

# RECORD OF PROCEEDINGS

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

OF THE

## HERITAGE TODD CREEK METROPOLITAN DISTRICT

Held: Monday, January 23, 2023 at 1:00 p.m., 8455 Heritage  
Drive, Thornton, CO 80602.

### Attendance

The regular meeting of the Board of Directors of the Heritage Todd Creek Metropolitan District was called and held as shown above in accordance with the statutes of the State of Colorado. The following Directors, having confirmed their qualifications to serve on the Board, were in attendance:

Rod Stone, President  
Karl Wilmes, Secretary  
Phil Anderson\*, Vice President  
Robert Tade, Asst. Secretary  
Paul Ozanich, Treasurer

Also in attendance were: Barbara T. Vander Wall and Marissa M. Peck, Seter & Vander Wall, P.C.; Diane Wheeler, Simmons & Wheeler, P.C.; Brandon Collins\* and Cody Conry\*, IDES; James Schulze, CCMC, District Manager; and residents/members of the public: Jon Rarick, Kathy Thweatt, Mary Romel, William Raper, Leslie Jimmerson, Tamara Morgan, Dan Raisch, Linda Parmiter, Ken and Cindy Schlessinger, John Page, Peggy Rueth, Sandy Kahn, Dennis Bruce, Joe Armstrong, Liz Atherton, BJ Hicks, John Carlson, Judy Moore, Ray Ribordy, Nick Meyers, Michael Olson, and approximately 27 persons participating virtually via Zoom\*.

[\*Participating via Zoom]

### Call to Order

Director Stone noted a quorum of the Board was in attendance and called the regular meeting of the Board of Directors of the Heritage Todd Creek Metropolitan District to order at 1:00 p.m.

### Conflict of Interest / Disclosure Matters

The Board had been previously advised that pursuant to Colorado law certain disclosures by the Board members may be required prior to taking official action at the meeting. Legal counsel advised that written disclosures of the conflicts of

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interest for each Director had been filed with the Secretary of State prior to the meeting.

No additional conflict disclosures were announced.

## Approval of Agenda

The Board reviewed the agenda. Upon motion, second and unanimous vote, the agenda was approved as presented.

## Approval of Minutes

The Board reviewed the draft minutes of the November 28, 2022 regular meeting. Upon motion duly made, seconded and unanimously carried, the minutes were approved as.

## Public Comment

Director Stone noted that he will specifically invite public comment in connection with the specific topics of snow removal operations and traffic calming as part of the agenda and Board discussion. There was no other additional public comment offered at this time.

## Annual Administrative Matters

Ms. Vander Wall discussed a number of administrative matters with the Board, which are generally addressed at the Board's first meeting of the year, in accordance with Colorado laws.

### - Director Qualification

Ms. Vander Wall asked the Directors to complete a statement which she distributed to each Director, confirming the Directors' qualifications to serve on the Board. Ms. Vander Wall asked that all documents be returned to her office as soon as practicable.

### - Disclosure and Conflicts of Interest

Ms. Vander Wall asked the Directors to review the information provided to each Director by her firm, describing how to identify a conflict of interest, and the requirements under Colorado law for disclosure of such conflicts of interest by each Director. Ms. Vander Wall asked each Director to review the contents of the letter, and to identify all existing and potential conflicts of interest each Director may have in connection with serving as a member of the Board of the District, and to complete the attached disclosure forms to be returned to her office.

### - Annual Administrative Resolution

Ms. Vander Wall presented the annual administrative resolution for discussion.

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The Board reviewed and determined to continue to use its existing newspaper publication designated for publication of legal notices, identified as the *Northglenn-Thornton Sentinel*.

Next, the Board designated its 24-hour posting place for meeting notices that are not otherwise posted under Title 32, C.R.S. as the clubhouse at 8455 Heritage Drive in Thornton, Colorado. Meeting notices will be posted on the District's website at least 24 hours prior to the meetings.

The Board determined that its regular meeting schedule will continue to be the fourth Monday of the odd-numbered months starting in January. The meetings will be held at 1:00 p.m. at the clubhouse located at 8455 Heritage Drive, Thornton, Colorado.

The Board confirmed the existing officers of the Board:

Rod Stone, President/Chair  
Phil Anderson, Vice President  
Robert Tade, Asst. Secretary  
Paul Ozanich, Treasurer  
Karl Wilmes, Secretary

The Board reviewed the engagement of its consultants, Seter & Vander Wall, P.C. serving as the District's legal counsel, Simmons & Wheeler P.C., serving as the District's accountant, IDES, serving as the District's engineer, and CCMC, serving as the District's administrator, and determined to renew its consultants for 2023.

Finally, the Board reviewed the proposed form of resolution presented by Ms. Vander Wall which memorializes the above determinations in addition to certain other administrative actions providing direction regarding actions to be taken by the District's consultants on behalf of the Board.

Upon motion made by Director Tade, and second by Director Ozanich, and unanimous vote, the Board approved the Resolution as presented.

Financial Matters

This item was deferred to later in the agenda.

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## Committee Reports

- Budget Committee

Director Anderson described the recent adoption of the District's 2023 budget, and discussed the capital mill and overlay project which may be performed in 2023 which may cause the need for a budget amendment. The timing of the project is based on the developer's construction progress. Brandon Collins, IDES, noted that the pricing environment is good at this time due to slow down in construction; he suggested that it get bid as an alternate with other repair work, and the Board may make the decision based on pricing. He suggested a walk-through take place first, to identify the work, and a bid may be ready to be presented to the Board in May. Director Stone asked about having Lennar and Golf Acquisition Partners cover a portion of the costs, due to their contribution to the traffic causing the repair work to be completed.

- Engineering Committee

The District's engineer, Brandon Collins, reported on Task Order No. 23 regarding traffic calming activities. He noted that S&S had presented a proposal in the amount of \$2,435, and proceeded with the installation but ignored certain requests regarding the striping and flag portion of the scope. Mr. Collins discussed the Heritage Drive mill and overlay costs, with ABC Asphalt providing the lowest bid. Mr. Collins presented Task Order #24 for project management services in an amount not to exceed \$50,000, which incorporates the cost overrun of approximately \$28,000 performed as part of the Task Order No. 22. Upon motion, second and unanimous vote, the Board approved Task Order No. 24.

- Landscape Committee:

Director Stone reported that the City of Thornton has provided the District with authorization to remove dead trees without replacement along Highway 7 and Yosemite Street, which had been over-planted. Some of the areas will be replaced with cobble as part of the refurbishment project. The contractor is working with the committee regarding the installation of the spring flowers. All of the fall cleanup work did not get completed.

- Snow Removal Operations Update

Director Stone provided background regarding the challenges regarding snow removal within the community, following the January 1, 2023 snow storm, subsequent snow storms, holiday staff absences, mobilization timing issues, snow dumping areas, and communication deficiencies. He noted that the completion of the development reduces the vacant areas where snow can be moved to. The information provided addressed many homeowner questions and complaints; Director Stone responded to additional questions regarding the District's snow removal

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operations, including acceptable locations for where the plowed snow can be placed, issues specific to the contractor's on-site actions, equipment and contractual obligations. The Board discussed comments and suggestions, including putting down "ice slicer" at intersections, entrances and exits, coordination of additional salt and snow removal at mailboxes, sidewalk areas, etc. after the initial push. The Board discussed a need for improvements in communication before a storm; several residents acknowledged better communication after the first storm and commended management for the improvements. Nick Meyers, the branch manager for BrightView, noted that they are aware of the communication issues and are working on improvements.

Next, Director Stone reported on a proposal received from the Heritage Todd Creek Townhome HOA regarding sharing of snow removal contractors and costs. He noted concerns including precedent for similar townhome projects within the District, budget limitations, inconsistent specifications, and the need for agreement by all townhome residents. He stated that this will be revisited.

Director Stone reported on the status of discussions with Golf Acquisitions and ownership of Golf-owned property which may be considered appropriate for ownership by the District. They are looking at options.

## Special Committees:

- Community Landscaping Advisory Committee
- Traffic Calming Committee

There was no additional report from the community landscaping advisory committee at this time.

Director Wilmes provided history of the committee and its discussions regarding efforts for traffic calming in the community. The committee tries to meet once per month. The goal is to slow traffic in the Heritage Todd Creek community. Some of the options the committee has looked at are rearranging traffic lanes, bulbouts, and medians, which are very expensive. The Board approved Committee recommendations for the installation of stop signs, to be placed in designated locations, with input from a traffic engineering study as to average speeds used in various areas. It was expected that the signs would serve as an experiment which may be considered for future efforts. The contractor installed the signs with little notice, and then got delayed on the striping and painting portion of the work due to snow. Director Stone noted that the sign locations will need to

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be reviewed in connection with the deciduous trees and visual impact once the trees leaf out in the spring. Director Tade inquired about lit stop signs which may be more visible.

Members of the public expressed comments regarding the signs, including a concern as being regulatory rather than a traffic calming tool, the timing of their installation was hasty, the signs present new dangers, and are aesthetically not pleasing. Director Wilmes noted that these comments will be taken back to the Committee for discussion. The Board discussed the problem areas, including along the bed of Rosemary, and Willow, which has not yet been accepted from Lennar. The Board also discussed the enforcement of the stop signs, and circumstances of careless driving or negligence, or traffic accidents, which would be investigated by the Thornton police. It was noted that a follow up traffic study is planned to take place in late spring.

The Board discussed researching the issue of incidents involving vehicles, golf carts and pedestrians, and where there may be right-of-way rules to be followed. Legal counsel agreed to follow up on this research.

Director Ozanich noted that there is currently a vacancy on the traffic calming committee, and that applications should be submitted by the deadline of January 28, 2023.

- Other: There were no other committee items presented at this time.

## Financial Matters:

- Financial Report and Payment of Claims

Ms. Wheeler reviewed the claims for the period through October, in the total amount of \$29,246.05 for approval, which includes accounting, legal, insurance and engineering costs. Upon motion, second and unanimous vote, the Board approved the claims as presented.

Ms. Wheeler reviewed the financial report with the Board, dated December 31, 2022. She advised that the District will need to amend its 2022 budget to increase the debt service fund to accommodate the B bond payment made in 2022. Upon motion by Director Anderson, second by Director Wilmes, and unanimous vote, the Board accepted the financial statements as presented.

She reported that she has identified two accounting firms

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interested in providing a bid to perform the District's financial audit, which will be presented at the next meeting.

There were no other financial matters brought forward at this time.

## Manager's Report

Mr. Schulze reviewed his manager's report with the Board. He noted that he is in the process of updating the District's website, and is working with staff and District counsel on this project.

DGO Access, the gate contractor, has identified some areas of repair and software issues for follow up. The Yosemite gate has a CAT 5 cable in close proximity to the power line, which will need to be moved. Mr. Schulze anticipates this project will take place in the spring; he will provide a quote to be presented to the Board at that time.

Director Stone asked about the asphalt patch work done at 149<sup>th</sup> Street, which was done in connection with a homeowner repair project. He requested that Mr. Schulze review the District's policy regarding street cuts.

Mr. Schulze noted that the Quebec monument lights are out, and will be replaced by BrightView; the work has been delayed due to supply issues.

Director Anderson asked about the street light at the corner of 148<sup>th</sup> and Syracuse; which is in process of being repaired. Director Tade noted that the holiday wreaths and garland looked nice, but would like to look into whether electricity can be added to match the other gates.

The Board discussed a "continuity of operations" policy, which addresses chain of communication for contact purposes, particularly in emergency circumstances.

The Board discussed additional updates to be made to the District's website, including meeting dates for 2023, and correction of certain information which is inaccurate.

## Legal Status Report

Ms. Vander Wall reviewed the legal status report with the Board. She provided a status of the May 2, 2023 director's election. The Board agreed that the slate of candidates be posted on the District's website, as well as presented in an e-blast to the community. The Board discussed a meet and greet event for the

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candidates, which would be hosted by the HOA. Mr. Schulze agreed to work with legal counsel on these items.

Ms. Vander Wall discussed District website requirements, including contact information for board members, pursuant to new laws effective in 2023. She reviewed legal requirements for Director communications, which provide immunity protections to the Board so long as the communications meet legal protocols. The Board discussed setting up email addresses for board members that are specific to the District, to be used for District business only. Mr. Schulze agreed to work with the IT department and legal counsel to establish the appropriate email addresses.

The Board discussed issues of wildfire mitigation; Director Tade noted that Thornton is working on a plan that he intends to monitor.

## Other Business

Director Stone asked the Board to approve the proposed use of the "Ice Slicer" by BrightView in the amount of \$1,157.50. Mr. Nick Meyers stated that BrightView will be implementing this first treatment without charge to the District at the stop sign.

There was no other business presented at this time.

## Public Comment

There was no additional public comment presented at this time.

The next regular meeting of the Board of Directors is scheduled for Monday, March 27, 2023, at 1:00 p.m.

## Adjournment

The meeting was adjourned at approximately 4:10 p.m.

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Secretary for the Meeting