

**MINUTES OF WORKSHOP
HARMONY COMMUNITY DEVELOPMENT DISTRICT**

The workshop meeting of the Board of Supervisors of the Harmony Community Development District was held Wednesday, September 22, 2021, at 4:00 p.m. via virtual teleconferencing.

Present were:

Teresa Kramer
Dan Leet
Steve Berube
Kerul Kassel

Chair
Vice Chairman
Assistant Secretary
Assistant Secretary

Also present were:

Angel Montagna
Tim Qualls
David Hamstra
Gerhard van der Snel
Brett Perez
Residents and Members of the Public

District Manager: Inframark
District Attorney: Young Qualls, P.A.
District Engineer: Pegasus
Field Services Manager
Area Field Director

FIRST ITEM

Call to Order

Supv Kramer called the meeting to order.

SECOND ITEM

Roll Call

Supv Kramer called the roll. All Supervisors were present except Supv Scarborough.

Supv Kramer inquired if any members of the public were present.

Mr. Matt Pippin noted he is representing Bee and Bee Inc Tree Services to discuss the trees issues in Harmony.

Supv Kramer noted she asked Mr. Pippin to attend to help them sort out some of the tree issues. He is a certified arborist with the ISA; he is also certified in tree risk assessment.

THIRD ITEM

Discussion Items

The following topics were then discussed by the Supervisors.

A. Tree Trimming

Supv Kramer noted some of the items to be discussed are what should Harmony's policy be about tree trimming, the over pruned tree, the inside tree trimming that has been stopped due to quality of the work and safety issues.

Policy on Tree Trimming

Supv Berube noted he does not know if they have ever had a written policy; it has always been a verbal policy that the CDD would trim the street side of the trees and from the sidewalk toward the houses they have allowed or told homeowners to trim that side.

As a public body how do they keep symmetrical trees without risking the liability of having contractors enter onto private property.

Trimming all sides of trees without going on private property was discussed with Mr. Pippin noting it is possible.

Mr. Qualls noted since the trees are on public property the Board can do whatever it wants including trimming any branches. The private property owner has a common law right to trim any part overhanging onto private property. If they have to access the property to trim, they would need an agreement with the private property owner.

Mr. Pippin noted property damage while trimming is the responsibility of the contractor and is included in his contracts. He has a specialty lift he uses for these situations.

Supv Kramer addressed the use of a certified arborists.

Mr. Pippin provided a list of priorities – take care of any hazardous trees or get those assessed, get a tree inventory to prioritize the work, and creating a budget. He can provide the ANSI A300 information needed or any information they might need to develop local policies.

Supv Kassel addressed the email from Mr. Perez regarding the inappropriate techniques that were being used. She inquired who evaluated them?

Mr. Pippin noted he got some pictures today of some of the stuff that was done. The pictures were of improper cuts that were allowing peeling to go through the cambian layer which can cause further damage and failures. The others were too close to the branch collar.

Mr. Perez noted he made those observations and used that terminology noting he has past history in the horticulture world and is familiar with arbor pruning practices and verbiage.

Supv Leet addressed the survey done through the landscaper and an arborist, Mr. MacCubbin and inquired if any of that would feed into Bee and Bee or would they want to do their own survey.

Mr. Pippin responded there is no reason to do double the work if someone has

surveyed and done a tree inventory. He likes to do things systematically, so they do not miss anything.

Supv Kramer noted what they have is a count with species and inquired if they knew what the landscaper had done to date.

Mr. van der Snel noted they stopped at Goldflower.

Supv Kramer noted she was inquiring about an inventory of what trees they have where, what size, and species.

Mr. van der Snel noted they did, and Mr. Feliciano would know that.

Supv Kramer noted the work they did with Mr. MacCubbin was very cursory; they limited amount of time based on weather. He spotted some trees that were stressed and probably needed to come down, but it was far from a full inventory.

Mr. Perez noted he wanted to make sure the Board is aware that Mr. MacCubbin is not a certified arborist, he is a horticulturist. He would suggest if the Board moves forward with Bee and Bee, they do a thorough inventory of their own.

The Board thanked Mr. Pippin.

Supv Kramer asked for the Board's thoughts on moving forward and working on this project. Currently she has concerns that they are doing more damage to the trees than good.

Supv Berube agreed that it has not gone the way the anticipated and when the management company has to step in to stop them; it is crazy.

Discussion followed on lions tailing the trees with Mr. Perez noting it is improper and puts more stress on the trees. The idea of lifting and thinning trees is not to completely clear them of all interior growth. He noted it is inconsistency that he is seeing, and they are not doing as bad a job on the Sycamores, but they are too aggressive on the Oak trees. He is seeing a lack of oversight, project management and proper training for those performing the services. The safety issues are a whole other level of concern.

Supv Kramer suggested they hold their thoughts of going forward to their meeting next week. In the meantime, she would like the District Manager to get with Legal Counsel and talk about the options. She noted her opinion is she does not want them [Servello] moving forward with any further tree trimming because the work they are doing to date could have some long-lasting effects.

Supv Berube noted he agrees they are in a bad place with this project as it stands right now.

Supv Kassel noted she is in agreement as well and she agrees that they should have District Management and District Counsel discuss what the options are and regroup at the meeting.

Supv Leet agreed.

Supv Kramer asked if an overall tree policy is something they should think about pursuing. She thinks it would be good since the trees are an important part of the infrastructure of Harmony and it would be good to start using a certified arborist.

Supv Berube noted he thinks it would be a good idea and to maybe have some further conversations with Mr. Pippin. He maybe able to provide them with some basic policies for trees as part of an overall package.

Supv Kassel inquired if the District Manager and District Engineer is they have worked with other CDDs or property owners who have policies about trees.

Supv Leet inquired if Mr. Perez, having identified the issues with the existing work whether through another community, they should not be starting from scratch doing this, they should be able to find something out there that is common and would not take a huge effort on the Board's part to put it in place and feel good about it.

Mr. Perez noted there are other districts who have the same issues where the CDD easements between sidewalk and roadway have trees the district is maintaining. They have policies and they all vary. Some are lifting 15 feet over roadways, eight feet over sidewalks and keeping limbs five feet from buildings but that is it; there is no structural pruning or interior pruning. The Board will need to discuss to what length they want to take it to.

Supv Kramer noted Mr. Pippin has the equipment to handle the higher branches and taller trees without endangering homeowners' property. She is hesitant to draft a policy that says the inside tree are maintained by homeowners.

Supv Kassel inquired if they could get a set of existing policies to review. She agreed regarding the responsibility of the CDD to keep their trees healthy and relatively consistent in how they are treated and trimmed.

Ms. Montagna noted she will send several examples to the Board to review.

Supv Kramer noted they will start working towards a comprehensive tree policy.

Supv Kramer noted they will move on to the tree that has been severely damaged by a homeowner.

Mr. Qualls noted they drafted a letter that they sent to the Board and he viewed it as if somebody vandalized the pool area, they would not hesitate to demand steps be taken to fix it. You cannot fix a tree so the letter indicated they would have to take the tree down and replace it and the idea was the homeowner would be responsible for the cost of the replacement tree. It would be a much smaller caliper tree, but he does not recall the dollar figure. At one point the homeowner had indicated that he was willing to pay for the replacement, but he does not know that he knew the cost involved with that. It was quite expensive even with a smaller tree. He would like their feedback because he knows there was a difference of opinion. The opinion of Mr. Feliciano and others was it was going to be tough for the tree to survive. It is very important for them to determine how they want to deal with this because it is likely not going to be a one-off issue particularly if they take no action. He noted he is looking for direction.

Supv Kassel inquired if that could be part of the tree policy.

Mr. Qualls noted it can.

Supv Berube noted it is important to remember the event prior to the homeowner taking action; that being the accident where a tractor trailer caught fire under that tree and burnt some of the tree including some of the limbs that were taken off. He noted the tree is still standing, yes one side is cleared, but much of it was burnt by fire, could it have been less aggressive, probably, but in light of the fact that they did not have any policy before and there was the preceding action of the fire through no fault of the homeowner and to hold the homeowner responsible for trying to clear up what they saw as a hazard, he does not think so.

Supv Kramer noted there was a fire that singed some of the leaves on one branch and also singed some of the leaves on the tree across the street. Property owner immediately went to I want to take the tree down, the tree needs to come down. They explained to him the tree was not significantly damaged. Servello looked at it and evaluated and the homeowner was told not to cut the tree. He hired an individual with a lift and a chain saw and the instructions relayed to her when she was out there was that he was told by the homeowner to top the tree, to take the entire canopy off the tree. We prevented that, but that is where they are right now. The homeowner's desire was to get

rid of the tree and if they let every homeowner in Harmony cut on the trees then they will have a problem.

Mr. Leet inquired as to the timeframe to take compensatory action against the homeowner.

Mr. Qualls noted they have time; he thinks the statute of limitations is at least one year, but he will confirm that. He noted he does not know how they get consensus and inquired if they can all agree he did go across onto the public right-of-way to take down branches.

The consensus was yes.

Mr. Qualls noted it would be important to determine whether the tree had been damaged before the action was taken. It is an important factor, but they have time to sort it out. Supervisor Leet your thinking is right because you want to get it right because this is going to establish the precedent moving forward. Not that you cannot change a policy, but it would be better to get it right and be consistent.

Supv Leet noted they are already talking about cleaning up the handling of the trees overall, which they all agree is a good thing. In this case they do not want to allow a precedent of homeowners doing whatever they want with CDD trees but from a practical standpoint if there is a chance of the tree making it. If District Counsel can confirm they have time to slow roll this and not risk losing out completely on the ability to be compensated. Maybe in the next year or so the tree maybe able to show it is improving. Practically, they like having a full mature tree there then whatever caliper they are able to replace it with. Can they still take some kind of damages because the property was damaged by the homeowner and establishing the precedent that they are not just going to let that happen even if they do not replace the tree with a size for size replacement.

Mr. Qualls responded the size for size would be so expensive. I encourage the Board to think about if he had not gone as drastic but still crossed on to public right-of-way. They have to be careful when crafting this policy to try account for future things that might happen. The Board has the ability to do what they want here, but personally he thinks it is dangerous if they do nothing. Again, assuming that the tree was healthy prior to this action. If it was damaged, he thinks the equation changes. The Board has the ability to decide how they want to handle it. He thought the letter was a decent

compromise as they are not charging for the full on like for like exchange, they are charging to put in a much smaller tree and I thought someone had said the gentleman volunteered to do that. It might be something the property owner can live with and might be a fair resolution anytime this would happen in the future.

Supv Kassel inquired if they are talking about this specific example and what to do which she does not think is the purview of this meeting or are they talking about a policy going forward.

Mr. Qualls noted they overlap but for purposes of the workshop is the policy going forward. They cannot take any action or vote on anything at the workshop; they will have to take final action on either a policy or a communication to this homeowner at the next regularly scheduled meeting.

Supv Kassel noted they are back to this should be part of the policy; the trees belong to the CDD and the CDD is the appropriate party to address any trimming or correction and that the policy is if the homeowner tries to do that they will be liable for damages and/or the replacement of the tree.

Mr. Qualls noted he thinks that is fair, but the devil is going to be in the details. Remember that the homeowner has the right under law to trim anything on their side of the property boundary. To him a policy would say something to the effect that Harmony values its trees, Harmony is taking steps to prune trees within the right-of-way in an all encompassing way and that will alert the homeowners that the CDD is about to take action which would hopefully freeze any knee-jerk action any homeowner may be contemplating. They could say that under the law homeowners are not permitted or authorized to take steps onto the public easement and right-of-way. He thinks that is how they start to address the particular incident that happened.

Supv Kassel noted she is in agreement with his suggestion.

Supv Leet noted he agrees.

Mr. Qualls noted he would like to see anything that has already been drafted. He will get with Mr. Perez and Ms. Montagna.

Supv Kramer addressed her concern with sending a letter to the property owner is not having a good evaluation on the state of the tree. It is important to take this up at the next meeting and having a certified arborist truly evaluate the tree to see what the chances are of it coming down. She further addressed the liability of the homeowner

having taken so much off that it is unbalanced and is an at risk tree and probably at risk to cars on the street since that is where the unbalance is and the potential to fall into the street and evaluating any additional trees they believe to be dangerous.

Mr. Perez noted agrees with having an arborist evaluate the tree to determine the long-term detriments done from the pruning.

Supv Leet noted they should have pictures from after the fire but before the trimming.

Supv Berube noted having an independent evaluation done puts them on more solid ground when they speak to the homeowner.

B. Other Landscape Issues

Supv Kramer inquired if anybody wanted to bring forward any landscaping issues or concerns.

Supv Berube addressed leading the charge to renew the Servello contract noting it was based on current pricing and anticipating what the market would bring if they went to RFP, but at that time he was relatively satisfied with the job they were performing. Since then the landscape quality has deteriorated significantly. He knows there is rain, but they are behind on mowing and their services. They are always short a guy and it is not getting any better.

Supv Kramer noted she is also frustrated with the quality.

Supv Kassel noted she agrees things have gone downhill a bit, but they have had a lot of staff out due to COVID and so have a lot of others and she wants to give them the benefit of that doubt.

Supv Berube noted he agrees but residents are still paying the same amount of money and are not getting the services. As a Board they can only be so tolerant and at some point, they have to expect the contractor they are paying is going to perform up to expectations and it is not happening.

Supv Leet noted the results speak for themselves but they had issues pre-COVID. The areas around landscaping seemed to be doing a better job last years as compared to two years before that which does lend weight to the COVID based staffing issues. The proof will be as they get out of the growing season and how they catch up and hopefully remain caught up.

C. Landscape RFP Scope

Supv Leet noted for the purpose of the workshop if they are proceeding with doing another RFP, they all need to be in agreement of what that scope needs to be.

Supv Berube addressed RFPs noting they take a long time and they do not want to be rushed. They have an opportunity to get this done now and they have Mr. Perez with a background in landscaping and can be an invaluable guide to them if they put together a scope and get this going now rather than wait to the last minute.

Supv Leet addressed the irrigation being under the Servello and inquired as to the thoughts on continuing this level of scope in the landscaping contract.

Supv Berube noted he thinks they should separate the irrigation and put it back with CDD Field Services. They know the cost for this because it was initially a part of the Inframark contract. He believes they should take the trees out of the overall landscape contract and make it separate. Also, take the irrigation out of the landscape side and make that separate putting it back with field services and just have landscapers do what landscapers do – cut grass, trim, edge, and trim bushes.

Supv Kramer noted she is of the opposite mind. She feels irrigation needs to be with the landscaper. The people who are responsible for the health of the plants need to be the ones who are making the decisions and keeping the system that waters those plants. She would advocate removing the trees and putting them under a tree professional, but the irrigation needs to stay with whatever landscape company they are using.

Supv Kassel noted it seems Servello is doing a comprehensive reevaluation of the irrigation system and has been finding that there are areas where there were broken heads or parts that were just turned off, which does not seem appropriate to her, and other issues that had not been recognized to date before they started evaluating the system. Maybe it is more expensive than having it done in-house but having it done in-house may have been more inexpensive in terms of irrigation but in terms of landscaping may have been more expensive. She agrees that the company that is mowing, trimming and fertilizing should also be the company doing irrigation. They need to give it more time as there have been issues such as sod dying or plants and there has been disagreement because you were not giving it enough water or you were giving it too much water because the

CDD was watering and the landscaper was the one guaranteeing the plants. If they are taking care of irrigation and plants, then there is no excuse.

Supv Berube addressed some of the valves being turned off on purpose and being left that way because the plants and such in that area had matured over time.

Supv Kramer noted the bigger issue is the RFP for landscaping and whether they use it a year from now when the contract expires or earlier it is probably good to have it ready. She would like to charge each of the Supervisors with taking the marked-up RFP, jot some comments and provide it back to Mr. Perez to see if he can put together something that might be a good discussion topic. It may not be ready for this month's meeting, but definitely by next months.

Mr. Perez noted he does not see that being an issue. On the specifications he sent over they are Harmony's current specifications from the 2017 bid. If they do not have it in word, they can just add notes to it, and he can compile them all together. He included he highlighted areas and included notes on the specifications.

Supv Kramer inquired if there were any other comments regarding going forward with preparing an RFP noting if the continual downhill on the current service continues, they will be ready to move forward. If it improves, they will still be ready at the end of the year.

Supv Berube noted he would advocate with moving forward with it as soon as they have the RFP to the standards and specifications that they want. They do not want to be at the end of the current contract and having to make a decision in a rush.

Mr. Perez addressed the budget for FY 2022 and starting the RFP process in March estimating the turnaround to be before budget season to get a final number. If the Board decides to go out sooner there more than likely will be an increase in costs depending on the specification adjustments, they make.

Supv Kramer noted she believes the termination notice period to Servello is two months. She suggested the Board go through it over the next couples of weeks, jot down their comments and get it back to Mr. Perez.

Supv Leet addressed working with Mr. Hamstra for the landscaping with regard to opening up the Billy's Trail access and he wants to make sure it does not fall by the wayside.

Mr. Hamstra noted it is still on the radar.

D. Other Concerns / Issues

Supv Kassel noted she wanted to bring up the pool issue. They need to develop a policy with regard to getting a bond from the homeowner to perform to the CDD standards any kind landscaping, excavation, grading, etcetera. If Mr. Hamstra could provide a suggested policy regarding not only pool issues but any issue that impacts CDD land where it intersects with private property.

Mr. Hamstra noted he will but he thought they were going to hold off on publishing that until they resolve the potential legal matter with the homeowner at 3170 Dark Sky but he can get started if that is not the case.

Supv Kassel inquired what happens if the homeowner takes action and it is not adequate.

Mr. Hamstra noted Mr. Qualls wrote a letter to the homeowner putting them on notice to do it right and if not the CDD would step in and charge them the cost of doing the work.

Supv Kassel inquired how much time the homeowner has to accomplish that.

Mr. Qualls noted 14 days. He is having a hard time hearing the conversation but heard comments about going out for an RFP noting they are not doing anything until they meet as a Board and decide to take certain actions. Anybody can do legwork to research and workshop but he wants to make very clear the Board is not taking any action, they are not voting on anything and no decisions have been made concerning landscaping other than what he thinks he heard was a discussion about what types of areas of improvement everybody would want to see.

Supv Berube noted he is correct in that they are not taking any action.

Supv Kassel addressed getting a policy for things like pools, grading, landscaping, anything to do with CDD property where it intersects with private property where they do something that affects CDD property.

Mr. Hamstra noted he believes he and Mr. Qualls were going to work on a policy that would be given to homeowners before they do the work, so they have clear understanding of the responsibility. He noted he thought they put a pause on it until the issue at 3170 Dark Sky was resolved.

Mr. Qualls noted that is correct. The Board does have a policy; policies do not

have to be in writing to be a policy, but consistently they have enacted a policy that if a homeowner does any sort of damage to CDD property then the homeowner is responsible to fix that. How do we make that clear from the onset and how do they avoid situations where they are waiting on a homeowner and their contractor to make something right so that a neighbors yard is not being flooded. They have drafted, as he understood to be the direction from the last meeting, an easement access agreement and in the agreement they have put a requirement for a down payment, but he does not know what the appropriate amount would be and has not found any similar easement access agreements so he is not sure whether this is the best approach. It is the approach he was going to bring to the workshop – if a homeowner wanted to crossover CDD property the District Manager would give them the agreement and ask them to fill it out. The agreement says the CDD will let you access the property but you have to put it back in the condition it was if there is any damage and we would like you to put down a security deposit or bond. He will have something circulated, they can give them their feedback of is it something that would put everybody on alert and whether it is something that is worth the effort.

Supv Kassel noted it is not the first time they have had a homeowner who did something on their lot accessing their lot via CDD property and where there has been an issue. She does not think it is a bad idea.

Supv Berube noted the only problem is no homeowner has to contact the CDD prior to doing any work. The contact agency is the HROA and so far, the HROA has flagged those addresses adjoining CDD property. Along Dark Sky there is a note in the file that the homeowner has to contact the CDD prior to work beginning.

Supv Kramer noted she can check with HROA but she would hope the HROA would be taking a look at the Property Appraiser's database before they issue approvals. They should be able to see whether it is or not and let the CDD know. They are not legally obligated too, and they can also reach out to the County and it is possible the County could flag it. The County has certain requirements to give an HROA approval before issuing permits or in conjunction with issuing permits. If they have it in place and somebody starts without giving notice hopefully, they will have the power to tell them they are not allowed to trespass until they fill it out and put the deposit down.

Mr. Qualls addressed the current issue and inquired why it was a CDD problem. The last thing the CDD wants is to overstep and get involved. There has to be some way

they clearly define where the CDD. The frame of reference is the District has one job which is managing the horizontal infrastructure, that is it. With the neighbors in question it was clear damage had been done to the stormwater system and it is the CDDs duty to manage and maintain the stormwater drainage system and so in that case it is obvious. How would a homeowner know to contact the CDD. He is not suggesting it is required in order to get folks to fix what they broke, but there needs to be a reasonable expectation of when a homeowner goes to the CDD or the HROA. It is a fine line between overstepping and having something in place to protect the infrastructure.

Supv Kramer noted there are a number of these situations. The threshold is when they start trespassing other than normal residential uses – if they are starting to drive trucks and concrete trucks over CDD property then this policy kicks in. We can reach out to try and let people know but they should be on notice if they are wanting to use CDD property or to damage or destroy CDD property that they need to come to the CDD to get permission to do it.

Mr. Qualls noted they have had a policy and the policy they have implemented has never been in writing; it is called an incipient policy, and is what you just said that everybody should be on notice of when they are going onto CDD property. Some contractors do not take the time to get that information and some homeowners that are just genuinely confused. The Board has to help him define in the policy and maybe a map is the best way to do it. If you are accessing the areas in the map in ‘whatever’ color, then you need to contact the CDD to get an access easement agreement before work commences.

Supv Kramer suggested language that if they are not going to maintain the work on their own property and will be traveling over CDD property. The bigger onus is on the contractor who typically knows when they are coming into a community and cannot access it from the street that they need an access agreement from the adjoining property owner. She inquired if they typically come to Mr. van der Snel.

Mr. van der Snel noted the pool and paving contractors did and tells the homeowner they need an easement agreement because the homeowner is responsible for the damage because it will waive the responsibility of the contractor that the CDD or a neighbor will go after them. Most of the pool contractors have that agreement.

Supv Kramer addressed when they come to Mr. van der Snel they be informed a

deposit is needed.

Mr. Qualls noted he took the existing agreement Mr. van der Snel has and modified it. Based on discussion if the Board wants to include a security deposit, they can include that language. That leaves the issue of when people do not come to get the appropriate paperwork and when folks do actually access the District easement or property but still do damage to infrastructure like what happened with the recent event. The policy is if you damage infrastructure you are responsible to repair it.

Supv Kramer stated I think the attorney has been given instruction and will bring something back.

FOURTH ITEM

Supervisors' Comments

Supv Leet addressed pool closing times and revisiting access policies.

Supv Kramer addressed determining lighting requirements to extend usage times.

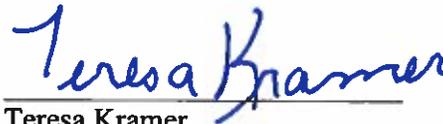
FIFTH ITEM

Adjournment

On MOTION by Supervisor Kassel seconded by Supv Berube, with all in favor, the workshop was adjourned.



Assistant Secretary/Secretary



Teresa Kramer
Chair