

Memorandum of Understanding: March 21, 2024

1. TCMD and Ebert acknowledge that each contributed to the litigation in different ways.
2. TCMD will make significant changes to the way that it manages district operations. One change will be to schedule monthly “issues meetings” to include TCMD and Ebert board representatives. TBD: We have talked in general terms about the need and some of the things that TCMD is considering; TCMD needs to develop other specific actions that Ebert will be able to notice. More specifically, TCMD plans to implement the following steps regarding its management of TCMD going forward:
 - a. TCMD has changed the designated Timberline District Manager from Jerry Jacobs to Brittany Barnett.
 - b. TCMD will initiate monthly "staff" meetings that will include up to two members of the TCMD board, one or two members of the Ebert board, Brittany and perhaps others from Timberline, and sometimes a member from Westwind. The meetings will cover current issues and finding the proper resources to deal with those issues.
 - c. Joe Knopinski and Bill Schmidt have been consulting with other district managers to learn "best practices" for managing a district. We have been sharing that information with Timberline and will continue to do so.
 - d. Joe and Bill have joined the existing Landscape Committee, which is playing a large role in working with Timberline to improve the landscaping issues covered in the MOU.
 - e. TCMD will re-start the regular collaboration meetings between the two boards to work on resolving other issues and the upcoming transition discussions.
 - f. As an Ebert resident and TCMD board member, Bill will continue to participate in monthly meetings of the Ebert Finance committee.
 - g. Part of the plan for better managing the district will be closer management of the district's vendors by the district manager; Timberline has committed to having weekly inspections of landscaping, including discussions with the vendors.
3. TCMD will direct Westwind and the District Manager to follow existing regulations more consistently in interpreting architectural design requests, specifically those related to xeriscaping.
4. TCMD, the Landscaping Committee, including Ebert representatives, will compile a comprehensive and detailed list of landscaping areas and trees that need improvement, develop an RFP to get bids to do that work, then set priorities and a timing plan for making those improvements. See specifics related to trees and landscaping below.
5. With input from an Ebert board member, the TCMD board passed a resolution governing existing and future resident installed gates in golf course fencing, therefore resolving this litigation issue.

6. The TCMD District Manager will survey the existing damage to golf course fencing, estimate the cost of repairs to bring the problem areas to the condition of the other fencing, and prepare a cost estimate to the board prior to the next scheduled TCMD board meeting that will include the cost of repairs and the cost to complete repainting the existing fencing. The board will then determine a plan for timing the completion of these repairs and painting. Ebert will be afforded the opportunity to review the proposed repair plan.
7. Discussed, but nothing yet resolved, what TCMD will do about the resident landscaping done on TCMD and Denver property adjacent to golf course fencing. TCMD will seek input from the Landscape Committee and Ebert to resolve this issue.
8. Ebert and TCMD will request a stay with the court, to ensure TCMD follows through with its commitments under this agreement. This stay will avoid Ebert's having to refile a new lawsuit after a dismissal without prejudice. The litigation committee will meet approximately every 90 days to assess the progress of the implementation and report to the court, as needed.
9. TCMD and Ebert will amend the Inter-Governmental Agreement to increase the defined Maximum Service Amount from \$16.9 million to an amount sufficient to fund the budget for all of 2025. That change will give TCMD all of 2024 and all of 2025 to work on fixing the fencing and landscaping issues. During the 2025 budget planning "season," TCMD and Ebert will collaborate fully in allocating funds from the budgeted service amount.
10. Tree Issues: TCMD, using the assistance of the Landscape Committee (LC), is gathering information prior to recommending a plan to successfully replace existing dead trees. This investigation includes finding site plans and water issues:
 - a. water quality (wells versus recycled), water usage, well water cost vs. recycled water cost, etc.
 - b. TCMD anticipates engaging outside help in developing a plan. Current requirements of the plan include:
 - i. Denver will complete its tree inventory work along the thoroughfares within the district. We anticipate this inventory will be completed by the end of May.
 - ii. TBD: When TCMD will complete a tree inventory for the other common areas not covered by the Denver inventory. District Manager and LC are investigating how much information our current landscape vendors have.
 - iii. LC will determine how many trees we legally are required to have in place along the thoroughfares. [we probably do not need to replace every existing tree]
 - iv. LC will develop a list of tree species that can better survive our growing conditions that still conform with Denver regulations.

- v. LC will develop a plan to properly plant future trees, so that they have a better chance to survive and thrive.
- vi. LC will develop a plan to properly water future trees to maximize their survival rate. This plan might require the installation of a drip system to better water the trees.
- vii. TCMD does not replace any trees until this plan is fully developed. Only then will TCMD and Ebert develop a budget for replacing the trees that we determine that we need, and then the boards will plan the timing for implementing the plan over “TBD” number of years.

11. Landscape Issues: TCMD and the LC are collecting site plans and will formulate a plan for improving the appearance of the community, primarily along 56th and Piccadilly Avenues. Initial plans include:

- a. Upgrading the small gardens adjacent to intersections leading into the community and by the hammerheads. LC to develop a specific list of gardens to improve. This may include adding xeriscaping into the planning mix for the LC.
- b. Replace, to the extent site plans and/or Denver will allow some of the small gardens not listed above with grasses prevailing in the area next to those gardens.
- c. TCMD needs to include better standards in its landscape contracts primarily related to weed and trash control.
- d. TCMD, through the District Manager, must closely monitor vendors and enforce the expectations included in the contract.