

**MINUTES OF MEETING
HAMAL
COMMUNITY DEVELOPMENT DISTRICT**

A Regular Meeting of the Hamal Community Development District's Board of Supervisors was held on **Wednesday, February 27, 2013 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
Steven Pincus	Assistant Secretary

Also present were:

Craig Wrathell	District Manager
Bissi DiCenso	Wrathell, Hunt & Associates
Roy Van Wyk (via telephone)	District Counsel
Leo Giangrande	District Engineer

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Wrathell called the meeting to order at 8:36 a.m., and noted, for the record, that Supervisors Dowling, Simeone, Senior and Pincus were present, in person. Supervisor Zakarian was not present.

SECOND ORDER OF BUSINESS

Approval of December 19, 2012 Regular Meeting Minutes

Mr. Wrathell presented the December 19, 2012 Regular Meeting Minutes and asked for any additions, deletions or corrections.

On MOTION by Ms. Senior and seconded by Mr. Pincus, with all in favor, the December 19, 2012 Regular Meeting Minutes, as presented, were approved.

THIRD ORDER OF BUSINESS**Ratify Resolution 2013-3, Appointing Qualified Electors to Fill Vacancies in Certain Seats on the Board of Supervisors**

Mr. Wrathell recalled that, at the prior meeting, the Board appointed Supervisors to fill two (2) seats for which no one previously qualified and Mr. Van Wyk prepared a resolution commemorating the appointments. Mr. Wrathell asked Mr. Van Wyk if retroactive approval commemorating the appointment of the Board Members is required or if the motion to appoint, with the signed resolution, is sufficient. Mr. Van Wyk indicated that the resolution is necessary to evidence the appointments to the Supervisor of Elections. Mr. Van Wyk suggested ratifying the execution of the previous resolution.

In response to Mr. Dowling's question, Mr. Wrathell indicated that he has not spoken with Mr. Zakarian since the New Year. Mr. Zakarian mentioned to Mr. Wrathell that there was a possibility that he would not accept the appointment. Mr. Dowling stated that Mr. Zakarian has a conflict of interest with his IT company. As part of his contract, Mr. Zakarian must disclose to vendors any board positions he holds and serving on a board may disqualify him from obtaining contracts.

Mr. Wrathell suggested requesting a resignation letter from Mr. Zakarian and not ratifying the resolution, at this time. Mr. Pincus stated that Mr. Zakarian accepted the appointment and may need to resign. Mr. Pincus asked Mr. Van Wyk for his opinion. Mr. Dowling clarified that Mr. Zakarian did not sign the Oath of Office. Mr. Van Wyk stated that, if Mr. Zakarian did not sign the Oath of Office, he was not officially on the Board. The Board is free to appoint someone else to the seat and the resolution may be amended to reflect the new appointment. Mr. Wrathell suggested obtaining a letter from Mr. Zakarian declining appointment and discussing the vacancy during the next meeting. Mr. Van Wyk indicated that either decision is fine; however, if Mr. Zakarian failed to sign the Oath of Office within 30 days, as required by the constitution, he is not appointed and the Board may appoint someone else now or obtain an official resignation. In Mr. Van Wyk's opinion, Mr. Zakarian is not officially appointed. Seeking clarification, Mr. Wrathell asked if, by his failure to execute the Oath of Office, Mr. Zakarian declined appointment, via that action. Mr. Van Wyk responded affirmatively.

Mr. Wrathell inquired if a motion should be made declaring that seat vacant and an appointment be considered during the next meeting. Mr. Van Wyk suggested proceeding with

what is most convenient for the Board; if the Board has a candidate now, they may appoint them. Mr. Wrathell recommended not ratifying the resolution today and addressing the vacancy at the next meeting.

FOURTH ORDER OF BUSINESS

Update: Preapplication Meeting with SFWMD Meeting

Mr. Giangrande reported that the meeting with South Florida Water Management District (SFWMD) went extremely well. The District has a number of options. He recalled that the purpose was to have a pre-application meeting to determine what actions must be taken. During the last meeting, Mr. Giangrande informed the Board of potential necessary actions, as well as SFWMD's requests. At that time, Mr. Giangrande suggested that the CDD prepare a simple letter modification, without calculations, and not analyze the entire region; SFWMD was amenable to that approach. The changes will provide the District the opportunity to engage the pumps earlier and implement a pre-storm program, as discussed at the last meeting.

Mr. Giangrande noted that the new process has several benefits. He will write to SFWMD, SFWMD will, most likely, provide comments and an approval will be obtained. The permit fee will be \$250 instead of \$2,500.

Mr. Giangrande indicated that, after his meeting with SFWMD, he met with Northern Palm Beach County Improvement District (NPBCID). NPBCID advised that they are open to the idea, if SFWMD was agreeable.

Mr. Dowling stated that, if the District has gone this far, he does not see a reason to not proceed, especially with a \$250 application fee. Mr. Giangrande advised that he will prepare the letter; he anticipates a smooth process.

Mr. Giangrande indicated that a question arose regarding the operational characteristics of the new procedures. He advised SFWMD that the only person with authority to run the pumps is the Operations Manager. He advised that this is the only commitment he made with SFWMD. If the Operations Manager is out of town, another person may be assigned the task.

On MOTION by Mr. Pincus and seconded by Mr. Simeone, with all in favor, authorizing the District Engineer to proceed with the South Florida Water Management District application process, as described, and authorizing payment of fees in connection, therewith, was approved.

Discussion ensued regarding the Operations Manager. Mr. Giangrande advised that, if approval is received from SFWMD, it will include conditions of the approval. Mr. Pincus indicated that, in his experience, contracts such as this will include language such as "Operations Manager or his designee".

FIFTH ORDER OF BUSINESS

Consideration of Agreement with South Florida Utilities, Inc., d/b/a Lift Station Services

****This item, previously the Seventh Order of Business, was presented out of order.****

Mr. Wrathell presented a contract prepared by Mr. Van Wyk for the Board's consideration and asked Mr. Giangrande to provide a first overview of the contract.

Mr. Giangrande stated that the agreement is standard. In his opinion, after reviewing the agreement with the proposal from South Florida Utilities, Inc., D.B.A Lift Stations Services (SFU), it is a matter of execution and authorization.

Mr. Van Wyk highlighted the key provisions. He noted that there is a 30-day termination provision. The agreement shall be for a period of one (1) year with a provision for two (2), one (1)-year renewals, at the same rate.

Mr. Wrathell advised that Exhibit "A" is the updated quote from SFU and clarifies the questions discussed at the prior meeting. Mr. Pincus recalled that there were questions regarding frequency of the work. Mr. Giangrande indicated that he discussed the District's needs with SFU and the frequency was clarified, in writing. Mr. Pincus asked, from an Engineer's standpoint, if Exhibit "A" meets the specifications that Mr. Giangrande bid out. Mr. Giangrande replied affirmatively. Mr. Giangrande advised that the District will be well served by this contract.

Mr. Van Wyk requested that the Board approve the agreement and any amendments that may be needed, by the Chair, subject to final review by the contractor.

Mr. Giangrande advised that SFU's owner reached out to him requesting a status; he advised the owner that he submitted the proposal to the Board and a meeting would be held soon. Mr. Giangrande requested a timeline to provide to SFU. He mentioned that they are trying to stay ahead of the rainy season. Mr. Pincus advised that, if the Board approves the agreement today, SFU will be ready to move forward. Mr. Wrathell advised Mr. Giangrande that he will

email the executed agreement to him, once he returns to his office and Mr. Giangrande may forward it to SFU.

In response to Mr. Dowling’s question, Mr. Giangrande indicated that the agreement specifies the frequency of inspections. Mr. Dowling noted that the intake/outtake inspection is scheduled in May. Mr. Giangrande advised that SFU has great equipment with cameras and the reports will contain interesting results.

On MOTION by Ms. Senior and seconded by Mr. Pincus, with all in favor, the Stormwater Pump Station Maintenance Agreement, in substantial form, pending revisions by South Florida Utilities, Inc., D.B.A. Lift Station Services and the Chair and authorizing the Chair to execute the agreement, were approved.

*****Mr. Giangrande left the meeting at approximately 8:52 a.m.*****

Mr. Wrathell noted that Ms. DiCenso brought to his attention errors in the December 19, 2012 Meeting Minutes. The letters “W” and “F” were inverted in the SFWMD abbreviation in some areas of the minutes.

On MOTION by Mr. Pincus and seconded by Mr. Simeone, with all in favor, the December 19, 2012 Regular Meeting Minutes, as amended, were approved.

SIXTH ORDER OF BUSINESS

Discussion/Consideration: Annual Fish Stocking

*****This item, previously the Fifth Order of Business, was presented out of order.*****

Mr. Dowling indicated, that per the Allstate Resource Management, Inc., contract, an annual fish stocking is performed, unless they are advised not to. Mr. Pincus saw no reason not to restock the fish. Mr. Dowling concurred. Mr. Wrathell stated that no action is needed if the fish stocking is desired. Conversation ensued regarding the prior year’s stocking. In response to a question, Mr. Wrathell explained that a good indication of the lakes being sufficiently stocked is the lack of voluminous vegetation growth.

SEVENTH ORDER OF BUSINESS

Discussion: Holiday Lighting Designs, Inc.

*****This item, previously the Sixth Order of Business, was presented out of order.*****

A. Consideration of Invoice #3374 for Timers

B. Notice to Terminate Commercial Installation Agreement

Mr. Wrathell recalled that, at the prior meeting, the Board decided not to pay the 50% owed to Holiday Lighting Designs, Inc. (Holiday Lighting) but, unfortunately, the balance was paid a couple of days prior to that meeting. Mr. Wrathell apologized for the payment of the invoice. Mr. Dowling indicated that it was his fault; the invoice was sent to him for approval and he approved it for payment.

In response to Mr. Pincus' question, Mr. Dowling advised that the new invoice from Holiday Lighting is for six (6) timers. Mr. Dowling noted that the contract specified that the lights would be installed on or before Thanksgiving; however, the lights were not installed until December 12 or 15. Removal of the lights, per the contract, was to be completed by January 30 and the lights were not removed until approximately February 10. The community received the benefit of the holiday lights for less than half of the contract time.

Mr. Pincus indicated that the question is whether the six (6) pieces of timing equipment were installed on the CDD's property. Discussion ensued regarding payment of the invoice and the potential for a lawsuit. Mr. Wrathell suggested waiting until the next meeting to see if Holiday Lighting takes further action on the invoice; his opinion is that they will not sue for \$150.

Ms. Senior asked if remaining silent implies that the Board agrees to the charge. Mr. Dowling asked if a letter was sent to Holiday Lighting expressing the Board's dissatisfaction with their services. Mr. Wrathell indicated that Mr. Dowling's emails were sufficient. Mr. Pincus noted Ms. Senior's legal question and stated that Holiday Lighting sent an invoice; if the District does not protest within a reasonable time, the law will consider that the right to protest lapsed. The Board agreed that a letter should be sent, objecting to the invoice and providing the reason for the objection. If Holiday Lighting sues, they can bring an action called "accounts stated". Mr. Wrathell suggested including Holiday Lighting's email exchange with Mr. Dowling. Conversation ensued regarding verbiage for the letter. Mr. Wrathell indicated that he will send the letter by certified mail.

Mr. Dowling asked if the termination letter was mailed. Mr. Wrathell noted that a copy of the termination letter is included in today's agenda, located behind Tab 6B.

EIGHTH ORDER OF BUSINESS**Other Business**

Mr. Dowling reported that he asked the landscaper to provide recommendations for improvements within the community. The landscaper recommended installing or replacing coco plum hedges on the east side of Jog Road, north of the school side, before the open lot. Mr. Dowling noted that some of the hedges may encroach on Cove II and Hamal property. In response to Mr. Pincus' question, Mr. Dowling voiced his opinion that, as long as it benefits the majority of the members of the District, it did not matter. Mr. Pincus asked Mr. Van Wyk for his opinion on this matter. Mr. Van Wyk advised that the hedges may be installed and noted that an easement dedicated to the District must be prepared for the installed landscaping. Mr. Pincus advised that Kings Management Services, Inc. (Kings) should be cautioned not to install hedges on city property. Conversation ensued regarding the aesthetic improvements of hedges.

Mr. Simeone expressed concern regarding costs. Mr. Wrathell noted that the District has \$25,000 budgeted for landscaping replacement. Discussion ensued regarding the easement. Mr. Dowling asked if an easement is necessary. Mr. Van Wyk indicated that an easement is necessary in order to have authority to be on their property and the District must evidence a disinterest in the land by ensuring that personal/private property is not being improved. Mr. Van Wyk agreed to forward a standard easement to Mr. Dowling or Mr. Wrathell and noted that the easement must be recorded.

On MOTION by Mr. Pincus and seconded by Ms. Senior, with all in favor, the Kings Management Services, Inc., Proposal to install/replace coco plum hedges on the east side of Jog Road, in the amount of \$3,596.40, and authorizing the Chair to execute an easement or other legal document connected therewith, were approved.

Mr. Dowling reported that the wall along Jog Road, on the south side, needs to be power washed and possibly have the trim painted. He noted that the curbs and sidewalks also need to be power washed. Discussion ensued regarding whether the curbs and sidewalks are the District's responsibility. Mr. Van Wyk believes that the sidewalks are part of the right-of-way. Mr. Dowling asked if the District is allowed to clean them. Mr. Van Wyk clarified that the District does not own the sidewalks but is allowed to maintain them. Mr. Wrathell asked if the District may open itself to liability if it begins maintaining the sidewalks.

Ms. Simeone noted that when driving on Jog Road, her tires aret punctured from broken glass.

In Mr. Van Wyk’s opinion, if the District only power washes the sidewalks, it should not be an issue; the District is not assuming ownership.

Discussion ensued regarding areas that need to be power washed and whether to include the curbs. Mr. Wrathell noted that, if the sidewalks are cleaned without the curbs, the dirt on the curbs will be more obvious. A consensus was reached to obtain separate quotes for the walls, sidewalks and curbs. Mr. Dowling inquired if the Board was interested in painting the back wall. Mr. Pincus suggested painting portions of the walls that are visible to the street and the two (2) entrances.

NINTH ORDER OF BUSINESS

Staff Reports

A. Manager

i. Approval of Unaudited Financial Statements as of January 31, 2013

Mr. Wrathell presented the Unaudited Financial Statements as of January 31, 2013. He reported that assessment collections were at 87%, through the end of January. Mr. Wrathell explained that the Wachovia account has more money than the FDIC limits. He noted that the accumulation of funds occurs during the end of the month before Staff has an opportunity to reallocate the funds. In response to Mr. Dowling’s comment, Mr. Wrathell indicated that the bulk of revenues were received and, over the next several months, will be paid.

Mr. Wrathell indicated that, if the District continues to build up cash, FineMark Bank has an insured cash sweep (ICS) program. The District may open a complimentary account, linked to the current FineMark MMA account, and FineMark will find participating FDIC insured banks to deposit excess funds at a yield of 40 basis points.

On MOTION by Mr. Simeone and seconded by Ms. Senior, with all in favor, the Unaudited Financial Statements as of January 31, 2013 were approved.

ii. NEXT MEETING DATE: April 24, 2013 at 8:30 A.M.

Mr. Wrathell noted that the next meeting will be held on April 24, 2013. Ms. Senior advised that she will be out of the country on that date.

Mr. Pincus inquired about the \$100 left in the construction account. Mr. Wrathell will follow up with Mr. Giangrande to confirm that the work on the infrastructure was completed and certify the project. Mr. Van Wyk suggested that the Board authorize the District Manager to contact the trustee and request closure of the account. Mr. Wrathell expressed his understanding that the indenture requires the engineer’s certification declaring that the project was completed. Mr. Van Wyk will review the indenture and prepare a draft of the certification for the next meeting.

Ms. Senior inquired whether there were any responses to the information letter to homeowners explaining the flooding. Mr. Wrathell stated that no responses were received.

Mr. Dowling advised that, last month, a five-(5)-year-old boy almost drowned in Lake #9. The boy was hospitalized for over one (1) week. It was brought to Mr. Dowling’s attention that the boy’s parents are asking questions about ownership of the easement, between two (2) houses, where the boy gained access to the lake. Mr. Pincus noted that access to the lake is gained through the backyard. Mr. Dowling clarified that the backyard of the boy’s home is fenced. Mr. Wrathell asked if the CDD received a letter. Mr. Dowling replied that a letter was not received and indicated that the CDD does not own the easement in question. Discussion ensued regarding ownership of the easement. Mr. Wrathell indicated that it becomes an issue for the CDD if a culvert owned by the CDD is located in the easement. Mr. Wrathell advised that the CDD has insurance and he will notify the insurance company, if necessary. Mr. Van Wyk stated that the Board should stay vigilant for any notices sent to the District.

In response to Mr. Dowling’s question, Mr. Van Wyk indicated that, if the boy’s parents intend to file a claim, the statutory guidelines must be followed. Mr. Pincus asked if the District’s insurance policy has a deductible. Mr. Wrathell advised that he will review the policy but he believes there is no deductible on general liability.

Ms. Senior asked if the Board will put out a bid for holiday lighting. Mr. Dowling stated that holiday lighting may be discussed in May.

TENTH ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors’

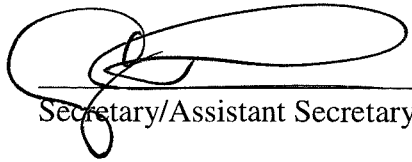
There being no audience comments or Supervisors’ requests, the next item followed.

ELEVENTH ORDER OF BUSINESS


Adjournment

There being nothing further to discuss, the meeting adjourned.

**On MOTION by Mr. Pincus and seconded by Mr. Simeone,
with all in favor, the meeting adjourned at 9:30 a.m.**



Secretary/Assistant Secretary



Chair/Vice Chair