

# RECORD OF PROCEEDINGS

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## MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS

OF THE

STERLING HILLS WEST METROPOLITAN DISTRICT

Held: Thursday, August 8, 2019, at 6:30 p.m. at Balterra  
Clubhouse, 2654 South Danube Place, Aurora, Colorado  
80013.

Attendance:

A regular meeting of the Board of Directors of the Sterling Hills West Metropolitan District was scheduled in compliance with the laws of the State of Colorado, with the following directors in attendance:

Juliet Uhlott, President  
Michael Lenz, Treasurer  
Alberteen Ransom, Assistant Secretary  
CJ Matthews, Assistant Secretary

Also present were:

Jennifer L. Ivey, Icenogle Seaver Pogue, P.C.  
Debra Sedgeley, CliftonLarsonAllen, LLP  
Ted Laves, Colorado Special District Management  
and Operations  
Barb Flowers, District resident  
Barbara Lucas, District resident  
Thomas Markus, District resident  
Matt Shekleton, District resident  
Pak Y, District resident  
Camille Courtney, Samantha Crowder, and Jason  
Monfortan, AMH Development, LLC

1. Call to Order/ Declaration  
of Quorum:

Director Uhlott, noting the presence of a quorum, called to order the regular meeting of the Board of Directors (the "Board") of the Sterling Hills West Metropolitan District (the "District") at approximately 6:30 p.m.

2. Conflicts of Interest:

Ms. Ivey 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 then

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reviewed the agenda for the meeting, following which each Board member confirmed the contents of any written disclosure 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.

3. Approval of/Additions  
to/Deletions from Agenda:

After review and discussion, upon the motion of Director Matthews and second of Director Uhlott, the Board unanimously approved the agenda with the addition of the following at the request of Director Matthews: “Sterling Hills West HOA” under Other Business and “Contracts” as Item 8.5.

4. Public Comment for  
Matters Not on Agenda:

None.

5. Presentation by American  
Homes 4 Rent on  
Development Plans:

Ms. Courtney, AMH Development, LLC (“AMH”), addressed the Board and stated that they are under contract for purchase of the parcel at the corner of E. Villanova Place and Sterling Hills Parkway and plan to build single family homes in 45 x 100 foot lots with a total of 67 lots. A pre-application meeting between AMH and the City of Aurora has occurred and AMH is working on the list of comments and requirements from the City. AMH is currently planning on filing their formal application with the City on August 16, 2019. Thereafter, a public hearing will occur before the City’s planning commission and notices for that public hearing will be sent out in accordance with law. Ms. Courtney noted that this parcel is fully within the District boundaries and will be a benefit to the District due to an increase in assessed valuation of that property which will result in increased property tax revenue for the District.

Director Matthews stated that the density is not less, it is more than what was originally planned because there is less surface area to collect water. Mr. Monfortan, AMH’s engineer, stated that Director Matthews’ assessment was incorrect. Mr. Monfortan also discussed a hydrology study regarding runoff that is being performed and checked against the requirements set forth in the master plan. Mr. Monfortan stated that he has reached out to Wright Water Engineers, Inc. (“WWE”) and understands from them that this development would not adversely impact the detention pond since it is less

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dense than was originally planned for this parcel. Director Matthews asked why there was no drainage plan submitted to the Board. Ms. Courtney stated that at this time AMH is still in preliminary planning and that information has not been completed but can be provided when it is available. Director Matthews asked about the lack of snow storage on site. Ms. Courtney stated that thanks to Director Matthews concerns in that regard which she expressed at a prior meeting AMH will not build a house on one lot and instead will use that lot for snow storage and that there will be an interceptor drain from that location that goes to the detention pond.

Director Matthews expressed concern that a pipe between the planned development and the pond may be obstructed. Mr. Monfortan stated that he was not yet aware of this possibility.

Ms. Ivey explained for the benefit of the members of the public in attendance the role of the District with regard to development and that it has no land use authority. The City of Aurora is vested with the land use authority and that is why AMH has been stating that applications will be filed with the City. The District will be sent a referral letter and offered an opportunity to comment on the application. Director Matthews stated that the detention pond is owned by the District and therefore all of the drainage from development within the District is the problem of the District.

Ms. Courtney clarified that she is here today as a courtesy to the District and its residents and is trying to be a good neighbor and stated that AMH is not beholden to Director Matthews or the District for any of the statements made by past developers. Director Matthews asked where the storm water drains and pipes would be located. Mr. Monfortan pointed to the probable locations but stated that they are still working on finalizing these matters.

Director Matthews asked on behalf of the District's engineers whether AMH is relying on the District's detention pond for water quality and detention. Mr. Monfortan stated that they are.

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Director Lenz inquired if there are going to be backyards and about the height of the buildings. Ms. Courtney stated that there will be backyards and that the buildings are one- and two-story buildings.

In response to several inquiries from the public, Ms. Courtney stated that the site will not look anything like it does now and there will be a lot of soil work and grading before it is ready for construction.

Ms. Flowers stated that several residents, not in attendance, asked her to express their concern for the prairie dogs that are currently on the parcel.

Ms. Courtney stated that more information about AMH can be found by googling American Homes 4 Rent.

Director Uhlott stated that November 14, 2019 is the next regular meeting of the Board and AMH is welcome to attend and provide updates.

*Mss. Courtney, Crowder, and Lucas and Messrs. Y and Monfortan departed the meeting at this time.*

## 6. Approval of Meeting Minutes:

Director Matthews noted a number of revisions she wished to make to the May 9, 2019 regular meeting minutes and stated that the meeting minutes were not accurate and that meetings should be recorded so that there would be more accurate minutes. Among other things, Director Matthews asserted that during discussion of the Wright Water Engineers, Inc.'s proposal, several board members had stated that additional investigations were nothing more than a scientific experiment. Director Uhlott noted that she believed the minutes accurately reflected the discussions at the meeting. Ms. Ivey offered to make a number of changes based on this discussion and to bring a revised set of the May 9, 2019 meeting minutes to the November 14, 2019 regular meeting.

## 7. Directors Matters:

### a. Consider Appointment to Vacancy:

A vacancy exists on the Board due to Mr. Duncan selling his residence within the District and moving from the District

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boundaries. Mr. Laves discussed the three individuals that have expressed interest and stated that Ms. Creamer had submitted a statement regarding her interest which he distributed to the Board but that she was unable to attend tonight's meeting. Director Uhlott stated that Ms. Hatter is still interested in filling the vacancy on the Board and distributed a letter of reference she provided and stated that she could not attend the meeting tonight. Mr. Markus introduced himself and provided his background including his military and project management experience and his concern with over-development in the District and maintenance issues within the community.

Director Uhlott noted that she prefers to allow candidates to see the proceedings of the Board before they determine if they are interested in being appointed. Director Matthews stated that Director Uhlott was ready to vote to appoint Ms. Hatter before the end of the previous meetings and Director Matthews has concerns about the letter of reference that Ms. Hatter submitted because it shows that she is affiliated with a developer in the District. Director Uhlott stated that her willingness to appoint Ms. Hatter at the outset of the previous meeting was based on Ms. Hatter's past experience on public boards. Upon inquiry from Director Uhlott, Mr. Markus stated he did not have such public board experience.

After review and discussion and upon the motion of Director Matthews and second of Director Ransom, the Board unanimously voted to appoint Mr. Markus to the vacancy on the Board of Directors.

### 8. Financial Matters:

Ms. Sedgeley reviewed the June 30, 2019 financial statements.

The Board discussed that they had budgeted reserves to go towards the detention pond project. The Board also discussed that it is under budget for its expenditures on Utilities – Irrigation. Upon inquiry by Director Lenz, Ms. Sedgeley stated that if any line item remained under budget the excess money could be used to pay for overages in expenses related to the Detention Pond or to pay for other line item expenditures.

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Directors Uhlott and Matthews and Ms. Sedgeley provided background regarding the 2018 Bonds and the Local Government Budget Law requirements.

Director Matthews stated that she would like to provide direction not to mow the grass in the Xcel area. Director Lenz stated that he would like to mow it again this fall. Mr. Laves asked that the group follow the agenda and defer discussion of the grass until later in the meeting.

Ms. Sedgeley continued to review the June 30, 2019 financial statements, the schedule of cash position, interim claims represented by Check Numbers 1135 through 1151, and two ACH payments to Aurora Water, which total \$74,642.24 and current claims represented by Check Numbers 1152 through 1156 and one ACH payment to Aurora Water which total \$24,521.66.

Director Matthews stated that the Xcel invoices should not include the meter at Dickinson. Mr. Laves stated that they are no longer invoicing the District. Director Lenz inquired if the District could get rebated for the charges it had paid in the past. Director Matthews stated that she believes you can go back 3 years for such rebates. Mr. Laves stated that he would follow-up with Xcel regarding a rebate.

After review and discussion and upon the motion of Director Uhlott and second of Director Matthews, the Board unanimously accepted the June 30, 2019 financial statements and the schedule of cash position, approved the current claims as presented, and ratified the interim claims as presented.

### 8.5. Contracts:

Director Matthews inquired about the term of the contract with Doyle Construction, Inc. (Doyle). Ms. Ivey stated that Doyle's contract is an annual contract that renews on January 1<sup>st</sup> of each year and that there is a typo for the first expiration date. It should be December 31, 2018 but it is listed as December 31, 2017. Director Matthews stated that there needs to be a deadline on this work because: (1) it is ongoing; (2) the contractor does not work full days or complete the work on time; and (3) the contractor has not performed

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adequately under the contract. Director Matthews stated that the orifice plate was removed and that this was a violation of the contract.

Director Matthews made a motion that all future District contracts be required to have two or more bids, a definitive drop-dead date for the work to be completed, and provisions made for Board oversight of those contracts.

Mr. Laves stated that this contract was put out to bid but that the request for bids and scope of work provided by the District's engineer was vague and, as a result, although the request for bids was sent to multiple parties and notice of the RFP was posted on various bid websites, Doyle Construction was ultimately the only bidder. The work was also much more difficult than originally described and the District's engineers have also repeatedly changed their design and therefore the nature of the work has changed over time. In addition, the weather has not been favorable to complete this work. Mr. Laves reported that he spoke with the District's engineer today and he stated that he was satisfied with the work that Doyle was doing but did wish that it was proceeding more rapidly.

Director Markus inquired whether a survey was performed prior to letting the contract; Director Matthews stated that it was. Mr. Laves stated that the District's engineer assisted in the preparation of the RFP.

Director Ransom seconded the motion. Director Uhlott stated that the requirement to receive two bids will prevent the District from completing work when it does not receive multiple bids and would therefore be detrimental to the District. Ms. Ivey clarified the statutory requirements for special districts bidding certain contracts. Ms. Ivey stated that Mr. Laves' contract requires him to oversee contracts and contractors. Director Ransom withdrew her second based on the information provided by Ms. Ivey and Director Uhlott's comments.

Director Matthews made a motion that all contracts should have an end date and the Board should definitively vote to renew those contracts. The motion died for a lack of a

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second.

Director Matthews made a motion that 60 days before any contract renewal the Board be notified. Director Ransom seconded the motion. Director Uhlott stated that this is unnecessary since the majority of the contracts renew on January 1. The motion failed with Directors Matthews and Ransom voting in favor and Directors Uhlott and Lenz voting in opposition.

### 9. District Manager Report:

Mr. Laves discussed with the Board his District Manager's Report which was included in the meeting packet. The following items were discussed in detail:

Mr. Laves reviewed with the Board his recent discussions with and the proposals received from Doyle and WWE regarding remediation to the detention pond. Mr. Laves then explained that the Phase One work being completed by Doyle will cost approximately \$100,000, which is more than was originally anticipated because the amount of estimated dirt being removed will be significantly higher than estimated by WWE in the bid documents. Mr. Laves also discussed the proposal received from WWE for Phase Two engineering work in the amount of \$27,200 and recommended that the Board approve this proposal. Director Uhlott suggested tabling consideration of this proposal until its November 14, 2019 Board meeting when further information will be available related to the construction costs of Phase Two.

Director Matthews stated that Doyle has violated the contract by moving the orifice plate and that Doyle instead should have removed standing water by pumping it over the embankment. Mr. Laves responded that pumping was not feasible because of the large amounts of large and small trash and debris of all kinds in the pond that was constantly clogging the orifice plate and also the depth of the water in the pond because of this year's heavy precipitation. Progressively loosening the plate while removing trash and debris was necessary to dry out the pond so that excavation could proceed. Director Uhlott and Mr. Laves provided Director Markus with background information regarding the progression of the contracts with WWE and Doyle. After inquiry by Director Lenz, Mr. Laves reported that the



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perimeter and central French drains are being installed to de-water the pond before more dirt is removed because wet dirt weighs more which increases costs and transport of dripping loads on State highways is restricted. Director Lenz stated that the City's authorization is needed to move the orifice plate; Mr. Laves will follow-up with WWE see if the necessary authorization was acquired and if not, ensure that the orifice plate is replaced. Director Matthews requested that the Board be supplied with detailed color plans that show where the pipes will be installed along with a project schedule. Mr. Laves said he would ask WWE to prepare those documents.

Director Matthews requested a special meeting in September with WWE and Doyle to review the pond project.

Ms. Ivey reported that the October 11, 2018 contract provided a not-to-exceed compensation of \$65,000 so the Board may need to consider increasing the not-to-exceed compensation.

Mr. Laves reviewed the matters related to the District's Parks, including reservations, the safety inspection, and graffiti covered bollards. After review and discussion and upon the motion of Director Matthews and second of Director Ransom, the Board unanimously approved sanding and spray painting the 15 bollards at a not-to-exceed cost of \$1,200.

Mr. Laves also discussed the vandalism at the Red Park pavilion and his recommendation for bead blasting to remove what could not be removed with power washing and application of a graffiti resistant sealer. Director Lenz asked Mr. Laves to inquire about the cost of painting the area and if the painted service could be sealed. After further review and discussion and upon the motion of Director Matthews and second of Director Ransom, the Board unanimously approved the bead blasting at the Red Park and sealer application at both the Red Park and the Blue Park at a not-to-exceed cost of \$3,300.

The Board returned to the discussion regarding the mowing of the Xcel license area. Mr. Laves stated that the District

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does not have an obligation to mow this area. Mr. Laves will direct Keesen not to mow this area.

*Mr. Shekleton and Ms. Flowers departed the meeting during the discussion of the Detention Pond in the Manager Report.*

10. Update on Roberts Rules of Order for SHWMD: Mr. Laves reviewed the previously approved, simplified version of Roberts Rules of Order (Basic) – A.A. Edition that he was asked to prepare by Director Matthews. The Board discussed the time limits that Mr. Laves had included in these procedures. The Board also discussed the applicability of these procedures to Board actions; for example, these procedures do not govern presentations by consultants and guests who would not be making a motion. After further review and discussion and upon the motion of Director Uhlott and second of Director Ransom, the Board unanimously approved the use of these procedures with the revision that the making of a motion can take up to 1 minute.

11. Legal Matters:

- a. Consider Procedures for Posting Public Notice for Meetings: Ms. Ivey reviewed with the Board, House Bill 19-1087 which became law effective August 2, 2019. House Bill 19-1087 removed the requirements from Section 32-1-903, C.R.S. that special districts post in three locations within their boundaries and with the county clerk and recorder for the county in which they are located at least 72-hours prior to a meeting and replaced those requirements with a reference to comply with the provisions of the Colorado Open Meetings Law. The Colorado Open Meetings Law requires a single posting, with specific agenda information where possible, at least 24-hours prior to a meeting and, with the changes made by House Bill 19-1087, now provides that such posting may be made at a single physical location within the boundaries of the special district or on the special district's website provide the website meets certain criteria and the Division of Local Government is notified.

After review and discussion and upon the motion of Director Uhlott and second of Director Matthews, the Board unanimously approved the following procedures for posting notices of District meetings going forward:

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- Mr. Laves will use the current sign boards with only meeting day and time displayed on both sides and will post these at least 3 days before the meeting at (1) Tower Road and East LaSalle Place, (2) Sterling Hills Parkway and Tower Road, and (3) Sterling Hills Parkway and East Wesley.
- The Board designated its website, <https://colorado.gov/shwmd>, as the public posting place for notices in accordance with Section 24-6-402(2)(c), C.R.S.
- The Board designated the corner of Sterling Hills Parkway and Tower Road, as the public posting place for purposes of Section 24-6-402(2)(c), C.R.S. for notices of meetings going forward if the notice cannot be posted on the District's website in exigent or emergency circumstances.

b. Consider Creation  
of Director Districts:

Ms. Ivey reviewed the provisions in the Special District Act related to creation of director districts which are specific to the time of organization or consolidation of a special district. Ms. Ivey reported that she is aware of some special district's having made this election after formation and outside of a consolidation but that the Special District Act does not provide any guidance on how that election is to be made. The Board directed that this discussion be tabled for future discussion.

12. Other Business:

Sterling Hills West HOA:

Director Matthews discussed the monuments for the community and areas that are within the District or outside of the District and what maintenance activities the District performs. Director Matthews stated that the monuments are not the Districts and the Sterling Hills West HOA just renovated the monuments. Director Uhlott stated that the Sterling Hills West HOA should not have done this. Director Lenz stated that there was confusion about this ownership in the transition from the developer. It was stated that the areas maintained per the plats are owned by the District. Director Matthews objected to the District maintaining the center medians which are not owned by the District.

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Director Matthews stated that the service plan states a 50% obligation for the parks to be split between the District and the HOA. Director Matthews made a motion to direct Ms. Ivey to find agreements related to the ownership of the monuments and research this matter. The motion failed for lack of a second. Director Matthews stated that she then is making a request for the information under the Colorado Open Records Act ("CORA"). Director Uhlott stated that Director Matthews would need to make her request in writing and in accordance with the District's CORA rules. Ms. Ivey stated that the District adopted a resolution and rules related to CORA on February 8, 2018.

The Board set a special meeting for Thursday, September 12, 2019 at 6:30 p.m. to meet with WWE and Doyle with no other agenda items. Mr. Laves will check with WWE and Doyle regarding their availability. The Board asked Ms. Ivey to attend this meeting. Ms. Sedgeley stated that she was unavailable; the Board stated that based on the limited agenda her attendance was not necessary.

### 13. Adjourn:

There being no further business to come before the Board, upon motion of Director Ransom second of Director Uhlott and unanimous vote, the meeting was adjourned at 10:00 p.m.



Secretary of the Meeting