

# 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, March 25, 2024 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, Assistant Secretary  
Robert Tade, Treasurer  
John Laatsch, Secretary  
Jon Rarick, Vice President

Absent: None.

Also in attendance were: Barbara T. Vander Wall and Joel Drew, Seter, Vander Wall & Mielke, P.C.; Georgia Harland, Simmons & Wheeler, P.C.; Cody Conry (by phone), IDES; Melissa Kupferer, AdvanceHOA, District Manager; and the following residents/members of the public: Dan Daywalt, Gary Meyer, Tim & Leslie Jimmerson, Charles Cohen, Ray Ribordy.

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

No additional conflict disclosures were announced.

# RECORD OF PROCEEDINGS

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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 January 22, 2024 regular meeting. Upon motion duly made, seconded and unanimously carried, the minutes were approved as presented.

Public Comment                              Mr. Dan Daywalt introduced himself as a representative from the Master Association, and a designated liaison to the District. He provided information regarding the proposed golf croquet club and stated that the HOA would like to set up a croquet court in the community, which will require specific landscaping. He asked if there was interest from the District to collaborate on this in some manner. Director Stone noted that the District currently supports corn hole and bocce ball at times. Director Rarick stated that a croquet court needs 17'x17' plat with 1" grass. Director Laatsch stated that any area would need to be re-graded. Director Laatsch agreed to research and bring information back to the Board.

Financial Matters:

- Financial Report

Ms. Harland reviewed the financial report with the Board for the year end, dated December 31, 2023. The District now bills Lennar on a quarterly basis for snow removal services. She reviewed the debt service fund, noting that the Series 2007 Subordinate bonds, the Series 2015 and the Series 2020 bonds are all now at \$0 and will come off the District's books. The District's debt service is now shown as the District's Series 2023 A1 and A2 loan with Western Alliance.

The Board reviewed the management fees budget, noting that certain line items are outside the management fees and are separately accounted. The Board requested these items be individually itemized on the District's future budgets to allow the Board to track the expenses, including postage and statements. Director Stone also inquired about the handyman fees, and requested additional detail for the work performed. Following further discussion, and upon motion by Director Laatsch, second by Director Rarick, and unanimous vote, the Board accepted the financial statements as presented.

It appears that the District will need to amend its 2023 budget to address maintenance fee revenues exceeding the District's budgeted amount. Ms. Harland will follow up to confirm.

# RECORD OF PROCEEDINGS

---

Ms. Harland provided an update on the District's electrical accounts with United Power; she noted that the District has accounts for 5195 and 5298 E. 144<sup>th</sup> Avenue for irrigation, and lighting / irrigation & timer electrical services, which lie outside of the District's boundaries. Ms. Harland's research with United Power referenced that the prior management company directed the addresses to be added to the District's account, but any incorrect payments were not eligible for reimbursement. Ms. Harland agreed to provide calculations for the total amount paid incorrectly; Director Stone stated that he will discuss with Lennar.

- Payment of Claims

Ms. Harland reviewed the claims for the period through March 20, 2024, in the total amount of \$270,070.34 for approval. Ms. Harland pointed out the amounts which are being billed back to Lennar, including a portion of the work performed by Golden Painting Services for the stucco wall (\$3,200.00), and the ornamental grass cutting services (\$19,117.67).

Director Rarick noted that water bills for the irrigation of the clubhouse were paid for approximately four months in 2023, which should have been paid by the HOA, totaling approximately \$12,000. This line item was misclassified by the District's prior management services contractor, CCMC. Mr. Daywalt noted that CCMC has closed its 2023 books; its contract with the HOA expired in 2023 and Golf Acquisitions is now the new property manager. Ms. Harland agreed to follow up to determine what options there may be to recover these funds.

Upon motion by Director Rarick, second by Director Laatsch, and unanimous vote, the Board approved the claims as presented.

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

## Committee Reports

- Budget Committee

Director Rarick reported that the District has budgeted approximately \$400,000 for mill and overlay services, which budgeted amount should be moved to 2025, and instead perform crack seal services on the District's roadways in 2024. These services would not include Amendment 10, which is in initial

# RECORD OF PROCEEDINGS

---

acceptance period, nor Amendment 11, which was just accepted. Director Stone added that cul-de-sacs on Heritage should also be deferred to mill and overlay work in 2025. Director Ozanich asked if IDES could provide a proposal for each street. He stated that from 149<sup>th</sup> and Uinta down, should be budgeted in the following year. The District should change from having a “reactive” plan to a forward-looking plan.

- Engineering Committee

In addition to the discussions already held, Director Tade reported on the three gates and the electrical work to be done.

Mr. Cody Conry, with IDES, noted that he will be doing walks with the committee members regarding street repairs work to be bid and completed in the Spring.

- Landscape Committee / Community Landscaping Advisory Special Committee:

Director Stone discussed the various landscape projects approved by the Board and their status, including the Phase 1 cobble project, the addition of landscape mulch, the installation of plants at the entrance gates, additional native mow, an irrigation audit from Vargas, weed spray and tree replacement. The spring start up work by Vargas will commence soon. Tree replacement work is now being performed by Bartlett instead of Vargas. Director Laatsch suggested the Board budget additional funds in 2025 for more landscape amenities, tree replacement, and additional cobble. He noted that it will be an ongoing effort to maintain the quality of life in the District with the landscaping. Mr. Daywalt requested that the District provide a notice to the community regarding the pile of rocks, which are part of the District’s cobble project.

- Traffic Calming Special Committee

Director Ozanich reported that the committee met on March 1, and will meet again on April 5. The committee is working on a survey to be sent to people on or close to Uinta. Director Laatsch asked about the Willow Street location for the Thornton speed indicator sign. Director Ozanich wants to share the list of options for locations. He noted that he has been in contact with the handyman who is working on the District’s speed indicator sign to figure out why it’s not working. Cody Conry, with IDES, has been looking at 18” signs and getting pricing from manufacturers. Director Rarick stated that speed limit signs on Uinta are too low, and do not meet a 7’ federal code height regulations.

# RECORD OF PROCEEDINGS

---

## Manager's Report:

Ms. Kupferer reviewed her monthly report with the Board, including maintenance activities, current projects and action items. She received a homeowner request for the installation of a pedestrian gate to be installed along Highway 7 and Yosemite entrance. The Board discussed the "board books" and it was determined that the Board will keep their binders, and AHOA will print pages to be inserted each month. Ms. Kupferer noted that the handyman assigned to the community will be changing, and will be coming to the Monday meetings.

Director Ozanich stated that homeowners were confused regarding the District's collections and delinquencies. The Board requested that AHOA provide follow up on accounts which have not been paid in a long time. The HOA has done some research and may be able to share information regarding change in ownership, leasing or deaths which may affect payments.

Ms. Kupferer noted that there is a suggestion for the District to collaborate with the HOA on holiday lighting. The discussions are still in process.

Ms. Kupferer reviewed the proposals for District operations / projects:

C&R Electrical Lighting – this proposal includes two options, with the 2<sup>nd</sup> proposal to include uplighting on the new trees. Director Rarick recommended the \$21,656 amount to include all lights at all gates, including tree lights; Director Laatsch noted his preference to turn off the lights which highlight dead trees. He stated that there is a soil and water problem there which needs to be addressed in the future. Following further discussion, and upon motion by Director Tade, second by Director Rarick, and a vote of three in favor, none against and one abstention (Director Laatsch), the proposal in the amount of \$21,656, and accompanying agreement for services with C&R Electrical, was approved.

Page Specialty – this proposal is for the cluster mailbox replacement in the amount of \$2,406; it was noted that the cluster mailboxes were identified as belonging to the District and not the HOA based on historical research. Upon motion, second and unanimous vote, the Board approved the proposal and agreement for services with Page Specialty.

# RECORD OF PROCEEDINGS

---

CertaPro Painting – upon motion, second and unanimous vote, the Board approved the proposal for the powder coat painting of the entrance gates and pedestrian gates in the amount of \$19,995, and the accompanying agreement for services with CertaPro Painting.

Golden Painting - Upon motion, second and unanimous vote, the Board ratified the agreement with Golden Painting for the monument work, in the amount of \$1,350.

DGO Access – Ms. Kupferer described the proposal for installation of communication equipment for the key pads, updated to accommodate Century Link, in the amount of \$4,260. Upon motion, second and unanimous vote, the Board approved the DGO Access proposal as presented.

- Vargas Proposal for Ornamental Grass Cutting

Ms. Kupferer presented Vargas’ proposal for ornamental grass cutting, in the amount of \$13,104, to be performed as an “Additional Service” under its contract. The Board discussed the possibility of a reduction in price to be negotiated by Director Stone. Upon motion, second and unanimous vote, the Board authorized the proposal subject to any negotiated price reductions.

## Legal Status Report:

Ms. Vander Wall referred the Board to her legal status report, and reviewed the pending items.

- Amendment to Golf Cart Agreement

The Board reviewed the proposed Amendment to Golf Cart Agreement between the District and the Master Association, which provided for the sale of the golf cart, sharing of proceeds from the sale and termination of further responsibilities between the parties. The amendment has been approved by the Master Association. Upon motion, second and unanimous vote, the Board ratified and approved the Amendment as presented.

- Tract A Golf Cart Access

The Board reviewed the issue of golf cart access to District-owned property. Communications received from the City of Thornton acknowledge that the City does not have a concern regarding the placement of speed bumps so long as they do not impede the City’s ability to access City infrastructure across Tract A. The Board discussed options for enforcement of limiting golf cart use on District-owned property. Because the District does not have police powers, its means of enforcement

# RECORD OF PROCEEDINGS

---

are limited. Mr. Meyer stated that Adams County records show that Tract A was identified previously as a drainage easement, and is now used as a short cut for a cart path. After further discussion, the Board members agreed not to take on additional enforcement actions at this time related to the use of golf carts on District-owned property.

- Demand Letter from BrightView  
The Board discussed the authorization given to the President regarding a reduction in payment on outstanding items. Director Stone noted that some of the items on the BrightView invoice were removed, but the amount of \$16,877 remains, which is identified in BrightView's demand letter. Director Laatsch noted that he made efforts to have additional communications with BrightView to reach a compromise, without success. After further discussion, and upon motion, second and unanimous vote, the Board approved final payment to BrightView in the amount of \$16,877.

## Old Business:

- Ratification of JC Landscapes Agreement for Phase 1 Landscape Rock / Cobble Replacement Project  
The Board discussed the Phase 1 landscape project in the amount of \$67,500 for cobble replacement at the Quebec entrance, as discussed at the prior Board meeting, and the associated agreement with JC Landscapes LLC for the project. Upon motion, second and unanimous vote, the Board approved and ratified the Phase 1 project as presented.
- Update regarding District Website  
Ms. Kupferer reported that AHOA is still working on the new website, and addressing requirements to transition the existing site to the new platform provided by Streamline. They are trying to track down the ownership of the "Go Daddy" rights to the site, which were put in place prior to the new manager.

## New Business:

- Vargas Work Order for Annual Flowers  
Director Laatsch presented the updated proposal from Vargas for the installation of annual flowers in the amount of \$17,962.00. It was noted that the work would be performed as "Additional Services" under the existing landscape agreement with Vargas. Upon motion, second and unanimous vote, the Board approved the proposal for additional services as presented.
- Proposal for Phase 2 Landscape Rock / Cobble and Mulch Project  
Director Stone presented the new proposal from JC Landscapes LLC for the Phase 2 landscape cobble and mulch project in the amount of \$16,220. Upon motion, second and unanimous vote, the Board approved the agreement with JC Landscapes for the Phase 2 landscape cobble and mulch project.

# RECORD OF PROCEEDINGS

---

- Resolution regarding District Sign Policy      The Board deferred this item to later in the meeting.

## Other Business:

- Next Meeting Date/Holiday Conflict      Ms. Kupferer noted that the May meeting conflicts with the Memorial Day holiday. The Board agreed to move the meeting date from May 27 to May 20, 2024.

- Other      Director Stone noted that “Heritage Todd Creek water committee” has been created as an exploratory committee in connection with water for the community based on an intergovernmental agreement which expires at the end of 25 years. Director Rarick noted that he is attending the meetings, individually and not on behalf of the District, and will share information learned.

## Executive Session

Upon motion, second and unanimous vote, the Board agreed to enter into executive session for purposes of discussion public improvement accessibility issues; local government compliance with First Amendment issues; and District management services agreement, including determining positions relative to matters that may be subject to negotiation and instructing negotiators, and consulting with the attorney and receiving advice thereon, pursuant to § 24-6-402(4)(b) & (e), C.R.S., at approximately 4:00 p.m.

At 5:04 p.m. the Board reconvened into open session and determined that no actions had been taken while in executive session.

## New Business (cont.):

- Resolution Adopting District Sign policy (cont.)      Legal counsel presented a proposed resolution regarding sign rules on District-owned or District-managed property. The proposed rules are intended to help preserve the quality of District property, enhance community safety and assure that signs do not become a nuisance or a dangerous distraction along roads, intersections or common areas; and to prohibit activities that interfere with the use and enjoyment of such property and facilities. The rules permit compliant temporary non-commercial signs for one-time events, and prohibit commercial messaging signs on District-owned or District-managed, as defined in the resolutions. The Board reviewed the criteria for permitted signs, and agreed to increase the temporary period for signs to be permitted to be placed up to 7 days prior and 7 days after the event. After further discussion, and upon motion by



# RECORD OF PROCEEDINGS

---

Director Tade, second by Director Laatsch, and unanimous vote, the Board approved the resolution adopting sign rules with the modifications discussed. In addition, the Board directed AHOA to do an e-blast to the community regarding the sign rules, and to post the resolution and rules on the District's website.

- Other

Director Stone suggested that the Board review the proposed signage for the pedestrian gates at a later meeting.

The Board discussed complaints regarding construction debris and dust, and suggested communicating safety issues to the community.

Public Comment

There was no additional public comment presented at this time.

The next meeting of the Board of Directors is scheduled for May 20, 2024 at 1:00 p.m.

Adjournment

The meeting was adjourned at approximately 5:25 p.m.

  
Secretary for Meeting