

**HEATHER GARDENS METROPOLITAN DISTRICT  
SPECIAL MEETING  
Thursday, October 15, 2020**

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 Thursday, October 15, 2020 at 10:00 A.M.

**CALL TO ORDER:** President Funk called the meeting to order at approximately 10:00 A.M. on Thursday, October 15, 2020. A quorum was present.

**BOARD MEMBERS PRESENT:** President David Funk, Vice President Michael George, Treasurer and Secretary William Archambault, and Directors Rita Effler and Fran Clemens.

**BOARD MEMBERS ABSENT:** None.

**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., four members of the Heather Gardens Association Board, Lynn Donaldson, with Heather 'n Yon, and approximately 29 members of the public were present.

**President Remarks:** President Funk commented the Board received three documents labeled motions in their Board meeting packet that do not appear on the agenda. Based on the recommendations of legal counsel in order to ensure adequate public and board member notice regarding discussion of these items, these documents will be addressed as follows 1) a motion from the Clubhouse/Restaurant Committee to amend the Management Agreement with HGA will be discussed at an executive session that will be scheduled as part of the regular meeting on November 19, 2020; 2) a motion from the Foundation which will be included in New Business of the agenda and considered at the regular meeting on November 19, 2020; and 3) the presentation of the Business Plan for the Rendezvous Restaurant, this item is not considered a motion but is the presentation of an expected deliverable and the Board graciously accepts the business plan. On behalf of the Board, he thanked each of the Clubhouse/Restaurant Committee members for their hard work and dedication to completing this task. The Board will review this plan as presented and may wish to discuss the plan at a future meeting.

**APPROVAL OF MINUTES:** Motion made by Director Clemens and seconded by Vice President George and passed unanimously to approve the minutes of the September 17, 2020 Regular Meeting as written.

**REPORTS OF DIRECTORS, COMMITTEES, AND PROFESSIONAL CONSULTANTS:**

**President Report:** President Funk reported that Director Effler would serve as a director at large with no further committee chair responsibilities effective today with the Board of Directors' concurrence. President Funk also reported that Director Clemens is selling her home and moving to Oklahoma. She submitted her written resignation effective November 1, which he has accepted. On behalf of the Board of Directors, he thanked her for her services. As a result of these changes, the business of the Clubhouse/Restaurant and Foundations committees will be on hold until a decision regarding chairmanship is made. He announced to the public if you or anyone you know would like to serve as a Director of the HGMD Board to submit a short statement of your interest, knowledge and skill to fill the vacancy that will be created by Director Clemen's resignation. Please include your full name, address, date of birth, short resume, and letter of interest. To be qualified to serve you must be an eligible elector, which means a registered voter of Colorado and a resident of the District or the owner/spouse/civil union partner of the owner of a taxable real/personal property within the District. If you are interested, submit your letters to the Board Assistant Evelyn Ybarra by November 16, 2020.

**General Manager's Report:** The Board received a copy of the General Manager's Statement of Work (SOW) report and the quarterly report. General Manager White asked if there were any questions or comments.

Treasurer and Secretary Archambault asked if there was no action taken for the pricing for windows in the restaurant and banquet room as the status showed parked. General Manager White commented on working with the HVAC system; the vendor recommended not having windows that can open and close. That will change the air pressure and will have an inverse effect on bringing in more fresh air. The HVAC system creates a higher pressure inside than outside, and if you open the windows, it reduces the pressure and pushes air out instead of bringing fresh air in. It is parked until they decide further on the HVAC system on how it will work with this COVID outbreak. Treasurer and Secretary Archambault asked how much seating is in the restaurant under the CDC guide. General Manager White commented with the CDC's changes that it varies, and it is up to 30 in the banquet room and 50 in the restaurant.

Director Effler asked that under Security, it listed dummy cameras that she recalls could not be done. General Manager White confirmed that she was correct, and he plans to discuss this with the Chief Security.

There were no further questions or comments.

**Clubhouse/Restaurant Committee:** The Board received copies of the Chair and Clubhouse/Restaurant Reports. Director Effler apologized that she was removed from the Committee. She enjoyed being the Chair and having a wonderful committee. There were no questions or comments.

**Foundation Committee:** The Board received a copy of the Foundation Report after the Board packet was distributed. Director Clemens commented she would coordinate with

President Funk with the Mask Warriors project. Jeanne Hizer's memorial is this Friday at 1:00 p.m., and communication would be sent today advising of the details. There were no questions or comments.

**Golf Committee:** The Board received a copy of the Golf Report. Vice President George reported that golf had a great month. There were no questions or comments.

**Property Policy Committee:** President Funk report there was no meeting this month. There is a motion to approve the Capital Expenditure on the crosswalk.

**Treasurer's Report:** The Board received a copy of the Treasurer's Report. There were no questions or comments.

**September 2020 Monthly Operating Analysis (MOA):** The Board received a copy of the MOAs. There were no questions or comments.

**UNFINISHED BUSINESS:** None.

**NEW BUSINESS:**

- a.) **Motion to accept the Heather Gardens Metropolitan District 2021 Budget:**  
Motion made by Treasurer and Secretary Archambault, and seconded by Director Clemens and passed unanimously.

Text of Motion: Based upon the recommendation of the Heather Gardens Budget and Finance Committee, I move that the Heather Gardens Metropolitan District Board of Directors accept the 2021 Budget, attached in the Board packet.

Explanation: The Heather Gardens Budget and Finance Committee reviewed in detail and made changes to the General Manager's Budget. The Committee is recommending the HGMD Board of Directors accept the 2021 Budget as presented.

**Motion to open the Public Hearing regarding the Heather Gardens Metropolitan District 2021 Proposed Budget:** Motion made by Treasurer and Secretary Archambault, and seconded by Director Clemens and passed unanimously.

Text of Motion: I move that the Heather Gardens Metropolitan District Board of Directors open the public hearing regarding the 2021 proposed HGMD Budget.

Explanatory Comment: As the Heather Gardens Metropolitan District is a quasi-governmental agency, the public must be provided the opportunity to provide input and comment on any proposed budget.

**Public Comments/Discussion on the Motion:**



# Heather Gardens

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Director Effler commented that it should be the Board's decision to purchase the restaurant's equipment if they have the money.

A resident asked if there was a line to reflect budget and actual for the Heather Garden's contribution to 401k up to 5% and, if so, what the amounts are. Treasurer and Secretary Archambault commented it is not in total and is in line item 550 called Retirement Expense that is the contribution for the 401k program. It is not a total across the budget, but It is under individual cost centers.

**Motion to close the Public Hearing regarding the Heather Gardens Metropolitan District 2021 Proposed Budget:** Motion made by Vice President George and seconded by Treasurer and Secretary Archambault and passed unanimously.

Text of Motion: I move that the Heather Gardens Metropolitan District Board of Directors close the public hearing regarding the 2021 proposed HGMD Budget.

Explanatory Comment: As the Heather Gardens Metropolitan District is a quasi-governmental agency, the public must be provided the opportunity to provide input and comment on any proposed budget.

**Motion to approve Heather Gardens Metropolitan District 2021 Budget Resolution:** Motion made by Treasurer and Secretary Archambault, and seconded by Vice President George and passed unanimously.

Text of Motion: I move that the Heather Gardens Metropolitan District Board of Directors approve the Resolution Adopting the 2021 Heather Gardens Metropolitan District Budget, Certification of the Mill Levy, and Appropriating the Funds (Sum of Money).

Explanatory Comment: This motion is the formal approval and adoption by the Board of Directors of the 2021 Heather Gardens Metropolitan District Budget.

**b.) Motion to approve the purchase of T875 8-Volt Trojan Batteries for all 23 golf carts for \$24,067.52:** Motion made by Vice President George, and seconded by Treasurer and Secretary Archambault and passed unanimously.

Text of Motion: I move that the Heather Gardens Metropolitan District Board of Directors approve the purchase of T875 8-Volt Trojan Batteries for all 23 golf carts for \$24,067.52 that was previously approved in the 2020 Budget. This purchase is \$19,500.48 under budget.

**c.) Motion to approve final expenditures for the Heather Gardens Way pedestrian crosswalk:** Motion made by President Funk, and seconded by Director Clemens, and passed unanimously.

Text of Motion: I move that the Heather Gardens Metropolitan District Board of Directors approve the final expenditure for the Heather Gardens Way pedestrian crosswalk. This expenditure is the Heather Gardens agreed-upon portion of the joint project with the City of Aurora to construct a pedestrian crosswalk across Heather Gardens Way.

Explanatory Comment: This motion is the formal approval by the Board of Directors of the Final Expenditures for the Heather Gardens Way pedestrian crosswalk. This expenditure was previously approved for this use and originated from a donation from the Parc Apartment developers after agreements with Heather Gardens regarding concerns about increased traffic in the area as the apartments opened for lease. The funds exist and are currently in a miscellaneous revenue/expense account. This expenditure has no effect on the Heather Gardens Metropolitan District Budget, nor is the expenditure from any funds generated from Heather Gardens homeowners.

Project Cost - \$23,419

Allocated Park Money - \$24,900

#### **OPEN FORUM:**

A member of the Clubhouse/Restaurant committee stated that due to the request that Director Effler cease all communication with the clubhouse and restaurant staff other than being allowed to order food all of the undersigned Clubhouse/Restaurant Committee members were submitting their resignation except for one member who is new to the committee and asked how to get the signed letter to President Funk. President Funk thanked the Clubhouse/Restaurant Committee members for their services and commented that the Committee might not understand all the circumstances involved. The signed letter can be turned in to the Board Assistant, Ms. Ybarra.

A resident commented on being transparent and letting the public know what Director Effler did to be removed from Chair of the Clubhouse/Restaurant Committee. President Funk commented that he tried to be discrete in managing this particular problem. He received complaints and it is not his place to disclose the information to anyone other than Director Effler, as he is treating this as similar to personnel matter.

Director Effler wanted to go on record to state that she received a letter from President Funk that he was disappointed in her activities and that she did not receive a follow up on what she did. She knows she talked to the employees and that when she was at the restaurant ordering, one of the employees told her they were all giving notice. She asked one of the employees what we can do to keep them. Director Effler stated she was never told why she was dismissed and did not know why there was a Board meeting to remove her when President Funk had the authority to remove her without getting the Board involved.


Attorney Ms. Ivey clarified that she was not aware of any Board meeting that was held to discuss this matter. President Funk acknowledged Ms. Ivey's clarification and confirmed there was no meeting held.

Director Effler went on record again that she was never notified why she was dismissed. President Funk stated that he notified her on September 24 via email and requested that she contact him. She remarked that he did not state that in his email. President Funk commented that this is not the place or time for this discussion and that she contact him directly to discuss this further.

A member who resigned from the Clubhouse/Restaurant Committee commented that she hopes President Funk recognizes that the entire Committee except for one member resigned. They all liked Directors Effler's leadership. The Committee was assigned to develop a Business Plan, which she stated was difficult because there was no budget. This process brought up many issues of the District role and the restaurant's oversight under the HGA activities. To write the Business Plan, the Committee needed to know what was happening at the restaurant. She felt that the Committee could not do much with the four levels of management. President Funk commented that he was disappointed it all came to this and appreciated all the hard work and services of Director Effler and the other members of the Committee. She commented that he could reverse his decision. President Funk remarked that he may decide to do that at some point, and this kind of discussion will be with Director Effler.

A resident commented that she attends the District Board and Clubhouse/Restaurant meetings in person or via Zoom. She recalls how frustrated the previous chairperson for the Clubhouse/Restaurant Committee was because of the information he was expected that was not received from accounting in terms of profits/loss issues. She sensed his frustrations as she did the rest of the Committee. Director Effler has asked questions, seek information, and has not been able to get all the information she needed even though the Committee time was changed by request from accounting to providing the information that still has not resolved the issue. She looks forward to the Clubhouse/Restaurant Committee meetings. She felt the meetings were well run, and there was participation, the minutes were well written. The outcome of resignations saddens her. President Funk commented that the outcome also saddened him.

**ADJOURNMENT:** Motion made by Treasurer and Secretary Archambault to adjourn the meeting, and seconded by Vice President George and passed unanimously. The meeting adjourned at 10:58 A.M.

  
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William Archambault, Treasurer and Secretary