

**MINUTES OF MEETING
HAMAL
COMMUNITY DEVELOPMENT DISTRICT**

A Regular Meeting of the Hamal Community Development District's Board of Supervisors was held on **Wednesday, December 19, 2012 at 8:30 a.m.**, at the **Briar Bay Clubhouse, 3400 Celebration Blvd., West Palm Beach, Florida 33411.**

Present and constituting a quorum were:

Brian Dowling	Chair
Robert Simeone	Vice Chair
Ione Senior	Assistant Secretary
Edward Zakarian	Assistant Secretary
Steven Pincus	Assistant Secretary

Also present were:

Craig Wrathell	District Manager
Matthew Adika	Wrathell, Hunt & Associates
Roy Van Wyk (via telephone)	District Counsel
Bruce King	Kings Management
Leo Giangrande	District Engineer

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Wrathell called the meeting to order at 8:35 a.m.

SECOND ORDER OF BUSINESS

**Administration of Oath of Office to Newly Elected Supervisor, Ione Senior [Seat 3],
*(the following to be provided in separate package)***

Mr. Wrathell congratulated Ms. Senior who qualified for Seat 4 and ran unopposed. Mr. Wrathell, a Notary of the State of Florida and duly authorized, administered the Oath of Office required by the Florida Constitution and Division of Elections, as well as the Oath of Office required of all CDD Board Members, to Ms. Senior. Mr. Wrathell provided and briefly explained the following items:

- A. Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees 2012**

B. Membership, Obligations and Responsibilities

C. Financial Disclosure Forms

- **Form 1: Statement of Financial Interests**
- **Form 1X: Amendment to Form 1, Statement of Financial Interests**
- **Form 1F: Final Statement of Financial Interests**

THIRD ORDER OF BUSINESS

**Consideration of Resolution 2013-2,
Declaring Vacancies in Certain Seats on
the Board of Supervisors (Seats 3 and 5)**

Mr. Wrathell advised that no one qualified for Seats 3 or 5, previously held by Mr. Zakarian and Mr. Pincus, respectively.

Mr. Wrathell presented Resolution 2013-2 for the Board's consideration.

**On MOTION by Mr. Simeone and seconded by Ms. Senior,
with all in favor, Resolution 2013-2, Declaring Vacancies in
Seats 3 and 5, was adopted.**

FOURTH ORDER OF BUSINESS

**Consideration of Resolution 2013-3,
Appointing Qualified Electors to Fill
Vacancies in Certain Seats on the Board
of Supervisors**

Mr. Wrathell indicated that Seats 3 and 5 are vacant. He requested nominations for Seat 3, previously held by Mr. Zakarian. Mr. Dowling nominated Mr. Zakarian. No other nominations were made for Seat 3.

**On MOTION by Mr. Simeone and seconded by Ms. Senior,
with all in favor, the appointment of Mr. Edward Zakarian to
fill Seat 3, term expires November, 2016, was approved.**

Mr. Wrathell requested nominations for Seat 5, previously held by Mr. Pincus. Mr. Dowling nominated Mr. Pincus. No other nominations were made for Seat 5.

On MOTION by Ms. Senior and seconded by Mr. Simeone, with all in favor, the appointment of Mr. Steven Pincus to fill Seat 5, term expires November, 2016, was approved.

- **Administration of Oath of Office to Newly Appointed Supervisors**

*****Mr. Zakarian left the meeting at 8:41 a.m.*****

Mr. Wrathell, a Notary of the State of Florida and duly authorized, administered the Oath of Office required by the Florida Constitution and Division of Elections, as well as the Oath of Office required of all CDD Board Members, to Mr. Pincus.

Ms. Senior inquired about providing an email address on the forms. Mr. Pincus advised that, under state law, email addresses are public record.

Mr. Van Wyk asked if Mr. Zakarian was present at the meeting, he reminded that the oath of office must be administered within 30 days. Mr. Wrathell indicated that Mr. Zakarian stepped out of the meeting but will return.

FIFTH ORDER OF BUSINESS

**Consideration of Resolution 2013-4,
Electing the Officers of the District**

Mr. Wrathell presented Resolution 2013-4 for the Board's consideration. He noted that the Board currently consists of Mr. Dowling as Chair, Mr. Simeone as Vice Chair, the remainder of the Board as Assistant Secretaries and himself, serving as Assistant Secretary and Treasurer.

Mr. Pincus nominated the current slate of officers. No other nomination was made.

On MOTION by Mr. Pincus and seconded by Mr. Dowling, with all in favor, Resolution 2013-4, Electing the Officers of the District, as nominated, was adopted.

SIXTH ORDER OF BUSINESS

**Approval of October 17, 2012 Regular
Meeting Minutes**

Mr. Wrathell presented the October 17, 2012 Regular Meeting Minutes and asked for any additions, deletions or corrections. The following changes were made:

Line 336: Change "Mr. Pincus" to "Mr. Van Wyk"

On MOTION by Mr. Dowling and seconded by Ms. Senior, with all in favor, the October 17, 2012 Regular Meeting Minutes, as amended, were approved.

SEVENTH ORDER OF BUSINESS

Award of Contract: Pump Station Maintenance

Mr. Giangrande reported that, in response to the Request for Proposals (RFP), one (1) complete response was received and no partial responses were received. He had conversations with other companies, including Genset Services, Inc. (Genset), and, at their request, additional information was provided. In his opinion, a thorough response was received from South Florida Utilities, Inc., D.B.A. Lift Station Services (SFU). SFU maintains large lift stations and has a good relationship with the pump manufacturer and supplier, MWI.

Mr. Giangrande furnished the Board with copies of SFU's proposal. He indicated that Staff prepared an extremely detailed and thorough RFP, including maintenance and frequency questions, per the Board's decision at the last meeting. Mr. Giangrande recommended that the Board enter into a contract with SFU and schedule a meeting to listen to their recommendations. Mr. Giangrande suggested following the scope of work in the RFP, for the first year, and scaling back the second year because there are certain recommendations on frequency that he feels are not beneficial.

Mr. Giangrande reiterated his recommendation of entering into a contract with SFU, adding that it should be with a unit price structure. SFU may convince the Board that there are items in the RFP that are more frequent than necessary and can be removed. He reported that SFU has a full team, including an electrical engineer, to service the CDD's needs.

Mr. Pincus inquired about a question mark on the RFP next to scope of services. Mr. Giangrande indicated that notation was made by SFU when they couldn't find the discharge. Mr. Pincus asked if the contractor toured the property before preparing this proposal. Mr. Giangrande replied affirmatively. Mr. Dowling asked if the discharge was located. Mr. Giangrande advised that SFU was provided with a layout. Mr. Dowling recalled that the discharge could not be located during the flooding. Mr. Giangrande indicated that he will provide Mr. Dowling with the same information he gave SFU. Mr. Giangrande clarified that the discharge snakes around and can be easily overlooked because it looks like a pipe. Discussion ensued regarding the exact location of the discharge.

Mr. Simeone asked if anyone was performing these tasks before. Mr. Dowling replied, no. Mr. Giangrande relayed that Genset was upset because they produced a contract but the Board did not sign it. Mr. Giangrande advised Genset to submit a proposal; however, they did not. Mr. Dowling recalled that Genset previously submitted a bid that was accepted by the Board; however, when flooding occurred, the Board realized that the contract was not sufficient for the District's needs. At that point, Genset was advised that the District was expanding the scope of work. Discussion ensued regarding Genset's noncompliance.

Mr. Pincus asked Mr. Giangrande if he was presenting this as the best proposal he received, or as the only complete proposal he received. Mr. Giangrande replied that he can say both with confidence. Mr. Giangrande noted that SFU may convince the Board to reduce the frequency of the quarterly wet well cleaning. Mr. Giangrande reiterated that it may be a good decision to go through all the recommendations on the RFP during the first year and scale back, in the future.

Mr. Giangrande reported that he is impressed with SFU's equipment. Mr. Wrathell noted that the total contract amount is \$7,190. Mr. Pincus asked if there is a line item in the budget for this project. Mr. Wrathell advised that there are two (2) line items for the pump station, \$5,000 for preventative maintenance and \$4,000 for repair/maintenance; combined, the two (2) may pay for the project. Referring to the fees, Mr. Wrathell indicated that this is the initial start-up and, going forward, the Board may decide to make changes. Mr. Giangrande reported that SFU should have the thorough maintenance performed by May. Mr. Pincus recalled that, at the last meeting, the Board discussed having the bulk of the work performed before the rainy season begins.

In response to Mr. Pincus' inquiry, Mr. Giangrande advised that SFU is ready and it should not take long to commence work, once the proposal is approved. Mr. Simeone indicated that he was not aware of Genset's contract but he has no major concerns about the current proposal.

Mr. Giangrande advised that, because of the District's unique system, he worked with several groups to compile the RFP. Mr. Dowling indicated that the Board discussed having one (1) point of reference; hence, the decision to have a single vendor handle the entire project. Mr. Giangrande stated that his point of contact with SFU was the owner of the company and noted that he was impressed with how involved the owner was in preparing the proposal.

Mr. Giangrande recalled discussions regarding concerns with the management of the pump house and the telemetry of the electrical system; he noted that the experts from SFU may be able to give direction to the Board moving forward.

Mr. Simeone asked if the proposal was reviewed. Mr. Giangrande advised that Mr. Van Wyk did not receive it until yesterday at 4:30 p.m. Mr. Dowling indicated that Mr. Van Wyk will prepare the contract. Mr. Giangrande suggested preparing a standard contract with verbiage from the proposal. Discussion ensued regarding the total proposed costs. Mr. Wrathell requested clarification of the frequency to cost ratio. Mr. Giangrande indicated that the RFP requested a yearly cost, regardless of frequency. Discussion ensued regarding the frequency to cost ratio. Mr. Giangrande will confirm the costs with SFU and negotiate costs and frequency where necessary, per the discussions held during today's meeting.

Mr. Dowling advised that the needs of the District should be analyzed; the pumps are needed to pre-empt flooding during hurricane season. He noted that the pumps are not working on automatic mode and not rotating. One (1) pump is running continuously, even when water recedes below the minimum level; therefore, Mr. Dowling set them on manual. Mr. Dowling advised that he was anxious to enter into a contract because the pump is malfunctioning. Mr. Giangrande indicated that he is confident he will have the information requested by Friday. Mr. Dowling noted that the next meeting will not be held until February.

Mr. Wrathell advised that, if the Board is comfortable, authority may be designated to a Board Member to work with Staff on the contract negotiations. Mr. Simeone noted that Mr. Dowling has a good concept of the District's needs and is comfortable with nominating him to negotiate on the Board's behalf. Discussion ensued regarding Sunshine Law compliance during contract negotiations. Mr. Dowling suggested that the Board approve an 'up to the dollar amount'. Keeping in mind the Board's discussions regarding costs, Mr. Wrathell advised that his initial review of the proposed costs is that they were excessive; however, staying in the \$7,000 range is reasonable. Mr. Simeone suggested a not-to-exceed amount of \$10,000.

*****Mr. Zakarian returned to the meeting at 9:06 a.m.*****

Mr. Dowling indicated that, with the adjustments discussed today, he calculates the costs to be approximately \$10,800. The generator inspection will be 12 times per year, the quarterly, pump, wet well and discharge inspections will be four (4) times per year, the quarterly wet well cleaning will be changed to annual and the yearly maintenance will be once a year, for a total of \$10,630, not including the 50,000-hour maintenance inspection.

Mr. Pincus suggested the motion state 'to authorize Staff and the Chair to negotiate an agreement with SFU in a not-to-exceed \$11,000 and subject to review by District Counsel'. The \$11,000 amount allows room for negotiation.

Mr. Dowling clarified that the 50,000 hour maintenance inspection is not included in the \$10,630; however, that will not be a yearly occurrence. Mr. Pincus inquired about the current pump hours. Mr. Dowling indicated it is approximately 2,700 hours. After a discussion regarding the not-to-exceed amount, a consensus was reached to have a not-to-exceed amount of \$11,000.

Mr. Dowling updated Mr. Zakarian on the discussions he missed.

Mr. Wrathell indicated he would like to take this opportunity and administer the Oath of Office to Mr. Zakarian. Mr. Wrathell, a Notary of the State of Florida and duly authorized, administered the Oath of Office required by the Florida Constitution and Division of Elections, as well as the Oath of Office required of all CDD Board Members, to Mr. Zakarian.

On MOTION by Mr. Pincus and seconded by Mr. Simeone, with all in favor, authorizing the Chair and District Staff to negotiate the proposed fee schedule submitted by South Florida Utilities, Inc., D.B.A. Lift Station Services, with a not-to-exceed amount of \$11,000 and authorizing the Chair to execute the agreement, subject to review by District Counsel, was approved.

EIGHTH ORDER OF BUSINESS

Update: SFWMD Meeting and Letter to Homeowners

Mr. Wrathell directed the Board to the email located behind Tab 8. He recalled discussion, at a prior meeting, about preparing a letter to property owners regarding South Florida Water Management District (SFWMD) and the District's pump limitations.

Mr. Wrathell reported that his meeting with Mr. Giangrande and SFWMD went well. Mr. Giangrande will follow up with SFWMD. SFWMD is willing to allow the District to perform early pumping and gain about .5". Mr. Giangrande clarified that, depending on the water level, the District will drain 3" to 4" faster. The District will be allowed to turn the pumps on before a storm begins to gain extra storage.

Subsequent to the meeting with Mr. Wrathell and SFWMD, Mr. Giangrande met with Northern Palm Beach County Improvement District (NPBCID). NPBCID advised Mr.

Giangrande, at a prior meeting, that if SFWMD allowed the modifications, they would entertain them. During the recent meeting with NPBCID, they advised that if SFWMD approved the modifications, they would approve them as well. The modifications provide for flexibility regarding manually engaging the pumps prior to storm events. Currently, the pumps do not turn on until 6" above the control elevation and they turn off when the water level declines; however, they will not turn back on until 6" above elevation. Essentially, the District is 6" flooded before receiving any relief. Mr. Giangrande reiterated that the District will have the flexibility to start the pumps and control the water. He indicated that he was trying to gain an extra foot, but that will be negotiated with the Districts who will want to make that proposal. The proposal will require permit modifications through SFWMD. Depending how SFWMD wants the District to prove this hydraulically, there may be some high level modeling; or SFWMD may approve the modifications as a safety measure due to an extreme event.

In response to Mr. Pincus' inquiry, Mr. Giangrande advised that the next step is to apply to SFWMD for a NEOB modification. Mr. Giangrande indicated that he is able to handle this and should not require any plan work; the plans are already prepared. Survey work may be required. A model may be required, in order to prove all the contributing areas that have water coming in, as well as the downstream areas where the outfall comes out, into the other development, causing them to have a bleeder,. If the District is upstream routes water into another community's pond system, it will not have a positive effect on their community. Mr. Giangrande must prove that it is a negligible impact due to extreme events.

Mr. Pincus asked if the systems would work in tandem; if the District is draining to another community, their levels would rise and activate their pumps. Mr. Giangrande clarified that the other community does not have pumps, it relies on gravity. The other community's drainage system coincides with the District's system and it anticipates the District's pumps turning on. If the District starts the pumps earlier, water will be routed to their system before it is accustomed to receiving it. In response to Mr. Dowling's inquiry, Mr. Giangrande indicated that the District's water drains to a residential community east of the turnpike. Conversation ensued regarding the location and the name of the community.

Mr. Giangrande advised that he is unsure of SFWMD's requirements as to what the District must prove and noted that the abdication fee is \$1,500 for the modification.

Referring to a map, Mr. Giangrande identified the location of the other community, the weir and the District's discharge pipe. Mr. Pincus asked where that community drains to. Mr.

Giangrande indicated that they drain to NPCID's master system. The CDD is at an upstream end; therefore, the District will impact everything south of the system.

Mr. Pincus asked for an estimate of Mr. Giangrande's fee, should the Board decide to proceed with the modification. Mr. Giangrande indicated a fee of approximately \$10,000; however, if SFWMD requires extensive modeling, the fee will increase. Mr. Pincus estimated \$17,000 and asked how the District will pay for the modification. Mr. Dowling indicated that approximately \$5,000 was been spent during the investigative process. Mr. Dowling and Mr. Pincus increased the estimate to \$25,000 to \$30,000. Mr. Wrathell advised that the District has \$21,680 in contingency and noted a good cash balance. Mr. Giangrande indicated that he may have several meetings with NPCID. Mr. Pincus noted that, at that point, the majority of the work will have been performed.

Mr. Pincus inquired if the work will be performed during one (1) fiscal year. Mr. Wrathell indicated that the desire is to complete the work before the next rainy season. Mr. Pincus noted that it cannot be determined how quickly the other community will operate. Mr. Giangrande indicated that, if the Board made a motion authorizing him to proceed, he will have an approval before the rainy season and noted that SFWMD has mandates and attempts to work quickly. Discussion followed regarding flood levels during Tropical Storm Isaac.

Mr. Giangrande recalled the recent storm event in Jupiter. He noted that, if it would have impacted the District, with the modifications in place, the storm would not have had a negligible impact on Hamal; every system was flooded.

Mr. Dowling noted that the District's lakes were full to capacity prior to Tropical Storm Isaac. He questioned whether 6" would make a difference. Mr. Giangrande noted that the modification will give the District flexibility and better operational parameters.

Mr. Dowling agreed that the money already expended was well spent because of the education received. The question becomes whether a preventable solution to the problem. Mr. Giangrande explained that if a road had 9" of water, with the modification, it will be decreased by 6" at maximum; it may be 3" to 4", depending on the starting point. Mr. Simeone noted the substantial decrease. Mr. Pincus agreed that the amount will make a difference.

Mr. Pincus recalled that the reason for the resident takeover of the Board was due to the 2004 hurricane season, which was not as destructive as Isaac. Mr. Dowling pointed out that the generators were not turned on in 2004. Mr. Pincus clarified that his point is that, as much as landscaping and beautification is a function of the Board, its primary function is the protection of

property and making sure that, to the best extent possible, outcomes from events similar to Isaac may be avoided or minimized. Mr. Pincus felt that, if Mr. Wrathell is advising that money is available, \$30,000 is not too big of an investment for what he considers to be the Board's primary function. He stated that, even though the solution is not as great as the Board hoped, it is still a better outcome for the community. If SFWMD approves the modification, Mr. Pincus believes that the Board has an obligation to proceed. Mr. Pincus indicated that, if the cost should increase to \$100,000, Mr. Dowling's point would be valid.

Mr. Dowling clarified that he is not against the project; he is providing points to consider. Mr. Dowling stated that the pump stations are the responsibility of the District and the District should do everything in its power to prevent anything like what occurred from occurring again, regardless of the cost; however, Mr. Dowling questions if spending the \$30,000 will make an impact. Mr. Simeone indicated that the modification will have at least a 6" impact and will minimize flooding. Mr. Pincus stated that cars can get through in 3" to 4" of flooding. Mr. Giangrande indicated that converting 8" of water on the road into 3" of water on the road will make a difference.

Mr. Giangrande explained the SFWMD preapplication process and indicated that the reviewer assigned to the District will provide a better estimate of the costs. Mr. Pincus suggested authorizing Mr. Giangrande to proceed with the preapplication meeting and provide an update to the Board at the February 20, 2013 meeting.

On MOTION by Mr. Pincus and seconded by Ms. Senior, with all in favor, authorizing the District Engineer to proceed with the preapplication meeting with South Florida Water Management District, was approved.

Regarding the letter to homeowners, in Mr. Dowling's opinion, the letter should explain the reason for the 18" water level and the improvements that are being considered for the coming year. He prefers that the letter be mailed before the end of the year. Mr. Pincus suggested adding that the District is in preliminary stages of negotiations with SFWMD to see how they will allow the District to proceed. Mr. Dowling indicated that a brief explanation of why the flooding occurred, in laymen's terms, is important to ease the minds of the people that believe the District did nothing to prevent the flooding. Mr. Wrathell advised that he will draft the letter and provide it to the Board for review.

Mr. Pincus inquired about the reasoning for the District's allotted maximum water elevations. Mr. Giangrande explained that the District received the best of what was available at the time.

*****Mr. Giangrande left the meeting.*****

NINTH ORDER OF BUSINESS

Other Business

Mr. Dowling reported that Holiday Lighting Designs, Inc., (Holiday) has not complied with their contractual obligations, specifically, the lighting on the Hamilton Bay signs was not installed per the specifications in the proposal. The contract provides for the lighting to be installed before Thanksgiving and it was not installed until December 11. Mr. Dowling recommends sending a cancellation letter and not using Holiday's services next year. He recommend not submitting final payment. In response to Mr. Pincus' inquiry, Mr. Dowling advised that 50% of the contract amount is due to Holiday.

Mr. Pincus asked Mr. Van Wyk if this is an anticipatory breach. Mr. Van Wyk indicated that there was a breach when the deadline was not met and Holiday did not fulfill their obligations. Holiday was put on notice, which gave them an opportunity to cure the situation; however, they did not. Mr. Van Wyk suggested advising Holiday that, because of their breach, they will not receive the remaining payment. Mr. Van Wyk recalled that the District put Holiday on notice, in writing, warning them that the District intends to terminate their contract, if their services did not improve. Mr. Van Wyk will draft a breach of contract letter to Holiday.

Mr. Pincus asked if Mr. Van Wyk felt comfortable defending the District if Holiday sued for the balance due. Mr. Van Wyk suggested settling for a dollar amount that is comparable to the work performed. Mr. Dowling noted that the contract stipulates that the prevailing party shall be entitled to recover legal fees. Mr. Pincus and Mr. Dowling agreed that Mr. Wrathell should send Holiday a letter before Mr. Van Wyk takes any action. Discussion ensued regarding the language for the letter and a time frame for mailing it.

On MOTION by Mr. Simeone and seconded by Ms. Senior, with all in favor, authorizing the District Manager to prepare and mail a letter to Holiday Lighting Designs, Inc., advising of their breach of contract and that the 50% already paid will be considered payment in full, was approved.

TENTH ORDER OF BUSINESS

Staff Reports

A. Manager

i. Approval of Unaudited Financial Statements as of October 31, 2012

Mr. Wrathell presented the Unaudited Financial Statements as of October 31, 2012. He noted that revenue activity is limited because assessment payments have not been received. After the October accounts payable, the total fund balance was \$734,904.

*****Mr. Zakarian stepped out of the meeting.*****

On MOTION by Mr. Simeone and seconded by Mr. Pincus, with all in favor, the Unaudited Financial Statements as of October 31, 2012 were approved. (Motion passed 4-0)

In response to Mr. Pincus' question, Mr. Wrathell advised that Staff is in the process of transferring the \$5 from the State Board Administration Account.

ii. NEXT MEETING DATE: February 20, 2013 at 8:30 A.M.

▪ Fiscal Year 2013 Meeting Schedule Conflict

- February 20, 2013 at 8:30 A.M.
- April 17, 2013 at 8:30 A.M.
- June 19, 2013 at 8:30 A.M.

*****Mr. Zakarian returned to the meeting.*****

Mr. Wrathell advised that he has a scheduling conflict and proposed changing the regular meetings to the fourth Wednesday of every month, instead of the third. The new meeting dates will be February 27, 2013, April 24, 2013 and June 26, 2013. Mr. Wrathell offered to pay to advertise the new meeting schedule. The Board agreed to the proposed changes.

On MOTION by Mr. Simeone and seconded by Mr. Zakarian, with all in favor, the revised Fiscal Year 2013 meeting schedule, as discussed, was approved.

In response to Mr. Pincus' question, Mr. Wrathell indicated that the date for the September meeting to adopt the Fiscal Year 2014 Final Budget will be determined at a later time.

ELEVENTH ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors'

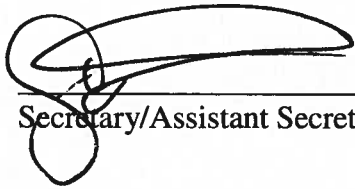
There being no audience comments or Supervisors' requests, the next item followed.

TWELFTH ORDER OF BUSINESS

Adjournment

There being nothing further to discuss, the meeting adjourned.

**On MOTION by Mr. Pincus and seconded by Ms. Senior, with
all in favor, the meeting adjourned at 9:55 a.m.**



Secretary/Assistant Secretary



Chair/Vice Chair