

# MINUTES OF MEETING

## HARMONY COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Harmony Community Development District was held Thursday, April 30, 2015, at 6:00 p.m. at Harmony Community School, 3365 Schoolhouse Road, Harmony, Florida.

Present and constituting a quorum were:

Steve Berube ( <i>by phone</i> )	Chairman
Ray Walls	Vice Chairman
David Farnsworth	Assistant Secretary
Kerul Kassel	Assistant Secretary
Mark LeMenager	Assistant Secretary

Also present were:

Gary Moyer	Manager: Moyer Management Group
Tim Qualls	Attorney: Young, van Assenderp & Qualls, P.A.
Steve Boyd	Engineer: Boyd Civil Engineering
Gerhard van der Snel	District Staff
Residents and Members of the Public	

### FIRST ORDER OF BUSINESS

### Roll Call

Mr. Walls called the meeting to order at 6:00 p.m.

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

### SECOND ORDER OF BUSINESS

### Audience Comments

Mr. Bell stated I would like an update on the project for repaving alleys.

Mr. Boyd stated the phase of work that we put under contract last year is complete. We are still working with the contractor that did the work on payment of the final amounts. There is a dispute over the value of the changes. The work is complete, and we are trying to finalize the amount he is owed and get him paid the last amount. With the Board's direction, we will determine the next phase and schedule of work so we can proceed with the next phase of alley improvements.

Mr. Walls stated our budget meetings are coming up, and I am sure that is one of the topics that gets covered over the next couple months.

Mr. Justin Kramer stated I do not know about the procedural concept of this. I know Mr. LeMenager forwarded my suggested revisions for Chapter 1, Amendment 4 to be distributed to the Board. I had some concerns. Last time, the Board voted to basically remove Amendment 4 from the rules. Currently, that is removing all environmental

considerations from the rules and regulations of the CDD Board. My concern is that this community was founded on environmental considerations and living with nature. We just sent out a survey where over 70% of people cite environmental concerns as a reason for moving here, and over 90% feel it is very important to living here and the quality of life in Harmony. There has been a lot of back and forth with CDD Board members. I met with most of you personally to discuss this concept with you. There are some concerns about language. The language of this current amendment is not ideal, but in the current timeframe we have, it is difficult to deal with it. Some of the questions were to the validity of being able to do anything about this or for the rules having teeth. The Statutes dictate pretty specifically about our ability to create rules like this. Within any rule that we would create, this would be something that would allow us to take action in the procedures and in the guidelines of the Harmony CDD Board, such as landscaping, water treatment, pond treatment, and so forth. It is very important for us to take action and know that we are preserving our environment here in the community to make sure that what we all signed into, paid money for, and came together as important to us is preserved, not just what we home owners do but also what the CDD does, as a representative of us, with regard to District policies and procedures. I issued my suggested amendment, which is a rough draft of what we would like for it to say. It was the best we could do within the truncated timeline that we had. If we can have more time, that would be better. As it stands now, I would like to not lose all of that text.

Mr. Moyer stated the rule adoption process is not quick. You have more time to refine what you are doing to present to the Board. We will have additional workshops, and we need to have an advertised public hearing. It is not something that will happen tonight or probably in the next month or two. We have gone through this process several times, and based on past history, the Board wants to get this right. Everyone will be afforded the opportunity to make comments. You are certainly encouraged to do so if you want to refine what you have given to the Board.

Mr. Walls stated Mr. Moyer is right. I would say we are at least two to three months out before we have our public hearing. I heard Mr. Kramer's comments and I met with him. I heard from some other residents, as well. What I do not understand is the idea that getting rid of this rule has anything to do with how we operate in terms of the environment. This rule, from my perspective, has one mandate, which is that we should

meet with the HOA to talk about environmental policies. This rule has been on the books for at least 12 years, and we have never done that once. We have never done it once because the HOA and the CDD have different missions. They do not overlap.

Ms. Kassel stated that is not true.

Mr. LeMenager stated this is the public comment section. We should wait for the agenda item on the rules to get into discussions. I will not comment now, but I certainly have comments.

Ms. Kassel stated if possible, I would like to move the rules discussion to earlier in the meeting so that the residents who came for that discussion do not have to sit through several hours of other items.

Mr. Walls stated I do not think there is anything that is going to take a long time.

Mr. LeMenager stated it is a fairly straightforward agenda.

Ms. Susan Murphy stated I am new to Harmony, so I do not understand all the incidentals of the different groups. I am trying to understand the rules you are wanting to remove completely. Is that these 12 pages of text?

Mr. Walls stated yes.

Ms. Murphy stated it says you will exercise any powers regarding applicable projects and be in compliance and not be inconsistent. There is a lot of stuff in here that I think should be included as guidelines. I think saying that all this says is that you have to meet with the HOA is not quite what I am seeing. I do not think that is the only requirement of all this text.

Mr. Dave Leeman asked how many residents do not think the rules should be changed? How many residents think the rules should be changed? Based on those raising their hands, I think that is a pretty good majority that no one thinks the rules should be changed. I think as our representatives, you need to take into account not just what you think is right but what we think is right. Of course, that business about being more than meeting with the HOA, if that is your issue, then take that out and keep the rest. Personally, I am pretty on board with Mr. Kramer's suggested amendment. If we have time to fine-tune that, I would go along with that one.

Ms. Kimberly Rodriguez stated I am new to these meetings, so please excuse my ignorance. I think honestly when new neighbors come in, one of you needs to come and

welcome us. I sat here as a new person. I have lived here for a year, and I think for the most part you do not even know who I am.

Mr. LeMenager stated I recognize you from Facebook.

Ms. Rodriguez stated then you should have come and said hello. No one said hello. I presume you want more residents to attend.

A Resident stated welcome.

Ms. Rodriguez stated thank you. We are supposed to be Harmony. Second, pardon my ignorance but I do not even know what Amendment 4 is. For the benefit of those of us who are new, you may want to include a blurb about what you are discussing because I cannot say aye or nay. I am new and I want to come back to these meetings, but you should also want others to come back.

Mr. Walls stated we appreciate you coming to the meeting. We have discussed these rules for several months. We are here to answer any questions you have. If you need to contact us, do it. Our information is on our website. We are on Facebook. You can contact us in many different ways. I know each and every member of this Board will answer your questions and help you in any way we can.

Ms. Rodriguez stated next time, I hope you will come greet me.

Mr. Walls stated we know who you are now.

A Resident stated the most recent minutes on the website are from February. Are those going to be posted faster?

Mr. Walls stated tonight we will approve the March minutes. If you think about how a Board works, we meet once a month. We have to approve the minutes before they become official. However, the March meeting minutes are on the website right now in this month's agenda package. Every month when the new agenda is posted, you can find the minutes from the last month's meeting.

Ms. Kassel stated the agenda is generally posted about the same time that we, as a Board, receive a copy of it.

Mr. Walls stated it is about a week before the meeting.

Ms. Kassel stated we are not seeing it anymore in advance than when it is posted on the website. Then you can see it.

A Resident stated the bat house used to be at the entrance to the school, and my understanding from reading the newsletter is that it was moved and will be reconstructed.

It looks like it is ready to fall down and is in disrepair. Is there anything in the plan for the future to fix it or paint it?

Mr. LeMenager stated when the sidewalk was put in around the ponds, one of the trucks rammed into one of the posts some time ago. It has looked exactly like it does now for about two years. I am not sure it will fall down anytime soon.

Mr. Walls stated we will check it out.

Ms. Kassel stated Mr. van der Snel will look at it.

The Resident stated water has to be getting in there.

Mr. Charles Hendricks stated I second what Mr. Leeman said, and I think he spoke for everyone in this room. I agree with everything he said. Other than taking out the HOA requirements, I am not sure why you would want to remove Amendment 4, if that is the only thing you are talking about. I think you need to listen to the people, because the people are who you represent.

### **THIRD ORDER OF BUSINESS**

### **Approval of the Minutes of the March 26, 2015, Regular Meeting and April 8, 2015, Emergency Meeting**

Mr. Walls reviewed the minutes and requested any additions, corrections, notations, or deletions.

Ms. Kassel stated I have corrections for the regular meeting minutes. Page 4 should read "Ms. Valerie Ang stated I wanted to ~~briht~~ bring up the issue of the requirements for resident access cards." Page 6, line three should read "Glyphosate is ~~quansi~~ quasi-effective." The motion box on page 8 is incorrect. The proposal was much more extensive than what is written. It is not just for those things mentioned in the motion box for the mimosa and ferns from my house to be installed at the plant beds at the Cat Brier roundabout. It was for the proposal from Davey. Page 20 about two-thirds of the way down should read "Page 2 does ~~day~~ say bank owned." Page 24 should read "Mr. Berube stated yes. We have 11 contracts." Page 41, first paragraph, third line from the top should read "DMV gave ~~be~~ me a form that said they are unable to issue me a driver license."

<p>On MOTION by Ms. Kassel, seconded by Mr. LeMenager, with all in favor, unanimous approval was given to the minutes of the March 26, 2015, regular meeting, as amended.</p>
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On MOTION by Ms. Kassel, seconded by Mr. LeMenager, with all in favor, unanimous approval was given to the minutes of the April 8, 2015, emergency meeting.

**FOURTH ORDER OF BUSINESS**

**Ratification of Resolution 2015-05  
Refinancing the Series 2004 Bonds and All  
Other Actions Taken at the Emergency  
Meeting Held April 8, 2015, and Ratification of  
Resolution 2015-06 Accepting as Complete  
the Project Financed with the Proceeds of the  
Series 2004 Capital Improvement Revenue  
Bonds**

On MOTION by Ms. Kassel, seconded by Mr. LeMenager, with all in favor, unanimous approval was given to ratify Resolution 2015-05 refinancing the Series 2004 bonds and all other actions taken at the emergency meeting held April 8, 2015, and to ratify Resolution 2015-06 accepting as complete the project financed with the proceeds of the Series 2004 capital improvement revenue bonds.

Mr. Walls stated for the benefit of the public, we have been working on this for the last couple months. Special Districts issue bonds, and when the developer controls the CDD in the beginning, they issue bonds to construct infrastructure in the neighborhoods. As we all move in, we pay for those bonds through our CDD assessments. In this instance, the developer is still paying for all of these bonds that we just refinanced, Series 2004, because it has to do with land on the east side of the community toward Cat Lake. We had the opportunity to refinance those bonds at a lower rate than what they could in 2004 when they were issued. Going forward, the District will save money in terms of paying off those bonds. People who eventually buy those lots on that side of the community will pay less on their assessments. That is why we refinanced those bonds. We also got \$200,000 out of the deal to put toward some street light loans that the developer entered into a long time ago when they controlled this Board, which are at about 10.5% interest. We are going to be able to use \$100,000 of that amount to pay off some of those loans at a 5% interest rate. It was a pretty good deal for the District and for everyone.

**FIFTH ORDER OF BUSINESS**

**Discussion of Street Light Buy-Down**

Mr. Moyer stated I provided the schedule of the contracts with OUC relative to street lights and the estimated savings if the District goes forward to buy out the capital portion

of the lease that we have with OUC. I did an analysis of fund balance and the use of that fund balance to accomplish the buy-down. The amount is about \$470,000, which will generate savings over the lease period of about \$260,000. In order to do that, we will have to use some of our operating reserves and some of the monies from the 2004 refinancing. My analysis indicated we were \$127,000 short. If you subtract \$100,000 out of that, we are about \$27,000 short, and we can probably find that in some savings we may have through this year's operations. The Chairman and all the Board members have been working on this, and I think Mr. Berube has some contacts at OUC. We will contact them, along with Mr. Qualls, and find out how we go about doing that.

Ms. Kassel stated we need a new buy-out figure first.

Mr. Moyer stated yes. It will be lower than \$470,000.

Mr. Walls stated this is all contingent upon working out those details with OUC.

Mr. Moyer stated that is correct.

Mr. Walls asked have we received the proceeds from the bond issuance yet?

Mr. Moyer stated yes. It closed two days ago.

Mr. Walls asked is anyone opposed to this plan?

Ms. Kassel stated I think we need to vote on it. Or are we not to that point yet?

Mr. LeMenager stated we need real numbers first.

Mr. Walls stated we need to work a deal with OUC and then probably bring it back to make sure we are comfortable with that deal and look at the real numbers.

Mr. Moyer stated I sense from the Board, in concept, you support doing that.

Ms. Kassel stated as long as we are not leaving ourselves too vulnerable with less in reserves.

Mr. Walls stated I am far more comfortable with that \$100,000 from the bond refinancing.

## **SIXTH ORDER OF BUSINESS**

### **Subcontractor Reports**

#### **A. Aquatic Weed Control**

##### **i. Bio-Tech Consulting Monthly Highlight Report**

The monthly landscape maintenance report is contained in the agenda package and is available for public review in the District Office during normal business hours.

**B. Landscaping**

**i. Davey Tree Monthly Highlight Report**

The monthly landscape maintenance report is contained in the agenda package and is available for public review in the District Office during normal business hours.

**ii. Landscaping Projects**

Mr. van der Snel stated I provided some information on what we used for the roundabout at Cat Brier.

Ms. Kassel stated I have looked at Cat Brier, but this is the first time I have seen this revised proposal.

Mr. LeMenager asked is this what we approved last month?

Mr. van der Snel stated yes. It just shows what we used.

Ms. Kassel asked do we need to approve it?

Mr. LeMenager stated we already did.

Mr. van der Snel stated it is just for your information.

**SEVENTH ORDER OF BUSINESS**

**Developer's Report**

There being nothing to report, the next order of business followed.

**EIGHTH ORDER OF BUSINESS**

**Staff Reports**

**A. Engineer**

Mr. Boyd stated I wanted to be at tonight's meeting in case there were any questions on what capital can be used for and any development you want to do with that, in case there were questions about the street lights. I brought some maintenance maps that I will leave for the Board's use. I will get one mounted that I can bring to future meetings. I have an update on the status of neighborhoods H-2 and F, which are progressing. Those will probably be platted in June, and you will see models start to go up in June in those neighborhoods. The developer is paying 100% of the capital installation costs for those street lights. In some form or fashion, an agreement will come before you in the near future for the ongoing electric service.

Mr. LeMenager stated we received it today. We have received several complaints recently about when it gets windy, this building gets sand blasted. I do not know if Mr. Boyd has direct contacts with the builders, but those areas really need to get watered down from time to time.

Mr. Boyd stated I will send the contractor an email after this meeting.



Ms. Kassel stated I know this is not really a CDD issue, but it sort of is in terms of the builders leaving debris, people getting flat tires, and the debris getting on people's lawns. Is there anything that can be done through Mr. Boyd about that?

Mr. Boyd stated I can put the contractor on notice and copy the developer that there have been complaints about debris.

Ms. Kassel stated people have spent hundreds of dollars replacing their tires.

Mr. Walls stated I imagine some of that is in the alleys, as well, which is CDD property.

Mr. Boyd asked is there an area in particular? Is this from home builders?

Mr. Walls stated yes. We do not have much to do with that, but we wondered if Mr. Boyd had any contacts with the builders.

Mr. Boyd stated I will let them know of your concerns.

**B. Attorney**

Mr. Qualls stated the Board authorized us to work out a contract for the repair of the boathouse, which is done. The amount was less than what was approved, so I will get it executed on behalf of the District. It has been signed by the contractor. We emailed a draft resolution this morning for the Board's consideration for parcels F and H-2 where Birchwood would pay the upfront costs and the District will maintain the street lights at about \$418 per month. I would ask the Board approve this resolution and authorize us to get it finalized.

On MOTION by Mr. LeMenager, seconded by Ms. Kassel, with all in favor, unanimous approval was given to the resolution regarding street lights in parcels F and H-2, as presented.

Mr. Qualls stated we put language at the bottom of our invoice that the highest compliment is sharing information. It has come to our attention that my hourly rate was \$200 in December, January, February, and March. It is supposed to be \$175. I do not know how that happened, frankly. We are giving you a huge discount, but rather than going back to each invoice for individual credits, we would like to give you a credit of \$842.50 over the next two billing cycles to take care of that discrepancy.

Mr. LeMenager stated thank you.

Mr. Qualls stated I apologize for that error.

**C. Field Manager**

**i. Dock and Maintenance Activities Report**

The monthly dock and maintenance activities report is contained in the agenda package and is available for public review in the District Office during normal business hours.

Ms. Kassel stated the report of incidents ended April 11.

Mr. van der Snel stated that is when I submit my report for the agenda.

Mr. Walls stated incidents after that date will be in next month's report.

Mr. van der Snel stated we did install new parts for the Lakeshore Park play area for what needed to be replaced.

Mr. Walls asked is the splash pad back up and running?

Mr. van der Snel stated yes. Two pumps needed to be replaced, which is not bad after 10 years. The Cat Brier project with Davey is finished, so we are moving on to Five Oaks and Town Square roundabout.

**ii. Buck Lake Boat Use Report**

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

**NINTH ORDER OF BUSINESS**

**District Manager's Report**

**A. March 31, 2015, Financial Statements**

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

Mr. Moyer stated we have collected 72% of our non-ad valorem assessments through the end of March, which is very similar to what it was last year. This does not include the distribution from the tax collector from the proceeds that we would have collected from mid-March through the end of March. The delta of 72% generally reflects what the developer pays and the timing of when he pays. We do not have any concern with that. The big expenditure item, as the Board is aware, is the capital outlay for street lights. In taking all of that into consideration, through the first six months of our fiscal year, with that substantial payment for the street light purchase, we are \$55,000 over budget at this time. Some of that will come back into line as we go through the rest of our fiscal year.

Ms. Kassel asked as a follow up to the discussion we had last month, which Mr. LeMenager raised, if the developer is footing all the costs for the 2004 bonds, why is there a column for 2004 debt service fund collected through the tax collector?

Mr. Moyer stated I told you what my suspicion was last month. They added the debt services together for the two series and divided it out by the assessment methodology. A lot of that was addressed, in part, by the refinancing of the Series 2004 bonds we just did and the developer agreeing to let the District take down certain funds in that bond issue, which is the \$200,000 we discussed. We probably need to have additional discussion on it, but the reality is, our recourse would be to go back to the developer and say that was inappropriate the way it was done and they need to pay that amount. The reality is that he has already done that through the refinancing of the bonds.

Mr. Walls asked you are saying that the assessments for the 2001 and the 2004 series of bonds were intermingled in terms of their collection, so they added up what was required to pay both and they charged everyone for both?

Mr. Moyer stated that is correct.

Mr. Walls stated that is a problem for me.

Mr. LeMenager stated yes. The fact that the 2004 bonds were refinanced is not germane to the discussion. The bottom line is, it sounds like Severn Trent made a rather serious accounting error.

Mr. Walls stated the Board approved that assessment methodology.

Mr. LeMenager stated yes, and I did not catch it until six months later.

Mr. Walls stated it is different from what we were told.

Mr. Moyer stated that is correct.

Mr. Walls stated that is my issue.

Mr. Moyer stated it is just like anything else. The County makes mistakes all the time. The cure is to go back and correct the mistake by sending the appropriate person the appropriate bill. You do not have the person in the assessment department write a check. If the Board desires to do that, we will have to figure that out and go back and bill the appropriate party.

Mr. Walls stated I would at least like to see what that delta is. I agree with Mr. LeMenager. The par amount that we just issued on these bonds is neither here nor there for me. We could have set that at whatever we wanted, whatever the market could bear,

and then charge that out to whomever is paying those bonds. It does not matter. I would like to go through that calculation. I do not know how far back this goes.

Mr. Moyer stated it is just last year. The reason that came about is we refinanced the 2001 bonds, got a better interest rate, and lowered the debt service. We still kept the 2004 bonds. That delta is very small now because the interest rates on both refinancings are very small. Going forward in the budget, we are going to direct the assessment department to isolate those bond issues and charge those appropriate to the areas that are benefited. So the developer will pay all of the 2004 debt service.

Mr. Walls asked can we do that calculation and see what it is?

Mr. Moyer stated yes.

Mr. Walls stated we can discuss it next month.

Mr. LeMenager stated the solution could well be to fix the last six months of the year, and then it all works out.

Mr. Walls stated the assessments have been paid for this year, for the most part.

Mr. Moyer stated that is correct.

Mr. Walls stated we can discuss it next month.

Mr. Moyer stated what is interesting about doing a refinancing is that there is a lot of good information in the offering statements. In the 2001 area, the developer still owns 33% of the property. We will factor that in.

Mr. Walls stated it might be a small amount; I do not know. I am just curious. It is different than what we thought it was going to be in terms of the methodology.

Mr. LeMenager stated all you have to do is add six numbers and divide by six.

**B. Invoice Approval #180, Check Register, and Debit Invoices**

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

Mr. Walls stated two invoices were pulled out that I am aware of. One is a FedEx invoice that was a fraudulent bill.

Mr. Moyer stated that is correct.

Mr. Walls stated the other was the KUA bill that is actually supposed to be paid for by the developer.

Mr. Moyer stated that is correct.

On MOTION by Ms. Kassel, seconded by Mr. LeMenager, with all in favor, unanimous approval was given to invoice approval #180, check register, and debit invoices, as presented with the deletion of the fraudulent FedEx invoice and the KUA invoice that should be paid by the developer.

**C. Website Statistics**

The website statistics are contained in the agenda package and are available for public review in the District Office during normal business hours.

**D. Public Comments/Communication Log**

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

**E. Acceptance of Fiscal Year 2014 Audit**

Mr. Moyer stated I want to enter some of the highlights of the audit for the record. The first page contains a section called opinions. Their opinion states that “the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activity in each major fund of the District as of September 30, 2014.” That is typically referred to as a clean opinion, which means the auditors had no exceptions or qualifications to the financial statements that we provided to the auditor at the close of business on September 30, 2014. Page 22 is an analysis of what this Board controls, which are assessments and expenditures against the general fund. They are showing that for fiscal year 2014, we collected \$59,328 more than we expended. That surplus went to fund balance to increase your overall fund balance. In essence, you did a good job in your responsibilities of maintaining the District. The next item is a report dealing with internal control and compliance with laws, rules, contracts, and things of that nature. Under internal controls, they state “During our audit, we did not identify any deficiencies in internal control that we consider to be material weaknesses.” Under the compliance section, they state “The results of our tests disclosed no instances of non-compliance or other matters that are required to be reported under *Government Auditing Standards*.” The last thing I will point out is the management letter. There are certain findings that are required, either by State law or by rules of the Auditor General, and this is also an opportunity for the auditor to bring before the Board suggestions on how to make our financial reporting system better, even though it may not be a material weakness. Under current year findings and recommendations, they state they did not have any recommendations. Footnote 6 says the District has not met one or more of the

financial emergency conditions described in Section 218.503(1), Florida Statutes. That particular section of the Florida Statutes defines what a financial emergency is. By not meeting one or more of those conditions, to say it another way is that we are not in a state of financial emergency. It is a double negative. I will ask the Board to accept the audit and to authorize us to file it with the appropriate State agencies.

On MOTION by Mr. LeMenager, seconded by Ms. Kassel, with all in favor, unanimous approval was given to accept the audited financial statements for fiscal year 2014 and to authorize staff to file it with the appropriate State agencies.
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**F. Consent Agenda Policy**

Mr. Moyer stated the idea of a consent agenda is for things that are considered to be routine and repetitive that do not require Board discussion. We put those things in a consent agenda to streamline the meeting. If any Supervisor sees something that you have a question on, you simply remove it from the consent agenda, and the Board will discuss it. Things that we normally put on there are minutes, invoices, and things that you see every month. We would not include things dealing with policy or rules or staff reports.

Mr. Farnsworth stated it sounds like there is very little that will actually end up on the consent agenda, if I am understanding it correctly.

Mr. Moyer stated I think that is right.

Mr. Walls stated I brought this up a couple months ago. Consent agendas are routinely used in different Board meetings. It would allow you to put together the minutes, the invoices, and things we do not need to discuss but we can review beforehand. The audience will be able to see these things in the agenda, and it will not be a controversial item or a policy item. If there is something you want to discuss and want to pull it off the consent agenda, you can. But if you do not and everyone is okay with it, you can put everything in one motion and approve three or four things at one time to speed up the meeting a little. That was the thought behind this.

Ms. Kassel stated I think it is a nice idea. I do not know how applicable it is right now for us. Maybe as we age a little, it will happen. So often, there are corrections to the minutes and questions on the invoices.

Mr. Walls stated the idea is, we all read the agenda package before we come to the meeting. If you have questions or small corrections, you handle that in advance. Then we save that five minutes to talk about other things at the meeting. That is the idea behind it.

Mr. LeMenager stated I do not know that we spend that much time on it. A typical meeting is always done by 8:00 p.m. anyway. It is pretty rare that we go past 8:00.

Ms. Kassel stated unless we are discussing the rules.

Mr. LeMenager stated it depends on the topic. I do not know that it is necessary.

Ms. Kassel stated let us visit this again next month and think about it. Is there anything that we would want to put on a consent agenda? Does it feel like if we did a consent agenda this month, we would save five minutes?

Mr. Walls stated think about it as you review the agenda package.

Ms. Kassel stated let us discuss it again next month and the month after as a possibility.

Mr. Farnsworth stated I think we need some idea of what would be on a consent agenda, so that we can make an intelligent decision.

Ms. Kassel stated the acceptance of the minutes and the invoices.

Mr. LeMenager stated I do not have a problem reviewing those separately.

Ms. Kassel stated I do not, either.

Mr. Walls stated if that is the will of the Board, that is fine. Several people came to me and said these meetings take a really long time.

Ms. Kassel stated they do, but I do not think this will save anything.

Mr. Farnsworth stated one thing it will do is reduce the size of this file.

Mr. Walls stated it would still be in there because you still have to review it. We would put everything in one agenda item.

Mr. Farnsworth stated as far as I am concerned, it should be in a separate file and keep it free from the rest of the agenda. It gets really big.

Ms. Kassel stated it would be embedded within this agenda.

Mr. Walls stated we will consider it next time we have all the Board members in the room.

Ms. Kassel stated for the benefit of the audience, the Board reviewed over 328 pages this month to prepare for this meeting. That is the package that we were sent last week.

#### **G. Number of Registered Voters – 926**

Mr. Moyer stated this item does not really have any meaning to the District where we are in our life cycle, but I am still required by law to report the number of registered voters. That was important when we had fewer than 250 registered voters because it determined how we elected Supervisors. We have been electing Supervisors through the

general election process for a number of years. It is interesting information, nonetheless, and we have 926 registered voters in Harmony.

#### **TENTH ORDER OF BUSINESS**

#### **Consideration of Aqua Cycles**

Mr. Walls stated I presume this is what Mr. Berube mentioned last month.

Ms. Kassel stated I am sure everyone reviewed this information. To me, this is another boat that will eventually be sold off for no money because I do not think we are going to get enough usage out of it. I think if we want to buy another pontoon boat or something similar, that is one thing. I do not think a paddle pontoon boat is going to be popular enough among the residents. In polling the audience, three people indicated it would be appealing.

Mr. Walls stated my thoughts are the same as Ms. Kassel's. If we are going to get a boat, the ones that get the most usage are the pontoon boats, which are motorized, and the bass boat, which is motorized. Beyond that, they are used hit or miss. In looking at the usage report from the past few months, we probably need to look at getting another boat, and we have talked about that as part of the upcoming budget process. I am hesitant to pursue these.

Mr. LeMenager asked what does a pontoon boat cost? This is \$5,300 for something you have to paddle.

Mr. Walls stated the pontoon boat will cost more, but in terms of the usage, I think we will get a lot more out of a motorized boat.

Ms. Kassel stated if we have any residents who want to go in together and buy a paddle/pontoon boat, we would be happy to accept the donation.

Mr. Farnsworth stated out of all the boats we have, that is the only one I would consider taking out. I like the idea, though.

Mr. LeMenager stated we can put it in the budget discussions. Clearly, the champion of the idea is not here today. During the budget process, we can certainly take a look and see if we have money for it.

Mr. Walls stated we will discuss it during the budget discussions.



## **ELEVENTH ORDER OF BUSINESS**

## **Discussion of the Rules of Procedure**

### **A. Blue-Lined Rules**

### **B. Clean Draft Rules**

Mr. Moyer stated Ms. Brenda Burgess sent out some updated drafts based on our discussion last month. Mr. Farnsworth has been working very hard on these and has given us some input that is not reflected in here but will be on the next iteration.

Mr. Farnsworth stated each one of these chapters should have a cover page and a table of contents, for consistency. Right now, only Chapter 1 has that. Chapters 3 and 4 do not and should have. I have made no attempt to introduce that in anything I sent to you. I want to compliment Mr. Walls on what he came up for with the detailed information that went into Chapter 3. Relative to the structure of the chapters that we have, the numbering sequence in the various chapters is not consistent. It is somewhat, but at some point, someone should go through and make them consistent so that it looks like our document and something that we put together orderly, not something that is a hodge podge that has been put together, like it has been. We need to clean that up. In that regard, the one thing I sent to Mr. Moyer and Ms. Burgess had the number sequence changed in Chapter 3 to be consistent with Chapter 4. The issue I have ultimately is in Chapter 4, Section 3. I believe what has been done there is bad. In my opinion, it makes second-class citizens of renters. In my opinion, that should not be done. You are begging for problems. You have had problems with that before. The way this has been rewritten is just asking for more problems. Setting apart a special exemption for military to get around this, in my opinion, is not the proper solution. If you want to give the military an extra credit, like a perk for being in the military and their card is free, I will support that, but not the way this section is written right now. It is bad policy. I have a totally different proposal for the wording of that section. If you go with the type of wording that I have suggested, then you do not need the extra lines in the definitions for exemptions for military and definition for a card for a guardian. I will provide a flash drive to Mr. Moyer that has everything on it to justify and to show what I am talking about. The process of clearing and issuing an access card follows a very clean flow diagram. The first thing you have to do when someone applies or wants an access card is to confirm they are who they say they are. If they are, then determine what kind of access to the facilities they are looking for. Then determine if they are a resident, a non-resident, or if they are looking for a special event access. If they are a resident, by the very definitions that we have in

the rules, a resident is defined to include owners and renters. Renters are not segregated out as some evil person who does not belong as a resident. If they are residents, then the two categories are either renter or owner. A renter does not stand out as someone to be differentiated against. The owner obviously gets a permanent card. The renter has some kind of defined period, either short term or long term. We have to decide if we place a restriction on the minimum term, which is a different issue, but we do not segregate against them. A non-resident has two categories. Did the concept of a guardian come from the Fishhawk rules? I had never seen it before. I just wondered where it came from.

Mr. Walls stated I distributed it last month.

Mr. Farnsworth stated there is nothing wrong with a guardian, just how it fits into this flow diagram. I would like for the Board to seriously look at this and see if you agree with how that flow occurs. If you do not, then correct it for me to what you think that flow should be.

Ms. Kassel stated I think the flow looks fine. The question is how we establish identification and how we establish residency. That is the question.

Mr. Walls stated Mr. Farnsworth raised the military exemption piece, and we talked about this a little last month. The reason that was included in the draft language is because we ask people for identification that shows they are who they say they are and that they live here. Military members, under Florida law, do not have to update their driver license as quickly as every other resident has to. The idea is that they move around, so they do not need to worry about that as quickly. That is the reason for the exemption because it is included in State law.

Mr. Farnsworth stated if you want to give them a special credit and give them the card for free, that I will happily support.

Mr. Walls stated it is not about the cost of the card. If they are a resident owner, they get their card free just like every other owner.

Mr. Farnsworth stated what I am trying to say is if you handle the renter category correctly, they do not need a special category for them. It is not necessary.

Mr. Walls stated I thought the reason we discussed last month that we have a separate category for renters is they have a lease that has an expiration date. We have had the situation where people have moved but continue to use our facilities, which is why we went to the access cards. The other issue is that renters have to be issued cards more

frequently because those leases expires or they move other places within the neighborhood. There is a cost associated with that. If you are an owner and you stay in your house for six or seven years, you are issued a card when you purchase the home unless you need a replacement for it being lost or something.

Mr. Farnsworth asked are you saying that the cost of the card is so high?

Mr. Walls stated the cost of a card is \$18.

Mr. Farnsworth stated then increase the price to \$20. Do not segregate this portion of your population. That is bad.

Mr. Walls asked how do you not segregate them to collect that money?

Ms. Kassel asked is Mr. Farnsworth saying that we should not charge renters anything for their cards?

Mr. Farnsworth stated no, that is not what I said. I have never said that in anything I am proposing. If you believe the cost is more than \$10 and they have to renew a card more frequently, then you change the price to reflect what you think it should be. Do not penalize them to the point where they cannot even get a card. This has happened.

Ms. Kassel asked can we resolve what you are talking about by saying the identification has to be a picture ID from a State or Federal agency and it does not need to have their address on it as long as their document to prove their residency has their name and their Harmony address?

Mr. Farnsworth stated yes, that separates out the identification. You can have a passport, a driver license, or an ID card from anywhere, as long as it can be proven that the document is legitimate. Then they have proven who they are. They do not need a driver license from Florida. That kind of requirement for anyone is bad.

Ms. Kassel stated I agree.

Mr. Walls stated I do not think that changes the fact that we have to treat them differently because we require different documents from them and we require money from them. You are just changing the identification requirement.

Mr. Farnsworth stated no.

Ms. Kassel stated there is a whole separate section for renters.

Mr. Walls stated that is correct, which there has to be because you are asking for different documentation and money from them that you are not requesting from an owner.

Mr. Farnsworth stated you have not seen what I have proposed, so I will provide it.

Mr. LeMenager asked what are you proposing in Section 3.1.5.5?

Mr. Farnsworth stated in Section 3.1.5, there will be three sections. The first paragraph will be proof of personal identity. The second and third will be proof of ownership and proof of renter status. That is all. Each one of those sections is a distinct entity and what action you are taking. In the first paragraph for proof of identity, that is your picture identification to prove you are who you say you are. Then you go to the next step: are you an owner or a renter? If you are an owner, then you provide the normal things. If you are a renter, then you need to have the lease agreement and one more item. You have separated it out so you can distinctly identify where you are in that process. Right now it is sloppy, and the changes that were added made it even worse than it was before.

Mr. LeMenager stated that is not a bad way to do it.

Ms. Kassel asked can you work with Mr. Qualls to clarify because I am not clear on what you are proposing? I would need to see it on paper.

Mr. Walls stated I am hesitant to get into a long discussion tonight on this. What I would like to see, for the benefit of everyone, is to make the changes we think need to be made in terms of what is in this draft right now, which Mr. Farnsworth has done. We have discussed a lot of these changes already. We can tweak those if we need to, but we have already discussed a lot of these. We can work on changes to our own documents that can be circulated. How can we circulate changes to each other without running afoul of the Sunshine law?

Mr. Farnsworth stated that is the trouble; it is difficult to do. This is not a working group where we can share and modify a document. That is not how we function.

Mr. Walls stated I do not have what Mr. Farnsworth is proposing in front of me, so I cannot compare it in a reasonable amount of time.

Ms. Kassel asked could you send the revised part of 3.1.5 to Ms. Burgess or Mr. Moyer, and they can include it as an addendum to be discussed so we can see what you are talking about? I am a bit confused.

Mr. Walls stated once this is put in the public record, it can be distributed. We cannot discuss it among ourselves, but you can distribute it to all of us.

Mr. Moyer stated if each of you does your own analysis and sends that to me, and I distribute it to everyone, you are not really having a conversation. You are not talking about anything. All you are doing is giving your thoughts. We will put it in the agenda package, and when we meet to discuss the rules, you will at least have everyone's thoughts but you will not be talking directly among yourselves.

Mr. Qualls stated I am comfortable with that. The Sunshine law says you cannot have a meeting outside of a publicly noticed meeting. Everyone is sharing their input to the rules and giving them to the manager for inclusion on the agenda package, and you will all come together to discuss it at the next meeting. I do not see a Sunshine law violation. Just do not respond to one another.

Mr. Walls stated we can all make the tweaks that we want to see made to the full rules package. That will be included, and I can say that I like what Ms. Kassel did on this particular page. If everyone agrees, we can include that in the revised rules and make that change, rather than trying to describe what we think the rules should be back and forth. That will take a long time. Then the public can review what we all proposed and see what they like and provide their comments accordingly. I see that as the easiest way to do this rather than trying to go back and forth.

Mr. Qualls stated my advice is to make your comments on something that is already in the public record. Do not get something from another Supervisor and comment on that, since that would be a Sunshine law violation.

Mr. Walls stated right. Maybe Ms. Burgess can send us the current red-lined version of the rules, and we can make our changes to that.

Mr. Farnsworth stated she has essentially done that.

Mr. Walls stated I mean the Word document so we can edit it. If everyone has time to make their changes, we can look at everyone's version and choose what we like from each one.

Mr. LeMenager stated I admit that I was unhappy to hear Mr. Moyer say this could go on for three more months.

Mr. Moyer stated I am just reflecting past history.

Mr. LeMenager stated I understand. I appreciate Mr. Farnsworth's comments about some inconsistency in terms of numbering and how things are put together.

Mr. Farnsworth stated it is not a major issue, just a cleanup.

Mr. LeMenager stated I understand completely. The reality is that it was put together piecemeal over many years. The body of it came from the original developer, and we are trying to clean it up. I like your idea a lot. It sounds great changing 3.1.5 in that way based upon your chart. That makes good sense to me. If each of us actually submitted comments, do you have any idea how many hours we would be sitting here talking about minutiae?

Mr. Walls stated I am not talking about going through and changing “may” to “shall.” I am talking about broad context. Mr. Farnsworth was talking about the access cards and his concept, so he should present it in that manner.

Mr. LeMenager stated I think we pretty much have broad concepts here.

Mr. Walls stated we do not have much left.

Mr. LeMenager stated he has only introduced one new concept. He would like to tinker with 3.1.5. From his presentation, it makes sense and sounds like a good idea.

Mr. Walls stated I have not read it.

Mr. LeMenager stated I understand. We should not be surprised, and that is why I submitted my revised Chapter 1, Amendment 4 so everyone could have a chance to read it ahead of time. What you really need to do is send information to Mr. Moyer and Ms. Burgess early enough so hopefully they can actually get it in the agenda, though I was a little late for mine. At least get it to them several days ahead so they can send it to us. I agree with you completely that you do not want to sit here and discuss something on the fly that you have not actually read and had time to think about.

Mr. Walls stated that is all I am asking. They may be great changes, but I would like to read them before I agree to them.

Mr. Farnsworth stated I was trying to make my point that I was rather unhappy with the way the wording of that section came out. When you consider these things, Chapter 4 has a lot of references to maps and attachments, but nothing is ever attached. Either attach it or quit saying it is attached. Regarding the boats, I think user responsibility should be expanded a little. My rendition of what should be in 5.8 has been submitted to Mr. Moyer. It is only three items and is not as long as it was before.

Mr. Walls stated we should have a date for us to submit our changes to the rules for when they need to be included in the next agenda package. We will make sure we get any

changes we would like to see to Mr. Moyer by then. Hopefully next month, we can button a lot of this down so we can set the public hearing for the following month.

Mr. Moyer stated our next meeting is May 28, and we try to get the agenda out to you a week ahead of time. If you can get that material to us by the 19<sup>th</sup>, that will give us sufficient time to include it in the package. To follow up on Mr. LeMenager's comment, what I envision the process to be is, next month we will talk about these collective recommended changes to the Board and come up with a final rule. That has to be advertised, so we will have a public hearing in June and adopt them in June. So it will not be three months but two months.

Mr. Walls stated that is what I am thinking.

Mr. LeMenager stated that sounds good, which is why I am pushing it. June is better than July.

Ms. Kassel stated no, it is not. I have been invited to a general assembly at the United Nations on June 25, which is the day of our meeting. I would like to not have to turn down the invitation because I have a CDD Board meeting. I take my official position seriously, but I have never been invited to a general assembly of the United Nations. I would really like to go, and I would really like to be here for the vote on these rules.

Mr. Walls asked should we push the hearing to July or leave it in June?

Mr. LeMenager stated that will be determined by next month's meeting if we are in agreement that this is what we want to do.

Ms. Kassel asked do we need a workshop?

Mr. LeMenager stated it depends. I think we can get through the agenda quickly.

Mr. Walls stated we will defer that. We cannot schedule the public hearing now, anyway. We will discuss it next month.

Ms. Kassel stated what we removed that Mr. Qualls suggested we leave in—Sections 1.1.008 through 1.1.015 that reiterate Florida Statutes—I have changed my mind that we should take them out. I feel like when the Board reads these rules, it is realizing some of its obligations to the Florida Statutes that it may not have realized before. We, as Board members, do not go through these many hundreds of dense Statutes of information about what a Florida CDD entity is responsible to do and the whole package that we were given by the attorney when we became a Board member. I like the idea of keeping them in the

rules because I think they remind the Board and the CDD body of what their obligations are.

Mr. Farnsworth stated I am not saying yay or nay. But if you are going to leave those sections in the rules, should we do the same thing in Chapters 3 and 4? I am not opposed to doing it. I am just asking the question.

Ms. Kassel stated the only place we removed these was Chapter 1, Amendment 1.

Mr. Farnsworth asked why are they there and not in Chapters 3 and 4? We are inconsistent again.

Ms. Kassel stated I think 1.1.015 was the three-day right of rescission, and I think that probably should be removed because that is the one that we cannot actually enforce. That could be removed, but not the others. They deal with the District facilities report, public financing information, and procedures for the District to furnish to each developer of each residential development within the District copies of public financing. These sections really mostly deal with public financing, which are dictated by Florida Statutes. Most of the rest of our rules are elective and things that we make up.

Mr. Farnsworth stated this is intended to cite where your authority is coming from. Even Chapter 3 or Chapter 4 has some reference to the authority, even if it is a top-level authority.

Ms. Kassel stated we can ask Mr. Qualls to include that. I see that Amendment 2 has the specific authority listed, agenda page 237.

Mr. LeMenager stated I think that has a lot more to do with who the attorney was at the time.

Mr. Qualls stated to give you some perspective on the rules that Ms. Kassel is talking about where it says “specific authority” on the bottom, that is modeled after the Florida Administrative Code. For all State agencies that promulgate rules—Department of Revenue, Department of Highway Safety and Motor Vehicles—each rule that those agencies promulgate will have a section noting specific authority. The reason for that is, if you are a State agency promulgating rules pursuant to Chapter 120, Florida Statutes, a rule may not be inconsistent with general law. Your rules should not be inconsistent with general law. I think it is always good to have specific authority. I appreciate what Ms. Kassel is saying. I would encourage you to read the Statute in these sections and then read the rules. They are not verbatim. I think that by putting these in the rules, it sends a



good message to the District of what you are expecting to be disclosed to a potential purchaser within the District. My points have been made clear in a memorandum.

Ms. Kassel stated I have changed my mind on it. I do not know if anyone else is going to, based on what I argued. I would like to keep those sections.

Mr. LeMenager asked was the vote to remove them unanimous 5-0?

Ms. Kassel stated we did not vote. We have not voted on anything. We are just having discussions.

Mr. LeMenager stated I understand. We are discussing what to put in, what to red line, and what not to red line.

Ms. Kassel stated exactly.

Mr. LeMenager stated the red lining was pretty unanimous.

Ms. Kassel stated I supported it at the time, and I have changed my mind.

Mr. Walls stated the way I view it is that these are requirements of the law.

Ms. Kassel stated but we did not know that as the CDD Board until we read these rules.

Mr. Walls stated yes, but that is up to our legal counsel and manager to tell us. The way I view it, residents come and look at these rules. We have a lot of clutter in there now, and these are things we have to do according to State law. Residents come and read these rules, and I do not think this is what they are necessarily looking for. They want to know how to get an access card.

Ms. Kassel stated so we direct them to those particular chapters.

Mr. Moyer asked would it help to have an introduction that says we are following the procedural rules in Chapter 120, Florida Statutes, and Chapter 190, Florida Statutes? If you want more specific information about the process or the authorities, residents should consult those chapters.

Mr. Farnsworth stated that would be fine.

Mr. Moyer stated then you do not clutter the rules. It will be two lines in the header of the introduction.

Mr. Walls stated this does not make sense to many people. It is a lot of information they are never going to care about in their entire lives. That is why I wanted to remove it.

Mr. Moyer stated we can also refer them to the website, and we do have Chapter 190, Florida Statutes, linked on the website. They can click on that chapter and read all about what we can do and what we cannot do.

Mr. LeMenager stated my point last month was, if you have all this in our rules and if the Legislature decides to change the rules, then we have to change ours. That is a nice, clear statement about the availability of District public financing information to existing residents. That is clear, and people know that they have access to it. That is where I suggested we stop.

Mr. Walls stated this is something Ms. Kassel can include in her draft update, and we can consider it next month.

Ms. Kassel stated regarding Chapter 1, Amendment 4, I do not believe that any of us, including Mr. Qualls, have really looked at this amendment. In our first meeting and discussion of it, we wondered where it came from. It is marked a draft, and Mr. Qualls said it might not even have been adopted. It turns out it was adopted in 2003, unanimously by the Board. We did not know about it. Coming in as residents, because we had not seen it, we did not even know there was an obligation on the part of the Board to meet with the HOA in our rules. That is why we have not met, not because we do not care about it but because we did not even know about it. We were not even aware of it. We heard from quite a few people who attended here tonight, I think fairly specifically. They wanted their voices heard on this particular amendment that they prefer not to have it changed.

Mr. Walls stated the reason why we discussed removing this rule is because it has been here all this time, and it has never directed any single one of our actions, ever.

Ms. Kassel stated that is not true.

Mr. Walls stated we never looked at it and we never contemplated it in terms of making any decision here. If anyone says they have, I do not believe them. It has been sitting here and has made no difference in anything we have ever done, probably in the entire history of this Board. That is the reason why we discussed removing it.

Mr. LeMenager stated Mr. Kramer has proposed a revision to this amendment, that I asked be forwarded to the Board. His revision basically removes the HOA wording.

Mr. Farnsworth stated unfortunately, it substitutes something just as bad.

Mr. LeMenager stated that is why we have discussions. We have not done a lot of these things, and we did not do a lot because we had Mr. Greg Golgowski. We now have a developer who wants to make money, period, and really could care less about what this community is going to be. It was great, but how many times were we in meetings and an issue on the environment or use of a chemical would come up? We just looked to Mr. Golgowski for his thoughts. He is not here anymore. I do not think it is a bad idea to actually have something in place that, in essence, replaces Mr. Golgowski.

Mr. Walls stated I do not disagree with you. We make decisions that impact the environment in terms of our landscaping contract, pond maintenance contract, and maybe how we place some of our parks. I have no problem bringing in people to give us advice, whether they be residents, consultants, or whomever is needed to make the best decision. What has been proposed in Mr. Kramer's version is a standing committee made up of I am not sure who. I do not know what they look at all the time. If we are going to have a committee-type structure, we bring them in when we need them. If we are looking at a pond maintenance contract, I do not know much about pond maintenance but maybe there are some people in the community who do. Maybe we can put together a group at that time to help us look at the contract.

Mr. Moyer stated I want to warn you that if it is a formal committee of this Board, it is subject to the Sunshine law, minutes, and record keeping. There will be costs involved to have a formal committee versus a group of residents that just get together, look at the agenda, and get together to attend a meeting like this and tell the Board what they want. It would not be a formal committee, but it would be an informal group of residents.

Mr. Walls stated that is something I discussed with Mr. Kramer. If the committee is subject to the Sunshine law, those committee members cannot talk with each other outside of those meetings.

Mr. Moyer stated that is correct.

Mr. Walls stated it creates an issue that I do not think we want to get into.

Ms. Kassel stated that may not be the case.

Mr. Walls stated we have the expert right here.

Mr. Moyer stated we have the legal expert.

Mr. Kramer stated my understanding is that there is an exemption in the advisory situation, that as long as the Board is not making any specific decisions and we are only advising the Board on decisions, it was actually exempt from the Sunshine law.

Mr. Farnsworth stated if it involves more than one Board member, it is not exempt.

Mr. Kramer stated it will not involve more than one.

Mr. Walls stated the public comment period is over.

Mr. Qualls stated there is a rule on public comments. These are public meetings that have to take place with a certain amount of respect. The District has a rule on public comments, but that is beside the point. We advise the Board, in an over abundance of caution, not to have two Supervisors meet outside of a publicly noticed meeting. We take that so far as to say even emails back and forth can be construed as a meeting, because the Attorney General has said that. If there is going to be a committee, our advice is that only one Board member would serve on that committee.

Mr. Moyer stated my understanding in working with a lot of attorneys on Districts throughout the State of Florida, if it is a formal committee of this Board that will make a recommendation to this Board, that needs to be done in the Sunshine, and it has to have minutes recorded.

Mr. Farnsworth stated that is the reason you do not want to make it an official committee.

Mr. Walls stated that is not inconsistent with what we do at the County level. If we sit on a committee that will advise the Board, we have to take minutes, we have to post the meeting, and we have to operate in the Sunshine.

Mr. Moyer stated yes.

Mr. Qualls stated this came up recently with another client where the Department of Highway Safety and Motor Vehicles was putting together an advisory Board. The law says that if that Board is going to have some input in the decision-making process, then it falls under the Sunshine. If it is not going to have some input into the decision-making process, then it begs the question of what is the point. If there is going to be an advisory committee, it would fall under the Sunshine and would trigger all of those requirements.

Mr. Farnsworth stated I ask everyone, including Mr. Kramer, to review my revision. I expanded what I provided earlier. I ask that you review my suggested revision to Chapter 1 to accommodate the desires of what are in Amendment 4.

Mr. Moyer stated I will provide that to everyone.

Mr. Farnsworth stated what I suggested is my wording. It has not been reviewed by the attorney to justify the wording.

Mr. LeMenager stated what I am hearing is that, in general, there is support for codifying the nature of what we want to do. It is more about the specifics of how to keep it legal, given the onerous requirements of the Sunshine law.

Mr. Farnsworth stated it is how you make things actionable. Most of what is in Amendment 4, as it stands right now, are not actionable items.

Ms. Kassel stated that is not true.

Mr. Farnsworth stated yes, it is.

Ms. Kassel stated they are absolutely actionable in terms of decisions we make on landscaping and pond treatment.

Mr. Walls stated those are not rules; they are policies. Nothing in there makes this Board do anything.

Mr. Farnsworth stated that is correct; they are not actionable items.

Mr. Walls asked if it does not make us do anything, then why is it a rule? We can set policies on how we make decisions. We can say that we are going to consider the environment in our decisions, and we can say that we will solicit input from the public when we make these decisions. But the rule, the way it stands now and the way it has been amended, is not a rule. It does not make this Board do anything, except possibly create a committee that will be subject to the Sunshine laws. It is possible that it would be a defunct committee that we have in our rules because we cannot get enough people to serve on it two or three years from now. Then we end up where we are now, with a rule that says we have to do this, but we cannot do it because the committee that it is referencing does not exist. That is my concern. Why put it in a rule? I am all for doing anything that it talks about. I have no problems with that, but let us think about how we do it, and do it in a smart way so we can get the most out of it. That is all I am saying.

Ms. Kassel stated I think the rule is already there. It has us meet with the HROA or the Companion Animal, Habitat, and Wildlife Committee, which is a group of residents. It is not an advisory board but a committee of the HROA.

Mr. Moyer stated that is fine.

Ms. Kassel stated that committee has meetings, and it is already established. We already have the rule.

Mr. Walls stated so this committee meets. What do we discuss with them? That is the whole issue. If we have a specific issue that we want to get some input on, then let us do it. We can tell them we are looking at our pond maintenance and how we do that, and ask if there are better ways to do that.

Mr. LeMenager stated I voted with Ms. Kassel last month in terms of not eliminating everything in Amendment 4. My position is more compromised. I will be very clear. As long as the HOA is controlled by the developer, I am not in favor of cooperating with the HOA in any way. The HOA is 100% controlled by the developer, despite the fact that this community is 11 years old. I will not vote on that. The problem with a policy is that you can change it at any time. Clearly, you cannot change rules that quickly. To me, it really comes down to how we actually move forward in the future where we are in charge and no one is giving us anything anymore and how we address that in terms of the rules that we must follow until a future Board wants to change it. We are trying set something down as to the best practices, based upon the goals and objectives of the community.

Mr. Walls stated yes. But why box yourself into a rule when things change?

Ms. Kassel stated that is the issue: why box yourself in.

Mr. Walls stated circumstances may change. We might make a rule that says we want this committee, it has to have so many members, and they must have this area of expertise. What happens when we need information on another type of item? Do we make another rule that says we form a committee for this type of item, roads or whatever it might be? Why box yourself in like that? Why not just say that we will solicit input when it is needed?

Ms. Kassel stated that is what I am objecting to. I am objecting to we get to decide when we allow input.

Mr. Walls stated that is the way this reads now.

Ms. Kassel stated no, it does not.

Mr. Walls stated we do not have to listen to anything these people tell us, and I do not even know what they are going to look at. There are no specifics that say what items they are going to look at.

Mr. Farnsworth stated read my original suggestion before you rehash all this again.

Mr. Walls stated we will submit our changes to Mr. Moyer for the agenda package next month.

Ms. Kassel asked can we discuss Chapter 3?

Mr. Walls stated I recommend that we make the changes that we are asking for, and we will submit them to Mr. Moyer to discuss next month.

Ms. Kassel asked all our changes for all the rules?

Mr. Farnsworth stated yes.

Ms. Kassel stated the only problem I have with that is we have all these residents who are here to listen, understand, and learn what these changes are that we are proposing. If we make recommendations to Mr. Moyer that will appear in the rules, we are not informing them of what some of the proposals are to change the rules.

Mr. LeMenager stated we received specific proposals for Chapter 3.

Mr. Farnsworth asked do you want me to list out my suggestions, or do you want to read it?

Mr. LeMenager stated for Chapter 1, Amendment 4, we have said we are going to review it. There is obviously will to keep something, but it is just a matter of what we keep.

Mr. Walls stated if you have a major concept change to something in these rules, let us discuss it tonight. If we are talking about changing wording, let us not discuss it tonight. We will review that for next month's meeting.

Ms. Kassel stated with regard to Chapter 3, there is now a section on usage fees and rental schedule. It is in the agenda package that is on the website now. There are a number of fees for use of the soccer/football field, Swim Club, Buck Lake pavilion, Buck Lake fishing pier, and Town Square. There is information on damage deposits, on how many free rentals are allowed for residents versus non-residents, and other things like that the residents will want to know about.

Mr. Walls stated to be clear, the fees are for non-residents and non-resident entities.

Ms. Kassel stated the usage and rental fees do not say they are for non-residents.

Mr. Walls stated go to the next section for general provisions.

Ms. Kassel asked where does it say that 1.4.2 is only for non-residents?

Mr. LeMenager stated it does not. It says residents get two free rentals.

Ms. Kassel stated residents get two free rentals of a facility.

Mr. Walls stated 1.4.3.3 says “The above-listed fees are applicable to all users of the District’s recreational facilities, including but not limited to the following: for-profit and non-profit organizations, individuals who do not possess a valid access ID card pursuant to Chapter 4, Parks and Recreation Facilities Rules, and any resident reserving the facilities on behalf of a business or a non-profit organization.”

Ms. Kassel stated that means it is for residents as well as non-residents.

Mr. Walls stated no. Residents are excluded from that list.

Mr. LeMenager asked then why have 1.4.3.4?

Ms. Kassel stated it does not say they are excluded. It says the above-listed fees are applicable to all users, including but not limited to. It does not say anything about excluding residents.

Mr. LeMenager stated that is right.

Mr. Walls stated I will give you that; it should not say that.

Mr. Farnsworth stated I reworded that in my revision.

Mr. Walls stated the intent is not for residents to pay those fees.

Ms. Kassel stated I am not saying residents should not pay usage recreational fees. I just want you to know that we are proposing these recreational fees, and I want input from the residents. One of these proposed changes that Mr. Walls included is that residents are limited to two free rentals of a facility per year. I do not know if that means of each facility, or of the total number of facilities. That needs to be made clear. I just wanted the residents to know those are some fairly substantial changes.

Mr. Walls stated these are lifted from Fishhawk’s rules. These are just for discussion.

A Resident stated in the past, we have had a non-resident fee for someone to use our pool.

Ms. Kassel stated no one has ever paid that. This change is different. This is for use of the soccer field, the Swim Club, Buck Lake pavilion, the fishing pier, and Town Square.

Mr. Walls stated the idea is, from time to time, outside groups come in that do not pay our CDD assessments. They want to come in and use our facilities. Right now, they can do it for free, for the most part, because there is no fee in the rules. The intent is to change that.

Mr. Farnsworth stated to codify it.



Mr. Walls stated yes, so outside groups and non-residents who do not pay CDD assessments will have to pay a usage fee.

The Resident stated that is a good change.

A Resident asked so residents can use the field for soccer?

Mr. LeMenager stated we got the soccer and football groups to give us \$500 each, but if they are residential groups, then we just lost money.

Ms. Kassel stated this proposed change says limited to two free rentals of a facility per year.

Mr. Walls stated what that means is if you want to have a birthday party and you want to rent the pavilion, you can get it twice for free as a resident.

Ms. Kassel stated so it is for each facility, not for all the total number of facilities in total.

Mr. Walls stated yes.

Ms. Kassel stated we will have to make that clear if we are going to do that.

Mr. Walls stated yes.

Ms. Kassel stated I wanted to bring this forward so that the residents can look at those fees and come back to us with your thoughts.

A Resident asked will this be discussed at the next meeting?

Ms. Kassel stated yes.

The Resident stated I am trying to get the soccer schedule together.

Ms. Kassel stated the proposed change says \$15 per hour for the soccer/football field. The reason we used that amount is because we incur usage on those fields. The more heavily they get used, the more intensive our costs are to maintain them. We used Orange County's extensive study for Orange County's purposes of what it costs Orange County to maintain their facilities and parks when they have usage.

Mr. Walls stated that is the fee Orange County charges leagues that use their fields.

Mr. LeMenager stated I think this needs to be reworded a little, but I do support the idea that we need to have some defined fees in here. It is all up in the air now.

Ms. Kassel stated one of the things we discussed in the past was that a fee schedule is a policy and not a rule. If we put the fee schedule in here and we want to change it, then we have to go through another rulemaking process. If we have the fee schedule as a policy, then the rules will simply say to refer to the fee schedule.

Mr. LeMenager stated the trouble with that is it will be like the maps and attachments Mr. Farnsworth mentioned in Chapter 4: where are they. This is nice because it is the rule showing the fees.

Mr. Walls stated what I have seen in other places is they say these are the initial fees that are listed in the rules, and it allows for updates from time to time. Is it possible to have these initial fees in the rules and then three years later, we can adjust the fees? We can have language that says these fees may be adjusted from time to time by the Board without having to go through rulemaking to change that. Or should we just pull them out? How do other Districts do it?

Mr. Moyer stated they have done it both ways. Chapter 190, Florida Statutes, makes it pretty clear that in order to charge rates, fees, or charges, it has to be adopted by rule.

Ms. Kassel stated we have discussed before about not wanting to put fees in the rules and have a fee schedule that the rules reference.

Mr. Qualls stated I believe I saw in this rule the particular Statute. I am pretty sure it can be adopted by a resolution of the Board. Pursuant to the authority of Section 190.011(10), Florida Statutes, the Board can adopt a resolution. It is on page 257 of the agenda package, Chapter 3, Section 1.3.

Ms. Kassel stated that is new because it is in blue.

Mr. Qualls stated yes.

Ms. Kassel stated Section 1.3 of that chapter reads, "Pursuant to the authority in Section 190.011(10), Florida Statutes, and as may be provided by resolution which may be amended from time to time and adopted by the Board of Supervisors at a publicly advertised meeting, the District may collect Special Event fees or charges necessary for the conduct of District activities and services. Refer to Sections 8 and 9 of Chapter 4, Parks and Recreation Facilities Use for rules regarding Special Events."

Mr. LeMenager stated that is for special event usage. This is for normal usage.

Mr. Walls stated I think it is referencing the same thing.

Mr. LeMenager stated we need to be clear about what the fees are for.

Mr. Walls asked we could reference the fees in the rules and then pass a resolution outside of that to adopt the fees?

Mr. Farnsworth stated if you leave it in the rules, anyone who wants to look it up can easily find it, but not if it is a separate document.

Ms. Kassel stated not so easily. If it is a separate document, you can point them to that document. They do not have to go through 75 pages of rules to find it.

Mr. LeMenager stated hence Mr. Farnsworth's comment about having a table of contents.

Mr. Walls stated I agree with Ms. Kassel that we can have a link to the fee document. People can click on it to see what the fees are right away. You can do that anyway. It makes it difficult to change things. If we find that a fee is too low or too high, then we have to go through rulemaking to change that.

Mr. Farnsworth stated if that is all you are considering, it does not take that much to do. I am not in favor of a separate document.

Mr. Qualls stated your resolution can give you some flexibility in that regard, I think. The Statute says you have "the power to raise by user charges or fees, authorized by resolution of the Board, amounts of money which are necessary for the conduct of District activities and services and to enforce their receipt and collection in the manner prescribed by the resolution."

Mr. Walls stated we can adopt a resolution in any given month for the changes to the fee schedule.

Mr. Qualls stated you can do it either way you want to do it.

Mr. Walls stated I will include in my proposal for next month that this is the initially adopted fees that may be amended from time to time. I think that language "as may be amended from time to time" is already in there.

Mr. LeMenager stated we also need to clarify who these fees are applicable to.

Mr. Walls stated yes, that is easily fixed.

Ms. Kassel stated Chapter 4 includes the issue of owners and renters.

Mr. LeMenager stated we are going to see what Mr. Farnsworth has in mind.

Ms. Kassel stated Chapter 4 has to do with usage of the lakes, the pools, the parks, and so forth. There are not a lot of changes to Chapter 4.

Mr. LeMenager stated we did not really change much in Chapter 4 this time.

Ms. Kassel stated Mr. Farnsworth will send his additions about deposits or responsibility for damages.

Mr. Farnsworth stated yes, I suggested a change to Section 5.8.

Mr. LeMenager stated the dog park rules came from Chapter 1, Amendment 4. We just moved it.

Ms. Kassel stated for the benefit of the audience, Chapter 1, Amendment 4 was about the things we discussed earlier, but it was also strange in some ways. The exhibits for Amendment 4 really only dealt with the dog park, nothing else but the dog park. It includes rules to follow and forms to fill out. We took the dog park part and included it in Chapter 4, which is more about use of the facilities. That is why it was put in Chapter 4 and removed from Chapter 1, Amendment 4. No matter what happens to Amendment 4, the original Amendment 4 going into this rulemaking procedure, all the dog park rules at the end of Amendment 4 will be removed anyway. One of the reasons it will be removed is when those rules were created, we had the Harmony Institute, and at the time, there was a more active Companion Animal, Habitat, and Wildlife Committee that was registering pets, taking photographs, and issuing tags. They may have also been policing dog park rules a little more. The Harmony Institute's presence is pretty much gone, so there is really no manpower behind registering pets and keeping a database. Instead, a Harmony resident has created a Harmony Family's Pets Facebook page, so you can register your pet there.

Mr. Walls stated we are all clear on how we are going to handle the rules process next month. We have covered all the substantial issues tonight.

Mr. Qualls stated I will provide a memorandum for the Board. Mr. Moyer just showed me the specific requirements for rates and fees. Just so everyone is aware, you will have to publish all those things in the newspaper. Before you can impose fees, you have to put everyone on notice and have a public hearing. It is not different than what we have been saying. Look at Section 190.035, Florida Statutes.

Mr. Walls asked can we look at combining that with the public hearing on the rules?

Mr. Qualls stated yes, I think that makes the most sense.

**TWELFTH ORDER OF BUSINESS**

**Supervisor Requests**

There being none, the next order of business followed.

**THIRTEENTH ORDER OF BUSINESS**

**Adjournment**

The next meeting is scheduled for Thursday, May 28, 2015, at 6:00 p.m.

On MOTION by Ms. Kassel, seconded by Mr. LeMenager,  
with all in favor, the meeting was adjourned at 7:50 p.m.

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Gary L. Moyer, Secretary

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Ray Walls, Vice Chairman