

**HEATHER GARDENS METROPOLITAN DISTRICT  
SPECIAL MEETING  
Tuesday, January 12, 2021**

The special meeting of the Board of Directors of the Heather Gardens Metropolitan District was held via Zoom/Telephone in the office of the District, 2888 S. Heather Gardens Way, Arapahoe County, Colorado, on Tuesday, January 12, 2021 at 1:00 P.M.

**CALL TO ORDER:** President Funk called the meeting to order at approximately 1:00 P.M. on Tuesday, January 12, 2021. A quorum was present.

**BOARD MEMBERS PRESENT:** President David Funk, Vice President Michael George, and Director Rita Effler.

**BOARD MEMBERS ABSENT:** Excused Treasurer and Secretary William Archambault and Director Eloise Laubach.

**STAFF PRESENT:** General Manager Calvin White, Controller Jon Rapacki, Operations Manager Jon Rea, and Board Assistant Evelyn Ybarra.

**GUESTS PRESENT:** Jennifer Ivey, Icenogle Seaver Pogue, P.C., five members of the Heather Gardens Association Board, Lynn Donaldson, with Heather 'n Yon, and approximately 43 members of the public were present.

**President Remarks:** President Funk commented we have a rather unusual circumstance today. This special meeting has been called by Director Effler, acting independently, under Section 32-1-903, C.R.S. Under normal circumstances, this special meeting would have been coordinated with other District Board members and the President of the Board to establish the agenda and ensure the board members' attendance. Director Effler chose instead to call a special meeting without these considerations. Two members of the Board are unable to attend today due to prior commitments. Even though Director Effler is independently responsible for initiating this meeting, the Heather Gardens Metropolitan District's Bylaws require that the President of the Board presides at all meetings. President Funk reported that he cleared his schedule to attend for this purpose.

The topic of this meeting could have and, indeed, should have been included as an agenda item for the regular board meeting scheduled on January 21, 2021, since this topic is neither an emergency nor a special topic needing immediate resolution. This topic has been in discussion for months by this Board and in particular most recently during Executive Sessions as the Board determines its positions and prepares strategies relative to matters subject to negotiation and receives legal advice related thereto.

It is important to note several points concerning the document this topic evokes – the Management Agreement.

1. The existing Agreement is in effect through this calendar year (2021).
2. Neither party (HGA nor HGMD) may unilaterally abandon the Agreement without specific written notice.
3. The Agreement provides a number of remedies for disagreements arising from the execution of the Agreement; a) amendments as may from time to time be negotiated, and b) a specific dispute resolution process.
4. The Agreement requires that the Heather Gardens Association employ an “Association Manager” and shall require the Association Manager to “responsively and responsibly serve the District.”

It is important that everyone recognize that the documents included in the meeting packet for today titled “REQUEST FOR PROPOSAL” “HEATHER GARDENS METROPOLITAN DISTRICT” are not a work product of this Board. The documents should be labeled “Personal Draft.” In perusing these documents, President Funk reported that he believes these documents to be the author’s draft of a possible template for one of many possibilities of management for the Rendezvous Restaurant under consideration. The source of these documents is unknown; this Board has not vetted these documents; in fact, this Board has no determination regarding changes to the restaurant’s current management. At the least, these three criteria would be necessarily met before any action could be taken regarding these documents.

As always, the Heather Gardens Metropolitan District receives its authority, guidance, and constraint from Colorado laws and the governance documents promulgated by the Board of Directors.

With these caveats in mind, President Funk yielded the floor to Director Effler to address the topic for which the special meeting was called.

**Consider Options for Administration and/or Management of District Properties and Enterprises:**

Director Effler commented that she is has been trying to set a special meeting to discuss the management for the last six months. If they continue to go at the same speed as they have been going, they will never get it done. She stated that President Funk said they have until the end of the year under the present management agreement to give a six month notice and give them five months to do anything differently if they decided to. She drafted the proposal. It is only a draft, and she asked if anyone is interested in joining a committee to look into this situation.



She said the District has a management company, and it is Heather Gardens Association (HGA). HGA is made up of nine volunteers. She said they are not qualified to manage a restaurant, tennis court, golf course, and clubhouse. They hired a general manager to tell the District what to do. She said that the District has not been managed well and wants the restaurant to go back to outsourcing. Therefore, she would like to see a committee appointed to work on the request of proposal and brought to the Board by June 1. She understands the majority of the Board does not support this and that she was not a "yes" person. She reported that she had emailed President Funk and Ms. Ivey about the proposed special meeting; she did not hear back from President Funk, and therefore when she heard back regarding the attorney's availability, she decided to schedule this special meeting. She would like to consider an administrator and/or management company option and that this would not cost more. She requested a committee to be formed with people who know what they are doing and looking for a concessionaire to operate the restaurant.

Ms. Ivey went over the requirements to form a special committee per District's Bylaws' Article IV, Section 10. Special Committees.

**Motion to consider forming a special committee to investigate the possibility of the restaurant's alternate operation management, appoint Director Effler as chairperson with at least four other people serving on the Board through December 31, 2021:** Motion made by Director Effler. There was no second, and therefore the motion failed.

Director Effler said she joined the Board thinking she could make a difference but said she could not and resigned from the Board effective today. She will submit her letter of resignation in writing to President Funk.

**OPEN FORUM:**

A resident asked if this can be on the regular Board meeting agenda when all the HGMD members are present. President Funk commented he may take this under consideration.

**ADJOURNMENT:** The meeting adjourned at 1:19 P.M.



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David Funk, President