

**MINUTES OF A COMBINED SPECIAL MEETING
OF THE BOARDS OF DIRECTORS OF
FLYING HORSE METROPOLITAN DISTRICT NOS. 1-3**

HELD: Friday, the 28th day of April 2023, at 3:00 p.m. at the offices of Classic Homes, 2138 Flying Horse Club Drive, Colorado Springs, CO 80921 and via WebEx video and teleconference.

ATTENDANCE:

A combined special meeting of the Boards of Directors of the Flying Horse Metropolitan District No. 1, City of Colorado Springs, El Paso County, Colorado, was called and held as shown above and in accordance with the applicable statutes of the State of Colorado, with the following directors present and acting:

FLYING HORSE METROPOLITAN DISTRICT NO. 1

BOARD OF DIRECTORS

George Lenz, President, May 2023
Andrew Balsick, Vice-President, May 2025
Jerald Richardson, Secretary/Treasurer, May 2025
Douglas Stimple, Asst. Secretary, May 2023
Joseph Loidolt, Asst. Secretary, May 2023

FLYING HORSE METROPOLITAN DISTRICT NO. 2

BOARD OF DIRECTORS

George Lenz, President, May 2023
Jerald Richardson, Secretary/Treasurer, May 2025
Douglas Stimple, Asst. Secretary, May 2023
Joseph Loidolt, Asst. Secretary, May 2023
Daniel Mulloy, Asst. Secretary, May 2025

FLYING HORSE METROPOLITAN DISTRICT NO. 3

BOARD OF DIRECTORS

George Lenz, President, May 2023a
Douglas Stimple, Secretary, May 2023
Joseph Loidolt, Treasurer, May 2023
Daniel Reifschneider, Asst. Secretary, May 2025
James B. Patchen, Asst. Secretary, May 2025

Also present were Sarah Steph of Classic Homes, Seef Le Roux and Rob Lange of CliftonLarsonAllen, Russell W. Dykstra and Nicole Peykov of Spencer Fane LLP and members of the public.

CALL TO ORDER:

It was noted that a quorum was present for the purpose of conducting a combined special meeting

of the Boards of Directors of Flying Horse Metropolitan District Nos. 1-3. The meeting of the Boards of Directors of the Districts was called to order.

DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST:

Mr. Dykstra noted that general disclosure statements had been filed on behalf of the members of the Boards of Directors with the office of the Colorado Secretary of State and with the Secretary of the Districts. The Board heard Director Mulloy's objection. Upon motion duly made, seconded and upon vote carried with Director Mulloy objecting, the Boards directed that said general disclosures be incorporated herein.

APPROVAL OF AGENDA:

The Boards heard comments from Director Mulloy regarding the agenda. Discussion ensued. Following discussion, upon motion duly made, seconded and upon vote unanimously carried by the Boards of MD Nos. 1 and 3 the agenda was approved as presented. Director Mulloy objected to the approval of the agenda for MD No. 2. Upon motion duly made, seconded and upon the vote carried by a vote of four to one, the Board of MD No. 2 approved the agenda as presented.

PUBLIC COMMENT:

The Boards heard comments from the public regarding the First Amendment to Intergovernmental Agreement. It was noted that some members of the public were not able to participate or have sound using Zoom.

APPROVAL OF MINUTES:

Mr. Dykstra presented the minutes from the March 10, 2023 and March 14, 2023 meetings to the Boards. Following discussion and upon motion duly made, seconded, and upon vote unanimously carried, the Boards approved the minutes from the special meetings held on March 10, 2023 and March 14, 2023 as presented.

FINANCIAL MATTERS:

Claims. Mr. Le Roux presented the claims to the Boards. Discussion ensued. Following discussion and upon motion duly made, seconded, and upon vote unanimously carried, the Boards accepted and approved the claims as presented.

Accountant's Reports. Mr. Le Roux presented the reports to the Boards. Discussion ensued. Following discussion and upon motion duly made, seconded, and upon vote unanimously carried, the Boards accepted and approved the reports as presented.

ATTORNEY ITEMS:

MD No. 1: Review Certification and Action on Resolution Accepting Certification of Improvements. The Board of MD No. 1 heard comments from Director Mulloy and Director Reifschneider regarding their prior comments on the cost certification presented to MD 2 and MD 3. The Boards reviewed the response and information provided by the engineer addressing the concerns and discussed same. Mr. Dykstra advised MD No. 1 to take into consideration the

comments and noted that the engineer had addressed the concerns reasonably and within industry standards as required by the IGA between the Districts. After additional discussion, Director Stimple noted that the certification was completed after an extensive process spanning nearly a year and the engineer had addressed the concerns raised. Following discussion and upon motion duly made, seconded, and upon vote unanimously carried, the Board of MD No. 1 approved the certification as presented and accepted the Bill of Sale for the improvements in question.

MD No. 3: Public Hearing on Petition to Exclude Property. Mr. Dykstra noted that proper publication and notice had been made to allow the Board to hold a public hearing on the petition to exclude property received by the District from the property owner. Mr. Dykstra explained that Section 501 of Title 32 describes the inclusion and exclusion process along with the statutory criteria set forth in the proposed resolution. The public hearing was opened. The Board heard comments from the public regarding impacts of the exclusion. The public hearing was closed.

MD No. 3: Review and Consider Approval of Resolution Approving Petition for Exclusion. Mr. Dykstra presented the resolution for exclusion to the Board along with a memorandum from the District's accountant reflecting that there would be no financial impact on the District as a result of the exclusion. Following discussion of potential impacts of the exclusion and statutory criteria and noting that the property by statute would be required to continue to pay its obligations towards the outstanding bonds of the District and upon motion duly made, seconded, and upon vote unanimously carried, the Board approved the resolution as presented.

MD No. 2: Public Hearing on Petition to Exclude Property. Mr. Dykstra noted that proper publication and notice had been made to allow the Board to hold a public hearing on the petition to exclude property received by the District from the property owner. Mr. Dykstra explained that Section 501 of Title 32 describes the exclusion process along with the statutory criteria set forth in the proposed resolution. The public hearing was opened. The Board heard comments from the public regarding impacts of the exclusion. The public hearing was closed.

MD No. 2: Review and Consider Approval of Resolution Approving Petition for Exclusion. Mr. Dykstra presented the resolution for exclusion to the Board along with a memorandum from the District's accountant reflecting that there would be no financial impact on the District as a result of the exclusion. Following discussion of potential impacts of the exclusion and statutory criteria and noting that the property by statute would be required to continue to pay its obligations towards the outstanding bonds of the District and upon motion duly made, seconded, and upon vote carried by a vote of four to one, the Board approved the resolution as presented.

MD No. 1: Public Hearing on Petition to Include Property. Mr. Dykstra noted that proper publication and notice had been made to allow the Board to hold a public hearing on the petition to include property into the District. Mr. Dykstra explained that Section 401 of Title 32 describes the inclusion and exclusion process along with the statutory criteria for inclusion set forth in the proposed resolution. The public hearing was opened. The Board heard comments from the public regarding the inclusion, its purpose and the impact on the District. The public hearing was closed.

MD No. 1: Review and Consider Approval of Resolution Approving Petition for Inclusion. Mr. Dykstra presented the resolution for inclusion to the Board along with a memorandum from the

District's accountant reflecting that there would be no financial impact on District Nos. 2 and 3 as a result of the inclusion. Following discussion of potential impacts of the inclusion and statutory criteria and noting that regardless of the property being excluded by Districts 2 and 3, by statute would be required to continue to pay its obligations towards the outstanding bonds of those Districts and discussion of the statutory criteria and upon motion duly made, seconded, and upon vote unanimously carried, the Board approved the resolution as presented.

Review and Consider Approval of First Amendment to Intergovernmental Agreement. Mr. Dykstra presented the amendment to the Boards noting that no new provisions were added to the agreement and that the amendment is meant to ensure that the provisions were consistent with the service plan amendment approved by the Districts' voters. Discussion ensued. Following discussion and upon motion duly made, seconded, and upon vote unanimously carried by MD Nos. 1 and 3 and carried a vote of four to one by MD No. 2, the amendment was approved as presented.

DIRECTOR ITEMS:

Director Mulloy presented the following items:

During the HOA Board meeting, it was identified that the contractor for Colorado Springs Utilities that is burying high speed internet access throughout Flying Horse is causing considerable damage to the infrastructure. Hammersmith has been unsuccessful in getting a satisfactory answer regarding the HOA common areas. This item is to discuss and identify MD 1's strategy to resolve. Director Stimple noted that Classic Homes has been in touch with CSU regarding damage and has put CSU on notice that any further damage is the responsibility of CSU to repair. Director Stimple offered to confer with Director Mulloy to address any remaining issues.

Discussion regarding the Estimated Infrastructure Costs analysis, see attached. Director Mulloy presented his concerns to the Boards. Directors Lenz and Stimple questioned the accuracy and purpose of said analysis and whether it concerned the Board. No action taken.

Further discussion and disposition regarding the on-going request to provide an outlook for the long term FH MD2 debt at buildout. This could be developed by the following: 1) Current long term debt = \$58MM, 2) Accrued interest, 3) Estimate additional reimbursements cost and timing, 3) Additional accrued interest for future reimbursements, 4) Any projected fees and/or other expenses to service the debt. The Boards heard Director Mulloy's comments. Mr. Lange noted that CLA performs work authorized by the Boards and does not have the discretion to make decisions on their own. Director Stimple noted that the Boards are not in position to guess on a future Boards issuance of more debt. Director Reifschneider questioned if Board approval is necessary before consultants respond to questions. Mr. Dykstra noted that legal counsel does not undertake any actions without Board approval unless it's an emergency and can provide an estimate of costs going forward.

Additional Director Items:

Further discussion on district website content. Ms. Steph presented the website requirements to the Boards. The Boards noted that they're happy to consider all constituents insight regarding the website.

Consider Date for May Special Meeting (if not already scheduled). Mr. Dykstra noted the difficulties encountering trying to schedule a joint meeting. The Boards authorized the scheduling of separate meetings for each district.

OTHER BUSINESS:

None.

ADJOURNMENT/CONTINUATION:

Following discussion, upon motion duly made, seconded and unanimously carried, the Boards adjourned the meeting at 5:11 p.m.

The foregoing Minutes constitute a true and correct copy of the Minutes of the above-referenced special meeting and was approved by the Boards of Directors of the Flying Horse Metropolitan District Nos. 1-3.



Secretary – Flying Horse Metropolitan District No. 1



Secretary – Flying Horse Metropolitan District No. 2

Secretary – Flying Horse Metropolitan District No. 3

Certification of \$11.3MM Projects Included in the Schedio Report 3/13/23

1 message

Daniel Mulloy <danmulloyfhmd2@gmail.com>

Mon, Mar 20, 2023 at 3:27 PM

To: Douglas Stimple <DouglasS@classichomes.com>

Cc: "Dykstra, Russell W." <RDykstra@spencerfane.com>, Sarah Steph <ssteph@classichomes.com>, tmccarthy@schediogroup.com, Dan Reifschneider <dan.reifschneider@gmail.com>, James Patchen <semperpatch@hotmail.com>

FH MD1, 2 & 3 and Mr. Doug Stimple, CEO Classic Companies,

This email is in response to MD1 certification of the \$11.3MM in invoices included in the Schedio 3/13/23 report as reviewed during the Special Joint MD 1, 2 & 3 meeting on 3/14/23.

This is detailed in paragraph 5.12 of the Intergovernmental Agreement that District No. 1 believes in good faith, pursuant to generally accepted standards of engineering and construction review, that construction has been accomplished in compliance with the conditions and terms of the applicable construction contract.

Please consider this as a MD2 Director comments regarding the subject facilities, prior to District No. 1 approval of final payment.

The following is my understanding of the Schedio process and documentation.

Included in the report is a list of 271 vendor invoices that were evaluated according to whether they represented private or public improvements. They also indicated that the descriptions were interrogated for valid subjects and excluded those due to maintenance or repairs. They also indicate that the invoices were tied back to contracts and construction plans. They also went through a process to assign or allocate the invoices according to the plats. Schedio has certified 261 invoices as reimbursable in the amount of \$11,297,631.63. A list of all the invoices were included in the report.

During the meeting, I was informed that there were no other documents considered to support the certification determination.

Review Process:

- After presenting the 3/13/23 report during the 3/14 meeting, Schedio forwarded a package that was to contain the backup that was used in developing the report.
- After my inquiry Schedio forwarded an additional file that was linked to one of the spread sheets.
- My assumption is that the package is complete and everything to be considered.
- The docs labeled 'Construction Drawings' are simply the plans filed with the city. The docs are not marked up regarding specific projects or procurement. (Specimen attached for your reference)
- The docs labeled 'Contracts Proposals' are essentially a pricing table, with reference to the overall project i.e. Turin 2, but without specific facilities or improvements. They lack terms and conditions and do not tie back to any construction plans. (Specimen attached for your reference)
- The folders 'Vendor Invoices' and 'Vendor Proof of Payments' are essentially invoices and facsimiles of checks. The invoices are coded and refer to the high level project such as Turin 2.

After studying the documents, I am unable to determine if the \$11.3MM improvements are certifiable based solely on the Schedio report. Let me clarify, these improvements may be certifiable but the report is insufficient, incomplete and inaccurate as to make the determination impossible.

The report is flawed as the sole documentation for certification because it is not possible to understand which specific improvements or facilities are included. There is insufficient detail to determine if the infrastructure is allowed in the Service Plan and according to the IGA.

Additional Issues:

- Although just a technicality - MD1 is required to review with MD2 & 3 the plans, specifications, etc. prior to construction. Certainly it might be easier for MD2 to understand the certification with prior understanding of the planning, construction schedule, etc.

- Essentially the content of the report is a listing of 261 invoices and a review by Schedio regarding their validity. Other than the vendor reference, we have no concept of what MD1 is paying for and subsequently whether it is a valid reimbursable improvement.
- During the meeting there was a discussion regarding the validity of reimbursing the 'temporary' road extending Ridgeline across the Powers right of way. At that time, Schedio was unable to provide the cost for that project.
- There is no determination or reference regarding the reasonableness of the construction costs.
- There lacks substantiation regarding engineering standards.
- There is no determination regarding whether Classic Homes followed proper competitive bidding process as required by the State of Colorado for procurement by municipalities.
- The invoices are coded but do not indicate that approval followed accepted accounting standards. Specifically, prior to authorizing payment, it is necessary to document that the services were provided, the costs are in line with the contract and validate that the invoice is not a duplicate.
- The report includes 5% (\$656,333) management fee paid to Classic Homes but there is no evidence of management services provided. We can attribute the coding and payment of invoices to administration costs. The cost seems excessive for this service. Schedio referenced - 5% Project Management Fee (IGA Article II - Definitions - 2.1.a(3) and 2.1.a(5)). The report does not include any other evidence that Classic Homes or a 3rd party provided additional services towards administration of the project. Further, the project management is severely lacking in organization and record keeping.

Notes Regarding Classic Homes "good" faith:

- While it's difficult to determine intentions, what we know is that Classic Homes rushed the report and review meeting to comply with the 45 day comment period before the boards transition to taxpayer control.
- S. Steph's email indicates that, at this time, they will not pursue reimbursement from either MD's for these improvements. Why rush certification?
- Classic Homes is relying solely on the Schedio report as substantiation for certification.

Action Plan:

At the next FH MD2 Board Meeting, I will make a motion that we reject the MD1 certification of the \$11.3MM in facilities and improvements included in the Schedio 3/13/23 report. Further, the motion will include not approving or allowing any potential reimbursement for these projects that might be requested by MD1.


Realistically, I am aware that I am only 1/5th of the MD but I encourage the other directors to support the motion in the interest of the district's taxpayers. If they are unable to support the motion, they should consider abstaining from voting to ensure that there is no appearance of a conflict of interest regarding their employer.

By copy of this email, I am requesting MD1 to reconsider their certification passed at the 3/14/23 meeting for the same reasons.

The contents of this email is based on the documents that are available to me at this time. I attempted without success to organize the information to allow a reasonable understanding of the projects. I reserve the right to revise any and/or all of this email based on additional information.

Daniel Mulloy
Director, Flying Horse Metro Dist. #2

2 attachments

 **VC_Classic_Cornella_\$874,994.00 [Turin F3&4].doc**
85K

 **PC_FH No. 23_TURIN F3 and F4_DEV PLAN_APPROVED.pdf**
17229K



Inclusion/Exclusion

3 messages

Daniel Mulloy <danmulloyfhmd2@gmail.com>

Tue, Apr 4, 2023 at 11:01 AM

To: "Dykstra, Russell W." <RDykstra@spencerfane.com>, "Bartow, Carrie" <Carrie.Bartow@claconnect.com>, Douglas Stimple <DouglasS@classichomes.com>

Cc: Dan Reifschneider <dan.reifschneider@gmail.com>, "Le Roux, Seef" <Seef.LeRoux@claconnect.com>

Mr. Dykstra,

Please consider the following as my formal request to Spencer Fane, CLA and the Directors that sit on both the MD1 and MD2 & 3 Boards to recuse themselves from acting on the behalf of Flying Horse Metro Dist. #2 and/or #3 regarding the Inclusion/Exclusion request and subsequent activities as initiated by Mr. Stimple during the March 14, 2023 joint MD meeting.

Mr. Stimple's request as I understand it is to exclude FH Master Plan Parcels 28, 13 & 17 from MD 2 and 3 and include them into MD 1. These parcels are roughly located at the furthest southern point of the FH development and known as 'Downtown' Flying Horse.

Spencer Fane and CLA are conflicted by their actions and guidance for Metro Dist. #1. Mr. Stimple, Mr. Lenz, Mr. Loidolt and Mr. Richardson are conflicted by the interests of Metro Dist. #1 and their employer.

This request is in the best interest of the taxpayers and bondholders of MD2 & 3.

Please share as you deem appropriate and we can discuss during the planned 4/28/23 board meeting.

Thank you,

Daniel Mulloy
Director, Flying Horse Metro Dist. #2

Dykstra, Russell W. <RDykstra@spencerfane.com>

Wed, Apr 5, 2023 at 10:47 AM

To: Daniel Mulloy <danmulloyfhmd2@gmail.com>, "Bartow, Carrie" <Carrie.Bartow@claconnect.com>, Douglas Stimple <DouglasS@classichomes.com>

Cc: Dan Reifschneider <dan.reifschneider@gmail.com>, "Le Roux, Seef" <Seef.LeRoux@claconnect.com>

Mr. Mulloy,

I am not aware of a conflict of interest in our role in the inclusion/exclusion process but please provide the specific obvious conflicts that you refer to so I can evaluate specifically as to the MD1 and MD2 interests. As previously stated, once the petitions are filed with the Districts, statute dictates the steps that must be taken by the boards to consider such requests and there is no discretion on my part as to complying with the statute. Each District will act independently in deciding on the inclusion/exclusion petitions that have been filed with each and the decisions are

exclusive of each other, i.e. MD1 could approve the inclusion but MD2 could choose not to approve the exclusion or vice versa.

I will independently advise the boards of their obligations in regard to the petitions and the specific statutory requirements prior to action being taken which is my role. As these actions are independent and not brought by a District against any of the other District(s), the Districts are not in conflict with one another.

I would also caution that your email states that you as a District board member are acting in the best interests of the bond holders. As a board member, you do not represent the bond holder's interests and that in itself is a conflict on your part as your duty as a board member is to the District. If you are a bondholder or are representing the bondholders in any capacity that interest must be disclosed.

For MD2 and MD3 purposes, if the property were to be excluded, the property would remain obligated to pay taxes on the outstanding bonds until paid in full and the O&M mill levy from that property will continue to go to the same purposes as set forth in the IGA. I am unclear how this impairs or is contrary to D2 or D3 interests but again, please specify your concerns so we can evaluate. Also, please specify what concerns you have regarding CLAs role as typically they do not play a role in the inclusion/exclusion process.

Regards,

Russ Dykstra

Partner – Spencer Fane LLP

Denver | Colorado Springs

rdykstra@spencerfane.com

O: 303-839-3845

M: 303-995-9989

From: Daniel Mulloy <danmulloyfhmd2@gmail.com>

Sent: Tuesday, April 4, 2023 11:02 AM

To: Dykstra, Russell W. <RDykstra@spencerfane.com>; Bartow, Carrie <Carrie.Bartow@claconnect.com>; Douglas Stimple <DouglasS@classichomes.com>

Cc: Dan Reifschneider <dan.reifschneider@gmail.com>; Le Roux, Seef <Seef.LeRoux@claconnect.com>

Subject: [EXTERNAL] Inclusion/Exclusion

[Warning] This E-mail came from an External sender. Please do not open links or attachments unless you are sure it is trusted.

[Quoted text hidden]

Daniel Mulloy <danmulloyfhmd2@gmail.com>
To: "Dykstra, Russell W." <RDykstra@spencerfane.com>

Thu, Apr 6, 2023 at 9:07 AM

Cc: "Bartow, Carrie" <Carrie.Bartow@claconnect.com>, Douglas Stimple <DouglasS@classichomes.com>, Dan Reifschneider <dan.reifschneider@gmail.com>, "Le Roux, Seef" <Seef.LeRoux@claconnect.com>

Mr. Dykstra,

Thank you for your email.

I was not seeking a legal opinion with regard to my concerns. I trust that the MD did not incur any legal fees when you developed your response.

The intent of my inquiry was to alert the participants of the inclusion/exclusion process, determinations and calculations of the potential for a conflict of interest while they are working on behalf of Pulpit Rock, Classic Companies, FH MD 1, 2 & 3. This includes Spencer Fane, CLA and the directors that sit on all 3 boards and employed by the property owner and developer. These individuals can decide for themselves if they are able to carry out their duties without favoritism. They can heed your advice or seek independent legal opinion.

I addressed my email to you so that you would add this to the agenda for the 4/28/23 meeting and include the emails in the meeting packet. I trust this is sufficient for the agenda item, but advise if you have any questions or need clarification.

I am not a bond holder and am not representing their interests in any way.

Daniel Mulloy
Director, Flying Horse Metro Dist. #2

[Quoted text hidden]