

**MINUTES OF THE
SPECIAL MEETING
OF THE
BOARD OF PARK COMMISSIONERS
OF THE
CLEVELAND METROPOLITAN PARK DISTRICT
APRIL 4, 2023**

The Board of Park Commissioners met on this date, Tuesday, April 4, 2023, 8:00 a.m., at the Board's office, 4101 Fulton Parkway, Cleveland, Ohio.

The roll call showed President Bruce G. Rinker, Vice President Debra K. Berry, and Vice President Dan T. Moore to be present. It was determined there was a quorum. Chief Executive Officer, Brian M. Zimmerman, Chief Financial Officer, Wade Steen, and Chief Legal and Ethics Officer, Rosalina M. Fini, were also in attendance.

ACTION ITEMS.

- (a) *Authorization to Enter into a Settlement Agreement, Mutual Release and Waiver by and between: Cleveland-Cuyahoga County Port Authority, Mortgage Investment Group, LLC, William Friedman, Riverbed West, LLC, Riverbed 007, LLC, the Board of Park Commissioners of the Cleveland Metropolitan Park District, Ohio City Incorporated, L.A.N.D. Studio, Inc., the City of Cleveland, and CF Bank, National Association involving Cuyahoga County Court of Common Pleas – General Division, Case No. CV-21-954893, Cuyahoga County Court of Common Pleas – General Division, Case No. CV-22-960323 and Cuyahoga County Court of Common Pleas - Probate Division, Case No. 22 ADV 267918*

(Originating Sources: Brian M. Zimmerman, Chief Executive Officer/Rosalina M. Fini, Chief Legal & Ethics Officer/Katie M. McVoy, Assistant Legal Counsel)

Background

On September 9, 2021, the Board of Directors of the Cleveland-Cuyahoga Port Authority (the "Port") passed a resolution authorizing the Port to begin proceedings to appropriate a fee simple interest in real property owned by Mortgage Investment Group, LLC ("MIG") along W. 25th Street (the "Property") in connection with the Irishtown Bend Stabilization & Rehabilitation Project and declared the immediate necessity of the acquisition of the Property in order to protect the health, safety and welfare of the public and preserve the navigability of the Cuyahoga River.

ACTION ITEMS (cont.)

Shortly thereafter, on October 26, 2021, MIG filed an action in the Cuyahoga County Court of Common Pleas—General Division seeking declaratory relief alleging negligence, civil conspiracy, fraud, and tortious interference against the Port, William D. Friedman, the City of Cleveland, two entities owned by the West Creek Conservancy (Riverbed West, LLC and Riverbed 007, LLC), Cleveland Metroparks, Ohio City, Inc., and L.A.N.D. STUDIO, Inc. entitled *Mortgage Investment Group, LLC v. Riverbed West LLC, et al.*, Case No. CV-21-954893 (the "Litigation") relating to the Port's appropriation action and which lawsuit involved claims referencing Cleveland Metroparks' demolition of a building near the Property.

On February 22, 2022, the Port filed a Petition for Appropriation in the Cuyahoga County Court of Common Pleas—Probate Division seeking to obtain the Property via legal process, Case No. 22 ADV 267918. On March 4, 2022, MIG filed a second action in the Cuyahoga County Court of Common Pleas—General Division seeking a temporary restraining order and permanent injunction to stop the appropriation, Case No. CV-22-960323, which action was consolidated with the Litigation.

All three government defendants filed motions to dismiss the Litigation in December 2021, which motions were denied on July 5, 2022 and are currently on appeal in the Eighth District Court of Appeals.

To limit further expenditure of public dollars to defend against these claims, it is recommended that the Park District settle this claim pursuant to a settlement agreement on all three related matters, which includes all parties to the Litigation. The settlement agreement was approved by the Port's Board on March 28, 2023 and was signed by MIG on March 22, 2023.

No. 23-04-054: It was moved by Vice President Berry, seconded by Vice President Moore and carried, to approve Cleveland Metroparks' contribution to settlement of the above-described matter in the amount of \$300,000.00, in a form and with additional terms acceptable to the Chief Legal & Ethics Officer.

Vote on the motion was as follows:

Ayes: Ms. Berry and Mr. Moore.

Abstained: Mr. Rinker.

Nays: None.

PUBLIC COMMENTS.

Public comments were offered by Marty Leshner of Olmsted Township and Norm Plonski of Hoopples Restaurant. All such comments can be heard in their entirety by accessing the "About" section of Cleveland Metroparks website at <https://www.clevelandmetroparks.com/about/cleveland-metroparks-organization/boards-of-park-commissioners/board-meeting-archives>.

DATE OF NEXT MEETING.

The next Regular Meeting of the Board of Park Commissioners was scheduled by the Board for Thursday, April 20, 2023, 8:00 a.m. at the Board's office, 4101 Fulton Parkway, Cleveland, Ohio.

ADJOURNMENT.

No. 23-04-055: There being no further matters to come before the Board, upon motion by Vice President Berry, seconded by Vice President Moore, and carried, President Rinker adjourned the meeting at 8:17 a.m.

Vote on the motion was as follows:

Ayes: Ms. Berry, Messrs. Moore and Rinker.
Nays: None.

President.

Attest:

Secretary.