

MINUTES OF MEETING

HARMONY COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Harmony Community Development District was held Thursday, March 24, 2011, 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 (<i>by phone</i>)	Attorney: Young vanAssenderp, P.A.
Thomas Belieff	Dockmaster/Field Manager
Brenda Burgess (<i>by phone</i>)	Moyer Management Group
Greg Golgowski	Harmony Development Company
Todd Haskett	Harmony Development Company
Gary Locke	Luke Brothers
Pete Lucadano	Luke Brothers
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

Approval of the Minutes of the February 24, 2011, Workshop and Regular Meeting

Mr. Evans reviewed the minutes of the February 24, 2011, workshop and regular meeting, and requested any additions, correction, or deletions.

On MOTION by Mr. LeMenager, seconded by Mr. Walls, with all in favor, approval was given to minutes of the February 24, 2011, workshop and meeting.

THIRD ORDER OF BUSINESS

Subcontractor Reports

A. Landscaping – Luke Brothers

i. Monthly Report

Mr. Lucadano introduced Mr. Gary Locke who is a long-term employee of Luke Brothers and is being groomed to take Mr. Schafer's role in Harmony. We have been

discussing with Mr. Haskett that Mr. Schafer has a great opportunity for him and his family to get back to the golf course industry, and we are going to help him do that. Mr. Schafer has provided sufficient notice and is on track for helping train the new person to take his role. Mr. Schafer will be here until about April 15, 2011. Mr. Locke is somewhat familiar with Harmony and will be the new project manager.

Mr. Haskett stated I provided a brief report on what Luke Brothers tried to accomplish this month and the items that still need to be finished. They have really picked up the pace since our last meeting. Mr. Lucadano and I met the first week in March to discuss where we were versus where we needed to be, and it was a good meeting. They had made adequate progress but still not what I wanted to see, so we met again a week ago and from that meeting, I forwarded their operational plan, which will include 14 staff members full time throughout the entire year. That is the number that is needed on site. In the past week, we have seen quite a few people on property, more than 14. They got caught up on many of the things that they needed to, although there are still some areas of sod that need to be taken care of. That work will be scheduled for April. Fertilization was completed, and there is some spottiness out there and a few areas that still need to be monitored since they are not reacting as quickly as they should. The insecticide is scheduled for the first week of April and will include treatment for chinch bugs. Mulching still needs to be finished in some areas but they have sufficient staff on site to complete this work. We are seeing the results that we needed to see.

Mr. Lucadano stated I can tell you the great things we have done and try to state our case, but I want to thank you for the discussion we had at your last meeting. It is uncomfortable to be told that we are failing or that you are not satisfied with the results of the community or your expectations of the community or the project manager. There may be some sources of disagreement or perception, but the reality is that business does not get any better by good news. You need to hear bad news, and I needed to hear what your concerns, opinions and perceptions were. You could have simply terminated us and not told us those things, but instead, between Mr. Haskett's time and the Board's time, I appreciate that information. I walked out of the meeting last month with a couple resolves. The first is, we understood Mr. Haskett is spending way too much time, monitoring and chasing down the program, and that had to change. Second, we need to have a program that not only conforms to the contract specifications on time but also

performs to the quality level and expectation of everyone involved. We immediately worked on some quality communication tools. We have a standard notebook to log in all the reports, proactive communications with Mr. Haskett, schedules, and a mapping system. We got to work right away staffing the program including supplementing with outside crews to make sure that we did not have too many new people on the property at one time. Mr. Haskett and I had a second meeting because I cannot just take what you say and then do it my way. I want everyone to be comfortable and on board with the program. I appreciate the fact that Mr. Haskett told me what is good and what is not good and he feels we still need some work. We put the time, effort and resources into making those changes. We brought on some additional pieces of equipment as well as the staffing plan that is in place to make sure we not only have the people and equipment on site, but we have a means of communicating what we are doing so that Mr. Haskett does not start his day worrying about where everyone is and what they are going to get done. One of the things Mr. Haskett and I discussed is during the dormant season, there needs to be some reduction in force if we are getting a lot of cold weather. This year, we will do it very differently and there will be no changes in the program without Mr. Haskett's approval and proposed to him in advance. I will be very involved in that and until further notice, I am on property once a week to meet with Mr. Haskett. I will work with Mr. Locke during the transition to make sure there is no disruption in the commitments that we made and the promises that we made to the schedule, the contract compliance, and the quality that we expect. One of the things I am excited about that we are changing relates to staff. We are putting on a small parks and recreation crew, which is a small unit that will travel throughout the property. During my second meeting with Mr. Haskett, we discovered there is a quality issue with some of the pocket areas. These are attractive amenities and we are asking people in the community to come to these park areas, but we were not providing the sense of detail that they needed. We have put together a small crew with a Gator and a trailer that is fully stocked, and this crew will go from park to park every week and provide detailing and weeding as well as picking up trash and the mowing in those areas so that we have a strong sense of quality in those areas.

Mr. LeMenager stated that made my wife very happy.

Mr. Lucadano stated Mr. Haskett provided me with some feedback on the program in the past, that when he had a special concern or if there is an event or something that he

sees, we cannot just keep pulling off the detail crew to handle those things. We need to have a team that has time in their schedule to accomplish those issues while keeping the main detail crew on task. This park and recreation crew will be able to provide both functions and keep the main crews on the property working on the majority of functions, which include large-scale mowing and detailing. The horticulture team can focus on the irrigation and pest control and keeping a good solid continuum of those services throughout the month. By no means are we there yet. You will want and need to monitor this and you need to be comfortable that what we are saying is what we are doing and that the efforts we are putting forth are consistent, accurate, and supported. My plans are to ensure that you are a great reference for me, that this community looks good and is something we are all proud of, and that our meetings here are positive. Only time will tell that and I ask for a chance to show you over the next 30 days.

Mr. Berube stated I wish I could believe you. I would like to, but I do not. This is the fifth meeting we have had with representatives of a contractor, and that is nearly unprecedented, as is the fact that we need to have these meetings with a contractor. It is also unprecedented that these are very uncomfortable meetings for you and for us. It is unprecedented for us to withhold payments to a contractor. That is not how we operate; we pay our bills. In fact, there are several bills that have been included this month that are late because they needed to be justified in order to be paid. This month, the regular invoice from Luke Brothers is not included, and I do not know if that is on purpose because the work is not finished or it is simply a timing issue in providing us with the invoice. I do not like that situation. We would rather pay our bills. We have had multiple meetings. The line on your letter under your title of President says “ensuring full legal compliance in reference to provisions of terms of the contract.” You and I both know what the contract says, and there is not a tree or green plant that has a three-inch mulch ring around it. I realize that is a difficult task. I noticed one person a couple weeks ago had been doing some of that, but it stopped. You are out of compliance with the three-inch height on the cut of the grass. You are out compliance with the rutting, where they cut the same depression all the time. I know this because I spend a lot of time watching the crews. They cut in the same direction all the time. You are out of compliance with fluffing the mulch in the tree rings and plant beds. The contract calls for two times per cycle, and you have never fluffed mulch. The weeds go without saying. I do not know

where you stand on the replacement of sod. Some has started but there are still several thousand square yards of sod that still need to be replaced. We are supposed to receive 1,200 annuals per quarter. It has been my position that we have never received 1,200 annuals per quarter installed. Last month, I actually counted them and I found 840 annuals in the ground, and I was generous in the count being about 20% high, which means we might only have 700 or so annuals. I do not know if that is all the annuals you are going to install, but it seems to me that if they died, that is a pretty high death rate. I saw no evidence of dead annuals. They were all fairly fresh. For the last four or five months, we have been without an irrigation and a pest control technician. I understand Mr. Schafer has been going around checking the irrigation, but that is somewhat different than having a dedicated crew member with a truck turning on sprinklers and reviewing them. I know that because the incidents of broken sprinklers that I report to Mr. Haskett have risen dramatically. I never used to report broken sprinkler heads, but in the last four or five months, that number has risen and it takes a long time to get them repaired. The pest control technician is important. All of the chemicals that we apply require someone experienced so that he does not scatter fertilizer in the streets. I am very frustrated and I said this a year ago. We met a year ago and someone on the Board asked if they should be fired, and I said yes. I am still very much along those lines. I heard what you said and you want to see what happens in time, but we keep hearing the same story. I thank you for the information at the last meeting. I learned a lot from it and we have a new plan in place, which resulted in a new binder that is maintained by Mr. Haskett. We keep talking about the same things. It is a different deficiency month after month. Now Mr. Schafer is leaving. I realize he has an opportunity, but I have to think that the difficulties in managing this property in some way, especially with the timing of his departure, have something to do with his leaving the company. Truly, I would like to believe you. I think you are a nice guy. Something is wrong. This property either taxes your ability to manage the whole project or we are too demanding. I actually think we are pretty accommodating, but I am not happy. I watch what is going on. The mulching was done yesterday. You were on my property yesterday and skimmed the grass on Bear Grass Park and have replaced the sod there twice since you have been here, but it needs to be replaced again. If there is a place where you do not want to be deficient, it is probably outside the house of an outspoken Supervisor.

Mr. Walls stated I will tone down my comments from last month. I will take you for your word this time around, but I will start looking at other companies to see what kind of service other neighborhoods are receiving. I will give you time to do what you say you are going to do. If it works, then I will stop looking. In the next few months, if this does not work, then I think we will have to look at another option.

Mr. LeMenager stated I am certainly willing to give Mr. Locke the opportunity to prove himself. Since the last meeting, I find myself in agreement with Mr. Haskett that there has been a noticeable change in the last few weeks. We have seen these noticeable changes in the past, and then you have slipped back from those noticeable changes. The real point is, do not slip back again. That is the bottom line. I think it is fairly common in your industry to have reduced staffing in the winter. That means we start complaining in January and February because the community starts looking awful. I think we touched on it last month, wondering if we would actually get anything different from any other company in terms of industry practice of reducing staff in the winter. I have seen plenty of action in the last few weeks, so keep it up.

Mr. Berube stated I heard what Mr. Haskett said. What is your confidence level in this new plan: 40%, 50%, -20%, 110%?

Mr. Haskett stated Mr. Lucadano and I had a very serious meeting about everything, and I think we are seeing the results of that meeting and his commitment in writing on the staffing levels. As I told Mr. Lucadano, when winter comes, we will consider cutting back on staff so that we do not see people standing around with little to do. It has taken a lot to get to this point, but I think the Board's discussion that you are seriously considering terminating their contract was instilled in them at the last meeting. This is a huge contract for any landscape company. The reality is, if the contract was terminated today, we would survive but it will not be easy. The condition of the landscape can be improved and that is what we are looking for. My confidence level has increased and it is much higher than it was in the past.

Mr. Berube asked is it your recommendation that we continue in the same direction we are proceeding now, based on the new operational plan? Their contract expires September 30, 2011, so sometime in July is when we should review where we stand.

Mr. Haskett stated I am sure we will have in-depth reviews at each meeting from this point forward. I think there will be a lot more attention to detail. I am sure there will be

some issues that will come that are not being addressed, but I am hopeful they will be minimal.

Mr. Berube stated one of the elements that has come up lately is a significant amount of dead sod that has been replaced, and I do not believe you would disagree with that. It is important that it gets replaced. However, it would be better if that sod was managed early on before it dies. When you replace sod, the reason is to make the community look good. The other issue is the water needs to be turned on to water in the sod, a significant amount of water. We are over our budget on irrigation. It will not cause a problem with our budget, but the fact that Luke Brothers replaces sod “at no charge” is still not free since the CDD has to pay for the water. The idea of the MAXICOM system is to monitor irrigation use, but when you install large areas of sod, they need watering for a long time, and that causes the irrigation line item to be over budget. I would like to believe Mr. Lucadano, but that is where I stand at this point. Everyone else seems willing to give you another opportunity, so I would be outnumbered if this came to a vote. I am willing to go along with the rest of the Board for a little while longer.

Mr. Schafer stated I have been on site for 15 months, and we have tried different approaches. This is a good plan, especially for the parks and the specialized crew to look after all the small parks, which is something that was missing. I think this will solve a lot of the detail problems and the attention to detail will be significantly increased. Regarding the sod, this is the driest period from October to February that we have had in 80 years. Harmony really does need that supplemental rain. There are areas where the irrigation will barely keep it alive, but you need rain to keep the grass alive. Last April we discovered that Harmony had chinch bugs and they have built up a resistance to the insecticide we were using, especially on Schoolhouse Road. That area was treated several times, to no avail since the chinch bugs kept coming back. Last summer, we switched to the most potent, most expensive insecticide available, which is Arena. We applied that to Schoolhouse Road and it worked immediately. This year, we will treat the whole property with Arena and it will cost us about \$5,000. I think the instances of sod having chinch bugs this year will be very minimal, if any.

Mr. Berube stated I hope we can have more positive meetings with Mr. Locke than we have had in the past because they are not pleasant, for any of us.

Mr. LeMenager stated I want to expand on something Mr. Berube said, which is also something that Ms. Kassel has mentioned in the past and what I always mention to people in real estate when they come here in the winter and I am showing them around and they are surprised things are not all pretty and green. I think part of the problem we have is that Florida's natural color in the winter is brown, not green. I wonder to what extent we should use this as an opportunity to get rid of the incredibly wasteful St. Augustine turf. Why do we keep installing St. Augustine, when we know the chinch bugs love it and it requires an enormous amount of water, when the only reason is to create a green turf in the winter, which is not Florida's natural color? It is a never-ending battle that we will never win. Why are we using so much St. Augustine in a community that is supposed to be green? I offer that as a thought.

Mr. Haskett stated I have discussed this with Mr. Schafer. Some of the large areas, such as Five Oaks, we might want to put in native grasses and get rid of turf altogether. As we move forward with larger areas, we will consider having that done.

Mr. LeMenager stated I think you will certainly have some support from the Board if you want to do that.

Mr. Berube asked how much turf area do we have? Is it somewhere over one million square feet?

Mr. Haskett stated it is pushing four million square feet.

Mr. Berube asked is there a grass that is green the winter?

Mr. Lucadano stated generally what we see is overseeding it with rye, like what golf courses do. In the summer, it will burn off, but the problem with overseeding Floratam with winter rye is the need for pre-emergent treatments on the turf.

Mr. Berube stated it sounds like our choices are (1) St. Augustine turf, which goes brown in the winter, (2) some other grass that really turns brown, or (3) something other than turf. I am just trying to get a handle on four million square feet and how much it will cost to have a grass that stays green, but there is no choice like that. What does it cost to replace one square foot of St. Augustine?

Mr. Lucadano stated including the labor to kill it and replace it, the cost is about \$.48 per square foot.

ii. Pets Getting Sick in Harmony

Mr. Evans stated we had a lot of pets getting sick and we were trying to see if there was a nexus between the spraying application and these animals getting sick.

Mr. Lucadano stated there are three toxicity levels in the average commercial pesticides that are used. They are rated with three different tag warnings: Danger, Caution, and Warning. Caution is the lowest toxicity level, and we have never used anything higher than a caution level on this property. We always flag those areas. If the chemicals are directly ingested by a pet in a large dose, that could be fatal. But the chances of a pet directly ingesting that much chemical and that much product are very low, with the dispensation rates and enviro-transpiration rates since the product is dry within 30 minutes after the area has been treated. The chances of a pet getting sick from what we are spraying are very low.

Mr. Haskett stated this was discussed last month and it was noted that Luke Brothers had not performed any applications of pesticides since November, so the pets getting sick is not related to chemicals being used.

Mr. Evans stated this is a sensitive issue and everyone wants a strong assurance that the chemicals are not the issue. It does not negate the fact that a lot of pets are getting sick. If it is not the pesticide, then what is it? Is it something related to landscape maintenance or is it coincidence? We just want to provide a comfort level to the residents. Landscape chemicals are not the issue, but it may be something else unrelated to pesticide applications.

Mr. Berube asked if you treat an ant mound in the dog park, typically I see the ant mound with a brown granular product on it. My recollection is that is left the way it is, which is the typical application. Can we do something different?

Mr. Schafer stated we do not use a granular product anymore. We use the same chemical we use on the turf for chinch bugs, and we use it on a backpack sprayer. The products that you are referring to is a bait that we used to use, which you have to leave since it is a bait that we want them to take to their mound. The spray we are using is dry in 15 to 20 minutes, and there is no transferrable product left.

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 provided three treatments in March, and today will be the third treatment. We are spraying emergent to try to get ahead of the spring growth. The algae problems are manageable. We have not seen too many significant algae blooms, and we

check on that in the ponds every time we are here. The second planting project is scheduled to begin tomorrow in the ponds that the Board approved.

Mr. Berube stated I realize that you are performing according to the contract and the scope of services that we gave you. I went to a stormwater management seminar last month given by South Florida Water Management District (SFWMD). One of the things that came up is spraying for algae and other plants along the shorelines of these ponds, and that is generally regarded as not the best practice. They also indicate that until 50% of the surface water is covered, you really should not manage the ponds too much. As I have observed, some of your spraying is in the center of the ponds and not on the algae. Some spraying is also along the edge of the pond where algae congregate. If the algaecide that you are spraying comes in contact with another plant, will it harm that plant?

Mr. Medlin stated no, not the algaecide itself. Sometimes there are other algaecides or chemicals that you mix with it that can damage those plants.

Mr. Berube stated some of the plants that you are treating with herbicides include bladderwort and spikerush. When I look at the SFWMD invasive plants list, those do not appear on that list. Why are you treating those plants if they are not considered invasive? I know one reason is so that we do not have hydrilla throughout the ponds. My point is that we are starting to install new plants tomorrow, but yet we have you spraying other plants in the ponds, when the purpose of plants in the ponds is to suck up algae.

Mr. Medlin stated the best reason is for aesthetics. I have a good idea of what I think you want these ponds to look like. I treat algae almost 100% because some people do not like any amount of algae. Spikerush and bladderwort are not on the invasive list, but they tend to take over the ponds with very thick mats, and they will get topped with algae themselves, which does not look good. I would think no one would accept the look of the ponds if those plants were allowed to grow. There is a balance of trying to treat those plants. When I spray, I need to be careful to spray only the noxious plants and keep the spray off the good plants. It is a matter of placement of the spray.

Mr. Berube stated I am seeking information and I am not saying you are doing anything wrong. What came out of the seminar is that spraying of any kind is generally becoming regarded as less than best practice, especially for environmental communities. I think we are going to need to change our pond management at some point and next

month I would like to discuss this in detail. We may be looking to work together on a pond management program to prevent a large amount of chemicals going in the water.

Mr. Medlin stated that is interesting because I have not been to any seminars that have said spraying is bad. In my experience, I have seen the reduction of algae and the fish and birds are not dying. We are creating something unnatural by digging these ponds and you do not always find that natural balance like you have at Cat Lake or Buck Lake. What we try to do with the chemicals is strike a balance with the plantings.

Mr. Berube stated you are not doing anything wrong because you are doing what we have told you. I think we need to modify what we are doing.

Mr. LeMenager stated to an extent, this goes along with the comments I made on the turf. I think we are doing a lot of things to make the community look a certain way. Everyone needs to be aware that there is a cost to that to try to defeat nature in the winter.

Mr. Berube stated all the fertilizer we apply to make green lawns eventually ends up in the ponds.

Mr. LeMenager stated I am in complete agreement. Perhaps we need to rethink the balance between something that looks like it belongs in Disney and something that belongs in the real world.

Mr. Walls stated I was going to bring up exactly the same thing. I am fine with a little bit of a natural look. It does not bother me in the least. I have a problem with aesthetically maintaining ponds that we do not own. I am fine with the stormwater aspect in keeping them working as they are intended to work, but not spending a lot of money to aesthetically maintain ponds that are not ours. I am not saying it is wrong but it bothers me a little.

Mr. Berube stated I would like to discuss this in detail next month since there are some simple practices that can be implemented. We can make them look good and have them work efficiently.

Mr. LeMenager stated it is not inappropriate for Mr. Berube to send us an email with that information. We simply cannot respond to it.

Mr. Moyer stated one of the residents has a question they wrote on a speaking request form. Does resident activity have an impact in anyway on the health of our aquatic plant life?

Mr. Medlin stated I noticed one resident has been weed whacking some plants at the shoreline.

Mr. Moyer stated over fertilizing will obviously cause some problems.

Mr. Medlin stated that is correct.

Mr. Moyer stated another resident has a related question. Is the algaecide harmful in any way to animals or humans?

Mr. Medlin stated the algaecides and herbicides that we use have been tested on animals to make sure they are safe. An animal or human would have to ingest an incredible amount of the product, well in excess of the label rate, before they get sick. All of our products have a caution level, just like the products that Luke Brothers uses. They work on systems that have chlorophyll and they interrupt the acid process in plants and algae. They are not like insecticides that work on the central nervous system for insects and can also harm humans. These are a completely different class of chemicals. I would say that they are very safe, especially at the rates we are using because we are not using very much of the chemical.

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

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

Mr. Belieff stated the motor was replaced under warranty in the bass boat. We replaced the batteries and fittings in the solar boat and it is operational.

Mr. LeMenager stated I thought we decided to sell the solar boat.

Mr. Berube stated we did. We have been cleaning it up and replacing batteries in order to put it in the water. If we are going to sell it on eBay or wherever, I think it needs to be in the water since most purchasers will want to try it out.

Mr. LeMenager stated I would agree with that.

Mr. Berube stated our goal is to get it back in the water this week.

Mr. Belieff stated now that it is working, people are requesting to be able to use it.

Mr. LeMenager stated that is interesting, after receiving this report for months and years showing no usage, and now people will be upset if the solar boat is sold.

Mr. Berube stated I think there was a rumor floating in the community that the solar boat would not go very far and it would run out of power before you could return to the dock. That rumor had some truth to it in recent months with bad batteries, but when it goes back in the water, I will take it out for a test run to make sure it works and to be

confident of its reliability. If people start using it, perhaps we can rethink our position to sell it. We need to be sure it works, either way.

Mr. Belieff stated with the warmer weather, the kayaks are also being used more often.

Mr. Berube stated something I mentioned to Mr. Haskett is that sometime in the near future, we will probably need to spend some money at that dock. Some of the plastic electrical conduits are broken, which I repaired within the last few weeks. I also noticed that two piers are off angle. It is not a danger but at some point, we will need to reset those piers into the water and doing some other maintenance work on those docks.

Mr. LeMenager stated that is something we should include in the budget for next year.

Mr. Berube stated yes, that is a good idea.

Mr. Walls stated I noticed the new fence has been installed this past weekend. It looks good.

FOURTH ORDER OF BUSINESS

Discussion Item: Fishing in Retention Ponds

This item was discussed in conjunction with item ii under the Developer's staff report.

FIFTH ORDER OF BUSINESS

District Manager's Report

A. Financial Statements

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

Mr. Berube stated the finances look pretty good.

On MOTION by Mr. Walls, seconded by Mr. LeMenager, with all in favor, approval was given to accept the financial statements as presented.

B. Invoice Approval #131 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 asked to follow up on Mr. Berube's comment earlier, is there a reason why Luke Brothers is so far behind in billing us?

Mr. Haskett stated their invoices were submitted just this week and missed the deadline.

Mr. Moyer stated regarding the question last month whether or not those invoices are accrued, as you can see in the notes to the financial statements, they are being accrued.

Mr. LeMenager stated I was certain they were.

Mr. Evans stated we received an additional invoice to be included in this list from Hydrocom Technologies.

Mr. Golgowski stated this invoice was just submitted yesterday and I still have some questions on it.

Mr. Evans stated this invoice is being submitted as though it is accurate.

Mr. Golgowski stated it may be, but I suggest holding it until next month.

Mr. Evans stated I had some questions on that invoice, as well.

On MOTION by Mr. LeMenager, seconded by Mr. Walls, with all in favor, approval was given to the invoices as presented.
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C. Public Comments/Communication Log

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

D. Consideration of Resolution 2011-03 Amending the Fiscal Year 2011 General Fund Budget

Mr. Moyer reviewed Resolution 2011-03 amending the fiscal year 2011 general fund budget for certain modifications to bring items in Luke Brothers's contract under an Assistant Field Manager position that we did hire. The Board adopted the budget but we did not make those changes to those line items. This Resolution identifies the various line items within the budget to be adjusted up and down. The net difference is that we ended up being able to add \$10,000 to contingencies while still being able to cover all the costs that we made with these adjustments.

Mr. Evans stated it is basically a reallocation of dollars to specific line items.

Mr. Moyer stated that is correct.

On MOTION by Mr. Walls, seconded by Mr. Berube, with all in favor, approval was given to Resolution 2011-03 amending the fiscal year 2011 general fund budget.
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SIXTH ORDER OF BUSINESS

Staff Reports

A. Attorney

Mr. Qualls stated I appreciate you allowing me to participate by phone today. The legislative session is in full swing and there is a Bill going to the floor that we are monitoring. Mr. LeMenager made a comment earlier that it is not inappropriate for Mr. Berube to send an email to the rest of the Board. Technically, that is correct; however, I would caution you in doing that because it is out of your control at that point. If a Supervisor happens to respond to that email, then someone could argue that a meeting was taking place. I think a better practice would be for Mr. Berube to forward the information to the District Manager, who can then send it to the Board.

B. Engineer

Mr. Moyer stated based on discussions and items that come up at this meeting, if we need to invite Mr. Boyd to the next meeting, we will do that. Otherwise, we will continue with the same basic policy that the Board approved at the last meeting.

Mr. Berube stated there is an invoice in this month's agenda package for a repair to a sewer cover in December. Mr. Boyd is the one who initiated that repair. Apparently, we paid this \$475 bill, which is not a significant amount of money. Who owns the sewer system? Apparently we repaired it because the manhole cover was in our right-of-way. If that manhole cover was damaged in the street, we probably would not have repaired it.

Mr. Evans asked was it sanitary or stormwater?

Mr. Moyer stated stormwater.

Mr. Evans stated if it is part of the stormwater system, then it is a District expense. If it is the sanitary manhole, that belongs to the County.

Mr. Moyer stated I will ask Mr. Boyd to answer that question.

Mr. Berube asked if a stormwater manhole in the street is damaged, who repairs that?

Mr. Evans stated you mean the culverts that are along the curb for the stormwater system. That belongs to the County. If it is the system that comes through the easement and ties into our lakes or to any of the lakes that are part of the stormwater system, it is the District's responsibility to repair. It depends where it is.

Mr. Berube stated this was in the easement, which is why we paid the invoice. It struck me that it was not our system, but now I believe it was.

Mr. Evans stated the roadway drainage system was part of what was conveyed to the County. Mr. Boyd will know the area in question, and perhaps the narrative should have been expanded to be clearer. You raise a good point.

Mr. Berube stated there is a missing grate in the Estates. Is that a County responsibility?

Mr. Haskett stated that is being addressed and I am working on that with Mr. Boyd. We do not know if that is a CDD responsibility or not, but we have taken that on because it is a hazard.

C. Developer

i. Request to Move the Buck Lake Angel Sculpture to the Schoolhouse Road/Five Oaks Drive Roundabout

Mr. Golgowski stated this sculpture stands out there by itself, and we would like to move it to the roundabout at Schoolhouse Road and Five Oaks Drive. It is too valuable a piece of work to be so isolated.

Mr. LeMenager asked will it be covered by trees eventually?

Mr. Golgowski stated it is open on that entrance drive from U.S. 192. There are some small cypress trees in the center that we will remove and relocate down the street.

Mr. Berube stated we have a number of missing trees in other locations. Will those cypress trees work in some of those locations?

Mr. Haskett stated not really.

Mr. Walls asked what kind of base is under that sculpture? That roundabout is a big mound. Would you need to flatten that out?

Mr. Golgowski stated there is a concrete base that has a pin that is inserted inside the statue.

Mr. LeMenager stated it sounds like a great idea.

On MOTION by Mr. LeMenager, seconded by Mr. Berube, with all in favor, approval was given to relocate the angel sculpture from Buck Lake to the Schoolhouse Road/Five Oaks Drive roundabout.
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ii. Update on Pond Fishing Investigations

Mr. Golgowski stated at the last meeting, the Board requested a ranking of ponds to be used for fishing. I provided a map of ponds that was forwarded to you by email. The majority of the ponds are owned by Birchwood and not the CDD. They were excluded in large part because they are along the golf course and present an additional hazard with

the native grasses. The main ponds are noted in white and light blue. The dark blue ponds are generally behind residential lots. There was a concern expressed by a number of residents having people fishing in their backyards. Three ponds were pulled from the list because they are somewhat remote and not frequently visited. That leaves Long Pond, which still has some limitations based on the criteria expressed at last month's meeting. It is close to Ashley Park and is convenient, but Lakeshore Park is adjacent to that access. The second request was to run a shoreline platform that might be used to help define locations designated for fishing. The request was for the District engineer to review this to make sure it did not conflict with any pond maintenance obligations. That is shown in the diagram. The third point relates to fishing restrictions, and it was noted at the last meeting that the CDD does not have the rules or policies in place that speaks to prohibiting fishing in the ponds. However, the Harmony Residential Owners Association (ROA) does have a policy in their covenants that has been adopted and it prohibits fishing and other activities in the ponds, with the exception of retrieving golf balls.

Mr. LeMenager stated I think we have an interesting situation. The CDD has never addressed a prohibition of fishing in the ponds. There is no CDD rule against it.

A Resident stated it is posted on the website.

Mr. LeMenager stated what Mr. Moyer puts on the website is fine, but that does not change the law. This issue got started because of enforceability and the problem of the sheriff addressing it. Now we have to deal with the sheriff not being interested in enforcing it. The CDD does not have a rule against it; the ROA does. That leaves us with interesting conundrum if someone from Holopaw wants to fish in our ponds, one that has easy access, it is not against the rules. I think we have an interesting problem. If you live here and agree to abide by the ROA restrictions, then you cannot fish in the ponds. If you do not live here, since CDD property is public property, then someone can come in here and fish. We have discussed not being opposed to fishing in the ponds on the right ponds. I am in agreement with Mr. Golgowski's analysis for the most part. However, the problem comes back to residents making complaints about people fishing in the ponds and what kind of signs we need to actually prohibit it. The CDD has zero enforcement powers. The only person who can enforce the rules of the CDD is the sheriff. If the CDD has no rules against something, then the sheriff is correct in not enforcing it. The ROA

does have power of enforcement, but they can only enforce restrictions against members of the ROA. If you are not a member of the ROA, you can fish in the ponds.

Mr. Walls asked what power does the ROA have over CDD property?

Mr. Qualls stated they have none. The ROA is designed to deal with common areas, whereas the CDD deals with systems and facilities.

Mr. Walls stated that was my understanding.

Mr. Berube stated I want to thank Mr. Golgowski for the detailed commentary. I come from the corporate world, and this Board has had discussions in recent months as a public body using the words “safety” and “liability.” There are a number of emails that were included in the agenda package that are public record using the word “safety.” That scares me from a liability standpoint. I think we need to be careful what we say when we discuss issues because then you setup a case for an attorney somewhere down the road. I am firmly in favor of leaving all the ponds open for fishing. However, there is a restriction in place, which I realize does not govern the CDD but it does apply to the facility where we operate and live with some exceptions. I do not want to see the CDD setup a policy that puts the CDD at odds with the printed ROA regulations. Based on the fact that there are printed rules regarding fishing, and I understand the exclusion, obviously there is something in writing. Therefore, I am going to be in favor of no fishing in any pond because there already is a rule that governs fishing here for residents. I do not know how we enforce it by non-residents. My recollection of the Statute regarding No Trespassing signs is that the sign needs to meet the specific standards and it also has to be stated who posted the sign. I do not know if the ROA can be that indicated body noted on the sign. Right now the CDD does not have a rule, but there is a rule for the facility in which we operate that says no fishing in the ponds. I have completely changed my position. I do not want the CDD doing things that conflict with ROA rules, and conversely the ROA doing things that conflict with CDD rules.

Mr. Walls stated the ROA rule is invalid. The ROA cannot govern public property.

Mr. Berube stated no argument.

Mr. LeMenager stated I am not sure it is invalid. If you are a member of the ROA, then you accept the rules of the ROA.

Mr. Walls stated those rules do not govern CDD facilities. We are the Board, and we govern CDD facilities.

Mr. Berube stated we have discussed this numerous times, and we really have not had any consensus. There are groups that are in favor of fishing and others that opposed fishing, and they are split somewhat in the middle. While I agree this is not a CDD-enforceable rule, at least there is a rule already, which I think should provide us with some guidance in where we are going. For all the reasons that Mr. Gologowski stated, there are very few ponds suitable for fishing, in fact, there might only be one. I think we narrowed it down, so perhaps we can adopt some sort of guidelines that mirror the ROA restrictions.

Mr. LeMenager stated the CDD is a public body. The ROA has a fine set of rules, but it is a set of promulgated rules. They are rules that were promulgated by the developer with the best of intentions, but certainly not rules that have had any public input. It is like the discussions we have had as to the evolution of the CDD Board, as it goes from being governed by the original developer and transitions into being governed by the public. To what extent do you want to start considering tweaks and different ways of doing things than were originally laid out in the rules developed by the developer? Mr. Walls has indicated he does not oppose fishing in the ponds. I do not oppose fishing in the ponds. I absolutely appreciate the comments from people who say someone from Holopaw is fishing in the pond behind my house and is not wearing a shirt. I do not think there is much we can do about that right now. We can discuss trespass, but the sheriff is not going to enforce anything that is an ROA rule. If there is not something from a governmental body, then the sheriff is not going to enforce it. If we hide behind the ROA rule, then we have spent a lot of months on this issue and all we are doing is burying our heads in the sand. What I think the people want is something that is enforceable. If they call the sheriff, he will come and with the appropriate rule, then he will have a legal reason to tell the people they have to leave. Right now, the sheriff has absolutely no basis to tell someone who is not a Harmony resident that they have to leave.

Mr. Walls stated if we were to put up No Trespassing signs all around the lake, that means to keep out and there can be no other activity there. That means that you cannot walk around the ponds; it means keep out. I see people walking around the ponds every day, and that is what we are asking them to do. We are not saying to just check out one person because he is holding a fishing pole but to check everyone out who is walking around the pond. That makes zero sense.

Mr. LeMenager stated perhaps we should discuss this further in the workshop after this meeting. From my perspective, what I would support is a rule, enforceable by law enforcement, that will prohibit fishing in a pond that borders residential property within the boundaries of the CDD.

Mr. Walls stated that means everyone has to stay out of the ponds.

Mr. LeMenager stated that is something that is enforceable. The problem now is that what we have is not enforceable. The people who live on Bracken Fern have no recourse from someone in their backyard smoking cigarettes and throwing the butts on the ground. Until we start putting up signs and have something that the sheriff can actually use to get people to leave or arrest them if they do not, we have not addressed the issue. It would be remiss for us not to address that issue.

Mr. Walls stated I think it is a great misuse of police resources to call the sheriff because someone has a fishing pole in their hand. You have a problem with someone who has a fishing pole in his hand but you are fine with someone walking around the pond. If he has a fishing pole, then we are going to call the sheriff. I am fine if there is a disturbance or someone is breaking the law and you need to call the sheriff. Just because someone has a fishing pole in their hand is not a good enough reason to call the sheriff. I want the sheriff to protect us when there is an emergency. I do not want them to think the people in Harmony are petty. I respect everyone's opinion, but that is how I feel about it.

Mr. Berube stated part of the stormwater pond management information that I learned at the seminar is about plantings around the ponds. We are not the first community to struggle with this. One of the suggestions was one of the ways people manage their ponds is to install plantings around the shoreline. One of the plants they suggest is jasmine, which is green and grows six to eight inches tall. The jasmine does two things: it absorbs the fertilizer and nutrients running into the ponds to provide a much healthier water quality issue, and it also keeps people from approaching the shoreline of the ponds. It became a deterrent.

Mr. LeMenager stated when we were having the algae discussion earlier, I started thinking that if the algae blooms are out six or eight feet into the pond, that will certainly deter fishing.

Mr. Evans stated I think we are getting off topic just a little. I want everyone to speak their opinions because that is the purpose of this meeting. But I still cannot get over the

fact that you want to ignore safety. Safety trumps everything. I care about your viewpoints, but safety is the fundamental issue. All of the rest of these discussions are second tier. If you want to ignore that fact and then say you are turning a blind eye to it, that is a decision that each individual Supervisor has to make. Every comment that I have received from residents is not to pursue or encourage fishing in ponds. Fishing is allowed at Buck Lake. Every email I have read has been opposed to fishing, and these are from the residents, the people who live here, the people who pay the assessments. I am not concerned about the people from Holopaw; we will figure out a way to deal with that issue. But we have to decide the course of action that we want to take. The issue is, do we want to allow fishing or not. If safety trumps that issue and we have a problem with fishing, that needs to be the element that we spend our time on. We need to be focusing on if we want to put up more signs. We have more signs in this community than any place else. We have a sign for everything. If we need to put up some signs that say No Fishing, then let us do that. We can have some nice decorative, permanent signs and make it obvious. A lot of this is education. If that is the direction we want to take, then let us put up the signs. The vast majority of these ponds are privately owned. Many of the other ponds that are owned by the CDD should be posted. Everyone I have talked to, the residents and property owners, have said they moved here for a reason. They were promised private and they paid a premium for their lot to be on a lake, knowing there was going to be some element of privacy behind it. I do not think you can ignore that fact, regardless of who made the representation or how the representation was made. I have not changed my position on it. I am a strong advocate for fishing. We have an appropriate fishing facility. We have a full-time dockmaster. We have these recreational facilities. We have classes and we actively promote fishing at Buck Lake. Under no circumstances will I compromise someone's safety to open up these ponds for people to fish wherever they want.

Mr. Walls stated I can produce several emails and there are several people in the audience today who have the opposite position on fishing. These are residents who pay their CDD assessments. I am not saying that we ignore safety. I am saying that we make ourselves aware of the issues and weigh the risks. We do that with all of our facilities. I take safety to heart. I have done some research on this issue. I found a study that looked at alligator attacks over the last 56 years. The study used Fish and Wildlife Commission

data from Florida, and over the last 56 years, 15 people have died from alligator attacks. This is across the entire southeast United States. That works out to one person every four years. The study also showed what those people were doing when the alligator attacked them. One of those people in 56 years was fishing. The rest of them, almost all of them were swimming in the water where the alligators were.

Mr. Evans asked does the report indicate how many pets were snatched off the lake banks and how alligators have lost their fear of humans because of the fishing element?

Mr. Walls stated that is an element. This is about people. I am looking at safety for people. I also looked at dog attacks. In the course of one year, over four million people are bitten by dogs. We have multiple dog parks here. Are we fine having those parks while ignoring the safety problems there? According to the Center for Disease Control, almost 400,000 people every year are treated for dog bites.

Mr. Berube stated our own employee was bitten by a dog last month.

Mr. Walls stated we are not ignoring safety. We are not saying it is not a problem in our dog parks. We are saying that it is a risk we are fine living with. My employer has a list of drownings in Orange, Osceola and Seminole Counties over the last 10 years, and 147 people have drowned in the last 10 years. The number of people who drowned in a retention pond was eight over the last 10 years. None of those people were fishing. They were toddlers who wandered away from home when no one was watching, or they drove their car into the pond and were unable to get out. None of those people were fishing. we are creating risks and safety problems that are actually far less than what we are experiencing in some of our other facilities, and we are fine with those in other facilities because we rely on people to use common sense and to do the right thing when they are at the facilities and to follow our rules. Is there a safety risk by standing on the edge of a pond bank fishing? yes, but I would argue that it is less of a risk than are at some of our other facilities, including sending them out on a boat in the middle of a lake where the depths reach 16 or 17 feet. We cannot blow it out of proportion.

Mr. Berube stated I agree that we have a managed risk. I am pro fishing. My concern at the moment is that I do not want to set a precedent. If the CDD takes the position to allow fishing, and on the opposite end of the same facility, there is another rulemaking body that says there is no fishing. I cannot see how we can allow it.

Mr. LeMenager stated but we do allow it today.

Mr. Walls asked why does it matter?

Mr. LeMenager stated let us be clear. Fishing is 100% allowed according to the rules of the CDD, simply because it is not prohibited.

Mr. Berube stated if we adopt a rule that says we will allow fishing, then the CDD has now said it is acceptable, while the ROA has a rule that says it is not allowed.

Mr. Walls asked why are we adopting any rules on this issue at all?

Mr. Berube stated that is what some people are requesting.

Mr. Moyer stated I will address Mr. LeMenager's comment and the way staff interprets this. If we receive a call asking if fishing is permitted on a Harmony CDD pond, the answer that we will give is no. First, what is the purpose of the pond? The purpose of the pond is for drainage. If you are not doing something directly related to drainage, then no, you are not authorized to use that pond. In the absence of having a policy that permits it, our standard response is that it is not allowed because you are not doing something that is directly related to the purpose of the pond.

Mr. Walls stated the engineer sent me a document yesterday that laid out our stormwater plan that listed six purposes for our ponds. The sixth purpose is recreational facilities. That is in our stormwater plan. I commented to Ms. Burgess that an orientation package would be nice for new Board members, and this is something that should be included in that package. Our stormwater plan says that these ponds are intended for recreational purposes.

Mr. Dan Miller stated I live on Bracken Fern and I attended this meeting last month on this same issue. My wife and I are strongly against fishing in the ponds. The fundamental issue in my mind is the intent. I am baffled. Whether this is CDD property or ROA governed, the fundamental issue is, what was the original intent or the legality between CDD public property and the ROA. We bought our home in this community. We paid a premium for our lot so that we would have a view and a level of privacy. Yesterday we were treated to three children who do not live in Harmony. Mr. Druckenmiller asked them to leave. They live in St. Cloud but they came in here to fish in the pond behind our house. Why should we have to put up with that? The ROA restricts fishing, so why do we want to open this up for anyone to come in off the street and go fishing in our community? I do not understand that. There is an undesirable element in allowing that to happen. If you do not live on a pond, you do not have to deal

with an alligator that is now much tamer and starts coming up into our backyard. The point is that we end up having to deal with the trash and people walking around the pond. The issue is not people walking around the pond. The issue is not trespassing. You do not need to put up No Trespassing signs. All you need to do is put up the proper No Fishing signs. I do not think anyone objects to people walking around the ponds. It has not been an issue until this year and we are seeing outsiders in our backyard. I asked a couple guys to leave who did not live in the community, and they left. They did not know fishing was not allowed. Post the signs if that is what it takes. Getting back to the issue of what is the fundamental intent when the community was setup, everyone who purchased their homes here knew what the rules were. They knew that fishing was expressly prohibited. Whether or not it was the right governing body, it is in the ROA documents.

Mr. Walls stated to your point, I would suggest that it has to be the right governing body. To put up a sign that says No Fishing, we have already done that. They are in some of the ponds now but the point is that those signs are not enforceable by anyone.

Mr. Miller stated if you need to make a change to make the signs enforceable, then do it. Do not go back and change the rules.

Mr. Walls stated we are not changing the rules.

Mr. Miller stated the rules were established when we purchased our home. We read every document and they were very clear that there is no fishing and no boating in the ponds. Where do you draw the line? That is why we purchased our lot on the pond because of those rules. We would have this lovely view across the pond and it would never be developed on the other side. We read that we would never have to deal with people fishing in the pond. We lived on a lake before and we knew what that could be like. We did not want that here. That was the intent. If there was an overlook when someone setup the original covenants of the community, then fix it. Do not say that since it was the wrong governing body you can hide behind it. I think that is wrong. You have to look at what people bought into.

Mr. Walls stated if we were to put up No Trespassing signs, that means for everyone to keep out, including people who walk around the pond.

Mr. Miller asked why do you need to put up No Trespassing signs?

Mr. Walls stated that is the only way it can be enforceable.

Mr. Miller asked why can you not just put up No Fishing signs?

A Resident stated if I am at the pool at midnight and a sheriff comes up to me, I can show him my key indicating that I have a right to be there, but I am breaking the posted rules and the sheriff will tell me to leave.

Mr. Miller stated I thought I heard in this discussion that the issue was the No Fishing signs that were posted were improper because they did not have the Statute, did not list the governing body, and were not posted frequently enough, which is every 500 feet.

Mr. LeMenager stated that is correct.

Mr. Miller stated I never once heard that we need to post No Trespassing signs. The issue is fishing and what that brings into the community, not people walking around the pond. That is part of living here.

Mr. Berube stated the attorney provided guidance that the No Fishing signs were not enforceable by law enforcement because they did not conform to Florida Statutes for No Trespassing signs. The No Fishing signs may work but most of the signs disappeared. If we are going to do that again and we can try it, if it keeps people away, that is great. After repeat calls to the sheriff's office for "enforcement" of No Fishing signs, I can see at some point the sheriff will say they are responding without any authority to enforce those signs. If we need real enforcement of this, meaning they issue trespassing citations, then we need a sign that says No Trespassing that lists the governing body and has to meet the Florida Statutes, which includes being posted every 500 feet and going around corners. The question becomes, do we want to spend the time and money and sacrifice the aesthetics to install No Fishing signs, which may or may not be effective, and if they are not effective, we may not be able to get them enforced; or do we want to go through the steps to install No Trespassing signs. There is a lot of speculation, and I can appreciate what you are saying. If I lived on a pond and had people in my backyard, I would be concerned. As I have said before, the ponds are wide open and people should be allowed to fish; however, I see a rule in this community, the same one Mr. Miller saw, that says no fishing. I do not want the CDD to adopt a rule that goes against any other existing rule.

Mr. Evans stated the fundamental issue that several people are raising is the actual language on the signs that need to be posted. Can we have a sign that says No Fishing, Violators May Be Charged With Trespassing? We would also indicate the Statute.

Mr. Qualls stated I will need to research that. I know you can put a sign that says No Fishing, and you can cite that to a rule. You should then work with the Osceola County sheriff to make sure they are aware of that rule and be prepared to enforce that rule.

Mr. Evans asked is that any different than the signs at the pools listing the pool hours and saying you cannot be there after hours or else you will be charged with trespassing?

Mr. Qualls stated no, not in my opinion.

Mr. Evans stated so we can allow people to walk around the ponds but just not allow fishing in the ponds. If you do come in there to fish, you could be charged with trespassing, provided the District implements a rule that supports that position.

Mr. Qualls stated I believe so. I would have to look into the criminal trespassing language to see what constitutes trespassing, but certainly I think you can have a sign around the ponds, just like at the pool, that would say No Fishing. Clearly that is within the District's ability to install such a sign.

Mr. Rich Martz stated I live on Bracken Fern and I want to thank you for investigating this issue rather than just deciding what you want to do and voting. I think part of your obligation is to investigate these issues and see what the consequences would be for such a rule. I feel the same as others have indicated, where we have some things in writing and other things verbalized. The CDD website does indicate there is no fishing, so perhaps that needs to be removed. I spoke with the golf course and asked them how they would feel if we came to fish in their pond, and they responded that they did not want their ponds to become a public park or something to that effect. We have a reputation for really good fishing in this community, which I discovered when I asked someone who was not from Harmony but was fishing out here. I hope this is something we can do something about. The quality of life issue in bringing potential predators into our neighborhoods because it is a fishing destination is crazy. The environmental issue of having the plant life harmed does not really apply. The safety issue or legal issue, I do not think we want to lose money defending a lawsuit that is easy to avoid. All we need to do is not allow fishing. It is not a matter of "if" it will happen; it is a matter of "when." It is only a matter of time. I love to fish here, but we live in a litigious society and people look for trouble all the time. Please do not seek to undermine our community by overturning the existing rule for fishing in the ponds.

Ms. Joan Becker stated I live on Bracken Fern. Comments have been made on aesthetics of the sod and mulch and how that looks. You can control that with Luke Brothers but we cannot seem to control people legally who come into this community. If we can allow fishing in the ponds, then can we allow swimming and whatever other water activities people want to do on those ponds? I am protective of Bracken Fern because anyone who wants to get to that pond has to go through my property. I do not think that is legal. If you are thinking about safety, that is an issue. Mr. Walls raised some information that not many people die in ponds from fishing, so safety may not be the only issue. Aesthetics might be another issue you should consider. People bought their homes with certain expectations, not with the idea of people sitting on the grass by a pond in their backyard.

Mr. David Leeman stated one of the things that has not been addressed is what liability the CDD might have if someone gets hurt or killed while fishing in the ponds, swimming or any other activity. If there is any kind of liability for a lawsuit, then you really should prohibit it. We cannot afford to defend ourselves in a lawsuit or to pay out money for a settlement. If there is no liability, then you can decide one way or the other. But if there is any liability whatsoever, then you have to guard against that, no matter how much you like fishing. I like to fish and I am not against fishing the ponds, but I am against having the liability that the CDD would have to defend itself against and/or pay. Is there such a liability? The CDD Board does not actually have to decide. It is possible that you can put it on a ballot as a referendum and let the voters decide. If 90% of the people do not want fishing and you adopt a fishing rule, then they will be unhappy. If 90% of the people do not want fishing, then you really should not allow it. If 90% of the community wants to have fishing and there is no liability for it, then go for it. Having a referendum seems like a good idea since people have spoken to their neighbors and many are in favor of it and many are against it. If you have no liability, place it on the ballot, see how the votes fall.

Mr. Qualls stated in today's society, there is liability. The issue can get complicated, but the District, as a government, has sovereign immunity from tort liability. The Legislature has set a cap, I believe at \$100,000, but there can always be a claims bill to try to get an award of damages above that cap.

Mr. Walls stated that can be for anything.

Mr. Qualls stated that is correct.

Mr. Walls stated someone can sue me for not liking the way I dress for these meetings.

Mr. Berube stated you need to have standing, cause, and damages. Those are three significant thresholds. Having said all that, we are liable for everything. It is just the way it is.

Mr. Dennis DeMaria stated my comment concerns the impact on the wildlife. If fishing is allowed, it is possible that an alligator will need to be removed. It will also affect bird life by impacting the crane nesting areas. I am concerned about removing alligators and the impact on wildlife nesting.

Mr. Evans asked are we going to continue to discuss this? Are we ready to take action in one direction or another? Or are we going to ignore it and let it continue?

Mr. LeMenager stated I am in favor of the CDD adopting a rule that will officially prohibit fishing in any pond that borders residential property within the boundaries of the Harmony CDD. Then we can post signs that will be legal and enforceable by the sheriff. I appreciate what people have said but the only body that can enforce anything is the sheriff. Many times you can simply tell someone fishing is not allowed, they will say they did not know and leave. What happens when you come across someone who is belligerent who will not leave? There is nothing we can do today against that person. I am hearing that the residents on Bracken Fern are totally fed up with people from St. Cloud and elsewhere fishing on their private pond. I support that 100%. To me, the solution to that is we adopt a rule. We will have a public hearing on rules next month so we have the opportunity to add that to the agenda and include it as an official rule.

Mr. Evans stated since we are having a rulemaking hearing next month, I would like Mr. Qualls to research the proper language if we decide to post the CDD ponds for no fishing and what the repercussions would be as well as the applicable Florida Statute, similar to the signs at the pool. We can restrict certain activities at all of our facilities if we think it is in the best interest of the community and the residents.

Mr. Qualls stated Mr. LeMenager is correct; the Board is not in a posture at this point to adopt a rule but there is a workshop following this meeting and a hearing next month. I will do that research and look into it and forward a draft to the Board.

Mr. Evans stated if the Board decides to implement a No Fishing policy on all or some of their ponds, we need to know the language that will be on these signs and what will be the spacing—I understand it is 500 feet—and what will be the plan of action to implement an enforcement of those rules, just like we do around the pool.

Mr. Walls stated I am mostly in agreement with what Mr. LeMenager said. I understand the concerns that residents have of people coming in their backyards. The only thing I disagree with is that it is a private pond for the people who live on Bracken Fern. That is not the case. That is a CDD-owned pond, so I think we need to be careful on how we limit access to our ponds. I am fine with selectively placing No Trespassing signs, and I am interested to hear from the attorney if we are able to do selective No Trespassing signs as far as activities. I am fine with placing them around certain ponds, provided that we have the assurance that most of the people who have property directly adjacent to those ponds do not want fishing. We are hearing from some people today. After Ms. Jeanna McGinnis sent her email, I went and counted, and there are over 20 houses whose property abuts that pond. Do all 20 people want no fishing? Do 10 or five of them? I do not know. I would be more willing to make that decision one way or the other if I had an understanding of where those people stood. I will not ever vote for a hard rule that restricts fishing in all ponds, especially those that do not touch a residential property.

Mr. Evans stated we have time to think about this. We will consider it next month and we will receive some input from Mr. Qualls.

A Resident stated Bracken Fern has been the most involved in this issue, but I do not want our street to be the only one involved in this issue. Trash is not the only concern, either, so in your final analysis, do not think it is just Bracken Fern or ponds next to residential units. The pond next to Clay Brick Road is starting to see evidence of people digging holes in the bank.

Mr. LeMenager stated that has nothing to do with the CDD; you need to talk to the golf course since they own the ponds. Please understand only nine ponds belong to the CDD. If you are talking about a pond that does not belong to the CDD, I am sure the golf course would be more than happy to have people arrested who are digging holes in their ponds. That is private property.

SEVENTH ORDER OF BUSINESS

Supervisor Requests

There being none, the next order of business followed.

EIGHTH ORDER OF BUSINESS

Audience Comments

A Resident stated one thing to think about, I live on Bear Grass Road and there is a big pond there. I saw a group of people drive up to the sidewalk and setup a camp with coolers and fishing poles and eight or ten people. If you open up the ponds for fishing, that is what is going to happen at those ponds. A lot of people come in here from outside Harmony to fish.

A Resident stated the retention ponds belong to the CDD and the bank is about a foot wide, but since they are as deep as 17 feet, that is very dangerous for a child.

A Resident stated I live in Ashley Park across from the pool. Is it possible to have a sign at the front gate instead of inside at the pool? Then when people want to get into the pool at 3:00 a.m., they have no argument about not seeing where it says they cannot access the pool. Also when younger kids come into the pool area, their parents drop them off and do not see the age restriction.

Mr. Berube stated when we install the new gates with the card readers, there will be no access for anyone under 16 years old, so that problem will fix itself.

Mr. Walls stated that is true, but I still think having a sign posted at the gate is a good idea.

A Resident stated to park at the school at Clay Brick Road, students have to pay a fee and it allows only 25 cars. There are often fights, and the other day someone did a donut and left an oil slick on Clay Brick Road right by the tunnel. The sheriff has come out to deal with the fights. Kids hang out there before school and there are cigarette butts all over. They cause a lot of noise, and many residents in that area are snowbirds and may not wake up at 7:00 a.m. They also do not want to hear the kids with their big trucks and 35-inch tires. I spoke with the County and they said we could put non-official No Parking signs on that strip. It is not enforceable, but the traffic department said we could install those signs.

Mr. LeMenager asked what is the point of non-official signs? If we cannot get the sheriff to give the kid a ticket, what is the point?

The Resident stated if I see a No Parking sign, then I will not park there.

Mr. LeMenager stated I can appreciate that, but I have a feeling kids in their trucks will not care.

The Resident stated we put up two signs Drop Off and Pickup Only, and kids are not parking there. They are parking from that point on. This is a master-designed community and I would think the design did not plan that as parking for school kids. The condominiums are not selling because of the cars in that area.

Mr. Walls asked is that our right-of-way?

Mr. Berube stated the streets are clearly not ours. Who is maintaining that area from the sidewalk?

Mr. Haskett stated the District. Perhaps a better way to address it is to work with the school.

Mr. Berube stated this happened last year so a resident met with the principal, and the problem was resolved very quickly, but now it is back.

Mr. LeMenager stated the sheriff has an office in the school and there are two officers.

The Resident stated I talked with them already, and they said to put stickers on the cars, but I am not going to do that. When this community was planned, you should have known kids were going to park on that strip.

Mr. Haskett stated it is about 24 feet wide and it was designed for parking on both sides.

Mr. Walls stated that is where we get into an issue where we put up a sign where something is legal to do.

Mr. Berube stated we could try to put up some signs since they are not very expensive to see if it alleviates the problem for the people who live there.

The Resident stated the sheriff said that they cannot enforce the signs, but it will scare the kids away.

Mr. LeMenager asked did the County install the Drop Off/Pickup signs?

The Resident stated I believe they did.

Mr. Haskett stated that is because we convinced the County that is the designated drop off and pickup area.

Mr. LeMenager stated then we should convince the County to adopt an Ordinance that does not allow parking on the other side of the street.

The Resident stated the sheriff said that the CDD has to post the signs since I cannot, and their Board has to agree to it but they are happy to provide enforceable signs in that case.

Mr. LeMenager stated I find it hard to believe that a resident cannot do that.

Mr. Haskett stated all that sign will do is push the parking to the other side of the street. If they cannot park there, then they will park in front of the condominium units or they will park around the corner.

Mr. Walls stated then you just move the problem.

The Resident stated you have not done anything about this in three years. UPS will not deliver packages there because the delivered packages are disappearing. This age group has the highest rate of theft. The sheriff was there last week for a brawl.

A Resident stated these all sound like separate issues, but they are not. Kids pull up in their big trucks. People are smoking pot behind my house. I do not understand why you do not do anything. We want a community that is nice and green and family friendly, but when it comes time to do something about it, you just want to sit here. These are all separate incidents but they are all connected.

Mr. Walls stated you have to understand that it is different when you are a Supervisor sitting on this side of the table. We are bound by law and cannot make State Statutes that say you can or cannot do a certain thing.

The Resident stated then at least exert some effort.

Mr. Walls stated I agree with a lot of what you are saying, but there are already laws in the State of Florida. I work for Orange County, and this sounds like a County issue since kids are parking on a County roadway.

A Resident stated it is a County issue, and we have to fill out paperwork in order to install signs.

A Resident asked if that is the case, why would Mr. Walls complain at an HOA meeting about parking?

Mr. Walls stated that was a legal issue.

The Resident asked and you are saying this is not? What is the difference?

Mr. Walls stated they are parking legally on the roadway.

A Resident stated if the CDD or whoever owns that property, they should post a sign. If I owned that property, then I would post the sign myself.

Mr. Golgowski stated part of it is being driven by the parking fees that are being charged by the high school, and that is something that we should be looking at.

Mr. Berube stated I will take this to the County and the School Board rather than the school directly. I will speak with Tom Long and see if we can get this addressed at a higher level. I will do this as a resident.

A Resident stated the person I spoke with in the traffic department said you can post a non-official sign to try to scare the kids away. You just cannot call to have the signs enforced.

Mr. Berube stated I understand. I see this as a school issue because the school is driving the kids away for whatever reason: the kids do not want to pay the parking fee, the kids want to be free to leave during the school day, or whatever. That impacts the quality of life on the residents in our community. I will push it back to the School District and let them handle it from there.

The Resident stated I appreciate that. One of the issues in parking on both sides of Clay Brick Road is emergency vehicles cannot get by, so it is a concern to allow ambulances, fire trucks and other emergency vehicles access in that area.

A Resident stated I suggest this gentleman attend the neighborhood watch meetings.

A Resident stated I live on Bracken Fern. Related to the comments about people fishing in the retention ponds, I remember six or seven years ago Harmony was getting the reputation as an upscale community that was under construction and was not very carefully policed. The result was vans pulled up and vandalized houses and stole appliances. Teenagers were causing damage at Buck Lake before we got a security setup. Teenagers were burglarizing cars that were parked in the neighborhoods. We now live in a more secure community, but I also think we need to underscore the issues regarding safety and security. If a single retention pond in Harmony gets the reputation for being open to everyone as a recreational destination, you will see young kids with beer, high school dropouts, and other undesirable activities happening at that pond day and night, people doing whatever they want in our community. That is a bigger risk than I could acknowledge for our children, ourselves and our property. Why do we want that kind of a reputation? If we can prohibit swimming in our ponds, then we certainly can prohibit fishing.

Mr. Leeman stated speaking to the pond maintenance issue, I find it a little disturbing that they are spraying spikerush plants. We have been putting spikerush into the ponds because they suck up fertilizer and they create a habitat for birds and other wildlife. When we moved the spikerush to other ponds, we saw the birds nesting in them as the vegetation increases. As the spikerush takes over the ponds, I would think that is a good thing.

Mr. Golgowski stated the spikerush that is causing problems is the slender spikerush. It is different than the plants that have been installed.

Mr. Leeman stated if the spikerush and other plants take over the edge of the ponds, that will certainly make it harder for people to fish in the ponds. It is a benefit to the wildlife, so I think we should continue doing that. Regarding Luke Brothers, my concern is that their contract expires in September. If you want to replace them, you need to put it out for bid. I would like to know the last time this contract was put out for bid and be ready to go out for bid before September and then make your decision about Luke Brothers at that time. If you give them notice that you are going out to bid by June, then by June you also need to decide whether or not you will terminate their contract. It would be nice to do all of that by September to make it easier and allow another company to make the transition.

NINTH ORDER OF BUSINESS

Adjournment

The meeting adjourned at 11:15 a.m.

Gary L. Moyer, Secretary

Robert D. Evans, Chairman