

**MINUTES OF MEETING  
HAMAL  
COMMUNITY DEVELOPMENT DISTRICT**

A Public Hearing and Regular Meeting of the Hamal Community Development District's Board of Supervisors was held on **Wednesday, September 11, 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 ( <i>via telephone</i> )	Vice Chair
Ione Senior	Assistant Secretary
Steven Pincus	Assistant Secretary
Joseph Petrick	Board Member

**Also present were:**

Craig Wrathell	District Manager
Roy Van Wyk ( <i>via telephone</i> )	District Counsel
Jere L. Earlywine ( <i>via telephone</i> )	District Counsel
Leo Giangrande ( <i>via telephone</i> )	District Engineer
Jason Shipley	Behr Paints Representative
Mike Zakarian	MKS Construction & Inspections

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Wrathell called the meeting to order at 8:34 a.m., and noted, for the record, that Supervisors Dowling, Senior and Pincus were present, in person. Supervisor Simeone was attending via telephone. Seat 3 remains vacant.

**SECOND ORDER OF BUSINESS**

**Affidavit of Publication**

Mr. Wrathell presented the affidavit of publication for today's Public Hearing and Regular Meeting.

**THIRD ORDER OF BUSINESS**

**Approval of May 23, 2013 Regular Meeting Minutes**

Mr. Wrathell presented the May 23, 2013 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 May 23, 2013 Regular Meeting Minutes, as presented, were approved.**

**FOURTH ORDER OF BUSINESS**

**Discussion: Appointment of Qualified Elector to Fill Vacancy in Seat 3**

Mr. Wrathell asked for nominations to fill Seat 3, term ending November, 2016, previously held by Mr. Zakarian.

Mr. Joseph Petrick expressed interest in serving on the Board and confirmed that he is a citizen of the United States and of the State of Florida. Mr. Dowling nominated Mr. Petrick to fill the unexpired term of Seat 3. No other nominations were made.

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

- **Administration of Oath of Office for Newly Elected Supervisor (*the following to be provided in a separate package*)**

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 District Board Members, pursuant to Florida Statutes.

Mr. Wrathell advised Mr. Petrick that Hamal CDD Board Members receive \$200 compensation per Board meeting; he will receive payroll documentation for his completion, from Management's office.

Mr. Wrathell indicated that the following items will be sent to Mr. Petrick:

- A. **Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees**
- B. **Membership, Obligations and Responsibilities**
- C. **Financial Disclosure Forms**

- i. **Form 1: Statement of Financial Interests**
- ii. **Form 1X: Amendment to Form 1, Statement of Financial Interests**
- iii. **Form 1F: Final Statement of Financial Interests**

Mr. Wrathell explained that, in Florida, a Supervisor, serving on the Board of a governmental entity, is precluded from communicating with fellow Board Members on any items that will come before the Board during a Board meeting. The concept is to prevent Board Members from discussing and making decisions on agenda items outside of publicly advertised meetings. Mr. Wrathell clarified that the Sunshine Law can be violated via email communications, as well. He noted that his office adds a disclaimer to all Board Member emails, requesting that a Board Member not “reply to all” if responding to the email.

Mr. Wrathell indicated that, as a governmental entity, all documents created or received by the District are public record. He noted that his firm serves as the repository for all of the District’s public records; therefore, there is no need to keep copies of the agenda books or other documents. If a Board Member receives a public record request, it should be sent to the District office.

Mr. Wrathell suggested that Mr. Petrick keep District electronic and paper files separate from his personal files.

Mr. Dowling asked Mr. Van Wyk if the audio was clear and indicated that a new speaker phone was purchased, at Mr. Van Wyk’s request. Mr. Dowling explained that Mr. Van Wyk notified the District that it was very difficult to hear the meeting’s activities, over the phone, and requested that the District purchase a speaker phone. Mr. Dowling noted that the cost for the speaker phone was \$350.

Mr. Wrathell advised Mr. Petrick that the new Supervisor packet will contain “Form 1: Statement of Financial Interests”, which must be filed with the Palm Beach County Supervisor of Elections within 30 days. Mr. Wrathell suggested that Mr. Petrick mail the form with a proof of mailing, such as certified mail.

**FIFTH ORDER OF BUSINESS**

**Public Hearing to Consider Resolution 2013-8, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2013 and Ending September 30, 2014, Pursuant to Florida Law**

Mr. Wrathell presented Resolution 2013-8 for the Board's consideration. He advised that today's Public Hearing is related to the Fiscal Year 2014 budget. Mr. Wrathell noted that the District must submit its budget to the tax collector by the end of the week and today is the District's last opportunity to adopt the budget. He advised that Management submitted the assessment information in a timely manner and property owners should have received the information in the Truth in Millage Notice (TRIM).

Mr. Wrathell referred to the "Assessment Comparison", on Page 9, and noted that the first table refers to the assessments based upon the proposed Fiscal Year 2014 budget. He noted that property owners who pay their assessments prior to the November deadline will pay 4% less. The operating and debt assessments increased by approximately \$6, from the prior fiscal year. Mr. Wrathell pointed out that the assessments are listed by the different product unit types; the bigger the unit, the larger the assessment.

Referring to Page 1, Mr. Wrathell indicated that the operation and maintenance (O&M) assessments are the District's primary source of funding. He explained that the O&M assessment, reflected on Page 9, multiplied by the number of units, will generate the revenues depicted on Page 1; the "Allowable discounts (4%)" accounts for the 4% discount. Mr. Wrathell pointed out that the majority of the residents take advantage of the 4% discount. Historically, the District's collections exceed 100%, which works to the District's revenue advantage.

Mr. Wrathell explained that the "Fair-share agreement" is an agreement between the District and the Palm Beach County School Board (PBCSB). He clarified that the PBCSB compensates the District for allowing stormwater from the elementary and middle schools near the District to drain into the District's system.

Mr. Wrathell indicated that Pages 4, 5 and 6 contain descriptions of the "Expenditures" listed on Pages 1, 2 and 3.

Mr. Wrathell reviewed the "Expenditures" and the descriptions listed on Pages 4, 5 and 6. Referring to the "Audit" expense, Mr. Wrathell explained that the District is statutorily required to have an independent audit performed each year. He noted that the bond trust indenture, for the bonds issued in 2006, requires the District to have independent audits performed, as well.

Mr. Wrathell indicated that the "Arbitrage rebate calculation" is performed in compliance with tax regulations. It stipulates that the District's invested proceeds, from tax exempt bonds, cannot receive a higher rate of return than the actual coupon or interest rate of the original bonds.

Referring to "Legal advertising", Mr. Wrathell explained that the District is a governmental entity; thus, it is required to advertise meetings and public hearings. "Other current charges" includes bank charges or other incidental charges.

Mr. Wrathell indicated that, in addition to the annual independent audit and the annual financial report, the District is required to file an annual report with the Florida Department of Economic Opportunity; the fee is \$175, which is reflected on Page 4.

Referring to the "Insurance" expenditure, on Page 5, Mr. Wrathell stated that the line item includes the general liability and the directors and officers' (D&O) liability insurance. In Mr. Wrathell's prior review of the District's budget and assets, he discovered that the District does not have property insurance for the pump station. He advised that Mr. McGaffney will meet with Mr. Dowling to gather information and pictures of the pump station to obtain insurance quotes. Mr. Wrathell does not anticipate the property insurance to be too high.

Mr. Dowling asked if the District has liability insurance. Mr. Wrathell replied affirmatively and clarified that the District has \$1 million coverage under its general liability and directors and officers insurance.

Mr. Wrathell explained that all of the District's assets are considered horizontal assets, except for the pump station and its contents, which is considered a vertical asset; under that theory Mr. Wrathell suggests seeking property insurance for the pump station.

Referring to his prior question, regarding liability insurance, Mr. Dowling informed the Board that there was a near drowning, during the summer, in Lake 9. Mr. Wrathell indicated that, the District is completely covered, in that situation. Mr. Wrathell clarified that the District's liability coverage is \$1 million, with a general aggregate of \$2 million, which covers the District against two (2) simultaneous claims filed within the same year. He noted that the D&O insurance is \$1 million plus \$1 million aggregate. The odds of a District Board Member being individually sued are very small but having D&O insurance is very important.

Mr. Dowling asked if Mr. Wrathell feels that the liability coverage is sufficient and noted that he reviewed other policies, within the last two (2) years, with an average of \$2 million coverage and \$5 million aggregate. Mr. Dowling asked what the average is for similar districts within the area. Mr. Van Wyk stated that \$1 million/\$2 million coverage is very common; some districts, with additional amenities, boost the coverage to \$2 million but that is not very common. Mr. Van Wyk reminded the Board that the District has sovereign immunity protection limits

liability, unless the party's claim is approved for more by the legislature. Mr. Van Wyk indicated that scenario does not really happen unless something crazy and unusual occurs. Mr. Van Wyk explained that, if the District is running normally, a \$1 million/\$2 million policy should be sufficient.

Mr. Wrathell stated that, if the Board agrees with his suggestion, Staff will proceed with obtaining property insurance quotes for the pump station. Mr. Dowling was in agreement. Mr. Wrathell noted that the property insurance is not included in the budget but there are several cushions within the budget that can absorb the expense.

Mr. Wrathell explained that "Landscape maintenance", on Page 5, is related to the District's contract with Kings Management Services, Inc. (Kings). He clarified that \$86,572 is the total expenditure; below that amount is a breakdown of services and fees.

▪ **Discussion: Irrigation Expenses – Fiscal Years 2011, 2012 & 2013**

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

Mr. Wrathell referred the Board to the "Irrigation Expenses", located behind Tab 15. He noted that the District expended \$15,508.10 on irrigation repairs during Fiscal Year 2010/2011. Mr. Wrathell stated that transition from Clintar to F & S Enterprises, Inc. (F & S) occurred during Fiscal Year 2011/2012 and \$10,299.32 was expended. Through June, 2013, the District expended \$9,038.84, for irrigation repairs. Mr. Wrathell clarified that the District spends approximately \$1,200 per month on irrigation.

Mr. Wrathell pointed out that the anticipated irrigation expenses are higher than the current fiscal year but lower than Fiscal Year 2010/2011.

Mr. Wrathell returned to his explanation of the definition of general fund expenditures located behind Tab 5.

Referencing "Irrigation repairs", on Page 5, in the amount of \$5,000, Mr. Wrathell stated that it complements the ongoing F & S services, reflected on the "Irrigation system maintenance" line item.

Mr. Wrathell recalled prior discussions with the city and the county regarding expanding the landscaping program. The city and county approached the District regarding complaints they received about the poor landscaping on Jog Road. They were advised that the District did not have a maintenance agreement to maintain Jog Road.

Mr. Wrathell indicated that, during discussions with the city and the county, five (5) years ago, regarding maintaining Jog Road, the District was not given the assurance that improvements, such as plantings and sprinkler systems, will be protected if repairs were made by the city or county. Mr. Petrick asked if the District requested a waiver. Mr. Wrathell advised that the city and county indicated that, if they need to perform work/repairs, whatever improvements made by the District will be damaged or destroyed.

Ms. Senior does not believe that the city and county understand the District's point of view on this matter. Mr. Wrathell noted that the city and county's point of view is that they do not want to set a precedent with the District. Mr. Dowling advised that the District is not contractually obligated to maintain that area; however, the city and county would like the District to maintain it and be responsible for all improvements and expenses. Mr. Wrathell advised that an agreement was almost reached but the city and county retracted.

In response to Mr. Petrick's inquiry, Mr. Wrathell indicated that the District was ultimately dealing with public works and the county engineer. Mr. Wrathell advised Mr. Petrick that he will email that portion of the meeting minutes to him. Mr. Pincus believes that the attorney for the county would not agree to release the indemnity clause.

Responding to Mr. Dowling's question, Mr. Petrick advised that he works for the Village of Tequesta; therefore, he understands how this works. Mr. Petrick confirmed that he will review the information and provide his opinion. Mr. Dowling asked if Mr. Van Wyk has a file on this matter. Mr. Van Wyk indicated that he prepared a package and forwarded it to Mr. Wrathell.

Returning to "Expenditures", Mr. Wrathell stated that the "Preventative maintenance: pump station" is for South Florida Utilities D.B.A. Lift Station Services monthly maintenance and inspections of the pump station. On Page 6, Mr. Wrathell noted that \$4,000 is budgeted for "Repair/maintenance: pump station", which covers repairs that are beyond what is covered in the contract.

Mr. Wrathell advised that "Lake/maintenance" is handled by Allstate Resource Management and the fountains are maintained by Fountain Design Group, Inc. He noted that \$6,000 is allocated for "Holiday landscape lighting". He pointed out the FPL "Utilities" account numbers, located on Page 6.

Mr. Wrathell indicated that \$21,680 was allocated for "Contingency" and stated that the property insurance for the pump station will be budgeted from this account. He summarized that the "Property appraiser" and "Tax collector" fees are for placement of the District's assessments on the property tax bills.

On Page 7, Mr. Wrathell recalled that, in 2006, the existing bonds were refunded to take advantage of lower interest rates.

Referring to the "Debt Service Schedule", on Page 8, Mr. Wrathell stated that the District needs to make sure that it budgets the necessary funds to pay the November 1, 2013 interest payment of \$239,618.75, as well as the May 1, 2104 principal payment of \$350,000 and interest payment of \$239,618.75. Mr. Wrathell noted that the interest and principal payments are reflected on Page 7. Mr. Wrathell indicated that the "Ending fund balance (projected)" is \$502,023.

Mr. Wrathell explained that the District negotiated the refund of the bonds, prior to the collapse of the market; therefore, the District is not required to have a debt service reserve.

Mr. Wrathell indicated that, because the tax bills are sent in November, the District must budget funds to pay the November 1, 2014 interest payment in the amount of \$232,619. He clarified that, although, the District budgets for expenses within the current budget year, the Debt Service Fund is billed in advance; therefore, the November tax bill, due March 31, 2014, pays the May 1, 2014 principal and interest payment. The revenues to pay the debt service fund bonds are collected and paid in advance.

Mr. Wrathell noted that the "Projected fund balance surplus/(deficit)" as of September 30, 2014 is \$269,404. He commented that the District is in a good financial position.

Mr. Wrathell advised that Pages 10, 11 and 12 contain maps of District owned infrastructures and responsibilities in relation to the different associations.

Mr. Pincus recalled a discussion, during the prior meeting, regarding utilizing the contingency funds to keep assessments the same as the prior year. Mr. Wrathell stated that he can transfer \$8,000 from "Contingency" to maintain the same assessments level. Mr. Pincus indicated that, if the District is taking on the additional property insurance, it is best not to utilize the "Contingency" to reduce assessments. Mr. Wrathell was in agreement.

In response to Ms. Senior's inquiry, Mr. Wrathell confirmed that the budget will not change.



**\*\*\*Mr. Wrathell opened the Public Hearing.\*\*\***

No members of the public spoke.

**\*\*\*Mr. Wrathell closed the Public Hearing.\*\*\***

**On MOTION by Mr. Pincus and seconded by Mr. Petrick, with all in favor, Resolution 2013-8, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2013 and Ending September 30, 2014, Pursuant to Florida Law, was adopted.**

**SIXTH ORDER OF BUSINESS**

**Consideration of Resolution 2013-9, Imposing Special Assessments and Certifying an Assessment Roll; Providing a Severability Clause; and Providing an Effective Date**

Mr. Wrathell presented Resolution 2013-9 for the Board's consideration and read the title into the record:

**"A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE HAMAL COMMUNITY DEVELOPMENT DISTRICT MAKING A DETERMINATION OF BENEFIT; IMPOSING SPECIAL ASSESSMENTS AND CERTIFYING AN ASSESSMENT ROLL; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE"**

Mr. Wrathell explained that the Fiscal Year 2014 budget will be included as an exhibit to Resolution 2013-9.

**On MOTION by Mr. Pincus and seconded by Ms. Senior, with all in favor, Resolution 2013-9, Imposing Special Assessments and Certifying an Assessment Roll; Providing a Severability clause; and Providing an Effective Date, was adopted.**

**SEVENTH ORDER OF BUSINESS**

**Consideration of Proposals from MKS Construction and Inspections**

- A. Barrier Wall Repair, Pressure Cleaning and Painting**
  - i. Behr Paint Corporation Testimonial Regarding MKS**

**ii. Email Regarding Payments to Creative Painting Systems, Inc.**

Mr. Dowling reported that the barrier wall separating Briar Bay and Jog Road and Hamilton Bay and Jog Road and the \_\_\_\_\_ area, on the east side of the property, that separates it from the turnpike, needs repainted. He recalled that the wall was painted approximately six (6) years ago and has deteriorated over the past year. Mr. Dowling noted minor structural damages to the wall, such as chips, scratches and missing caps. Mr. Dowling recalled that this matter was discussed during the prior meeting and the Board was in favor of obtaining bids for the barrier wall repair.

Mr. Dowling advised that Behr Paint has a new product called Marquee and it comes with a (7)-year warranty. He recalled that, during the prior meeting, he reported that only one (1) vendor, in the vicinity, sells this product. Mr. Dowling indicated that Mr. Van Wyk confirmed that the District may proceed with the vendor. Mr. Van Wyk recalled the discussion and confirmed that the District may proceed with the vendor if it is the sole source of the product.

Mr. Dowling reported that a bid was received from MKS Construction & Inspections (MKS), the authorized vendor for Behr Marquee™ (Marquee). He noted that MKS has utilized by Marquee in the Briar Bay community.

Mr. Dowling explained that the barrier wall will be “prepped” by MKS, followed by an inspection by a Behr representative. The Behr representative will confirm that the barrier wall was properly prepared for installation of their product. He noted that the Behr representative will inspect the wall, on various occasions, to ensure that the product was properly applied, per manufacturer’s specifications.

Mr. Dowling introduced Mr. Jason Shipley, a Behr Paint representative. Mr. Shipley explained how the Marquee product differs from other products and provided the Board with an information sheet. Mr. Shipley advised that Marquee has an eight (8)-year labor and material warranty. Mr. Shipley noted that MKS is the only vendor that Behr is comfortable with allowing to use this product, based on the quality and history of their work. Mr. Shipley encouraged the Board to inspect the Briar Bay buildings that MKS is currently painting with Marquee.

Ms. Senior asked if Behr’s competitors have products comparable to Marquee. Mr. Shipley indicated that no products on the market compare to Marquee. Mr. Shipley advised that he has a video demonstration depicting Marquee’s stain and dirt resistance, which can be viewed on YouTube.

Mr. Pincus asked if the District should wait until the rainy season is over. Mr. Shipley advised that it does not really matter; on extremely rainy days, no work will be performed. Mr. Shipley noted that the Briar Bay project began in July. Mr. Shipley pointed out that Marquee has a ten (10)-minute cure time and one (1)-hour drying time. The MKS representative indicated that, during rains, Marquee assists in the cleaning of the walls; mold will not grow on it and it reduces the amount of pressure cleaning.

Mr. Simeone asked what type of maintenance will be required after the wall is painted and if pressure cleaning is allowed. Mr. Shipley confirmed that pressure cleaning is permitted.

Discussion ensued regarding the last time the barrier wall was painted.

Mr. Dowling indicated that, if the paint does not last for the duration of the eight (8)-year warranty, Behr will paint the wall.

Mr. Pincus asked the MKS representative if he inspected the wall and if he feels comfortable that the wall can be restored to a state where the product can be applied. The MKS representative replied affirmatively and stated that, as a vendor, he looks at the structural issues, prior to aesthetics. Mr. Pincus asked if any portion of the work is subcontracted. The MKS representative replied no.

Discussion ensued regarding the preparation and painting process.

In response to Mr. Pincus' inquiry, Mr. Dowling confirmed that MKS is aware of all structural damage to the wall. Mr. Dowling indicated that he forgot to discuss the pump station during the inspection of the damages; therefore, the pump station will be the only additional cost incurred.

In response to Ms. Senior's question, the MKS representative confirmed that the District will be issued a warranty certificate.

Mr. Shipley presented a Project Inspection Page and advised that this will be used during his inspection of the different stages of the project.

Discussion ensued regarding repairs to the wall cracks. The MKS representative confirmed that he will not use stucco.

Mr. Dowling reported that the bid from MKS is \$113,818 and admitted that it seems very high. Referring to an email from Management's office, Mr. Dowling pointed out that costs in 2007 and 2008 for painting and repairs to the wall totaled \$147,730.

Mr. Van Wyk noted that there will be an opportunity to save on sales tax if the District purchases the paint, instead of the contractor. Discussion ensued regarding the amount of paint required for the project and purchasing paint. It was estimated that the project will take approximately 90 days. Mr. Wrathell will provide the District's tax exempt certificate number to Mr. Shipley.

Mr. Van Wyk asked if the District's standard form of agreement will be used for this project. Mr. Dowling advised that he will discuss the agreement with Mr. Van Wyk and noted that he is not comfortable with paying a 50% deposit, per the MKS contract. Mr. Simeone suggested that the District pay 33% at the beginning, middle and end of the project. Mr. Dowling prefers four (4) installments.

Since the District is purchasing the paint, Mr. Wrathell suggested utilizing MKS's proposal of \$113,818 as the not-to-exceed amount, in the motion. Mr. Wrathell asked the Board to authorize the Chair to work with District Counsel to negotiate the contract and payment terms.

Ms. Senior asked if the new contract will specify that the District is purchasing the materials. Mr. Dowling indicated that the Mr. Van Wyk can work out the details of the contract.

Mr. Wrathell clarified that the purpose of the motion is to set a ceiling for the amount to be spent on the project.

**On MOTION by Ms. Senior and seconded by Mr. Pincus, with all in favor, the MKS Construction & Inspections proposal for pressure cleaning, repairing and painting of the barrier wall, with the District purchasing the Behr Marquee™ paint, in a not-to-exceed amount of \$113,818, and authorizing the Chair to work with District Counsel in negotiating the contract and payment terms, were approved.**

**B. Metal Fencing Between Barrier Wall, Pressure Cleaning Painting Systems**

Mr. Dowling reported that, during the inspection of the barrier wall, it was noted that the metal fencing needs cleaning and painting. Mr. Dowling presented MKS' proposal for pressure cleaning and painting of the metal fence, in the amount of \$3,800.

Discussion ensued regarding the location of the fence.

Mr. Dowling confirmed that black, oil based paint will be used on the metal fence.

**On MOTION by Mr. Dowling and seconded by Mr. Petrick, with all in favor, the MKS Construction & Inspections proposal for pressure cleaning and painting the metal fencing, in the amount of \$3,800, was approved.**

Discussion ensued regarding choosing a paint color for the barrier wall. Mr. Dowling presented a color chart for the Board's review.

Mr. Wrathell asked District Counsel if the Board is allowed to make a decision regarding the paint, via email, without violating the Sunshine Law. Mr. Jere L. Earlywine introduced himself and advised that Mr. Van Wyk stepped out of the office. Mr. Earlywine explained that the law is extreme and any communications regarding District business, outside of a meeting, can be construed as a Sunshine Law violation. Mr. Earlywine suggested designating a Staff member to disseminate the emails.

Mr. Dowling indicated that the Board will choose a paint color at the end of the meeting.

#### **EIGHTH ORDER OF BUSINESS**

#### **Consideration of Proposal from Allstate Resource Management, Inc., for Stormwater Drainage System Inspection**

Mr. Dowling recalled discussions, during the prior meeting, regarding flooding in certain areas. Based on that information, Mr. Dowling reported that he obtained a proposal from Allstate Resource Management, Inc. (Allstate) for inspection of the District's stormwater system. Mr. Dowling noted that the bid was prepared for presentation during the July meeting; however, that meeting was cancelled. He emailed Allstate to confirm that the quote is still valid but has not received a response. Mr. Pincus indicated that a not-to-exceed amount can be approved.

For billing purposes, Mr. Wrathell suggested changing the GMS-SF, LLC address to his firm's information and address.

Ms. Senior asked if this agreement is for services outside of Allstate's current contract with the District. Mr. Pincus replied affirmatively.

**\*\*\*Mr. Van Wyk returned to the meeting.\*\*\***

Mr. Giangrande advised that he reviewed the maintenance report and the entire system looks good. Mr. Giangrande indicated that he can send field staff, from his firm, to inspect the areas that are flooding.

Mr. Pincus and Mr. Dowling asked if the permitting modifications were completed. Mr. Giangrande replied affirmatively and confirmed that an approved modified permit was received.

In response to Mr. Wrathell's request, Mr. Giangrande confirmed that he will forward the approved permit information to Mr. Wrathell, for the District's records.

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

Mr. Wrathell will contact Allstate and ask them to honor the original price quoted on the proposal.

**On MOTION by Mr. Pincus and seconded by Ms. Senior, with all in favor, the Allstate Resource Management, Inc.'s proposal, for stormwater drainage system inspection, in an amount not-to-exceed of \$4,800, was approved.**

#### **NINTH ORDER OF BUSINESS**

#### **Consideration of Resolution 2013-7, Authorizing District Manager to Participate in Insured Cash Sweep (ICS) Through Existing Money Market Account with FineMark Bank**

Mr. Wrathell recalled prior discussion regarding the District's participation in Insured Cash Sweep (ICS). He advised that the District may keep the existing money market account and choose to participate in the ICS program, as well. FineMark Bank (FineMark) is a qualified public depository (QPD) and will serve as the main bank; funds over \$250,000 will be placed in other participating FDIC insured banks. Mr. Wrathell noted the convenience of dealing with one (1) bank and clarified that all of the bank accounts will be listed in one (1) bank statement. Mr. Wrathell stated that the District will receive a higher yield with the ICS account.

Mr. Wrathell presented Resolution 2013-7 for the Board's consideration.

In response to Mr. Dowling's question, Mr. Wrathell confirmed that FineMark will handle the daily operations of the account, per the Board's approval of Resolution 2013-7.

Mr. Wrathell advised that FineMark will be provided with a list of banks where they may not deposit the District's funds to ensure that there be no double dipping issues with the FDIC. FineMark is contractually obligated to deposit the funds in participating FDIC banks.

Mr. Wrathell confirmed that the ICS program will preserve the District's capital, provide liquidity and provide a decent yield in today's market.

**On MOTION by Mr. Petrick and seconded by Mr. Pincus, with all in favor, Resolution 2013-7, Authorizing District Manager to Participate in Insured Cash Sweep (ICS) Through Existing Money Market Account with FineMark Bank, was adopted.**

**TENTH ORDER OF BUSINESS**

**Consideration of Second Amendment to Kings Management Services, Inc., Landscape Maintenance Services Agreement**

Mr. Van Wyk recalled that, during the prior meeting, the Board authorized him to prepare an agreement extending Kings Management Services, Inc.'s contract for another 12 months.

**On MOTION by Mr. Pincus and seconded by Ms. Senior, with all in favor, the Second Amendment to the Agreement Between the District and Kings Management Services, Inc., for Landscape Maintenance Services, was approved.**

**ELEVENTH ORDER OF BUSINESS**

**Consideration of Proposal Number 3825 from Kings Management Services, Inc., for Sod Replacement Along Jog Road**

Mr. Wrathell presented a proposal from Kings Management Services, Inc., in the amount of \$11,908.80, for sod replacement.

- **Proposal Number 3826, Dead Plant Replacement (*approved as maintenance*)**

Mr. Dowling advised that the District received complaints from the county regarding the condition of the plantings along Jog Road. He suggested that the Board wait to make this decision until spring. Mr. Pincus was in agreement.

This item was table to spring, 2014.

Mr. Pincus asked that this item be placed on an agenda no later than February, 2014.

Mr. Wrathell suggested keeping this item on every agenda, so that he does not forget to add it to the agenda in February. The Board was in agreement.

**TWELFTH ORDER OF BUSINESS**

**Discussion: Amended Rules of Procedure**

**A. Memorandum Regarding the Updated Provisions**

**B. Matrix Providing Description of the 2013 Changes****C. 2013 Rules of Procedure (*red line version provided for convenience*)**

Mr. Van Wyk advised that his firm reviewed the District's Rules of Procedure and amended them per the current Florida Statutes. He presented a memorandum of the proposed changes. Mr. Van Wyk indicated that the matrix allows cross-referencing between the current and proposed Rules of Procedure.

Mr. Van Wyk asked the Board permission to schedule a public hearing for adoption of the 2013 Rules of Procedure. He noted the importance of staying updated on current Florida Statutes. Mr. Van Wyk advised that the Board will have an opportunity to ask questions during the Public Hearing.

**On MOTION by Mr. Petrick and seconded by Ms. Senior, with all in favor, Setting a Public Hearing to consider the Amended Rules of Procedure for October 23, 2013 at 8:30 a.m., at this location, and directing Staff to advertise, accordingly, was approved.**

Mr. Pincus asked if the changes to the Rules of Procedure are per the changes in the statute or if Mr. Van Wyk is suggesting additional changes. Mr. Van Wyk stated that he is suggesting procedural changes, which are outlined in the memorandum and the matrix. Mr. Van Wyk confirmed that the changes are not major; they are based on problems that arose through the years.

Mr. Van Wyk confirmed that the Board will have an opportunity to make changes during the Public Hearing.

Mr. Dowling noted a change regarding a Board Member's telephonic appearance during a meeting and asked if that will constitute a quorum. Mr. Van Wyk explained an opinion, from the Attorney General, that Board Members are allowed to attend meetings telephonically, in extenuating circumstances, such as illness. Mr. Van Wyk is trying to incorporate, into the Rules, that there is a presumption of a legitimate reason for a Board Member to appear by telephone, unless someone objects. Mr. Dowling asked if the Board Member appearing telephonically will constitute a quorum. Mr. Van replied no.



Ms. Senior asked if there is a limit to the number of times a Board Member can appear by telephone in one (1) year. Mr. Van Wyk replied no.

**THIRTEENTH ORDER OF BUSINESS****Discussion: New "Opportunity to Be Heard" Legislation**

Mr. Van Wyk reported that one (1) of the proposed changes to the Rules of Procedure is recognition that the public has the right to speak prior to a vote. He explained a recent change in state law that requires the District to have procedures in place, by October 1, 2013, by which the public has an opportunity to speak on an item before it is voted on, prior to. Mr. Van Wyk noted that agendas typically have a public comments section at the end of the agenda. His firm is proposing that the public comments section be moved to the beginning of the meeting; they are providing guidelines to keep order during the public speaking portion.

Mr. Van Wyk indicated that, at this time, it is important to have a procedure in place whereby the District can have public comments during the beginning of the meeting; however, if a new item is presented, during the meeting, the new policy will authorize the Chair to take additional public comments. Mr. Van Wyk stressed the importance of having public comments prior to the Board voting on any item; it is statutorily required and that law goes into effect on October 1, 2013. Mr. Van Wyk noted that Resolution 2013-10 will set parameters for the rules to implement.

Mr. Pincus asked if Resolution 2013-10 must be adopted now, or if it can wait until the Board has an opportunity to review the rules. Mr. Van Wyk indicated that the resolution must be adopted now, because of the October 1 requirement.

- **Consideration of Resolution 2013-10, Providing for the Public's Opportunity to Be Heard; Designating Public Comment Periods; Designating a Procedure to Identify Individuals Seeking to Be Heard; Addressing Public Decorum; Addressing Exceptions; And Providing for Severability and an Effective Date**

**On MOTION by Mr. Petrick and seconded by Ms. Senior, with all in favor, Resolution 2013-10, Providing for the Public's Opportunity to Be Heard; Designating Public Comment Periods; Designating a Procedure to Identify Individuals Seeking to Be Heard; Addressing Public Decorum; Addressing Exceptions; And Providing for Severability and an Effective Date, was adopted.**

**FOURTEENTH ORDER OF BUSINESS**

**Discussion: South Florida Utilities, Inc., D.B.A., Lift Station Services, Quarterly Storm Water Pump Station Inspection Report**

Mr. Wrathell presented the inspections referenced by Mr. Giangrande, earlier in the meeting.

Mr. Dowling noted the pictures located behind the report.

Mr. Wrathell commented that the report was well prepared.

**FIFTEENTH ORDER OF BUSINESS**

**Discussion: Irrigation Expenses – Fiscal Years 2011, 2012 & 2013**

This item was discussed during the Fifth Order of Business.

**SIXTEENTH ORDER OF BUSINESS**

**Discussion: OneSource Landscape Credit Memo, 02/24/05**

Mr. Wrathell recalled a credit issued to the District in 2005 by OneSource Landscape and Golf Services, Inc. (OneSource). He indicated that his office tried to have OneSource issue the credit to the District but to no avail.

It was noted that the credit amount was \$4,319.54.

Mr. Pincus advised that OneSource was a contractor hired by the developer.

Mr. Wrathell confirmed that the statute of limitations to pursue the credit has expired.

**SEVENTEENTH ORDER OF BUSINESS**

**Update: Lake Levels/Pump Stations (for informational purposes)**

Mr. Wrathell stated that this item was included for informational purposes. He recalled that a resident inquired about the status of the pump station and lake levels and indicated that the email chain includes a response from Mr. Giangrande.

**EIGHTEENTH ORDER OF BUSINESS**

**Other Business**

There being no other business, the next item followed.

## NINETEENTH ORDER OF BUSINESS

## Staff Reports

## A. Attorney

There being no additional report, the next item followed.

## B. Engineer

## i. SFWMD Permit - Mallory Square

This item was discussed during the Eighth Order of Business.

## C. Manager

## i. Approval of Unaudited Financial Statements as of July 31, 2013

Mr. Wrathell presented the Unaudited Financial Statements as of July 31, 2013. He reported that collections were at 101%, through July 31.

On Page 2, Mr. Wrathell explained that the fair share funding agreement is based upon the prior period actual expenses.

Mr. Pincus asked if the barrier wall painting will affect the current budget. Mr. Wrathell indicated that, with the Board's approval, funds will be transferred from the "Unassigned" fund balance. In response to Mr. Dowling's comment, Mr. Wrathell indicated that the adopted budget can be amended to pay for the barrier wall with fund balance, in 2014, or amended at the end of the fiscal year. Mr. Wrathell explained that, if the District goes over budget, the auditors will require that the Board amend the budget to include that project.

**On MOTION by Mr. Petrick and seconded by Mr. Pincus, with all in favor, the Unaudited Financial Statements as of July 31, 2013, were approved.**

## ii. Fiscal Year 2014 Proposed Meeting Schedule

Mr. Wrathell presented the Fiscal Year 2014 Proposed Meeting Schedule.

**On MOTION by Mr. Petrick and seconded by Mr. Pincus, with all in favor, the Fiscal Year 2014 Proposed Meeting Schedule, as presented, and directing Staff to advertise, accordingly, was approved.**

**iii. Update: Accident Case Report #20130004555**

Mr. Wrathell recalled a car accident, several months ago, and noted that GEICO, driver's insurance carrier, issued a check to the District in the amount of \$2,679.50. Mr. Wrathell advised that GEICO is issuing another check, in the amount \$1,600, in response to an invoice that was recently submitted.

**iv. Update: FEMA Certification**

Mr. Wrathell advised that FEMA requested that the District certify approximately \$15,000 worth of damages caused by Hurricane Wilma. Mr. Wrathell presented copies of the documentation.

**TWENTIETH ORDER OF BUSINESS**

**Audience  
Requests**

**Comments/Supervisors'**

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

Mr. Wrathell confirmed that this section will be included in the beginning of future agendas.

**TWENTY-FIRST ORDER OF BUSINESS**

**Adjournment**

There being nothing further to discuss, the meeting adjourned.

**On MOTION by Ms. Senior and seconded by Mr. Petrick, with all in favor, the meeting adjourned at approximately 10:39 a.m.**



Secretary/Assistant Secretary



Chair/Vice Chair