

MINUTES OF MEETING HARMONY COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Harmony Community Development District was held Thursday, November 18, 2010, at 9:00 a.m. at 7251 Five Oaks Drive, Harmony, Florida.

Present and constituting a quorum were:

Robert D. Evans	Chairman
Mark LeMenager	Vice Chairman
Steve Berube	Supervisor
Ray Walls	Supervisor

Also present were:

Gary L. Moyer	Manager: Moyer Management Group
Tim Qualls	Attorney: Young vanAssenderp, P.A.
Steve Boyd	Engineer: Woolpert
Thomas Belieff	Dockmaster/Field Manager
Brenda Burgess	Moyer Management Group
Greg Gologowski	Harmony Development Company
Todd Haskett	Harmony Development Company
Larry Medlin	Bio-Tech Consulting
Jason Schafer	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 9:00 a.m.

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

SECOND ORDER OF BUSINESS

Administrative Matters

A. Oath of Office for Newly Elected Supervisors

Mr. Moyer stated I am a Notary of the State of Florida, and as such, I can administer oaths of office.

Mr. Moyer administered the oath of office to Mr. Walls and Mr. Berube.

B. Consideration of Resolution 2011-02, Election of Officers

Mr. Moyer stated we have become aware of some misinformation that has been circulating in the community that implies that in the past, we have not elected a Chairman after each election cycle. I have copies of the minutes from 2004, 2006 and 2008 meetings to evidence that in all cases, we did, in fact, have organizational matters on the agenda and the Chairman, Vice Chairman and slate of officers were properly elected by

the Board at each of those meetings. Sometimes the Chairman changed and sometimes it did not. There is no requirement that the Chairman change or the officer structure change. The Board did take those actions and we will make these minutes part of the record.

Mr. Moyer reviewed Resolution 2011-02 regarding the officer structure of the Board. I have taken the liberty of including names on the Resolution for Secretary, Treasurer, and Assistant Treasurer. I do not have to be the Secretary and Mr. Bob Koncar does not have to be Treasurer. The reason we included those names is that pursuant to our contract with the District, we perform all the secretarial duties for the Board as well as the Treasurer duties of the Board, one of which is to issue warrants or checks. By law, in order to do that, they have to be signed by the Treasurer or Assistant Treasurer, and to expedite the process, we provide that through our accounting department. Then each month you receive a list of all the checks that have been processed and a list of the invoices. If it is the Board's desire to have someone on the Board serve in those capacities, that is fine. I would ask that in that case, I be named as Assistant Secretary and Mr. Stephen Bloom be named as Assistant Treasurer so that we can continue to perform those functions for you.

Mr. Qualls stated this is in compliance with Section 190.006(6), Florida Statutes, which reads that as soon as practicable after each election, the Board shall organize by electing one of its members as Chairman and by electing a Secretary and Treasurer, who need not be a member of the Board, and such other officers as the Board may deem necessary.

Mr. Qualls stated I will distribute a memo to Mr. Walls and Mr. Berube, being our newly elected Supervisors. I will provide some additional materials to Mr. Walls, as well. Initially, the biggest thing to recognize is that Florida has some of the broadest laws in the country as it relates to Board members and meetings in the Sunshine. That means that every meeting of this District must take place only after the meeting has been advertised to the public and the public and the press have been invited to attend the meeting. There are a number of opinions as to what constitutes a meeting. It is important to note that the general rule of thumb is, if you have to ask, you should assume that it is wrong. That way you can be sure that there will not be any issues that will arise. For instance, what about an email to another Board member saying a meeting is coming up and I wonder about your thoughts on a particular subject. Does the sending of that email constitute a

meeting? The technical answer is no. But the instant that email is responded to by the other Board member, you have had a meeting, unless you have notified the public that you are going to send that email and the public has been invited to attend, including the setting up of a computer and the internet so that the public can participate. It is the same as attending a function in the community. Is talking to another Board member about everything except District matters a violation of the Sunshine Law? Absolutely not. Our fear is always the perception. What several County Commissioners do with such events that are not government meetings, they will invite the press just so it is clear that what is being discussed is not the business of the local government. Please do not hesitate to contact us if you have any questions on this issue. The idea is that meetings of this District are open to the public. A meeting is when two or more Board members are discussing something that will lead to a decision of the Board. This Board has always done an exceptional job of understanding and complying with the Sunshine Law.

Mr. Qualls stated the other thing to note is emails that are sent relating to District matters are, in fact, a public record. One of the things that is recommended by the District Manager and legal counsel is to setup a separate email address. We advise you to keep District records in a separate file and do not intermingle things so that if a public records request is made and you provide them with a folder, you do not want your personal or business records tied in with the District's records. The public records law is also very broad in the State of Florida. Everything dealing with this District is a public record unless it is exempt. The exemptions are incredibly narrow and include only such things as social security numbers. That does not mean that if a record has a social security number on it that the whole record is exempt. Rather, you would redact that social security number. Also exempt are names and addresses of prosecutors and law enforcement, in the case of a criminal being upset and he cannot take repercussions against those people.

Mr. Qualls stated in the materials I will be sending to you, I will also include information on what a District is and what a District is not and things of that nature. This District is a specialized, local government whose single purpose is the provision of infrastructure. Provision includes management and financing. Welcome to our new Board members and we are happy to serve the Board in this capacity.

Mr. LeMenager stated I think now that we have four of the five Supervisors elected by the general public, I think that the Chairman and Vice Chairman should come from the

four of us. Mr. Evans has done a great job for us over the years. Given that we are a public body elected by the registered voters of the District, that is appropriate. I would be more than happy to serve as Chairman and I think Ms. Kerul Kassel would make a fine Vice Chairman. We have had some experience with this District and understand how the process works.

Mr. Evans opened the floor for nominations for Chairman.

Mr. Walls stated I agree with Mr. LeMenager's assessment, given the evolution of the Board and its makeup consisting primarily of Supervisors who were elected by the voters. I had Mr. Berube in mind for Chairman, given the initiative he has shown during his time on the Board and the work he has put forth. If he is willing to accept that role, I would like to nominate Mr. Berube.

Mr. Berube stated I appreciate the fine words from Mr. Walls. I have heard what Mr. LeMenager has said, and I disagree with both of you. I think that Mr. Evans remains the best choice as Chairman, largely because of his years of experience in doing this and breadth of experience from other Districts. I think he brings a calming influence here. I have been known to get out of control a few times, and I may do so again today, and Mr. Evans has always shown another side of looking at things. I appreciate that. He is associated with the developer, and I do not think that is a bad thing. I think it is a good thing because he knows what is going on behind the scenes. Having said that, and while I appreciate Mr. Walls's nomination of me, I would like to nominate Mr. Evans as Chairman. I would nominate Mr. LeMenager as Vice Chairman, no slight to Ms. Kassel.

Mr. LeMenager asked may I nominate myself?

Mr. Moyer stated yes.

Mr. LeMenager stated I would also like to be considered for Chairman. I think I would do a good job at it and be impartial. I think it is part of the evolution of this body. I think it would also go a long way to ending the public's perception that the CDD is the developer's body. It is not the developer's body, but there is one citizen—for whatever reason and whatever purpose—likes to continually blur that line. I think we cannot do better than making a clear statement that this is an independent governmental body. The people on the Board absolutely want to see the developer succeed. The four members elected by the voters own our homes here. That is not the legal purpose of this body, but we are here serving because we want to see the community grow and thrive. We still

want to work closely with the developer, but it is time that we be clearly independent of the developer.

Mr. Evans stated since I have served on the Board, I have heard a lot of comments relative to this negativity between the home owners and the developer. I think it is really sad. The first obligation of any Board member is to look at all the landowners through the same glasses. The developer pays over 70% of the bills for this District, but yet I constantly hear derogatory comments toward the developer. The developer has more of a financial interest in this District than anyone. They have more to lose and more at risk, and they do more for this District than anyone or group of people. They are constantly being asked to pay out of their pocket for improvements in this community that they are not obligated to pay for, and they constantly do. They have offered countless assistance to this District, and no sooner than they do it, they get chastised for other issues. We cannot be judgmental or have division between the home owners and the developers. That is not what we do. We look at all landowners equally to the benefit and success of this District. I was hesitant to make any comments, but I will. You have to look at experience. Running a District is just like running any other business. You look for someone who has experience in the development field. The sole purpose of the District is the financing, construction, and the maintenance of infrastructure; that is it. It is not to setup a lot of other little projects that would be nice. Granted, a lot of the projects that have been submitted to this Board are nice and we would love to do that. However, that is not the authority that we have been granted to us. We are looking at expertise. A lot of the things that are involved in the operation of a District are never on display in these Board meetings. There is so much work that happens behind the scenes with the District Manager, the District's Engineer, the District's Attorney, and all the subcontractors who work with this District. What the public typically sees at these meetings is just an overview. When you look at experience, that is the thing you need to look for. It is not just coming in and making decisions based on personal preference. Many times you have to make very difficult decisions. You have to be clear, concise and defensible in your decisions. That is one of the roles of the District. You cannot be swayed by popular opinion. It is based on what is your authority and the limitations of your authority. This is one of the things we have discussed in earlier meetings. You cannot sit here with the mindset that the residents are the good guys and the developer is the bad guy. That is not

what we do here. When I was first elected to the Board, there was a lot of that. There was a lot of finger pointing and accusations of misappropriation and other bad things going on behind the scenes. It is saddening to hear things that are totally unfounded like that. This Board has worked very diligently to integrate residents into this Board, to educate them and to give them an understanding of the work and dynamics of what is involved in operating and managing a CDD. With that said, I will say point blank that whoever the officers are, they need experience. We have many people who are gaining experience. Those who have been on the Board have come up the learning curve quite a bit. From the first time you sit on the Board, quite frankly, you have no experience but you gain experience over time and over years. I have been on CDD Boards for over 10 years. I have served on this Board since 2005, and I bring the experience of sitting on four other CDD Boards as Chairman. You need experience because if you do not, you will step into a quagmire where you do not want to be. Fortunately for this Board, we have some of the best talent that supports us. Just in the District Manager's office, the District Engineer's office and our legal counsel's office, we have over 100 years of experience in this specific field. We should consider ourselves very fortunate to have that kind of talent that is surrounding us and supporting us.

Mr. Walls asked what are the official duties of Chairman? What is prescribed for the role of Chairman? Is it just conducting meetings?

Mr. Qualls stated there is not much that is prescribed in the Statute. The Statute says that the Board shall hire a District Manager who shall manage the works of the District. The Chairman does a lot of things. From a legal perspective, you will not see anything in the Statute on the duties of the Chairman. The same prerequisites for the Chairman apply to anyone sitting on the Board, which is that you are a resident of the State of Florida, and so forth.

Mr. Berube stated one thing that the Chairman does is sign contracts. Does he take a personal responsibility with that signature?

Mr. Qualls stated the Chairman is not personally liable for anything signed on behalf of the District. With any signature, there is a name you are looking at, and people are going to associate that signature with that name. But that is not really a legal consideration.

Mr. Moyer stated everything that the Chairman and Secretary, or Vice Chairman and Assistant Secretary, sign implements decisions of the Board. There is not really any personal liability. I have seen some things that would suggest that we are assuming personal responsibility, but we are merely implementing the policy of the Board when we sign those contracts, Resolutions and things of that nature. To further answer Mr. Walls's question, in terms of voting, everyone may cast one vote on what this District does, after discussion. Mr. Evans has been a very active Chairman in terms of interfacing with the management of the District, especially as it relates to budgets. We have a very good budgeting process and Mr. LeMenager has contributed to that a lot, as well, the past couple years that he has been on the Board. The organization of the meeting and agendas and things of that nature, it is not unusual for Mr. Evans and I to discuss those things and he gives overall direction based on the experience he mentioned having with other Districts on how we present matters to the Board for decisions.

Mr. Walls stated this is not a strong Chairmanship. We all have the opportunity to present things for the agenda. What I am getting at is, the primary purpose of the Chairman is to conduct the meeting. Depending on their level of involvement, there may be other things outside of that. I do not want my nomination to be taken as a "dig" at the developer because that is not my intent. Personally, I was elected by the voters of the District and those are the people who will hold me accountable. Those are the people I will look out for. I want to go back to them and say that one of the people that they elected is on this Board and is running this community. They are now my boss. That is my reason for my nomination. I think Mr. Evans has provided leadership when it was needed in the past. I am not sure if we will be able to make a decision today with one Board member missing. Perhaps we should consider tabling this discussion.

Mr. Berube stated this Board has evolved to having four members elected by the residents, which is great, but that becomes an even number. Perhaps it is better to have an outsider as the swing vote. There will be a change in the complexion of this Board in two years anyway. I have listened to what everyone said, and I think Mr. Evans remains the best choice for Chairman.

Mr. Walls stated Mr. Evans has his one vote no matter if he serves as Chairman or not.

Mr. Berube stated I understand that, but he sometimes has a different perspective from us. Whether that is good or bad, I cannot make that decision because I do not know, but what he has demonstrated to me as a resident who attended the meetings for a number of years and for the past year as a Board member has always been a good, balancing force to what are sometimes competing interest among the other Board members.

Mr. Walls stated I do not disagree with what you said. I just want to go back to those people who elected me and be able to say that we are here representing them.

Mr. Berube stated I have had the same influence attempt from one particularly vocal resident who wants anyone else as Chairman except for Mr. Evans.

Mr. Walls stated I am not influenced by any single individual. I am thinking about everyone. I do not want anyone to think otherwise.

Mr. Evans asked how do we proceed?

Mr. Moyer stated you can do one of two things: proceed to vote and call for a vote based upon who has been entered into nominations.

Mr. Berube asked we are considering one position at a time, and this is just for Chairman now?

Mr. Moyer stated that is correct.

Mr. Walls asked may I make a motion to table this for next month when all five members are present?

Mr. Qualls stated the Statute says as soon as practicable after each election, the Board shall organize. We have a quorum, it is practicable. I am not saying you cannot table it, but I want you to know what the law says.

Mr. Walls stated I am counting the votes and I do not know that it is practicable.

Mr. Evans asked what happens if there is a tie?

Mr. Moyer stated there would be no action and we carry it to the next agenda.

Mr. Berube stated I understand the word “practicable.” If we are all in agreement that perhaps we need our fifth member, what are the repercussions? All we are doing is holding off on the decision.

Mr. Qualls stated I am letting you know what the law says and if a 2-2 tie says that it is not practicable to come to a majority decision. If a Chairman is not elected today, then Mr. Evans will continue in that role until it is practicable to have such an election.

Mr. Evans stated to get to that point, we need to actually have a vote to get to that determination.

Mr. Moyer stated if we have a motion to table, that takes precedence over voting for the nominations.

Mr. Walls made a MOTION to table the election of officers.
Mr. Berube seconded the motion.
Upon VOICE VOTE, Mr. Walls and Mr. Berube were in favor and Mr. Evans and Mr. LeMenager were opposed, so the motion does not pass with a 2-2 vote.

Mr. Moyer stated since the motion did not pass, now the Board can proceed to vote for the nominations.

Mr. LeMenager stated I think we should proceed. It is possible to do this today so we should do it.

Mr. Evans stated we will vote for the nominations in the order they were made.

Upon VOICE VOTE, Mr. Berube received one vote from Mr. Walls, Mr. Evans received two votes from Mr. Berube and himself, and Mr. LeMenager received one vote from himself, such that Mr. Evans was elected Chairman.

Mr. Walls asked can I vote for Mr. LeMenager since Mr. Berube did not receive enough votes?

Mr. LeMenager stated no, you can only vote once.

Mr. Berube stated it is all one motion, so there can be only one vote each.

Mr. Qualls stated democracy says one person-one vote. This is a gray area of the law that is not specifically addressed. I will look to the District Manager in his experience. If everyone voted multiple times, that would lead to some strange results.

Mr. Moyer stated the reason we do this the way we do it, which is to indicate in an open meeting your desire, is because we cannot vote by secret ballot due to the Sunshine Law. If we had done it by secret ballot, Mr. Walls would have voted one time.

Mr. Berube stated if we were in a voting booth voting for one CDD Supervisor, you only get one vote.

Mr. Evans stated you already cast your vote.

Mr. Walls asked I cannot vote for someone else who has an opportunity?

Mr. Qualls stated legally, I would be more comfortable defending a decision where everyone had one vote. It just makes sense.

Mr. Walls asked what is the correct procedure? Should there be individual motions for a nominee?

Mr. Moyer stated you did it appropriately. There can be more than one person nominated for the position of Chairman or any of the other positions. You then vote for those positions. Rather than doing it on paper in a secret fashion like on a ballot where you would mark your vote, we do this openly.

Mr. Walls asked now that I know the rules, may I change my vote? It sounds like we are making them up as we go along.

Mr. Berube stated we can see what the outcome will be if you change your vote where the result will be a 2-2 vote.

Mr. Evans stated we have each voted.

Mr. Berube stated if we do what Mr. Walls is asking us to do by letting him vote again, that results in a tie.

Mr. Evans stated he already cast his vote and we need to go by the rules.

Mr. Walls stated there does not seem to be a clear set of rules.

Mr. Evans stated it is clear. If you are going to be an elected official, the last thing we need to do is worry about how a vote is cast.

Mr. Walls stated I wish someone had explained to me how this was going to work.

Mr. Berube stated we are voting on one motion, which is to select one person as Chairman out of three names. That is the bottom line: one person, one vote. That is my interpretation.

Mr. Walls stated I would like a professional, legal interpretation.

Mr. Qualls stated I will call Mr. Kenza vanAssenderp since he was involved in drafting the original legislation.

Mr. LeMenager stated I think we are spending money that we really do not have to be spending. The bottom line is that, it is 2-1-1 or 2-2 depending on how we want to structure the votes. Either way, it is not possible for anyone to receive three votes from the four members present, in which case, I think we are in a position to table it for next month when we have a full Board. As soon as I learned this morning that Ms. Kassel was

not attending today's meeting and she is not reachable by phone, I knew we would reach this impasse.

Mr. Walls stated I just want an official clarification on how this works.

Mr. Moyer stated I am not sure we need three votes to elect the Chairman. The majority of the Board is two in a 2-1-1 vote.

Mr. Berube stated we have a quorum, so the person receiving the highest number of votes without being a tie is the winner.

Mr. Moyer stated that is correct. I suggest we let Mr. Qualls get clarification from Mr. vanAssenderp. We all want to do the right thing.

Mr. Qualls stated in order for there to be a meeting, there must be a quorum, and a quorum is three members. In order for there to be action taken at a meeting, action must be taken by a vote of the majority. This is from your rules of procedure. The rules also say that at any Board meeting held after an election where the newly elected members take office, the Board may select a Chairman, Vice Chairman, and so forth. It also says that such election may be deferred to subsequent meetings. The way I see it, there was a motion to defer the election. The result of that motion was a tie, meaning there was not a majority to defer this to a subsequent meeting. Second, in the event of a tie, that means the current officer remains in place for the new term. Those are the rules we have in place, based on the law. As to voting, Board members may vote multiple times, but only once per subject. Practically, that makes sense. If you think about normal votes, if everyone votes in favor and everyone also votes against, that makes it tough to reach a conclusion. That is the advice I can give to you in this matter and it is your choice what to do with it.

Mr. Walls stated I appreciate the advice. To me, it seemed like we were voting on three things in one motion. Generally, you vote yes or no on one item. I am in favor of following the attorney's advice.

Mr. LeMenager stated it sounds like the advice is that Mr. Evans continues to be Chairman.

Mr. Qualls stated I do not know if the vote was concluded. There was one vote for Mr. Berube, two votes for Mr. Evans, and Mr. LeMenager voted for himself.

Mr. LeMenager stated Mr. Walls wanted to vote for me, as well. But in any case, if there was a 2-2 tie, we will continue with the current Chairman.

Mr. Berube stated that is what he said, that the current Chairman would continue for the rest of the term.

Mr. LeMenager asked is that for the next two years?

Mr. Qualls stated yes, for this new slate of officers.

Mr. LeMenager stated in other words, we did not vote to change the Chairman.

Mr. Qualls stated the way I count the votes is 2-1-1, so that is a moot point regarding a tie based on the principle that you can have only one vote per subject.

Mr. LeMenager stated even if it is 2-1-1, you do not have a majority.

Mr. Qualls stated yes, you do.

Mr. LeMenager stated I am sorry but you do not. A majority is three. A majority is 50% plus one, and in this case, it is three. Mr. vanAssenderp indicated that we have a quorum and it is a majority of that quorum that decides, and a majority of four is three.

Mr. Evans stated that is not correct. If you have a Republican, a Democrat and an Independent running in an election for the same office, they count the total of all the votes and whoever has the highest number of votes has the majority.

Mr. LeMenager stated I appreciate that but I have not heard that we are going by the first-past-the-post system. That is not the advice Mr. Qualls gave us.

Mr. Berube stated it comes down to a majority or a majority plus one or a super majority, which is two-thirds. If you have three candidates in a General Election, the person with the most number of votes wins. I think the majority is the highest number of votes.

Mr. Qualls stated I will read it again, but it says that action taken by the Board shall be by a majority of the members present unless otherwise provided in these rules. That is an interesting point. To me, a 2-1-1 vote shows a majority but I see your point.

Mr. Berube stated on a practical basis, the vote is either 2-1-1, which means Mr. Evans is elected Chairman, or 2-2-1, which is a tie. The practical result of a tie is that the current Chairman continues in that role. Either Mr. Evans continues based on the vote or he continues based on the tie.

Mr. Qualls stated that is how I see it.

Mr. Walls stated I am fine with the outcome of the vote.

Mr. LeMenager asked is that the advice of Mr. vanAssenderp?

Mr. Qualls stated yes. The principle applied here is that you need a majority to take action and without a majority, things remain the same. The vote was a tie, so then you keep it the way it was and that makes logical sense. I could propose as an alternative to speak with a colleague who works with the Supervisor of Elections. I will look into your points. If the legal advice rendered was incorrect, this will be brought up again and will be taken care of at the next meeting.

Mr. Berube stated it sounds like Mr. Evans continues as Chairman, pending any legal issues that may be researched.

Mr. Evans stated we had a vote. Let the votes fall where they may. We are trying to figure out a way to manipulate the votes. Let the votes remain as they are and let us move on.

Mr. Berube stated I am fine with that.

Mr. LeMenager stated based on Mr. vanAssenderp's advice, I agree.

Mr. Berube asked where do we go procedurally?

Mr. Moyer stated technically nominations are not motions and do not need to be seconded. You were entered by nomination. For at least the time being, Mr. Evans is your Chairman, either by vote or by default. We go on now to the next position, which is Vice Chairman and the other positions. At the end of those nominations and votes, those names will be entered into a Resolution that the Board will consider. This Resolution will have those names entered and will be considered by motion with a second and a vote.

Mr. Evans stated I nominate Mr. Berube for Vice Chairman.

Mr. LeMenager stated I nominate myself for Vice Chairman. I do think that we are concentrating too much of the power in this community to a few individuals who are in charge of both the HOA and the CDD. I think that is probably not the way we should be going. I do not mean to say that they are not hard workers or that they are not doing a fine job, but perception is reality. I think we are going down the wrong path with respect to that.

Mr. Berube stated I hear what Mr. LeMenager is saying and I do not disagree.

Upon VOICE VOTE, Mr. Berube received two votes and Mr. LeMenager received two votes.
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Mr. LeMenager stated if Mr. Berube does not wish to serve as Vice Chairman, I will serve.

Mr. Qualls stated a nominee may decline a nomination.

Mr. Berube stated I appreciate the nomination, but I decline to accept.

Upon VOICE VOTE, Mr. LeMenager received four votes, such that Mr. LeMenager was elected as Vice Chairman.

Mr. Moyer stated if the Board is amenable to the individuals already listed on the Resolution, then I would ask the Board to make any other Supervisor who is not an officer to be an Assistant Secretary.

On MOTION by Mr. LeMenager, seconded by Mr. Walls, with all in favor, approval was given to elect Mr. Berube, Ms. Kassel and Mr. Walls as Assistant Secretaries.

On MOTION by Mr. Walls, seconded by Mr. LeMenager, with all in favor, approval was given to Resolution 2011-02 regarding the officer structure of the Board.

THIRD ORDER OF BUSINESS

Approval of the Minutes of the September 30, 2010, and October 28, 2010, Meetings

Mr. Evans reviewed the minutes of the September 30, 2010, and October 28, 2010, meetings, and asked for any additions, correction, or deletions.

Mr. Walls stated I would like to abstain from these votes since I was not a part of these meetings.

Mr. Berube stated I did not think we could abstain. I thought we had to vote.

Mr. LeMenager stated that is my impression, as well.

Mr. Moyer stated that is correct. The only reason you would abstain is if there is a conflict of interest. In that case, you have to fill out various forms that become part of the minutes. Mr. Walls can vote on these motions with the acknowledgement that he was not a part of the meeting and does not have any direct knowledge of the meeting.

On MOTION by Mr. LeMenager, seconded by Mr. Berube, with all in favor, approval was given to minutes of the September 30, 2010, meeting.

On MOTION by Mr. Berube, seconded by Mr. LeMenager, with all in favor, approval was given to minutes of the October 28, 2010, meeting.

FOURTH ORDER OF BUSINESS

Subcontractor Reports

A. Landscaping – Luke Brothers

Mr. Schafer 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. Schafer stated we applied fertilizer this month and just started work on the tree trimming proposal at the west entrance. That crew will be here every day until the work is complete. We hope to be done by the end of December, but if not, we will continue until the work is complete. They may spend 20 to 60 minutes on each tree, depending on how it needs to be pruned.

Mr. Berube stated as some people may know, I also sit on the owner's association Board for Harmony. There was a letter that was circulated earlier this month by a real estate broker in the community who represents rental properties. From that perspective, she raised an item. She said that "the owner of 7010 Buttonbush faxed me a copy of a letter of violation for dead patches of grass in front of his home. The tenants who reside there are treating the lawn but the lawn has not responded very well. I find rather ironic that I have dead patches of grass in front of my home at 3315 Schoolhouse Road, that I have made you aware of but nothing has been done to remedy those patches. I will even attach the pictures once again. Of course, the same rules may not apply to CDD-maintained property. My neighbor, Ms. Kerul Kassel, has the same problem in front of her property on Schoolhouse Road. This is sounding like selective enforcement to me, in which the residents are getting pretty tired of. Before the HOA starts fining people, they had better, literally, get their own backyard in order. You know I am your strongest advocate in adhering to the HOA rules, but CDD-maintained property cannot be exempt from this type of enforcement. When Luke Brothers cut the grass here and spread chinch bugs everywhere, it does make it difficult to cultivate a good lawn, especially with St Augustine grass." I just read what she wrote in her letter, and I do not advocate that Luke Brothers is spreading chinch bugs. She goes on to say that she chooses her battles very carefully and other things. Her point is, clearly, that she lives on Schoolhouse Road and the property maintained by Luke Brothers is not in very good shape. I also realize that coincidentally this week, all the grass that she is referring to got replaced.

Mr. Schafer stated we started in the dog park first and now we are moving down Schoolhouse Road.

Mr. Berube stated I talk with Mr. Schafer often and this is the only place we can talk on the public record. This is the third time in recent memory that a home owner has complained about the quality of CDD-maintained property. It is gathering some momentum. You cannot argue with what she has to say.

Mr. LeMenager stated I disagree. I think you can certainly argue with what she has to say. I live next door to that house and it is not an occupied house. What they have done is terrific, but it is on the schedule to be replaced and it was done. I do not see selective enforcement. Neither Mr. Berube nor I are particularly fans of Luke Brothers, but they are doing their job and I am not complaining.

Mr. Berube stated my point is that there are areas that continue to decline. Next door to my house on Beargrass Road and Buck Lane is not in good shape.

Mr. Schafer stated we have had some irrigation issues in the park and chinch bugs in the strips leading up to that area.

Mr. Berube stated I understand that. Your company has replaced the sod in that area once or twice since your tenure here, and it looks bad again.

Mr. Schafer stated there are some locations in Harmony that just do not like to grow grass. I think it is the soil. By your next meeting, I will have some information on this issue. The turf is just not responding and we are trying to figure out why we cannot grow grass. The soil is different throughout the community. You may have top soil in your yard that allows grass to grow, but it is sand all along Five Oaks Drive. Last month it was almost impossible to keep that grass wet enough to keep it vibrant. Last month was really tough having no rainfall.

Mr. Berube stated we hear that every month, and I read that every month in the minutes. We live in Florida and you have had about 20 months of experience, but we still have these ongoing issues. Is it a fair statement that you lost your pest control technician in recent weeks?

Mr. Schafer stated yes.

Mr. Berube asked is it a fair statement that you lost your irrigation technician in recent weeks?

Mr. Schafer stated yes.

Mr. Berube asked is it also a fair statement that I saw two of your landscapers digging up what appeared to be irrigation pipes and I believe one of them is your son?

Mr. Schafer stated yes.

Mr. Berube asked where do we proceed without having proper pest control and irrigation personnel? I am not saying there is anything wrong in whoever is fixing the irrigation leak, but I think we are paying the same money to have these irrigation leaks fixed by who should be an irrigation technician. We have had our disagreements in the past and we still do. I am concerned with what I see going on. I live next door to that park on Beargrass Road and I have watched it. That is a very busy place and hundreds of people go down that sidewalk twice a day to the school, and they see all that. These are the people who are paying the bills and it concerns me. I pay the bills, too. I know Mr. Haskett is working with you on a daily basis and challenging you to get things done. I suspect we are still on a downhill slope.

Mr. Schafer stated I do not think we are on a downhill slope. With respect to the people I have working on irrigation, I have the knowledge and I feel like I can teach anyone to do this work. I have been doing it my whole life. My son has grown up with me working on golf courses his whole life, and I am getting better results out of these two people than I was the previous people.

Mr. Berube stated that is fine. I am only reporting my concerns and what I see. I noticed that you imported a pest control technician a couple weeks ago, and we saw the results of him leaving fertilizer all over the streets.

Mr. Schafer stated that person came from Orlando and that was my call. Since I had a new person on site, I asked for an experienced technician. After seeing what he did, I ejected him from the property and he will not be back. I am getting better work from the person I am teaching now.

Mr. Berube stated I have been watching this for a long time and I will continue to report. I think the residents need to know what is going on and I am expressing my concerns.

Mr. Schafer stated Luke Brothers just purchased a new sprayer for me that will be a big asset. It is similar to what the golf course uses on their property. It is a significant investment on their part and is a much-appreciated asset and is already being used on the property. I have seen better strides with pest control since we acquired that equipment. We will continue to do the best we can. I hate to come here and complain every month and I want to be able to come here and say we had a great month. Last month was very

tough. The turf is used to a 3:00 p.m. shower every day, so the roots do not seek water and they stay very shallow. When the rain stops and the grass has to search for water, that puts it under stress. Last month, everything was very stressed. I think we made the right decisions in how to maintain the property, and we lost a lot of turf and that makes the chinch bug problem twice as bad. All we can do is treat the chinch bugs as we see them and get the turf recovered. If it does not recover, then we will replace it. I think we did better this year as far as turf loss than we did last year, and our goal is to eliminate all turf loss.

Mr. Walls stated I appreciate the work you do and I think there has been a noticeable improvement in the last several months. I do share some of Mr. Berube's concerns, but I want to let you know that how I evaluate you will be if the property in the back looks as good as it does in the front. I want to see as consistent a quality throughout the community. I have seen some of the issues Mr. Berube mentioned. I live down the road from him. I want to see the internal parks and median strips look as nice as the front entrance.

Mr. Schafer stated that is my goal, too. We are spraying fertilizer now to offset some of those issues. Some of the other striping that you see is because we applied fertilizer to very dry turf. The weather has cooled off and even though we still have not received much rain, things should start to level off now.

Mr. LeMenager stated I think we need to constantly remember that we are a policy-making body and not a management organization. To the extent that we get down to specific properties, those comments have to go through the person who manages Luke Brothers, who is Mr. Haskett. I think we spend a lot of time at these meetings going over specific management of things when we are not a management body. We are a policy body.

B. Aquatic Plant Maintenance – Bio-Tech Consulting

Mr. Medlin 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. Medlin stated we had two treatments to the pond this month, one on the 11th and the second today. We will be focusing on treating algae today. This is the time of year when things start to slow down and allows us to get caught up on things. You may have

noticed some of the plantings that may have gotten brown and fallen over, which is normal for this time of year. It will keep doing that through the spring.

Mr. Berube stated I think we all agree that we should defer action on additional plantings until later in the year when cooler weather arrives. Is this cooler weather?

Mr. Medlin stated yes, it certainly is.

Mr. Berube asked based on what you are seeing and what we did before, should we do more plantings?

Mr. Medlin stated yes. They did really well and stayed standing, which normally some will tend to fall over. The water level is really low right now and they are still standing up. All the previous ponds that have been planted are doing very well. I expect that the next set of ponds will also do well.

Mr. Berube asked would you provide a proposal, perhaps for next month, on what you would recommend for the next set of plantings? I think they are beneficial and I would like you to focus on the ponds that are in residential areas, if that is practical. That is not to say we should stay away from the golf course ponds, but we should enhance the ponds that people see on an everyday basis.

Mr. Medlin stated yes, I will provide a proposal.

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. Berube stated last month we were going to send a letter to the sheriff's office and this seems like the appropriate time to report on that.

Mr. Qualls stated the District Manager drafted a great letter that said the sheriff is authorized to issue trespass. I changed that slightly because in my opinion, this is the sheriff's jurisdiction as being an unincorporated area of Osceola County. Of course the sheriff is authorized; that is what the sheriff does. We changed the tone of the letter to say that we are looking for discussions with them for increased patrolling in this area. We explained what the District is, and we explained that there has been an increase in vandalism and trespassing instances. I think the letter also does have some language about issuing a trespass. We may need to tweak the letter slightly to include that. The letter is substantially complete and should be mailed by the end of the week. We hope this letter will open the door to having some communication and it is a friendly way to say we are having some issues and is there a way we can get more patrols out here. I

believe that I misspoke when I said that in the past we had done agreements between a District and a sheriff's office. We did that once but in reality, there is no basis for an agreement. This is not two local governments and this is not a local government and another party. The tone of the letter is that we are asking for their help. We have had an increase in vandalism and other trespassing incidents. I did not list every incident, including the recent one we had a month ago, but just listed other incidents. That is the spirit of the letter and if anyone wants to add anything, please let me know.

Mr. LeMenager stated I read the minutes and I heard some rumblings in the community about what happened. Can we actually ban a person from one of our facilities?

Mr. Qualls stated the answer legally is no. These are public facilities and you cannot restrict or prohibit access to public facilities. Let me be clear, however, just because you cannot ban someone from visiting public facilities, you can regulate access. Think about a City swimming pool. All of the public is welcome to attend, but you cannot drink alcohol, you cannot have glass containers, and you cannot go in after hours. That is all under the parameters of regulating access. You cannot restrict access, but you can regulate access. I think it is important to do so when carrying out the provision of infrastructure, because if you do not regulate it, then presumably anyone can go in there and do anything they want, and then you can be perceived as not carrying out your duty to provide maintenance to the infrastructure.

Mr. Walls asked in the instance that happened with Mr. Belieff, if the sheriff had given a trespass citation, would that restrict their presence? Could they come back later?

Mr. Qualls stated I would think that they could, but now that is an issue for the person who has been issued the trespass. The normal parameter is that a prosecutor would look at it and choose whether or not to bring charges. In this situation, it is my understanding that the individual came back out later, apologized and used the boats and everything was fine. I do not know if you could say that if someone has trespassed once, they are banned for life. I think the consequences for a trespass are often a fine and perhaps there are some misdemeanor consequences, but I do not think you can ban them for life from using the facilities. They can use them, but they have to obey the rules of the District because those rules ensure that the Board is carrying out its duty to manage the works of the District.

Mr. Berube stated I have dealt with this on the HOA side, and when the sheriff is called, he is given a citation. The sheriff has a copy of that citation. The person can come back since there is nothing restricting him from returning, but if he gets out of control and the sheriff is called, they will look in their records and note that he has been given one citation. The second time, he is subject to arrest. It just gets it on paper. It is only enforceable if it needs to be enforced, but otherwise they have free access.

Mr. Qualls stated Mr. Belieff does an unbelievable job in his role. I had a discussion with him, just to remind him that in instances like what happened to never put himself in harm's way. That is why it is important to have increased law enforcement. Let the sheriff handle those instances. At the end of the day, it is never worth bodily harm to preserve the works of the District.

Mr. LeMenager asked have we made any progress in hiring Mr. Belieff's assistant?

Mr. Tome stated the position that we are actually hiring is a maintenance position, not specifically an assistant dockmaster. There was an assistant field manager position that was approved, but it is not specifically included in the job description that they will be serving only as an assistant dockmaster. It may be semantics, but we want to be sure that there is not a misconception of what their job duties are. If someone is hired to be the assistant dockmaster but now they are removing trash and cleaning toilets, we do not want to send the wrong message. The point is, we received about 10 résumés from the Severn Trent website, and we have three interviews scheduled for Monday. Each candidate will spend about 30 minutes with Mr. Golgowski, Mr. Haskett and me in a round-robin fashion. Hopefully from those three we will be able to find the right candidate and be able to make an offer. We want to be sure of the process once they are selected, such as background checks and drug testing. One of the things that Mr. Haskett noted is that Jan Pro's formal termination notice ends November 30, 2010. As of December 1, 2010, we are without someone to clean the restrooms. We will do our best to find the right candidate and present them to Severn Trent.

Mr. Moyer stated I think it comes down to the drug testing.

Mr. Berube stated hiring through Severn Trent is a much bigger and more complex umbrella of procedures that have to happen than you would otherwise go through, which is why it is taking so long.

Mr. Moyer stated it is a multi-billion dollar company and there are a lot of procedures with big companies.

Mr. Haskett stated hiring an employee is one thing. Setting up the entire system for the employee is a monumental task. There are a few things that have to also be taken care of. We need a vehicle for the person to drive. I provided specifications for a Kawasaki mule, which I think is the best selection for that. I have asked for a contract agreement for it and I have not received it yet. I hope to get it tomorrow, and the cost will be about \$8,500. We will need a place to store it. We have a 40-foot x 8-foot Mini Mobile that the development company has purchased. We are recommending that the Board purchase a similar 20-foot unit, which is \$1,591 plus delivery. That will be to contain the vehicle, supplies, tools and things of that nature.

Mr. Evans asked where do you plan to put it?

Mr. Haskett stated Mr. Tome and I discussed putting it by Luke Brothers. The District really does not have property that would be appropriate for a Mini Mobile, which should be considered in the future. There is really no area for a maintenance person or other field person to use as an office.

Mr. Berube asked how much more is it to get a 40-foot Mini Mobile?

Mr. Haskett stated a 40-foot unit would be about \$2,200.

Mr. Berube stated we would be getting twice the space for half the money.

Mr. Haskett asked do we need twice the space?

Mr. LeMenager stated the one thing I would like to see this body do is have a workshop or two in terms of the vision that we have for the future. I think Mr. Haskett's point fits this perfectly. I think a lot of what we have done over time is firefighting and stop-gap measures. We are now in the process of hiring our second person in the community. Longer term, this was mentioned by the Chairman in terms of support that we receive from the developer. In the long term, this Board needs to hire the people to do that work. We have facilities here and this community will be a success when the developer is gone. We probably cannot fill more than a 20-foot unit today, but in terms of how the community develops and grows, we are pretty sure we will have more and more of our own dedicated staff working for us. If we can consider purchasing a 40-foot unit with the understanding that some of it will be empty for now, but we will be maintaining and supporting facilities for a long time. This strikes me as a better vision. One of the

things I have mentioned a few times is, how does this body put itself out of business. In theory, a CDD is a limited-life entity. But we have no exit plan with respect to what we do at the end. That is how this was setup. We need to think in terms of our exit strategy or else the bonds will be paid off but this CDD will go on in perpetuity. I do not think that is the purpose of the law.

Mr. Moyer stated the reality is that there are very few things to put yourself out of business. Because these are publicly owned assets, we cannot transfer them to the HOA at any point. The only exit strategy that the law provides for is if the obligations and responsibilities of the District are taken over by another local government, in your case, Osceola County would have to come in and start doing what we are doing. I do not see that ever happening. Realistically, once the bonds are paid off, you will still have a maintenance obligation on the asset. I think you will be here a very long time.

Mr. Evans stated the County will not maintain those assets at the same level.

Mr. Moyer stated no, nor should they. It is a totally different level of service that Counties provide. If they really wanted to get into this business, they could setup some Municipal Service Taxing Units (MSTU) or Municipal Service Benefit Units (MSBU). There are laws that permit Counties to do that. Chapter 190, Florida Statutes, says that the County can take over any of our powers simply by adopting a non-emergency Ordinance to do so. Yes, there are possibilities, but they are limited realities that they will happen.

Mr. Berube stated I agree with Mr. LeMenager that we need to be more self sufficient. That is why I provided this proposal. What it has done is shifted more burden to the development staff, and I think we need to relieve more of their burden. The next item on the agenda for the gate card reader proposals is intended to eliminate one more thing with them having to deal with people in the sales office for giving out keys to the pool gates. I agree that we need more of a long-term plan, but I am not sure we are at that point yet.

Mr. LeMenager stated it is something we need to think about.

Mr. Berube stated now, when something happens, we give it to Mr. Haskett and he will take care of it. He is responsible for everything. He has to watch the pool cleaners and the landscapers, but Mr. LeMenager is right. We need a more strategic vision.

Mr. Haskett stated we need to purchase a vehicle and get some supplies ordered.

Mr. LeMenager stated I seem to recall that we approved the vehicle purchase.

Mr. Berube stated that was included in the proposal. Regarding the items Mr. Haskett has to order, do we need to vote on them or can he simply proceed?

Mr. Haskett stated I would like to have much of this in place prior to the next meeting. Mr. Moyer or Mr. Evans will need to sign a contract for certain items, so I would need their approval.

Mr. Evans stated it sounds Mr. Haskett is looking for direction.

Mr. Haskett stated that is correct.

Mr. Berube stated the proposal contemplated \$10,000 for a vehicle. We are looking at a mule for \$8,500 and we need a place to store it which I did not include in the proposal but I thought about it afterwards. We are looking at \$2,200 for a 40-foot unit, which I think is what we need to get. That makes it \$10,800 for a vehicle and storage, which is close to the proposal and it takes care of two needed items.

Mr. Haskett stated with the other items, we are well within the startup costs that Mr. Berube outlined.

Mr. Evans asked what are we going to store in the additional 20 feet of this storage unit?

Mr. Berube stated Mr. Belieff has some things that he keeps in the developer's storage unit that should be in ours.

Mr. Evans stated you could store the kayaks or other things that you do not want to leave outdoors in inclement weather.

Mr. Berube stated that is correct. Mr. Belieff has a leaf blower that he uses to supplement the cleaning of the pool deck areas. It will house anything that we will acquire for maintenance activities. This new person will be a maintenance person who will be doing some painting, so he will need to store that, as well. Forty feet is not much when you start filling it up. I think we take the extra 20 feet of space.

Mr. Tome stated we will be well within the startup costs outlined in the proposal. The mule that Mr. Haskett identified will have a fold-down back bed to put tools and we are looking to get a pull-along for an additional \$600 to put trash in rather than putting it on top of the tools. That will still keep us within the budget for startup costs. The reason I am bringing it up is something like that can be purchased online but we do not have a credit card to execute this purchase.

Mr. Moyer stated as long as the Board is comfortable, I am willing to use my credit card and I will bill it back to the District.

Mr. Evans stated you could also get one at Tractor Supply.

Mr. Berube stated this maintenance person will have a gasoline-powered vehicle. How is he going to purchase fuel? I think we need to get a District credit card. We may need an agreement that outlines that this card is used for District purchases only. If you use it for personal use or if you do not provide the receipt, the District will not pay that bill. It does not make sense for him to constantly make small purchases for fuel out of his pocket and then get reimbursed. In his maintenance activities, he will also need items like toilet paper and cleaners, so a credit card will be convenient.

Mr. LeMenager stated we will have a gas station across the street. Can we open an account with them? There are other ways.

Mr. Berube stated the responsibilities of this job are still evolving and there will be small purchases that still need to be made. I think the credit card makes it practical with restrictions.

Mr. Evans asked does that provide the necessary direction to proceed?

Mr. Haskett stated yes.

Mr. LeMenager stated I would like to say we appreciate you asking. I recall saying once that just because something is budgeted does not mean you can go ahead and spend it.

FIFTH ORDER OF BUSINESS

Consideration of Gate Card Reader Proposals

Mr. Haskett stated we provided proposals from Chapco and Stanley. They are virtually the same equipment.

Mr. LeMenager stated both of these seem to only be talking about the two pools. I noted in last month's minutes, and I believe it was Ms. Snyder commenting, that we have three facilities.

Mr. Berube stated that is correct.

Mr. LeMenager stated any proposal that does not address all three does not work. Then we will have two where you need a card and one where you still use your key.

Mr. Haskett stated we believe you have three options. There is a much higher cost to install a card reader on the dock gate because it is not protected from the elements. That is why we did not consider that location originally. We could remove that gate and the

fence since we now have the gates secured through its own gate, which was the reason for having the smaller gate there to begin with, or we can remove the lock off the gate so there is still the appearance that it is a secure area and hopefully regulate access.

Mr. LeMenager stated we spent a lot of time discussing the sheriff and the problems that occur with people wanting to take beer and glass bottles down there. I appreciate that we have the gate on the dock to largely address the vandalism problem with the boats on the dock, but we will still have a small dock area with a lot of equipment in that closet. Plus we know there are people who would like to fish with a bottle of beer, and we know those bottles will end up in the lake.

Mr. Berube stated people still walk through that gate.

Mr. Tome stated Mr. Belieff is here at the meeting, and there is no one down at the docks now. If someone wants to do that, they could have been doing that for the past two hours if they had a key to get in. Or are you saying those who have keys do not drink but those who do not have a key do drink? That is what we wrestle with every day.

Mr. LeMenager asked using that same logic, why bother to regulate access to the pools? We either open them all and forget the idea of any security at all for three facilities, or we treat them all the same. I do not see any argument for treating our facilities differently.

Mr. Walls stated I like the idea of taking the lock off the gate. The fence is only 3.5 feet tall and if someone wants to, they can jump over it. We have a gate that protects the boats. I like the option of removing the lock altogether because then you do not have to worry about it.

Ms. Nancy Snyder stated but you will have a problem down there with children who can get through the gate. In addition, there are canoes and kayaks down there on this side of the gate.

Mr. Berube stated they are locked up.

Mr. Haskett stated that gate and fence have always been there, and yet they still do their paintballing and other damage to the facilities. So the gate did not help that at all since those activities occurred with the gate and fence in place. It did not serve much purpose, which is why we went with the larger gate and security at the dock.

A Resident stated there are a lot of little kids in that area who wander away from their parents and may wander down to the water

Mr. Evans stated that is a very good point.

Mr. Berube stated they can walk 100 feet in the other direction and go into the pond because there is no fence there. We need to be careful in how we perceive the use of that fence and gate to say it is to keep people out of the lake. It is even easier to go down the steep embankment and go right into the pond; there is no fence.

The Resident stated there is something around the lake to attract kids to the lake.

Mr. Walls stated I think keeping the fence is good and putting a latch on the gate that a small child cannot reach.

Mr. Belieff stated taking that fence down would be the worst thing you can do. If it was up to me, I would have a fence that is at least six feet tall. That would eliminate so many problems. You can look at spending a lot of money on new cards, but people will jump the fence constantly, right in front of you. A higher fence will keep people out.

Mr. Berube stated we walk a fine line here. We have a development that we invite people to come to, and we actually had a festival recently where many people came, drove through the community and some people bought houses. That is the whole point of this community, to sell houses and fill out the community. We also have two little signs provided by the Rotary, beautiful signs designating this is Buck Lake. Then 100 or 150 feet behind that is a big sign that shows a picture of the dock and the lake that says to experience Buck Lake. If you continue 100 feet toward Buck Lake, there is a big black fence with a lock on it that basically says these are our rules, we do not want you here, get out. Why do we even have both with the nice little signs? I think the big black gate and fence should be removed. This is a beautiful area. We have a lot of weddings here. Brides want to walk out to the dock to get their picture taken, which is a beautiful setting. But there is a big black fence in front of them and they cannot get to the dock. They have to trudge down the needle pine trail, but it would be nicer if they can get up to the edge of the docks.

Mr. LeMenager stated you can drive right up to the dock now.

Mr. Berube stated you have to get through the fence.

Mr. LeMenager stated I have been out there when the caterer was driving their truck onto the dock, which is why I presume there is now an extra post there.

Mr. Berube stated you have to know someone in order to get through the fence.

Mr. LeMenager stated there is a car gate.

Mr. Berube stated it is locked.

Mr. LeMenager stated they obviously had a key because they got through. We need to keep the fence for sure. Whether or not the gate needs a lock is another matter.

Mr. Berube stated kids get through the gate and they jump the fence, which is even more dangerous considering the spikes.

Mr. LeMenager stated we have already said that the only people who are restricted are children, and we let parents define the appropriate age of their children for access. Smaller children are allowed as long as their parents give them permission. Perhaps we do not need a lock, but we still need a fence. I am somewhat swayed by Mr. Belieff's comment that perhaps we need a taller fence.

Mr. Berube stated then we should raise them all. The question is, what are we going to do about a card reader at the dock. I think we have had this discussion. I think most of us have said we need to keep the fence and the gate if we are going to keep the fence. It sounds like we are in favor of removing the lock and installing a latch.

Mr. LeMenager stated I think it sounds that way, too.

Mr. Haskett stated if we notice an increase in damage or trespass, then you can consider it again.

Mr. Berube stated we always have the ability of installing a card reader if it becomes a problem in that area.

Mr. Belieff stated that means it will be open to the public. If there is no lock on the gate, then anyone who comes here will be able to go out on the dock.

Mr. Berube stated that is correct.

Mr. Belieff stated if you remove the gate, then they will be able to drive their vehicles right onto the dock.

Mr. LeMenager stated we are not talking about removing the gate. I may vote to remove the lock but never to remove the gate.

Mr. Berube stated the reality is, if people want to get down there, they will get down there.

Ms. Snyder stated not little kids.

Mr. Berube stated we are keeping the gate and the fence.

Mr. Belieff stated when people come up to the gate and see the lock—these are not residents of Harmony—they will turn around and go the other way. It eliminates a lot of

hassle having the gate down there. You do not see what happens down there like I do. It is one thing after the next with people coming down there who do not belong and who are up to no good. If you proceed with this, it will make it harder on me as far as trying to implement the rules.

Ms. Snyder asked what about the liability for Harmony?

Mr. Evans stated Mr. Belieff is on the front lines. I think he deals with this every day. I think his comments should weigh very heavily on anything that we do. It is one thing for us to sit up here with limited exposure to the challenges, but he sees it every day. I value his comments, his dedication, and his patience in dealing with a lot of these problems. What is your suggestion?

Mr. Belieff stated it is the same as at Ashley Park pool. You can spend a lot of money on a card reader system when they are only going to jump over the fence or around the side of the building where they can trample it down and avoid the cameras. Right now, I am removing the rocks from the pool deck, but the kids who are jumping over the fence are the ones who are throwing the rocks and doing other things they should not be. With a higher fence, it will keep them from jumping over the fence. The front gate at Ashley Park is secure, but all they have to do is go to the side and get over the fence. It seems like you are wasting a lot of money. If we had fences that were secure, they will keep people out. If you go with the card reader, that will eliminate the problem we have with the keys.

Mr. Evans stated it sounds like we need both, a better security system and a better access. We need a comprehensive evaluation of the two because one does not fix the other. There are two issues. One is regulating access for those who should have it and the other is an impediment for those who do not have the authority to be there to begin with.

Mr. Berube stated I agree. Mr. Haskett has looked at both of those things, including raising the fences and using foliage that would deter jumping over the fence, such as cactus. The key card system is step one to regulating access. We are well aware of the problems with people jumping over the fence.

Mr. Haskett stated we needed to start somewhere.

Mr. Evans stated we are using somewhat of a band-aid approach. We thought all of the smaller steps would solve the problem, and that is fine. The problem is obviously much greater than what we originally thought due to the nature of people coming here.

Maybe we need to take a comprehensive look at additional fencing along with the card reader to come up with a total package of what we need.

Mr. LeMenager stated I wonder if we should get more feedback from the community because we have three people in the audience who made good comments. This is related to my comment from a few minutes ago. What is the solution? We want to make what we have attractive, but at the same time, they are expensive facilities and we want to protect them. I am really of two minds on the dock.

Mr. Belieff stated I am assuming that the dock area is for the residents since that is what it says on the sign. If you remove the lock from the gate and put on a latch, everyone will be coming down to the dock to fish. That is what I point out to people when they are on the dock. If they are a resident, like it says on the sign, they are allowed to come down here. Otherwise it will be a public area where anyone can come and fish on the dock. It makes it hard to enforce the rules.

Mr. LeMenager asked what are we allowed to do in our contract with the owner of the lake? Can we allow anyone outside of Harmony to use the lake?

Mr. Evans stated there is a licensing agreement to allow residents access to the lake.

Mr. LeMenager stated under that licensing agreement, we may actually be required to have a lock.

Mr. Tome stated the contract does not specifically say that there even has to be a gate or a lock, just that there be a use agreement between the two parties for the use of the residents.

Mr. LeMenager stated there is no way we could ever guarantee that if we do not restrict access.

Mr. Berube stated if we are going to keep the fence and the gate, then we need to decide on a key, a latch, or a card reader.

Mr. Evans stated I think there are two things. I think we want an enhanced security system as far as the locking mechanism. The other thing is we may need better fencing. Do we need to enhance that barrier? Do we need to install shrubbery? Do we need to do something more as an impediment so people are not jumping the fence? Do we need a more enhanced welcome into the gate provided you have a card?

Mr. Tome stated if you install a taller fence, then you need to do that the entire length, but you need to still maintain a utility access for getting the boats in and out.

Mr. Berube stated keep in mind that people who really want to get through there can walk to the end of the fence, walk through the woods and get out the side. The fence goes into the woods only a few feet.

Mr. Evans stated we can always extend the fence. Many people will not want to walk through that mud. As I understand it, at least one of the things we need to consider is either replacing or enhancing the fence or raising it. As Mr. Belieff has said, his suggestion is to raise the fence to six feet tall, penetrating into the woods more on either side with more of a physical deterrent, whether it is landscaping or some enhancement to keep people from going into the woods. That is one component part. The other component is, what are we going to do for a latch for the pools and for the gate at the dock. That gets into whether we go with a Stanley or Chapco system.

Mr. Berube stated they both are very similar. The reason we did not include the marina gate in either proposal is simply because it is fairly remote and away from infrastructure, specifically electricity and internet monitoring of the cameras. The cost of the reader on the gate is minimal, probably \$400 or \$500, but you will probably spend \$2,000 to get the utilities it needs to its location. We could easily spend \$2,500 to secure that gate with a card reader.

Mr. Evans stated I have lost count of the number of times we have discussed this issue. Mr. Berube and Mr. Haskett have spent an enormous amount of time on this issue including research and understanding what our needs are. I think we need to determine what we truly need. We have done patch jobs so far. Do we need to run electricity? If it is another \$2,000 to fix a problem that will not go away, is that what we need to do? I think that is what we need to focus on, and let the dollars fall where they may. Then we can make our decision.

Mr. Berube stated the proposal in the agenda package is the result of our conversations last month. I purposely left out the marina area because I knew of the issues involved with it. I started with the two pools because we know we have problems there, and then we narrowed it down.

Mr. Walls stated I do not know if we need to find a fence or a security professional, but we should send someone to look at the three areas to identify the problem areas and how people are getting around and where. Then we need to identify what improvements we need to achieve the fencing enhancement. The second proposal we need is for three

card readers in those three areas. That is what I am hearing that we need to do. This proposal is good but it should be modified. We need to send someone out to the three areas to see what additional improvements need to be made so that our investment in the card reader is worth it, so that it keeps people out who should not be there and lets people in who should.

Mr. Berube stated that background work is largely done. The difference today is the addition of the marina area. These two proposals are vastly different due to internal items involved with each. The Chapco proposal includes new gates at both facilities with crash bars. I was going to steer us toward the Chapco proposal for the two pools. That will take care of the access through the gates at the two pools. We already figured out that we need to add two feet to most of the fencing here or add landscape provisions to discourage people from jumping over the fence.

Mr. Walls stated I think what we need next month is a comprehensive proposal that includes all the enhancements we need to make. Then if we approve this card reader proposal, it will work the way it is intended. I think we also need to take into account what Mr. Belieff said about the lake and the fencing height. Let us have a comprehensive proposal so that we can look at it and see if it makes sense. We need to see the whole picture.

Mr. Berube asked do we really want to put a six-foot-tall fence across the dock facilities?

Mr. Evans stated if that is what we need to do.

Mr. Haskett asked what is the purpose of the fence at Buck Lake? Is that to stop anyone and everyone except residents from enjoying the lake and walking on the dock? Or is it to protect the District's investment in equipment and boats? The reason I ask, you can have a gate that goes to the boathouse that secures that area. If it is the worry about people coming in off the street to fish and we do not want them fishing there, then that single gate will not help and we need to leave the one we are talking about. We could relocate that whole fence system toward the power supply instead of bringing power to it, which will save money.

Mr. Evans stated fundamentally we have a license agreement with the owner of the property that allows the District to have access purely for its residents, period. That is where we need to start. Then we consider how we are going to respect that agreement and

what steps the District needs to take to honor their obligation under that agreement. If it means putting up a fence to keep non-residents out because they are not benefitting from it, then that is where we need to start. That is the step that we need to get to.

Mr. Tome stated the Stanley proposal contemplates a picture swipe card and the Chapco proposal is a generic swipe card. If we have a six-foot fence but people can still get around it, soon they will figure out how to bypass that. If one of the issues is to keep people out who are not residents, and you are thinking about raising fences and gates, which will cost money, an option is definitely to consider the proposal with the picture on the card.

Mr. Evans stated I like the picture swipe card.

Mr. Walls stated I am fine with that. I think then the issue is, at what age does everyone receive a card? Does every kid have a card? I am sure Mr. Belieff deals with kids under 18 using the facilities. That is a policy that this Board will have to decide. Does a 10-year-old get a card? Does a 17-year-old get a card?

Mr. Tome stated that is a policy for the Board to decide. You could issue cards to kids as soon as they become 13 or whatever age you determine is appropriate.

Mr. Berube stated we have age restrictions on the pool.

Mr. LeMenager stated we have addressed those before.

Mr. Evans stated it also impacts trying to get the sheriff to assist. If he is aware that residents need an access card with a photograph, he can ask them for it. He may not be able to enforce our policies, but he can sure raise a concern to that person.

Mr. Berube stated with or without a photograph, those cards will be unique to us. The keys are generic. It does not matter to me if there is a photograph on the card.

Mr. Evans stated I like having a photograph because it is unique and specific. It avoids handing them out to friends. That is where a lot of our problems are coming from is people are making copies of the keys and distributing them.

Ms. Snyder stated in the past we agreed to a lower age for kids who can fish on the dock since the CDD does not allow people to fish in the neighborhood ponds.

Mr. Evans stated we can monitor that, but I like having pictures.

Mr. LeMenager stated I concur completely. Cards without pictures is a lot like our keys. The problem with the keys is we have made thousands of copies but there are only a few hundred people living here. That is the problem. I appreciate that we are going to

spend more on a system to have a picture on a card, but if we are going to do this, then we need photo identification.

Mr. Berube stated there is nothing that Stanley offers that Chapco cannot do. The cost of printing the cards is separate from what Chapco is going to do.

Mr. LeMenager asked can Chapco provide printable cards?

Mr. Berube stated I do not see any reason why not. That is a separate unit that is sold separately from the card readers. We just need to get a printer and the ink.

Mr. Evans stated I think the direction is we are looking for a card reader that has a picture. We want to look at enhancing the security areas around both pools where people are jumping the fence, and we want to look at securing the dock area, whether it is raising the fence, securing the fence, or relocating the fence, whatever we need to do to secure that area. Let the numbers fall where they fall. Then we will review the complete proposal. Right now we are mixing and matching. We need to identify what we need. We have discussed this at great length and Mr. Haskett has worked on this many times every time we change our direction.

Mr. Berube stated there are two ways we can go with the fence. I do not think we need to change the fence. It has a flat top and we can add an extension to the top. Or we can potentially plant the right type of greenery, and I like the greenery approach to discourage people from jumping over the fence.

Mr. Evans stated I still want to raise the fence. We will leave that to Mr. Haskett to research and determine what will be effective.

Mr. LeMenager stated I want to thank Mr. Berube and Mr. Haskett for the incredible amount of work they are doing. We will get there.

Mr. Berube stated we need to get it done right, which is why we are having these discussions.

SIXTH 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.

B. Invoice Approval #127 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. LeMenager stated there was a large payment of \$21,000 to Public Risk Insurance Agency and I wonder exactly what that is for.

Mr. Moyer stated that is our annual liability and property insurance premiums.

Mr. Berube asked why did it exceed our budgeted amount?

Mr. Moyer stated as we add property, the premium is increased. We budgeted \$19,850. We will have a budget amendment during the year to true up that expense.

On MOTION by Mr. LeMenager, seconded by Mr. Berube, with all in favor, approval was given to the invoices as presented.

C. Consideration of Engagement Letter from Grau & Associates to Perform the Audit for Fiscal Year 2010

Mr. Moyer reviewed the engagement letter from Grau & Associates to perform the audit for fiscal year 2010 in the amount of \$8,000.

Mr. LeMenager asked can we get a discount? It is a pretty easy job, as I understand.

Mr. Moyer stated this District has a couple bond issues. For a full-scale audit like this, the cheapest you are going to get without any bond issues is \$5,000.

Mr. Berube asked is this the service that we paid \$15,500 for last year?

Mr. Moyer stated yes, we solicited for auditing services last year and awarded the engagement to Grau. We secured a significantly better deal.

Mr. LeMenager stated so it is at a reduced price then. Good job!

On MOTION by Mr. Walls, seconded by Mr. LeMenager, with all in favor, approval was given to the engagement letter from Grau & Associates to perform the audit for fiscal year 2010 in the amount of \$8,000.

D. 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.

Mr. Berube stated last month there was a request for follow up and I gather there is a system in place. Is that working to everyone's satisfaction?

Ms. Burgess stated yes, Ms. Tschinkel has been emailing the log to Mr. Tome and Mr. Haskett every Friday. When you see an item in the complete column with Mr. Haskett's initials, you know that he has physically confirmed the completion of that item.

SEVENTH ORDER OF BUSINESS

Staff Reports

A. Attorney

Mr. Qualls stated you asked about liability, and my answer does not change. When you are acting in your capacity as a District official, you have no personal liability. To be clear, if you act outside of the scope of your District capacity and you violate the Sunshine Law or the ethics law, there is precedent for being held both personally and criminally liable.

Mr. Evans asked was there someone prosecuted recently in Escambia County for ethics violation?

Mr. Moyer stated yes. I read the correspondence within the community and perhaps I am more sensitive to some of it, one of the questions being why does this Board listen to the attorney because a member of the community thinks he is wrong. If you go outside of what the attorney tells you, then you are responsible for your actions, so you pretty much have to listen to the attorney.

Mr. Berube stated that has always been my argument. I may disagree with the attorney, but I follow his advice.

Ms. Burgess stated part of the insurance invoice you just discussed covers you as Board members making decisions in your capacity as a Board member. If you are acting within your scope but someone brings a lawsuit against you, that insurance covers your defense.

Mr. Moyer stated that is correct, if you are acting within the purview of your authority.

B. Engineer

Mr. Boyd stated I am following up on the issues with Waste Management and I have finally reached the right person to setup a meeting. Mr. Berube asked to be involved and I will provide a map to Waste Management and work to resolve those issues.

Mr. Berube stated for the benefit of the audience, we have paid to repair several of our alleys over the past couple years. In a couple locations, the Waste Management trucks go the wrong way down the alleys, which ruins the turning radius and causes the damage. It is still happening and Mr. Boyd is trying to work with them to get them to drive the correct direction down the alleys.

Mr. LeMenager stated I thought about this when I was in Celebration at one of my rental homes, and one of the community's custom trash trucks drove by. The reason

Celebration went to smaller customer trash trucks is because they are also a community with alleys. This is a problem we will have forever. It will never go away because we have built alleys that were never designed for heavy traffic. I am not sure this will ever cease to be a problem.

Mr. Boyd stated the alleys will withstand large vehicles if they drive the correct direction. The asphalt is a little lighter than the County roadways, but the pavement will withstand those vehicles if they are going the right direction.

Mr. Berube stated if they go the wrong direction, it is definitely difficult for them to make the turning radius. They used to drive over my lawn constantly, so I put three big red reflectors in my yard and it solved that problem. It forces them onto the blank lot next door, but at least my grass is not damaged.

C. Developer

Mr. Haskett stated Ms. Kassel had a question last month about the Chapco invoice for \$450. I met with her at the dog park and discussed that and other issues, which have since been resolved. The invoice was not for a project that the development company had done for modifying the fence. It was specifically for adjustments to existing gates that needed to be repaired, not for any work the development company was doing. If you have any questions throughout the month, please call or email me at any time. Do not feel that you have to wait for a meeting to bring issues to my attention.

Mr. Evans asked did we pull that invoice last month?

Mr. Haskett stated yes, and I have not had a chance to submit it for an agenda.

Mr. Evans asked have you reached satisfaction and it was more of a narrative explanation that needed correcting on the invoice more so than the scope?

Mr. Berube stated the description was not clear and she presumed it was for some other project.

Mr. Haskett stated it was work done as part of a much larger invoice that the development company was doing for \$2,900. No one had access to that other invoice to have that information.

Mr. Evans asked will they resubmit the invoice?

Mr. Haskett stated I will have them resubmit the invoice for the next meeting.

EIGHTH ORDER OF BUSINESS

Supervisor Requests

Mr. Walls stated I am happy to be on the Board serving with you all and I want to wish everyone a Happy Thanksgiving.

Mr. Berube stated welcome to the Board.

Mr. LeMenager stated it is wonderful to have a meeting where we do not receive a lot of paperwork right before the meeting. One thing I want us to consider is to somehow formalize what the rules are if something is brought to us without being on the agenda. I think we need something. If something comes to us at a meeting, it could still be approved but perhaps only on a unanimous basis. I would like to codify that if it is on the agenda, then normal voting rules apply. But over the course of the year we are surprised with things from time to time. As an example, we considered a \$15,000 proposal for Luke Brothers to trim the trees. I do not think any of us totally understood it, but we did approve it. I would like to formalize our rules for items in the agenda and rules for last-minute items. Some governments are much stricter and if it is not on the agenda, you cannot vote on it. I am not sure we need to go to that extreme, but I would like to codify some policies.

Mr. Berube stated I think that is an interesting point. That is the reason for advertising a meeting and providing an agenda in advance, so that interested parties can come and have an idea of what will be voted on.

Mr. Moyer stated this Board can add items to the agenda by motion if you feel that it is critical. If staff brings an item we think is critical, the Board can make the decision if it is critical and act on it or to put it on the next agenda. If you do not amend the agenda to include it, then we put it on the next agenda. You can do that on a case-by-case basis and not have any problem.

Mr. LeMenager stated I would still like to see it codified. I will make that proposal to include on the next agenda.

NINTH ORDER OF BUSINESS

Audience Comments

Ms. Snyder stated I have one small concern. One of the residents stood up at an event recently and said he has an internet blog and that Mr. Walls was completely behind him on that. I have a question for the attorney as to what he should do on that blog because he has always advised against us participating in that as Board members.

Mr. Walls stated that was said without any involvement on my part.

A Resident stated regarding the incident that happened at the dock, I received a phone call regarding the inaccuracy of that report. Before I make any comments, I would like to know if I can get a copy of the minutes last month to see what was said about the incident.

Mr. Evans stated as far as I know, everything was resolved.

Mr. Qualls stated that conversation will be in the minutes.

Ms. Burgess stated the entire agenda package for today's meeting, including those minutes, is already on the website on the Agendas page. The minutes are not yet separately posted on the website. Had the Board made any changes to the minutes in their agenda package, then I would make those changes and then the final approved minutes will be posted on the Minutes page of the website. But right now, the draft minutes are included on the Agendas page.

The Resident asked when will they be available?

Ms. Burgess stated since there were no changes to these minutes, I can have them on the website this afternoon.

Mr. Moyer stated give us until tomorrow and those minutes will be posted on the website on the Minutes page.

Mr. Berube stated the reality is, what he is looking for, we did not change anything in the minutes so if he looks at today's agenda package, it includes the minutes from the past two meetings and he can read what we discussed.

The Resident stated the story that I was told is different than what I am hearing.

Mr. Berube stated the story that was told at this meeting will be in the minutes for last month's meeting, and you can read them. Be aware that sometimes stories told in the community may be different than what is discussed at our meeting.

The Resident stated I spoke with the person involved the next day and I am hearing a different version.

Mr. LeMenager stated keep in mind that these are not verbatim minutes.

TENTH ORDER OF BUSINESS

Adjournment

The meeting adjourned at 11:15 a.m.

Gary L. Moyer, Secretary

Robert D. Evans, Chairman