

# RECORD OF PROCEEDINGS

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## ADOPTED MINUTES OF THE SPECIAL MEETING OF

LOVELAND MIDTOWN METROPOLITAN DISTRICT

HELD

December 13, 2011

The Board of Directors (collectively, "Board") of the Loveland Midtown Metropolitan District, ("District") held a special meeting, open to the public, at the offices of Pinnacle Consulting Group, Inc., 5110 Granite Street, Suite C, Loveland, Colorado 80538; at 9:00 am on Tuesday, December 13, 2011. Notice of the meeting has been duly posted with the Larimer County Clerk and Recorder and in three public places within the boundaries of the District.

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### ATTENDANCE

#### Directors in Attendance:

Don Marostica, President  
Nathan Klein, Vice President  
Blaine Rappe, Secretary/Treasurer  
Eric Holsapple, Asst. Secretary/Treasurer

#### Also in Attendance:

Deborah Early, Icenogle Seaver Pogue, P.C.  
Kirsten Starman, Pinnacle Consulting Group, Inc.  
Peggy Dowswell, Pinnacle Consulting Group, Inc.  
Wayne Lewis, Loveland Commercial, LLC  
Jan Meik, Property Owner at 1852 E 11<sup>th</sup> St.  
Debbie Givens, Property Owner at 1944 E 11<sup>th</sup> St.  
Victoria Burris, Property Owner at 1832 E 11<sup>th</sup> St.  
Kathryn and Bob Cermak, Property Owners at 972 Andromeda Dr.  
Charles Lockwood, Property Owner at 1832 Sagittarius Dr.  
Harry Crosby, Property Owner at 1702 11<sup>th</sup> St.  
Marybeth Jones, Brownstein, Hyatt Farber, Schreck (via conference call)  
Mike McGinnis, Brownstein, Hyatt Farber, Schreck (via conference call)

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### CALL TO ORDER

The meeting was called to order at 9:00 am by Director Marostica, noting that a quorum was present. The directors in attendance confirmed their qualifications to serve.

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### CONFLICT OF INTEREST DISCLOSURE

Ms. Early noted that conflicts of interest for all Board Members have been filed. Ms. Early advised the Board that pursuant to Colorado law, certain disclosures by the Board Members might be required prior to taking official action at a meeting. The Board reviewed the agenda for the meeting, following which each Board Member present confirmed the contents of the written disclosures previously made stating the fact and summary nature of any matters as required under Colorado law to permit official action to be taken at the meeting. Additionally, the Board determined that the participation of the members present was necessary to obtain a quorum or otherwise enable the Board to act.

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## AGENDA

The Board reviewed the agenda. Director Marostica proposed to move Public Comments from Item #14 to Item #4 on the Agenda. Upon motion duly made by Director Holsapple, and seconded by Director Rappe, it was unanimously

**RESOLVED** to approve the revised agenda as proposed by Director Marostica.

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## PUBLIC COMMENT

Noting the public present, Director Marostica proceeded with asking all in attendance to introduce themselves. Following introductions, he opened the meeting for public comment.

Mr. Cermak began by stating that his understanding was that the District was required to hold an election prior to issuing bonds. Ms. Early responded by stating that the debt authorization was approved at the initial formation election of the District, as is typical with Special Districts. Mr. Cermak then asked if the mill levy was increasing and was told no, that it was being assessed at its maximum allowed by the Service Plan. He concluded with requesting that the upcoming Board member election be adequately posted and was provided the details of how the election would be notified: publication in the newspaper, postings on mailboxes, notice on the website, etc.

Ms. Burris asked if everyone was assessed the same mill levy. She was told that yes, all property owners within the District were assessed 40 mills.

Ms. Givens had multiple questions for the Board. She began by asking who on the current Board resided within the District. Although no one on the Board lives within the District, they are qualified as eligible electors in the District via contracts to purchase taxable property in the District. She asked for clarification on the different fence material requirements. Mr. Rappe responded by stating that Neo-traditional style homes were required to have the 5' white vinyl. Single family homes could have white vinyl or wood fencing. Ms. Givens asked if the various play structures appearing in back yards were being monitored for compliance with the Rules and Regulations. Ms. Starman stated that she would work with the owners of the incomplete play structures. Ms. Givens asked if parking on private lots was allowed. The Board responded no, unless permission had been granted by the owner. Mr. Marostica stated he would contact Mr. Bell regarding parking on his vacant lots. She asked if there was a rule requiring the homeowner to occupy the house for one year prior to renting and was told that no such rule existed. She questioned who she should contact when snow removal was not performed on vacant lots and was told to notify the City of Loveland. Finally, she asked if quarterly financial statement could be posted on the website. Ms. Starman responded that financial statements were posted as soon as they were updated and that process would continue into 2012.

Ms. Meik asked for details of where the tax revenue was being spent being that there was no park or pool to maintain within the development. The Board stated that a detailed explanation of the budget was forthcoming and would provide her with specific expense information.

Mr. Lockwood asked when the District would turn into a homeowners association. Mr. Marostica stated that the District had assumed the traditional functions of a homeowners association and a separate HOA would not be formed.

Mr. Crosby asked why everyone paid a different amount. The Board explained the mill levy was the same for everyone but the total taxes paid were dependent on the value of the property as assessed by Larimer County.

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Ms. Givens asked for clarification on the "non-living material" requirement within the Covenants/Rules and Regulations and was informed that the rules state that no more than 30% of the front yard landscaping shall be non-living material. She asked where to report a sinking sidewalk and was told the City of Loveland.

Ms. Burris questioned whether or not the mill levy would ever decrease. The Board responded by stating the mill levy could potentially decrease to an amount required to cover the operations and maintenance expenses after any debt had been repaid.

Mr. Cermak asked how the current Board members had been qualified to serve. Ms. Early stated that the current members were qualified as eligible electors in the District via contracts to purchase taxable property located within the District. He also asked what the interest rate was on the notes payable to the Developer and was told 8%.

At this point, Director Marostica closed the meeting to public comment.

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## APPROVAL OF MINUTES

Ms. Starman presented the minutes of the April 25, 2011 meeting. Upon motion duly made by Director Klein and seconded by Director Rappe, it was unanimously

**RESOLVED** to approve the April 25, 2011 minutes.

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## ARCHITECTURAL REVIEW BOARD UPDATE

Ms. Starman presented for ratification fence and landscape submittals as described in the attached tracking sheet. Upon motion duly made by Director Holsapple and seconded by Director Klein, it was unanimously

**RESOLVED** to approve the fence and landscape submittals as described on the attached tracking sheet.

Ms. Starman presented to the Board revised Rules and Regulations for approval. She detailed the two items that had been revised. First, the timeline for the display of holiday decorations was adjusted to November 15- January 15. Second, the fencing section was adjusted to be identical to the PUD language. Upon motion duly made by Director Holsapple and seconded by Director Rappe, it was unanimously

**RESOLVED** to approve the Rules and Regulations as revised.

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## APPROVAL OF PAYABLES/FINANCIAL REPORT

Ms. Starman presented for ratification the Check Detail dated April 16- December 5, 2011, totaling \$58,988.47, including checks #1343-1379. Upon motion duly made by Director Holsapple and seconded by Director Rappe, it was unanimously

**RESOLVED** to ratify the Check Detail dated April 16- December 5 in the amount noted above.

Ms. Dowswell reviewed the Balance Sheet and Statement of Revenues and Expenditures through October 31, 2011.

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## DISCUSSION OF SERVICE AGREEMENTS

Ms. Starman presented for ratification a Service Agreement with King and Associates to provide a feasibility analysis related to the upcoming bond issue in the amount of \$5000.

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Upon motion duly made by Director Holsapple and seconded by Director Klein, it was unanimously

**RESOLVED** to ratify the Service Agreement with King and Associates for \$5000.

Ms. Starman presented for ratification an Addendum to the Service Agreement with Pinnacle Consulting Group, Inc. for assistance with the upcoming bond issue in the amount of \$6000. Upon motion duly made by Director Holsapple and seconded by Director Klein, it was unanimously

**RESOLVED** to ratify the Addendum to the Service Agreement with Pinnacle Consulting Group, Inc. in the amount of \$6000.

Ms. Starman presented for approval an Engagement Letter with George K. Baum for assistance in the upcoming bond issue in the amount of \$2000. Upon motion duly made by Director Holsapple and seconded by Director Klein, it was unanimously

**RESOLVED** to approve the Engagement Letter with George K. Baum in the amount of \$2000.

Director Holsapple stated that Brownstein, Hyatt, Farber & Schreck were requesting a revised engagement letter be executed based on a \$5500 increase to their original fee of \$15,000. Upon motion made by Director Holsapple and seconded by Director Klein, it was unanimously

**RESOLVED** to approve the revised Engagement Letter with Brownstein, Hyatt, Farber & Schreck in the amount of \$20,500.

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## 2011 BUDGET AMENDMENT PUBLIC HEARING & ADOPTION

Director Marostica opened the 2011 Budget Amendment Hearing to the public. Ms. Starman reported that notice of the hearing had been published in accordance with state budget law. There being no public input, the public hearing portion of the budget hearing was closed. The Board reviewed the 2011 budget and Ms. Dowswell explained that the budget needed to be amended in order to include a Debt Service Fund relevant to a proposed 2011 bond issue. The Debt Service Fund appropriation needs to be increased from \$0 to \$51,500. Upon motion duly made by Director Holsapple and seconded by Director Rappe, it was unanimously

**RESOLVED** to approve the Resolution to Adopt the Amended 2011 Budget and appropriate budgeted funds, and approve all other documents related to the 2011 amended budget.

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## 2012 BUDGET PUBLIC HEARING & ADOPTION

Director Marostica opened the public hearing for the 2012 budget. Public input was heard and the public hearing portion of the budget hearing was then closed. Ms. Dowswell reviewed the budget in detail, including that the budget included the imposition of 40.000 mills for 2012, and answered questions.

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Following further review and discussion and upon motion duly made by Director Holsapple and seconded by Director Rappe, it was unanimously

**RESOLVED** to approve the resolution to Adopt the 2012 Budget, Certify the Mill Levy, Appropriate budgeted funds, and approve all other documents related to the 2012 budget.

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## BOND DISCUSSION

Ms. Jones and Mr. McGinnis joined the meeting via conference call at this point. She presented for approval the December 12 Term Sheet and proceeded to review the details. Discussion ensued and the Board asked that the term sheet call provision be revised per the additional bond test prepared by George K. Baum. Upon motion duly made by Director Klein and seconded by Director Rappe, it was unanimously

**RESOLVED** to approve the December 12, 2011 Term Sheet as revised.

Ms. Jones presented and discussed the parameters Bond Resolution authorizing the issuance by the District of limited tax general obligation bonds in an amount not to exceed \$1,100,000 and subordinate limited tax general obligation bonds (taxable) in an amount not to exceed \$250,000 (the "Bonds"). After further discussion, upon motion duly made by Director Klein and seconded by Director Rappe, it was unanimously

**RESOLVED** to approve the parameters Bond Resolution dated December 13, 2011, which Bond Resolution authorizes the issuance of the Bonds and further authorizes Director Klein as Vice-President, and Blaine Rappe, as Secretary, to enter into such agreements and take all action necessary or appropriate to effectuate the provisions of the Bond Resolution including, without limitation, the determination, approval, and execution of the Final Terms Certification, the execution and registration of the Bonds and delivery of the Bonds to the purchasers, and the execution of closing certificates as may be reasonably required.

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## 2012 ANNUAL ADMINISTRATIVE MATTERS RESOLUTION

Ms. Early presented the 2012 Annual Administrative Matters Resolution, which sets forth certain annual administrative obligations to be performed in 2012 by the District or its designee. Discussion ensued. The Board determined that it will add all gang mailboxes within Boise Village North as a posting location of meeting notices. The Board determined to hold regular meetings in 2012 semi-annually (April and November) on such dates as determined by the Board at 10:00 a.m. at 1043 Eagle Drive, Loveland, Colorado. Upon motion duly made by Director Klein, seconded by Director Rappe, it was unanimously

**RESOLVED** to approve the 2012 Administrative Matters Resolution.

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## 2012 ELECTION RESOLUTION

Ms. Early presented the 2012 Election Resolution. Upon motion duly made by Director Klein and seconded by Director Rappe, it was unanimously

**RESOLVED** to approve the 2012 Election Resolution.

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2012

PROMISSORY NOTE  
FOR CAPITAL COSTS

Ms. Early informed the Board that the District's Subordinate Promissory Note, issued on January 1, 2011, to Loveland Midtown Development, Inc. for the repayment of capital costs advanced to the District, matures on December 31, 2011, and that it is anticipated that the District will lack sufficient funds to pay such Note in full at maturity. Therefore, Ms. Early presented the Board with a new Subordinate Promissory Note and advised the Board that, in accordance with the District's Advance and Reimbursement Agreement dated February 1, 2006, the District must issue a new Subordinate Promissory Note to Loveland Midtown Development, Inc., with an effective date of January 1, 2012 and a maturity date of December 31, 2012, to refund the existing Subordinate Promissory Note. Upon motion duly made by Director Klein and seconded by Director Rappe, it was unanimously

**RESOLVED** to approve the issuance of a new Subordinate Promissory Note to Loveland Midtown Development, Inc. for the repayment of capital costs advanced to the District, with an effective date of January 1, 2012 and a maturity date of December 31, 2012.

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2012

PROMISSORY NOTE  
FOR OPERATIONS AND  
MAINTENANCE COSTS

Ms. Early informed the Board that the District's Subordinate Promissory Note, issued on January 1, 2011, to Loveland Midtown Development, Inc. for the repayment of operations and maintenance costs advanced to the District matures on December 31, 2011, and that the District lacks sufficient funds to pay such Note in full at maturity. Therefore, Ms. Early presented the Board with a new Subordinate Promissory Note and advised the Board that, in accordance with the District's Funding and Reimbursement Agreement dated February 1, 2006, the District must issue a new Subordinate Promissory Note, with an effective date of January 1, 2012 and a maturity date of December 31, 2012, to refund the existing Subordinate Promissory Note. Upon motion duly made by Director Klein and seconded by Director Rappe, it was unanimously

**RESOLVED** to approve the issuance of a new Subordinate Promissory Note to Loveland Midtown Development, Inc. for the repayment of operations and maintenance costs advanced to the District, with an effective date of January 1, 2012 and a maturity date of December 31, 2012.

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RATIFICATION OF  
OFFICERS FOR 2011

The Board discussed the 2011 election of officers held on November 17, 2011. Although the minutes from said meeting reflect that Eric Holsapple was elected Chairman and President, and Don Marostica was elected Assistant Secretary/Treasurer, the Board acknowledged, ratified, and affirmed that Don Marostica held the office of Chairman and President of the District and Eric Holsapple held the office of Assistant Secretary/Treasurer for Fiscal Year 2011, beginning January 1, 2011 and ordered that all documents, if any, be corrected to reflect the same.

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ADJOURNMENT

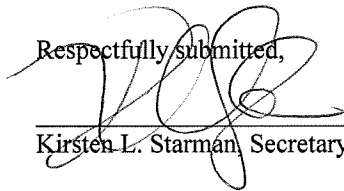
There being no further business to come before the Board, the meeting was adjourned.

The foregoing constitutes a true and correct copy  
of the minutes of the above-referenced meeting.

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Respectfully submitted,

  
Kirsten L. Starman, Secretary for the Meeting