

RECORD OF PROCEEDINGS

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**MINUTES OF A SPECIAL MEETING  
OF THE BOARD OF DIRECTORS  
OF THE  
ASPEN PARK METROPOLITAN DISTRICT  
HELD  
SEPTEMBER 17, 2013**

A special meeting of the Board of Directors of the Aspen Park Metropolitan District was held on Tuesday, September 17, 2013 at 12:00 p.m. noon at the offices of White Bear & Ankele, PC, 2154 East Commons Avenue, Ste. 2000, Centennial, CO.

Attendance:

In attendance were Directors:

Sam Sours  
Bill Bates  
Christie Montague  
Eli Martinez

Director Shirilla was absent and excused.

Also in attendance were:

Bob Blodgett and Gigi Pangindian; CliftonLarsonAllen LLP  
Clint Waldron; White, Bear & Ankele P. C.  
Al Allred; API/Hunt Properties  
Mark Cleaveland and Bob Clodfelter; Treatment Technology  
Will Raatz; JVA, Inc.  
Caitlin Quander; Brownstein Hyatt Farber & Schrek  
Jason Maddox; NewQuest Epic Investments (via telephone)  
Phillippe Martin; Martin and Wood (via telephone)  
Nancy Craig; API/Hunt Properties (via telephone)  
Martha Phillips Whitmore; Martha Phillips Whitmore, LLP  
(via telephone)

Call to Order

Director Sours called the meeting to order at 12:05 p.m.

Director  
Qualifications/  
Disclosure Matters

The Board discussed the requirements of Colorado law for Board members to disclose any potential conflicts of interest to the Board of Directors and to the Secretary of State. The Board reviewed the agenda for the meeting, following which each Board member confirmed the contents of written disclosures previously made, stating the fact and summary nature of any matters, as required under Colorado law, to permit official action to be taken at the meeting. Mr. Waldron noted that forms

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disclosing potential conflicts of interest had been filed in accordance with law.

### CONSENT AGENDA

Mr. Waldron recommended the removal of Item V. (Accept Engineers Certificate Regarding API Completion of All Required Public Improvements) since it has not yet been completed. The Board concurred. Mr. Blodgett recommended approval of the August 20<sup>th</sup> minutes as amended by Mr. Waldron. The Board concurred.

After discussion, upon a motion duly made by Director Bates, seconded by Director Martinez, and upon vote unanimously carried, the Board approved the Consent Agenda with the amendment to the August 20<sup>th</sup> minute and the removal of Item V.

- III. Review and Approve Minutes of the August 20, 2013 Special Meeting
- IV. Ratify Conditional Will Serve Letter to API for Eagle Cliff Parcel Inclusion
- VI. Accept BCWA Board Meeting Information

### DISCUSSION AGENDA

- V. Accept Engineers Certificate Regarding API Completion of All Required Public Improvements

Mr. Raatz reported he has not been able to locate five curb boxes on site. He believes they are there but may be under landscaping.

He also reported that the list of improvements to be completed by API included a fire bypass and a domestic bypass. He does not know if these were installed. Treatment Technology did not either. After discussion, the Board authorized Mr. Raatz to work with Treatment Technology to locate the five curb boxes and contact TST regarding the reasons for recommending domestic and fire bypasses and whether or not they were ever installed.

- VII. Financial Items

- A. Approve Increase of Sales Tax From .25% to .50% Effective January 1, 2014 (Notice to CDOR due by November 15, 2013)

Ms. Pangindian reported an increase in the District sales tax from .25% to .50% on January 1, 2014 would raise approximately \$50,000. Mr. Waldron reported these funds can be spent on safety protection, street improvements (including storm drainage and landscaping) transportation and related improvements. They cannot be spent on water and sewer improvements.

After discussion, upon a motion duly made by Director Bates, seconded by Director Martinez, and upon vote unanimously carried, the Board authorized Ms. Pangindian to file notice with the Colorado Department of Revenue for an increase in the District's sales tax from .25% to .50% effective January 1, 2014.

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### B. Other

None.

## VIII. Attorney Items.

### A. Approve Termination, Acknowledgement and Release Agreement with API Regarding Prior Public Improvement Advances

Mr. Waldron reported this agreement consolidates all the prior existing advance and reimbursement agreements with API and states that API will forgive and contribute approximately \$667,000 in prior advances. It also releases API from liability related to public improvements previously constructed, contingent on the engineer's certificate discussed previously in the Board meeting to be prepared by JVA.

Upon a motion duly made by Director Bates, seconded by Director Montague, and upon vote unanimously carried, the Board approved the Termination, Acknowledgement and Release Agreement with API Regarding Prior Public Improvement Advances subject to completion of the engineer's certificate by JVA.

### B. Approve Estoppel Letter from the District to NewQuest Epic Investments

Mr. Waldron reported that the attorney for the purchaser is requesting the estoppel letter from the District. He reviewed its contents with the Board.

Upon a motion duly made by Director Montague, seconded by Director Bates, and upon vote unanimously carried, the Board approved the estoppel letter from the District to NewQuest Epic Investments.

### C. Approve Engagement Letter with Martha Phillips Whitmore LLC to Serve as District Water Counsel

Upon a motion duly made by Director Montague, seconded by Director Bates, and upon vote unanimously carried, the Board approved the engagement letter with Martha Phillips Whitmore LLC to serve as District water counsel.

Ms. Whitmore reported she has not yet received all of the District's water files from Petrock and Fendel. After discussion, the Board asked Mr. Blodgett to send a letter to Mr. Fendel noting that the District has retained Ms. Whitmore and requesting that Mr. Fendell work with Ms. Whitmore to transfer all the District's water files to her on behalf of the District.

### D. Meyer Water Rights Option Issues

#### 1. Water Rights Due Diligence – Martha Whitmore

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Ms. Whitmore provided a status report. She recommended the District conclude the transaction to purchase the option well in advance of December 1, 2013. Director Sours recommended that a pre-notice be provided to the Meyers so there is plenty of time for them to review the information in advance of the purchase prior to December 1, 2013. The Board concurred.

### 2. Opinion of Value – Phillippe Martin

Mr. Martin summarized his report on the opinion of value. He will provide a written report to Mr. Blodgett for distribution to the Board following the meeting.

### 3. Approve Well Testing/Use Proposal – Martin and Wood – NTE \$3,500

Mr. Martin summarized his well testing use proposal. This will assist the District in determining if the Meyers' option water can be utilized in the existing wells.

Upon a motion duly made by Director Bates, seconded by Director Martinez, and upon vote unanimously carried, the Board approved the well testing use proposal by Martin and Wood in a not to exceed amount of \$3,500.

### 4. Approve Survey of Meyer Pond by Flatirons, Inc. - \$2,850

Upon a motion duly made by Director Bates, seconded by Director Martinez, and upon vote unanimously carried, the Board approved the necessary survey of the Meyer pond to determine its capacity for additional water associated with the Meyer water rights purchase. Flatirons, Inc. will be a subcontractor to JVA.

Director Sours noted that the pond may need to be expanded to accommodate additional water in the future.

### 5. Schedule

Previously discussed.

## IX. Manager's Items

Mr. Blodgett reported the draft budget will be presented to the Board by October 15<sup>th</sup>. Ms. Pangindian reviewed the estimated expenditures to be taken from the Capital Projects Fund balance and the Enterprise Fund reserves. The purchase of the water and the associated consulting costs related to the due diligence work and the Meyer water rights option purchase will exhaust the Capital Project Fund balance and use additional amounts from the Enterprise Fund reserve. Mr. Blodgett reported it is likely a slight fee increase will be needed in the 2014 budget to restore the District's Enterprise Fund balance. Director Sours asked that the District review the average five year rate increase for Denver Water and other nearby jurisdictions for discussion by the Board prior to considering a rate increase for APMD.

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Mr. Raatz reported Central City is estimating a 12% to 13% water rate increase in 2014.

X. Director's Items

Upon a motion duly made by Director Bates, seconded by Director Montague, and upon vote unanimously carried, the Board approved the Director's fees totaling \$369.41.

XI. Other Business

Mr. Allred reported Big R is expanding by 8000 square feet. Their sales have been good. Director Montague reported other tenants in the center are reporting positive retail sales also.

XII. Adjournment

Upon a motion duly made by Director Sours, seconded by Director Bates, and upon vote unanimously carried, the Board adjourned the meeting at 1:00 p.m.

Respectfully submitted,

  
Secretary for the Meeting