

**FOUNTAIN MUTUAL METROPOLITAN DISTRICT
MINUTES
SPECIAL MEETING**

Thursday, August 29, 2024, 12:00 pm

A Special Meeting of the Board of Directors for the Fountain Mutual Metropolitan District was held Thursday, August 29, 2024, at 12:00 pm. The meeting was held at 660 Southpointe Circle, Suite 210, Colorado Springs, CO 80906.

FMMD Board Members Present: Gary Barber, Chair
Curtis Mitchell
John Litchenberg
Eric Hulen
Also present: Elise Bergsten
Pete Susemihl

The meeting was called to order at 12:05 pm.

Approval of Prior Meeting Minutes

A motion to approve the May 13, 2024, meeting notes was made by Curtis Mitchell, seconded by Eric Hulen and passed unanimously.

Legal Report – Pete Susemihl

The question has come up whether or not the director's parcel, in order to be a valid director's parcel, should be subject to property tax. The statute requires that the director's parcel be a piece of taxable property. Before you form a district, you can put a parcel under contract for the director's parcel even though it's not yet in a district. But it doesn't answer that when it does get included in the district, and then is transferred to the public entity and becomes tax exempt, does that then make it non-eligible? It would seem so according to the language of the statute:

“A person who is obligated to pay taxes under a contract to purchase taxable property situated within the boundaries of the special district or the area to be included within the special district shall be considered an owner within the meaning of this subsection.”

We've been working to find a piece of taxable property that we could use as a director's parcel. We're left with the existing director's parcel. This parcel, owned by FMMD has a long legal description, but it breaks down into three distinct lots that are separated from each other by roads in the neighborhood.

The western-most lot is large enough to build a house on, so is eligible size-wise, according to statute. It is currently un-used as a pocket park, we've just been keeping it tidied up. We could have a survey done, and quit claim this parcel to a non-profit corporation. Then the contract would be with the corporation rather than the district.

Pete is proposing a non-profit corporation whose members would be the directors of the district. Pete would form the corporation at no cost to FMMD. It would require an annual periodic report to the state by a registered agent. Pete volunteered to be the registered agent. The name could be Cable Lane Open Space. Pete thinks the board ought to take this action to be on the safe side.

The function of a Director's Parcel is to make it legal for non-residents to be directors of the district. A Director's Parcel is traditionally used at the beginning of a Metro District, during

build-out, when the board is still controlled by developers. By holding the Director's Parcel under contract indefinitely, developers are legal directors of the board. When a district is close to build-out, the intent is that the board make-up will transition to property owners who live or own property in the district.

Because of FMMD's unique nature, having been created to solve a stormwater issue *after* a neighborhood had already been built, and with district parcels being scattered along the Fountain Mutual Irrigation Canal throughout the county, the board has always been comprised mostly of stakeholders rather than property owners. Homeowner input has been sought out by survey and public process, but it has been difficult to recruit board members that are district property owners.

Directors, Pete and Elise discussed the details of this proposed solution, possible complications, and the best way to proceed.

The solution that came forward is as follows. A non-profit corporation will be created and named Cable Lane Open Space. A survey will be made that separates this parcel from the larger Pheasant Run parcel, perhaps without even re-platting it. The district will quit claim this parcel to the Cable Lane Open Space corporation. Directors will become members of the corporation. Pete will be registered agent. A Memorandum of Understanding will be created between the corporation and the district. Terms will include the agreement that FMMD will pay property tax for the parcel in exchange for the right to use the parcel for recreational purposes. FMMD will continue to maintain the leased parcel, and FMMD's insurance to cover the property. The non-profit corporation will agree not to develop the lot.

Gary Barber made a motion to proceed as recommended by counsel, that we create a non-profit corporation for Cable Lane Open Space. John Litchenberg seconded the motion, and it passed unanimously.

Elise will order a survey for the parcel. Pete will create the non-profit corporation and memorandum of understanding.

Financial Matters – Elise Bergsten

Money still needs to be moved from General Fund to the Capital Fund per the 2023 & 2024 budgets. We have been using an archaic faxed memo system to make these transfers. Recommendation that access be given to view accounts and move funds between FMMD bank accounts.

A motion was made by Curtis to give the manager online access to the bank accounts for viewing information and transferring funds between FMMD accounts. The motion was approved by Eric and passed unanimously.

Directors reviewed bill payments from May 14, 2024 through August 29, 2024. They also reviewed current Balance Sheet and Budget vs Actual reports.

A motion to ratify bill payments and approve financial reports was made by Curtis, seconded by John, and passed unanimously.

Manager Report

- **Goldfield Drive Visioning**
 - The first meeting of the stakeholder group went well and had a good turnout.
 - The next three stakeholder meetings have been scheduled.

- Between these meetings, we will aim toward having a public meeting, and perhaps attend a county commissioner work session.

- **Grinnell Blvd Maintenance**
 - Still have not moved forward with disbanding the existing agreement or replacing it.
 - We are respecting our side of the earlier-proposed terms, by removing any dead trees along Grinnell Blvd.

- **Haven Valley Community Tracts (south of ditch, along Cable Lane)**
 - DR Horton has let go of the contract for the Cable Lane parcel. Elise left a voicemail for the property owner, asking for an update, but have not heard anything as of yet.

The meeting was adjourned at 12:56 pm.

Respectfully submitted by



Elise Bergsten, Acting Secretary