

**EBERT METROPOLITAN DISTRICT
SPECIAL MEETING
OF THE BOARD OF DIRECTORS**

AGENDA AND NOTICE

Board of Directors	Office	Term Expiration
Cynthia Barclae	President	2020-2022 (Elected)
Bruce Shibles	Assistant Secretary	2020-2022 (Appointed)
Keith Mays	Assistant Secretary	2020-2022 (Appointed)
Jennifer Woods	Assistant Secretary	2020-2022 (Appointed)
Murray Hawthorne	Assistant Secretary	2020-2022 (Appointed)

DATE: Tuesday, October 12, 2021,

TIME: 7:00 PM

PLACE: Zoom Conference Join Zoom Meeting

Join Zoom Meeting

<https://zoom.us/j/98596285865>

Meeting ID: 985 9628 5865

One tap mobile

+13462487799,,98596285865# US (Houston)

+16699009128,,98596285865# US (San Jose)

Dial by your location

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington DC)

Find your local number: <https://zoom.us/u/acTNhRI5dS>

The meeting is open to the public; however, due to standing State and Denver Public Health Orders and recommendations by the CDC, and to preserve the health, safety, and welfare of the public, the Boards and the public will attend the meeting via Zoom Conference.

YOU MAY ACCESS THE MEETING PACKET AT: Ebertmd.colorado.gov

“The Mission of the Ebert Board of Directors is to protect and enhance the property values of the Ebert District through a policy of fiscal accountability, transparency, and effective governance.”

1. ADMINISTRATIVE ITEMS:

- a. Call the Meeting to Order
- b. Declaration of Quorum
- c. Confirm Location and Posting of Meeting Notices
- d. Approval of Agenda and Meeting Location
- e. Disclosure of Potential Conflicts of Interest

2. DIRECTOR ITEMS:

- a. Director Barclae
 - i. Meeting definitions [Page 3](#)
 - ii. Review and approve Special Meeting Minutes from April 22, 2021 [Pages 4 - 5](#)
 - iii. Review and approve Special Meeting Minutes from August 24, 2021 [Pages 6 - 13](#)
 - iv. Review, discuss and revise proposed District Bylaws [Pages 14 - 29](#)

3. Other Director's Items:

- a. Director Mays
 - i. District webpage update
- b. Director Hawthorne
 - i. 2022 Budget progress
 - ii. Financial Operations Committee update
- c. Director Woods
- d. Director Shibles

4. Review of Chat

5. Adjournment

The next Regular meeting is scheduled for Tuesday, October 26, 2021, at 7:00 PM.

Meeting Definitions

A **meeting** is a single official gathering of members in one room or area to transact business for a length of time with no cessation (except for a short recess). Members do not separate during a meeting.

Regular meeting:

Regular meetings are meetings of the Board of Directors that occur at pre-defined intervals, usually once a quarter. The days and times of regular meetings are either specified in the District Bylaws or established in a previous meeting by adopting a standing rule. Regular meeting times can be established in other ways, but if the times aren't fixed in the rules, you must provide a definite notice procedure in your Bylaws.

Regular meetings are generally conducted to complete a standard order of business. Any motions that require public notice (such as Bylaw amendments) must be noticed in strict accordance with your Bylaws.

Special meeting:

Special meetings are held when the Board of Directors needs to conduct business that cannot or should not wait until the next regular meeting. Special meetings may not be called unless the organization's Bylaws specifically authorize them. Consequently, a special meeting is held at a different time than a regular meeting and is convened only for the specific purpose(s) noticed in the call to the meeting.

Study session:

Study sessions are a truncated form of special meetings at which a quorum of the Board is in attendance, public notice of the meeting has been given, information is presented to the Board, and the Board takes no official action.

RECORD OF PROCEEDINGS
EBERT METROPOLITAN DISTRICT
SPECIAL BOARD MEETING

AGENDA AND NOTICE

<u>Board of Directors</u>	<u>Office:</u>	<u>Term Expiration</u>
Todd Creger	President	May 2022 (appointed)
Yvonne Flood	Secretary/Treasurer	May 2022 (elected)
VACANT	Assist. Secretary	May 2022 (appointed)
Cynthia L. Barclae	Assist. Secretary	May 2022 (elected)
Kimberly Rivera	Assist. Secretary	May 2022 (appointed)

DATE: Thursday April 22, 2021

TIME: 4:00 PM

PLACE: VIA Zoom

****NOTICE: given current events and current advice and directives from local, state and federal jurisdictions related to COVID-19, Board members, consultants and members of the public may participate by videoconference or teleconference by utilizing the following information:***

To join the webinar from your computer, please click on this link:

<https://zoom.us/j/97289921180>

If you are unable to join from a computer, please call the following number and enter the webinar ID

when prompted:

1-669-900-9128

ID 258 307 6806

Password 823481

YOU MAY ACCESS THE MEETING PACKET AT: Ebertmd.colorado.gov

“The Mission of the Ebert Board of Directors is to protect and enhance the property values of the Ebert District through a policy of fiscal accountability, transparency and effective governance.”

I. Call to Order / Roll Call / Declaration of Quorum / Disclosures

Director Creger called the meeting to order at 4:00 PM. Present were all Directors plus Bob Blodgett, CRS, Kim Breutsch, Robinson Waters and D’Orisio members of the public included Jeff

Shelton, Caroline, Sharon, Gail Bell, Tom Carllon, Al Morie, Lewis Kennedy Kelvin Klink and five other residents

II. Discuss Possible Appointment of an Ebert MD Elector to the Town Center MD Board
(enclosure)

Director Creger stated the purpose of the special meeting today is to receive legal advice regarding the Board's decision related to the potential appointment of an Ebert MD Elector to the Town Center Metropolitan District Board. No discussion or action will take place at the meeting after the executive session. This item will be placed on the May 25 regular Board meeting agenda for public comment and discussion before the Board makes a final decision.

Executive Session – Pursuant to CRS Section 24-6-402(4)(a)-(f) primary discussion relating to obtaining legal advice with respect to the possible appointment of an Ebert MD Elector to the Town Center MD Board of Directors.

The Board will not adopt any proposed policy, position, resolution, rule, regulation or take any formal action during the Executive Session.

Motion by Director Creger second by Director Flood, the Board moved into executive session at 4:07 PM.

The Board moved out of Executive session at 5:06 PM

III. Other Items

None.

IV. Adjourn

Director Creger adjourned the executive session and the Board meeting at 5:06 PM.

The next Regular meeting is scheduled for Tuesday May 25, 2021 at 6:00 PM

The foregoing Meeting Minutes constitute an accurate account of the above reference proceedings and were approved by the Board of Directors of Ebert Metropolitan District.

RECORD OF PROCEEDING

MINUTES OF SPECIAL MEETING OF BOARD OF DIRECTORS OF EBERT METROPOLITAN DISTRICT

August 24, 2021

7:00 – 9:15 PM

Zoom Teleconference

A Special Meeting of the Board of Directors of Ebert Metropolitan District, City, and County of Denver, Colorado, was called to order as shown above and in accordance with the applicable statutes of the State of Colorado, with the following directors present and acting via Zoom teleconference:

DATE: August 24, 2021, TIME: 7:00 PM

PLACE: Zoom Teleconference Join Zoom Meeting

Join Zoom Meeting

<https://zoom.us/j/95757796862?pwd=Q2tsUXFtMkV4NGhicGFEMGtQVDFVUT09>

Meeting ID: 957 7081 0543

Passcode: 442840

Board of Directors	Office	Term Expiration
Cynthia Barclae	President	2020-2022 (Elected)
Bruce Shibles		2020-2022 (Appointed)
Keith Mays		2020-2022 (Appointed)
Jennifer Woods		2020-2022 (Appointed)
Murray Hawthorne		2020-2022 (Appointed)

Also, present via Zoom were:

Jerry Jacobs of Timberline District Consulting, LLC – District Manager

Corey Pilato of Timberline District Consulting, LLC – Assistant District Manager

Kimberly Bruetsch, Esq. of Robinson Waters & O’Dorisio, P.C.

27 Other members of the public

1. ADMINISTRATIVE ITEMS

a) Call to Order

The Special meeting of the Board of Directors of the Ebert Metropolitan District was called to order at 7:02 PM via Zoom teleconference.

The notice and agenda of the Special Meeting were posted on the website and distributed to the community via email blast by Westwind Management Group.

b) Declaration of a Quorum

A quorum of five was declared.

c) Confirm Location and Posting of Meeting Notice

President Barclae confirmed the meeting location via Zoom teleconference and stated that Westwind Management Group email blasted the notice out to the Metropolitan District Residents.

d) Approval of Agenda and Meeting Location

President Barclae motioned to approve the agenda provided the following two items to be amended: Item f, i: Regular Meeting Minutes for May should read May 25, 2021, and not May 26, 20221, Item 4, c: remove everything after the word “chat” as this topic is for this meeting. With no other amendment proposals from the other Directors, Director Mays seconded the motion. Motion to amend and approve tonight’s Special Meeting Agenda carries with all in favor.

e) Disclosure of Potential Conflicts of Interest

President Barclae stated that there are no conflicts of interest to announce currently.

f) Review and Consider Approval for the below meeting minutes:

i. Review of Regular Meeting Minutes from May 25, 2021

President Barclae was the only Board of Director remaining as of the Regular Meeting from May 25, 2021; President Barclae approved the meeting minutes.

ii. Review of Special Meeting Minutes from July 27, 2021

President Barclae was the only Board of Director remaining as of the Regular Meeting from July 27, 2021; President Barclae approved the meeting minutes.

iii. Review of Study Session Meeting Minutes from August 10, 2021

Director Mays stated that he was not in attendance for this meeting and would like the record to reflect that. Director Hawthorne requested the word “Note” being taken out for V.,1. Director Mays requested the first “and” in V.,1. be corrected to “any.” With no other discussion, President Barclae motioned to accept the amended Study Session Meeting Minutes from August 10, 2021, second by Director Woods. Motion to amend and approve carries with all in favor.

iv. Review of Study Session Meeting Minutes from August 19, 2021

Director Hawthorne requested the header of the minutes be updated from “Draft” to “Record of Proceedings.” Additionally, in paragraph three on page 3, the amounts listed do not match the total carryover amount. With no other discussion, President Barclae motioned to accept the amended Study Session Meeting Minutes from August 19, 2021, second by Director Hawthorne. Motion to amend and approve carries with all in favor.

2. DIRECTOR'S ITEMS

a) Date/Time of October Regular Meeting

Director Barclae confirmed that the next Regular Meeting day and time are listed on the website and will be on Tuesday, October 26, 2021, starting at 7:00 PM. Initially, this was listed as Wednesday, October 27, 2021. President Barclae confirmed that the notice requirement has been satisfied.

b) Board Appointments

President Barclae stated that she has verified that the requisite filings on all four new members of the Board have been filed with and accepted by DOLA, the documentation of which now appears on the DOLAs website. Thank you, Kim (Kimberly Bruetsch, Esq. of Robinson Waters & O'Dorisio, P.C.). We have also met the statutory requirement of naming the new appointees in the July 27, 2021 meeting minutes.

c) District Bylaws

President Barclae stated that due to the short notice and lack of adequate time to allow all the Directors an opportunity to review and provide their recommended revisions to the Bylaws, the Bylaws won't be proposed for adoption this evening. We'll postpone that action until the October Regular Meeting.

d) Time of day for holding public meetings

President Barclae stated that this was discussed during the August 10, 2021, Study Session that more of the public are able to attend our District meetings when they are scheduled at 7 PM on Tuesdays, Wednesdays, and Thursdays.

Director Woods motioned to make Metropolitan District Board of Directors meetings on either Tuesday, Wednesday, or Thursday at 7:00 PM to allow additional resident attendance; Director Mays seconded the motion. Motion carries all in favor.

e) Treasurer and Secretary roles

President Barclae stated that Colorado Revised Statutes 32-1-902 states that the Board is required to elect a member of the Board to the roles of Treasurer and Secretary. The statute also allows the role of Treasurer and Secretary to be held by one person. We, therefore, have a couple of options. I'd like the Director's opinions on the combined role, separate roles, and even the possibility of there being a "CO-role" in the interest of assuring continuity in the event of an absence during a meeting or a resignation.

After a brief discussion among the Directors, it was agreed to have co-roles for redundancies.

Mr. Jacobs provided additional clarity regarding co-roles specifically; prime and sub-prime roles are not designated as these are co-roles in response to Kelvin Klink's concerns.

Director Hawthorne volunteered for the role of Treasurer; Director Mays motioned to confirm Director Hawthorne for the role of Treasurer, seconded by Director Woods. Motion carries all in favor.

Director Woods volunteered for the role of Secretary; President Barclae motioned to confirm Director Woods for the role of Secretary; seconded by Director Hawthorne. Motion carries all in favor.

f) Community Input

President Barclae stated that the majority of services provided to the District are provided by the City and County of Denver. Westwind, through our administrative services IGA with TCMD, handles covenant enforcement and certain work requests. Should we have a platform of some sort, other than public meetings, by which the people can communicate with the Board to share District concerns? Like a general email that all the Directors can see on the website that comes in under a general email like info@ebertmd.colorado.gov if that is possible.

Director Mays offered to maintain the SIPA website from now on and will reach out to District Management for assistance when needed.

Kimberly Bruetsch remarked on potential open meeting law concerns associated with interactive email

Director Hawthorne remarked that the spirit of the provision is not to function as a two-way communication; its to receive input only, visible to Directors for their info only. Any discussion about the topics that come through are to be discussed in a properly noticed public meeting.

Jerry J. offered that community email can be collected by the District Manager and presented to the Board in a public forum to avoid violating open meeting law. Also suggested that one director can be designated as the District point person to answer email.

Director Mays remarked that some email may have time sensitivity characteristics that could warrant a prompt response.

The Board of Directors discussed the methods of collecting and replying to resident questions and concerns, one being the collective email address. President Barclae stated that this topic needs further discussion at a later time.

Director Hawthorne stated that this might be an excellent task for a committee to head up.

Director Barclae suggested that we discuss this further at a future meeting.

g) District Committees

President Barclae stated in reviewing the contributions and performance of the District's committees that were stood up last summer; I can say I can't recall any substantial or noteworthy work from any of those committees with the exception of the Strategic Planning and Fiscal Policy Committee, whose effort was instrumental to the accuracy of last year's Reserve Study final report. Further, I scanty recall any substantive reports of accomplishments by committee chairs during the past 12 months; therefore, I am intending to make sure there is a place on our meeting agendas specifically for each Committee.

As for the prior Board's Committees, while still acting as the sole Director at that time and with such authority, I, as the sole Director at the time, announced that I had reset the slate of Committees and would be charging the NEW Board with determining and establishing the District's Committees. Therefore, we are starting with a blank slate.

Volunteers who served on any of the prior Committees are welcome to volunteer to serve on any of the new Committees that may be established by this new Board. Prior and new volunteers will be able to contact the respective Committee Chair after those Committees are approved by the Board. As Committees are established, the Committee name and the Chairperson to contact can be found on the District's webpage.

Earlier this Spring, the prior Board discussed separating the Strategic Planning Committee and Fiscal Policy Committee into separate Committees but didn't take action to do so.

The Bylaws now contain new language and an Appendix that prescribe the structure of a Committee's charter. I invite your attention to those two places in the Bylaws.

Director Hawthorne remarked that the revised Bylaws have not yet been approved but the appendix may be used as a reference.

Director Woods inquired whether any committees are required by the Board, or other statutory authority. Jerry remarked that there are no requirements for committees.

Director Woods inquired as to why a committee might be required in the first place? What drives the necessity? What problem are we solving?

Director Mays remarked that committees shouldn't be arbitrarily created.

Director Barclae remarked that additional discussion on committees may be queued up for future meetings.

Resident Kel Klink suggested that the former strategic planning and fiscal policy committee continue.

Director Hawthorne motioned to stand up a Fiscal Operations Committee. Second by Director Barclae. Motion to stand up the Financial Operations Committee carried with all in favor.

Director Barclae remarked 'We are rapidly nearing the beginning of the budgeting process. In light of the upcoming budget activities, I have drafted a proposal for a new Committee based on the structure prescribed by the Appendix in the Bylaws. I've named it "Financial Operations Committee." Please take a look at the draft of the charter. I'd like to discuss this, get your thoughts, and if there is concurrence, establish this Committee in light of the upcoming budget cycle.

As for its team, I'm inclined to suggest that we carry over the team from the Strategic Planning and Fiscal Policy committee to this Committee, considering some similarities between the two Committees. The Committee's volunteers can be revised later. I'd like to open a discussion on other potential Committees that we think may be beneficial to the District. As you think of a Committee or two, please think in terms of the Appendix. We do not need to decide tonight, but I would like us to stand up Committees that we believe will serve a beneficial purpose to the District, that will be actively led by you and your select volunteers, and that have a specific purpose and deliverables.

Mr. Jacobs clarified that Committees are not required for a Metropolitan District to address Director Woods's question.

President Barclae stated that the types of Committees desired can be picked back up at a later time.

The Directors discussed the need for a budget Committee after Kelvin Klink's comments and concerns for not having this Committee during the budget period. Director Hawthorne motioned to restart the Financial/Fiscal Operations Committee, Director Mays seconded. Motion carries all in favor.

h) Board Continuity

President Barclae stated that she spoke on the issue of Board continuity during the August 10, 2021, Study session. Going forward, I'll be adding as a recurring agenda item a place where directors can make suggestions for the composition of a Director's Manual. Directors can propose content to adopt or decline accordingly. I envision these

Manuals as being District property that would be returned to the District President upon any event resulting in a termination of Board service. These District Manuals will be returned to the District and passed on to new Board Members as they are elected or appointed. The specification will be a Three-inch 3-ring Binder with initial content being the most current copy of the Special District's Association "Special Districts Manual," as a copy of which will soon be provided to each Director. Future content will be as recommended and approved by the Directors.

Director Woods suggested that the Director's manual be hosted electronically on the district's website.

Directors discussed, and all agreed that an electronic method would be preferred for Board Member Manuals, as a link to a document repository such as Drop Box, on the district's website. This will provide the option of printing the manual if preferred.

Presently our Assistant District Manager is making the updates. Every time our ADM goes into that website, we get charged a fee. We can avoid that fee by having a Board Member keep it current. Keith Mays volunteered to be the website manager with support by the District Manager as needed. Thank you, Keith, for volunteering to manage our website.

i) Special District membership and training

Director Barclae mentioned the presence of new language in the draft bylaws regarding funding for new director training.

President Barclae stated that this Board of Directors has a unique situation in that our draft of our yet unapproved revised Bylaws requires at least 12 months of remaining service on the Board to be eligible to be reimbursed for Director training. In light of the highly unusual circumstances that transpired in June and July of this year, effectively gutting this Board and having to replace it with essentially an entirely new lineup of Directors, I asked that we have funds to be able to have our directors attend the SDA training in September. Director Barclae remarked that she checked with the district accountant (CLA) who confirmed there is room in the budget to handle this expense. Three directors were registered for virtual attendance and two for in-person attendance.

j) Ebert resident's appointment to Town Center Metropolitan District (TCMD) Board of Directors

President Barclae stated that the Board of Directors is waiting on TCMD's legal dept to complete the remaining paperwork appointing Bill Schmidt to the TCMD Board. Further, on this matter, I'd like each Director to note their thoughts and idea as to how they think this "seat" should be filled hereafter...for instance, should the Ebert Board retain responsibility for making the appointment? Should determining its occupant be the privilege of the District residents through the rigor of the election process? What are the risks, pros, and cons of our options? I will make this an agenda item at one of our next meetings because if we agree to make it a publicly elected position, we need to include it in the upcoming election cycle this Winter. Subject to everyone's concurrence, I would like our next discussion on this matter to be in terms of risks, pros, and cons.

Director Woods asked whether there is any cost associated with making it an elected position.

Mr. Jacobs explained the cost difference between having an election versus appointing a person to the Board of Directors, adding that there is a difference in representation when handled by appointment versus election but there is also a cost benefit by not having to risk the cost of an election which tend to run near \$40,000 for this district.

Director Hawthorne emphasized that we should get public input on this matter, and encouraged the public to voice their opinions to the directors.

k) Upcoming election cycle

President Barclae stated that the Board of Directors would be engaging in another election cycle beginning late December of this year when the announcement to solicit nominations begins. With CRS's no notice termination of services, at present, we have no organization to conduct that election for us. Our IGA with TCMD regarding administrative services places this responsibility in their lane. Timberline and I are also looking for a firm that can conduct our election. We will provide updates as appropriate since there are procedural deadlines associated with District elections.

Mr. Jacobs stated we are not running up on any deadlines at this point and we can get the proper paperwork filed in September and we can pursue a firm that can run the election if its needed.

Director Hawthorne stated that we do need to run an election in light of the Board's 4 appointees whose terms end May 2022.

Jerry clarified that an election is only necessary when the number of homeowners that apply is more than seats open on the Board of Directors. If the number of homeowners applying for a seat equals the open spots, then no election is needed. He also stated that the bulk of the cost of the election occurs after the nomination period ends and an election becomes necessary because the number of people running exceed the number of open board seats.

l) Budget Meetings

President Barclae stated that the budget meetings are coming up beginning in September 2021. Our designated Treasurer will attend and provide updates accordingly. I anticipate available members of the Financial Operations Committee will attend the budgeting meetings and provide the District with updates at our scheduled meetings.

m) \$2.9 Million monies discussion

President Barclae explained that the Board of Directors has requested a detailed accounting trail from the District Accountant establishing, in no uncertain terms, the origin of those funds through to including their repayment, including all earned interest. We know that a sum of 2.9 million was repaid by GVR East and collected by TCMD last summer.

Debra Sedgley from CliftonLarsonAllen (accounting firm) will provide those details, but this will take a little time to gather as the company has a new storage site for documents.

Director Woods asked whether CLA was subject to CORA requests. CORA requests are limited to a 72 hr response time.

Director Hawthorne suggested that a CORA request may be appropriate.

n) Other Director Items

Director Hawthorne suggested the Board reviewed the items under "Other Business" before going into Executive Session as attendees may not want to stay on the meeting until the Board returns.

3. OTHER BUSINESS

a. Remarks / Comments from Directors

As there were no remarks, the meeting continued.

b. Other items

Director Barclae with the assistance of Jerry and Corey steered the discussions to answer myriad Chat questions and comments (see Chat transcript attachment). The dialog may be heard directly by listening to the Zoom video recording beginning at 01:14:45.

Gail Bail requested additional information regarding the comment on networking during the SDA conference. President Barclae stated that she would like to use this time to get applications for other District Management companies and assistance with the elections.

Gail wanted to remind the Board of Directors attending the SDA conference that the Developer is well known within the SDA community and to remind them that they represent the District at this conference.

Director Hawthorne reassured Gail that the Board of Directors for Ebert Metropolitan District is aware that they represent the District; not the Developer.

Robert Spears wanted to follow up regarding contact monitoring and performance. Does the District have a written work statement of performance for the contacts and who wrote the contract?

Director Hawthorne remarked that contracts are handled by TCMD through their District Manager. Mr. Jacobs clarified that all service contracts are held by TCMD; not Ebert. Ebert Metropolitan District only holds the letter of engagement for Ebert's legal counsel. Contracts are available on the website for public review.

c. Review of Resident Questions

Please see attached for questions and answers covered during the meeting.

4. ADJOURNMENT

There was no further business to come before the Board of Directors. Upon a motion from President Barclae, seconded by Director Hawthorne and carried unanimously, the meeting adjourned at 8:40 PM.

a) Executive Session

As needed to receive legal advice from Counsel pursuant to C.R.S. Section 24-6-402-4-(b) and/or Section 24-6-402 (e) i. Discussion matter pertaining to the former District Management company termination without proper notification.

The Board of Directors, Metropolitan District attorney, and District Management went into executive session at 8:40 PM.

The executive session ended at 9:15 PM when Director Woods motioned to conclude the executed session and was seconded by Director Mays. Motioned carries all in favor.

The foregoing Meeting Minutes constitute an accurate account of the above reference proceedings and were approved by the Board of Directors of Ebert Metropolitan District.

Ebert Metropolitan District Bylaws

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Style Definition: TOC 1: Font: 14 pt, Bold, Do not check spelling or grammar, Tab stops: 6.49", Right,Leader: ...

Ebert Metropolitan District Bylaws

Where any conflict exists between the provisions of these Bylaws and the district's Service Plan, existing enforceable agreements, federal, state or local law, such Service Plan, agreements and laws shall control.

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ARTICLE 1: INTRODUCTION

Purpose: These Bylaws ("Bylaws") are adopted by the Board of Directors ("Board") of the Ebert Metropolitan District (each Director a "Director" or "Board Member") in order to facilitate the conduct of District business, promote efficient operations, and set forth the District's code of conduct, ethics and ethical obligations, all to better serve the public.

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Any amendment to these Bylaws, except for scrivener errors, shall first be subject to legal review and opinion by the District's legal counsel prior to adoption.

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ARTICLE 2: MISSION STATEMENT

The mission of the Board is to ensure the District fulfills its obligations to the public under its Service Plan and any active enforceable agreements to which it is a party, through fiscal responsibility, public accountability, public transparency and effective governance.

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In the interest of effective governance, the District expects its Directors to know and be competent in the business affairs associated with overseeing a multi-million dollar Metro District. To that end, the District shall pay up to \$1,000 toward any newly elected or appointed Director's training provided the training is completed within the first 12 months of the date of election or appointment. Appointees to terms of less than 12 months are not eligible for this training provision. District reserves the right to specify and approve the training content and training provider(s). Appointment "Terms" end on the date of the district's regularly scheduled Election Day (as per Colorado Revised Statutes).

ARTICLE 3: CONTRACTING AND PROCUREMENT

The District will take into consideration business equity when engaging contractors and entering into agreements for goods and services to encourage the participation of minority and women owned businesses in its contracting and procurement. Further, the District will support business

Ebert Metropolitan District Bylaws

mentoring opportunities for interested minority and women owned businesses to help them gain skills necessary to successfully compete for district engagements and contracts in the future.

ARTICLE 4: PROTOCOLS AND GUIDELINES

a. Officers

The Board shall appoint from current Board Members as officers of the District a President, Secretary, and Treasurer. The Board may also appoint from current Board Members any number of Assistant Secretaries and Assistant Treasurers in the Board's discretion. The Board may appoint a non-Board Member engaged by the Board to manage the District's administrative affairs (the "**Manager**") to serve as Secretary or Assistant Secretary. Officers may be appointed by official Board action at any time, and Board Members may simultaneously serve in more than one office.

[Do you want a limit on officers term? You could require an election of officers yearly or otherwise if you choose. Do you want a VP – the statute only requires Pres, Sec and Treasurer but you can add that role if you choose]

b. Term Limits

In the interest of assuring continued diversification of District leadership and influence, no person may be elected to ~~service in excess of six (6)~~serve more than two consecutive ~~years~~full terms. Eligibility for re-election resumes following ~~a 2 consecutive year period~~one full term break in Board service. This restriction does not prohibit a former Board member from service on a Board committee or service as a Consultant to the Board. ~~Where a partial term of service occurs as a result of a Board Appointment (see "Board Vacancies"), the partial term irrespective of duration shall be construed as a full term for purposes of determining length of Board service under this provision. This provision may be waived by Board's discretion to fill a Board vacancy.~~

[Per the statute, the term limits are based on full terms rather than number of years – this is an important distinction because of the switch occurring where the 2022 term will be 3 years. Changing term limits is allowed only by the voters. Partial terms due to appointments are not counted as full terms]

c. Calling Board Meetings

1. The Board shall meet regularly, once per quarter, or more frequently as determined by the Board. Scheduled board meeting planning shall take into consideration the periodic requirements of the Special District Compliance Calendar as published by Colorado Department

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Ebert Metropolitan District Bylaws

of Local Affairs. ~~The District's "status" to the Compliance Calendar shall be a permanently recurring agenda item on each of the District's mandated four (4) Regularly scheduled meetings.~~

2. ~~Per CRS 32-1-903 (2)~~ "Special Meetings may be called by ~~ANY~~any Director by informing the other directors of the date, time and place of the special meeting, and the purpose for which it is called, and by providing notice in accordance with ~~section CRS 24-6-402, Colorado law~~. All official business of the board shall be conducted only during regular or special meetings at which a quorum is present, and all said meetings shall be open to the public."

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3. All Board Members will be informed of the date, time, and place of all meetings. Public notice of meetings will be given as required by law. The Manager may give such additional notices of meetings as the Manager reasonably determines or as directed by the Board. Notices of meetings will include specific agenda information when possible.

d. Pre-meeting activities

1. Any Board Member, the Manager, or the District's legal counsel ("Legal Counsel") may ask the President or Manager to include an item for discussion and possible action on any meeting agenda. The President shall, if practicable, include the requested item on the agenda unless the request is made too late to be included on the agenda, or the item can be, or has been, resolved outside of a meeting.

2. Except in an emergency or for good cause, the request to add an agenda item is to be made at least 10 days prior to a meeting. Written requests are preferred. The addition of appropriate items to a "consent agenda," rather than a "discussion agenda" is encouraged.

3. Any and all agenda items requiring separate legal notice shall be specifically and separately identified in meeting agendas.

4. The Board, Manager, and Legal Counsel are discouraged from adding items to the agenda at the Board meeting ~~on the basis that failure to properly notice the public on District business may render such non-noticed actions as void. Nonetheless, the agenda may be modified at a meeting with the consent of the President or the Board. (Legal Counsel has advised that actions on certain items added to an agenda at or prior to the meeting without giving public notice can be void in some situations).~~

5. If possible, the Board packet is to be furnished to the Board at least 7 days before a regular meeting and at least 24 hours prior to a special meeting.

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6. Potential conflicts of interest will be disclosed in advance of meetings and at meetings as provided by law.
7. To the extent possible, questions concerning agenda items by a Board Member should be addressed to the President or Manager prior to a meeting to avoid utilizing meeting time on questions that can be resolved without Board involvement.
8. Questions by a Board Member for the Manager, Legal Counsel or other consultants should be discussed with the President ~~or Legal Counsel~~ before the Board Member calls or emails Legal Counsel or other consultants whenever possible. The intent of this protocol is to avoid incurring unnecessary legal and consultant fees whenever possible.
9. The Board strongly encourages discussions in Board committees, if any such committees are created. Any such committees are to make recommendations to the Board, and do not have decision making authority.

e. At Meetings

1. All Board Members are expected to attend all meetings.
2. All Board Members are expected to be on time for all meetings.
3. Board Members may attend a meeting by conference telephone, if necessary. Attendance by telephone should be arranged with the President and Manager (or their designee) in advance of a meeting to be sure the technical details of the conference call are prepared.
4. Once a quorum is present (in person or by phone *or by video conferencing*), the President may begin business as soon as the time of the meeting arrives. A majority of the Board then in office who are eligible to vote shall constitute a quorum.
5. Discussion of items on the consent agenda is discouraged. Questions about the consent agenda should be directed to the President or Manager prior to the meeting. Items may be moved from the consent agenda to the discussion agenda by action of the Board.
6. Board Members, staff, and consultants will disclose potential conflicts of interest on an agenda item prior to the start of discussion on the particular item, shall not attempt to influence the Board concerning any vote on the item, and shall not vote on the item except as allowed by law. A person with a potential conflict may answer factual or technical questions concerning the matters involving the conflict.

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7. Board Members are expected to be courteous and respectful to each other, constituents, staff, and consultants, and vice versa. Any Board Member may bring a perceived lack of courtesy or respect to the attention of the Board.

8. In the conduct of public meetings, the Board shall adhere to basic parliamentary procedure (i.e. Roberts Rules of Order) with respect to meeting conduct. Any Board Member, including the President, may make or second a motion. All motions shall be subject to discussion prior to voting. All motions are be subject to subsidiary motions. Any Director may make privileged and incidental motions. Generally, motions shall follow the process:

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1. [Board Packet – Board members shall familiarize with background information on each agenda item prior to scheduled meetings.]
2. Agenda Item
3. Public Comment*
4. Motion (all motions shall be in the form of a Question)
5. Second [if none, Chair states “There is no second, motion expires. Next agenda item.”]
6. Discussion – each Board member may speak. Chair specifically asks silent Board members if they wish to speak.
7. Respond to any subsidiary motion, if presented
8. Restate the Question
9. Vote – Chair states “All in Favor say Yes”; “Those Opposed say No”
10. Announce – Chair announces “The motion passes” or “The motion fails”
11. Public Comment*
12. Next agenda item – repeat at Step 2 above

* Where a Chat function exists in a webinar mode, it shall not be disabled.

[NOTE – You may want to reconsider the chat issue. Public comment is not intended to be an ongoing discussion between the public and the Board. You also normally do not want it inserted in every motion/vote. It is easier to manage if you have a designated public comment period at the beginning or end of the meeting (or both if you choose). The chat is also problematic because there is no good way to keep a record of it unless you read everything. If you were holding in person meetings you would not permit attendees to interrupt the meeting whenever they want to comment on something. See existing Appendix A]

9. Except as otherwise set forth herein, the affirmative vote of a majority of the Directors then in office who are eligible to vote and are present and voting at a meeting is sufficient to pass any

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motion or resolution, with the exception of a motion to enter executive session, which by law requires at least a two-thirds vote of the quorum present. A motion or resolution loses on a tie vote.

10. Unless prohibited from voting on an item by law (*i.e.*, a conflict of interest exists and voting is prohibited), all Board Members (including the President) are to vote on all motions and resolutions, though abstentions are permitted. Proxy voting is not allowed.

11. Executive Session, Regular and Special Meetings shall adhere to CRS 24-6-402. Executive sessions shall strictly comply with CSR 24-6-402. The meeting Agenda shall clearly state the reason(s) justifying Executive Session and clearly state the topic(s) to be discussed. Audio recordings of District executive sessions shall be made and kept as required by the Colorado Open Meetings Law.

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f. After the Meeting

1. To the extent possible, staff and consultants who are present at the conclusion of a meeting shall make themselves available for questions from Board Members; however, no more than two Board Members shall participate in the same after-meeting discussion about official District business.

2. Board Members and others present in an executive session shall not disclose the contents of the discussions that take place in an executive session except to Board Members, as directed by the Board, or as required by law. The Board Members are aware that attorney-client privileged information shared between the Board Members and the District's legal counsel may no longer be considered privileged if such information is shared outside the District. Disclosure of the content of the discussion of an executive session in contravention of this provision may be a breach of the Board Members' duty to the District.

3. Following each District meeting, District staff shall prepare written minutes of the meeting proceedings for review and approval by the Board at a subsequent meeting. Board Members are to review the minutes of each Board meeting to confirm that any motions and resolutions adopted by the Board and the minutes are in substantial compliance with the intent of the Board. (The intent of this protocol is to encourage the Board to review the minutes and check to be sure the records are accurate. The "substantial compliance" standard is intended to avoid having to state motions with painful precision at the meeting and to allow editing of a motion for clarity). Draft minutes shall be made available to the public no later than four weeks after each District meeting. The approved, written minutes of District meetings shall constitute the official record of proceedings of the Board.

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g. Protocols Unrelated to Meetings

1. The Manager is the spokesperson for the District. Board Members and others are strongly encouraged to direct questions from the community and the media to the Manager for response.
2. Board Members owe a duty of loyalty to the District. Constructive examination and recommendations for the improvement of the District are encouraged. As the governing body of the District, Board Members are encouraged to be honest and positive about the District.
3. Board Members should encourage good staff and consultant morale and public relations.
4. Board Member comments about staff or consultants should be channeled through the President or Manager, especially negative comments.
5. Board Members, staff, and consultants should conduct themselves with professionalism.
6. All payments by the District to be made by check, draft or otherwise shall require the signature of at least two Board Members. The signatures required by this provision may be provided by reasonably secure electronic means.
7. The District may in its discretion implement and utilize computer software, online programs, electronic devices and other administrative management tools in order to facilitate the operation and administration of the District, including to carry out the administrative procedures set forth in these Bylaws; provided, any and all administrative management tools utilized by the District shall comply with applicable law, including but not limited to the Colorado Open Meetings Law and the Colorado Open Records Act.
8. **Directors shall not engage in any conduct that usurps Open Meeting laws. Examples of this include but are not limited to “consensus building”; the collaborating or shopping around of one’s ideas through one-on-one private conversations with individual directors to build consensus. Directors are expected to articulate, during meetings or through the preparation of persuasive written background material, provided to the [DMManager](#) for the Board Package for respective agenda items. The [DMManager](#) shall not serve as proxy to promote individual Director’s ideas. Directors shall include the District email repository (info@ebertmd.colorado.gov) by way of CC: on all email by and between individual Board members. **This shall be a Read Only email address accessible to the public.** It is the express expectation that all matters of public business take place in the public domain [i.e. assurance of transparency].**

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[Note – I am unclear on what this means. Do you mean the public can send email to this address or read what is stored in it? Compliance with Open Records retention policies is the manner in which documents including email should be stored]

h. Board Vacancies

Irrespective of the length of term remaining, and upon the occurrence of a board vacancy when greater than 6 months remain before the next regularly scheduled election results date (i.e the first Tuesday of May) , the Board shall complete all of the following within 60 calendar days of any board vacancy:

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1) *Using the results from the last regularly scheduled election, in order of the highest vote count, contact the respective original election candidate(s) and inquire as to their current interest in appointment to Ebert Metro District Board service, and*

2) *Where a “duly qualified, willing candidate” [re: CRS 32-1-905 (2)] affirms interest in appointment to Board Service, the candidate shall be informed of the duration of the said appointment and, upon agreement by the candidate, the Board shall appoint such candidate(s) to the vacant Board position(s). Appointed candidates shall confirm their appointment by execution of Oath of Office, and*

3) *When the number of vacancies exceeds the number of confirmed appointments pursuant to the above, the Board hereby directs the Manager to canvas the District for interested and qualified candidates by the most efficient means practical. Such canvassing correspondence shall:*

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a. *Prescribe a candidate response deadline of 20 calendar days from date of publication of the solicitation for candidates, and*

b. *Include, and be limited to, the identical request for candidate information used in the most recent regularly scheduled election.*

4) *The Board shall, within 1 week (7 calendar days) upon occurrence of a board vacancy, initiate the actions prescribed herein and shall complete the appointment process in no more than 60 calendar days from the effective date of vacancy. Upon failure to fill a vacancy from the pool of duly qualified, willing candidates, within the 60 day period herein prescribed, the Board shall defer to the City and County of Denver to make such appointment per CRS 32-1-905.*

5) *Members appointed to the Board under this provision shall have adjacent to their name in any official correspondence the word “Appointed” ...eg. Director John Doe (Appointed). Directors*

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who were subject to the rigor of the public election process may, at their discretion, have the word "Elected" appear adjacent to their name in official correspondence and web postings.

6) The Board reserves the right to rescind the Appointment of any Director at any time "for cause". The seriousness of such action requires, excepting the affected Director, the unanimous consent of the remaining Board of Directors. "For Cause" shall include but not be limited to failure to uphold the Oath of Office, lying, misrepresentation, criminal conduct, using one's office to advance ideals incompatible with the State and Federal Constitutions, [We should discuss –the statute does not explicitly address this but once appointed, I believe the Director would be entitled to the protections of the vacancy statute which proscribes the circumstances which can create the vacancy. You could leave this in with the caveat that it may be construed as contrary to CO law if challenged]

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In accordance with CRS 32-1-905 "Vacancies", the Board shall accept with immediate effect, any Board member's resignation without regard to any express future effective date of such resignation. All resignations are effective immediately upon receipt by the Board or Manager and are irrevocable.

ARTICLE 5: CODE OF ETHICS

a. Introduction

The constituents of the District are entitled to have a fair, ethical, and accountable local government that has earned the public's full confidence for integrity. The District adopts this Code of Ethics as part of these Bylaws to assure public confidence in local government and its effective and fair operation and to ensure that the District complies with all applicable State and local laws relating to conflicts of interest and ethics.

Integrity in government requires that decision-makers be independent, impartial, and accountable to those they serve, to that end, all Directors and staff of the District must carry out their duties in accordance with the following principles:

1. As public servants, Board Members are stewards of the public trust, entrusted with and responsible for the property and resources of the Members and shall carry out their duties for the benefit of the constituents of the District.
2. The constituents of the District expect and deserve their public servants to act with courtesy, impartiality, honesty, and openness in the performance of their duties.

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3. The Board and all staff of the District must always perform their duties on behalf of the District with the best interests of the District mind, and not for any personal interest or for the interest of family, friends, or business and political associates. Directors should function as a whole Board. Issues should be brought to the attention of the Board as whole, rather than to individual Directors selectively. No provision herein shall be construed to be limiting or to limit any Director’s right to the exercise of their independence within the limits of current law and duties associated with their Office.

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4. Governmental decisions and policies are made utilizing the proper channels of the government structure, free of coercive or other improper influence.

5. To gain and retain public confidence in government operations, the Board and all staff and consultants of the District must avoid even the appearance of impropriety.

b. Intent

The purpose of this Article is to provide the Board and all staff of the District the tools and resources necessary to conduct themselves in the most ethical and appropriate manner possible and to ensure that the District operates in accordance with its mission, governing principles, and values.

It is the intent of the District that the Board, Board Committee members ~~and~~ and all staff of the District adhere to high levels of ethical conduct and competence so that the public will have confidence that persons in positions of public responsibility are acting for the benefit of the public. The Board and all staff of the District should comply with both the letter and spirit of this Article and strive to avoid situations which create impropriety or the appearance of impropriety.

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c. Applicability

These Bylaws and this Article apply to the Board, Board committee members and all staff of the District. The provisions of these Bylaws and this Article shall apply in addition to all applicable federal, state and local laws relating to conflicts of interest and ethics including, but not limited to, the Colorado Constitution, Article XXIX, and Colorado Revised Statutes 24-18-101, *et seq.*

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d. Conflicts of Interest

No member of the Board or any staff of the District should have any direct or indirect interest, financial or otherwise, engage in any business or transaction or professional activity, or incur any

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obligation of any nature, which is in conflict with the proper discharge of his or her duties in the public interest, except as permitted by law.

1. **Misappropriation of District Resources:** No member of the Board or any staff of the District shall misappropriate to himself, herself or to others the property, services or other resources of the District for private purpose or other compensated non-governmental purposes.

2. **Favoritism:** The members of the Board and staff of the District shall guard against any relationship that creates conflicts of interest or which might be reasonably construed as evidence of favoritism, coercion, unfair advantage, or collusion.

3. **Improper Influence:** The members of the Board and staff of the District should not act in a manner that creates by his or her conduct a reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

4. **Privileges or Exemptions:** The members of the Board and staff of the District should not use or attempt to use his or her official position to secure privileges or exemptions for himself, herself or others.

5. **Protection of Public Trust:** The members of the Board and staff of the District should endeavor to pursue a course of conduct which will not raise suspicion among the members of the public that he or she is likely to be engaged in acts that are in violation of the public trust.

6. **Official Actions:** The members of the Board and staff of the District shall not take any direct or official action on any matter in which the Director, staff member or a relative or business associate has any substantial employment, contractual, or financial interest, and shall not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he or she has a substantial financial interest in a competing firm or undertaking, except as permitted by law.

7. **Contracting & Transacting Business:**

The members of the Board and staff of the District shall not, in their official or private capacity, offer for sale or sell goods or services to the District related to the operation or administration of the District. A waiver of this prohibition may be granted by the Board in its discretion where the circumstances clearly demonstrate that there is no conflict of interest or appearance of a conflict presented by the proposed sale to the District of goods or services related to the operation or administration of the District.

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The members of the Board and staff of the District shall not, for their own private purposes, directly or indirectly obtain goods or services for anything less than fair market value from any contractor or vendor that performs work for the District.

The members of the Board and staff of the District should not engage in any transaction as representative or agent of the District with any relative, business associate, or business entity in which he or she has a direct or indirect financial interest, except as permitted by law.

8. **Personal Investments & Business Ventures:** The members of the Board and staff of the District should not acquire or hold an interest in any business or undertaking which he or she has reason to believe may be directly involved in decisions to be made by him or her or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest, except as permitted by law.

9. **Service on Other Metro District Boards:** Board members may not simultaneously serve on any other District board with which the Ebert Metro District has an active operating agreement, contract for services, an Inter-Governmental Agreement (IGA), or is in negotiations or intends to negotiate an IGA or contract for services with or in support of Ebert Metro District. Should an occasion arise where a Director serves on two or more boards where such agreements or negotiations occur, the affected Director shall immediately notify the Ebert Board of Directors.

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e. Confidential Information

The members of the Board and staff of the District shall not use any confidential information received by virtue of that person's office or employment for any private purpose, including but without limitation to commercial purposes, financial gain, or present or future employment, and may only use confidential information in the conduct of his or her official District duties, except as required or permitted by law.

f. Political Solicitations

1. The members of the Board and staff of the District shall not engage in political campaigning at District meetings or public hearings. The members of the Board and staff of the District shall not use public resources for political campaigning.

2. The members of the Board and staff of the District may in their private capacity give financial or other support to political parties and candidates for elected office, unless otherwise restricted.

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3. The members of the Board and staff of the District shall not directly or indirectly compel or induce staff or a subordinate employee to make or promise to make any political contribution, whether by gift of money, service or other thing of value.
4. The members of the Board and staff of the District shall not make any employment recommendation or decision based on political affiliation, participation or contribution.

g. Hiring of Relatives

The purpose of this section is to avoid favoritism and the appearance of favoritism by officials or employees of the District where circumstances involving financial transactions of the District have the potential for ~~Conflicts of Interest as defined by CRS 24-50-117~~ conflicts of interest as proscribed by applicable Colorado Revised Statutes and City and County of Denver Ordinances. "Relative" as used herein shall mean a spouse, domestic partner, fiancé/fiancée, parent(s), child(ren), brother(s), sister(s), aunt(s), uncle(s), grandparent(s), or grandchild(ren), including "in-law" and "step" relatives. The term "relative" also applies to any person who is a member of the household of an employee or Board member regardless of family relationship.

- ~~1. The members of the Board and staff of the District shall not appoint, hire, or advocate for the appointment or hiring of any person who is a relative of such members of the Board or staff of the District where there exists the potential for financial Cconflicts of Iinterest.~~
- ~~2. The members of the Board and staff of the District shall not participate directly or indirectly in the recruitment and selection process that involves a relative where there exists the potential for financial Cconflicts of Iinterest.~~
- ~~3. The members of the Board and staff of the District shall not directly or indirectly exercise supervisory, appointment or dismissal or disciplinary authority over any relative where there exists the potential for financial Cconflicts of Iinterest.~~
- ~~4. The members of the Board and staff of the District shall not audit, verify, receive or be entrusted with monies received or handled by a relative where there exists the potential for financial Cconflicts of Iinterest.~~

These Bylaws are adopted and effective the 13th day of November, 2019, and may be amended at any time by the Board.

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Appendix A: 7. – ADD all new section - “ f. In handling complaints from residents and property owners of the District, said complaints should be referred to the Manager. Board members should refrain from attempting to handle complaints without the involvement of the Manager.”

APPENDIX C: Board Committees

The Board may create, revise and dissolve standing or ad hoc committees at its sole discretion.

Service on District committees is voluntary and non-compensable. No employment relationship with the District is established by or through committee service.

Committee members are bound by the provisions of Article 5: Code of Ethics.

The Board may establish the composition and structure of any committee formed which will generally consist of at least: one (1) Board Director acting as the Committee Sponsor (who may also serve as Chairperson); a Chairperson; and, no fewer than two (2) members of the public (one of whom may also serve as the Chairperson) who shall be property owners within the District. ~~Additional committee~~ fulltime or part time committee members may consist of select subject-matter experts, consultants, or other credible Specialists.

All committees shall have at a minimum, a written Charter describing at least the following:

- *Committee Name and Type (Standing or Ad Hoc)*
- *Committee: Purpose, of Formation to include the Scope of Work, and Deliverables in S.M.A.R.T. terms:*
 - *Specific / Measurable / Achievable / Relevant / Time Limitations*
- *Staffing: Organization Structure (Roles/Titles)*
- *Desired Qualifications and Experience of committee members*
- *Available Resources*
- *Restrictions and/or specific limitation(s)*

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Standing committees shall present a report of their activities at the District's regularly scheduled meetings or more frequently at the Board's discretion.