

MINUTES OF A REGULAR MEETING OF THE BOARD  
OF DIRECTORS

OF

CUNDALL FARMS METROPOLITAN DISTRICT

Held: Tuesday, September 7, 2021, at 5:30 p.m. via  
Teleconference.

**Attendance**

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

David Scott  
Reuben Patrick Maes  
Bradley Mark Nelson  
Paula Juhrs  
Darren Fresquez

Also present were Megan J. Murphy, Esq., Erin K. Stutz, Esq., and Daniel J. Cordova, White Bear Ankele Tanaka & Waldron, District General Counsel; Melissa Sykes, Advance HOA Management, Inc., District Manager; and Gigi Pangindian and Alyssa Ferreira, CliftonLarsonAllen LLP, District Accountant.

**Call to Order**

Director Scott noted that a quorum of the Board was present and called the meeting to order.

**Declaration of Quorum/Director  
Qualification/Reaffirmation of  
Disclosures**

Ms. Murphy advised the Board that, pursuant to Colorado law, certain disclosures might be required prior to taking official action at the meeting. Ms. Murphy reported that disclosures for those directors that provided White Bear Ankele Tanaka & Waldron with notice of potential or existing conflicts of interest were filed with the Secretary of State's Office and the Board at least 72 hours prior to the meeting, in accordance with Colorado law, and those disclosures were acknowledged by the Board. Ms. Murphy inquired into whether members of the Board had any additional disclosures of potential or existing conflicts of interest with regard to any matters scheduled for discussion at the meeting. No additional disclosures were noted. The participation of the members present was necessary to obtain a quorum or to otherwise enable the Board to act.

**Agenda**

The Board reviewed the proposed agenda. Following discussion, upon a motion duly made and seconded, the Board unanimously approved the agenda as amended.

**Public Comment**

None.

**Consent Agenda**

Ms. Murphy reviewed the items on the consent agenda with the Board. Ms. Murphy advised the Board that any item may be removed from the consent agenda to the regular agenda upon the request of any director. Upon a motion duly made and seconded, the following items on the consent agenda were unanimously approved, ratified and/or adopted:

1. August 3, 2021 Special Meeting Minutes;
2. SavATree, LLV Contract;
3. Santa Claus, LLC d/b/a Santa Bryan Contract;
4. Independent Contractor Agreement with Altitude Athletic Surfaces, LLC for Basketball Court Resurfacing; and
5. Independent Contractor Agreement with Altitude Athletic Surfaces, LLC for Basketball Court Design.

**Director Matters**

Discussion Regarding White Bear Ankele Tanaka & Waldron Billing

The Board discussed legal fees charged by White Bear Ankele Tanaka & Waldron to provide general counsel legal services to the District. Following discussion, upon a motion duly made and seconded, the Board unanimously approved obtaining proposals for general counsel legal services and authorized Director Nelson and Director Fresquez to form a committee to review responses received.

Discussion Regarding Lights in the Park

Director Fresquez inquired as to the status of installing new LED lights in the park. Ms. Sykes noted that she has contacted the vendor multiple times and has not received an update regarding the materials.

Discussion Regarding Asphalt Paving

Director Fresquez inquired as to the status of asphalt paving in the community. The Board requested that Ms. Sykes contact KB Homes and DINS to obtain the status of asphalt installation and the installation of survey pins that were removed from sidewalks.

Update on Tree Project

Director Fresquez presented a proposal from Tree Farm to replace dead trees and wrap trees. Following discussion, upon a motion duly made and seconded, the Board unanimously approved Director Fresquez to spend no more than \$35,000 to purchase replacement trees, including tree wrap.

## **Financial Matters**

Discussion of 2022 Budget

Ms. Pangindian presented the draft 2022 budget to be adopted by the Board in November.

Consider Ratification of Cash Position and Interim Claims Report

Ms. Pangindian presented the schedule of cash position to the Board. Ms. Pangindian presented claims in the amount of \$104,098.55 to the Board for ratification. Following discussion, upon a motion duly made and seconded, the Board unanimously accepted the schedule of cash position and ratified the claims.

Other Financial Matters

Ms. Pangindian presented an accounting of insurance money for tree replacement. Ms. Murphy reminded the Board that the newly installed trees are not on the District's insurance schedule and therefore there is no insurance coverage for these trees at this time. Following discussion, the Board determined to have the newly installed trees added to the District's insurance scheduled by October 31, 2021.

## **Management Matters**

Manager Report

Ms. Sykes reviewed the Manager Report with the Board.

Consider Approval of Dead Tree Replacement

The matter was deferred.

Consider Approval of Independent Contractor Agreement with Schultz Industries for 2022 Snow Removal and Landscape Services

Ms. Sykes presented a proposal from Schultz Industries for 2022 Snow Removal and Landscape Services. No action was taken.

Discussion Regarding Proposals for Grading on Tract D

Ms. Murphy presented status of proposals for Grading on Tract D. Ms. Murphy noted that all three engineering firms have declined to provide a proposal for the work. White Bear Ankele Tanaka & Waldron will continue to request proposals. No action was taken.

Other Management Matters

None.

## **Executive Session**

Upon motion of Director Maes, seconded by Director Scott, and upon an affirmative vote of at least two-thirds of the quorum present, pursuant to § 24-6-402(4)(b), C.R.S., conference with an attorney for the District, the Board convened in executive session at 7:54 P.M. for the purpose of receiving legal advice on specific legal questions related to violations for account 1824473 and pursuant to § 24-6-402(4)(e), C.R.S. determining positions relative to matter that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators related to a fine waiver request for account 1824473.

Pursuant to § 24-6-402(2)(d.5)(II)(B), C.R.S., no record will be kept of the portion of this executive session that, in the opinion of the District's attorney, constitutes privileged attorney-client communication pursuant to § 24-6-402(4)(b), C.R.S.

Also pursuant to § 24-6-402(4), C.R.S., the Board did not adopt any proposed policy, position, resolution, rule, regulation or take formal action during execution session.

Upon motion of Director Scott, seconded by Director Fresquez, the Board reconvened in regular session at 8:08 P.M.

Following discussion, upon a motion duly made and seconded, the Board unanimously agreed to waive all fines and fees for account 1824473.

## **Legal Matters**

### **Discussion Regarding Acceptance of Underdrain System**

Mr. Cordova presented status regarding acceptance of underdrain system. Mr. Cordova noted that he reached out to Jeff French at Atwell, the company that designed the original underdrain system, to provide the engineer letter that is required by the policy. Mr. Cordova relayed that Mr. French might also be able to review the underdrain video provided by KB Homes. Mr. Cordova inquired as to if the District wants a review of existing video, which was recorded in April 2020, or if the District wants new video surveillance. Director Scott noted he prefers a review of existing video. Mr. Cordova noted that he contacted Rocky Mountain Sewer Jet, who said they provided comments to KB Homes. Mr. Cordova has reached out to KB Homes to request the invoice from Rocky Mountain Sewer Jet, noting

KB Homes has not been responsive. The Board directed White Bear Ankele Tanaka & Waldron to continue to work with KB Homes, Atwell, and Rocky Mountain Sewer Jet to obtain documentation for the underdrain system.

Discussion Regarding Outstanding Matters with KB Homes

Ms. Murphy presented outstanding matters with KB Homes. No action was taken.

Discussion Regarding May 2022 Election.

Ms. Murphy informed that Board that there will be three seats on the Board of Directors up for election.

Other Legal Matters

None.

**Adjourn**

There being no further business to be conducted, the meeting was adjourned.

The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Darren Fresquez

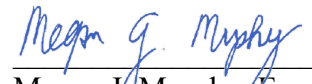
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Secretary for the Meeting

The foregoing minutes were approved on the 5<sup>th</sup> day of October, 2021.

**ATTORNEY STATEMENT  
REGARDING PRIVILEGED ATTORNEY-CLIENT COMMUNICATION**

Pursuant to Section § 24-6- 402(4)(b), C.R.S., I attest that, in my capacity as the attorney representing Cundall Farms Metropolitan District, I attended the executive session meeting at a special meeting of Cundall Farms Metropolitan District convened at 7:54 P.M. on September 7, 2021 for the sole purpose of discussing legal questions related to violations for account 1824473 and pursuant to § 24-6-402(4)(e), C.R.S. C.R.S. determining positions relative to matter that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators related to violations for account 1824473. I further attest it is my opinion that all of the executive session discussion constituted a privileged attorney-client communication as provided by Section 24-6-402(4)(b), C.R.S. and, based on that opinion, no further record, written or electronic, was kept or required to be kept pursuant to Section 24-6-402(2)(b), C.R.S. or Section 24-6-402(2)(d.5)(II)(B), C.R.S.

  
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Megan J. Murphy, Esq.