

MINUTES OF THE SPECIAL MEETING OF THE  
BOARD OF DIRECTORS OF

HAWTHORN METROPOLITAN DISTRICT NO. 2

Held: Thursday, September 14, 2017, at 6:00 p.m. at  
17685 W. 83<sup>rd</sup> Drive, Arvada, Colorado.

**Attendance**

The special meeting of the Board of Directors of the Hawthorn Metropolitan District No. 2, was called and held as shown above and in accordance with the applicable statutes of the State of Colorado. The following directors, having confirmed their qualification to serve on the Board, were in attendance:

Christopher Elliott  
Matthew Cavanaugh  
Krystal Bigley  
Carly Fenton

Director Corey Elliott was absent. All director absences are deemed excused unless otherwise specified.

Also present were:

Kristin B. Tompkins, Esq., and Megan J. Murphy, Esq., White Bear Ankele Tanaka & Waldron, Attorneys at Law, District General Counsel; Frank Walker, Division President, Lennar Colorado, homebuilder; Kourtney Hartmann, Deputy County Attorney, Jefferson County Attorney's Office; Pat O'Connell, Jefferson County Planning and Zoning; Shawn Fitzhugh, Manager of Field Services, CTL-Thompson, Inc.; Scott Bristol, Stillwater Community Management, District Manager; and Christian Matt Janke, E5X Management.

Members of the public in attendance at the meeting and who signed in are reflected on the attached sign-in sheet.

**Call to Order**

It was noted by Director Elliott that a quorum of the Board was present and the meeting was called to order.

**Conflict of Interest  
Disclosures**

Ms. Tompkins advised the Board that pursuant to Colorado law, certain disclosures by the Directors may be required prior to taking official action at the meeting. The agenda for the meeting was reviewed, following which each Director confirmed that nothing appeared on the agenda for which disclosure certificates had not been filed. The disclosure certificates were reviewed by the Directors and were ordered to be made part of the official minutes of the meeting.

The Board determined that participation by the directors with potential conflicts of interest was necessary to obtain a quorum or otherwise enable lawful action to occur.

### **Approval of Agenda**

Ms. Tompkins presented the Agenda to the Board for consideration. Following discussion, upon a motion duly made by Director. Elliott, seconded by Director. Bigley the Board unanimously approved the Agenda.

### **Underdrain Matters**

Update from Lennar  
Colorado, LLC

Mr. Fitzhugh gave a presentation to the community regarding the underdrain system and answered questions from community members. Mr. Fitzhugh explained the historical information on the underdrain system within the community and that Jefferson County required builders to install underdrain systems for the last 10 years. The main underdrain system is a 6-8 inch pipe that runs below the streets and underneath the sanitary sewer main lines.

Individual lots have a foundation drain system that surrounds the basement footprint and is designed to drain water via gravity to the sump pit or to the main underdrain system depending on each individual lot. On an individual lot, the underdrain is a 4-6 inch perforated pipe that is designed with a specific slope for each individual lot. The pipe flows around the home and connects to the main underdrain system. The underdrain system does not drain into the sump pit. There can be one or two pipes that flow into the sump pit, those are separate from the underdrain.

Mr. Walker also discussed the underdrain system and answered questions from the community members. Mr. Walker explained that homes with walk-out basements are not able to accomplish the proper slope so they also have sump pumps in addition to the underdrain. These walk-outs may have one or two sump pits and each walk-out has a sump pump. Each home has a different underdrain, sump pit and sump pump design depending on the specific design of the home and the lot.

Mr. Fitzhugh explained that the underdrain pipe is dug into a trench surrounding the basement footprint and surrounded with rock and covered in fabric approximately 12-18 inches below the surface. The underdrain system is not directly connected to the sump pits. A pipe exiting the sump pits can connect to the underdrain depending on lot location and elevation. The foundation underdrain is connected to the main underdrain and discharges underneath the street into the main underdrain system. The sump pit and sump pump are designed to discharge to the surface.

Mr. Walker described that the goal is to remove water away from the home's foundation to maintain structural integrity. The underdrain system also preserves the sidewalks and streets by draining water away from the home's foundation below the surface. Walk-out homes will discharge water into their backyard from the sump pump, not from the underdrain. Drainage problems can be caused when homeowners over water their landscaping and the soil becomes saturated and water begins to drain to the foundation. If the sump pit is the lowest point of collection, the water will bypass the underdrain system and go into the sump pit. In some areas, Lennar has raised the sump pump so the pipes are able to work with the gravity design and so less water is collected into the sump pit allowing the sump pump to be less active. The first several years in a new community can be challenging, as the landscaping is establishing the drainage issues should subside. Any water collected from the rear of the garage will drain to the underdrain and forward of the garage will drain to the streets and the sidewalks.

Mr. Fitzhugh explained the over excavation performed and the swelling soils in Colorado. Colorado is an arid climate which can result in expansive soils, up to 20% expansion in some places. In the Hawthorn community, the soil was excavated 10-12 feet below the basements. The soil was then mixed with water to create saturated soil which is then placed below the home to reduce swelling. The allowable amount of swelling with saturated soil is 2%. There is no evidence of the soil drying below the sub-excavation and there is a buffer of saturated soil between the bedrock and the foundation of the home.

Mr. Pate asked if it was normal for the sump pit to have 2 feet of water in the bottom that is below the pump valve. Mr. Fitzhugh responded that it is typical to have some water in the bottom of the sump pit.

Mr. Pate asked if it was normal to have more than one pipe draining into the sump pit. Mr. Fitzhugh responded that some homes may have one pipe and some homes may have two pipes draining into the sump pit depending on elevation and lot location.

A homeowner asked what the red flags are that indicate there is a drainage problem. Mr. Walker responded that a non-walk out home with one sump pump – the sump pump should not run continuously and homeowners should check their sump pump every six months to ensure it is working.

Ms. Bestafka thanked Lennar and CTL for attending the meeting but asked what does everyone do next to fix the drainage issues. Mr. Walker responded that CTL and Jefferson County have inspected all the underdrain systems and that the foundation underdrain systems are connected to the main underdrain system and are functioning properly. If there is water getting into the sump pit it is because the water has bypassed the underdrain system. Lennar has raised the sump pit in two homes and are monitoring 19 homes within the community based on a list of homes provided by Jefferson County.

Ms. Bestafka stated that Jefferson County told them all water is intended to drain into the underdrain and not the sump pits. Mr. O'Connell responded that the intent of the plat is for the underdrain system to be the main drainage system and the sump pump to be a secondary drainage system. The advantage of the underdrain is that it uses gravity to collect and discharge water below the surface rather than mechanical systems. Mr. O'Connell noted that Jefferson County does not want water to drain on the sidewalk or the road.

Mr. Walker stated that Lennar has regraded some yards to address drainage issues. Ms. Berman responded that she feels there is nothing to do because Lennar is stating the drainage system is working as it is intended even though the County is saying it's not. Mr. Walker responded that each homeowner needs to responsibly water their landscaping correctly.

A homeowner asked if there is any settlement around the foundation that could be caused by the failure to drain. Mr. Walker responded that settlement around the foundation is normal and this is described in warranty documents as the "backfill zone." Settlement around the foundation is not related to drainage issues. The underdrain system uses gravity to drain water and there can be periodic obstructions or backups and that the system requires periodic maintenance and that is why the sump pit and sump pump system is also installed as a secondary system. If drainage is causing a problem downstream to neighbors, Lennar needs to address that issue and work on regrading. Mr. Walker noted that two customer representatives, Ky and Ross are available to address individual issues and can be found on [mylennar.com](http://mylennar.com). Mr. Walker noted all warranty requests should be made via [mylennar.com](http://mylennar.com).

Ms. Bestafka asked how long before the foundation settles and what is an acceptable amount of surface drainage. Mr. Walker responded that it depends on the watering, topography, season, 3 car or 2 car garage. Based on his 16 years' experience, after 3-5

years there are typically no drainage issues in a new community.

Ms. Bestafka provided a list of approximately 50 homes she believes are having drainage issues to Mr. Walker.

Mr. Killian stated that Lennar should look at every home within the community to determine which homes have drainage issues so each homeowner is not required to have an individual investigation. Mr. Walker responded that Lennar will send a letter to each homeowner in the Hawthorn community and that each homeowner needs to report any issues through [mylennar.com](http://mylennar.com).

Mr. Walker stated that Lennar is not aware of any foundation issues at this time. If there were foundation issues, homeowners would see cracks in the drywall along with doors and windows not closing. Lennar provides a ten-year structural warranty which is in addition to the one-year warranty many homes have already purchased.

Mr. Killian requested that the letter from Lennar describe the scope of the drainage problem. Mr. Walker responded that individual homeowners should document their claims on [mylennar.com](http://mylennar.com) and review warranty documents along with soils reports.

A homeowner requested Lennar send a picture with a letter to all homeowners that shows how the system is designed to work. Mr. Walker responded that Lennar would think about it and homeowners can refer back to the soils report that was provided when they bought the home. Lennar stated if any homeowner, and specifically any second buyers, needed these documents, Lennar could provide them with same.

Mr. Walker again stated the primary drainage system for walk-out homes is the sump pump and Lennar will reach out to everyone on the list provided by Ms. Bestafka and Lennar is already working with the 19 homeowners on the list from Jefferson County.

Mr. O'Connell stated that the notes in the plat did not differentiate between walk-out homes and full basement homes. As much as possible the intent is for the underdrain system to be the primary drainage system but each home is a unique set of circumstances.

Mr. Walker stated that to find a drainage problem, Lennar will perform an irrigation pressure test to ensure there is not a water leak, possibly relocate the sump pump discharge, or raise the sump pump within the sump pit. Homes with walk-out basements

will always have water discharging on the surface in the backyard.

Ms. Berman asked if it is possible for Lennar to install a sump pump to drain into the underdrain. Mr. O'Connell stated that there are mechanical options to make water discharge uphill. Mr. Walker stated that some drainage may be considered nuisance discharge, that the sump pumps going off a of couple times a day is normal, and that a sump pump constantly running is not normal.

Ms. Munville stated that Lennar needs to perform a systemic review of the drainage issues to ensure it is not impacting the foundation. Mr. Walker responded that issues documented in [mylennar.com](http://mylennar.com) will be addressed by the customer service representatives.

Ms. Kirby stated that her home has been resurveyed and regraded but she is still having drainage issues. Mr. Walker responded that Lennar is monitoring the 19 homes provided by Jefferson County to check surface grading and the location of the swales.

Mr. Walker again stated that Lennar will send out a letter to all homeowners in the Hawthorn community and will send a customer service representative to any home that has a documented complaint through [mylennar.com](http://mylennar.com). He also noted that there are so many variables, there is not one fix for all homes that may be experiencing drainage issues.

Ms. Bestafka expressed concerns about the one year full coverage warranty that is coming to a close and there is no fix for the drainage issues. Mr. Walker stated that anyone who has started a claim through [mylennar.com](http://mylennar.com) will be addressed and reiterated the ten year structural warranty. Mr. Walker responded that Lennar may address that issue in the letter. Ms. Bestafka asked when they can expect the letter to be mailed out and when will Lennar come out to inspect the homes. Mr. Walker stated that it will take approximately 10 days to mail the letter and Lennar may follow up with a second letter detailing the status of the issues discovered. Mr. Walker expressed that Lennar is committed to this community and urged each homeowner to read the soils report and their warranty.

### **Other Business**

The Board discussed the request from Ms. Berman to be appointed to District Advisory Committee. The Board discussed that the community was previously notified of the agenda item for the appointment of committee members and the Board appointed members at the July special meeting. Director Bigley requested

that if the District is considering reopening the appointment of committee members, that it open up two seats to the entire community. The Board requested that Stillwater provide notice to the community on the website, via an email blast, and via mail for requests of two additional homeowners to be appointed to the Advisory Committee. Interested persons should submit a letter of interest with a resume. The Board will consider appointments to the committee at the next meeting.

**Next Meeting**

The next regular meeting is scheduled for Monday, December 4, 2017.

**Adjournment**

There being no further business to come before the Board, and following discussion and upon motion duly made, seconded and unanimously carried, the Board determined to adjourn the meeting.

The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

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Secretary for the Meeting