

# 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 24, 2010, at 6:00 p.m. at 7251 Five Oaks Drive, Harmony, Florida.

Present and constituting a quorum were:

Robert D. Evans	Chairman
Nancy Snyder	Vice Chairman
Steve Berube	Supervisor
Kerul Kassel	Supervisor
Mark LeMenager	Supervisor

Also present were:

Gary L. Moyer	Manager: Moyer Management Group
Ken vanAssenderp ( <i>by phone</i> )	Attorney: Young vanAssenderp, P.A.
Steve Boyd	Engineer: Woolpert
Thomas Belieff	Dockmaster
Brenda Burgess ( <i>by phone</i> )	Moyer Management Group
Greg Golgowski	Harmony Development Company
Brock Nicholas	Harmony Development Company
Jason Shafer	Luke Brothers
Shad Tome	Harmony Development Company
Residents and members of the public	

### FIRST ORDER OF BUSINESS

### Roll Call

Mr. Evans called the meeting to order at 8:00 p.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 May 27, 2010, Meeting

Mr. Evans reviewed the minutes of the May 27, 2010, regular meeting, and asked for any additions, correction, or deletions.

Mr. LeMenager stated 14 pages of our minutes are based upon the comments of one resident making comments. That is unacceptable. We need to start using the timer and make sure we do not end up with the kind of situation we have had in the past.

Ms. Kassel stated page 25, second to last paragraph, last line should read "I would like for them to be able to do so and I would like our decision to reflect listening to those concerns." Remove "be able." Page 27, above the engineer's report, should read "Ms. Kassel stated they can write on the lined side, the front of the index cards." Remove "of."

Page 35, second to last paragraph, Mr. LeMenager stated “that is great, make your comments.” The next two sentences are Mr. Schiro’s comments, not Mr. LeMenager’s comments.

On MOTION by Ms. Kassel, seconded by Ms. Snyder, with all in favor, approval was given to the minutes of the May 27, 2010, regular meeting, as amended.

**THIRD ORDER OF BUSINESS**

**Subcontractor Reports**

**A. Landscaping – Luke Brothers**

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

Mr. Shafer stated I would like to thank everyone for allowing us the time to work through our problems, and I think we have. In contrast to our statement last month about being 95% complete, I think this month we have solved the majority of our problems and we are back to improving the property on a day-to-day basis.

Mr. Evans stated I read in the report about some of the trees that are dying. I have read all the emails, and I have seen the reports.

Ms. Kassel stated I have not seen them; I do not know what is going on with the trees.

Mr. Evans stated some of the trees have died and we are trying to find out why.

Ms. Kassel asked are those the ones tied with pink ribbons?

Mr. Evans stated yes.

Ms. Kassel asked are they going to continue to decline?

Mr. Evans stated we are trying to understand why. Mr. Gologowski and Mr. Haskett have been in contact with the University of Florida, trying to understand. We have a lot of assumptions that are floating around. There were some suggestions that it may be the fertilizer or the herbicide that was used. But it is not affecting all the trees, only some of them. The same herbicide has been used around the golf course, and they have not had any problems. It is still inconclusive what the true culprit is, and we are trying to figure it so we can address it. Some of the trees died within a week or two.

Mr. Shafer stated it was very fast, whatever was causing it. I noticed one tree on a Friday where the top was starting to turn brown and when I returned the following Monday, the majority of the tree was brown. It moved that quickly.

Mr. Evans stated it looked like lightning hit it.

Mr. Berube stated I have been working closely with Mr. Haskett and Mr. Shafer. We had another meeting with Mr. Lucadano during the month. Overall, they are doing strong work and the issue this month is the trees. About six months ago, I noticed one of their employees spraying but I was not sure if it was fertilizer or herbicide. Coincidentally, Mr. Shafer showed up at the park near my house so I asked him about it. He said they were spraying herbicide. The reason I asked was because if he was spraying liquid fertilizer, it did not look like it was enough. It alarmed me at the amount of what I perceived to be herbicide. There was no disagreement that it was herbicide being sprayed. That was about six weeks ago, along the road where my house is and going toward the school. In general, I think they herbicide treated most of the tree rings.

Mr. Shafer stated we treated the turf around the trees.

Mr. Berube stated they are trying to kill the weeds. I was concerned about the herbicide, and I expressed that to Mr. Shafer. He told me they are using a selective herbicide, and I take him at his word. My concern was that there was enough of this herbicide being applied that it was still wet. When the sprinklers came on, I was concerned the herbicide would be washed into the turf, which may or may not be what happened. I obtained a copy of the warning label. To Mr. Shafer's comment that it is not specifically labeled not to use it on live oaks, he is correct. It is not label warned for any kind of tree. However, it does say, in part, injury to or loss of desirable trees or other plants may result from the failure to observe the following. Do not apply in a manner except as recommended. Do not drain or flush equipment on or near desirable trees or other plants or on areas where their roots may extend or in locations where the chemical may be washed or moved into contact with their roots.

Mr. Evans asked do I interpret that as excessive flushing of their system?

Ms. Kassel stated it seems contradictory.

Mr. Berube stated it says do not apply in a manner except as recommended. "Recommended" means not on trees. The recommendations go further, but it says that if the plant material is wet with the herbicide, and the herbicide gets in contact with tree roots, it will probably kill them.

Ms. Kassel asked why did it not kill all the trees?

Mr. Berube stated I am not an expert, but I have a report from the University of Florida. The point is different application rates, which is why I was concerned about the

sprinklers or rain. It is a selective herbicide; you spray it on something you want to kill, it gets absorbed, and it kills what you want to kill.

Ms. Kassel asked is it like Round Up?

Mr. Berube stated it is similar; it is much stronger. When this herbicide gets wet and those sprinklers come on, if enough of it was applied, it will wash through and will get into the feeder roots. You will see some of the trees have just one brown branch. That means not all the feeder roots were affected. My opinion, which is concurred by the University of Florida, that the herbicide caused the problem. As part of a test, they sprayed live oaks in pots and in 10 days, the trees were dead. We did not spray the trees, but the chemical made its way down to the roots and resulted in dead trees.

Mr. Evans stated I am not fully convinced. Based on what you said, the roots absorbed the chemicals. If you have one tree installed at a certain depth and another tree installed at a shallower depth, over a period of three or four years, those roots will make their way closer to the surface. For whatever reason, it might make certain trees more susceptible.

Mr. Berube stated I agree.

Mr. Evans stated that will lend itself to explain why all of them are not dead.

Mr. Berube stated that is correct. The report from the University of Florida said that all their trees are basically healthy and have vigorous growth, with the exception of the ones that died. Some trees are in more decline than others, and some of that has to do with how deep they were planted, depth of the mulch, and other factors. It is a matter of that chemical reaching the roots.

Mr. Evans stated when they install these trees in the early development stage, they bring in dirt, compact the dirt, and build the roadways. Sometimes, certain areas get compacted more than others and there are differing compositions of soils. It is not perfect. Some areas may have more clay than other areas. That means as those roots begin to expand, some may go down, some may go lateral, and some may come up. It will vary. Is there a situation where those trees are all in one area? The ones I saw were all in one area.

Mr. Berube stated they are throughout the property, with the exception of the side streets. They are throughout the service area for Luke Brothers, with the exception of this one road.

Mr. Evans stated that was done at a different time. I am trying to think through all the physical conditions that could lead to this situation. A certain soil type will impact the direction those roots go and the stress that is on those trees during that timeframe. To me, there are a lot of other variables that I would like to find out more about and understand.

Ms. Kassel stated I would like to know if all the trees that experienced this received that herbicide and when. This all happened at the same time in a variety of areas. I would like to see the herbicide application reports.

Mr. Berube stated we have that information.

Ms. Kassel stated I would like to know if the trees that experienced this, if every single one of them was sprayed with this herbicide within a 10-day period before they started turning brown.

Mr. Berube stated it is longer than 10 days. Once the damage starts, I understand it is a rapid degradation of the tree. It declines a little in the beginning, and then it takes a rapid turn for the worst. The timeframe of application, in looking at their work reports, is about five or six weeks to the time the damage started.

Mr. Shafer stated the key thing about this herbicide is that most of those cautions pertain to new plant material. They say not to use this product anywhere near a new tree or new plant material. It is a systemic herbicide. It is fully absorbed through the green material. I spoke with a representative of the manufacturer today, and he will meet with me here next week. His comment was that we would have to pull the trees out of the ground and literally dip them in this herbicide in order to kill a tree of that size. If you look at the report from the University of Florida and you look at the size of the trees they used, they are baby trees. You could kill them with too much water.

Mr. Berube stated you are correct; there are a lot of possibilities. The University of Florida report said, "after looking at it, given the apparent acute nature of the damage, an observation of plant necrosis, from the knowledge of a broad-leaf herbicide applied six weeks earlier, it is my opinion that the symptoms observed are the result of acute toxicity to the herbicide. Toxicity of live oaks to this product is not widely known in the industry and appears to be a more recent development." He goes further to say that they want to do more chemical testing on these trees, but they want to find someone who will let them kill some trees. They are looking for big trees, like the ones we have. The bottom line is,

there is an apparent correlation between the application of herbicide and the areas around these trees where the roots are picking it up and doing something to the trees.

Ms. Kassel asked is every single tree that is showing signs of decline treated with this herbicide?

Mr. LeMenager stated I believe every single tree, period, was treated.

Mr. Shafer stated there are 1,010 live oaks within our maintenance area, and they were all treated with this same product.

Ms. Snyder asked are they all dead?

Mr. Shafer stated no, only about 20 trees showed symptoms and about six to eight have actually died.

Ms. Kassel stated that has been five to six weeks. The report from the University of Florida said that within 10 days, the trees were dead.

Mr. Berube stated you are talking about little trees in a pot that they tested.

Mr. Shafer stated that is correct. When they applied the chemical, it stayed right in the pot. I can see where that young tree absorbed it. Young trees absorb much more quickly because they are trying to grow. But a tree that is the size of our street trees can have roots that extend many feet, out into the turf.

Mr. Evans stated that is the issue that I had. It is not an apples-to-apples comparison. That is why we need to be more open minded. There may be something else that we are missing. If we assume we already have a guilty party, there may be a bigger problem that we have not identified.

Ms. Kassel stated also if there are more trees that die. Have any new trees started declining? I noticed one tree in decline on Cat Brier that did not have a pink ribbon.

Mr. Berube stated Mr. Haskett did one pass through with pink ribbons. There are 18 or 19 additional trees.

Ms. Kassel stated those trees have been showing signs of a problem for the last several weeks. It is only in the last few days that I have noticed new trees like that.

Mr. Berube stated that is correct.

Ms. Kassel stated that does not point to this conclusion.

Mr. Berube stated it may. It depends on several variables, and this problem extends throughout the community. Mr. Haskett sent soil samples from various areas to be tested, perhaps a dozen samples. We will not get the results back until next week. The soil in the

tree root and in the tree ball shows this chemical in it. If it is in the root ball, the tree is going to absorb it, which is a good indicator that is causing this damage. The damage is also a little unique. If you snap a branch and let it hang down, the leaves turn brown in a day or two. In the trees that have this chemical damage, the browning is a different color. It is a reddish rust.

Mr. LeMenager asked can you send some of the leaves to be tested?

Mr. Berube stated perhaps. We are at a disadvantage since Mr. Haskett has not been available since the University of Florida was here because he is working on other things this week. That will be the determining factor, the soil samples and what is in the trees.

Mr. Shafer stated tissue and extensive sample testing can be quite expensive. That would far exceed what it will take to replace the six or seven trees that are actually dead. The University of Florida report also said that it appeared to be a one-time event and he sees new growth in the trees that look damaged. It appears that the tree is pushing out the dead parts with new growth slightly. That is why Mr. Haskett stopped flagging the trees. At first it looked like it affected most of the trees, but then it just stopped and waned.

Ms. Snyder asked how long ago were the trees flagged?

Mr. Shafer stated about five or six weeks.

Mr. Evans stated we sometimes get quite a bit of rain, which will cause some flushing.

Mr. Berube stated the biggest group of trees that are affected are the ones along Five Oaks at the west entrance. The irrigation in that area runs more often than anywhere else.

Mr. Golgowski stated I do not have any reports that indicate that.

Mr. Berube stated in all my driving through the community, I notice those sprayers are on more often with more concentrated spraying on those trees. That supports the wash-through theory.

Mr. Shafer stated the report said that as far as the trees that have actually died, they also had some other issues. For example, some of them were planted too deep.

Mr. LeMenager stated to be fair, the trees originally installed here were low grade. They were a B grade instead of A grade.

Mr. Shafer stated I am not sure about that. As far as this affecting trees in one concentrated area can also be due to the fact that those trees came from the same nursery. It may have more to do with the fact that they were all planted at the same time.

Mr. Berube stated they have stopped using that brand of herbicide and have started using another as a replacement. That is the immediate step toward resolution is stopping use of the previous herbicide. The next step will probably be soil samples and other things. Then we will need a plan of action and we will need to make some decisions as to whose fault it is.

Ms. Kassel stated we should wait another month to see what happens with possible other trees and the trees that have shown some signs of decline.

Mr. Berube stated it would appear that in the last week, I have not noticed any new trees, and I have been looking very carefully. The good news is that I have not noticed any new browning. It will take until the next meeting to get all this information together, and I will keep watching.

Mr. LeMenager stated my wife wanted to know if this is also affecting the crape myrtles. She has noticed that the bark is falling off the crape myrtles and it is bright red.

Mr. Berube stated I do not think so.

Ms. Kassel stated I think that is just how they grow.

Mr. LeMenager asked is that normal?

Mr. Moyer stated yes.

Ms. Kassel asked what is the status on the landscape refurbishment that we were doing? Is it complete?

Mr. Shafer stated yes, it is complete and we would like to begin the next phase. There was a problem with one particular plant. We could not find that particular plant, so we substituted another one until we can. We searched for a month but could not find it. It appears that it was chosen because butterflies like it, but it is a rare variety in this area.

Ms. Kassel stated the lantana that was planted near the dog park, some were planted with the root ball above the soil level. You will want to make sure they are planted deeper.

Mr. LeMenager asked what is the status of trimming trees below 10 feet? Is that on schedule? It does not look like it has been done on all the main streets.

Mr. Shafer stated that is a work in progress and it will be complete by the next Board meeting.

Mr. Berube stated in case anything is said or noticed, the Luke Brothers staff came onto my property yesterday to mow some of my grass.

Mr. LeMenager asked are you in charge of power washing?

Mr. Shafer stated no.

**B. Aquatic Plant Maintenance – Bio-Tech Consulting**

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

Mr. Berube stated we may have an issue with the current invoice having to do with the plantings. I will bring this up under approval of the invoices.

**C. Dockmaster/Field Manager – Buck Lake Boat Use Report**

Mr. Belieff 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.

Mr. Belieff stated I want to thank Mr. Berube for loaning me some tools for the trash can project.

Mr. Berube stated we did purchase some tools for this project, as well, and we revised our program again of refurbishing them. That project should be complete soon.

**FOURTH ORDER OF BUSINESS**

**District Manager's Report**

**A. Financial Statements**

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

Mr. Moyer stated I distributed an updated schedule of the collection of our non-ad valorem assessments. We are currently 99.8% collected.

Mr. Berube asked will we receive the remaining 0.2%?

Mr. Moyer stated it depends on a lot of things.

Mr. LeMenager stated one thing that came up in my conversations with Ms. Khan on the budget was that there was \$11,433 in delinquent assessments from several years ago that was never collected. I understand at one time in Drake neighborhood, there were some direct billing allowed, and some builders never paid it. Is that what this delinquent amount is?

Ms. Khan stated yes, the original amount was \$49,000, so we have collected most of it.

Mr. LeMenager asked can I presume the rest is Royal Development and we will never see that money?

Ms. Khan stated we will put it on next year's assessment roll.

Mr. LeMenager asked can we ever get the money back from those people?

Mr. Berube stated I understand what it means to put it on the roll. What effect will that have?

Mr. Moyer stated if the same person still owns the property and did not pay that assessment that we levied directly, not on the roll, we will add that amount to the non-ad valorem assessment that we levy for fiscal year 2011, the entire amount.

Ms. Kassel asked is it just for 2006?

Mr. LeMenager stated yes, it has been delinquent since 2006.

Mr. Moyer stated to the extent that the house has been transferred to a third party, in my opinion, it would be unfair to put an assessment on someone's property who was not here when the delinquency took effect.

Mr. Berube asked would that be our fault because we did not put it on the roll earlier?

Mr. Moyer stated no, it is a timing issue and when there is a lot of sales activity, that will happen, or for any number of reasons. To the degree we can collect some of that, we will. To the degree we cannot, then we will write it off as a bad debt.

Mr. LeMenager stated I would contact the closing company. In the lien search, they missed something. What recourse would we have against them?

Ms. Snyder stated I do not think we can go to the new owners.

Mr. Berube asked if we put this on the roll, does it then become subject to tax certificate sales?

Mr. Moyer stated yes.

Mr. LeMenager asked does it apply to a house that has already been built and someone has purchased it?

Mr. Moyer stated I would not recommend to the Board that we do that.

Ms. Kassel asked are any of those situations included in this \$11,000?

Mr. Moyer stated we think so. Ms Khan has a schedule. She will review the schedule and look at who currently owns the property. If they match up to the person who owned the property and did not pay in 2006, we will proceed to collect it on the roll.

Mr. Berube stated it looks like this is probably six properties.

Ms. Khan stated that is correct.

Mr. Moyer stated we should have a report on this matter at the next meeting.

Mr. Berube asked is it the same with the current year assessments where we are waiting to receive about \$4,800?

Mr. Moyer stated in that case, we do not have a lot of leverage because we have given that over to the tax collector, so we will need to follow that process. In this economy, I am very pleased with collecting 99.8% of the assessments.

Mr. Berube asked do we have another situation out there like what happened in 2006?

Mr. Moyer stated no.

**B. Invoice Approval #122 and Check Run Summary**

Mr. Moyer reviewed the invoices and check summary, which are included in the agenda package and available for public review in the District Office during normal business hours, and requested approval.

Mr. Berube stated several months ago we contracted with Bio-Tech to plant 3,117 plants in the various ponds. That invoice is in this month's approval package. When they first planted them, I went to take a look. They are scattered over seven different ponds. From a distance, they were very difficult to count and walking around the ponds is not very easy. My opinion was that we did not get what we agreed to pay for and they were not planted as they said they would be, in two- to five-foot centers. I gave the map to Mr. Belieff and asked him as he had time to ride through there on the golf cart to count the plants. He came up with the same assumption I did, that the plants do not appear to be there. Mr. Belieff discussed this with Mr. Gologowski, who has a bit more experience in these matters. Mr. Gologowski took a count, and he came up with the same opinion, that we do not see this number of plants in the ground. Time has elapsed; some have grown and some have died. It can be a difficult count. Mr. Gologowski and I went out the other day to count plants. On the first pond they planted, they did a really nice job and put them in three rows. It appears on that pond they did very close to the count. On a number of the other ponds, they are off by as much as 60% to 75% short on the count. To be fair, a lot of time has elapsed, but part of that is because Bio-Tech has not responded to inquiries quickly. We asked for a representative to be here tonight, and they are busy. They responded to Mr. Gologowski's email with a response that said exactly what they say here on this invoice and they said that is what they did. That is not right because there were changes made. My concern is that I cannot prove the number of plants that were planted. A number of other people have also counted the plants. I am willing to tolerate 5% to 10%, but the tolerance level is way off that. Mr. Schiro lives off pond 24, and Mr.

Golgowski and I counted about 126 plants on that pond. Mr. Schiro counted them right at the time that they planted them, and he counted about 100. There should be 427 plants on that pond.

Mr. LeMenager stated that is significantly short. I would not be in favor of approving this invoice.

Mr. Berube stated Mr. Golgowski asked Bio-Tech to have a representative come out here but also to solve the mystery of them invoicing 3,117 plants. They have not done that. I have a problem approving this invoice because there is a serious question. We have not had any problems with Bio-Tech in the past, but their contract has been fairly steady and we have not had a project like this before. It is my understanding that they subcontract at least part of this work out, so no one knows what really happened. My suggestion is that we pull the invoice. Mr. Golgowski told them that until we can verify the work that was done, their invoice may get held. They have not responded in objection.

On MOTION by Mr. LeMenager, seconded by Ms. Kassel, with all in favor, approval was given to the invoices as presented, with the exception of the Bio-Tech invoice for additional plantings in the amount of \$3,274.95.
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**C. Public Comments/Complaints**

Mr. Moyer reviewed the complaint log as contained in the agenda package and is available for public review in the District Office during normal business hours.

**D. Consideration of Use Application for the Ashley Park Pavilion**

Mr. Moyer stated in the normal course of business, I receive requests to use District facilities, like the Ashley Park pavilion, and I routinely would issue those if they are consistent with our policy. I received this one a week ago and chose to hold it for the Board's discussion, requesting to use Ashley Park from 2:00 to 5:00 p.m. on July 3, 2010, which is over the holiday weekend. I would like the Board's direction if you want to let people reserve park facilities during holidays.

Ms. Kassel asked is this for something that is open to all the residents or only to a select number?

Mr. Moyer stated the request is for a family party of about 25 or more people.

Mr. LeMenager stated it is also on a Saturday. I object to having it simply on a Saturday. It is fine on a weekday, but not the weekend.

Ms. Kassel stated I would agree to it if it were something that the community residents were putting something on and it was open to everyone, but it is not. I do not feel that it is warranted on a holiday weekend.

Mr. Berube stated it is a public pool and I gather they are asking for exclusive use. I am not in favor of that.

Mr. Belieff stated they wanted to use the kitchen area and they need a key to get in there.

Mr. LeMenager asked do they mind sharing the facilities with everyone? Is the request just to get into the kitchen?

Ms. Kassel stated if they are requesting exclusive use of the pool for that time, we do not feel that is appropriate to approve. If they just want access to the kitchen and they are allowing other people in the community to use the pool during those hours, that is a different story.

Mr. Berube stated if they are not asking for exclusive use and if it is open to everyone, I do not think we have any objections and they can use the facility. If they are going to exclude the rest of the residents, then they cannot.

Mr. Evans stated but they will have exclusive use of the kitchen facility.

Mr. Berube stated that is fine. Is all we have in the kitchen a refrigerator?

Mr. Belieff stated yes.

#### **E. Consideration of Use Application for the Swim Club**

Mr. Moyer stated the physical education coach has requested the use of the Swim Club pool for 10 kids on Tuesdays beginning June 22, which was this week, for five weeks, concluding July 27, from 9:00 to 11:00 a.m.

Ms. Kassel asked are they looking for the pool to be closed to everyone else?

Mr. Moyer stated no.

Mr. Berube stated we had that issue with the younger students where they needed exclusive use.

Mr. Moyer stated I will advise them it is not for exclusive use.

Ms. Snyder stated it is not for the swim team; it is for the running team where they will run from the school to the pool and then run back.

Mr. Berube stated it is for summer physical education.

Mr. Moyer stated that is correct. Hearing no objection, I will also issue this permit pursuant to your discussion and conditions.

## **FIFTH ORDER OF BUSINESS**

### **Staff Reports**

#### **A. Attorney**

Mr. vanAssenderp stated I have been working with Mr. Moyer's support staff on some items dealing with financial statements and we are reaching a good understanding.

#### **B. Engineer**

Mr. Boyd stated the Board directed us to proceed with the sidewalk analysis, which we are preparing. We plan to present that to you in July.

#### **C. Developer**

Mr. Golgowski stated I distributed some material related to the park irrigation system. We just received recent notice of a grant opportunity with the South Florida Water Management District (SFWMD) to fund projects that are directed toward water conservation. We have received grants from them previously, such as for the irrigation controller. They will fund 50% of improvements that we make beginning in their fiscal year, which is the same as our fiscal year, October 1, 2010. The irrigation improvement that we can probably benefit the most from is installing flow meters and corresponding valves in the irrigation lines into different zones throughout the community. This will allow us to accurately know how much water we are putting out. Right now, the MAXICOM system simply says a certain amount of water went out and we know that the satellite controllers received that information, but we do not know if it actually did. The flow meters will tell us actually how much water went out each time the system runs. It will also tell us if a line is broken or if a head has popped off. When it senses something like that, it will shut that down. We would not be as dependent on a monthly physical check of the irrigation heads. If underground lines are broken, we would not know that until there is a sink hole or other evidence. This offers us some money-saving opportunities with the irrigation water.

Ms. Kassel stated this is really a capital expense because we are putting in new facilities. We do not currently have flow meters.

Mr. Berube stated this is an upgrade to the system that probably should have been put in when the system was installed. Some of the wiring for this may already be in place, which is reflected in the \$5,000 to \$7,500 pricing range per zone to do the work. If the wiring exists, it is a matter of plugging in the new sensors. If the wiring is not there, then it will be more expensive. That is why there is a range. It is similar to the key locks; you could argue this is capital or you could argue this is an improvement to the system.

Mr. LeMenager asked is this the kind of expenditure that will potentially pay for itself in terms of reduced water usage?

Mr. Golgowski stated potentially, yes. I cannot give you specifics because I do not know how many heads will be broken.

Mr. LeMenager asked it will shut off the system if it notes something is wrong?

Mr. Golgowski stated yes, it will shut it off for you.

Mr. LeMenager asked we can get this for a 50% discount because SFWMD will pay for half of it?

Ms. Kassel stated even though we will initially pay \$60,000, we will receive \$30,000 back.

Mr. LeMenager stated we can make this contingent upon receiving the grant. Is this a request to include it in the budget?

Mr. Golgowski stated yes, and to authorize filing the application for the grant.

Mr. LeMenager stated I think we should do it.

A Resident asked will the system manufacturer be able to tell you how much water you could be saving?

Mr. Golgowski stated it is possible.

Ms. Kassel stated I would like to allow members of the audience to comment using our speaking request forms.

Mr. LeMenager asked can we consider this next month?

Ms. Kassel stated no, the application has to be submitted by July 22, 2010.

Mr. Golgowski stated if we are awarded the grant, then you will have to decide if you are going to proceed with it or not.

Mr. LeMenager stated we are going to make an application for this grant. If we are awarded the grant, then we can decide whether or not we want to do it. If they deny the application, then I think our answer is clear.

Mr. Evans stated it is my understanding that we are going to make the application. If they accept it, then we agree to proceed with the project. They are not going to want to award a grant of \$30,000 to us and then have us vacillate as to whether or not we are going to do the project.

Mr. Golgowski stated they are looking for a commitment.

Ms. Kassel stated if we are looking to decide on this tonight, this is \$30,000 and I would like to hear from the audience.

Mr. LeMenager stated this goes back to my comment several meetings ago about us being given information at a Board meeting and suddenly expecting us to make a decision. There is an email system that can be utilized.

Ms. Kassel stated there is an exception here because the deadline is prior to our next meeting.

Mr. LeMenager stated I understand that, but we still could have been given a little time in advance to review the information.

Mr. Golgowski stated I just received this on Monday.

Mr. LeMenager stated in that case, that is fine.

A Resident asked how do you know which 10 zones to choose?

Mr. Berube stated there are 19 zones, and we are going to choose the 10 biggest ones because of the sheer volume. So we are doing about half the number of zones, but on volume, those 10 zones probably use 75% to 80% of the water. We will not know the success of this until it is installed and we have used it for a period of time. It seems like a reasonable improvement. Because we have this nice MAXICOM system, it lets us know when we go over our water usage. I think it is a valuable project.

Ms. Kassel stated as Mr. Golgowski said, we will not know the return on investment but he believes there will be a 100% return on investment, perhaps more or perhaps less, depending on what we find out through using the system, depending on how many breaks we have. Going forward, if we have a lot of breaks that we repair quickly versus a lot that are not repaired quickly and we are spending a lot of money on the water consumption, it is hard to know. His estimate is that it is likely to recoup 100% over its lifetime.

Mr. Evans stated we are trying to monitor the amount of flow that goes through the system and we also will have an early-warning system that lets us know there is a problem. If there is a break and we do not get to it quickly, there can be a major washout and there can be significant damage that happens as a result of not seeing it right away. It is a safety system, in addition to savings. SFWMD promotes water conservation and regulated water use.

Mr. Berube stated we have a system that is fairly sophisticated primarily because it was designed to save water but also provide green grass. We are not using it to its

capability because of the lack of these sensors. This is an enhancement to a system that is already being maintained and used by us every month, and we pay monitoring fees and maintenance fees. This enhances it and hopefully saves additional water.

Mr. Evans asked do they indicate when they will make the announcement?

Mr. Golgowski stated I believe it will be in August or September.

Mr. LeMenager asked so your request is to put it in next year's budget as a \$30,000 item?

Mr. Golgowski stated it is actually for \$60,000.

On MOTION by Ms. Snyder, seconded by Mr. LeMenager, with all in favor, approval was given to authorize Mr. Golgowski to submit an application to SFWMD for a grant for an irrigation enhancement program and to include \$60,000 in the fiscal year 2011 budget, with half being reimbursed by SFWMD if the grant is approved.

Mr. Berube stated as this moves forward, it will be nice to get a more accurate number as to what it will cost.

Mr. Golgowski stated SFWMD will also ask for how much water consumption this enhancement will save.

Mr. LeMenager asked what is the schedule for power washing the sidewalks and getting the pool tiles repaired?

Mr. Berube stated Mr. Haskett is handling that and we do not have an answer yet. I think it is planned for the next fiscal year because we included \$20,000 for the tile repair.

Mr. LeMenager asked are we going to power wash the sidewalks?

Ms. Kassel asked is that done by the HOA or the CDD?

Mr. Berube stated the CDD.

Ms. Snyder asked is that for the condominiums?

Ms. Kassel stated it could be for the parks, like Longshore Park or Lakeshore Park.

Mr. Berube stated the line item in the budget is for the fence along U.S. 192, not the sidewalks. Pressure cleaning hardscape means the white fence.

## **SIXTH ORDER OF BUSINESS**

### **Supervisor Requests**

Mr. LeMenager stated there was a lot of traffic on one of our internet sites with respect to an issue we discussed last month, which is fishing in the ponds. I promised that if people were interested in the topic that I would raise it under Supervisor requests. I will

mention the fact that it is clearly an issue of some interest. From my perspective, we left it last month in what I thought was an unacceptable manner. We said that we have signs, but the signs are completely unenforceable. In fact, the most recent person who called the sheriff received the response that there is nothing the sheriff can do because there is no Statute referenced on the sign. The real question is, what are our options? If we do not want to have people doing anything, such as fishing, in the ponds, then we need to put up the right signage that allows enforceability. Right now the sign says No Fishing and all the teenagers laugh at it because they know it does not mean anything. We either need to allow them to fish in the ponds—it appears to be a 50-50 split as to whether or not it should be allowed—or we need to have an enforceable basis to restrict it. I do not know what that enforceable basis is. I do not think the status quo works.

Ms. Kassel asked can we limit access to parts of CDD property, such as the ponds, through no trespassing Statutes?

Mr. vanAssenderp you cannot or may not limit access, but you can regulate access. You began that process on January 29, 2004, with an amendment to your rules on community recreational facilities. You cannot deny access to a public facility. You can regulate its use, including fees and charges.

Ms. Kassel asked how can we legally do that with the ponds?

Mr. vanAssenderp stated if it is an asset owned by the District, you adopt a rule.

Ms. Kassel asked is the rule enforceable by law?

Mr. vanAssenderp stated yes.

Ms. Kassel asked is it mentioned in the Statute somewhere that we can cite on a sign?

Mr. vanAssenderp stated your Charter says that you may adopt rules. The Federal and State laws say that public facilities are such that public access may not be denied, but by rule, you can regulate access.

Mr. LeMenager stated right now, we have a sign that says No Fishing. The Sheriff says there is no reference to any Florida Statute on this sign.

Ms. Kassel stated the Sheriff cannot enforce that sign and people can fish all they want.

Mr. vanAssenderp stated we can work out an agreement with the Sheriff's department because the land in your CDD is subject to the jurisdiction of the Sheriff right now.

Mr. Berube stated the sign should say No Trespassing instead of No Fishing.

Mr. vanAssenderp stated yes, you will need to modify the sign and you will need to adopt a rule so that the Sheriff has something to enforce. He already has jurisdiction over your property.

Mr. Berube stated we need to be careful and there has been a lot of commentary that we have all heard and read. I have also discussed this with the development company. We have a rule that says you must be a certain age to go out on the docks, and we have a gate in front of the docks.

Mr. vanAssenderp stated I do not see that in my copy of the District's rules.

Ms. Kassel stated there is also a rule that says if you are under 16, you cannot bring a dog to the dog park.

Mr. Berube asked do we have a rule that you have to be 16 to be on the dock?

Ms. Snyder stated I thought you had to be 16 to drive a boat.

Mr. Golgowski stated I believe that was a policy decision, not an adopted rule.

Mr. vanAssenderp stated that is not enforceable, and policies, if they become insipient, must be adopted by rule.

Mr. Golgowski stated I believe what is posted at Buck Lake Park, which might be a policy and not a rule, is that you must be 16 or older to be unaccompanied at that park.

Mr. vanAssenderp stated I am reading Chapter 1, amendment 4 of the District's rules dealing with animals, habitat and wildlife. They are lengthy and I am happy to review if I am posed a specific question.

Mr. Berube stated my concern was that there have been kids thrown out of the ponds and have been referred to go to Buck Lake Dock. They were told by their parents that they cannot go to Buck Lake Dock because of the rule about the age at that dock. The problem becomes if we are going to allow fishing only on the dock and we turn the kids away from the dock and the ponds, where do they fish?

Mr. LeMenager stated with respect to the ponds in Lakeshore Park, I do not see why they cannot fish there.

Carla stated on Brackenfern they stand in the water and fish. It is very dangerous. Some of them are knee deep in the water.

A Resident stated right now, if we want to go swimming in the pool, we can unless it is dark. If I go out there now to go swimming and the sheriff shows up, what happens?

Ms. Snyder stated he will tell you to get out.

The Resident asked what if I gracefully decline?

Ms. Kassel stated you may be trespassing, so they will prosecute you for trespassing.

The Resident stated I love it. Do we have that Statute posted on the signs at the pool?

Ms. Kassel stated I do not believe we do.

Mr. Berube stated no, we do not cite the Statutes.

Ms. Kassel asked do we need to have the no trespassing Statute cited on the pool sign or on the No Fishing signs in order to have them enforced?

Mr. Moyer states yes.

Mr. vanAssenderp stated yes, but it needs to be by rule. Since I am having a little difficulty hearing on the phone, I would request that Mr. Moyer email me the precise question and I will provide an answer to him to distribute to the Board.

Mr. LeMenager stated it sounds like the rule that needs to be cited.

Ms. Kassel stated the Sheriff has to agree to enforce it.

Mr. Moyer stated the rule establishes the requirement. The violation of the rule ends up being a trespass. The notice of the trespass has specific language that you have to post. There is certain information that is required, and one of those is the trespass section of the Florida Statutes. I will email the question to Mr. vanAssenderp, and I believe what he will respond is that the violation of the rule triggers the trespass.

Mr. vanAssenderp stated that is correct.

The Resident asked so you are saying that the Sheriff is incorrect?

Ms. Kassel stated no, the Statute is not cited on the signs currently.

The Resident stated I thought you just said there is no Statute.

Ms. Kassel stated there is a Statute regarding no trespassing.

The Resident stated the attorney keeps referencing the rules.

Mr. Moyer stated that is something that this Board has to adopt.

Ms. Kassel stated we have already adopted some rules.

Mr. vanAssenderp stated I will review the rules the Board has adopted, and if the rule suffices, then it needs to be implemented correctly. If the rule does not suffice, then I will make a recommendation to this Board on how to amend the rule so that the Statutes can apply.

Mr. Berube asked back to the original question, do we want to allow people to fish in the ponds?

Mr. LeMenager stated that is the open issue. I do not have a problem with people fishing in selected ponds.

Ms. Kassel stated I do.

Mr. Evans stated the Board has to decide if we are going to allow it or not, and if we are not, how do we enforce it. That is the issue before us. From a construction standpoint, when these ponds are built, they are built to a certain slope, which is a 4:1 slope that tapers down to a 2:1 slope until it gets to two feet below the water level, which is a steep slope once you get to the water level. If someone steps off and they are not in a littoral area, they are going to fall in the pond. It is a safety issue that we need to consider. It is not like it is a shallow lake, like Buck Lake, that starts off very gradually and you can wade out for a ways. If you slip and you fall, you will go down, and these ponds are very deep.

Mr. LeMenager stated I appreciate that, but you can still put on the appropriate wording for a warning. You cannot legislate smarts versus stupidity. If people want to go in the water, they need to understand they may encounter an alligator, which is not our problem if that is what they choose to do. I am not into the parental society.

Ms. Kassel stated I would not want that on my conscience as a CDD Board member that I approved fishing and someone got hurt or killed.

Mr. Berube stated even if we do not approve fishing, someone can still get hurt or killed.

Ms. Kassel stated that is why you are looking at enforcement aspect. As an idea of allowing people to fish in the ponds or not, I feel it is a safety issue. There are multiple reasons why fishing should not be allowed in the ponds. Maybe we can make it so that people under 16 can fish off the dock so that they have a place to go unaccompanied and they do not have to feel like they have no place to fish.

Mr. Berube stated we are forgetting an important concept. This is the people's land. It is their funds, not ours. I understand the Supervisors make these rules, but we generally have free access to everything here and we are limiting them from the ponds. They could play in the street and get run over by a truck.

Ms. Snyder asked do kids have to walk across someone's property to get to the pond?

Mr. Berube stated technically, no. There is access at every pond somewhere.

Mr. LeMenager stated the comment my wife made to me was echoed by a resident last month. If we have a kid who is 12 or 14 who is fishing in the pond, that is less mischief he is getting into. This community is designed for children. We need to make sure there are plenty of things for kids 12 to 15 to do. If it is fishing, that is great, but if they cannot fish in the ponds, then we need to come up with some other easy alternatives.

Ms. Kassel stated they can fish in the lake. We can change the rules that apply to age on the dock.

Ms. Snyder stated it is great to have them outside.

Mr. LeMenager stated I agree. I know we will not resolve anything at this meeting, but I wanted to raise the issue.

Ms. Kassel asked does Mr. vanAssenderp have a legal opinion about whether or not we allow fishing in the ponds?

Mr. vanAssenderp stated if the ponds are owned by the District or were constructed with tax-exempt bonds or both, then the public access may not be denied; however, regulation by rule is legal as long as it does not equal total denial of access. That is where you get into safety and trespass, among other things. If you proceed in the manner Mr. Moyer was explaining earlier from the law to the rule, the rule is the way to implement your duty to provide rules to regulate access but not to deny access.

Mr. Berube stated there was a proposal presented to me to remove the gate that fronts the dock access. It is somewhat of an impediment to access. It was there for a reason: to keep people away from the boats at night. We have addressed boat security in a different manner, which is the new fence that is on that dock. From various perspectives, it might be nice to have easier access to that dock, especially for development personnel when they are showing off the community. They would be able to drive the golf cart right up to the dock instead of stopping and going through a fence. From the perspective of people who want to purchase a home here, why have a big fence with a big sign in front of this beautiful lake access. It is something that just came up and something for you to think about. Can we get rid of this fence? I do not see a need for it for security. I think if the gate and the fence were removed, that whole area would be opened up, cleaned up and would make a nice looking lake access. My second item is related to information I distributed to the Board regarding gate access security system. Most of the vendors I contacted have walked away because we have a project that is too complicated. ADT said

they cannot do it. Niscayah, who did the system at Solivita, also has walked away. It comes down to Stanley Systems. I provided the proposal they sent to me, and I included the email commentary. These are intelligent keys, so we will still have keys. Largely, you will replace lock cylinders on any gate that has a lock cylinder. The chain link fences are addressed in the information. You will see one that shows a chain. To avoid having to replace all the chain link gates, there is a lock that will be inserted into the chain link and it has a chain that people will drop over to secure the gate. It looks a bit cumbersome, but everyone is telling me this is the way to go in order to solve securing all the gates. The total expense to get it installed and get 500 keys is about \$41,000.

Mr. LeMenager stated I presume you then have the ability to turn off the keys.

Mr. Berube stated there would be a key processing unit. The Board members will have a master key to access everything. Some people who have a dog but have not registered their dog will not be able to get into the dog park, but they will have access to the swim club. You can selectively access any lock. If there is a problem with someone drinking beer and there are glass bottles in the pool over the weekend, we can see who accessed that area on the processing unit. Then that person's key can be deactivated. The biggest expense is the key, which is \$30 each and we need to order 500 to start. That alone is \$15,000. The whole system, the way I proposed it for access control of all the bathrooms, the pool gates, and everything is about \$26,000 to start plus the keys. This is the best system that I have seen so far. We have discussed these issues for months, and this makes the most sense.

Mr. LeMenager stated the huge advantage is that it can be easily retrofitted into what we have now.

Mr. Berube stated that is correct. The big item is the chain link fences, where we need to add the latch. Anywhere we have a door or a lock cylinder, they have a replacement lock cylinder.

Ms. Kassel asked how do you want to regulate access to the dog parks and the playgrounds but not to the docks, the canoes and kayaks?

Mr. Berube stated we need to decide if we are going to keep that gate. Every access point will cost about \$1,200 to retrofit. If we keep it, then the lock cylinder will be removed and a new one inserted, and there will be this smart key to open the marina gate.

Ms. Kassel stated help me understand why you would want to remove regulation to the dock area but institute regulation at the playgrounds and dog parks.

Mr. Berube stated it was my understanding that we wanted to encourage people to register their pets. This is the enticement to register your pet: you get access to the dog park. It is the same with the playgrounds. The primary reason to have a fence around a playground is to keep kids inside. I do not know how many people come here from other places to use our playgrounds. I know people come to Central Park because I see them in the mornings to with their dogs. That is not right.

Ms. Kassel stated they will do the same at the lakeshore. I understand one is for general access and one is for the boats. What I do not understand is why you would want to regulate access to the playgrounds and the dog parks but you allow open access to the lakefront.

Mr. Berube stated because of the aesthetics of the lakefront.

Mr. Evans stated he is not proposing total access to the lakefront.

Ms. Kassel stated not to the boats, but to everything else: the docks, the canoes, the kayaks.

Mr. Berube stated I am not saying that is positive or negative.

Mr. LeMenager stated I do not think he is actually advocating it. We have an idea that allows us some flexibility, and it is an interesting idea. We could possibly have a workshop with a map to show all the secured locations and we can discuss the pros and cons. Or we can agree on some items, such as the swimming pools, and then we can discuss the other areas, like the dog parks.

Mr. Berube stated I just wanted to be sure that we covered every access point. I thought we wanted to do the dog parks because of the registration requirement. The chain link fences were the challenge. Anytime you want to secure a chain link fence and a gate, it is a problem. This proposal solves the problem of securing those gates. If we do not want to secure the playgrounds, that is fine. The only reason I included it in the proposal is to perhaps keep non-residents out.

Ms. Kassel stated you want to regulate access to the playgrounds so that people from anywhere else cannot use them. You want to regulate access to the dog parks so that people have to register their pets. But you do not want to regulate access to the lakeshore area where members of the public can go. You do not want to regulate access to the

ponds for fishing, which means that we are not regulating the residents or anyone from that. There is a disconnect because you want to regulate some things but not others.

Mr. Berube stated that is not correct. The gate removal or fence removal is purely for aesthetics. I did not even think about regulating people from going there. I was actually going to encourage people to go there because it is a big feature. The way you present it, perhaps we do need to regulate it. I am just providing the proposal.

Mr. Evans stated I think it has merit.

Mr. Moyer stated one comment from Mr. Schiro that he submitted on the speaker form is, does the security system include access login so you know who is going in and out.

Mr. Berube stated yes.

Mr. Evans stated we did receive a request, as we started working through our budget, to add some kayaks. Is that something we want to add to our wish list?

Ms. Kassel stated we will be under budget on the boat line item by about \$10,000.

Mr. Berube stated we have two kayaks now and Ms. Rachel Garwood suggested adding four. I think kayaks are about \$500 each, so four would cost \$2,000. She said they are not being used much now and she thinks there will be more use in the wintertime.

Mr. Golgowski stated the kayaks we currently have cost about \$1,000 each.

Mr. Berube stated that is probably correct because we have nice kayaks.

Ms. Kassel stated we can think about two extra kayaks. I think the idea was you cannot go out with more than one couple.

Mr. Berube stated we have two now, and we can add two more. That should be fine.

## **SEVENTH ORDER OF BUSINESS**

### **Audience Comments**

Ms. Kassel stated there is a three-minute time limit for audience comments.

A Resident stated I want to confirm that kids do stand in the water to fish and it is a problem because there is an alligator in that pond. I was repairing a sprinkler head in my yard last week, and the alligator came across the lake and had his nose on the edge of the bank watching me. I do not care where the kids fish, but for the community, it is a liability and it is an accident waiting to happen, a big accident.

Mr. LeMenager stated I tend to agree. What came out of the users group is a fair amount of support for fishing in ponds that are not adjacent to people's houses. I think what you are saying is that you do not want the alligators to become comfortable with

fishing because your house backs up to a pond. I am in complete agreement with that. On the other hand, we do have some nice ponds in Lakeshore Park, and I have no problem with people fishing there. I completely understand what you are saying.

Ms. Kassel stated the problem is that the alligators do not stay in one pond; they move from pond to pond. You can have an alligator move from one pond where people are allowed to fish that is not next to people's houses to another pond that is next to people's houses. That alligator does not know the difference between the ponds.

Mr. Evans stated the problem is when the kids catch a fish and the fish are splashing around, it becomes a meal ticket for the alligator. Then the alligators start watching for people who are fishing in the ponds, and they will chase the fish right up to the shore. So you are training them. That is why Fish and Wildlife Commission says not to feed alligators, but that is, in essence, what you are doing.

The Resident stated this one gator will dash across the lake when we are mowing the lawn. I would think the noise would bother him, but it does not.

Mr. LeMenager stated if you have a problem alligator, you should call to report it.

Ms. Kassel stated it is possible when you are mowing that you may stir up snakes and other things that go straight to the pond, and the alligator knows that so he comes over to see what might be going into the pond.

Mr. Gologowski stated I think we should focus on freeing up access to Buck Lake where we have more of a controlled situation and a dockmaster in the area. If people are fishing on the dock over a railing, that would be safer.

The Resident stated there is good access to Cat Lake where people will stand in the water to fish. I do not understand why it should be in areas where there is a lot of people.

Mr. Berube stated I am sure a lot of people want to do it in the pond that is right behind their house.

A Resident stated I think it looks trashy with a bunch of people fishing in a pond. We do not need four wheelers or sea-dos and there are no laws against using them, but we chose that for this environment. If we had any accidents in any of these ponds, we would now be sitting here saying we should have done something about this months ago. It does not make sense to try to stop them and apply the same standards you have for the swim club to those ponds to keep people out. That is the only thing that makes any kind of sense.

Mr. LeMenager stated I understand that, but I do not think there is a lawsuit issue. I do not believe we can be sued for something like that.

Ms. Kassel asked as a government body, can we be sued for someone having an accident or drowning in a pond?

Mr. vanAssenderp stated it is possible. It depends on the facts, and anyone can sue anyone. That is where your rules come into play.

Ms. Kassel asked if we have the rules, we are more protected?

Mr. vanAssenderp stated yes, you are more protected depending on the quality of the rule.

A Resident stated it is the same thing with a private property owner putting up a No Trespassing sign and someone else goes onto that property and gets shot. You mitigate the risk.

A Resident stated some of the things we do here are so lenient and so foolish because we just want to do what we want to do. We are concerned about every little issue. If someone is 16 and they cannot find a place to fish, I have no sympathy for them. They can live without fishing.

Mr. LeMenager stated I think the issue is, we do not want them to go vandalize your car.

The Resident stated the point is, we need to decide if we are going to allow it or not. As I listen to the Board discuss this, the safety issue seems like such a clear reason not to allow it.

Mr. Golgowski stated I would suggest that on a trial basis, at least for the summer, that the Board reconsider the age restriction, since it is a policy decision and not a rule amendment. Can we lower the age of unaccompanied access to 14, to allow youths who are residents with keys to get in? We can have Mr. Belieff give some sort of orientation, similar to what he does for new boaters.

Mr. Berube stated there is a kid's fishing tournament, so we have an activity that invites kids to fish.

Ms. Kassel stated that is supervised by Mr. Belieff.

Mr. Berube stated the intent of the rule is to have an adult with them who is their parent.

Mr. LeMenager stated I do not think so.

Ms. Kassel asked why 14? Why not 11?

Mr. Snyder stated I was going to suggest 10 or 11.

Mr. Berube asked why not 6? Where do you draw the line?

Ms. Kassel stated where they have a certain cognitive and emotional maturity.

Mr. Berube asked when we advertise the activity, do we put a limit on the age? It is just for kids to come out and fish.

Mr. Evans stated the parents can give them the key.

Mr. Belieff stated many parents just drop off their kids.

Mr. Evans stated it is still the responsibility of the parents. We do not have a policy that establishes an age.

Mr. LeMenager stated if it is not a rule, then it does not exist.

Mr. Berube stated then we do not need to modify anything.

Mr. Evans stated that is correct.

A Resident stated we also need to be cognizant of the widespread neglect of the rules for fishing in Buck Lake, especially among young people who do not use the proper hooks and some who disregard the other rules related to kinds and quantities of fish.

Mr. Golgowski stated by allowing younger kids to come out and learn the rules, we will be starting them off right.

Ms. Kassel asked when Mr. Belieff sees an abuse fishing, do you comment?

Mr. Belieff stated most of the time, I send them on their way.

Ms. Kassel stated there is some enforcement when Mr. Belieff is able to be at the lake and see such things.

Mr. Dave Leeman stated I think you are wasting your money trying to secure the dog parks. There are two entrances for the small dog park and there are two longer entrances at that same park, so that is four locks on one dog park. There is not a problem with the dog parks and I think you should leave them the way they are. Do you receive complaints about the dog parks? It sounds like you are creating a problem to spend money on something that does not exist. That is my opinion.

Mr. George Schiro stated I have a problem with the accuracy of the meeting minutes for the April 29, 2010 meeting. I believe those minutes are inaccurate. I believe your approval is not accurate. I would like them to be reconsidered and revised to be more accurate. Does Mr. Moyer have a comment on that?

Mr. Evans stated your comments are to be directed to the Board.

Mr. LeMenager asked have you put your concerns in writing?

Mr. Schiro stated not yet.

Mr. Schiro stated the meeting minutes for April 29, 2010, are not accurate.

Ms. Snyder asked do you have something to change them to?

Mr. Schiro states yes.

Mr. Evans stated the minutes are not verbatim. There is no requirement to make them verbatim. This Board is the body that makes that decision. If you want to send us something, we will take a look at it. That does not mean they will be changed. They have already been reviewed and approved. Perhaps you do not like them.

Mr. Schiro stated what is being left out is a lie by omission.

Mr. Evans stated that is your opinion.

Mr. LeMenager stated put it in writing.

Mr. Schiro stated I have put it in writing and it is posted on my account.

Mr. LeMenager stated it needs to be in writing addressed to this body.

A Resident stated I have been listening and it is very disturbing to me. It is very obvious that you all are not happy when Mr. Schiro gets up to speak. We all have our opinions about things. We have had two members here who have spoken several times and their three minutes have come and gone. I have been on many Boards, and we either do verbatim or summary minutes with actions and motions. You do not leave anything out that has been spoken at meetings. It was pointed out to me that comments, arguments between Mr. Tome and Mr. Schiro have been left out of the meeting minutes. You need to prepare the minutes and they should be exactly what happened on the tape. You do not leave things out. You leave everything in or you leave only some things in.

Mr. Evans asked is that your legal opinion?

The Resident stated I am not giving you a legal opinion. I am giving you my experiences with Robert's Rules of Order and the other Boards that I have been on, based on the legal opinion of our attorneys on those Boards.

Mr. Evans stated I will allow Mr. Moyer to answer that question because there is a set of guidelines that are used when transcribing minutes.

The Resident asked is Mr. Moyer an attorney?

Mr. Evans stated no.

The Resident stated we have our attorney on the phone. Let him answer the question.

Mr. Evans stated I am going to direct this question to Mr. Moyer because he is the one who prepares the minutes. He is the management company and there is a set of guidelines that define how these minutes are prepared.

Mr. Moyer stated verbatim minutes are prepared by a court reporter. If that is what the Board wants to do, then we will hire a court reporter. We try to be as detailed as we can in these minutes because I am a big believer in creating as thorough a public record as I possibly can. Verbatim is when someone says half a sentence, you stop at half a sentence. We take certain liberties in trying to present minutes that are understandable to someone 10 years from now who wants to know why this Board did certain things. That is what we do. We have never said they were verbatim.

Mr. Schiro stated yes, I called your office and I was told they were verbatim.

Mr. Moyer stated I have never said they were verbatim. It does not matter who you talked to. In this public meeting, we have never said they were verbatim.

Mr. Schiro stated I was told that if it does not say it is a summary, then it is verbatim.

Mr. Moyer stated I want to know the person's law degree who told you that.

Mr. Schiro stated I do not know the degrees of the employees who work for your company.

Mr. Moyer stated I can tell you they do not have a law degree. If we get to the point where we are going to start looking for "I said a word and it is not in the minutes," then I will recommend to this Board that we go to a very short form summary: the Board discussed, there was a motion, and instead of being 38 pages, our minutes will be 4 pages.

The Resident stated I think that is better except for it appears to be selective and exclusionary.

Mr. Moyer stated it is not.

The Resident stated when Mr. Schiro makes a comment and someone else responds and that is not in the minutes, yet comments and responses from everyone else is included, then it appears to be an exclusion by intent. If you are going to put a comment made by every owner in the minutes, then it should be every owner.

Ms. Kassel stated in the minutes we approved this month, there were 14 pages of minutes with Mr. Schiro's comments. There is not an intentional exclusion of Mr. Schiro.

Mr. Moyer stated it is my desire to work for this Board long after these members are off the Board. What is my intent that I would do something to directly alter minutes unless (1) we could not hear what was going on, (2) it was confusing, or (3) in some cases, it did not add anything to the discussion. In those cases, we will edit them out. I have no intent to make someone on this Board look good or bad, and I have no intent to make a resident look good or bad. We try to present the most thorough set of minutes that we possibly can for the public because I think it is important. Rather than having 4 pages of minutes, where you do not have a clue what the Board discussed, you can actually understand the decision-making process. Mr. Schiro stands up in front of these meetings and says he demands transparency. These minutes are the most transparent set of minutes you will ever find in any government in the State of Florida, unless it is in a court and unless there is a court reporter. Go look at the Osceola County minutes and you tell me if you really understand the discussions and why they made their decisions. I would rather err on a very minor point that Mr. Schiro feels was intentional, and it was not, than to have the public 10 years from now have no idea why we conducted business the way we did.

The Resident stated I appreciate your comments. I have witnessed this Board's comments about Mr. Schiro before you come into this meeting. That is not professional. I agree that we should have time limits for people who are speaking. If you are going to instill that, then you have to apply it equally to everyone. Mr. Evans has a timer. I heard him say at the last Board meeting I was at that he has his timer and it is all ready to go so when Mr. Schiro gets here, I will make sure he sticks to the three minutes, but you did not say that about any other home owners.

Mr. Evans asked did anyone hear me say that?

Mr. LeMenager stated no.

The Resident stated it was in the other room and I heard you say it. The point is, if you are going to have a rule, then you apply it consistently to everyone in the room.

Ms. Kassel stated in theory, that is a great idea. In reality, people sometimes blurt something out and a Board member responds to it. Mr. Marks made a comment at one point and the Board spent a few minutes discussing it. He was not commenting during that time; we were talking. I suggest you go back to the minutes over the last several months and at least 90% to 95% of everything that was said, almost verbatim, are in the

minutes. As Mr. Moyer said, you will not find minutes that are more complete. I think you have your opinion about the professionalism about this Board. I have been on many Boards myself, and I think we are quite professional. We appreciate your opinion.

Mr. Berube stated what the other Board members do not know is that I have had multiple conversations with Mr. Schiro about the specific incident that he is talking about. I researched for what meeting minutes should be, and I sent it to him. This was on the internet and it says do not try to record notes verbatim; it is not necessary. Minutes are meant to give an outline of what happened at the meeting, not a record of who said what. Focus on action items, not discussion. The purpose of minutes is to define decisions made and to record actions that were taken, by whom and when. Once again, the beginning says to focus on action items, not discussion. The purpose of minutes is to define decisions that were made, record actions that were taken, by whom and when. Our minutes are very good and they meet the rules.

A Resident stated as a community, I think we can do a better job of respecting that. I do speak up during a meeting and when you tell me to be quiet, then I am. I understand that you are here to do a job and we can equally respect your time. We all know that we are supposed to wait to make our comments until the end of the meeting, and sometimes I do not because I forget. I think we can work on that, as well.

Mr. Schiro stated the problem is, there seem to be different rules applied to different people at different times. Yes, Mr. Berube mentioned that the minutes are not verbatim or should not be verbatim, but I am going by the policy that has been established for 10 years. These minutes are, for the most part, verbatim. If you go back to the second meeting of this CDD, Mr. Moyer commented that he just recorded Mr. Lentz's statement verbatim and it is now in the record. That is a precedent that has been long established. It is not something new. All I am trying to say where the one time I have been able to demonstrate that Mr. Evans applies different rules to different people at different times, that fact has been removed from the record. That is what I want put back into the record. I am not saying that a lawsuit is unlikely in this scenario, but it is possible. What you are doing is egregious and wrong. You go ahead and smile, Mr. Evans. That is not something they are going to put in the record, just like you did not include Mr. Tome screaming, yelling and slamming the table. That was not in the record, either.

Mr. Moyer asked how do you put slamming and yelling and screaming in the minutes, in all caps? Do you underline it? Do you put it in red? No, of course you do not.

Mr. Schiro stated entire conversations were left out.

A Resident stated I want to address the possibility of tennis courts in the future.

Mr. LeMenager stated you are permitted to use the tennis courts at the high school except during school hours.

The Resident stated that is great. I understand this Board makes tree replacements, and I would like to offer the option of allowing residents to buy them. I just moved here and there are a lot of trees that are dead. I want to replace them but I wonder if there is a cost to it.

Mr. LeMenager stated you do not have to.

Mr. Evans stated the CDD does not replace individual trees in your yard, but we do if they are between the sidewalk and the curb.

Ms. Kassel stated please contact the management company about the trees to be sure that the landscaper is aware that the trees need to be replaced.

Mr. Schiro asked is the entire Board aware that the audio recordings of the true record of these meetings are being destroyed by Severn Trent and we no longer have all the audio recordings of these meetings?

Mr. Evans asked are you aware that they are not required to keep them after two years?

Mr. Schiro stated that means that Severn Trent has destroyed eight years of records of the audio recordings? Why?

Mr. Berube stated no one cares.

Mr. Moyer stated the State of Florida has a document retention policy and we follow the guidelines of the State of Florida.

Mr. Schiro asked why do you not save them?

Mr. Moyer stated because the State of Florida has determined that the public interest is served by removing these things according to their schedule. If you do not like that policy, then you should work through the State Legislature to change it.

**EIGHTH ORDER OF BUSINESS**

**Adjournment**

The meeting adjourned at 9:15 p.m.

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Gary L. Moyer, Secretary

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Robert D. Evans, Chairman