

# RECORD OF PROCEEDINGS

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## MINUTES OF THE SPECIAL MEETING OF

### LOVELAND MIDTOWN METROPOLITAN DISTRICT

#### HELD

October 29, 2014

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., 1627 E. 18th Street, Loveland, Colorado 80538; at 10:00 a.m. on Wednesday, October 29, 2014. 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.

#### ATTENDANCE

##### Directors in Attendance:

Blaine Rappe, President  
Nathan Klein, Vice President  
Randy Vinding, Director  
Eric Holsapple, Director (via phone)  
Curtis D. Zimmerman, Secretary/Treasurer

##### Also in Attendance:

Deborah Early, Esq.; Icenogle Seaver Pogue, P.C.  
Kammy Tinney, and Brendan Campbell, CPA; Pinnacle Consulting Group, Inc.  
Debbie Given, and Max and Reitta Marcella; Residents

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#### CALL TO ORDER

The meeting was called to order at 10:03 a.m. by Director Rappe, noting that a quorum was present. The directors in attendance confirmed their qualifications to serve.

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#### CONFLICTS OF INTEREST DISCLOSURE

Ms. Early noted that conflicts of interest for Directors Rappe, Klein, and Holsapple 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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#### APPROVAL OF AGENDA

The Board reviewed the agenda. Upon motion duly made by Director Klein, and seconded by Director Vinding, it was

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**RESOLVED** to approve the agenda, as presented.

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### APPROVAL OF MINUTES

Ms. Tinney presented the minutes of the June 12, 2014 special meeting for Board consideration and approval. Upon motion duly made by Director Klein, and seconded by Director Vinding, it was unanimously

**RESOLVED** to approve the June 12, 2014 minutes as presented.

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### PUBLIC COMMENT ON NON-AGENDA ITEMS

Ms. Given addressed the Board and requested clarification regarding whether or not the Habitat Homes with rear facing driveways are required to install vinyl fencing or wood fencing, should fencing be installed. Ms. Tinney will review the requirements and respond to Ms. Given.

Mr. and Mrs. Marcella addressed the Board and expressed their concerns regarding the Board's consideration of a potential annual fee on top of the 40.000 mill levy already imposed upon property owners, and requested clarification regarding the District's ability to impose such a fee.

Attorney Early responded to the Marcella's stating that, yes, the District has the authority to implement an annual fee and will discuss further during the public hearing on that matter.

Mr. Marcella asked what the revenue generated by the fee would be used for. Ms. Tinney responded that the costs for landscape and fence maintenance would be offset by the revenue generated by the fee.

Ms. Given requested clarification regarding the amount of snow fall that triggers snow removal services around mail boxes. Ms. Tinney will review the requirements and respond to Ms. Given.

Ms. Given continued with the following items:

- The maintenance of individual's private property along the alley ways located between 11<sup>th</sup> Street and Sagittarius, to Virgo Circle on the east, and Andromeda to the west, is lacking.
- A reminder that plans previously submitted for fencing on her property was approved two years ago by the ARC, and she will likely change from a picket style fence to a privacy fence. Ms. Given would like to include lattice at the top of the fence and requested clarification regarding height restrictions. Ms. Tinney will review the requirements and respond to Ms. Given.
- Does the Board know when the final two Habitat Homes currently under construction will be completed? Director Rappe responded that the construction will likely be concluded by year-end. Ms. Tinney will contact the builder regarding status and an anticipated completion date.
- Is there any specific agreement between the occupants and Habitat Homes regarding conduct, maintenance of the homes, covenant requirements, et cetera? Ms. Tinney will contact the local Habitat for Humanity offices and inquire regarding same. Director Rappe suggested

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that a letter from the District regarding these concerns would also be helpful.

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### FINANCIAL MATTERS

Ratify Previous Claims Presented for Payment: Mr. Campbell presented the previous claims presented for payment for the period June 6, 2014 through October 24, 2014, detailing payments to be ratified in the amount of \$43,925.93, which includes check numbers 1552 – 1573. Upon motion duly made by Director Vinding, and seconded by Director Zimmerman, it was unanimously

**RESOLVED** to ratify approval of the claims in the amounts listed above.

Financial Report: Mr. Campbell presented and reviewed the Financial Report through the period ending August 31, 2014. Upon motion duly made, and seconded and, upon vote, it was unanimously

**RESOLVED** to accept the Loveland Midtown Metropolitan District Balance Sheet, and Statement of Revenues and Expenditures through the period ending August 31, 2014, prepared by Pinnacle Consulting Group, Inc.

2015 Budget Hearing: Director Rappe opened the public hearing to consider the proposed 2015 budget.

Mrs. Marcella stated that she appreciates the Board looking at maintenance needs for the future, and is surprised that capital reserves were not contemplated earlier on in the process.

There being no further public input, the public portion of the budget hearing was closed at 11:10 A.M.

Mr. Campbell reviewed the 2015 budget in detail and responded to questions from the Board. Mr. Campbell explained that distribution of the 40.000 mills certified by the District between the General Fund and Debt Service Fund is required to shift beginning in 2015 to 24.000 mills to the General Fund and 16.000 mills to the Debt Service Fund, which will result in a decrease in revenue for operations. Director Holsapple requested clarification regarding reassessment of property values, and when the District might expect to see an increase in revenues as a result of the reassessment. Mr. Campbell stated that 2015 is a reassessment year, which will include properties built and/or improved from June 2013 through January 1, 2015. Larimer County includes a five year “look back” in their assessment and will value based on the most favorable time frame for property values. The District will not see an increase in assessed valuation until release of preliminary assessed valuation in August 2015, and will not collect taxes against that assessed value until 2016. Director Holsapple requested a projection and preparation to argue the County’s numbers, if necessary. Mr. Campbell will contact Larimer County to inquire about the outlook for assessments in 2015.

Mr. Campbell explained that the District’s bonds were issued in two series,

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“Series A” and “Series B”, with Series B being subordinate to Series A, and are only paid per the debt service schedule if there are sufficient funds available from the mill levy certified for that year. Interest will accrue on the Series A bonds until such time as the District has the funds available from property tax revenues. Director Holsapple asked if expenses in the General Fund could be cut to fund Debt Service. Mr. Campbell stated that the agreements did not contemplate transfers from the General Fund to fund Debt Service and the mill levy “shift” in the agreements was put in place to fund debt service requirements.

Based on the discussion regarding reassessment of property values in 2015, and the anticipated increase in property values and subsequent tax revenues, Director Klein asked if the imposition of an operations and maintenance fee could be deferred to 2016. Director Vinding stated that he senses that residents are not happy about the idea of an operations and maintenance fee and are already paying a high amount of taxes to the District. He would prefer that the District figure out how to continue operations and maintenance services with the property tax revenue it currently collects. Director Vinding also expressed concern that residents could force a recall election of the Board, costing the District even more money that it does not have. Attorney Early provided information regarding the necessary steps to a recall election, and indicated that she would verify which costs are paid by the petitioners for a recall, and which costs are borne by the District.

Director Holsapple asked if the discussion of the imposition of an operations and maintenance fee could be deferred to the next meeting or considered with the 2016 budget. Director Holsapple stated that he does not want to assess a fee in 2015.

Director Rappe suggested that it is time for a competitive bid for landscape maintenance services.

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

**RESOLVED** to approve the Resolution to Adopt the 2015 Budget, Certify the Mill Levies, Appropriate budgeted funds, and approve all other documents related to the 2015 Budget.

Imposition of an Annual Fee on Properties within the District: The Board determined to defer discussion of this matter to the next regular meeting in 2015.

Director Holsapple left the meeting at this time.

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### MANAGEMENT MATTERS

Architectural Control Committee Update: Ms. Tinney reviewed with the Board the Architectural Control Review log. Ms. Tinney requested Board direction regarding the preferred level of Covenant Enforcement by District Management, including the filing of liens against properties for multiple violations and non-payment of fines. Attorney Early stated that there is already a perpetual lien on properties for fees and charges imposed pursuant to the Special District Act , but

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that liens for specific fines could still be recorded against individual properties. Director Rappe stated that he would prefer that covenant enforcement be handled on a case-by-case basis. Fines should be exacted for blatant violations, but he expects staff to work with property owners to remedy each situation. Ms. Tinney was directed to reach out personally to homeowners who have not responded to repeated violation letters, report City Code violations to the City, and utilize the District's website to disseminate information regarding covenant control.

2015 Landscape Maintenance Contract: The Board discussed tabling the approval of the landscape contract until an additional bid is received. Ms. Tinney will solicit bids and distribute via email for the Board's review. Following further review and discussion and upon motion duly made by Director Vinding, and seconded by Director Klein, it was unanimously

**RESOLVED** to authorize the Board President to make the final determination for the 2015 landscape maintenance contractor.

2014 Fence Maintenance Contract: Ms. Tinney reviewed the 2014 fence maintenance contract between the District and Black Eagle Fence with the Board. Following review and discussion and upon motion duly made by Director Klein, and seconded by Director Zimmerman, it was unanimously

**RESOLVED** to ratify and approve the contract with Black Eagle Fence, as presented.

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### LEGAL MATTERS

Consideration and Approval of 2015 Annual Administrative Matters Resolution: Attorney Early presented the 2015 Annual Administrative Matters Resolution, which sets forth certain annual administrative obligations to be performed in 2015 by the District or its designees, and provides for the annual election of officers.

Upon motion duly made by Director Vinding, and seconded by Director Zimmerman, it was unanimously

**RESOLVED** to elect the following officers for the District:

Blaine Rappe, President  
Nathan Klein, Vice President  
Curtis Zimmerman, Secretary/Treasurer  
Eric Holsapple, Director  
Randy Vinding, Director

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

**RESOLVED** to approve the 2015 Administrative Matters Resolution.

Attorney Early indicated that Directors Rappe, Klein, and Holsapple filed conflicts of interest with the Secretary of State disclosing that they are either employees and/or own a financial interest in Loveland Midtown Development,

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Inc., which is the holder of the 2014 Promissory Notes for Capital Advances and Operation and Maintenance Advances (“Notes”). As set forth in the agenda, the Board is to consider and approve the refunding of these Notes and the issuance of 2015 Promissory Notes for Capital Advances and Operation Advances, as described below.

2015 Subordinate Promissory Note (Capital Advances): Attorney Early informed the Board that the District’s Subordinate Promissory Note, issued on January 1, 2014, to Loveland Midtown Development, Inc. for the repayment of capital costs advanced to the District, matures on December 31, 2014, and that it is anticipated that the District will lack sufficient funds to pay such Note in full at maturity. Therefore, Attorney 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, 2015 and a maturity date of December 31, 2015, to refund the existing Subordinate Promissory Note. Upon motion duly made by Director Vinding, and seconded by Director Klein, 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, 2015 and a maturity date of December 31, 2015.

2015 Subordinate Promissory Note (Operations & Maintenance): Attorney Early informed the Board that the District’s Subordinate Promissory Note, issued on January 1, 2014, to Loveland Midtown Development, Inc. for the repayment of operations and maintenance costs advanced to the District, matures on December 31, 2014, and that it is anticipated that the District will lack sufficient funds to pay such Note in full at maturity. Therefore, Attorney 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, 2015 and a maturity date of December 31, 2015, to refund the existing Subordinate Promissory Note. Upon motion duly made by Director Vinding, and seconded by Director Klein, 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, 2015 and a maturity date of December 31, 2015.

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### OTHER BUSINESS

Regular Meeting Dates for 2015: Ms. Tinney requested that the Board consider regular meeting dates for 2015. Attorney Early noted that, at the October 16, 2013 special meeting, the Board adopted a Resolution determining that regular meetings of the Board would be held on the 3<sup>rd</sup> Wednesday in April and October at 10:00 a.m., at the offices of Pinnacle Consulting Group, Inc. The Board determined to hold regular meetings on the third Wednesday of April and October, 2015.

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### ADJOURNMENT

There being no further business to come before the Board at this time, upon

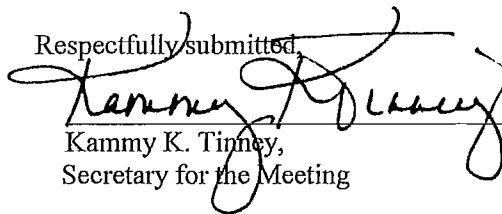
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motion duly made by Director Vinding, and seconded by Director Zimmerman, upon unanimous vote, the meeting was adjourned at 11:55 a.m.

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Respectfully submitted,



Kammy K. Tinney,  
Secretary for the Meeting