



**HEATHER GARDENS METROPOLITAN DISTRICT  
BOARD ACTION**

**DATE:** AUGUST 29, 2024

**MOTION NUMBER:** 2024-8-29-1

**MOTION: ADOPT ELECTION RESOLUTION**

I move that the Heather Gardens Metropolitan District Board of Directors adopt the attached recall election resolution for the recall election to be held on May 6, 2025, as part of the regular district election. Such election date must be set a minimum of 75 days from today, which would be November 12, 2024. From information received and a reading of the appropriate statute, any election date within 180 days (after Nov. 6<sup>th</sup>) of the District's next regular election, must be held as part of the regular election.

**ECONOMIC COST TO THE DISTRICT: \$0**

Motion by: Daniel Taylor

Second by: \_\_\_\_\_

Rationale: The resolution is attached. The Arapahoe District Court has jurisdiction over the setting of the election date. This document will be filed with the Court. The DEO will object with the Court, who will determine the appropriate election date.

Debate: None. This action is not final and will be determined by the Court.

Secondary Motion to : \_\_\_\_\_

Secondary Motion by: \_\_\_\_\_ Second by: \_\_\_\_\_

**VOTE:**

	_____		_____	
	Yes	No	Yes	No
Craig Baldwin				
Rita Effler				
Eloise Laubach				
Robin O'Meara				
Daniel Taylor				
Total				

The secondary motion does/does not have a majority and passes/fails.  
The main motion does/does not have a majority and passes/fails.

\_\_\_\_\_  
Robin O'Meara, Secretary  
HGMD Board of Directors

\_\_\_\_\_  
Daniel J. Taylor, President  
HGMD Board of Directors

**RESOLUTION OF  
THE BOARD OF DIRECTORS OF  
HEATHER GARDENS METROPOLITAN DISTRICT  
SPECIAL DISTRICT RECALL ELECTION RESOLUTION**

At a special meeting of the Board of Directors of the Heather Gardens Metropolitan District, City of Aurora, Arapahoe County, Colorado, held at 3:00 P.M., on Thursday, August 29, 2024, at the Heather Gardens Clubhouse, 2888 S. Heather Gardens Way, Aurora, Colorado, in the auditorium and via video conference at which a quorum was present, the following resolution (the "Resolution") was adopted:

**WHEREAS**, Heather Gardens Metropolitan District (the "District") was organized pursuant to the Special District Act, Article 1 of Title 32, C.R.S. (the "Act"), after approval of the eligible electors of the District, by order of the District Court in and for Arapahoe County, Colorado, dated April 6, 1983; and

**WHEREAS**, elections may be held pursuant to the Act; the Uniform Election Code of 1992, Articles 1 to 13 of Title 1, C.R.S. (the "Uniform Code"); and the Colorado Local Government Election Code, Article 13.5 of Title 1, C.R.S. (the "Local Government Election Code") (the Act, Uniform Code, and Local Government Election Code are collectively referred to herein as the "Election Laws") for the purpose of 1) electing members of the Board and 2) presenting certain ballot questions to the eligible electors of the District; and

**WHEREAS**, pursuant to Section 32-1-305.5(3)(a), C.R.S., the term of office of directors of the District Board of Directors (the "Board") elected in a regular special district election is four (4) years; and

**WHEREAS**, pursuant to Section 32-1-906 (1), C.R.S., any director elected to the Board for the District, who has actually held office for at least six months, may be recalled from office by the eligible electors of the District; and

**WHEREAS**, four (4) directors elected to serve on the Board on May 2, 2023, and who were sworn into office on May 15, 2023, ("2023 Directors"); and

**WHEREAS**, one 2023 director who had been subject to recall passed away on Monday, August 26, 2024, who's office is now vacant; and

**WHEREAS**, a recall committee filed petitions for the recall of the 2023 Directors, the sufficiency of which was appealed, which appeal was dismissed on August 1, 2024, by the Arapahoe County District Court; and

**WHEREAS**, no notice of appeal of the court's dismissal has been filed with the Colorado Court of Appeals; and

**WHEREAS**, pursuant to Section 32-1-910 (4)(a)(II), the board must fix a date for the recall election within 30 days of the court's order becoming final; and

**WHEREAS**, the Designated Election Official filed a motion in the Arapahoe County Court, case number 1983 CV 000105, requesting that the Board of Directors hold a meeting to fix said recall election date, which was granted by the Court, and the date of August 29, 2024, was agreed; and

**WHEREAS**, such recall election must be held no less than 75 days nor more than 90 days from the date the election is set pursuant to Section 32-1-910 (4)(a)(III); and

**WHEREAS**, Section 32-1-910 (4)(b) states that “Notwithstanding subsection (4)(a)(III) of this section, if a regular special district election is to be held within one hundred eighty days after the date the board orders the recall election, the recall election must be held as part of such regular special district election;” and

**WHEREAS**, the President of the HGMD Board of Directors contacted, the Colorado Secretary of State’s Office, the Department of Local Affairs, the Legislative Legal Services Office, and the Department of Local Governments; and

**WHEREAS** based upon the information received and a reading of the statute the Board believes the purpose and intent of Section 32-1-910 (4)(b) is to prevent two elections being held within a six month period, and that pursuant to that statute a recall election must be held on May 6, 2025; and

**WHEREAS**, this resolution is subject to the decision of the Court in the aforementioned case, and shall be amended to comply with the Court’s decision, if the Court orders that the recall election occur on a date other than May 6, 2025; and

**WHEREAS**, pursuant to Section 32-1-804(1), C.R.S., the Board shall govern the conduct of the election and shall render all interpretations and make all decisions as to controversies or other matters arising in the conduct of the election; and

**WHEREAS**, Sections 1-1-111(2), 1-13.5-108, and 32-1-804(2), C.R.S. provide that all powers and authority granted to the Board for the conduct of regular and special elections, including making all initial decisions as to controversies or other matters arising in the operation of the Local Government Election Code, may be exercised by a Designated Election Official (DEO) designated by the Board and in this instance, appointed by the Arapahoe County Court; and

**WHEREAS**, Sections 1-13.5-501(1) & -(1.5), C.R.S., require that, between seventy-five (75) and one hundred (100) days before a regular election, the DEO shall provide notice of a call for nominations for the election by publication, as defined in Section 1- 13.5-501(2), C.R.S., by posting the information on the official website of the District; and posting the notice in at least three public places within the boundaries of the District; and

**WHEREAS**, Section 1-13.5-1104(2), C.R.S. requires the DEO to supervise the distributing, handling, and counting of ballots and the survey of returns, and to take the necessary steps to protect the confidentiality of the ballots cast and the integrity of the election; and

**WHEREAS**, Section 1-7.5-107(4)(b)(II), C.R.S. specifies that the DEO shall designate a secure drop-off location that is under his or her supervision, and Section 1-5-102(1), C.R.S. requires that the DEO divide the jurisdiction into as many election precincts as he or she deems expedient for the convenience of eligible electors of the jurisdiction and designate the polling place for each precinct; and

**WHEREAS**, Section 1-13.5-1004(1), C.R.S. provides that the DEO shall keep a list of names of eligible electors who have applied for absentee voters' ballots and those permanent absentee voters placed on the list pursuant to Section 1-13.5-1003(2), C.R.S., which list must contain certain other information as set out by statute; and

**WHEREAS**, Sections 1-11-103(3) & 32-1-104(1), C.R.S. require the District to certify to the Division the results of any elections held by the District and include the District's business address, telephone number, and contact person; and

**WHEREAS**, the Board desires to call an election and set forth herein the procedures for conducting such election as authorized by the Election Laws.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE HEATHER GARDENS METROPOLITAN DISTRICT THAT:**

1. The Board hereby calls an election of the eligible electors of the District to be held between the hours of 7:00 A.M. and 7:00 P.M. on Tuesday, May 6, 2025, to determine whether the 2023 Directors subject to recall shall be recalled from office.
2. The Election shall be conducted as a mail ballot election in accordance with all relevant provisions of the Code. The DEO shall develop a Plan for conducting the mail ballot Election no later than March 12, 2025, which will be made available to the public. The Board deems it expedient for the convenience of the electors that it shall establish a polling place & drop-off location at the Heather Gardens Clubhouse Lobby, 2888 South Heather Gardens Way, Aurora, Colorado 80014. All voters for the District, including handicapped and nonresident voters, unless otherwise permitted by law, shall return their ballots to the designated polling place & drop-off location by mail or delivery or to the office of the Designated Election Official at 405 Urban St., Suite 310, Lakewood, Colorado 80228.
3. All eligible electors may also obtain a replacement ballot from the polling place & drop-off location until 7:00 P.M. on election day in accordance with Section 1-13.5-1105(4), C.R.S. A map showing the District's boundaries is posted on the HGMD website at [www.HGmetroDist.org](http://www.HGmetroDist.org), and may be obtained from the front desk at the Heather Gardens Clubhouse, 2888 South Heather Gardens Way, Aurora, Colorado 80014, and is available for examination by all interested persons.
4. The Arapahoe County Court appointed AJ Beckman, of Public Alliance LLC as the Designated Election Official (DEO), who is hereby directed and authorized conduct said Election in conformance with and directed to proceed with any action necessary or appropriate to effectuate the provisions of this Resolution and Election laws. Among other matters, the DEO shall publish the call for nominations in a newspaper of general circulation on or before February 20, 2025;

such self-nomination forms must be submitted on or before February 28, 2025; after review, the DEO shall provide notification of the sufficiency or insufficiency of the candidates on or before March 4, 2025; certify the ballot content on or before March 7, 2025; publish its plan for the mail ballot election on or before March 12, 2025; appoint election judges as necessary; arrange for all required notices of election; printing of ballots; the mailing of mail ballots between April 14, 2025, and April 21, 2025; and all other required election functions, and may contract another to perform any or all such services.

5. The Call for Nominations shall also be made by posting the information on the official website of the District, and in a conspicuous place inside the Heather Gardens Clubhouse, 2888 S. Heather Gardens Way, Aurora, Colorado 80014.

6. All candidates must file a self-nomination and acceptance form at the DEO's place of business 405 Urban St., Suite 310, Lakewood, Colorado 80228 or at the Management Office at the Heather Gardens Clubhouse, 2888 S. Heather Gardens Way, Aurora, Colorado 80014, no later than the close of business (4:00 pm) on February 28, 2025.

7. Applications for an absentee voter's ballot or for permanent absentee voter status may be filed with the Designated Election Official, Heather Gardens Clubhouse, 2888 South Heather Gardens Way, Aurora, Colorado 80014, between the hours of 8:00 a.m. and 5:00 p.m., until the close of business on April 29, 2025.

8. In accordance with Sections 1-11-103(3) & 32-1-104(1), C.R.S., the District directs the DEO to notify the Division of the results of any elections held by the District, including the District's business address, telephone number, and contact person within thirty (30) days after the Election (June 5, 2025).

9. The DEO and the officers, agents, consultants, and employees, if any, of the District are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

10. All prior acts, orders, or resolutions, or parts thereof, by the District in conflict with this Resolution are hereby repealed, except that this section shall not be construed to revive any act, order, or resolution, or part thereof, heretofore repealed.

11. If any section, paragraph, clause, or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution, it being the intention that the various parts hereof are severable.

12. The District shall be responsible for the payment of any and all costs associated with the conduct of the Election, and those costs incurred pursuant to the terms and conditions of an election agreement with the County, if any.

13. This Resolution shall take effect on the date and at the time of its adoption.

ADOPTED AND APPROVED this 29th day August, 2024.

---

Robin O'Meara, Secretary  
HGMD Board of Directors

---

Daniel Taylor, President  
HGMD Board of Directors

**Exhibit A – Resolution for Recall Election  
OFFICIAL BALLOT FOR  
HEATHER GARDENS METROPOLITAN DISTRICT  
RECALL AND REGULAR ELECTION  
WEDNESDAY, NOVEMBER 6, 2024**

\_\_\_\_\_  
(Facsimile of signature of the designated election official of the district.)

**WARNING:**

ANY PERSON WHO, BY USE OF FORCE OR OTHER MEANS, UNDULY INFLUENCES AN ELIGIBLE ELECTOR TO VOTE IN ANY PARTICULAR MANNER OR TO REFRAIN FROM VOTING, OR WHO FALSELY MAKES, ALTERS, FORGES, OR COUNTERFEITS ANY MAIL BALLOT BEFORE OR AFTER IT HAS BEEN CAST, OR WHO DESTROYS, DEFACTS, MUTILATES, OR TAMPERS WITH A BALLOT IS SUBJECT, UPON CONVICTION, TO IMPRISONMENT, OR TO A FINE, OR BOTH. **(1-13.5-1105(4)(b), C.R.S.)**

Refer to the ballot instructions for complete information on voting. Review your ballot. This is a recall election. Vote whether each director listed below of the Heather Gardens Metropolitan Board of Directors should be recalled. To vote, place a cross mark (X) in the box at the right of the ballot question. If you vote yes to recall a director, place a cross mark (X) in the box at the right of the name of the candidate of your choice to replace the director. For a write-in candidate, print the name on blank line.]

Should HGMD Director Rita Effler be recalled? YES  NO

Recall Grounds: Rita Effler, as Treasurer of the Heather Gardens Metropolitan District (HGMD) Board, did not submit for consideration of the Board the paving of the Maintenance Building parking lot, the maintenance of which is the responsibility of the Board, despite several residents testifying in a public meeting that the grounds of the building constitute a safety hazard. She has challenged the accounting practices of the Chief Financial Officer, whose practices have been accepted in 40 years of auditing. Since she took office, the Chief Executive Officer, the Chief Financial Officer, the Security Chief, the Clubhouse Manager, the Maintenance Manager, and the Resident Services Coordinator have resigned. She joined other directors who are subjects of this action in resolving to terminate the management agreement between HGMD and HGA (Heather Gardens Association).

Director's Statement: (300 word statement due before Sept. 8, 2024)

The Director's remaining term is 2 years and 6 months. If the director is recalled, vote for one candidate below to replace her:

Candidate Name

Candidate Name

Should Director Daniel Taylor be recalled? YES  NO

Recall Grounds: Daniel Taylor, as President of the Heather Gardens Metropolitan District (HGMD) Board, publicly called the Chief Executive Officer and the Chief Financial Officer "insubordinate." He has made accusations of criminal behavior against them. He has made demands of Heather Gardens Association (HGA) and its employees, including removing their equipment from space that is being used, that were not authorized by the HGMD Board. He has demanded that an employee's work hours be expanded beyond the limits of the state labor laws. Since he took office, the Chief Executive Officer, the Chief Financial Officer, the Security Chief, the Clubhouse Manager, the Maintenance Manager, and the Resident Services Coordinator have resigned. He joined other directors who are subjects of this action in resolving to terminate the management agreement between HGMD and HGA (Heather Gardens Association).

Director's Statement: (300 word statement due before Sept. 8, 2024)

The Director's remaining term is 2 years and 6 months. If the director is recalled, vote for one candidate below to replace him:

Candidate Name

Candidate Name

Refer to the ballot instructions for complete information on voting. Review your ballot. To vote, place cross mark (X) in the box at the right of the name of each candidate of your choice and in the appropriate box directly following each ballot issue and ballot question. For write-in candidate, print name on blank line.

**Vote for not more than two (2) Directors for Four-Year Terms:**

Candidate Name

Candidate Name

Candidate Name

\_\_\_\_\_