

# MINUTES OF WORKSHOP HARMONY COMMUNITY DEVELOPMENT DISTRICT

A workshop of the Board of Supervisors of the Harmony Community Development District was held Thursday, March 24, 2011, at 9:00 a.m. immediately following the regular meeting at 7251 Five Oaks Drive, Harmony, Florida.

Present from the Board 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 ( <i>by phone</i> )	Attorney: Young vanAssenderp, P.A.
Brenda Burgess ( <i>by phone</i> )	Moyer Management Group
Greg Golgowski	Harmony Development Company
Todd Haskett	Harmony Development Company
Residents and members of the public	

## FIRST ORDER OF BUSINESS

### Roll Call

Mr. Evans called the workshop to order at 11:25 a.m.

Mr. Evans called the roll.

## SECOND ORDER OF BUSINESS

### Discussion of an Amendment to Chapter 1, Rule 1.5 of the Rules of Procedure Relating to Access to Parks and Recreation Facilities

Mr. LeMenager stated I think it is very wordy the way "Resident" is defined, and the fact that it is done twice. That is a lot of detail. You could have a much simpler definition of who is a resident. I think a resident is someone who owns or lives in property within the boundaries of the District. The rules frequently reference "Harmony" and there is no definition for Harmony. When we define residents, we need to talk about residential property within the boundary of Harmony CDD.

Mr. Qualls stated I am open to any suggestions to make things clearer, which is why I think these workshops are so valuable. I will make that definition more straight forward, perhaps to say that a resident is someone who owns property or lives within the boundaries of the District.

Mr. LeMenager stated that is nice and short and simple.

Mr. Evans stated I originally drafted that particular section, so let me explain why it was drafted that way. We are talking about who has access to these facilities, and it comes from a number of classifications. Throughout this document we refer to “residents” having access to these facilities or a non-resident. The definition of resident is not just someone who owns property in the District. They may have a tenant in their property, and that tenant has access to these facilities. If they are a resident of another State and this is a second home, they still own property here and they still have access to these facilities. What I was attempting to do with the definition was to describe as many of the occupied conditions, which is why I expanded it. Whether or not it needs to be repeated multiple times, I do not know.

Mr. Walls stated I am fine with the detail. The more detail, the better for me. I do not think it needs to be repeated twice. Perhaps you can provide for definitions and then just use the term “resident” throughout the document.

Mr. Evans stated I am trying to maintain some sort of consistency. If someone wants to use the Buck Lake facilities and that is the only section they read, they will only see that component part. Then they may turn to the section referring to the swimming facilities. They have a tendency just to read the parts of interest to them. I do not have a problem with the redundancy of it because a lot of them just do not read everything.

Mr. Walls stated that is not a big issue for me.

Mr. Berube stated we may add other facilities later that need further definition.

Mr. Evans stated you can pull out one excerpt instead having to go through it and look for the definitions relative to that.

Mr. Berube stated I think it is fine.

Mr. Evans stated I want to raise a question about the cards and the access. Are we in agreement with the language on page 5? Or should we discuss this document page by page?

Mr. LeMenager stated I think “Harmony” needs to be defined as within the boundaries of the Harmony CDD.

Mr. Qualls stated these rules are a subsection of the overall rules of the District. I believe that it would be clear from that standpoint, although I am always in agreement that it helps to make things more clear. Wherever “Harmony” is used in these rules, it is referring to the Harmony CDD.

Mr. Berube stated the title does say that when you read it.

Mr. LeMenager stated it does not say that. We have a number of facilities that were built and paid for by this CDD. We know there are plans for other CDDs which will also be generically called "Harmony." I would like to go on record by saying that these amenities that we have built so far are built for this CDD. To the extent that the other Harmony CDDs eventually wish to use them, that is something for us to consider at a future date. I would like to make it very clear that these are the rules that apply to residents of this CDD.

Mr. Evans stated it sounds like you are simply asking for the insertion of "CDD" anywhere it references "Harmony resident," so that it reads "Harmony CDD resident."

Mr. Berube stated the title already refers to the Harmony CDD. The other Harmony Districts are Harmony Central CDD and Harmony West CDD. I think the title already covers it and if we look at the bigger set of rules, it is addressed. I presume we can simply add the specificity to refer to Harmony CDD.

Mr. Evans stated I suggest we reference "Harmony CDD resident."

Mr. Qualls stated I like that comment. In section 2.1(a)(1)(i) will read "a property owner that currently resides in their home within the boundary of the Harmony Community Development District."

Mr. Evans stated I like the definitions. I tried to cover all the bases because we will always receive the question of how it applies.

Mr. Berube stated several months ago we discussed ages for access to the docks. Section 2.1(c) refers to 12 years old for access to Buck Lake. While I am fine with that insertion of age and I think it is probably appropriate, we debated that a little and decided to leave the definition as "children" with no specific age requirement. I do not know if that was a good move or a bad move.

Mr. LeMenager stated I think the problem you have there is now that we are going to have identification cards, do we need a specific cut-off age. We are discussing how to issue access cards, and I think our plan is anyone 12 and older will receive a card. While our thought was that it is up to the parent to decide when someone is a child and when someone can go to the docks unsupervised, now we actually have a need for a specific age. I was thinking that our basic feeling was that children 12 and older can go to the docks and go fishing, but if you want to get into the pools, you need to be 16 or older.

Mr. Berube stated that is exactly right. We discussed different levels of access for the cards.

Mr. LeMenager stated that is correct. For unsupervised use of the dock, the child has to be 12 or older and for unsupervised use of the pools, the child has to be 16 or older.

Mr. Berube stated we have conflicting information on the signs at the pools: one says 16 and one says 18. If we are going to make that determination, then we will need to correct the sign.

Mr. LeMenager stated that is correct. I am fine with the age being 16 for unsupervised access to the pools.

Mr. Golgowski stated in order to use the boats, we have a sign posted that you must be 18 or older.

Mr. LeMenager stated that is fine for the boats because that is different.

Mr. Walls stated that is fine.

Mr. Evans stated section 2.1(c) will stay as written, to provide they must be 12 or older with a valid identification card.

Mr. LeMenager stated that is correct.

Mr. Evans stated then when we get to the rules for the pool facilities, the requirements are spelled out. We have identified the age for the issuance of the card but not for the access to the pool.

Mr. Qualls stated if the same card opens up the docks and the pools, I do not think you can give a card to a 12-year-old kid for fishing that will also allow him to go swimming.

Mr. LeMenager stated the card system controls what cards open which gates. That is not a problem.

Mr. Walls stated for the pools, Section 3.1(e)(i) has the age identified in the paragraph that will sunset after 60 days.

Mr. Qualls stated I will correct that.

Mr. Evans stated I would eliminate the age in Section 3.1(e)(i) and then have a separate sentence similar to what we have for the docks. So Section 3.1 would have a statement that "Pools are open to children aged 16 and older with a valid identification access. Children aged 15 and under must be supervised by an adult." That would be a separate section that will be applicable to the pool facilities.

Mr. Haskett asked under Section 3.1(e), would it make more sense to have that separated out into its own category?

Mr. LeMenager stated I agree. There should be a card issuance section. We are trying to do too much. There is nothing in the dock section that tells how to get a card. Perhaps we need a completely separate section on how to get an access card.

Mr. Qualls stated that is a good idea; I will make that change.

Mr. Berube stated 60 days after the effective date, that whole first paragraph will no longer apply anyway.

Mr. Walls stated Section 3.1(e)(2), the way it is written sounds like each resident will be entitled to four cards. I thought we were going to give cards to everyone, no matter how many in your household.

Mr. Berube stated we said for the first 60 days, there will be no charge for the cards with a limit of four per household.

Mr. Walls stated I thought we were giving them *carte blanche* to everyone.

Mr. Berube stated no, that is not what we said. We limited it to four per household at no charge. After 60 days, then they are \$10 each.

Mr. Qualls asked four per household or per household member?

Mr. LeMenager stated each member receives only one card, but the household can receive a maximum of four.

Mr. Berube stated we might consider changing this, but last month we discussed limiting the issuance to four per household for the first 60 days. That is what is memorialized in these draft rules.

Mr. Walls stated I thought we discussed if you live here now, you will receive a card during the first 60 days.

Mr. Evans stated when we first issue cards, there was a discussion that all the residents will receive a card under one of these definitions. If you are a resident under one of those categories, then you are entitled to a card. In essence, you could issue 10 cards to a combination of residents: the owner and their tenants. You could issue a lot of cards for one unit. If the home is sold and someone else purchases the home and moves in, that new owner receives four cards and any additional cards are \$10 each.

Mr. Walls stated I am fine with that. I would hate to penalize someone who buys a new house and has to pay \$10 for each card for the facilities that they are already paying for. I think if you buy a home, then you should receive free cards.

Mr. LeMenager stated that is fine for new purchases.

Mr. Evans stated it can apply to new residents, whether it is a new house or a previously owned house. Getting back to the first 60 days, if you qualify as a resident, you receive a card.

Mr. Walls stated that is my understanding.

Mr. LeMenager stated I am in favor of that.

Mr. Evans stated there is no limit on the number. We are trying to get the cards to people. After that 60-day period is up, if you lose your card, it will cost \$10 to replace. If someone else comes to request a card because they did not receive theirs during the first 60 days for whatever reason, we will issue up to four cards for that address at no charge. Any additional cards are \$10 each.

Mr. Berube stated yes.

Mr. Evans stated it does not matter the reason: they lost their cards, they just moved here.

Mr. Berube asked how do you handle people who purchase a property and move in after the first 60 days? The people who live here now have paid for this system because it is included in the current budget. A person who moves here tomorrow did not pay any CDD fees.

Mr. Walls stated they own the property.

Mr. Haskett stated someone is still paying CDD fees.

Mr. Berube stated yes, but the former owner left.

Mr. Evans stated his fees were prorated as of the sale date.

Mr. Berube asked how long into the future are we going to issue free cards? Forever?

Mr. Evans stated as a point of clarification, during the first 60 days, they are all free provided you meet the definition of resident. Is everyone in agreement with that?

*The Board indicated unanimous agreement.*

Mr. Qualls stated what I have now is that every resident in Harmony shall be entitled to a picture identification access card at no charge so long as the resident is authorized pursuant to the appropriate section to utilize the facilities, which will sunset after 60 days.

The next provision will say that each Harmony CDD resident shall be entitled to four picture identification access cards per household.

Mr. Evans stated I want to address the first 60 days. When this program starts, during the first 60 days, if you are a resident under the definition that we have defined as a resident, you receive a card if you are 12 years and older, free of charge.

Mr. Qualls stated that is correct.

Mr. Evans stated when this provision sunsets, we need to decide the policy going forward.

Mr. Berube stated a limit of four cards per household at no charge and then \$10 each after that. This will cover the majority of residents in Harmony anyway. I am not sure how many families larger than four are living here. I think it is a relatively small number.

Mr. Walls stated I am trying to avoid penalizing someone for buying a house and moving here. I think four free cards is fine. I think the wording needs to be changed around.

Mr. Berube stated the majority of people who live here are two adults and two or fewer kids. If the kids are under 12, there is no requirement to have a card anyway. To the point about a penalty, anyone who might be getting penalized by the \$10 could still end up paying zero. It sounds like we are all in agreement on four free cards per household and any additional cards at \$10 each, after the first 60 days.

Mr. Qualls stated the first rule that sunsets entitles everyone to a card.

Mr. Berube stated that is correct.

Mr. Qualls stated that rule will go away and then what will be left is a rule you are contemplating that says each household is entitled to four cards per household. One, I do not know how we define household. Two, I do not know how to enforce that. Why not simply say that each resident is entitled to one card but after that, all replacements are \$10?

Mr. Haskett stated right now, we only allow them two keys.

Mr. Berube stated that is correct, but we are expanding this. We are making it so that everyone will have a card. Right now they can pass that key around to 12 people and we do not know who they are.

Mr. Haskett stated you could limit the number to two cards.

Mr. Berube asked is the question from Mr. Qualls, how do we know how many people are in each household and have been issued a card?

Mr. Qualls stated my first concern is what is a “household.” I know that the language can make that clear and I think it is something that should be clarified. Second, how are you going to be able to enforce how many cards have gone to each household and those types of things?

Mr. Berube stated I think we addressed “household” as being one single address. When people are issued a card, it will be issued through a computer and there will be a data base that identifies that card and to whom it is issued. We can sort that data by any number of ways, including specifically by address. So we will know who has the cards, what the identification number, and all that information. We can look at a particular address and know how many cards have been issued. That is how we quantify the number of cards.

Mr. Evans stated there are not very many families who will need more than four cards. There are a few. Why argue with it? We do not even need a 60-day waiver if that is the case. If we say that you are a resident, then you receive a free card. A replacement card is \$10.

Mr. Walls stated that is awesome.

Mr. LeMenager stated I would support that.

Mr. Evans stated we are making a complicated rule for a possibility of just a few people. We will provide the definition of “resident” and if you are a resident, you are entitled to a free card at any time. If you lose it, then we need to replace it, which means we deactivate your previous card and issue a new one for \$10. That is to eliminate someone coming in every day to request a new card.

Mr. LeMenager stated then it has value.

Mr. Evans stated if you lose it, that does not mean that you gave it to your friend because we are going to deactivate that card. Someone will not be able to receive five cards and then hand them all out.

Mr. Berube stated we will put that in the card rules.

Mr. Evans stated this way we do not need a sunset provision. Everyone is paying their fees and we are not micromanaging this. We want to encourage people to come in to receive their cards.

Mr. Berube stated I agree with you. It makes everything much simpler. To what I said earlier, I am not sure there are any large families here. The enforcement will be that they have to prove that they live here.

Mr. Evans asked does that make it easier for Mr. Qualls to draft?

Mr. Qualls stated yes, much easier.

Mr. Evans stated that will be how we deal with the issuance of cards. Are there any questions as to what qualifies as a resident? We discussed a driver's license, identification cards and other methods of proving residency.

Mr. Walls stated I do not know if we can limit the issuance to cards to renters by just this one criterion, but I would like to have renters provide a copy of their lease agreement and require that as one form of identification. That will give a date certain when the lease expires and the cards can be deactivated after that lease period. If all we require is a driver's license, they could move but yet keep their access card forever.

Mr. Evans stated you are referring to requiring more than one piece of identification.

Mr. Walls stated you need to provide a copy of the lease agreement if you are not the owner of the property.

Mr. Berube stated I agree, we need to clarify this. We need two items to prove residency status. One should be a driver's license along with a deed, warranty certificate, or real estate tax bill that matches the address on the driver's license, or a driver's license along with a utility bill and a copy of the lease.

Mr. Walls stated I do not care much about the utility bill. The lease agreement is what will be the driving factor because it will show how long that person will live here. Perhaps we can partner with the HOA on this since the HOA is supposed to collect lease agreements. This could help with that effort.

Mr. LeMenager stated if the HOA does not have a copy of the lease, then your tenants are not going to receive access to the facilities.

Mr. Walls stated there are other legal issues associated with short-term leases, but this will tell us how long that person is supposed to be here and permitted to access the facilities.

Mr. Berube stated I agree. That is a great point. The reason I suggested two forms in addition to the driver's license is because anyone can go to Staples and purchase a Florida-friendly lease agreement and fill it in. We do not know if the lease is valid or not

since none of them are notarized. For renters, we should require a driver's license with a Harmony address, a utility bill with a Harmony address from a renter, and the third item can be a copy of the lease agreement. Does Mr. Qualls need to clarify what is required from an owner versus a renter?

Mr. Evans stated what we are suggesting is in Section 3.1(e)(iv)(1) to include forms of identification, (a) for a driver's license is always required, and one or more of (b) through (g) is also required. You need to have a driver's license and other identification. A current utility bill with your name and the Harmony address that matches the driver's license is pretty much an indication that the person is a resident.

Mr. Berube stated that works fine for a renter. For a renter, we need a copy of the lease agreement so that we know when to deactivate the card. An owner receives a permanent card.

Mr. Walls stated I think we need to differentiate what we ask for identification from owners versus renters.

Mr. Berube stated I agree.

Mr. Qualls stated I agree, and I have done that. I have one section on what is required from an owner and a separate section on what is required from a renter. I am hearing that for an owner, they have to have a driver's license or government-issued identification, plus one or more of the following things. Renters must also provide a copy of the lease agreement. Do you want to require something in addition to the lease for renters?

Mr. Berube stated yes, a utility bill. No one will be able to argue that because if you live here, you will be paying your own utilities, water and electric.

Mr. Walls stated that is fine.

Mr. Berube stated the reason I bring this up is because someone will administer this process for us, more than likely someone in Mr. Moyer's office. We need to have it defined. They need to have the rules clearly defined. It makes it easy for them. If someone comes in and start arguing with Ms. Rosemary Tschinkel, she can simply respond that these are the rules provided from the CDD. If they are clear, she will not have any hassles.

Mr. Walls stated similar to an additional document for renters, I think we need an additional document from an owner that proves current ownership.

Mr. Berube stated last year's tax bill or a warranty deed.

Mr. Evans stated a warranty deed just shows the date of closing.

Mr. Walls stated we can look up some of this information if we have time to do that.

Mr. Evans stated you can have a current utility bill with that address on it. It could be a telephone bill, cable or water.

Mr. LeMenager stated we are talking about someone who is purchasing a house as part of the whole process. The main documents include a HUD 1 and they should be directed to take that document to Mr. Moyer's office to get their access cards.

Mr. Evans asked what about a resident who decides six months later that they want to use the facilities, and he brings in a copy of his warranty deed?

Mr. Walls stated you can check it on the property appraiser's website.

Mr. Berube stated it needs to be simple for staff to implement.

Mr. Walls stated it is a two-minute search for them.

Mr. LeMenager stated I think that is over the top to expect staff to do.

Mr. Evans stated it is at the discretion of the manager as to the information being complete and current. If they think something is wrong, they have the ability to require the information they need to prove the resident's status.

Mr. Walls asked do you also have the assessment roll? You can check against that, as well.

Mr. LeMenager stated I am not sure that is updated that quickly.

Mr. Berube stated most people will have a driver's license and a utility bill. We are trying to qualify residents. Our biggest issue is deactivating the cards. Do we want to sunset these cards on a regular basis anyway for owners as well as renters?

Mr. LeMenager stated no because they have to drive to Celebration to reactivate their cards, and that seems to be an onerous requirement.

Mr. Walls stated that is my biggest problem with this.

Mr. Moyer stated if the community senses abuse, then the Board can discuss sunsetting all the cards and doing them all over again.

Mr. Berube stated if someone has a driver's license with a Harmony address and a utility bill, that pretty much qualifies them as a resident. That is sufficient without a warranty deed or other document. I think most renters will have a copy of their lease and we can activate their cards for that same lease term. We can have all these items listed

and leave it to Mr. Moyer's staff's discretion. If they sense something is wrong, they can deactivate the cards.

Mr. Walls stated that is fine. If you are a renter, then I want you to bring in your lease agreement. I do not think that is a hardship.

Mr. Berube stated it also forces people to keep their information updated since most people probably do not change their driver's license right away.

Mr. Qualls stated our firm represents tax collectors and the driver's license Real Identification requirement can get pretty hard to lay out a certain set of documents and manage if those documents are brought in. It can cause a lot of frustration. I suggest we put a catch-all under both of these that says "or other suitable proof of ownership or renter status." I am thinking about magazine subscriptions or newspapers. I think you want to make it as easy as possible for the residents of Harmony to access the pools.

Mr. Walls stated I am fine with that, but what I am trying to get at is a date certain to shut down that card when their lease expires. If we distribute them to renters, they may be there six months or a year. The card will never deactivate unless we know when to deactivate it.

Mr. Berube stated the reason we are discussing this is because we have a certain amount of abuse with the current key system. I respect what Mr. Qualls is saying, but I have a slight problem with "easy access."

Mr. Evans stated I do not think it is unreasonable to ask a renter to bring a copy of his lease.

Mr. Berube stated I agree.

Mr. LeMenager stated I think that is absolutely the norm and I do not think it is unreasonable.

Mr. Berube stated if the lease is on a month-to-month basis and we have several of those, that brings up a different issue for a different rulemaking body.

Mr. Moyer stated that is a good point. I do not want to cross lines between a government and a private enterprise, but if the deed restrictions have a minimum of six months for a lease, then we will not issue cards for someone who has a one-month lease.

Mr. Walls asked are they restricted to a one-year minimum?

Mr. Berube stated I thought it was seven months.

Mr. Evans stated it is seven months.

Mr. Berube asked do we need to incorporate that into the rules?

Mr. Evans stated I think that is micromanaging it.

Mr. Berube stated we can simply require a copy of the lease and see how many there are.

Mr. Walls stated the HOA can request a copy of those documents through a public records request if they wish.

Mr. Evans stated Section 3.1(d) below the document requirements identifies children 11 and younger for pool access, and that should be 15 and younger.

Mr. Qualls stated I also want to change another thing. When I identified non-resident and their ability to obtain entrance into the facility, I couched that as an annual membership in Section 2.1(a)(3). Since we are not giving memberships to anyone, may I change that to say that non-residents may obtain an access card?

Mr. Berube stated yes.

Mr. LeMenager asked is that an annual payment for their card?

Mr. Qualls stated yes.

Mr. LeMenager asked so an annual access card is \$250 each?

Mr. Qualls stated yes.

Mr. LeMenager stated I do not think you need \$1,000 for a family of four. It should just be \$250 each.

Mr. Evans stated the fee is \$1,000 for the family, whether there is one member or four members.

Mr. Berube stated the rule says \$1,000 for a family of four and \$250 for each additional card.

Mr. LeMenager stated that is only \$250 for each card.

Mr. Walls stated that requirement is that you pay \$1,000 annually, whether you have one person in your family or four people.

Mr. Berube stated it should be rephrased to say a family up to four.

Mr. Walls stated yes.

Mr. LeMenager asked why would we not want to sell these for \$250 each? That is income.

Mr. Berube stated it probably will not ever happen.

Mr. Walls stated I do not know that we want to be overrun with people requesting these cards.

Mr. LeMenager stated I do not think we are going to be overrun for \$250.

Mr. Qualls stated the intent is to find a price that matches what a property owner pays in assessments. There should be some correlation.

Mr. Moyer stated that is correct.

Mr. Berube stated Section 3.1(e) says a resident may bring a maximum of eight guests to the pool. I did not see a limitation on the docks. Can someone go to the dock and bring as many people as they want?

Mr. Walls stated the dock is not a space-limited facility like the pool. We can get 12 people on a pontoon boat, so you can bring a lot of people and still have room.

Mr. Berube stated if people are going to the left dock to fish, not the boat dock, if four residents each brought eight people, now there are 36 people on that dock area. That will be a problem.

Mr. Walls stated we are now dealing with hypotheticals.

Mr. Berube stated we have a rule for eight in one place but not in the other place.

Mr. Walls stated I am sure there are health department rules for how many people you have in a pool.

Mr. Berube stated if everyone is comfortable in not having a limit at the dock but having one at the pools, I am fine with that. I am just pointing out the differences.

Mr. Walls stated I am fine with it.

Mr. LeMenager stated I tend to agree with Mr. Berube for consistency sake. If you can only bring eight guests to the pool, it is already a high number of guests. What we discovered with the pool, the difference is the swim team likes to use it and one resident can bring 30 other competitive swimmers to learn new strokes at the pools, and that is perhaps not what we had in mind.

Mr. Berube stated I think eight is a high number, but it has been in place for a long time and it is probably fine.

Mr. Evans stated there are no proposed changes to the rest of these rules.

Mr. Berube stated I thought we were also going to discuss potential rules with respect to the ponds.

Mr. Haskett stated on page 11, Section 6.1(b) says the facilities may only be used from dawn to dusk. That defeats the whole Dark Sky Festival activities.

Mr. Berube stated we can clarify that to say it can be extended for special events. Does the Dark Sky Festival take place on CDD property?

Mr. Haskett stated yes, in town square.

Mr. LeMenager asked does that mean all the rules about 30 minutes before sunrise and 30 minutes after sunset do not actually apply?

Mr. Haskett stated those rules were implemented as the result of the swimming pool rules, which is a State requirement when you can be in a pool. That flowed into the parks.

Mr. Berube asked can we change the wording from District Park to District Recreational Facilities?

Mr. Evans stated they are all facilities.

Mr. Walls stated just add "as posted" if we have a rule for different areas.

Mr. Berube asked where does it say 30 minutes before sunrise and 30 minutes after sunset?

Mr. Walls stated our access-controlled facilities have signs that say when you can be there or not.

Mr. Berube stated even the dog parks have signs.

Mr. Walls stated I would refer to the posts at each facility.

Mr. LeMenager asked but then how do you decide what "posted" is? The point is, you have rules because of enforceability. It is my understanding that if something is not in this document, then it is not enforceable. You cannot just have a meeting and decide to change the age to 15. There is a process you go through, and we have to involve the public. If we want to have something, it needs to be in the rules; otherwise, someday someone will say that our sign does not agree with our rules and they decide to sue us.

Mr. Berube stated I think we need to fix the timeframe on this and perhaps add a line that says something like "except as authorized by the CDD." That lets us by *defacto* say events like the Dark Sky Festival are fine.

Mr. Walls asked what about "unless as posted otherwise?"

Mr. Haskett stated for special events, you have to submit an application. It could be addressed at that point and restricted for whatever time.

Mr. Evans stated the exclusion authorizes special events.

Mr. LeMenager stated that is simple, but this document still says dawn to dusk. Mr. Haskett said that the 30-minute timeframes are a State requirement for the pools.

Mr. Haskett stated that is correct since the pools are not lit.

Mr. LeMenager stated then you can still do it by exception. The times are dawn to dusk except for authorized special events or as limited by State law. Then we will be covered and we do not have to get into micromanaging. If you want to fish from dawn to dusk, if someone is out there fishing and the sun goes down, they just head home at that point.

Mr. Golgowski stated on Buck Lake, we have an agreement with the CDD for access and use of the lake which comes with some rules and standards. They do speak to 30 minutes after sunrise and 30 minutes before sunset, along with some other things. I also have rules for the dog park.

Mr. Walls stated if we try to get specific on rules for each facility, I think we are putting limitations on ourselves.

Mr. LeMenager stated I live across the street from the soccer fields, and they are definitely used after dusk. As long as there is enough light, they are trying to play out there, which is fine.

Mr. Berube stated the only reason I want to change this is because we have posted signs that are contrary to this rule.

Mr. Walls stated that is why I suggest we include language “unless otherwise posted” or by virtue of a special event or something along those lines.

Mr. Haskett asked does Use of Facilities also apply to special events? Do people who apply for a special event have to follow this rule for 6.1?

Mr. LeMenager stated no.

Mr. Haskett stated I think that wording needs to be pulled out of there for special events.

Mr. LeMenager stated no, Section 5 is specifically for the Special Event Application Process, which is followed by Section 6. It is not very clearly written.

Mr. Haskett stated Section 7 is then the schedule of fees and charges. That tells me those three sections are all for special events.

Mr. Walls stated there is no heading on it, but I think Mr. Haskett is correct.

Mr. Evans asked should Section 6 simply be moved into Section 7?

Mr. LeMenager stated all three sections are really about special events.

Mr. Berube stated I agree. Does Mr. Haskett submit an application to Mr. Moyer for events?

Mr. Haskett stated yes.

Mr. LeMenager stated I think you might need to renumber these paragraphs so that Sections 5 through 11 are all about special events.

Mr. Evans stated Section 5 is just the application process. Section 6 is for use of the facilities, which should refer to use of facilities for special events.

Mr. Walls stated the rules go right to 6.1; there is no 6.

Mr. Evans stated we need a title for Section 6.

Mr. LeMenager stated Sections 6 through 11 do not actually have headings, but they are clearly about special events. Section 8 should be titled Insurance Requirements for Special Events.

Mr. Walls stated I would think they could all be under a single heading and be separate paragraphs.

Mr. Qualls stated I can make Sections 6 through 11 all parts of Section 5, so I will renumber those sections to incorporate them.

Mr. Evans stated also embellish the headings.

Mr. LeMenager stated Section 2 covers the docks. Section 3 covers the swimming pools. Section 4 covers the soccer, volleyball and basketball facilities. Section 5 will now simply be special events.

Mr. Berube asked are we going to leave the time the way it is or change it?

Mr. LeMenager stated I think it should just be deleted.

Mr. Walls stated special events will need to be approved.

Mr. Evans stated I do not think Section 11 is applicable to special events. I think it is applicable to all access.

Mr. LeMenager stated you are correct.

Mr. Evans stated I know the debate regarding fishing will go on for a while. Within this rule in Section 11, does that follow in line with non-authorized use of facilities and what our recourse would be? Is our recourse for non-authorized use trespassing, assuming they do not do any damage?

Mr. Qualls stated the way Chapter 190, Florida Statutes, is setup, you are correct when you say the District has no enforcement powers. That really means police powers. However, what the District can do is sue for violation of the rules. A government suing its citizens is never something that is pleasant. I need to research if the District can say that certain things are trespass and then work with the sheriff's office to enforce that trespass. I do not see why you could not do that, but I want to double check.

Mr. Evans stated if you go onto other public property unauthorized or at an unauthorized time, they will arrest you for trespassing.

Mr. Qualls stated that is correct.

Mr. Evans stated whether it is a ball field or any other public facilities. Is the recourse and the deterrent for unauthorized access or unauthorized use of those facilities a charge of trespass?

Mr. Qualls stated my instinct tells me that it is because that is the only thing with teeth. If the sheriff came to arrest someone for violation of the CDD rules, it does not carry any penalties. Just like in a public park, it is the threat of criminal trespass that might hopefully keep people out of public parks except when the public parks are open to the public.

Mr. Evans stated that is really the only potential recourse that you have if they are not doing damage but they are not authorized to be there. Once you research that and it needs to be included in the rules, I would like to add that as paragraph 2 and then add to definitions what unauthorized use is. Then address how you use these facilities. Otherwise they will come to the pool or dock section and they will never read to the end of this section.

Mr. Qualls stated in other words, state the enforcement section that is currently Section 11 to be at the front around Section 2.

Mr. Evans stated yes, somewhere in the front where it is obvious in the beginning.

Mr. Qualls stated I will also include a rule that addresses trespass.

Mr. Evans stated yes, for unauthorized use. Now we are covering all the facilities. If you are there and it is an unauthorized use, then it is a charge of trespass. If it is in our rules, then the sheriff can enforce it.

Mr. Berube stated therein lies the problem. If you go on school property or one of the County-owned fields, the sheriff has well defined that is public property and the rules are

known. I think when they come here, they do not necessarily recognize this as public property. I think it is a definition issue and they are not sure. That is usually what they tell us, that we have to cite the Statute or tell them why someone is trespassing. They do not understand we are a government body and these are government facilities, very similar to school property. I think that is where we fall short of the sheriff's enforcement of trespassing.

Mr. Evans stated the trespass Statutes are clear for unauthorized activity. What we are saying here is that we intend to pursue trespass in the event of unauthorized use.

Mr. Berube stated yes, and the sheriff's office has to understand how that enforcement mechanism is going to work for them.

Mr. Evans stated we simply provide a copy of this rule to the deputies and point out where it says unauthorized use of this facility. If there is someone who jumped the fence and is swimming at 3:00 a.m. where hours of operation are posted, there should be no debate and they should be arrested for trespassing.

Mr. Berube stated we already had that conversation with Mr. Belieff and the situation he had with a lack of enforcement. Mr. Qualls sent a letter to the sheriff's office, so we have started a dialogue with them.

Mr. Evans stated we need to incorporate that into these rules. We want to make them foolproof. These are the same deputies who are out here all the time. If we have another incident and they are called out here and they know what the rules are, they know they can proceed on the basis that the District will support their actions. No matter where we put a No Trespassing sign or whatever the rules are, it has covered all the facilities.

Mr. Qualls stated I will add a new Section 2 talking about unauthorized use of the facilities. I will say something like "unauthorized use of the facilities is a trespass and violators will be reported to the sheriff of Osceola County." If you are contemplating passing a rule as it relates to fishing, I think you need to draft something and put it in this document that will be published and the newspaper notice will state that the proposed rule is available to anyone who wants it. If you do not have anything in the rules and then decide next month to include something, I do not know that you would have given the public adequate time to review whatever you are contemplating. You can say something as simple as "certain ponds are not part of the recreational facilities and anyone loitering at those ponds or fishing in those ponds will be subject to trespass charges."

Mr. Evans asked is there anyone who is saying that we should authorize fishing in all the ponds? Hearing no comments, no one is taking the position that we should authorize unlimited fishing in all the ponds.

Mr. Walls stated I do not have a position on that one way or the other until I hear from a majority of the people who live on those ponds.

Mr. Evans stated it seems that the discussion is, are we going to disallow the fishing in all the ponds or some of the ponds. Is that a fair balance of what we are weighing? That means most likely there will be restrictions on some or all of the ponds. With that, Mr. Qualls should incorporate that language into a revised draft that we can discuss at our next meeting, that it will either be “all” or “some.”

Mr. Qualls stated I think the key is to come up with something that the Board can discuss in this draft. That will put the public on notice and give them time to review it. What I heard is that basically ponds that are near a residence are off limits or something to that effect.

Mr. Evans stated no, I just want to say “designated ponds.” I want the restrictive language already defined so that we can amend it or adjust it. So you can say “the ponds, as designated.”

Mr. Walls stated even if we included that language, we would still have to post signage to enforce it.

Mr. Evans stated that is correct.

Mr. Walls stated we could say something “where posted” these activities are prohibited.

Mr. Evans stated Mr. Qualls can draft something along the lines that the Board elected that they are not going to allow fishing in ponds. You can also have a caveat “with the exception of” and list those ponds.

Mr. Walls stated I would like to see that in a draft.

Mr. Evans stated that is what Mr. Qualls will be drafting with the other rules we discussed.

Mr. Qualls stated I will provide a draft to you as soon as I can, perhaps as early as next week. What I am hearing is under unauthorized use of recreational facilities, right at the beginning, is to say that fishing is prohibited in designated ponds of the District. That

puts the public on notice that you are contemplating this rule, and it can be tweaked based on any reassurance or feedback you receive from your constituents.

Mr. Evans stated yes.

Mr. LeMenager stated that means we can restrict them all if we want.

Mr. Evans stated that is correct. I just want to get the restrictive language in the rules.

Mr. LeMenager stated otherwise we have a logistics problem. The key reason we are revising our rules is so that we can issue access cards in May.

Mr. Berube stated I know the cross fence is installed at the marina. Where are we with access to the two pools?

Mr. Haskett stated they are doing a round of white since white fences are not produced as often as black fences. That was supposed to have occurred this week in order to implement the new gates.

Mr. Berube asked will it still be a dual access in the beginning with a key and an access card?

Mr. Haskett stated yes. We designed it with a latch mechanism initially so that everyone's keys will still work, and then on the date the Board determines to implement full access for the cards, we will remove the latches and put up the magnetic locks in the same location.

Mr. LeMenager stated we can include a big sign to let people know when their keys will no longer work, to encourage everyone who uses that facility to get their access card.

Mr. Haskett stated we just need to know the date to make that switch.

Mr. Qualls stated I will provide a revised draft and it will be dated with today's date. I will forward that to the Board. Then there will be a published notice in the newspaper that will tell the public that there will be a hearing to contemplate the adoption of these rules and the rules will be available through contacting the District manager's office.

Mr. Evans asked does it make sense, when we discuss the consequences for unauthorized use, to put that in bold?

Mr. Qualls stated I can do that.

Mr. Berube stated we have not discussed the actual mechanics of issuing these cards.

Mr. Moyer stated we can discuss that at the next meeting.

Mr. Berube stated we need to do some planning, but once the gates go up, then we have the ability to issue the access cards.

Mr. Evans stated that is in the category of implementation and not rulemaking.

Mr. LeMenager asked if we adopt these rules at our next meeting, is that when the 60-day clock starts?

Mr. Evans stated the effective date is the implementation of this rule. We are trying to create the rules and have them in place subject to the effective date when it goes on line.

Mr. Walls stated that date is whenever we say it is.

Mr. Evans stated that is correct. That date could move based on a number of factors.

Mr. Golgowski asked related to the two handouts I distributed for Buck Lake use and dog park use, since we are having a comprehensive collection of rules for the parks, do you want to include a section for rules on dog parks and mesh the Buck Lake rules with the use agreement?

Mr. Berube asked is there a reason to do that?

Mr. Golgowski stated just to have them all in place.

Mr. LeMenager stated I am in agreement that we want them in one place.

Mr. Evans stated they may already be incorporated.

Mr. Golgowski stated I will email them to Mr. Qualls.

Mr. Walls asked can we still make changes at the hearing?

Mr. Moyer stated yes.

Mr. Walls stated I will need more time to review this material.

Mr. Haskett stated the dog park rule is already on the website.

### **THIRD ORDER OF BUSINESS**

### **Audience Comments**

A Resident asked would it not be advantageous and consistent to propose that anyone touching or interfering with the waters in the retention ponds is trespassing? That would rule out swimming, boating, fishing, as well as throwing garbage, food and rocks and polluting the waters.

Mr. Evans stated we can have No Fishing or No Swimming and expand that rule. We are just trying to get the language established in the instance of you doing something we do not want you to do and what happens. Then we will come back with a list of things we do not want you to do and we will define where we do not want you to do them. We need to get the repercussions and the implementation defined. You raise a good point. I think the biggest thing we deal with is people going in there and doing things they should be doing. You cannot legislate everything, but you want to hit the high spots.

A Resident stated some people want to fish in the ponds, but this is not a bad thing. This is a very interested group of residents caring about a 9-year-old kid fishing in a backyard. It is a huge eyesore and I find myself very confused about what is our mission as a community. What do we want this to be? Who do we want to attract here as owners? What are we trying to do? I hope you are hearing the community and not just general moans that someone does not like this so they want it to change. It is not like that. It is easy when you go to work and come and go five days a week to say it is not a big deal. But if you are like me and are here in the community a lot, this is a constant daily issue. It is not just "a lake." If you institute a trespass, it will get people off some of the lakes and push them to one or two lakes, and the problem we are seeing in the community will show up at those designated lakes. It will be very obvious to the Board that we have an issue here. We have people who drive into our community with fishing poles in the back of their truck stopping golfers to ask where the lakes to fish in this community are. I do not know that element is what we want here. I do not know that is what we want to encourage. I hope you hear us when we discuss this issue. I only engage myself in things that I am very passionate about. I always go back to the aesthetics of the community, and I do not think we want this image that we have.

**FOURTH ORDER OF BUSINESS**

**Adjournment**

The workshop adjourned at 12:30 p.m.
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Gary L. Moyer, Secretary

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Robert D. Evans, Chairman