

# 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 27, 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  
Phil Anderson\*, Vice President  
Robert Tade, Asst. Secretary  
Paul Ozanich, Treasurer

Absent: Karl Wilmes (absence excused).

Also in attendance were: Barbara T. Vander Wall and Marissa M. Peck, Seter & Vander Wall, P.C.; Diane Wheeler\*, Simmons & Wheeler, P.C.; Cody Conry\*, IDES; James Schulze, CCMC, District Manager; and residents/members of the public: Jon Rarick, Cindy Kettle, Sue Thompson, Leslie Jimmerson, Dan Daywalt, John Laatsch, Raymond Selix, Jackie and Michael Feldman.

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

No additional conflict disclosures were announced.

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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 23, 2023 regular meeting. One change was identified on page for to correct the dead tree removal location to read “along Highway 7 and Yosemite Street” instead of “Heritage Drive.” Upon motion duly made, seconded and unanimously carried, the minutes were approved with the correction discussed.

## Public Comment

Mr. Jon Rarick inquired about website management; Director Stone noted that his suggestions regarding the website should be deferred until following the May election when he will then become a new Board member. Ms. Jackie Feldman commented on the District’s recently installed traffic stop signs. Director Stone noted that this topic will be addressed later in the agenda and invited her to reserve her comments to that time.

There was no other additional public comment offered at this time.

## Financial Matters:

- Financial Report /  
Payment of Claims

Ms. Wheeler reviewed the claims for the period through February 28, 2023, in the total amount of \$25,896.05 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 February 28, 2023. She reviewed the District’s general fund and debt service fund, and pointed out the interest rates for the District’s ColoTrust and CSAFE funds. The District will be able to save budgeted funds due to the cancellation of the election. There are snow removal costs which are not reflected on the report, pending authorization of payments yet to be made. It was noted that the District’s insurance costs have increased by approximately 50% for 2023. Upon motion by Director Ozanich, second by Director Tade, and unanimous vote, the Board accepted the financial statements as presented.

- 2022 Auditor  
Engagement

Ms. Wheeler presented proposals to perform the District’s 2022 audit from Colorado CPA Company and Hiratsuka & Associates, L.L.P., both in the amount of \$7,000. After further discussion, and upon motion, second and unanimous vote, the

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Board authorized proceeding with the engagement of Hiratsuka & Associates.

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

- Public Hearing /  
Second Amendment  
to 2022 Budget

Ms. Wheeler reported that the proposed budget amendment is to clean up the debt service fund to accommodate the payment made on its subordinate bonds. This second amendment reflects the amount of \$1,310,000 made for a new debt service fund amount of \$3,280,477.

Director Stone opened the public hearing on the 2022 budget amendment. There were no public comments presented; Director Stone closed the hearing.

After further discussion, and upon motion by Director Tade, second by Director Ozanich, the budget amendment resolution was approved as presented.

## Committee Reports

- Budget Committee

Director Anderson reported that there is not a lot going on with the budget committee at this time, but suggested that the District may need to amend its 2023 budget if it proceeds with the mill and overlay project. The project is proposed at this time due to repair needs and better pricing opportunities. Director Stone suggested the project might be delayed until after 2023, when the developer completes construction, as the District's roadways are expected to be further damaged as a result of the construction activity. He also suggested the developer may contribute funds to the project as a result of its involvement. The Board members shared opinions on the timing of the project and impact on the District's 2023 budget.

- Engineering  
Committee

The District's engineer, Cody Conry with IDES, provided additional background on the proposed mill and overlay project on Heritage Drive and the estimated pricing. He agreed that the District can do crack fill as an interim measure. Director Stone suggested that the District focus on sidewalk fixes, crack seal, lifting at dips, and lifting at entrances to Quebec, in lieu of mill and overlay. Mr. Conry suggested that cold patch asphalt repair may be appropriate for the deeper cracks. The Board discussed the use of a CRP process to assist with asphalt repairs. Mr. Conry noted that he will need to further research this process including costs. Director Tade requested that he arrange a time

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to walk the District property with Mr. Conry, to identify repairs and other work requirements.

The Board continued the discussion on the timing of the mill and overlay project. Upon motion by Director Tade, second by Director Ozanich, and a vote of 3 in favor, 1 abstention (Director Anderson), the Board agreed to delay the mill and overlay project by a year.

Mr. Conry reported on items from his engineers' report, and deferred discussion on traffic calming improvements to later in the meeting.

- Landscape Committee / Community Landscaping Advisory Special Committee: Director Stone reported that the special community landscaping advisory committee met this morning, which included the BrightView representative and Board member candidate John Laatsch. He noted that they will need two committee replacement members. The committee is currently in its second year of a three-year plan. He discussed that there remains fall cleanup to complete, and 2021 refurbishment work still to be done. There is 2022 refurbishment warranty work pending. Director Stone discussed the landscape improvements projected for 2023, including pots at Quebec, changing out mulch to cobble at the corner of Ehler and Quebec, deep pruning along Ehler, cobble on Yosemite, and various planting and irrigation work in different pocket areas. Lennar has provided \$50,000 for new controllers, which have been installed. New tree landscaping and a tree inventory has been performed by the District's tree contractor, Bartlett Trees.
- Traffic Calming Special Committee Director Ozanich reported that the traffic calming committee has added two new members following the application process. Director Wilmes will be leaving, and Director Ozanich is taking over as chairman of the committee. The committee has met four times since January, including an on-site meeting to view the stop sign locations. The committee will be performing another traffic and speed study to compare the traffic patterns which those recorded in 2020. The committee suggests right-of-way regulations be posted to the District's website with clarification regarding golf carts. Mr. Conry reported that IDES coordinated a meeting with the committee and the City. The Board reviewed the committee traffic calming recommendations, including the back-to-back stop signs, the painting of "stop" on the cross walk, striping of stop bars, and thermos-plastic stop signs as best options. The Board discussed the location of the stop signs

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relevant to the trees which will be leafing in the Spring, and whether the trees can be trimmed.

Members of the public asked questions regarding the stop signs at the T locations, where little traffic is coming out. There were comments regarding the amount of notice provided to the residents, and a perception that there is no speeding problem in the District. Director Ozanich provided a history of the topic discussed by the Board and the committee, the traffic studies performed, various options for traffic calming and their costs. In response to a comment, legal counsel reminded the Board and the public that the tax-exempt bond funding prohibits the District from maintaining closed gates on a 24-7 basis, which excludes public use. Members of the public suggested that the number of stop signs be reduced in number. Director Ozanich stated that flashing signs were rejected by the committee due to the impact on homeowners; he is hopeful that the back-to-back stop signs will help with visibility. Director Anderson stated that traffic calming has been an issue since 2007; there had been speed bumps at one time, which were removed. Mr. Conry added that flashing lights are very expensive.

The Board reviewed the proposal from ABC, which itemized traffic calming improvements in the total amount of \$15,380. The Board acknowledged that there remained funds from the prior authorization of \$10,000. The Board agreed to remove the flags from the proposal, but agreed with the other improvements including the back-to-back signs, the cross-walk paving, the stop bars, and the thermoplastic stop signs. After further discussion, and upon motion, second and unanimous vote, the Board authorized the amount of \$8,715 of additional funds for traffic calming improvements, and suggested that the committee revisit the proposal for the best use of the funds.

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

## Manager's Report

Mr. Schulze reviewed his manager's report with the Board. He reported that the District's gates are as old as the community, and the Opticom device is not functioning properly at the Quebec and Ehler locations. A new dialer is being installed to complete communications for new residents. A new system would require a looped system to be installed underground, which should be coordinated with the mill and overlay project. In the meantime, the District will be pulling an insulated cord to assist. The District currently has \$37,000 in its budget for these

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types of repairs. Mr. Schulze was asked whether the gate at Yosemite entrance has a lit touch pad; he will research this.

Mr. Schulze reported that there is an abandoned utility light pole installed in a resident's yard which does not function and is planned for removal. He also reported on a recent traffic accident which is being pursued for reimbursement of damages to District property.

Mr. Schulze reported on his recent participation at the CAI Spring Conference.

## Legal Status Report

Ms. Vander Wall reviewed the legal status report with the Board. She noted that the May 2, 2023 director's election will be cancelled as there were not more people running that there were seats available. Director Ozanich has been re-elected and Messrs. Laatsch and Rarick have been elected by acclamation. Their oaths will be administered within 30 days following the May 2, 2023 election.

Director Stone asked whether there could be a chart to indicate the status of acceptance of the District's improvements. Mr. Conry stated that he tracks this information and can share his spreadsheet with the Board.

Ms. Vander Wall reported that the District's management services contractor, CCMC, has advised of substantial modifications required to its contract as a result of a recent risk assessment report provided by its new insurer. She suggested the Board go into executive session for further discussion regarding contract negotiations and legal guidance.

## Other Business

Director Stone noted that he received a request from the HTC wine club for permission to hold an event on District-owned property in August. The Board discussed potential rules; Ms. Vander Wall advised that currently the property is available for use on a first-come first-served basis, but that the District could adopt additional rules to address liability, property damage, and other issues that may arise. The Board agreed that there was no need for additional rules at this time.

Director Stone announced that Director Anderson will be leaving the Board after eight years of service, and Director Wilmes after three years of services, and expressed his

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appreciation for all of their work while serving on the Board.

Director Ozanich suggested that the District prepare a written statement regarding the District and the gates to avoid further misperceptions by the public.

Director Tade noted that there may be a need to modify the email addresses which are based on officer positions when there is a change in officers after May.

There was no other business presented at this time.

## Public Comment

There was no additional public comment presented at this time.

## Executive Session

Upon motion, second and unanimous vote, the Board determined to go into executive session to discuss the CCMC management services contract modifications, to determine positions relative to matters which may be subject to negotiations, and to confer with the attorney on such matters, pursuant to § 24-6-402(4)(e) & (b), C.R.S., at approximately 3:10 p.m.

The Board returned from executive session and reconvened in open session at approximately 4:07 p.m.

## Contract Priorities

The Board discussed its priorities regarding the contract modifications with CCMC: (1) pursue a resolution with CCMC's risk analysis team to continue CCMC management services and relationship; (2) seek an extension of time from May 1, 2023; (3) proceed with an RFP process and revised scope for a new management company; (4) pursue an independent services contract with the HOA for management services that may include CCMC as a subcontractor.

## Adjournment

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

The meeting was adjourned at approximately 4:27 p.m.

  
Secretary for Meeting