at the meeting. Motion passed unanimously.

4. Adopt Resolution approving cancellation of election:

Mr. Susemihl explained he cancelled the election with the authority the Board gave him as the Designated Election Official. Mr. Susemihl noted he published the Notice of Cancellation and has prepared the documents to send to DOLA after the election on May 5, 2020. President Case pointed out the good news is the District saved the expenses associated with an election such as

printing ballots. Director Brad Lam moved to approve the Resolution as presented; seconded by Director Long. Motion passed unanimously

5. Review and adopt Resolution authorizing the issuance of General Obligation Limited Tax Refunding and Improvement Bonds in the maximum principal amount of \$7,000,000 for the purpose of refunding its existing general obligation indebtedness and paying or reimbursing the costs of public improvements for the District:

Ms. Leichman discussed a net effective interest rate on the refunding bonds that is lower than the refunded bonds. She explained that the 2013 bonds were issued with an interest rate of 8%. This is currently included in the parameters resolution and given the market is volatile right now due to COVID-19, they are considering whether they would like to remove the parameter so they don't have to receive an interest rate that is lower than the refunded bonds. She noted they do expect to be able to come in under the 8% interest rate. Ms. Leichman asked if the Board would be comfortable removing the requirement that the interest rate on the bonds that would refund and refinance the 2013 bonds must be lower than the 8% they were issued at. Director Bahr stated that he would abstain from the vote because he is a party to the current bond holder, so he does not want to have a conflict of interest. He commented that if the market is so volatile that we cannot get less than 8%, then the District should not be refinancing right now, and he is not in favor of issuing the debt at a rate over 6%. Ms. Leichman explained they could keep the requirement and noted that D.A. Davidson is monitoring the market very closely. President Case stated that he agrees with Director Bahr and that this District is maturing at a level where competitive interest rates are achievable. Ms. Leichman confirmed they will leave the requirement in. She discussed the maturity timeline of December 1, 2050, and noted they expect it to be within a 30-year maturity. She asked the Board who they would like to designate as the District Representative who would deal with the Trustee and sign the paperwork. Mr. Susemihl suggested that President Case should be the representative.

Mr. Bishop joined the meeting. He gave a general market update and noted the bond markets are getting to a better place than they have been. He discussed a similar transaction that he priced this morning called Mayfield Metropolitan District in Thornton, CO. It is 20% built out and their transaction priced up 150 basis points from where it would have been 6 weeks ago. He discussed it is getting back to a good place quickly where they can sell moderated bonds at decent rates and things can get done although the rate environment is not going to be as favorable as it was 6 weeks ago. The Board confirmed the desired interest rates would be 5.75% on the senior and 8.25% on the subordinate bonds. Mr. Bishop left the meeting.

Director Lam asked Ms. Leichman about the missing Exhibit A in the Bond Purchase Agreement. She explained Exhibit A is usually the pricing numbers and they will be attached once the final numbers are received. She confirmed that President Case would be the designated District Representative on the day of pricing. President Case asked if this goes beyond May 6th, would it change anything in respects to the election. Ms. Leichman confirmed that under Title 32 they would have 20 years, so they are well within the election range. She asked if there was a developer reimbursement agreement in place with Challenger. Mr. Walker said he believes there is an agreement in place, and he will send to her. Director Bahr pointed out that the reimbursement agreement may not exist between the current entity Challenger Communities, so we may need Mr. Susemihl to draft a new one for Challenger Communities to sign.

Mr. Waldthausen asked if \$7 Million in new bonds will net \$6.155 Million, and what is the amount to be paid off on the 2013 bond. Ms. Leichman explained the last number run by D.A. Davidson gives an amount of \$6.155 Million and the \$7 Million was the upper limit that we could issue, but based on what we have been seeing from the market, expecting to be a total amount of

\$6.155 Million. She explained the District is paying off \$1.4 Million in principal and \$146,000 in interest on the 2013 bond. She noted they are expecting to pay capitalized interest on the bond, so they would be paying the interest for the first 3 years along with the issuance of the bonds with proceeds which is allowed under the IRS regulations. They are also funding \$544,000 in a reserve fund.

After no further public comment, Director Lena Gail Case moved to close the public hearing; seconded by Director Long. Director Lam abstained from voting. Motion passed.

Director Lena Gail Case moved to approve the Certified Record of Proceedings and the related documents including the Indenture of Trust, the Developer Representation Agreement, the Continuing Disclosure Agreement, Bond Purchase Agreement and the Preliminary Limited Offering Memorandum; seconded by Director Long. Director Lam asked if the Limited Offering Memorandum that was referenced exists. Ms. Leichman confirmed the Limited Offering Memorandum exists and it is close to final form, but it is not finalized or posted yet. Director Bahr stated that he will be abstaining from the vote, but he does believe it is in the best interest of the District. President Case noted that the Limited Offering Memorandum was not included in today's packet. Ms. Leichman explained it was circulated by email on March 6, 2020 and she would be happy to forward on as needed. Mr. Susemihl recommended the Board approve the motion with the understanding there will be final adjustments to the Preliminary Limited Offering Memorandum. Ms. Leichman noted the authorizing Resolution actually contemplates that it is not in final form yet since it has not been posted. After discussion, the vote was taken and Director Lam voted against and Director Bahr abstained. Motion passed. ***Mr. Lam's vote in opposition arises from his objection to the nature and scope of the Notice delivered to the District's existing property owners, only.**

President Case noted there had been emails before the Board meeting about the notification and Director Lam indicated it was not done at a high enough standard to notify some of the existing owners in the subdivision. Mr. Susemihl explained there is no statute or requirement other than posting 3 places in the District and with the Clerk and Recorder. President Case noted that Director Lam posted notices at the Mailboxes within the District although they were apparently initially taken down by USPS. Mr. Walker noted the Agenda and meeting notice was posted on the website last week as well. Director Lam asked to what extent do the homeowners have knowledge or access to the website. Mr. Walker said he cannot answer that, but they certainly have access to it since it is a public website and if you Google Bent Grass Metropolitan District it would come up. The Board discussed the signatures and details moving forward. Ms. Leichman left the meeting.

6. Public Comment:

A question was asked if the District needs to have an updated engineer certification on what infrastructure has been installed. President Case said he would have to ask Mr. Walker, but noted they probably should have Mr. Jerry Novak with Novak Consulting or another representative check work in the field as things are being constructed. President Case shared that he had talked with Mr. Novak and he remains available to serve in the same role again if the District desires. Mr. Walker explained they will have to do the third-party cost certification, and he will bring it to the Board during the bond issuance process.

7. Review of Financials and Approval of Payables:

President Case presented the Payables to the Board. Director Bahr moved to approve the Payables; seconded by Director Long. Motion passed unanimously.

8. Board President Report:

President Case reported they are moving dirt at the King Soopers Falcon Marketplace project. They have scrapers and other equipment on site which is good news for the area. He noted the streets in the next phase of Bent Grass Residential are ready for the next level of activity and the wet utilities are ready to go in at the Challenger Communities' first phase of residential. To the north, in Paintbrush Hills, there are approximately 15 houses in various stages of construction north of Londonderry. He noted this is all encouraging and there will be a development update in Agenda item 11.

9. Manager's Report:

a. Mr. Walker reported the landscapers are working on cleaning up areas and removing dead shrubs. The irrigation was tested and seems to be working okay and will be turned on once the weather warms up. Director Lam commented the landscapers are doing a great job.

b. Discussion on Metro District covenant enforcement:

Mr. Walker discussed the District taking on the covenant enforcement for Bent Grass Filing No. 1. He explained the residential covenants established contemplated the District taking over the management at some point. Mr. Walker said he and Mr. Susemihl are familiar with the covenants and operate a similar system in Ventana Metropolitan District in Fountain, CO. Mr. Susemihl explained the District has the authority both under the statute and Service Plan to do covenant enforcement. He explained that in order to avoid District Board meetings getting out of hand with citizen complaints against other citizens, he recommends the District Board sets up a system where the District's enforcement of covenants is limited to pay the cost of covenant enforcement and architectural review and to appoint the Directors to an entity that will do that.

Mr. Susemihl recommends that the District forms a new non-profit Colorado corporation called Bent Grass Covenants, and then do an assignment of the District's rights to the covenant enforcement to the non-profit corporation. The District could then adopt a Resolution indicating that its role in covenant enforcement is limited to the costs of paying the expenses. The role of the Board would be to appoint 3 Board of Directors to the non-profit corporation which could initially be board members and the District could then put members of the community as Directors once development is completed.

President Case asked about a \$5,000 legal expense and \$750 - \$1,250 per month costs, and with the District's Operations and Maintenance (O&M) budget running tight, how would the District navigate funding the new corporation on a recurring basis. Mr. Walker noted he does not think it would cost that much but starting the enforcement could take extra time and effort initially. Mr. Walker said he could create a detailed budget analysis for the Board's next meeting.

President Case noted there may be commercial covenants that have been discussed in the past as well. Mr. Waldthausen shared that his part of the commercial near 7-Eleven has a merchants' association. Director Lam noted that on the residential perspective, he does not think the estimates are unreasonable, but he would recommend a larger Board than 3 and that you include residents on the Board. Ultimately, he is in favor of the direction. Director Bahr agreed and noted that he is sensitive to the ongoing costs as well but at the same time we do not want the neighborhood to deteriorate, and someone needs to enforce the covenants to protect the homeowners. Mr. Walker explained that in Ventana, they have made the Covenant meetings open to the public and have appointed a resident to the non-profit, so the District could do that as well. President Case recommended the Board take it under advisement and do some additional research in coming weeks. Director Lam indicated he would be interested in serving on the Board of the Covenant corporation.

10. Development Updates:

Mr. Waldthausen reported his efforts are still in limbo waiting for the signalization to be approved. He asked the Board if there were any updates and if the engineering has been approved by the

County. Mr. Walker said they have not been approved yet, but they are going back and forth in meetings and there was an update sent from Mr. Byers on the drainage problems.

Mr. DeYoung reported the design of the Fun Time Cave Man project is nearing completion and they are going through all the County's processes right now. He noted they have made good headway and things are moving along.

11. Review and Action on:

- a. BGMD Bond Refinance & Engagement of Consultants: The Board had nothing additional to report.
- b. Bent Grass Meadows Drive South Reimbursement Request: The Board had nothing additional to report.
- c. Woodmen Road/Bent Grass Meadows Drive Access Update: The Board had nothing additional to report.
- d. Bent Grass Meridian Traffic Signal Update: The Board had nothing additional to report that what was shared earlier.
- e. County Development Agreement: The Board had nothing additional to report.
- f. Drainage Issues: Mr. Walker explained that Mr. DeYoung and Hammers Construction as well as Mr. Byers with Challenger have asked the District to consider taking over the drainage way on the western portion of the District. Mr. Walker explained the County and the developers would like to have the District take over maintenance of those inlet and outlet structures as well as the drainage way which is meant to be kept as a natural drainage way as Mr. Walker understands it. Mr. Walker explained to Challenger, Mr. DeYoung and Hammers Construction that the District does not take over actual maintenance until all the improvements are accepted by the County and all the assurances are done which usually takes about 2 years. In this case, there are apparently no improvements or assurances needed by the County, so Mr. Walker thinks it would be okay for the District to accept them. He noted that is one of the roles of the District and the District already maintains the drainage improvements in both commercial and residential areas that are currently developed. President Case noted they will have additional updates at the May meeting regarding the drainage on the District's east side at Meridian related to the traffic signal improvements.

12. Executive Session to receive reports from consultants on water resources issues and receive legal advice: The Board indicated there was no need for an executive session.

13. Other Old Business:

President Case noted that Director Lam's last meeting as a Director will be May 5th, Election Day. After the May 5th Election, Mr. DeYoung and Director Long will be given their Oaths of Office. Director Lam said he appreciated that timing update.

14. New Business:

There was no discussion.

15. Confirm and Set Next Meeting:

The Board confirmed the next meeting will be May 5, 2020 at 10:30 a.m. The Board discussed continuing to offer video and telephone conference for the public to attend.

16. Adjournment:

Director Lena Gail Case moved to adjourn; seconded by Director Bahr. Motion passed unanimously at 11:55 a.m.

Respectfully Submitted,
Walker Schooler District Managers

By: Kristina Kulick for the Recording Secretary