



Fact Check

Migoya, Dave. (2020) 'Metro district board candidates face election challenges because of Corona Virus restrictions.' *Denver Post*, 1, May. Available at www.Denverpost.com

Statement: Metro district board candidates face election challenges because of coronavirus restrictions.

Fact: All candidates running for public office, and proponents of ballot measures, are facing challenges, not just metro district candidates. For example, Democrats and Republicans running for state and local offices had to have new assembly guidelines designed to allow for online voting. All candidates are having to campaign via social media and traditional mail due to face-to-face restrictions. Proponents of statewide ballot initiative #122 recently announced it was ceasing its campaign because of COVID related challenges. These COVID challenges are not unique to metro district candidates.

Statement: "The actions of the board and their designated election official give us no confidence that this election will be conducted according to Colorado law..."

Fact: This statement is misleading. All metro district elections are conducted in strict accordance with state statutes and with rules and forms promulgated by the Colorado Division of Local Government and Colorado Secretary of State's Office.

Statement: From Peter Simmons Concerning Conservatory Metropolitan District. "This is a historic election...Every election has been canceled since inception and the first houses were built here in 2004. No one's every challenged these guys, and now we are and they don' seem to really like that."

Fact: All directors on the Conservatory Metropolitan District have been comprised of **all residents** for over 10 years.

Further, Colorado law provides that if an election is not contested, it can be cancelled, and the directors deemed elected by acclamation. This saves unnecessary costs associated with an election where the results are already known. Not until 2020 has there been enough interest in serving on the board to trigger an election.

Statement: Peter Simmons speaks of his written complaint to the Colorado Secretary of State over concerns that the election be conducted according to Colorado law because "...the officials law firm had placed elections signs for the incumbents (also residents) opposing Simmons on public property owned by the district."

Fact: The election is being overseen and conducted by the law firm of White Bear, Ankele, Tanaka and Waldron who have conducted elections for over 30 years and for hundreds of districts. To date, no complaints have been filed against this firm for their election oversight.



The posting referred to by Peter Simmons was biographical information that was requested by the District for each of the candidates who had filed an intent to run for a seat on the District Board, including Peter Simmons. However, Mr. Simmons failed to reply to multiple requests for his biographical information. First, on March 16, 2020, White Bear Ankele, Tanaka and Waldron, as legal counsel to the District and the Designated Election Official for the election and at the direction of the Board of Directors for the District, provided all candidates with an email requesting candidate bio information for posting on the District's website. The deadline for candidates to submit their information was the end of business on March 23, 2020. On March 23, 2020, the firm had not received a response from 3 of the candidates, including Mr. Simmons, so they sent a reminder email that 5:00 PM that day was the deadline. Mr. Simmons still did not respond. Thus, the District proceeded with posting the candidate's information and the document clearly noted that candidate information was not received by the candidate by the deadline. In Peter Simmons case, the information was never received.

The posting on District property were the bios that were received which it is legally permitted to do. Only one candidate who responded with biographical information is an incumbent. The other three candidates who responded are new candidates.

Further, it is important to note that Mr. Simmons has 2 ethics complaints filed against him personally by residents in the district. One complaint is the result of Mr. Simmons' posting on social media an offer to pay anyone \$50 for dirt on his opponents in the election.

Statement: "Highlands Metro District, unopposed resident candidates were dismayed to learn of a meeting that occurred without their knowledge. 'They had a special meeting just over a week ago (April 14) that we didn't know about as it was posted on a light pole outside of our neighborhood...They held their meeting virtually and voted at that meeting to be able to do so. Since we're not board members, they won't let us see the unapproved minutes, so it's hard to say what happened.'"

Fact: The developer representatives willingly withdrew their self-nomination forms and resigned from the District Board so that residents could be elected without the need for a costly contested election. The District did hold a meeting on April 14, 2020 and notice was physically posted at the location designated by the Board as required by Colorado law, which is one of the main entrances to the community. On April 22, 2020 one of the incoming resident directors contacted White Bear, Ankele, Tanaka & Waldron for information regarding the April 14, 2020 meeting and a response was provided a few hours later. As the April 14, 2020 minutes were not drafted yet, and were therefore not available on April 22, 2020, the incoming resident director was provided a copy of the April 14 agenda. On April 30, 2020, the District contacted all the incoming Board members regarding the regular meeting scheduled for May 13, 2020 and was also informed on that date that the minutes for April 14, 2020 would be provided and available to the Board as soon as possible. One of the resident directors also requested some historical documents for the District on April 30, 2020 and as of May 1, less than 24 hours later, over 66 documents were provided to the resident directors, including Mr. Schad who is quoted in the article.



Statement: “The election has been tricky,” Miller said. “We were able to rally some neighbors to run prior to COVID regulations but getting the word out to the community to actually vote has been hard. We cannot go door to door, so we passed out a flier with information about who is running and are relying on word of (masked) mouth.”

Fact: : Again, all candidates running for public office, and proponents of ballot measures, are facing challenges, not just metro district candidates. For example, Democrats and Republicans running for state and local offices had to have new assembly guidelines designed to allow for online voting. All candidates are having to campaign via social media and traditional mail due to face-to-face restrictions. Proponents of statewide ballot initiative #122 recently announced it was ceasing its campaign because of COVID related challenges. These COVID challenges are not unique to metro district candidates.

Statement: “In Lakewood, Miller said meetings have not been in-person affairs, making it difficult for residents to keep up.”

Fact: In compliance with the stay-at-home order issued by the Governor, the District has held two special meetings via conference call. The first on March 30, 2020 and the second on April 21, 2020. The March 30, 2020 was to replace the previously cancelled regular meeting that was scheduled for February 24, 2020. The April 21, 2020 Special Meeting was held to finalize agenda items that were deferred during the March 30, 2020 meeting. Residents of the District were in attendance by phone at both meetings. The call-in information was provided on the Agendas for the respective meetings, and posted on the District’s website. Everyone can agree that the telephone format is difficult for everyone involved, and this fact was acknowledged at the start of each meeting. At both meetings, public comment was invited and received at the beginning of each meeting, and residents were invited to ask further questions as the meeting progressed, as well as to reach out to the District Manager and District Counsel with any follow-up questions. A few residents have reached out to both District Management and District Counsel and to our understanding have had their questions addressed.

Statement: “The district meetings have been held over telephone conference,” Miller said. “Although it’s been hard from me to attend, being that I am at the hospital so often, it seems like the current board slipped in a special meeting here and there, where they already approved another \$5 million in bonds.”

Fact: Following a public hearing held by the City of Lakewood City Council the District was formed in September of 2017 for the purpose of constructing specific road, sidewalk, trail, water, sewer and storm drainage improvements to be paid for from the issuance of bonds. Following the review of the District’s financial plan and organizational documents at the public hearing, the City placed a “Total Debt Issuance Limit” on the District in the amount of \$5,000,000. Following the publicly held and properly noticed Special Meeting on March 30th, the District issued its first and only Series 2020A and Series 2020B Bonds on April 16, 2020, in the total amount of \$3,956,000. These are the only bonds issued by the District and there was not “another \$5 million” issued as implied in the statement.