

# MINUTES OF MEETING HARMONY COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Harmony Community Development District was held Thursday, June 25, 2009, at 9:00 a.m. at 7251 Five Oaks Drive, Harmony, Florida.

Present and constituting a quorum were:

Nancy Snyder	Vice Chairman
Kerul Kassel	Supervisor
Mark LeMenager	Supervisor
James O'Keefe	Supervisor

Also present were:

Gary Moyer	Manager: Moyer Management Group
Tim Qualls	Attorney: Young vanAssenderp P.A.
Steve Boyd	Engineer: Woolpert
Thomas Belieff	Harmony Dockmaster
Greg Gologowski	Harmony Development Company
Todd Haskett	Harmony Development Company
Shad Tome	Harmony Development Company
Residents and members of the public	

## **FIRST ORDER OF BUSINESS**

### **Roll Call**

Ms. Snyder called the meeting to order at 9:00 a.m.

Ms. Snyder called the roll and stated a quorum was present for the meeting.

## **SECOND ORDER OF BUSINESS**

### **Approval of the Minutes of the May 28, 2009, Meetings**

Ms. Snyder reviewed the minutes of the May 28, 2009, regular meetings, and asked for any additions, correction, or deletions.

On MOTION by Ms. Kassel, seconded by Mr. O'Keefe, with all in favor, approval was given to the minutes of the May 28, 2009, regular meetings.

## **THIRD 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.

Mr. Moyer stated Mr. van Assenderp has some comments on the way we categorize special assessments. There are two categories of assessments: on roll and off roll. He

recommended some changes to that wording, and we will incorporate his comments going forward.

Mr. Qualls stated essentially all assessments are on roll. The distinction is that some are collected through the Uniform Method, which is where the tax collector collects the assessments and if they are not paid, it goes to tax certificate sales. It is a clarification since all assessments are on roll, the distinction being what method is used to collect the assessments. There are a couple references to tax collection, when this is assessment collection. It is a global change for those areas.

Mr. Moyer stated based on tax certificate sales, of which our assessments are a part, when you distribute that to the general fund and the debt service fund, we are now 97.34% collected. The balance will stand for certificate sale in August in all likelihood. Some may not be collectible because of bankruptcies, but I am very pleased with what we have collected.

Ms. Kassel stated I would like a copy of the updated schedule sent by email.

**B. Invoice Approval #110 and Check Run Summary**

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

Mr. LeMenager stated I note that we paid 75% of what REW is owed on these invoices. Does this finalize everything that we owe them?

Mr. Haskett stated I did not calculate them all together but did each invoice separately.

Ms. Snyder stated on one invoice, it looked like they had not done the work but yet only 75% of the amount was deducted. If they did not perform the work, why would you deduct only 75%?

Mr. Haskett stated it depends on the circumstances on that particular invoice. I believe they did perform part of the work.

Ms. Snyder asked so there was not anything that they did not do that we are making a partial payment?

Mr. Haskett stated that is correct.

Mr. LeMenager stated two of their invoices were approved for zero dollars.

On MOTION by Mr. O'Keefe, seconded by Ms. Kassel, with all in favor, approval was given to the invoices as presented.
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### **C. Discussion of Fiscal Year 2010 Proposed Budget**

Mr. Moyer stated I distributed a revised version of the budget with revisions that were made dated June 22, 2009, which moved the \$40,000 alley repair from a budgeted item in 2010 to a proposed expenditure in the current fiscal year. There might have been some minor changes to the budget, as well.

Mr. LeMenager stated I subtotaled everything that is a contingency. Throughout the budget, there is \$41,700 in contingencies. In addition to that, we are proposing \$39,000, which gives us total contingencies of about \$80,000, which is about 5% of the total budget.

Ms. Snyder asked does this take into consideration the aquatic plant maintenance RFP?

Ms. Kassel stated it is the same amount in the proposed budget since we do not yet know what the figure will be.

Mr. Moyer stated that is correct, and that amount is based on the current contract amount. We anticipate that dollar amount will stay the same or even be reduced.

Ms. Kassel asked what did you discover about the pool expenses that might have been reflected in more than one place?

Mr. Moyer stated they were reflected in the current year line items but they were rolled up under one line item for next year.

Ms. Kassel stated OUC expenses were also mentioned in the minutes.

Mr. Moyer stated when we prepared the original budget, we anticipated a fairly significant increase in electric bills because Florida Power & Light is raising their rates, and so is Progress Energy. Mr. Haskett and Mr. Evans provided us with a copy of the OUC agreement, which limits their ability to raise our rates on street lights to 3%. We changed the budget to reflect that and decreased the budgeted amounts significantly. That will end up giving you more of a surplus.

Ms. Kassel asked why is our projected for fiscal year 2009 of \$32,000; \$40,000 is much higher than 3%?

Mr. LeMenager stated that is for general electricity. The 3% is limited to street lights.

Mr. Moyer stated that is correct. For general electricity, we will be subject to whatever rate increases they implement, so we used 25% to be conservative.

Ms. Kassel stated we included Mr. Belieff's salary in some places for one year and in another place for another year.

Ms. Snyder stated that is because they just hired him.

Mr. Moyer stated Mr. Belieff started full-time in January 2009, so he has been on Severn Trent's payroll since that time. It is the line item for field management. The difference between the \$32,000 that we anticipate spending this year versus \$43,000 is when he started because it was one quarter into this current fiscal year. Next year's budget will be his salary for a full year.

Mr. Golgowski stated it also includes a part-time assistant.

Ms. Kassel asked do we have an idea when that assistant will be brought on and how it will be managed?

Mr. Moyer stated I believe we are already using an assistant.

Mr. Golgowski stated yes, we have used an assistant from time to time on an as-needed basis when Mr. Belieff is on vacation or ill. There are a couple people who are available to fill in.

Mr. LeMenager asked when will we mail the budget to the residents?

Mr. Moyer stated we are not going to mail it. We are not required to mail anything to the residents because we are not going to increase our assessment levy from what it was last year.

Ms. Kassel asked can it be posted on the website?

Mr. Moyer stated yes.

Mr. LeMenager asked we are not going to mail the standard letter?

Mr. Moyer stated no, the only time we send a letter is if we exceed the prior year's levy.

Mr. LeMenager stated I think we should send a letter to everyone to let them know we are not increasing the assessment. Everyone expects a letter from the CDD and the HOA. My wife and I own a home in Poinciana CDD and we received a letter from them regarding the increase in assessments. There is nothing wrong with good news.

Ms. Kassel asked what happens now that we have removed the \$40,000 line item from the 2010 budget into the 2009 budget?

Mr. Moyer stated we will roll that into the reserves.

Mr. LeMenager stated if we wanted to refund that difference to the residents, \$40,000 divided by all the property owners is not much of a savings. Our objective was to come

up with a budget at the same assessment level and at the same time continue to save a little into our reserve account.

Ms. Kassel stated I wonder if we might not want to have even a token decrease just because we can.

Mr. LeMenager stated we are sort of giving a token decrease because the amount for the debt assessment is decreasing.

Ms. Kassel stated that is not part of the general fund, though.

Mr. Moyer stated if the debt amount decreases, it is only marginal because it is supposed to be level through the term of the bonds.

Ms. Kassel stated what the CDD pays may go down but what the residents pay stays the same.

Mr. Moyer stated that is correct, it is within pennies. When you run the amortization schedules, it is impossible to have a perfectly level debt service year after year. One year it may be \$3,000 down and the next it may be \$1,500 up. I am referring to the total.

A Resident stated I applaud what you are saying about sending a letter but I suggest putting it in the Harmony Notes instead. Once you start sending letters, then we will expect one every year.

Ms. Kassel stated the developer was paying for it and it was going to stop being published. That is being looked at again and we were considering sharing some of the cost of that.

Mr. LeMenager stated I would like to send people an actual notice of the budget hearing scheduled for August, not just an article in the Harmony Notes. People are expecting a letter indicating the date of the meeting and the amount we are proposing they will have to pay. The main purpose for the letter is to advertise the meeting.

Mr. Moyer stated since this is a little out of the ordinary because we are not required to send mailed notice, I will ask for a motion directing staff to send mailed notice to everyone. I presume within that notice you want a summary of the budget, or would you simply like a statement that we are not proposing to increase assessments?

Ms. Kassel stated I am still in favor of decreasing the assessments, even if it is a small amount, just so that we can say we have had a decrease and have people feel good that we are being fiscally responsible with their money. It is \$40,000 that we are putting in

this fiscal year as opposed to next fiscal year, which means we do not have to collect that amount next year. Even if people can save \$10 on their assessments, it is a decrease.

Mr. O'Keefe stated if we start sending out letters, then we will incur this cost every year as one resident already mentioned, whether it is an increase, the same amount or a decrease.

Ms. Kassel stated we have sent letters before.

Mr. LeMenager stated that is because we had increases and letters were required.

A Resident stated you have not quite collected all your assessments for this year, so you have to include that in your budget projections. I appreciate what you are doing in keeping assessments the same but once you send a letter, then we will make that the standard for you to do every year.

Ms. Kassel stated even if it is only for one year, I think we should decrease the assessment. I do not think people will genuinely expect that we will have a decrease every year. That is an unreasonable expectation.

Ms. Snyder stated I would like to table further discussion of this issue until next month. The letter can go out after the July meeting once we discuss this further. I would prefer the letter be sent closer to the meeting date instead of sending it too early.

Mr. Moyer stated \$40,000 is about 5% of the budget, and a little less than that is yet to be collected. It is in that order of magnitude.

Mr. LeMenager stated the change in fund balance could be illusory if we do not collect all our assessments.

Ms. Kassel stated we still have a few hundred thousand dollars.

Mr. LeMenager stated we have a huge amount of capital expenses in the future that are totally unfunded. I think we need to consider making sure we are in sound financial position going forward.

Mr. Moyer stated the total budget includes what we bill to the developer. The amount that is not yet collected on the roll is about \$16,500.

#### **FOURTH ORDER OF BUSINESS**

#### **Staff Reports**

##### **A. Attorney**

Mr. Qualls stated we reviewed the revised request for proposal for aquatic plant maintenance. In the criteria, there were a couple technical changes that we made. One we are still working on. There is a reference in the criteria that is worth 5 points if a plan is

included for Integrated Pest Management and Florida Friendly practices. My concern was in the area of Florida Friendly practices. It is not mentioned in the bid specifications nor is it mentioned in the instructions to proposers. It is a concept that is understood by people in that business, but it is sort of vague. There may be different interpretations of what the best Florida Friendly practices are. My advice was to remove that from the criteria or to refer to a specific set of Florida Friendly criteria, so that everyone is on the same page. The one I found that seems to be referred to most often is put out by the University of Florida, called the "Florida Friendly Best Management Practices for the Protection of Water Resources" by the Green Industries. We can simply refer people to the website and have them pull up the manual. Then when you are scoring the proposals, you have a set of criteria to gauge whether one plan is better than the other. The other alternative is to take out references to Florida Friendly practices. Or, if someone includes a plan, you just give them 5 points. You are not judging the quality of the plan, just whether or not they included a plan in their proposal. We will finalize that item since we are preparing these to be sent out shortly. I advise allowing staff to work through this issue. It seems as though Florida Friendly practices is something that is important to the Board. In discussions with Mr. Golgowski and Ms. Burgess and others, it makes sense to refer everyone to the same set of criteria.

Mr. Moyer stated we will finalize the proposal soon since proposers will be picking up packages on Tuesday.

Ms. Snyder stated under the item dealing with customers and clients and being responsive to routine and non-routine issues, I would give that more than 5 points. That is very important to me.

Ms. Kassel stated it is 20 points in total for all these four categories, and they are all based on responses from references, 5 points for each category. I am not sure how you delineate them. Responsiveness to routine issues is pretty similar to customer service. They all seem to be pretty much the same thing. Perhaps we can just combine them.

Mr. Moyer stated we can delete the individual 5 points for each of the four items and just have that one category be worth 20 points.

Ms. Kassel stated when we did the landscaping proposals, there were questions that were asked of the references. Perhaps that is what we put here instead or that is how we

evaluate them. The questions we asked of the landscaping company were pretty good and I suggest we use the same questions for this proposal.

**B. Engineer**

Mr. Boyd stated regarding the waterline to connect the east side to the west side, we have those documents completed. We prepared draft copies of the bid package for the Board to review. The project has been approved and we are in the process of procuring the permit from DEP, which we will have by the end of July. We have a very aggressive bidding schedule. I propose we advertise for packages to be available for pickup on July 6, a pre-bid conference on July 7 and receive bids on August 15, which will allow us two weeks to review the bids and come to the Board with our recommendation at the August Board meeting. This project is to do a directional bore and go under the wetland.

**C. Dockmaster/Field Manager**

Mr. Golgowski reviewed the monthly boat report as contained in the agenda package and is available for public review in the District Office during normal business hours.

**D. Landscaping – Luke Brothers**

Mr. Haskett stated we received a highlight report from Luke Brothers. They apologize for not being at the meeting. Mr. Tome and I met with them last week to discuss their 30-day performance on the property. Many things were discussed. The learning curve will take some time for a new company taking on such a large property, and that has been evident. We are working through the learning curve on a daily basis but overall I think they are doing a pretty good job. A few areas have been improved on and they have been very quick to respond to requests. They are performing within their scope of work and I do not believe anything has been missed at this point in time. We have received a few comments from the website and we appreciate the residents keeping a watchful eye out since we cannot be everywhere at the same time.

Ms. Snyder stated I have received a lot of positive comments on the professionalism, on the trucks with cones around them, with them having better equipment because the edges are better and the grass is cut better. One person said to me that they can now see they are pulling out dead materials because they saw what was going in the truck.

Mr. Haskett stated they started immediately with a lot of motivation. You will still see some areas where it needs a second application, which happens. They are doing a good job and they are adding on new equipment at our request because we did not feel like they were quite keeping up with the mowing schedule that was spelled out in the scope.

Their response was to add more equipment and they are covering everything in the contract. They are very quick to respond. We will continue as is and hope for the best for the summer.

Mr. LeMenager stated we had some complaints that they were not cleaning out the doggie pots in a timely fashion.

Mr. Haskett stated the first two weeks was an issue to deal with. They had not ordered the right size doggie bags, which put them behind on their ability to empty the pots. In our meeting last week, we reviewed the areas that were missed and now that they have been here for a month, they are learning what areas are more heavily used and can respond appropriately.

Mr. LeMenager stated I concur with their comment about the trees needing service badly. When I walked to get my agenda package, I walked from the welcome center to my house and I counted 109 trees that needed attention with shoots coming off. We need to have that addressed.

Ms. Kassel stated when A Cut Above came in, they pruned all the street trees. There are trees in the parks and one by the northern most doggie pot before the pavilion and a sycamore tree that are hanging down very low. Luke Brothers is responsible for cutting up to 10 feet on all those park trees.

Mr. Haskett stated that is correct, and that item was discussed. I believe they pruned that tree yesterday. This is a large property and they will get through all those trees.

Mr. LeMenager stated I would like to see a representative of Luke Brothers at this meeting in the future.

Mr. Haskett stated they certainly will send someone if the Board desires that.

Mr. LeMenager stated that is my desire.

Ms. Kassel stated I do not object. The highlight report is good and if we have questions, Mr. Haskett is able to answer them, but they will be more knowledgeable about what their plan is.

Ms. Snyder stated that is fine.

#### **E. Developer**

Mr. Haskett stated we received two proposals for the Swim Club and the Ashley Park pools. There is some staining around the floor returns. There is some metal in the water and there is some build-up on the finish of the pool. Over the years there have been complaints about it and they think the pool company is not cleaning the pool. This will

remedy that situation. We are proposing that the floor returns be changed out for ones that sweep the water up instead of draining across the pool. One proposal is for \$1,800 for the Swim Club and \$550 for Ashley Park. The proposal from Pool Works is \$520 for the Swim Club and \$195 for Ashley Park. Pool Works is the same company that replaced the drain covers last fall. They have performed good work and performed it in a timely manner.

On MOTION by Mr. LeMenager, seconded by Ms. Kassel, with all in favor, approval was given to accept the proposal from Pool Works to replace the floor drains, as discussed.
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Mr. Haskett stated I priced getting some additional trash cans and doggie pots that are needed. Rather than spending thousands of dollars on those items, I looked at some areas where there is no growth at this time. I would like to suggest we remove one doggie pot on Mall Park east, which will leave two on that stretch of the road, remove one from the green neighborhood which is extra, and in the Birchwood neighborhood, the original plan was to put two trash cans in each pocket park. Birchwood is the only neighborhood that has two trash cans in each pocket park and all the rest have just one. Following up how they have been utilized, it would not affect anything to remove one from each of those two parks and moving them to the parks where they are needed to avoid an overflow of trash. As we move forward and there is more growth, then we can replace those items. These items are currently on the project and they are not being utilized very heavily, which means they will need to be replaced in five years so we may as well get the best use we can out of them. I am requesting authorization from the Board to remove three doggie pots, which cost \$1,500 to purchase new, and two trash cans.

Ms. Snyder stated hearing no objection from the Board, you may proceed.

Mr. Haskett stated I researched a company to resurface the basketball court and they estimate about \$3,800 to apply a texturized surface, similar to a tennis court. They will level out the area, restripe it and it will then have a non-slip surface.

Ms. Snyder stated that price does not sound bad to me for the people who are slipping and falling on the current surface.

Ms. Kassel asked what about drainage of water off that surface? Will they come back if water pools on the surface?

Mr. Haskett stated yes. I will procure a couple more proposals for the Board to consider at next month's meeting.

Ms. Kassel asked what about the pad for the dog park?

Mr. Haskett stated Luke Brothers is cleaning the entire area and I will address this issue when that is complete.

## **FIFTH ORDER OF BUSINESS**

### **Supervisor Requests**

Ms. Kassel stated I have been in contact with Ms. Burgess about getting a monthly report on reports and problems from the website, emails and phone calls. She said we will start getting regular reports at the next meeting.

Ms. Snyder stated we received two notes, one is that the CDD needs to take action on the non-Harmony residents use of swimming pools since school is out. Non-residents and teenagers have flocked to our pools causing problems making an unpleasant environment for those of us who pay in excess of \$5,000 in taxes to live here. When confronted, the non-residents think it is a joke when told they are not allowed to use Harmony recreation areas. The second email is from a resident who uses the pool on a daily basis and says among other things, unauthorized entry and usage of the pool is rampant. The change to the gate was nice but now people simply climb over the fence. On one particular day at 2:30 p.m., there were 19 people in the pool. I saw two keys in use: ours and one other person. Others asked to be let in or simply climbed over the fence. Many issues exist, including we pay for that pool and not the other people. Someone will get hurt going over the fence and I suggest raising it to at least six feet or putting bushes on both sides to discourage climbing. Unaccompanied minors are rampant, which are a huge risk and a place for trouble to happen. Last year video cameras were installed as a deterrent. Who is watching and reacting to the images? Smoking and drinking continue within the enclosure. I have noted this previously without response. I realize this is not an easy issue to grapple with, but our CDD Supervisors have spent much time in formulating rules and the pool is covered by those rules, but nothing is happening to enforce them. It seems evident that someone needs to be charged with enforcement privileges in order to quell what is becoming a big issue. Since Mr. Belieff is already handling the burdensome and cumbersome boat rules, perhaps he can be designated as the pool police. A simple phone call to his cell phone when things are occurring might stop it if he can respond quickly and if he has the authority to toss out trespassers. If nothing is going to be done, we

should simply eliminate a section of fence to allow people to walk in to mitigate the hazard of fence climbing that occurs daily. In closing, I ask that this get circulated to the Supervisors for immediate consideration as well as potentially become an agenda item at the next meeting. Also I would appreciate a response and please feel free to contact me, from Steve Berube. Are the cameras working?

Mr. Haskett stated unless something is reported at that specific time and police are called out, we do not monitor the cameras.

Ms. Snyder asked should we respond to these incidents by calling the police?

Mr. Haskett stated you sure can.

Mr. O'Keefe stated it is trespassing.

Ms. Snyder stated from what I have heard, trespassing is quite serious in the State of Florida.

Ms. Kassel asked what about putting a few signs inside and outside the pool areas saying to report trespassing or other problems to call the sheriff. That can act as a deterrent and also as an immediate provision of a phone number for anyone who wants to call.

Mr. Steve Berube stated shortly after that email, signs were put up in the pool area, and that helped a lot. The people in the pool who were there seven days in a row were clearly not from Harmony. I will not confront anyone because you never know if something will happen. But recently I have not seen anyone climbing over the fence. One sign says Cameras In Use and the other one says No Fence Climbing.

Mr. Haskett stated at every meeting I hear comments that people do not know who to call or they did not see the notice. I printed up signs that have the CDD information on it, and what to do if there is an incident, and they are located in the restrooms and other areas where people may be looking for that information.

Mr. Golgowski stated we did have some mischief in the Ashley Park pool, and the video that was on file led to an arrest.

Mr. LeMenager stated from my observation on the neighborhood watch, we have a representative from the sheriff's department, and he is the one to contact. They are always looking to be responsive to the community.

Mr. Berube stated there needs to be an immediate contact person for some situations.

Mr. Moyer stated I think it makes sense for Mr. Belieff to be the immediate contact.

Ms. Snyder asked do we have any Harmony communication going out?

Mr. Haskett stated we can send an e-blast.

Ms. Snyder stated it would be good to share the news that there was an arrest made due to the cameras being in place.

Ms. Kassel asked what is the status of the Harmony Notes?

Mr. Golgowski stated the deadline for the July edition is next week. We are also working on a welcome package for residents to explain who to call for various things.

Ms. Kassel stated I thought we were going to do that a few times a year in the Harmony Notes.

Mr. Golgowski stated we are continuing to work on the longevity of the Harmony Notes.

## **SIXTH ORDER OF BUSINESS**

### **Audience Comments**

Mr. David Leeman stated Mr. LeMenager commented that there are a number of unfunded capital projects. I would like to know what they are and how much you expect them to cost and are they mandatory.

Mr. LeMenager stated I have no idea what they will cost. I have no idea what kinds of projects they will be. At some point we will need another access road into the community. We have done no development of parks or recreation on the east side of the property and we will need to do something over there at some point in time. We have run out of money in the capital accounts.

The Resident stated there is no plan but you just think we will need to do some things.

Mr. LeMenager stated I think there is no question that we will. I believe the road is planned as an alternative entry. Once we have built up the downtown area, the thought is that we do not want delivery trucks coming down this narrow road. There is another access road that is planned.

Mr. Boyd stated that is really the only other infrastructure item that is planned. The waterline extension that we are doing now is funded. There is a funding agreement in place as part of the creation of the CDD, so at the time the alternative access road is necessary to the development, the CDD will facilitate construction of the road but if capital funds are not available, the developer is obligated to fund that improvement.

Mr. LeMenager stated that raises another issue. I do not think our current plans, with respect to finalizing the capital improvements, are very transparent. It would be nice to

make sure we have a long-term capital plan and a long-term development plan with respect to the capital projects that are remaining. If you have such a list, I would feel better if we felt secure with the funding.

Mr. Boyd stated when the District was created and the capital improvements originally planned, they were programmed based on an engineer's report that was prepared by our firm. It estimated the planned construction and the construction costs. The capital account then was budgeted and the bond financing was based on those estimates. The new entrance is one item that was not anticipated as part of that report, so that is part of the reason why it will be funded by the developer. It will be a community facility and an asset of the CDD when it is completed, so the CDD will facilitate the construction. That is the primary reason that there are no funds to cover that improvement since it was not included in the original program of the CDD. Since the CDD has started to develop and the developer has had interested parties looking at the Town Center area, they have made it clear that the secondary entrance is something they want to see before they commit to locating in Town Center. The capital program has evolved over time because of development. The engineering report is on file and is a matter of public record for the CDD.

Ms. Kassel asked can we estimate that any development on the east side of the community would include amenities for that part of the development that will also be funded by the developer?

Mr. Boyd stated the developer is not obligated to fund anything that may be desired by the Board. I do not believe the funding agreement covers that. It says that anything that is planned for the infrastructure of the community, which is primarily roads, water, sewer and drainage, if there are not enough funds to cover those elements, then the developer is obligated to cover them.

Ms. Kassel asked if the developer will be developing that part of the community, which he has not yet, is the CDD responsible to provide amenities that we have to provide capital funds for?

Mr. Boyd stated no, the CDD is not.

Mr. LeMenager stated except for the fact that we will have owners paying assessments on the east side of the community who will clearly expect amenities on their side of the community as well.

Ms. Kassel stated it is not necessarily the CDD that has to provide them.

Mr. LeMenager asked who else would it be?

Ms. Kassel stated the developer.

Mr. LeMenager stated I disagree, not when it comes to parks and things of that nature. It was made very clear that the developer is obligated to fund basic infrastructure for roads, sewer and drainage.

Ms. Kassel stated we are not obligated to provide amenities on the east side, although it would be nice.

Mr. LeMenager stated given the fact that we are the ones who funded the amenities on the west side, I can imagine a few years from now the residents on the east side asking where their parks are.

Mr. Moyer stated they buy into this community based on the engineering plan and their agreement to pay the bonds that have been allocated to their property. That is an upfront disclosure that is made between the developer and the purchaser of the property, so there really is no obligation on this Board's behalf to do any of that. In terms of marketing, if it is necessary for the developer to market that property, then he needs to consider that. He may come to this Board and say they are building a park and he would like to dedicate it to the District and would like the District to maintain it, that is a fair discussion to have. In terms of this District incurring additional capital dollars, that is not anticipated, and it will have to come through the Board in order to do that.

Ms. Kassel stated for people who bought in that area, unless the developer told them that there will be no amenities that the CDD will provide, that will be on the developer to provide anyway since it is his responsibility.

A Resident asked what is the current policy on maintaining the trees on the side streets?

Mr. Qualls stated there is no policy on that subject. If the tree is on private property, the District cannot use public funds to maintain private facilities.

A Resident asked what if the tree is between the road and the sidewalk?

Ms. Kassel stated that is an easement.

Mr. Boyd stated no, that is CDD property.

Ms. Kassel stated this is where we started to get into some quandaries that we have not yet resolved. The home owner is responsible for maintaining that property until we

went in and started trimming the trees there. Now we have trimmed the trees, so who do the trees really belong to? Most of us had to pay for those trees. Do they not belong to us even though it is on CDD property? How does that work and whose obligation is it if the property is the CDD's?

Mr. Boyd stated the reason the property is CDD property is because it contains most of the utilities and the sidewalk. The CDD needs the right to be able to go in and do work on those utilities or sidewalks. That is the reason that tract is owned by the CDD. It is similar as in other communities where that tract is owned by the City or the County. It is consistent in how other neighborhoods are whether you are in a CDD, City or unincorporated part of the County. How a tree that a CDD, a City or a County plants gets maintained in the future is something that I cannot answer.

Mr. Qualls stated so many times so many people are focused on what is CDD property and what is not. That is not really the distinction. The CDD is really a boundary, but through an interlocal agreement, the CDD can maintain facilities outside its boundaries. The question is, is the District under an obligation to maintain these particular trees. I do not know the answer but I can find out.

A Resident stated my perspective is that since you provide the trees, you should maintain them.

Mr. Moyer stated the other thing you need to look at is what the covenants require the home owner to do. Most subdivision roads are 50 or 60 feet wide and you build 24 feet of road, so each home owner has 12 feet or more that is owned by the government but under various codes, the home owner is required to maintain that 12 feet. You just cannot let the grass grow four feet tall and be full of weeds. You have to maintain that area. In communities like this, it would not surprise me if the covenants require each home owner to maintain their property to the street. If that is the case, then the policy will probably be that the tree will be part of the maintenance that the home owner has.

The Resident stated if that is the case, then I will object. If something happens to my tree, I am responsible for replacing it, and when that has happened, the trees start looking inconsistent.

Ms. Kassel stated this brings up a larger issue that we have to resolve. We have to look at the covenants to see who is responsible for maintenance of that property. Then we need to discuss the CDD replacing the tree and billing the home owner.

Mr. Haskett stated the covenants state that the home owner is responsible for maintenance and replacement of the trees and irrigation unless the CDD has taken the responsibility, which is the case on all the main boulevards. We went in to prune all the street trees over 10 feet, but that does not mean that we will assume responsibility for replacing it or watering it or anything else. It is the home owner's responsibility to provide that maintenance.

Ms. Kassel asked is it possible to put on the website the pertinent covenant so that it can be there for all residents to see and perhaps put something in Harmony Notes?

Mr. Moyer stated if Mr. Haskett can provide that to us, we will post it.

Ms. Kassel asked how should that be handled? Should we simply leave it up to the home owners to do the whole thing? Or should we have a policy whereby we have the landscaper replace the tree and invoice the home owner?

Ms. Snyder stated then we have to figure out how to collect the money.

Mr. Haskett stated the home owner assumes that responsibility on the CDD's behalf.

Mr. O'Keefe stated that leads to an issue where we are going to have to be responsible to collect that money. If we replaced the tree, then we have to do it under the CDD guidelines. I would not tell a home owner that they have to pay for the tree. Collecting the money is an area we do not want to get into.

Ms. Kassel stated we could simply say they need to go through the landscaper or say they need to replace the tree with the same type and size.

A Resident asked do we have someone who comes in to clean the toilets every day?

Mr. Haskett stated on Monday, Wednesday and Friday.

The Resident stated that is one amenity that we use frequently and it needs to look better. They need to clean it on a daily basis. People are smoking in there and landscape people go in there, and it needs to look better. The ladies toilet has not been working for three weeks.

Mr. Haskett stated Jan Pro has recently changed out their whole crew in response to addressing some of their cost issues. To combat the appearance on a daily basis, you will have to budget for a company coming in every day or residents can police it themselves.

Ms. Kassel asked is this mess issue ongoing? We had a problem with a lot of people coming in, which will lead to the issues this resident raised. If the signs have reduced the

problem with the number of people and the abuse, the mess should be decreasing. I would like to hear at the next meeting if the situation has improved.

Ms. Snyder stated the pools are used a lot. Maybe we can increase how often Jan Pro is here during the summer and not as much in the winter.

Mr. Berube stated Jan Pro only does the interior of the bathrooms. The overall pool area is untouched.

Mr. Haskett stated they remove trash as well. The landscape company also does some trash removal and maintenance.

Mr. George Schiro asked has Mr. O'Keefe disclosed that his wife is an employee of the developer?

Mr. O'Keefe stated that has nothing to do with me being elected to the Board.

A Resident stated I have also noticed deterioration of the pool furniture in the last seven years.

Mr. Haskett stated we have done an inventory and we are missing a few, and there is some deterioration.

The Resident stated it is the adults, too, not just the kids.

Mr. Jason Shepelrich stated I want to address the tree issue. It has been discussed and there was a comprehensive answer given. I happen to have the minutes on it because I was looking at that same issue. We have a tree on the CDD easement near us that was replaced that is about two feet tall and others on our street are about 30 feet tall. It does not look right, so I was trying to research who had the responsibility. The home owner replaced it with something from Home Depot very cheaply. I read the minutes and this same discussion happened in November. Ms. Kassel asked who had the responsibility for the trees, and Mr. Evans responded the trees on CDD property are owned by the District. Ms. Kassel asked if the tree dies, does the District have to replace it, and Mr. Evans responded yes but the home owner has to maintain the grass. There is a conflict there.

Ms. Kassel stated I am not sure if Mr. Evans misspoke or he may not have been aware of the covenants, and I think the covenants would be the overriding document.

Mr. Qualls stated as long as the covenant is not inconsistent with any general laws in the State of Florida, the answer is yes. The best way to deal with this is to document what the covenant says in a memorandum to the Board that I will prepare and distribute. The legal question presented will be who is responsible to maintain these specific trees. I will

get with the engineer so that I know exactly what trees are being addressed. I will provide the report before the next meeting.

Mr. Shepelrich stated the covenants address maintenance but they do not speak to replacement. We need to make sure it is not encroaching on a stop sign or that it looks inconsistent with other trees.

Ms. Snyder stated a lot of that has come up since we had the tree trimming operation and the RFP on landscaping. It is a good subject and we have to get it settled.

Ms. Kassel stated before that, the policy was that the home owner had to maintain it but since we have done the tree trimming, things may be a little different. We need to communicate that to all the residents.

Mr. Shepelrich stated I have another item on the CDD easement area. Our lot is uniquely situated across the street from the school. During the school year, our yard is trampled over and is constantly in a state of broken sprinklers and other damage. We also have a constant issue of people dropping off and picking up their kids in front of our house and that continues to damage our grass. We are trying to do what we can, but it is too much for us to deal with. We are the only ones affected by this. The crosswalk is right at our property. What can you do about the maintenance aspect of that? We have a lot of kids horseplaying in that area as well. People also bring their dogs and hang out in that area. The Board should know this is happening.

Mr. Moyer stated the issue is what the Board can do, and the Board can do zero about student control, but the school resource officer can do something. I recommend that you ask to meet with the school resource officer, who is a deputized sheriff. He can go out there and do whatever he can, especially if there is a safety concern.

Mr. Shepelrich stated the problem goes away for a short while and then it increases again.

Ms. Kassel stated this is the kind of thing where you will want to meet quarterly with the same resource officer and get him back into his pattern. Perhaps they can provide some traffic cones and ask him to put them in front of your house during school drop-off and pick-up hours so that people cannot park there. I do not know if they will do that, but you can ask.

Mr. Berube stated someone complained to the sheriff department, so they will bring extra officers out and they will be there for a couple days. When the deputies disappear, people go back to doing what they were doing.

Ms. Kassel stated that is why I suggest that you go to the school resource officer. As part of his regular duties, he can put cones out into the street in the morning and afternoon to prevent parking. Then you do not need four or five sheriffs out there, just the cones to be the deterrent. As far as the CDD, we do not have any enforcement powers. Our power is only to take care of the infrastructure, not to create any ordinances or laws that we enforce.

Mr. Shepelrich stated we are not looking for a policing of the activities.

Mr. Berube stated jaywalking is also an issue. Some of this is because we have a school in our neighborhood, but we should take this to the County Commission.

Mr. LeMenager stated the County owns the road, so perhaps they can put up some No Parking signs for certain hours.

Ms. Kassel stated we are trying to avoid putting up a bunch of street signs, but they may be needed on that street.

Mr. LeMenager stated that is one downside of living by a school.

Ms. Kassel stated a number of people liked the idea of putting a skate park in the community and that may or may not happen, but it has been discussed. One of the locations that is being proposed is in front of the school. I wanted to hear your feeling in having a skate park near your homes.

A Resident stated the skate park now is the school and they have their own rules about when you can and cannot be there. I would like to see a skate park, but not anywhere near my house. The constant slamming of the skateboards of kids trying to do their tricks is too much. Skate boards will make noise coming down the sidewalk, and it makes the dogs bark. I appreciate the fact that you tabled this item because I had no idea it was being considered. I understand it was raised through audience comments in a prior meeting and I did not know its progress. For something like this where it potentially affects particular houses, even if it is just one house, I appreciate the opportunity to comment. I would not want anything like this by my house and if you want to proceed, I encourage you to do your due diligence to get the information to the residents so we

know it is being considered. I want to avoid the situation where we have not been consulted about something that will affect us so directly.

A Resident stated they skateboard by my house and they jump off the curb, so I am concerned about the safety issue.

Mr. Berube stated the problem is that no one wants it in their backyard, but it will end up being near someone's yard. I live near there and I sympathize with them. I am not sure I would want it near my house either. Where the proposed location currently is, a skateboard park might be better than what else might go in there. We need to look at future plans. You also cannot put it at the very end of the community because it is too far away for people to use.

Ms. Kassel stated maybe a skateboard park is something we can discuss with the developer as they build commercial property and it could be there as part of the commercial plaza. It is not too far out of the way and not near anyone's home unless there are apartments above some of the businesses.

A Resident stated then there is the issue of how you control outside people coming in.

Ms. Kassel stated it is something we will address in the future but we wanted to get your thoughts as home owners.

Mr. Berube stated people occasionally still smoke and drink in the pool area, and there is clearly a sign posted at the entrance with prohibited activities. I am not sure people read the sign, but the signs prohibiting jumping over the fence had an immediate impact. I have sent numerous requests through the website and on the confirmation page, no matter what I select, it always says that I do not wish to be contacted. In the body of my emails, I indicate that I wish to be contacted, and Ms. Burgess has always responded. Having said that, perhaps a couple signs within the pool area might help more.

Ms. Kassel stated perhaps you can put a sign on the tables where people put their glasses or bottles.

Mr. Berube stated there are no tables at the back end where they are coming in. They need to be where people can see them.

Ms. Snyder asked do we need more trash cans there?

Mr. Berube stated at first we did because they were not being emptied. The doggie pots are used very heavily and some bags did not really fit well in the container and they

are not as bright as the ones REW used to provide. There are a lot of recreational amenities here that are well maintained, but there are no swing sets.

Ms. Kassel asked is that intentional?

Mr. Haskett stated I would love to have some swing sets put in. I priced some at about \$2,800 for a four-seat commercial grade swing set. I can provide some proposals at the next meeting because I would love to have them.

Mr. Schiro stated I received a letter from the HOA informing me that I had to replace my dead grass, when in reality the dead grass is on CDD property next to my home. This is the chinch bug issue that I reported more than six months ago. I met with one of the Luke Brothers staff and he did acknowledge the issue.

Ms. Snyder stated before they left, REW replaced a lot of sod that was dead.

Mr. Schiro stated they did not replace anything in my yard. I saw the new crews maintaining the community and they are doing a good job. How many people are supposed to be on site when they are here?

Ms. Kassel stated it depends on what crew it is because they have different crews. It could be that the people who do turf care also do tree care, so it is hard to know how many. It should be from 10 to 15 people at a time, depending on what they are doing.

Mr. Schiro stated I spoke to a supervisor and they said they had a crew of 13 people on site at all times. I hope someone is monitoring it to make sure they have that many people.

Ms. Snyder stated I have seen at least that many on site.

Mr. Haskett stated as long as the scope of work is being performed, I do not see the number of staff being relevant.

Mr. Schiro stated it was my understanding that you scored their proposal based on the number of people on site, so that is why I am raising the issue. To the issue of disclosure, Mr. O'Keefe has been on this Board for a long time and the fact that he never disclosed that this wife is an employee of the developer is not good. It is an indication of why you consistently vote with Mr. Evans on every single issue.

Ms. Kassel stated he was appointed.

Mr. Moyer stated under the law, he can be a direct employee of the developer.

Mr. Schiro stated I understand that, but I think it should be disclosed and be on record. At the November 28, 2008, meeting, Ms. Kassel was discussing gifts and asked if

a neighbor gives you a gift of a combined total over \$100 for your birthday, do you have to disclose that. There was an ongoing discussion of the disclosure. I am wondering why Ms. Kassel has not disclosed your gift from the developer of about \$20,000?

Mr. Qualls stated the disclosure requirement is not on the individual receiving the gift. The disclosure is on the lobbyist giving the gift. Ms. Kassel has no duty to disclose a gift and even if she did, the only gifts that a Board needs to worry about are gifts from lobbyists.

Mr. Schiro asked if the developer gives Ms. Kassel a gift for \$20,000, no one needs to disclose that and no one needs to know about it?

Mr. Qualls stated I do not know all the facts and I have not looked into this matter. I am just giving you some principles to answer your first question.

Mr. Schiro stated I wonder why Ms. Kassel did not raise the issue of the developer's gift to her of \$20,000.

Ms. Kassel stated there has been no gift.

Mr. Schiro stated that is a false statement.

Ms. Snyder asked does this have something to do with the CDD?

Mr. Schiro stated it has to do with a CDD member receiving gifts and disclosure.

Mr. Qualls stated the gifts law and ethical considerations are something that any Board and any reporting individual must take into consideration. As far as dealing with specific allegations, I would not advise even responding to things like this because it is very important to get all the facts before there is any kind of exchange.

Mr. Moyer stated even with the information, this Board does not have the jurisdiction to do anything.

Mr. Qualls stated that is correct.

Mr. Schiro stated a CDD Supervisor is required to disclose financial details.

Ms. Snyder stated we have all done that.

Mr. Schiro asked was this \$20,000 disclosed on your financial disclosure?

Mr. LeMenager stated you should go look at the documents.

Mr. Schiro stated I did, and they are not disclosed.

Ms. Snyder stated then that answers your question.

Mr. Moyer stated the financial disclosure requires you to list your source of income, not the amounts, if you have more than 5% ownership in a State-regulated business like a

utility company, real estate that is investment property that you do not use for a secondary home. It is all in the instructions on Form 1.

Mr. Qualls stated we can discuss hypothetical situations all day. There are so many factors that need to be considered and I do not see the point. I am happy to discuss them with you after the meeting but I do not see the relevance of getting into any of it.

Mr. Schiro stated if there is a relationship between a CDD Supervisor and the developer, that should be disclosed. That relationship may have impact on how that Supervisor votes, like Mr. O'Keefe. I am sure that his wife working for the developer influences how he votes.

Ms. Snyder stated I do not think so.

Mr. Berube stated I think they provide professional management, whether they are home owners or not. I have been involved in CDDs for a number of years and these Supervisors do a great job. I agree with everything they do and I have seen how bad it can get when it gets out of control. This is no where near out of control.

Mr. Schiro stated I agree.

Mr. Berube stated I have been involved in lawsuits because of the legal issues involved with the management of the governing entity is not doing a good job. Sometimes when they are turned over to being all home owners, it becomes a real mess. This group is doing a good job and I attend all the meetings.

Ms. Kassel asked is it your opinion that I voted in any improper way?

Mr. Berube stated no, most of the votes go the same way all the time. That is because all the discussion is hashed out and you all come to a consensus. That is because all the groundwork has been laid.

Ms. Snyder stated we do a lot of preparation during the month before the meeting, some months more than others, so that we can discuss our individual opinions.

Mr. Berube stated I am proud to live here because of the way this community is professionally managed.

Mr. Qualls stated when Districts are established, there often are no residents who can vote on a one-vote-per-acre basis. The Supreme Court said that the burden is taken up by the landowner and the landowner elects Supervisors on an acreage basis.

**SEVENTH ORDER OF BUSINESS**

**Adjournment**

The meeting adjourned at 11:00 a.m.

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Gary L. Moyer, Secretary

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Nancy Snyder, Vice Chairman