MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS

OF THE

WINDLER PUBLIC IMPROVEMENT AUTHORITY

Held: Friday, February 24, 2023, at 12:15 p.m., 5750 DTC Parkway, Suite 210, Greenwood Village, Colorado and via zoom link.

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| Attendance | The special meeting of the Board of Directors (the “Board”) of the Windler Public Improvement Authority (the “Authority”) was called and held as shown in accordance with the Colorado law. The following directors confirmed their qualification to serve on the Board:  Chris Fellows (via Zoom)  Tim O’Connor  *\**Tom Kaufman (via telephone)  *\*arrived where noted*  Absent (Excused):  Also present were Ms. Phillips of Cockrel Ela Glesne Greher & Ruhland, P.C. (via Zoom); Matt Ruhland of Cockrel Ela Glesne Greher & Ruhland, P.C. (via telephone); Diane Wheeler of Simmons & Wheeler, P.C.; Barney Fix of Merrick & Company (via Zoom); Clint Waldron of White Bear Ankele Tanaka & Waldron (via Zoom); Stephen Gurr of Polsinelli, P.C. (via Zoom); Kent Krause and Britta Scurle of Advanced HOA (via Zoom); and members of the public including: Kevin Collins, Stephen Gurr, Douglas Hatfield and Dustin Anderson. |
| Call to Order | President Fellows noted that a quorum of the Board was present and the directors confirmed their qualifications to serve. |
| Disclosure Matters | Ms. Phillips advised the Board that, pursuant to Colorado law, certain disclosures may be required prior to taking official action at the meeting. Ms. Phillips reported that written disclosures for those directors with potential or existing conflicts of interest were filed with the Secretary of State prior to the meeting. The Board reviewed the agenda for the meeting, following which each director confirmed the contents of written disclosures previously made, stating the fact and summary nature of any matters, as required by Colorado law, to permit official action to be taken at the meeting. Additionally, the Board determined that the participation of the members present was necessary to obtain a quorum or otherwise enable the Board to act. |
| Approval of Agenda | Following discussion and upon motion made by President Fellows, seconded by Director O’Connor and unanimously carried, the Board approved the agenda as amended. |
| Public Comment | None. |
| Meeting Minutes | The Board reviewed the January 26, 2023 Meeting Minutes. Following discussion and upon motion made by President Fellows, seconded by Director O’Connor and unanimously carried, the Board approved the Minutes from the January 26, 2023 Meeting as presented. |
| Financial Report | Ms. Wheeler presented the December 31, 2022 financials. Upon motion duly made by President Fellows, seconded by Director O’Connor and unanimously carried, the Board accepted the December 31, 2022 financials as presented.  Ms. Wheeler presented the claims in the amount of $3,197,720.71 for payment. Upon motion duly made by President Fellows, seconded by Director O’Connor and unanimously carried, the Board approved the payment of claims as presented. |
| Resolution Accepting Engineer’s Report and Requesting Requisition of Funds No. 24 | Mr. Fix presented the Board with Engineer’s Report and Project Fund Requisition No. 24 for payment from proceeds of the Authority’s 2020 Bonds, in the amount of $61,603.05. Following discussion and upon motion made by President Fellows, seconded by Director O’Connor and unanimously carried, the Board ratified the Resolution Accepting Engineer’s Report and Requesting Requisition of Funds No. 24. |
| Resolution Accepting Engineer’s Report and Requesting Requisition of Funds No. 25 | Mr. Fix presented the Board with the Engineer’s Report and Project Fund Requisition No. 25 for payment from proceeds of the Authority’s 2020 Bonds, in the amount of $1,516,139.30 (a total certified amount of $1,968,047.45 with a contribution from GVP Windler, LLC in the amount of $451,908.15). Following discussion and upon motion made by President Fellows, seconded by Director O’Connor and unanimously carried, the Board ratified the Resolution Accepting Engineer’s Report and Requesting Requisition of Funds No. 25. |
| Resolution Accepting Engineer’s Report and Requesting Requisition of Funds No. 26 | Mr. Fix presented the Board with Engineer’s Report and Project Fund Requisition No. 26 for payment from proceeds of the Authority’s 2020 Bonds, in the amount of $1,168,070.21. Following discussion and upon motion made by President Fellows, seconded by Director O’Connor and unanimously carried, the Board ratified the Resolution Accepting Engineer’s Report and Requesting Requisition of Funds No. 26. |
| Additional Service Request No. 2A with Superbloom regarding Landscape Design – 1881 Windler Homestead Farm Park – Additional Permitting (NHD P) | Mr. Fix presented the Board with the Additional Service Request No. 2A with Superbloom regarding Landscape Design – 1881 Windler Homestead Farm Park – Additional Permitting (NHD P) in the amount of $34,535. Following discussion, a motion duly made by President Fellows, seconded by Director O’Connor, the Board approved the Service Request No. 2A with Superbloom regarding Landscape Design – 1881 Windler Homestead Farm Park – Additional Permitting (NHD P). |
| Additional Service Request No. 5 with Superbloom regarding Landscape Design – 1881 Windler Homestead Farm Park – Wayfinding/Signage | Mr Fix presented the Board with the Additional Service Request No. 5 with Superbloom regarding Landscape Design – 1881 Windler Homestead Farm Park – Wayfinding/Signage in the amount of $46,480. Following discussion, a motion duly made by President Fellows, seconded by Director O’Connor, the Board approved the Additional Service Request No. 5 with Superbloom regarding Landscape Design – 1881 Windler Homestead Farm Park – Wayfinding/Signage. |
| Additional Service Request No. 6 with Superbloom regarding Landscape Design – 1881 Windler Homestead Farm Park – DD Pricing Set Changes | Mr. Fix presented the Board with the Additional Service Request No. 6 with Superbloom regarding Landscape Design – 1881 Windler Homestead Farm Park – DD Pricing Set Changes in the amount of $36,000. Following discussion, a motion duly made by President Fellows, seconded by Director O’Connor, the Board approved the Additional Service Request No. 6 with Superbloom regarding Landscape Design – 1881 Windler Homestead Farm Park – DD Pricing Set Changes. |
| Additional Service Request No. 7 with Superbloom regarding Landscape Design – 1881 Windler Homestead Farm Park – Additional Permitting | Mr. Fix presented the Board with the Additional Service Request No. 7 with Superbloom regarding Landscape Design – 1881 Windler Homestead Farm Park – Additional Permitting in the amount of $25,500. Following discussion, a motion duly made by President Fellows, seconded by Director O’Connor, the Board approved the Additional Service Request No. 7 with Superbloom regarding Landscape Design – 1881 Windler Homestead Farm Park – Additional Permitting. |
| Change Order No. 1 with Hudick Excavating, Inc. regarding Windler Mass Grading Improvements – Trash Removal  Construction Update | Mr. Fix presented the Board with the Change Order No. 1 with Hudick Excavating, Inc. regarding Windler Mass Grading Improvements – Trash Removal in the amount of $30,750. Following discussion, a motion duly made by President Fellows, seconded by Director O’Connor, the Board approved the Change Order No. 1 with Hudick Excavating, Inc. regarding Windler Mass Grading Improvements – Trash Removal.  Mr. Fix provided an update on the construction. |
| Termination of Olsson, Inc. Services Agreements | President Fellows discussed the termination of Olsson, Inc. Services Agreements with the Authority stating that a letter had been sent to Olsson, Inc. on February 6th, 2023 terminating all Services Agreements. Following discussion, a motion duly made by President Fellows, seconded by Director O’Connor, the Board ratified the termination of Olsson, Inc. Services Agreements. |
| Engagement of Westwood Professional Services, Inc. | President Fellows discussed the engagement of Westwood Professional Services, Inc. to replace Olsson, Inc. for the various projects in the Authority noting that Westwood Professional Services, Inc. may not have the available staff to complete certain pieces of the projects and this would mean that certain pieces would have to be outsourced to another engineering firm. Following discussion, a motion duly made by President Fellows, seconded by Director O’Connor, the Board approved the engagement of Westwood Professional Services, Inc., subject to review and approval of an engagement letter by legal counsel with input and approval from Merrick & Company. |
| Engagement of Polsinelli, P.C. as special counsel to Authority related to termination of Olsson, Inc. Services Agreements | President Fellows discussed the engagement of Polsinelli, P.C. as special counsel to the Authority related to termination of Olsson, Inc. Services Agreements stating that legal counsel has reviewed Polsinelli, P.C.’s letter of engagement. Following discussion, a motion duly made by President Fellows, seconded by Director O’Connor, the Board approved the engagement of Polsinelli, P.C. as special counsel to the Authority related to termination of Olsson, Inc. Services Agreements. |
| Executive Session to Receive Legal Advice from the Authority’s Counsel on Specific Legal Questions Pursuant to C.R.S., §24-6-402(4)(b) regarding the termination of Olsson, Inc. Services Agreements | The Board moved that the regular meeting of the Board be temporarily adjourned and that the Board reconvene in Executive Session pursuant to Section 24-6-402(4)(b), C.R.S., to confer with the Authority’s counsel to receive legal advice regarding the Authority’s termination of Olsson, Inc. Services Agreements and related issues. The Board temporarily adjourned the regular meeting at 12:39 p.m. and reconvened in Executive Session. Director Kaufman arrived.  The Board then reconvened in regular session at 1:25 p.m. |
| Polsinelli, P.C., preparing and sending letter to Olsson, Inc. regarding termination of services | President Fellows discussed with the Board the termination of Olsson, Inc. and proposed authorizing Mr. Gurr prepare and send a letter to Olsson, Inc. regarding the termination of services. Following discussion, a motion duly made by President Fellows, seconded by Director O’Connor, the Board approved Mr. Gurr preparing and sending a letter to Olsson, Inc. regarding the termination of services. |
| Rescinding the Board’s previous approval of invoices for services rendered by Olsson, Inc. in November and December 2022 | President Fellows discussed with the Board rescinding the Board’s previous approval of Olsson, Inc.’s November and December of 2022 invoices, noting that there is an indication that the services were improperly billed in advance of Olsson, Inc. rendering the services invoices. Following discussion, a motion duly made by President Fellows, seconded by Director O’Connor, the Board rescinded previous approval of invoices for services rendered by Olsson, Inc. |
| Appointing President Fellows as a one-person litigation committee to work with the Authority’s counsel (MPR and Steve Gurr) to terminate Olsson, Inc. services | The Board discussed the appointment of President Fellows to serve as the District’s litigation committee to work with the Authority’s counsel (Mr. Gurr and Mr. Ruhland) to terminate Olsson Inc. services. Following discussion, a motion duly made by Director O’Connor, seconded by Director Kaufman, the Board appointed President Fellows as the District’s litigation committee to work with the Authority’s counsel to terminate Olsson, Inc. |
| Appointment of President Fellows to talk with the engineering and accounting consultants to determine the best course of action for calculating damages caused by Olsson, Inc. | The Board discussed the appointment of President Fellows to talk with the engineering and accounting consultants to determine the best course of action for possible calculating damages caused by Olsson, Inc. Following discussion, a motion duly made by Director O’Connor, seconded by Director Kaufman, the Board appointed President Fellows to talk with the engineering and accounting consultants to determine best course of action for calculating possible damages caused by Olsson, Inc. |
| Other Matters | None. |
| Adjournment | There being no further business to come before the Board the meeting was adjourned. |
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Secretary for the Meeting