

*The Meadows of Melody Ranch*

**ISD**

Board of Director's Meeting

January 29, 2013 5:00 pm

**MINUTES**

CALL TO ORDER: 5:00

Present:

Larry Pardee

Jim Gute

Brett Kroger

Bob Hammond

Rich Bloom

Nicole Krieger, Attorney for ISD

Tina Korpi, GTPM

Old Business:

- 1) We need to move to adopt the rules and regulations and bylaws since they were already publically noticed more than 45 days ago. Rich moved to approve to adopt the rules and bylaws. Seconded by Brett. All voted in favor.
- 2) Roads have been transferred from the developer to the HOA. Question was raised as to whether this transfers any liability to the ISD and the question of whether by virtue of transferring the roads to the ISD it could be argued that the roads are becoming public roads. It was noted the HOA has granted an easement to the county to access Munger View Park. Maintaining private roads is important so we have control of what occurs.

Further discussion on the question of if roads are transferred from HOA to the ISD what happens? Nicole reported there is no perfect or definitive answer because ownership of private roads by an ISD has never been specifically addressed by the Courts. In the statutes related to ISDs, the words "improvement" and "public" are intertwined and streets that are governed by an ISD are described as "public". However, there has been a case (Mountain View Improvement and Service District v. Brooks Water and Sewer District) that clarified that an ISD is not intended to benefit the public at large, but rather a small subset of the public that pays into that specific district. This supports an argument that roads are not necessarily public roads just because they are under control of the ISD and that mere conveyance does not make the roads public. It was noted that the Plat identifies the roads as private and also that it doesn't necessarily benefit Teton County to make the roads public. There have been instances where roads are argued to be public based on receipt of public funds, because the Wyoming constitution does not permit the government to give public money to a private entity (this is a public entity used for a private purpose). It was discussed that not sure how much funding there is for roads in Melody – Rich states there is none, such that an inability to receive public funds is not of much concern. If on the plat the roads are noted as private, can an ISD do anything that is contrary to the plat or the HOA? Nicole doesn't see anything that is troubling over the transfer. The developer still has the right to grant easements across the subdivision. The HOA is trying to get that to go away as part of the final global transfer agreements. The Board does not want the developer's representative Dave Larson, to be able to walk away from the development yet still retain the ability to

grant easement. ISD's are clearly designed to benefit a sub-group; there is nothing in statute or law that would indicate otherwise. The HOA can subcontract the ISD to take over the maintenance of the roads also.

- 3) Rules and regulations. There were a few questions and points of discussion concerning the rules as written:
- a) We sell water to Sage Meadows, but we don't run their hydrants. For Glory View we provide water and sewer to the property line, and then they take it from there. There are 24 townhomes that are internal within the subdivision. They have curb stops; we assume HOA owns service lines. We are in the process of asking homeowners to bring curb stops to the surface. Rich wants to make sure it is clear by way of a memo or something similar, that Sage Meadows and Glory View are certain that they are responsible from the property boundary. This can be amended in the regulations and call out GV and SM.
  - b) We are sending letters to the 30 owners whose curb stops we could not locate. Homeowners pay for the tap and the meter. Nicole reminds the group that the ISD can't run something they don't own. Concerning the undeveloped lots when a new home has a permit they would pay to the ISD. Separate document allowing for statement of fees, rules so you don't have to continue to amend the governing document. We can take what we use for the HOA, it is established and published. The HOA raised the water charges to \$1.25 four years ago. We are raising it to \$1.30 (per 1,000 gallons) – HOA dues are going up 6% as well. Water meters are supplied by the town and owned by the town. Larry will clarify who owns the meters and whose responsibility it is to pay for replacements and repairs to them. Board can't adopt the rules until we have ownership of sewer and water. Transfer of utilities will first to the HOA then to the ISD. Board can move to intend to adopt the rules and regulations. Have to publish – public notice 45 days.
  - c) Can we transfer the water and sewer over while we control the operator? Timing presents some challenges – don't want ownership without regulations. Good to try and time it so things go forward at the same time. Cleanest way is to transfer from developer to the HOA. HOA will have to have discussion about moving it over. HOA will not accept it until the claims are all resolved. This has to be done before transfer. It would be ok to turn sewer system over now as there are no claims there. The ISD currently owns the grinder.
  - d) Larry suggests that we need a set of specifications that would support bringing the road back to the level of quality that we want in the case of road repairs that need to be done. Wyoming Public Works has standards that would be good to adopt.
  - e) There was discussion about ownership and responsibilities for the water lines. At what point do the homeowners take responsibility and ownership -- from the curb stop or from the main line? From what point on the leg does this occur? It was determined that ownership would go to the main water line. At what depth are the water lines buried? GTPM will check the Melody website and see what the standards are for water line depths.
  - f) Can the ISD require the homeowner to provide/submit proof that a water test has been done by a licensed expert/contractor. There should be a pressure test and bacti test before it can be turned over to culinary water system. This would assure that there is no cross-contamination. We are required by DEQ (by the EPA) to have the water tested. Should test results be submitted to the district? It is labor-intensive – most homeowners don't do this. Nicole can add language discussing obligations of homeowners. There remains a legal/liability issue coming back to the ISD. State in the rules that it is

required of homeowners to have testing done annually but not actually require the documentation (unless it becomes an issue).

- g) Concerning roads, we should we consider having a uniform set of specs to use as a standard to set a minimum qualification for any improvements.
  - h) If we do a leak test, whose responsibility is it? Town of Jackson states it is the property owner's responsibility. Does Melody Ranch want to incorporate a similar policy? Have not confirmed leak testing – now that there are curb stops that have been identified, Melody will move forward this year. A 3<sup>rd</sup> culinary well needs to be put in, regardless. Owners will take care of any leaks from curb stops to homes (not requiring the developer to fix any leak in an effort to negotiate). The HOA needs to go through the report that was made a while back concerning the 20 “suspicious areas” – the HOA has not done this as it has not been under the control of the HOA. Melody Ranch will hire a leak tester and proceed hopefully this summer if transfer has occurred.
- 4) Need to have a meeting after 45 days of getting the infrastructure to finalize Water and Sewer Regs. Designate one person (Larry Pardee) to go through changes and redlines with Nicole. Rich made a motion to move to declare the intent to adopt regulations of water and sewer use of Melody Ranch improvement service district after a 45 day notice period according to proposed revisions. Seconded by Brett. All voted in favor. Nicole will work with Larry to redline it and have it available to the board for further input and then get a final version to the newspaper. Board held a straw vote to agree on homeowners' responsibility for year round maintenance and up-keep including the tap through the curb stop to the home on both sides.
  - 5) Formally accepted the HOA grinder contract. Gave Tina with GTPM the emails from everyone agreeing to it. \$100,000 check given from the HOA to ISD last week for initial funding. \$50,000 was needed to pay for the grinder obligations. Brett moved to accept the check, Jim seconded the motion. All voted in favor.
  - 6) There are just a couple of bills to pay. A legal bill has been received from Nicole. Nelson is still being charged to the HOA for construction management. There is a \$26,000 bill for Macy's and their subs on the transferred grinder contract.
  - 7) GTPM will take care of minutes and other administrative duties. The ISD would like to officially engage GTPM at \$50 per hour. Jim moved. Bob seconded the motion. All voted in favor.
  - 8) For transparency, the ISD would like a subsection on the Melody website to post all pertinent information. There was a discussion about whether the ISD should create its own website. For now, it makes sense for the HOA take the lead.
  - 9) Liability insurance – can we/ how do we get into the Wyoming Municipality Insurance program? From a liability standpoint, we have certain indemnifications and we would have access to a pool. There is a website to find out the process – GTPM will get this information. Have to apply and be accepted.
  - 10) Next meeting to be held on Tuesday, March 5, 2013 at 5:00 at Wells Fargo (back entrance, side door near the drive up ATM)
  - 11) Meeting adjourned 7:30