

# **MINUTES OF MEETING HARMONY COMMUNITY DEVELOPMENT DISTRICT**

The regular meeting of the Board of Supervisors of the Harmony Community Development District was held Thursday, May 29, 2008, at 9:00 a.m. at 7251 Five Oaks Drive, Harmony, Florida.

Present and constituting a quorum were:

Robert Evans	Chairman
Greg Golgowski	Vice Chairman
William O'Keefe	Supervisor
Ken Peach	Supervisor
Nancy Snyder	Supervisor

Also present were:

Gary Moyer	Manager: Moyer Management Group
Tim Qualls	Attorney: Young, van Assenderp
Steve Boyd	Engineer: Miller, Einhouse, Rymer & Boyd
Todd Haskell	Harmony Development Corporation
Shad Tome	Harmony Development Corporation
Brian Smith	Severn Trent Services
Brenda Wright	Moyer Management Group
Residents and members of the public	

## **FIRST ORDER OF BUSINESS**

### **Roll Call**

Mr. Evans called the meeting to order at 9:00 a.m.

Mr. Evans called the roll and stated a quorum was present for the meeting.

## **SECOND ORDER OF BUSINESS**

### **Approval of the Minutes of the April 24, 2008, Regular Meeting and Workshop**

Mr. Evans reviewed the minutes of the April 24, 2008, regular meeting and workshop and asked for any correction, additions or deletions.

Ms. Snyder stated on the regular meeting minutes on page 6 in a statement attributed to me, it says "there have not been signs on that lake since I have been there and I have lived there since July," I do not live on a lake and I have lived here since September, so someone else said that.

Ms. Gina McGinnis stated I probably said that.

Ms. Kerul Kassel stated there were a number of things you said that were attributed to Ms. Snyder.

Ms. Snyder stated in the workshop minutes on page 6 where it says “when you purchase a time share you have to provide a credit card” should be “when you stay in a timeshare.” On page 15, third paragraph, I don’t think Ms. Kassel has a son who plays soccer all over the United States so that was someone else. I do not know the woman’s name who said that.

Mr. Moyer stated we will show that as a resident.

Mr. Evans stated on page 3 of the regular meeting minutes, Mr. Boyd actually provides us with the exhibits to the assessment methodology, not Mr. Moyer. Page 8 indicates Mr. Qualls needs to cite the Statute and it should be Mr. Walls because he raised questions on that issue.

On MOTION by Ms. Snyder, seconded by Mr. Peach, with all in favor, approval was given to the minutes of the April 24, 2008 regular meeting and workshop, as amended.
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**THIRD ORDER OF BUSINESS**

**Presentation of the Fiscal Year 2009 Budget**

**A. Discussion of the Fiscal Year 2009 Proposed Budget**

Mr. Moyer stated we distributed the first draft of the fiscal year 2009 budget that starts on October 1, 2008 and will conclude on September 30, 2009. It is in a format that is the same as what we adopted for fiscal year 2008. Modifications were made to reflect the 2009 work program. For the benefit of the audience, I am asking the Board to adopt a Resolution that will approve the budget and set a public hearing for the August meeting. At the August meeting, there will be a public hearing. After considering public comment, the Board will adopt the budget. I differentiate “approve” from “adopt.” Today we are approving the budget to start a process. We are not ending a process by approving a budget. We will have a workshop on this budget and further Board discussion between now and the August public hearing. We have received some comments during the year about the District providing additional services that we can discuss as part of this process. We will convene a workshop after this meeting to discuss it in detail.

**B. Consideration of Resolution 2008-03 Approving the Fiscal Year 2009 Proposed Budget and Setting a Public Hearing**

Mr. Moyer stated I will ask the Board to consider adopting this Resolution to set the public hearing for the August 28, 2008, meeting.

Mr. Evans stated to avoid duplication, we will be discussing this budget by line item at the workshop.

On MOTION by Mr. Golgowski, seconded by Mr. O’Keefe, with all in favor, approval was given to Resolution 2008-03 approving the fiscal year 2009 proposed budget and setting a public hearing for Thursday, August 28, 2008, at 9:00 a.m. at 7251 Five Oaks Drive, Harmony, Florida

**FOURTH ORDER OF BUSINESS**

**Discussion of the Revised Amendment to Chapter 1, Rule 1.5 of the Harmony CDD Rules of Procedure Relating to Use of Parks and Recreation Facilities**

Mr. Qualls stated I distributed the latest version of the draft rules. The colors reflect the revisions we have made to date. Based on the workshop last month, we inserted some new things, related to the rules of the use of the soccer and volleyball facilities in Section 4. We added some new items for use of the boat. These items relate to a security damage deposit. There are two options under Section 2.3 on page 2. One option is, parties, prior to use, submit a \$250 check to be held by the District as set forth in Section 7.3 or as an alternative, we have created a mechanism where a potential user gives their credit card information and identification in lieu of that security deposit. If damage does occur, that credit card information will then be used to pay for the damaged boat. We had a short meeting with staff this morning and we discussed having a few more steps in place for reserving a boat and outlining mechanisms to make residents aware of how they can pay this damage deposit, where the information will be kept securely, and those types of things. We will work on that over the next month but the basic mechanism is in place. We discussed most of these at the workshop and I will ask the Board to review this draft for further discussion at the next meeting. The public hearing was originally scheduled and advertised for today to adopt these rules. Because the Board approved at the last meeting to adopt these rules later, we need to continue the public hearing. The more we work through these rules, the better and more concise they will be. We can continue the hearing to the June or July meeting and I will ask for a motion from the Board to continue the hearing.

MOTION by Ms. Snyder, seconded by Mr. Peach, with all in favor, approval was given to continue the public hearing for rulemaking to Thursday, July 31, 2008, at 9:00 a.m. at 7251 Five Oaks Drive, Harmony, Florida.

Mr. Evans stated this is a very comprehensive summary of the changes and it is a lot to take into consideration. We appreciate your hard work on this and giving us time to review it. This will evolve as we get more participation and utilization of the amenities and get more feedback from the residents who actually use these amenities to help us shape these policies and procedures.

Ms. Snyder asked do we have a time sequence when most of the boats are used so we can say the boats are available for a certain period of time and based upon the fact that we have to allow time for an inspection either before or after their use?

Mr. Qualls stated we discussed a good procedure for reserving boats during the week by calling the District Manager's office and also having a mechanism for a first come, first serve basis on the weekend. We will describe that and I will distribute it by email to the Board as we work through the process. Please forward any comments you have as you review these rules.

#### **FIFTH ORDER OF BUSINESS**

#### **District Manager's Report**

##### **A. Financial Statements**

Mr. Moyer reviewed the financial statements, included in the agenda packet and available for public review in the District Office during normal business hours.

##### **B. Invoice Approval #97 and Check Run Summary**

Mr. Moyer reviewed the invoices and check summary and requested approval.

Mr. Evans stated the newer format makes it easier to review the expenditures, with the narratives that accompany these. I compliment you on that.

On MOTION by Mr. Peach, seconded by Ms. Snyder, with all in favor, approval was given to the financial statements and invoices as presented.

##### **C. Report on the Number of Registered Voters – 381**

##### **D. General Election Qualifying Information**

Mr. Moyer stated I will combine items C and D because they are related. Included in the agenda package is a letter from the Supervisor of Elections in Osceola County indicating that as of April 15, 2008, there are 381 registered voters. The reason this is important is Chapter 190, Florida Statutes, provides for a mechanism to transition from landownership vote to registered voter vote, and the thresholds deal with the number of years the District is in existence. This District was established in 2000, and in 2006, when we would have started this process, we had not met the other threshold, which is 250

registered voters. We have now met that threshold so we will proceed to have a General Election for two seats that expire this year and will be on the November ballot. I have several copies of the summary for qualifying to run for office. Qualifying dates are from noon, June 16 to noon, June 20. Any resident registered voter living in Harmony who desires to run for the position of Supervisor needs to go to the Supervisor of Elections office and qualify. You will subscribe to a candidate's oath of office. If you are going to spend any money, you need to appoint a campaign treasurer. The Supervisor of Elections is wonderful about walking you through that process. Their names will appear on the ballot if there is more than one person who qualifies for each seat. The election in November will determine who will serve on this Board.

Mr. Evans stated there are two seats. If two people run, is there still an election or do they win by default?

Mr. Moyer stated they have to run for a certain seat. If two people both want to run for seat 3 and no one runs for seat 5, then there is a vacancy for Seat 5 and an election for Seat 3. As a candidate, I would think you want to look at that.

Mr. Qualls stated if only two people run and they each run for different seats, common sense would ask why even have an election. According to Chapter 190, Florida Statutes, the District's Charter, it says "shall have an election."

Mr. Evans stated an election will still take place. Their names will be on the ballot and there will still be all the formal procedures of an election, irrespective of the number of people who run. Let us say only one person runs for a seat. If there is a vacant seat, what is the procedure? How is that seat filled?

Mr. Moyer stated the law says the current Supervisor continues to serve until a replacement is qualified and elected. Whoever occupies that seat will continue to occupy that seat until the next election cycle.

Mr. Qualls stated specifically this is referenced in Section 190.006(2)(b)(2)(b), Florida Statutes.

Mr. Evans stated if someone wanted to run, it might be in their better interest to go down on the 19<sup>th</sup> to see who has qualified to run for a seat and pick a seat if one is still vacant.

Ms. Kassel stated there are no vacancies at this point.

Mr. Evans stated they have not applied yet.

Ms Kassel stated they have qualified. They still have to go back down in June to go through the formal qualifying process.

Mr. Evans stated they have qualified to run in the election but they have not selected the seat.

Ms. Kassel stated we filled out a form.

Mr. Evans stated there is an application that occurs earlier in the year that allows you to pre-qualify before you go through this qualifying process, where you get 25 signatures.

Mr. Moyer stated that deadline was May 19.

Ms. Wright stated that is if you are qualifying by petition. If you just want to pay \$25 to qualify, we do not know if you are going to do that until the week of June 16 through June 20. You can go to the Osceola County Supervisor of Elections website, go to the Candidates link and find out everyone who has put in their name to qualify to run in the General Election.

Mr. Evans asked the period when the Supervisor of Elections actually considers your candidacy active is between June 16 and June 20, or is it before that?

Ms. Wright stated even if you submit to qualify by petition and submit those signatures by May 19, you still have to go down during that week in June to qualify.

Mr. Evans stated I want everyone to understand this so they do not think that because they qualified by May 19 that they have everything taken care of.

Mr. Rich Marks asked are the two seats that are open, are they both eligible to be occupied by residents or must one be a developer and one a resident?

Mr. Evans stated both seats will be residents.

**E. Consideration of Engagement Letter with Grau & Associates to Perform the Arbitrage Rebate Calculations for the Series 2004 Capital Improvement Revenue Bonds**

Mr. Moyer stated as part of our 2004 bonds, there is a requirement that the District determine if we have earned any arbitrage interest on the investments we have related to those bonds. In 1986, the Federal government changed the tax laws and decided governments should not be in the business of selling bonds for the purpose of making more interest earnings on the bond proceeds than what they are paying in interest expense. That is what arbitrage is. They have a requirement that every year we have to determine if we made more money than we spent. If we did, we have to put that money in an arbitrage rebate account that is held by the trustee and at the end of five years, we

remit that to the IRS. The annual fee is \$1,200 and it is typical for this type of work. The auditor will come up with a schedule on all of our investments, the period they were outstanding, the amount of interest earned compared to the bond rate (what is called the true interest costs), and they will provide us with a letter saying either we owe or we do not owe. In the current market, I think we are pretty safe in saying we will not owe.

On MOTION by Mr. O’Keefe, seconded by Ms. Snyder, with all in favor, approval was given to the engagement letter with Grau & Associates to perform the arbitrage rebate calculations for the Series 2004 Capital Improvement Revenue Bonds.

**F. Resident Correspondence**

Mr. Moyer stated during the month we received correspondence from a resident asking that we start a program for tree trimming. That is appropriate in terms of our discussion related to the budget. I will advise you there is a concern and there is a desire that some of the trees be trimmed and we will have to address that as part of the budget.

**SIXTH ORDER OF BUSINESS**

**Attorney’s Report**

Mr. Qualls stated as a follow up to the election information, the Florida Statutes say if no one qualifies, that after the election, that seat becomes vacant and then the Board will appoint a qualified elector to fill the seat, and that is the mechanism if no one qualifies. Based on the discussion, it is a moot point but it is contained in the Statutes.

**SEVENTH ORDER OF BUSINESS**

**Engineer’s Report**

Mr. Boyd stated regarding the status of sidewalk repairs, I distributed a report based on a site inspection that we performed on May 13 to review the status of the repairs, and that report summarized the repairs that were completed at that time and provides pictures of the repairs. I asked a representative from Severn Trent to provide an update on the repairs. A few repairs are still pending and we will follow up in the field and provide you with a similar report on the balance of the repairs. The repairs are nearly complete and are going well.

Mr. Evans stated thank you; this is a very comprehensive list.

Mr. Boyd stated we distributed some requisitions from the construction fund, numbers 219 through 222, which are in addition to what is included in the agenda package. The first one is to Harmony Development Corporation to reimburse them for the

capital improvements they funded at Lakeshore Park, which was approved previously by the Board. The other three are for our firm's services and most of the hours are associated with the sidewalk repairs.

On MOTION by Mr. Peach, seconded by Mr. O'Keefe, with all in favor, approval was given to the requisitions 219 through 222 as presented, paid from the construction account.

Mr. Evans stated good work everyone. We received a lot of very favorable comments about the work.

**EIGHTH ORDER OF BUSINESS**

**Developer's Report**

Mr. Haskell stated I distributed pictures of the large dog park. Ms. Kassel and some other residents over the past several years had requested shade in the large dog park. I contacted REW and they donated five very large live oak trees at their cost, and they were planted last week. We also did some alterations to the seating out there. There were park benches on the north side that were directly in the sun and we relocated them under the shade trees. There was also a comment from Ms. Kassel as to the need for water in the dog park, so we added a watering area. There is a concrete pad to make it a clean spot. There is a white privacy fence and preparation for a shed that Ms. Kassel has been speaking of the past couple meetings. Pending the purchase, it should be installed next week.

Mr. Evans stated please extend our appreciation to REW for their donation. It was a great suggestion by the residents.

Mr. Haskell stated on the Lakeshore Park improvements, there are a couple miscellaneous items remaining. We are having a surveyor come out Monday or Tuesday to identify the locations so we can place the goals for the soccer field and a couple benches for the basketball area. It is a very nice addition and it is nice to see the residents enjoying it.

**NINTH ORDER OF BUSINESS**

**Monthly Boat Report**

Mr. Golgowski stated the boat summary is included in the agenda and shows boat activities for April and May. I am happy to say things are working normally. You will note a partial answer to Ms. Snyder's question earlier, the boats are available six days a week and during weekdays, they seem to account for one-third to one-half of the trips. In

reviewing past reports, you will see that pattern occurring. Afternoons are always a question because of weather because that is when we tend to have our worst weather. We are having a fishing derby on June 14 at the docks as part of the Flag Day celebration the community is having. Tonight we are having a “walk the Cat Lake” at 7:30. We are going out to understand Cat Lake after dark. It is not a CDD lake but it will help you appreciate Buck Lake and seeing the same processes at work.

Mr. Evans stated the bass boat does not see a lot of use. I recall the purpose why we purchased it was because people were using the pontoon boat to fish. Are the fish not biting or is no one using the boat?

Mr. Golgowski stated I do not know if there is a mechanical problem. I had not heard anything but I can check.

Mr. Evans stated I am wondering if we have publicized it well enough to let people know we have a boat that is mainly for fishing.

Ms. McGinnis stated Thomas tries to have people use that as much as possible. If there is a smaller group, he encourages them to use that.

Mr. Marks stated I would be happy to buy an anchor for that boat. We take it out often and there is no anchor. I wonder if that is part of the problem

Ms. McGinnis stated no anchor makes it hard to fish.

Mr. Golgowski stated it needs to have an anchor. The new boat is listed as the 18-foot fishing boat and the bass boat is listed as a small plastic boat that was purchased earlier.

Mr. Marks stated if you do not take it out often, you would think it is broken.

Ms. McGinnis stated it is not broken, but it looks that way since it is so far away.

Mr. Evans stated it is great to see the boats being utilized.

#### **TENTH ORDER OF BUSINESS**

#### **Supervisor Requests**

Mr. Golgowski stated Mr. Moyer’s office was approached by a resident last week who had extra landscape materials, Randy and Margaret Odden. In the course of redoing their landscaping, they had surplus plant material, including a 7-foot holly tree that was donated to the District and put into park use. We appreciate that donation.

Mr. Evans stated thank you for your donation.

#### **ELEVENTH ORDER OF BUSINESS**

#### **Audience Comments**

Ms. Kerul Kassel stated I want to say thank you very much for the improvements to the dog park. They are very much appreciated. The crepe myrtles in the small dog park

are now blooming and providing nice shade. I appreciate the Oddens' contribution. Thanks for the amenities at Lakeshore Park, which are coming along very nicely. People seem really happy with it. I never would have thought of donating plant material to the District. What a great idea! I have seen people rip out landscaping that is perfectly good and throw it away. I would like to have a way for the District to notify residents that they can donate those materials, thereby reducing costs, to let them know that there is an avenue for that. Perhaps we can notify them in the Harmony Notes or put it on the bulletin board if they have landscaping material that is in relatively good shape that they want to get rid of, the District would be happy to receive it.

Ms. Snyder stated that is an excellent idea. Things have overgrown in several yards where we pulled them out and we could have dug them out had I known that we could have donated them.

Mr. Golgowski stated with the Oddens' tree, REW was gracious enough to dig it up, transplant it, rig irrigation to the new location and move it for us. It was a real team effort.

Ms. Kassel stated please extend to REW thanks from the residents for their donation.

A Resident asked regarding the access card for the pool, who is going to look at it?

Mr. Qualls stated that is one thing we are working out, setting up a process to get an access card and make sure everyone has one. I will note your question and I will update the rules for the June meeting. We can talk about it then as well and we will have those mechanisms in place. These rules do not necessarily have all the policies but we will have some sort of policy regarding those access cards.

The Resident stated the key works well because you can get in easily.

Ms. Kassel asked about the workshop at which the budget will be discussed, how will that be noticed to the residents that is not the newspaper? Will it be on the website?

Ms. Wright stated yes.

Ms. Kassel asked can you send a link for the website so residents can have an opportunity to review it before the actual meeting?

Mr. Tome stated I can send an e-blast with the website link to everyone. We can also put additional signage in the community.

Mr. Peach stated in looking at financial notes that explain each item, these would be helpful to put on the website and may answer a lot of the questions.

Mr. Rich Marks asked are the rules for workshop posted on the website with the changes?

Mr. Qualls stated the old version is. The new version I just brought with me today. Ms. Wright can post them as soon as she has a chance.

Mr. Marks asked regarding a web application for the boats and a reservation with a credit card, can that be easily accomplished? My solution is to make people give a deposit to use the boats, not a check that we do not ever cash, but actual money. I am guessing the person we chased for the damages did not ever pay.

Mr. Golgowski stated we did not pursue collecting for the damages.

Mr. Marks stated if you even received a check, that check will not ever clear. If we took a deposit from someone to use the boats, and we keep it forever until you stop using the boats, we could make money on the interest on those funds. I know people will complain about that but I think the people who are mad that the boats are broken have a greater argument than those who will be mad about their \$250. With a credit card, you can do it online and it can be totally automated. The company that actually collects that money for us will step up to the plate and be interested in making revenue from us in the fees for collecting the deposit. This applies to the boat and the pool. I think the pool issue is also important. People are breaking our stuff. Everyone has guests using the pool. If your guests damage something, you would expect the resident to offer to make payment for the damages. It seems silly that we are not doing anything to make people fix this stuff.

Mr. Evans stated the biggest challenge is you have to prove damages and there is a cost of the pursuit of recovery. Most of the time, the cost of recovery far exceeds damages. It is a balancing act to determine if you are going to go after them. Even if you prevail, do you ever collect it or will you just spend more in legal fees to chase someone who is not going to pay.

Ms. Kassel stated collecting a deposit up front is more effective.

Mr. Evans stated that is the purpose in establishing these policies because then there is the incentive not to damage. The purpose for the deposit is you have at least \$250 and that is incentive not to tear something up. Damages could be more than that but it sets the tone that you are going to be held financially responsible for your actions. The idea with

the check is a good point. Do we deposit it or do we just hold it? These are things we will review in this draft and get finalized.

Mr. Marks asked do we have the legal right to collect a deposit for something arguably we have paid for, in lieu of our annual assessment to protect our property?

Mr. Qualls stated yes, we can collect fees for provision and maintenance of infrastructure, under which parks and recreation falls.

Mr. Marks asked do we also have the right to refuse use of those facilities?

Mr. Qualls stated yes, in addition to changing the rules to require a deposit, I updated the boat user agreement. Someone is signing a contractual agreement that says they agree to pay this amount or to give their credit card information in lieu of the deposit. I do not think the Board has considered charging a fee up front for use of the boat, regardless of damage.

Ms. Snyder stated I think that will eliminate a lot of families in Harmony if we collect a deposit and did not refund it.

A Resident stated I sent an email to someone a couple months ago about putting in some tennis courts. I wanted to know if there was any further development.

Ms. Snyder stated I thought we are supposed to use the ones at the high school.

Mr. Evans stated I do not recall those discussions. Do you remember who you sent the email to?

The Resident stated I do not recall. Someone said they were exploring it.

Mr. Evans stated I am not aware of any plans that the District has for building tennis courts.

Ms. Kassel asked what is the status of using the ones at the high school? Originally we were told we could use the courts at the high school and now we are told we cannot.

Mr. Evans stated I have not had any direct involvement in those discussions.

Ms. McGinnis stated I do not think it is a good idea to use them during school hours. Outside of school hours should be fine.

Mr. Golgowski stated I believe the court gates stand open all the time so the public can have access to them.

The Resident stated sometimes they are closed, according to a resident who plays there all the time.

Mr. Marks asked regarding arbitrage, do we have a way for the District to make money on interest to loan to the HOA to pursue people who do not mow their grass?

Mr. Evans stated no, we are not a bank.

Mr. Marks asked the money that we are earning on interest is different from money we could earn if we loaned it to the HOA?

Mr. Evans stated you have blended two elements together. The issue with arbitrage is related to the debt on the outstanding bonds. If we had excess funds from the debt service reserve or debt service accounts and we are making 10% interest, we are making more than we are paying in interest and that spread is the arbitrage. The District earns interest on its account and that goes back in to offset your expenses for the following year.

Mr. Marks stated regarding the dog pots, I still see rusted and broken ones in the neighborhoods.

Mr. Haskell stated I am aware of three or four that have not been replaced yet. I will come to the Board next month with a final list of amenities and hardscape items that need to be replaced in the coming weeks.

**TWELFTH ORDER OF BUSINESS**

**Adjournment**

The meeting adjourned at 9:55 a.m.

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Gary L. Moyer, Secretary

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Robert Evans, Chairman