

# 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, September 26, 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

Absent: Robert Tade.

Also in attendance were Barbara T. Vander Wall and Marissa M. Peck, Seter & Vander Wall, P.C.; Diane Wheeler, Simmons & Wheeler, P.C.; James Schulze, CCMC, District Manager; and the following members of the public: Vail Hanlon, 15537 Valentia St., Ray Ribordy, 7446 E. 148<sup>th</sup> Pl., Dan Daywalt, 15292 Quince St., Joe Armstrong, 7952 E. 151<sup>st</sup> Pl., Jon and Vangie Rarick, 15587 Valentia St., Jan Guyer, 8019 Heritage Dr., Dick Wheeler, 15293 Xenia St., Jeanine Gozdz, 15235 Ulster Way, and Brenda Anderson, 8092 Tamarac Ct.

#### 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 July 25, 2022 regular meeting. A correction was made to the “public comment” section, page 4, to clarify that Jan Guyer will speak with Lennar for corrective work. A correction was made as part of the landscape committee discussion, page 6, to revise the “gorilla” mulch to “bark” mulch, in two places, and the removal of Ms. Jan Guyer’s name as a landscape committee member, on page 7. Upon motion duly made, seconded and unanimously carried, the July 25, 2022 minutes were approved as corrected.

Next the Board reviewed the draft workshop special meeting minutes of the September 13, 2022 financial workshop meeting. Director Ozanich added Beth Ozanich to the list of attendees. Upon motion, second and unanimous vote, the Board approved the September 13, 2022 minutes as amended.

## Public Comment

A question was asked about the posting of the District’s meeting minutes online; it was confirmed that the minutes are posted to the District’s website under the “Documents” tab for viewing after they are approved by the Board.

A question was asked regarding tree replacement; Director Stone noted that this topic will be addressed later in the meeting.

A question was asked about gates and repair; Director Stone acknowledged that this topic would also be covered later in the meeting.

A member of the public noted that the 4-way stop sign at Heritage Drive is masked by tree foliage, at Uinta. Director Stone responded that the District will look into trimming this tree.

There was a complaint regarding speeding on Heritage Drive, and further comments regarding Willow Street becoming a race track. Director Stone stated that the Board has been talking about traffic calming options, and how to calm traffic without penalizing everybody else.

# RECORD OF PROCEEDINGS

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A member of the public pointed out that DR Horton has a sign in the middle of the street on Yosemite going north, with an arrow pointing to the west. The Board discussed the rights of ownership for the subject property, and agreed to review the location.

Several comments were made regarding the desire to have mosquito abatement services, particularly on the golf course areas where there are lots of water hazards which attract mosquitoes. It was recommended that the complaints be directed to the County and/or the City, for future action.

## Financial Matters:

- Financial Report and Payment of Claims

Ms. Wheeler reviewed the legal, accounting and engineering claims for the most recent period in the total amount of \$26,036 for approval; she noted that she has not yet received the CCMC financial input for the District's Financial Statement. Upon motion, second 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 Anderson reported on the recent financial workshop presented on September 13, 2022, designed to educate the community on the District's financial operations. He stated that he is working with the committee on obtaining projected expenses for 2023, and will be meeting with Diane Wheeler regarding the draft budget. The hearing on the proposed 2023 budget is scheduled for November 28, 2022 at 1:00 p.m.

- Engineering Committee

On behalf of the engineering committee, Director Anderson described the proposed preliminary acceptance of the Amendment 13 (phase 6) street improvements surrounding Quince Court, based on recommendations from the District's engineer. He noted that the punch list items have been taken care of, and upon Board approval, the District's 24-month warranty period will begin. It was noted that during the warranty period, the District will be responsible for operations and snow removal, Lennar will be responsible for any defects or deficiencies in workmanship. The Board reviewed the proposed resolution and warranty agreement presented regarding the preliminary acceptance of the Amendment 13 (Phase 6) street improvements. Upon motion, second and unanimous vote, the Board approved the Resolution and warranty agreement as

# RECORD OF PROCEEDINGS

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presented, for the preliminary acceptance of the Amendment 13 street improvements as presented.

Resident Joe Armstrong noted the area where four cracks were repaired, but are still deficient. Director Anderson stated that this is part of the warranty work being performed by its contractor ABC Asphalt; the contractor is returning to correct these and similar items. The Board discussed engineering specifications, material or contract oversight in connection with the corrective work. Director Anderson described alternative options, including slurry sealing, rubber shavings, mill and overlay, but that the street cracks still occur.

- Landscape  
Committee:

Refurbishment Proposal: Director Stone reported that the community members who serve on the landscape committee have presented a budget in the amount of \$150,108 for the 8-phase landscape improvement “refurbishment” project at the Heritage and Quebec location, based on cost estimates prepared by BrightView. The services will begin in the winter of 2022 (cobble), and will continue into 2023. The Board authorized proceeding with a contract for the landscape refurbishment services with BrightView, in the not to exceed amount of \$150,108, as discussed.

Tree Care Proposal: Director Stone noted that the District requires tree care services; the tree maintenance services provided by Taddiken under the existing contract was not as comprehensive as expected. The required services include pruning of branches, fertilization, deep water treatment, pest removal, stump grinding, and chemical treatment. Director Stone has solicited proposals from Rocky Mountain Tree Care, BrightView, Bartlett Tree Experts, and Taddiken. Rocky Mountain Tree Services do not provide for care on trees above 8 feet, which isn’t high enough. Bartlett Tree Experts provided a bid in the amount of \$71,955, including tree inventory (by caliper, size, health and variety), tree survey, removal, stump grinding, deep water treatment, pruning, etc. BrightView advised that its bid would be higher than bids the District might receive from others, and is not providing a bid. Director Stone has not yet received a bid from Taddiken. Upon further discussion, the Board approved entering into a contract for tree care services in an amount up to \$71,955, and provided authorization to the landscape committee to determine the appropriate contractor based on the proposal received from Bartlett, and the proposal to be provided by Taddiken. In

# RECORD OF PROCEEDINGS

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response to a question regarding tree replacement, Director Stone stated that if a tree is dying because of “care” – it is replaced by Taddiken; if it is a warranty issue, BrightView will replace the tree.

Dead Tree Agreement: Ms. Vander Wall reviewed the form of work order from BrightView for the removal of dead trees and stump grinding along Highway 7 and Yosemite Street, in the amount not to exceed \$7,700. The work order extends the terms and conditions of the original landscape agreement previously entered into. She reminded the Board that in July, up to \$10,000 for various services, including the dead tree removal was authorized. The work order formalizes the agreement for these specific services. Upon motion, second and unanimous vote, the Board approved the work order as presented.

Mulch Project: Director Stone updated the Board on the transfer of mulch to the designated areas as part of the refurbishment project.

Controller Project: Director Stone reported that the District will be receiving \$50,000 in funds from Lennar, earmarked to replace irrigation controls. He noted that the District has 24 total controller devices, of various sizes, with a cost ranging from \$4,000 - 8,000 per controller. The landscape committee will obtain information from BrightView which zones need replacement the most, and will also look into the possibility of conversion to xeriscape options in the future.

## Special Committees:

- Community Landscaping Advisory Committee

Director Stone noted that the landscaping advisory committee has requested the creation of a special projects fund for future landscape projects. Ms. Wheeler noted that the District can put a placeholder in the budget for such funds.

- Traffic Calming Committee

Directors Wilmes provided some background to the traffic calming committee’s prior research of traffic calming options, including speed bumps, bulb-outs, stop signs, raised cross walks, and medians, with regulatory and cost considerations associated with each. The traffic calming committee has recommended proceeding with the raised cross walk option at this time, and is working with IDES on the preparation of an initial design for a single location. The raised cross walks are 35’ in width, with 15’ both sides each direction, and a 5’ median. After

# RECORD OF PROCEEDINGS

---

completion of the design, it will be submitted to the City of Thornton for review and approval, in order to proceed with construction. There does not appear to be any grant fund options for this type of improvement.

Director Wilmes also discussed the installation of stop signs at specific locations, which must meet “Model Traffic Code” criteria.

Various members of the public provided input on traffic calming mechanisms used in other parts of the state or country.

Director Ozanich stated that at this time, the Committee is waiting to get a proposal back from the engineer. There was also discussion regarding the painting of “STOP” in the cross walk. The traffic calming committee suggested budgeting the amount of \$20,000 for the continuation of its efforts.

- Other:

There were no other committee items presented at this time.

## Manager’s Report

Mr. James Schulze was introduced as the new District manager representative, designated by CCMC. Mr. Schulze reported on the recent irrigation line water leak and emergency repairs performed in the amount of \$2,200. Upon motion by Director Anderson, second by Director Wilmes, the Board ratified and approved the expenditure of the funds as discussed.

Mr. Schulze next described the status of the gate repairs. The company “DGO Access” is familiar with the mechanical and the technical nature of the District’s gates, and the company is located adjacent to the District. DGO Access visited the District’s gates, and noted that two of the gates are “Door King”, which they are familiar with. DGO provided a proposal in the amount of \$1,665.80 for performance of various preventative maintenance services, including adjustments, lubrication, replacement of belts, and cleaning out of dust at three gate locations (south, west and east gates). After further discussion, and upon motion by Director Anderson, second by Director Wilmes, the Board authorized a contract with DGO Access in the amount of \$1,665.80 for the preventative maintenance services as presented.

The Board requested that Mr. Schulze follow up with DGO Access for a proposal to provide “on-call” repair services,

# RECORD OF PROCEEDINGS

---

including a rate schedule, that can be incorporated into a separate contract for future services.

## Legal Status Report

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

- FAMLI

Ms. Vander Wall presented a memorandum describing the new Family and Medical Leave Insurance program, which mandates all employers, including local governments, to participate in funding leave benefits for specified purposes. She noted that special districts with no employees, such as Heritage Todd Creek, may be excluded from the definition of “employer”, but that it is not clear whether compensated directors would be deemed “employees” and thus cause the District to be a covered employer. The Board noted that the Directors are not compensated, and therefore agreed that the District would be exempt under the new law.

- United Power / Right of Entry

Ms. Vander Wall presented a form of “Right of Entry” which allows United Power to access District-owned lands for purposes of surveying activities. This has been requested in advance of a future proposed easement. Upon motion, second and unanimous vote, the Board approved the Right of Entry as presented.

## Other Business

Director Stone inquired about plans for installation of holiday lights for the community. Mr. Schulze stated he would research options for consideration. The District spent \$3,600 in 2022 for the take down of the holiday lights. The District budgeted the amount of \$10,000 in 2022 for holiday lighting. After further discussion, the Board agreed to authorize up to \$12,500 for holiday lighting, and designated Director Ozanich to serve as the contact person from the Board to work with Mr. Schulze on accepting an appropriate proposal for the installation and take down of holiday lights.

There was no other business presented at this time.

## Public Comment

Mr. Dan DeWalt noted that the Lennar contractors who work at the corner of Heritage and Quince are leaving lunch trash in the area, which should be cleaned up.

A suggestion was made that the District hire a police officer to write tickets for traffic violations on Heritage Drive, based on

# RECORD OF PROCEEDINGS

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experience in doing so in Pebble Beach, CA.

There was no other public comment offered at this time.

The next regular meeting of the Board of Directors is scheduled for Monday, November 28, 2022, at 1:00 p.m.

## Adjournment

The meeting was adjourned at approximately 3:40 p.m.



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Secretary for the Meeting