

RECORD OF PROCEEDINGS

MINUTES OF THE JOINT REGULAR MEETING OF THE BOARD OF DIRECTORS

OF THE

LEGATO COMMUNITY AUTHORITY AND LEGATO METROPOLITAN DISTRICT NOS. 1-7

Held: Tuesday, April 12, 2022, at 4:00 p.m. via Zoom video/telephonic platform.

Attendance

The joint regular meeting of the Boards of Directors of the Legato Community Authority (the “Authority”) and Legato Metropolitan District Nos. 1-7 (collectively, the “Districts”) was called and held as shown above in accordance with the statutes of the State of Colorado. The following Directors, having confirmed their qualifications to serve on the Boards, were in attendance:

CJ Kirst
Roger G. Hollard
Emma Burns*
John O’Neil
Casey Fanganello

Also present were Barbara T. Vander Wall, Colin B. Mielke, Seter & Vander Wall, P.C.; Lindsay Ross, CliftonLarsonAllen, LLP; Brandon Collins* and Jess Ortiz*, Independent District Engineering Services, LLC; and Brad Burns.

[*Arrived / Departed where indicated.]

Call to Order

It was noted that a quorum of the Authority and the Districts were present and that the Directors had confirmed their qualification to serve, and therefore the joint regular meeting was called to order.

Disclosure Matters

Ms. Vander Wall advised the Board that pursuant to Colorado law, certain disclosures by the Board members may be required prior to taking official action at the meeting. The Board reviewed the agenda for the meeting, after which each Board member affirmed their conflicts of interest which had been disclosed and filed with the secretary of state, and stating the fact and summary nature of any matters, as required under Colorado

{00594515 3}

RECORD OF PROCEEDINGS

law, to permit official action to be taken at the meeting. Legal counsel advised that written disclosures of the conflicts of interest previously submitted by the applicable Directors had been filed with the Secretary of State prior to the meeting.

Director Kirst reported that he is obligated to pay taxes under a contract to purchase property located within the boundaries of the Authority and the Districts and provides real estate consulting services at an hourly rate to Cohen Denver Airport, LLC.

Director Hollard reported that he is obligated to pay taxes under a contract to purchase property located within the boundaries of the Authority and the Districts and he provides real estate consulting services at an hourly rate to Cohen Denver Airport.

Director Burns reported that she is obligated to pay taxes under a contract to purchase property located within the boundaries of the Authority and the Districts and she has a familial relationship with the development manager for the property.

Director Fanganello reported that he is obligated to pay taxes under a contract to purchase property located within the boundaries of the Authority and the Districts.

Director O’Neil reported that he is obligated to pay taxes under a contract to purchase property located within the boundaries of the Authority and the Districts

Combined Meetings

The Boards of Directors of the Districts and Authority have determined to hold joint meetings of the Districts and Authority, and to prepare joint minutes of action taken by the Districts and Authority in such meetings. Unless otherwise noted herein, all official action reflected in these minutes is the action of each of the Districts and Authority. Where necessary, action taken by an individual District or Authority will be so reflected in these minutes.

Approval of Agenda

The Boards reviewed the agenda. Following motion, second and unanimous vote, the Boards approved the agenda.

Public Comment

The Boards opened the public comment period for the meeting. There being no items presented for public comment at this time,

{00594515 3}

RECORD OF PROCEEDINGS

the public comment period was closed.

Consent Agenda:

The Boards reviewed the items on the consent agenda. Upon a motion made by Director Kirst, second by Director Burns, and unanimous vote, the Boards approved, ratified and/or adopted the following consent agenda items as presented:

- Approval of Minutes for March 8, 2022 Joint Regular Meeting

[*Director Burns joined the meeting at this time.]

Construction Matters

- IDES Construction Management Report (Authority)

Mr. Ortiz presented the IDES engineering report for the infrastructure project to the Board. He noted that the stockpile grading permit is under consideration by the City of Commerce City; that the irrigation ERU application requires a variance request for review by South Adams County Water and Sanitation District. It was noted that the subdivision maps are currently under City review, and suggested that the timing of the permit and ERU application be postponed and coordinated with a date following approval of the map filings.

The Board discussed the utility work required for the project, and distinguished the public portion of the work from the remaining development, and required documentation to support the financing.

Mr. Ortiz reported on proposals received for monumentation for the project to be installed at Tower and Legato Parkway, currently estimated to be \$64,000.

Mr. Ortiz discussed the current status of the landscaping bids; it was noted that these bids will need to be revisited in June after finalization of the subdivision maps.

- IWC Change Order Request No. 2 / Sanitary Sewer Piping (Authority)

Mr. Ortiz presented Iron Woman Contract Change Order No. 2, for Argonne Street work south of 90th Avenue to extend 8” sanitary sewer underneath CBC for an additional 180 linear feet; IDES recommended “option A” in the amount which is anticipated to be between \$45,239.83 and \$71,317.64, based on negotiated costs. After further discussion, and upon motion, second and unanimous vote, the Board approved Change Order No. 2 in an amount not to exceed \$71,317.64, subject to further negotiations with the contractor.

{00594515 3}

RECORD OF PROCEEDINGS

- IWC Change Order Request No. 3 / Fuel Cost Adjustment (Authority) Next, Mr. Ortiz presented Iron Woman Contract Change Order No. 3, for fuel cost adjustments based on increased pricing as a result of “Acts of War or Terrorism” under the contract. The Board discussed the merits of the request and the contract criteria; after further deliberation the Board determined to deny the request for payment of the increase in fuel costs.

- IWC Pay App #3 (Authority) Mr. Ortiz presented to the Board pay application #3 under the Iron Woman Contract for \$1,414,915.38 million, which includes a cost of \$1,084,049.31 for stored materials that have not yet been included in the work. Mr. Ortiz advised that the supplies are being made available and are able to be stored on site, subject to the tender of funds in payment for the supplies. Legal counsel discussed the criteria required under the contract to allow for payment for stored supplies not yet incorporated in the work, subject to documentation showing receipt of payment in full for the supplies, free and clear, and adequate insurance. One option is to have the Authority pay for the supplies directly, in return for a bill of sale showing “paid in full” and a certificate of no liens from the supplier, and confirmation from the contractor of adequate security for the stored supplies, in addition to insurance coverage under the contract. In addition, the contractor is required to provide the Authority with an affidavit with the pay application stating that all previous progress payments received by the contractor have been applied to discharge its obligations associated with prior applications for payment. The Board discussed the need to allow for stored materials due to supply chain disruption concerns, and the potential impact on the progress of the work without a storage accommodation. It was also noted that there may be additional requests made by the contractor in the future for similar reasons. After further discussion, and upon motion, second and unanimous vote, the Board approved the pay application #3 as presented with payment for stored materials authorized to be made directly to the vendor, subject to compliance with the legal recommendations discussed. The Board also requested that the general conditions which address the conditions for eligibility of stored materials be amended to include the requirements to accommodate the circumstances.

- DEV Report for March 2022 (Authority) Mr. Collins presented the District Expenditures Verification Report for March 2022 for acceptance by the Board. It was noted that the DEV Report provides a vendor contract

{00594515 3}

RECORD OF PROCEEDINGS

summary, and tracks District expenditures for Atwell, IDES, and Iron Woman through February 2022, totaling \$381,973.64 as being District expenses eligible for payment. The Board noted that the report does not pertain to expenses for Iron Woman Contract Change Order #1. The Board further noted that the report does not include expenses for March, 2022, which will be further reviewed prior to approval. Upon motion, second and unanimous vote, the Board accepted the DEV Report for March 2022.

[*Messrs. Collins and Ortiz departed the meeting at this time.]

Financial Matters

- Payment of Claims / Statement of Cash Position

Ms. Ross presented the Authority's report of claims for the period of March 1, 2022 through April 6, 2022, in the amount of \$286,024.32, including payment to Iron Woman. She also reviewed the Authority's schedule of cash position dated December 31, 2021 and updated as of April 5, 2022, including two developer advances. The Capital Projects fund shows a balance of almost \$22 million allocated for the project. Ms. Ross noted that she is working on preparing a tracking sheet, to show contracts released and funds allocated and paid. Director Hollard noted that he would like to see this type of tracking on an on-going basis. Upon motion, second and unanimous vote, the Board approved the payment of claims and accepted the financial report as presented.

- Other

The Board determined not to add additional persons to the bill.com account at this time.

Legal Matters:

- Infrastructure Construction Agreement (Authority)

Ms. Vander Wall presented a draft infrastructure construction agreement, referenced as "Post-Closing Construction Agreement," between the Authority, Cohen Denver Airport, KB Home Colorado, and Century Land Holdings. She described the purpose of the agreement is to provide assurances to the builders of the funding and the construction of the phase I spine public infrastructure required for the development of the Legato Filings 1 and 2, and the construction of the Filings 1 and 2 public improvements to allow for development within the Legato Metro Districts' boundaries, and their financing by the Authority. Ms. Vander Wall noted that the builders may have additional comments and edits to the agreement, but that it contains the business arrangement negotiated by all of the parties. After further discussion, and upon motion, second and unanimous vote, the Board approved the proposed form of agreement, subject to minor modifications.

{00594515 3}

RECORD OF PROCEEDINGS

- Waiver of Potential Conflict of Interest (Authority and Metro Districts 1-7) Legal counsel presented a letter describing a potential conflict of interest regarding representation provided by Seter & Vander Wall to the Authority and the Legato Metropolitan District Nos. 1-7, and also representation to the builder Century Communities on a limited basis in other matters. The letter describes the Boards' waiver of the potential conflict of interest pursuant to the Colorado Rules of Professional Responsibility. She noted that a similar letter requesting a waiver of potential conflict of interest has been prepared for Century. Following discussion, and upon motion, second and unanimous vote, the Board approved the waiver as presented.

- Other Ms. Vander Wall presented a summary update of pending legislation which may impact the Authority.

- Director Items Director Hollard requested legal counsel solicit quotes for an increase in its general liability coverage.

- Other Business There were no other items presented before the Board at this time.

- Adjournment There being no further business to come before the Board, and upon motion duly made, seconded and unanimously carried, the meeting was adjourned at 5:54 p.m.



[Roger Hollard \(May 31, 2022 16:03 MDT\)](#)

Secretary for the Meeting

{00594515 3}






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Final Audit Report

2022-05-31

Created:	2022-05-31
By:	Michele Barrasso (mbarrasso@svwpc.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAIhKjne5_IUYzDa0uUaRIfVd9F7qSuam

"00600658" History

-  Document created by Michele Barrasso (mbarrasso@svwpc.com)
2022-05-31 - 5:42:01 PM GMT
-  Document emailed to Roger Hollard (rghollard@gmail.com) for signature
2022-05-31 - 5:42:17 PM GMT
-  Email viewed by Roger Hollard (rghollard@gmail.com)
2022-05-31 - 10:02:34 PM GMT
-  Document e-signed by Roger Hollard (rghollard@gmail.com)
Signature Date: 2022-05-31 - 10:03:27 PM GMT - Time Source: server
-  Agreement completed.
2022-05-31 - 10:03:27 PM GMT