

# 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, July 25, 2022 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  
Paul Ozanich, Treasurer  
Karl Wilmes, Secretary  
Phil Anderson, Vice President  
Robert Tade, Assistant Secretary

Absent: None.

Also in attendance were Barbara T. Vander Wall, Seter & Vander Wall, P.C.; Diane Wheeler\*, Simmons & Wheeler, P.C.; Cody Conry, IDES; Sue Santos, CCMC, District Manager; and the following members of the public: Charles Cohen, 15361 Quince St., Jane Nieland, 14839 Syracuse St., Jon Rarick, 15587 Valentia St., Vail Hanlon, 15537 Valentia St., Leslie Jimmerson, 15547 Valentia St., Bill Biesendorfer, 15551 Xanthia Ct., Harlan Krusemark, 8803 E. 155<sup>th</sup> Ct., Gary & Norma Krech, 15262 Quince St., Vic Sparks, 15342 Quince St., Dan Daywalt, 15292 Quince St., Jim Decker, 15351 Quince St., Greg Maestas, 15332 Quince St., Neal & Karen Nugent, 15303 Quince Cir., Ray Purinton, 15118 Verbena St., Marty Williams, 15408 Roslyn St., Denise Stovall, 8367 E. 148<sup>th</sup> Way, Cathy Radueg, 15322 Heritage Cir., Jan Guyer, 8019 Heritage Dr.

#### 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 /

The Board had been previously advised that pursuant to

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## Disclosure Matters

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 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. Director Stone suggested moving public comment to take place following the 2022-2023 landscape/snow removal service proposals discussion. The agenda was approved with this modification.

## 2022-2023 Landscaping / Snow Removal Services Proposals

Director Stone described the process used for the solicitation of proposals for landscaping and snow removal services for 2022-2023. Initial discussions were held by the Board at its meeting held in March 2022, with consideration of the form of "Request for Proposals" at its May meeting, including the publication of to the request for proposals in June, and a schedule of events for interested proposers.

The Board received three proposals from BrightView Landscape Services, CoCal Landscape Services, and TCGC Landscaping. The TCGC proposal was limited to snow removal services only. Director Stone reported on the proposals and compensation provisions for each company. The Board agreed to defer the contract negotiations discussions to executive session, and to make a determination thereafter.

## Public Comment

Several members of the public wished to speak on the topic of the landscaping / snow removal services proposal, and other items.

Mr. Dan Daywalt, 15292 Quince Street, shared a letter with the Board outlining his concerns regarding the proposed services and contractors, including conflicts of interest with TCGC and the golf course.

Mr. Charles Cohen, 15361 Quince Street, shared that BrightView knows how to price its contracts, that increases may be justified, and criticized past performance of services on the golf course.

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Mr. Gary Krech, 15262 Quince Street, asked whether all contractors bid on the same scope of services. Director Stone explained that the same scope of services and proposed form of contract was shared with all proposers.

Ms. Norma Krech, 15262 Quince Street, asked about the expiration of the current services agreement with BrightView, and the termination process. She asked about the impact on the agreement created by TCGC's interest in providing services.

Mr. Charles Cohen, 15361 Quince Street, stated that it was the Board's responsibility not to break the existing contract; and questioned whether there may be a conflict of interest with TCGC. He stated that it is not in the community's best interest to get a reputation of terminating contracts.

Mr. Bill Biesendorfer, 15551 Xanthia Court, spoke about the water quality pond No. 7 which was built behind his home by Lennar. The City of Thornton says the pond is inadequate and is requiring that a bigger drainage pond be built, with an approved plat. When they started moving dirt in April, the golf course shut down the project. He believes the area is in danger of flooding and is a hazard. The golf course does not want to maintain the pond and wants the District to take over maintenance. Director Stone stated that he is not aware of a resolution to the issues at this time.

Mr. Charles Cohen, 15361 Quince Street, stated that this is one more example of the lack of cooperation between Golf and the City, and the District which does not have funds to provide the additional services. He believes Golf got a good deal when it acquired the property, and would like to see all of the entities, Master HOA, District, Golf and Lennar, working together on a solution.

Mr. Dan Daywalt, 15292 Quince Street, agrees that Lennar has created the mess, and agreed with Mr. Cohen.

Ms. Jane Guyer, 8019 Heritage Drive, spoke on the topic of a tree located at the south corner of her house. Originally it was thriving but believes it will die since the rock material was applied. When the sidewalk got put in, it used to get mucky and moldy, and icy in the winter. A drain has been installed next to it, but it is still problematic, including mosquitoes and a smell. She has photos of the landscaping problems, and would like to

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share them with the company who is responsible, so that it can be corrected. Director Stone noted that the chase drain was installed by Lennar, primarily in the Amendment 9 area, and that Lennar says they have fixed it twice. Jan Guyer will speak with Lennar regarding corrective work.

Mr. Jon Rarick, 15587 Valentia Street, stated that he moved in at the end of April and has not received anything in the mail regarding communications. He also described limitations Lennar may have in accessing the golf course property for corrective work.

## Approval of Minutes

The Board reviewed the draft minutes of the May 23, 2022 regular meeting. A correction was made to the reference on page 6 to stop signs at “Verbena” which should read “Uinta.” Upon motion duly made, seconded and unanimously carried, the minutes were approved as corrected.

## Financial Matters

The Board deferred the financial discussion to take place after the budget committee report.

## Committee Reports

- Resolution regarding Committee Appointments

Ms. Vander Wall presented a resolution regarding the District’s committee appointments, based on the discussion held at the May meeting, appointing Director Tade to the engineering committee to fill the empty committee seat left by Mr. Kettle. Upon motion, second and unanimous vote, the Board approved the resolution as presented.

- Budget Committee

Director Anderson advised that he has prepared a financial presentation to be presented to the community, and that he is working on finding a date that works. He is working with the Board and committees on projected expenses on District items for the 2023 budget. Director Anderson asked the Board members to provide any 2023 budget items with costs, to him by September 1.

## Financial Matters (cont.)

- Financial Report and Payment of Claims

Ms. Wheeler reviewed the Financial Statement with the Board dated June 30, 2022, and presented the engineering, accounting and legal claims payable through July 20, 2022, in the amount of \$37,177.34. Ms. Wheeler reviewed the debt service payment that was made on June 1, 2022; the next payment will be made on December 1, 2022. An adjustment will be made to the 2023 budget to reflect the non-payment to the sub bond holder this

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year. She noted that specific ownership tax revenues are down. The Board asked about the line item for “developer subsidy” – which is reimbursement of snow removal costs. She noted that the election costs were approximately \$20,000, under the budgeted amount of \$35,000. The Board discussed future expenses, including mill and overlay from Yosemite to E. Uinta, noting this is estimated to cost about \$800,000; the project has been held off to date due to construction traffic. Director Stone noted he’d like to communicate with Lennar on this item. The Board discussed having a reserve fund; Ms. Wheeler noted that a governmental reserve fund requires an external directive.

After further discussion, and upon motion, second and unanimous vote, the Board approved the June 30, 2022 financial statement and the claims payable as presented for approval.

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

Committee Reports (cont.)  
- Engineering  
Committee

Director Anderson described the District’s responsibility for roads and sidewalks, subject to Thornton guidelines. Cody Conry, District engineer with IDES, is working with him on roadway maintenance and repair items. The District has budgeted \$175,000 for this project.

Mr. Conry reported on the roadway repair bids received, which included only one bid from ABC Asphalt for the project. Other contractors have declined bidding due to a backlog of work. Director Anderson noted that ABC has done work for the District in the last year. Based on the proposal, work would begin on August 8, 2022 and finish within 30 days, for the cost of \$140,549, with an additional cost for a permit from Thornton, estimated at \$10,000. Mr. Conry recommended the Board accept the bid and enter into the contract with ABC Asphalt based on the bid received.

Upon motion by Director Anderson, and a second by Director Tade, the Board accepted the bid from ABC Asphalt for \$140,549 with the request that IDES try to reduce the permitting costs from the contractor.

Mr. Conry also reported on IDES Task Order No. 23 regarding the traffic calming scope, which was approved by the Board at the last meeting. Director Wilmes will speak further on this project.

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- Landscape  
Committee:

Director Stone shared highlights from the landscape committee report. Services performed by the District's current tree contractor are not satisfactory. He has requested a quote from BrightView, which uses Rocky Mountain Tree Company, for tree services, for comparison purposes. Taddiken will provide the District with estimates to be used for the District's 2023 budget. He would also like to add tree replacement costs into the District's budget to be able to conform with City of Thornton tree requirements.

Director Stone discussed the proposals he has received from CoCal, Taddiken and BrightView for removal of approximately 60 dead trees; which can include stump grinding if appropriate.

Director Stone reported on testing out the potential application of bark mulch as a cheaper option than mulch/bark/ rock replacement material. He is in communication with a nearby commercial business which intends to give away bark mulch for free, subject to pick up. Director Stone suggested the District obtain the free mulch for the cost of pick up, and apply it on the outside perimeter area on a "test" basis. Director Stone has obtained a quote for this service of \$200. There were comments regarding the possibility of the material containing pests, and regarding its use in several other locations. Director Anderson commented that the District spent approximately \$70,000 to install new mulch pursuant to Thornton requirements.

Director Stone reported on the dry winter and the need to provide winter watering for the District's trees, which will need to be included in the District's budget. There are currently 6 spruce trees which require deep watering and fertilizer, which has been quoted by BrightView to cost \$809.61, in order to allow the trees to thrive and not die. He is working with BrightView to obtain a proposal for an upgrade to the District's irrigation controllers. He reported that HTC Golf and the District have had some communications regarding the potential transfer of Golf-owned property to the District for ownership and maintenance. No proposals have been submitted at this time. Director Anderson added that prior to the District taking over any such property, it would need to be surveyed and re-platted, and any expenses would be borne by Golf, including any outstanding taxes owed.

In response to a question regarding the addition of street lights to Willow Street, Director Stone advised that that area is

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designated a “dark zone” by the City of Thornton.

Director Stone commended the Landscape Committee members for all of their hard work in putting together a proposed three-year landscaping plan.

Committee member Marty Williams presented the proposed landscaping plan, with a description of differing types of landscaping needs (mulch, weed removal, ground cover, trim, removal, plant and irrigation) across the District, to take place in year 1, 2 or 3. Mr. Williams reviewed the committee’s recommendations with the Board, including irrigation, removal of dead trees, engaging an arborist consultant, hiring a landscape employee, using alternative materials to mulch, and creating a capital reserve fund. He also recommended that the committee continue in existence with a focus on review of maintenance issues and communication with the District Board. Ms. Cathy Radueg and Ms. Denise Stovall assisted in the committee presentation.

The Board thanked the landscape committee for its work, and suggested that the next step would be to identify the costs which may then be considered as part of the District’s budget.

Upon motion by Director Wilmes, second by Director Ozanich, and unanimous vote, the Board approved the 3-year landscaping plan and authorized the committee to proceed with obtaining price estimates, with the caveat that the plan may be modified if needed.

Director Stone requested approval for the proposed bark replacement and application, spruce tree deep watering and fertilizer treatment services, and removal of some dead trees, as discussed, for an amount not to exceed \$10,000. Upon motion, second and unanimous vote, the Board approved the request.

## Special Committees:

- Community Landscaping Advisory Committee
- Traffic Calming Committee

There were no other items to add to the prior landscaping discussions.

Directors Wilmes provided a summary of the traffic calming committee findings and recommendations from the prior meeting. He has been working with IDES on a task order for the preparation of a professional design required for a raised

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crosswalk, the installation of a speed limit sign at the Quebec gate entrance, and the installation of “back to back” stop signs at Uinta. Cody Conry noted the status of the work pursuant to the task order.

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

## Manager’s Report

The Board acknowledged the departure of Ms. Henderson from CCMC, and that CCMC is in the process of identifying a replacement person to provide management services for the District. There was no other manager report to present at this time.

## Legal Status Report

Ms. Vander Wall presented the legal status report and discussed highlights.

- Entry Gate Contract

Ms. Vander Wall presented a form of termination of services agreement with U.S. Fence Solutions, LLC (dba Western Access), based on recommendations from management, including failure to perform services and inadequate communications. Upon motion, second and unanimous vote, the Board approved the termination of services agreement as presented. The Board also discussed entering into a new services agreement with Colorado Premier Garage Doors. Director Tade noted that this company is not good for the gate programming needs, but should be appropriate for maintenance services. The Board discussed further investigation of its needs. Director Stone stated that the District needs to be able to lock open the gates in the event of a big snow, so that they don’t break. The Board discussed the transmitters and affirmed that it needs a vendor capable of handling the mechanical portion of the gates, and the Opticom component. Director Ozanich and Director Tade agreed to meet with the Colorado Premier contractor and explore its options. This would then be converted into a scope of work to be incorporated into a new agreement for services. Upon motion, second and unanimous vote, the Board approved entering into an agreement with Colorado Premier Garage Doors, subject to an appropriate scope with service rates.

- Other

The Board discussed the perimeter trail, and requested that the uneven walk areas get yellow painted to highlight the trip hazard.

## Other Business

Director Tade volunteered to ask the City of Thornton about taking over the street light maintenance along Yosemite.



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## Executive Session

Upon motion, second and unanimous vote, the Board determined to go into executive session at approximately 4:30 p.m. to discuss and development negotiating positions regarding the proposals for landscape and snow removal services for the District, to discuss personnel matters, and to consult with the attorney and receive advice thereon, pursuant to § 24-6-404(4)(e), (f) and (b), C.R.S.

At 5:30 p.m. the Board of Directors reconvened in public session, and noted that no actions had been taken in executive session.

## 2022-2023 Landscaping / Snow Removal Services Proposals (cont'd)

Following discussion, and upon motion, second and unanimous vote, the Board agreed to retain the services of BrightView for landscaping and snow removal services at the pricing provided as part of BrightView's new bid, and further directed Director Stone to advise all of the bidders of the Board's decision.

## Old Business

There were no items of old business presented at this time.

## New Business

There was no new business presented at this time.

## Public Comment

There was no public comment offered at this time.

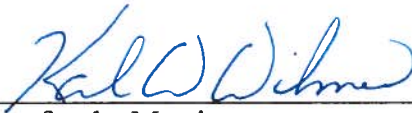
## Other Business

There was no other business presented at this time.

The next regular meeting of the Board of Directors is scheduled for Monday, September 26, 2022, at 1:00 p.m.

## Adjournment

The meeting was adjourned at approximately 5:35 p.m.



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Secretary for the Meeting