

RECORD OF PROCEEDINGS

FOOTHILLS PARK & RECREATION DISTRICT REGULAR BOARD OF DIRECTORS MEETING

April 26, 2022

Zoom Option:

You are invited to a Zoom webinar.

When: Apr 26, 2022 06:00 PM Mountain Time (US and Canada)

Topic: Board Meeting 4/26/2022 Register in advance for this webinar:

https://us02web.zoom.us/webinar/register/WN_dsjh2sH2SLOu8amUDgVueQ

After registering, you will receive a confirmation email containing information about joining the webinar.

- I. CALL TO ORDER: Director Meyer called the regular meeting to order at 6pm.
- II. PLEDGE OF ALLEGIANCE: Director Meyer led those in attendance in the Pledge of Allegiance to the Flag of the United States of America.
- III. ROLL CALL:
- | | |
|-----------------------|------------------|
| Director Bielkiewicz: | Present |
| Director Trimble: | Present |
| Director James: | Present |
| Director Butman: | Present via Zoom |
| Director Meyer: | Present |

ALSO IN ATTENDANCE: Paul Rufien, District Counsel; Ronald Hopp, Executive Director; Dennis Weiner, Director of Finance and Administrative Services; Derek Eberhardt, Director of Operations; Barb Butler, Director of Recreation Programs; Colin Insley, Director of Parks, Planning and Construction; Tom Woodard, Director of Golf; Richelle Riley, Recording Secretary; other Foothills staff and members of the public.

Potential conflicts of interest were disclosed pursuant to Colorado Revised Statutes 18-8-308(2), 24-18-109(3)(a), 24-18-110, and 32-1-902(3).

IV. APPROVAL OF AGENDA:

MOTION: Director Bielkiewicz moved that the Foothills Board of Directors approve the April 26, 2022 agenda as submitted. Director Trimble seconded the motion. Poll of the Board: Director Bielkiewicz, aye; Director Trimble, aye; Director James, aye; Director Butman, aye; Director Meyer, aye. The motion was approved.

V. APPROVAL OF APRIL 5, 2022 MINUTES:

MOTION: Director Trimble moved that the Foothills Board of Directors approve the minutes of the April 5, 2022 board meeting as submitted. Director James seconded the motion. Poll of the Board: Director Bielkiewicz, aye; Director Trimble, aye; Director James, aye; Director Butman, aye; Director Meyer, aye. The motion was approved.

VI. COMMUNITY COMMENTS:

VII. EXECUTIVE SESSION:

A. Contract Negotiations per 24-6-402(4)(e), C.R.S.

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MOTION: Director Butman moved that the Foothills Board of Directors move into Executive Session for Contract Negotiations pursuant to 24-6-402(4)(e) of the Colorado Revised Statutes. Director Trimble seconded the motion. Poll of the Board: Director Bielkiewicz, aye; Director Trimble, aye; Director James, aye; Director Butman, aye; Director Meyer, aye. The motion was approved.

The regular meeting adjourned at 6:06pm. Executive Session started at 6:07pm and ended at 7:09pm. The regular meeting reconvened at 7:10pm.

VIII. DECISION ITEMS

A. Employment Contract

Paul Rufien, District Legal Counsel, said at the last board meeting he was directed to work with the Executive Director to draft an employment agreement to secure his services with the District. That was done; there has been some back and forth in the drafting. Directors James and Bielkiewicz were involved in the stages of that drafting, as they had volunteered at the last board meeting, and had input that resulted in some changes. It was circulated to the entire Board, that resulted in some changes. The Executive Session also resulted in some changes, so it is a very fluid document, and unique document for this District. Mr. Rufien recognized the Executive Director has never had a contract before, and acknowledged that we learned the other three large park and recreation district executive directors have employment contracts. He expressed thought that it is important, for purposes of transparency and making sure everybody is aware of what is going on, to spend more time than usual going over provisions of the document, including the most recent revisions. After that, will open it up for any discussion of the Board, and Mr. Hopp to comment as well.

Mr. Rufien distributed drafts of the agreement to audience members. Going through the agreement, Mr. Rufien explained it begins with recitals, four whereas provisions, that say it is in the mutual interest of both parties that this is being done. The purpose from the District's benefit, is to begin to lock in an Executive Director that has consistently exceeded expectations in evaluations. That provides Mr. Hopp that security as well, and in addition, prevents him from taking a similar position elsewhere. Mr. Rufien reiterated a very productive, long-term relationship is being locked in. He summarized each paragraph of the agreement.

Section I

Paragraph A, Mr. Hopp will continue to perform the duties of Executive Director pursuant to his job description and any policies, practices, rules, regulations that the Board will adopt or has already adopted, or may adopt in the future.

Paragraph B, that is essentially all Mr. Hopp is going to do as long as he is in the District's employ, his focus will be on the Executive Director. He will not actively seek employment elsewhere. In the event that termination is mutually agreed upon, or Mr. Hopp initiates that termination, he would not accept an Executive Director or equivalent position with any other park and recreation district for one year. This agreement does not prevent Mr. Hopp from doing volunteer work, serving on other boards of directors, doing things that are related to his job, that are for the good of the community, they would also benefit both Mr. Hopp and Foothills.

Paragraph C allows termination pursuant to other provisions, Mr. Rufien said would be explained later on.

Paragraph D was a provision requested by the Board specifically, Mr. Rufien said. Mr. Hopp is going to develop a succession plan and that succession plan will be reviewed on an annual basis during his performance evaluation. This does not bind the Board to accept the succession plan. In the event that there is any mid-year termination, a future Board will do what the Board sees fit.

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Section II

Paragraph A and B, the term will start upon any execution. If this agreement is approved, it will not terminate except by later terms, there are termination provisions involved in here. If those termination provisions are not implemented, then this agreement will sunset by its own terms thirteen years from now.

Paragraph C, Mr. Rufien explained this provision is related to TABOR. Mr. Hopp's performance evaluation and any salary or benefits decisions are not part of this agreement. Those are going to be done separately as they always have been done. The only possible expenditure under this agreement, Mr. Rufien said would be highlighted later.

Paragraph D is a reiteration of Mr. Hopp's current compensation package. It consists of salary plus benefits, and those will be adjusted on an annual basis and budgeted as such.

Paragraph E does restrict the Board, under this agreement, from reducing Mr. Hopp's salary, unless there is a District-wide reduction, Mr. Rufien explained. A future Board cannot circumvent the spirit of this agreement by giving Mr. Hopp an annual review, saying they are going to keep him on board and his annual salary will be \$5,000. That can't be done, it cannot be punitive, we are going to maintain a healthy, mutually productive relationship.

Section III

Paragraph A, this agreement does not eliminate the concept of at will employment in Colorado. It does express an intent that discharge will only come with cause. This Board does not get to control the intent of all future Boards, this is an expression of this Board's intent. Mr. Rufien reiterated what we want is to foster this productive relationship and the emphasis on termination will come only with cause.

Paragraph B, if in fact, termination is with cause, this agreement outlines some of the basic terms regarding benefits, as to what Mr. Hopp would be eligible to receive.

Paragraph C defines what cause means. Mr. Rufien explained these are intentionally broadly phrased definitions of cause.

Paragraph D states a "get-to-know-you" period. This is a way for this Board to try and implement its intent. If a Board turns over and a new majority of the Board comes on, the only termination that would be applicable for a seven-month period would be for cause, they could not terminate without cause during that "get-to-know-you" period, Mr. Rufien explained.

Paragraph E states what happens if there is termination without cause. Without cause would include the "get-to-know-you" period or any other time after that "get-to-know-you" period. If the Board decides to terminate Mr. Hopp without cause, he would be entitled to one year's salary and one year of health insurance.

Paragraph F is some consequence if termination occurs whether that is with or without cause, documents will be turned over.

Paragraph G is a non-disparagement clause. With or without cause, if there is termination, Mr. Hopp will not disparage the District or any of its employees or board members. One exception, Mr. Rufien explained, in the unlikely event that there would be a dispute, Mr. Hopp is allowed to state the truth in any court proceeding or any arbitration proceeding.

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Paragraph H would be another repeat of the provision that this is not a multiple fiscal year obligation. If the one-time event under subsection E above is necessary, it is a one-time payment that would occur only during one year and the District will take whatever budgetary actions are necessary in order to implement that payment.

Section IV is the Notice provision of how to communicate with one another.

Section V

Paragraph A, this agreement binds not only Mr. Hopp, but his heirs and representatives.

Paragraph B, neither party can assign this agreement. It is unique to this Board and Mr. Hopp; nobody can assign it. If a new Executive Director comes on board, cooperatively, that person would not inherit this agreement. It will either be a brand new agreement or none at all.

Paragraph C, if any provision of this agreement is unenforceable, that's the only provision that would fail, the rest of the agreement will stand.

Paragraph D, if there is a dispute, Colorado law will apply.

Paragraph E, if there is any dispute, the first course of action is mediation between the parties. If that mediation is unsuccessful, it would go to arbitration.

Paragraph F, this is the agreement, both sides agree that everything wanted in the agreement is in the agreement.

Paragraph G, the agreement can't be modified unless both parties agree and sign it.

Paragraph H, the only termination provisions are set forth in this agreement; without cause, with cause, or the sunset.

Director Meyer opened the floor for Board discussion.

Director Meyer expressed thought that it is a good idea for the District. During his time on the Board, Mr. Hopp has been, as it shows in his annual reviews, a great asset to the District. Director Meyer recognized there is a financial component of the agreement against the District if there is termination without cause. But there is the benefit of Mr. Hopp agreeing to a non-compete, not being able to go somewhere else, it has been a concern annually for the Board losing Mr. Hopp as the District's Executive Director, and being able to lock this in when openings come up in South Suburban, Apex, or anywhere else. Director Meyer expressed thought that it is great to do this with Mr. Hopp, but not necessarily should this be precedent setting with every Executive Director the District has going forward.

Director Trimble acknowledged he initiated some of this and expressed thought that it helps that Mr. Hopp is locked in with a non-compete clause, and in exchange for that, he gets security as well.

Director Butman expressed he has the comfort of knowing the District is in good hands and does not have to worry about positions that are opening up moving forward, and is comfortable with the agreement.

Director James agreed, with his last nine years on the Board, has been impressed and happy with the direction of the District. Being conservative and fiscally responsible is one of the best attributes that Mr. Hopp brings to the District and the stability of the direction and the culture that has been built. Director James expressed

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belief he will be leaving the District in the hands of Mr. Hopp in a much better financial position than when he came on the Board. Director James suggested that Mr. Hopp deserves this agreement, as such that there is a loyalty to each other. Director Bielkiewicz agreed.

Director Meyer opened the floor for Community Comments; there were none.

MOTION: Director James moved that the Foothills Board of Directors approve the Employment Agreement with Executive Director, Ronald Hopp, including the noted revisions and verbal changes and/or additions that have been discussed tonight, and authorize the Board to execute the agreed documents. Director Butman seconded the motion. Poll of the Board: Director Bielkiewicz, aye; Director Trimble, aye; Director James, aye; Director Butman, aye; Director Meyer, aye. The motion was approved.

B. 2022 Neighborhood Parks Design Contract Amendment

Colin Insley thanked the Board for their approval of the Employment Agreement with Mr. Hopp.

Referring to information in the packet, Mr. Insley pointed out two proposals for neighborhood parks projects for 2022. Staff have gone through some of the public processes, Mr. Insley explained. Architerra, who the District contracted with back in December, will continue this process and start getting the construction documents together.

Mr. Insley described improvements for the sites on the proposal; Jim Hoida Memorial Park, West Laurel Park, Willow Creek Park. Through the bond funds, Mr. Insley talked about improvements for Easton Regional Park. With those projects, Architerra will do construction documents which will include any additional soils analysis needed, construction documents, bid documents, construction administration. Mr. Insley described the location map included in the packet.

Mr. Insley answered questions from the Board.

MOTION: Director Bielkiewicz moved that the Foothills Board of Directors approve the two proposals from the Architerra Group amending the current design contract to include construction documents, bid documents and project coordination for Jim Hoida Memorial Park, West Laurel Park, Willow Creek Park, and Robert A. Easton Regional Park in the amount of \$144,220, and authorize the Executive Director to execute the contract documents. Director Trimble seconded the motion. Poll of the Board: Director Bielkiewicz, aye; Director Trimble, aye; Director James, aye; Director Butman, aye; Director Meyer, aye. The motion was approved.

IX. EXECUTIVE DIRECTOR'S REPORT:

Mr. Hopp expressed thanks to the Board for their support of the Employment Agreement, and looks forward to many more years serving the District, this Board, and future Boards as well.

Highlighting the report provided, Mr. Hopp pointed out the beautiful artwork on their chairs when the Board came in. The artwork was in recognition of the week of the young child. It is a recognition and creating focus and public attention on the needs of young children and their families, and to recognize early childhood programs and services that meet those needs. Mr. Hopp added that our District provides many great children's programs and we have wonderful staff that does that.

Mr. Hopp explained there was an error with some ballots that went to Kipling Villas related to the Kipling Villas Mill Levy Extension Election. The focus was on mitigating any negativity around that, and a really good job was done of that. A copy of a letter went out immediately upon the recognition that Community Resource Services (CRS) mailed them the incorrect ballots. The correct ballots quickly went out to mitigate that. Mr. Hopp added

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staff and CRS met with both candidates in that Ward explaining the situation, inviting questions, and inviting them to witness any part of the process. Both candidates had expressed a comfort level with how it was all going to be.

Mr. Hopp discussed water is starting to get to be a concern. The Bergen system was recently shut off, it is not full, he explained. Polly Dean is relatively full. Warrior Ditch is flowing and anticipated to be okay. Beers Sisters has not had a free river event; it may be in poor shape this year. Mr. Hopp recognized all these are out of the District's control.

X. DISCUSSION ITEMS:

A. Finance Update

Dennis Weiner discussed the financial update for March 31, 2022 as detailed in the report provided in the packet. Highlighting the report, he spoke about total District operating revenues for the first quarter and year-to-date, total year-to-date operating expenditures, net operating loss, non-operating revenue and expenditures. Looking at the bottom line, Mr. Weiner concluded that net revenue, through March 31st, was lower than plan.

B. Departmental Quarterly Reports

Given some of the longer agenda items, Mr. Hopp suggested, for the Board's consideration, that the quarterly reports are in the packet and won't be presented. If the Board has any questions, staff are present to address those. The Board agreed.

Tom Woodard thanked the Board for their support of the Employment Agreement with Mr. Hopp.

C. Esports Room and Programming Overview

Christopher Applegate, Esports Coordinator, provided an Esports overview for the Board, and the Board was invited to tour the Esports room at the end of the meeting.

Mr. Applegate talked about his background, things he has accomplished, and detailed his efforts with Esports teams, showing the opportunities there are in Esports. Mr. Applegate explained what Esports is, benefits it provides, and facts about Esports. He talked about the overall goal with Esports at Foothills, and what is currently being done. Mr. Applegate discussed having the theme of 'Gaming with a Purpose', and challenges being faced now, such as finding new ways to get the word out.

Mr. Applegate answered questions from the Board.

XI. EXECUTIVE SESSION

A. Legal Matters Regarding Jefferson County/Red Rocks Ranch per 24-6-402(4)(b), C.R.S.

MOTION: Director James moved that the Foothills Board of Directors move into Executive Session for Legal Matters Regarding Jefferson County/Red Rocks Ranch pursuant to 24-6-402(4)(b) of the Colorado Revised Statutes. Director Trimble seconded the motion. Poll of the Board: Director Bielkiewicz, aye; Director Trimble, aye; Director James, aye; Director Butman, aye; Director Meyer, aye. The motion was approved.

Director Meyer announced the Board will go into Executive Session. There is nothing left of the agenda other than adjournment, so the Board will leave the virtual meeting and after Executive Session, not on Zoom, will adjourn the regular meeting.

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The regular meeting adjourned at 8:18pm. Executive Session started at 8:19pm and ended at 8:26pm. The regular meeting reconvened at 8:27pm.

XII. ADJOURNMENT:

The regular meeting was adjourned at 8:27pm. The next regular board meeting will be held at 6pm on Tuesday, May 24, 2022.

Submitted by: Richelle Riley, Recording Secretary

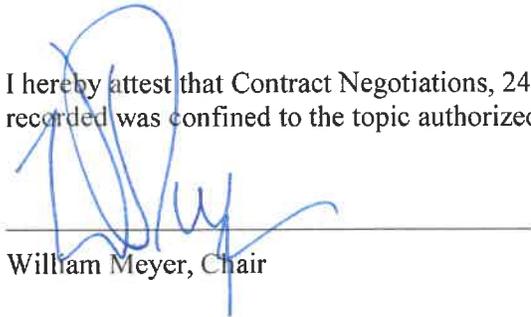
Executive Session Attestations:

I hereby attest that Contract Negotiations, 24-6-402(4)(e), C.R.S in the April 26, 2022 Executive Session that was not recorded constituted confidential communications, and was not recorded pursuant to instruction of district legal counsel.



Paul Rufien, District Legal Counsel

I hereby attest that Contract Negotiations, 24-6-402(4)(e), C.R.S. in the April 26, 2022 Executive Session that was not recorded was confined to the topic authorized for discussion in Executive Session.



William Meyer, Chair