

**MINUTES OF MEETING  
HAMAL  
COMMUNITY DEVELOPMENT DISTRICT**

A Regular Meeting of the Hamal Community Development District's Board of Supervisors was held on Wednesday, July 11, 2018 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
Steven Pincus <i>(via telephone)</i>	Vice Chair
Benjamin Cuningham	Assistant Secretary
Joseph Petrick <i>(in person &amp; via telephone)</i>	Assistant Secretary
Ione Senior	Assistant Secretary

**Also present were:**

Howard McGaffney	District Manager
Craig Wrathell <i>(via telephone)</i>	Wrathell, Hunt and Associates, LLC
Sarah Warren <i>(via telephone)</i>	District Counsel
Mike Eckert <i>(via telephone)</i>	Hopping Green & Sams, P.A.
Leo Giangrande <i>(via telephone)</i>	District Engineer

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. McGaffney called the meeting to order at 8:34 a.m. Supervisors Dowling, Cunningham, Petrick and Senior were present, in person. Supervisor Pincus was attending via telephone.

**SECOND ORDER OF BUSINESS**

**Public Comments**

There being no public comments, the next item followed.

- **Consideration of ADA Site Compliance Proposal for Website Compliance Shield, Accessibility Policy and One (1) Annual Technological Audit**

***\*\*\*This item, previously Item 8Cii, was presented out of order.\*\*\****

Ms. Warren stated a suit was filed against the District on June 21, 2018 alleging that the District's website is in violation of the Americans with Disabilities Act (ADA) website requirements for the visually impaired. She and Mr. Eckert are both working with Management and Counsel for the District's insurance carrier in addressing the complaint. She requested an Attorney-Client Shade Session to discuss strategy and any potential settlement negotiations concerning the Complaint. The Shade Session would be recorded and transcribed by a Court Reporter, with the transcript filed after litigation is concluded; those minutes would not be available for public inspection until then. She explained the criteria to hold the Shade Session, noting that all Supervisors, Mr. McGaffney, Mr. Wrathell, herself, Mr. Eckert, Mr. Donavon Roper, of Roper & Roper (R&R), Counsel for the insurance carrier, and a Court Reporter would be identified as potential Shade Session attendees.

**On MOTION by Mr. Dowling and seconded by Ms. Senior, with all in favor, scheduling a Shade Session, Pursuant to Florida Law Statute 286.011(8) and the District's Rules of Procedure 1.313, for August 13, 2018 at 8:30 a.m., at this location, for the purpose of discussing the claim brought against the District related the CDD's website not being ADA noncompliant, and authorizing Staff to advertise, accordingly, were approved.**

**\*\*\*Mr. Eckert left the meeting at 8:48 a.m.\*\*\***

Mr. Wrathell provided an overview of the steps Management has taken in responding to the ADA complaint filed against another District. Management, District Counsel, the insurance carrier and R&R have worked together. As a proactive action, Management engaged ADA Site Compliance (ADASC) to begin working immediately to bring all of Management's CDDs' websites into compliance by adding an ADA Site Compliance shield, a policy and contact information, converting documents, etc.

Mr. Wrathell reviewed the ADASC proposal and noted that Management negotiated a bulk price for its Districts.

On MOTION by Mr. Cuningham and seconded by Ms. Senior, with all in favor, approving Staff's actions related to engagement of ADA Site Compliance and Mr. Wrathell's decision, were ratified.

**\*\*\*Mr. Wrathell left the meeting at 8:58 a.m.\*\*\***

**THIRD ORDER OF BUSINESS**

**Discussion/Consideration:  
Permits**

**Irrigation**

Mr. McGaffney recalled that District Counsel and the District Engineer were directed to develop the framework and Agreements for pulling water from the District's stormwater system for residential and personal use to irrigate lawns.

Ms. Warren discussed how Management, District Counsel and the District Engineer arrived at drafting the License Request Form and Revocable Non-Exclusive License Agreement:

➤ The License Request Form requests information about the Petitioner and their contractor and provides a checklist of required items to be submitted to the District for review of the irrigation line request.

Ms. Warren suggested revising the checklist to require a copy of the actual permit with the City for the irrigation line construction, which is permitted separately from anything related to the District. The application fee must be determined and is intended to only cover reasonable costs associated with reviewing the materials, so the process does not cost the District.

➤ The Revocable Non-Exclusive License Agreement allows the District to revoke any licenses, in the event there are issues with the use of the reclaimed water.

Ms. Warren stated that the Revocable Non-Exclusive License Agreement allows for installation and maintenance of an irrigation line into the stormwater pond by the Licensee who would be required to repair any damages caused by the installation or maintenance, and the Licensee would also be responsible for any fees involved in the process. The application fee must be determined. A provision clause stating any fees or penalties that the District could potentially be subject to, related to the stormwater permit, would be the responsibility of the Licensee; although, in discussions, Mr. Giangrande did not feel there was a high risk of

violations of the stormwater permit or use restrictions. It was included in case the District is fined for a violation of the County's use restrictions because more water was drawn out; however, recovery of those fines could be arduous, since determining the party that overused, causing the violation, and proving it, could be difficult.

Mr. Giangrande stated Ms. Warren's presentation was thorough and affirmed potential issues were viewed at every angle, with regard to handling and enforcing violations, and protecting the District. The Application was prepared to be clear and simple for the end user and requiring minimal cost to review. The resident can easily provide the requested information regarding installation. The estimated time and cost for the Engineering portion would be provided so that the fee can be set.

Mr. Pincus asked if there was any risk that the resident could damage CDD property and whether the resident should, as part of the process, be required to provide their contractor's information and a Certificate of Insurance (COI), naming the District as an additional insured during the project. Ms. Warren replied affirmatively. Mr. Giangrande voiced his opinion that contractors would have a COI, etc., but many residents probably would not hire a contractor; generally, there would be very limited liability, as installation should have a zero-sum impact to the District, lakes, etc., and the District Engineer would perform a walk through before the permit was closed out. Mr. Dowling asked whether to add the caveat that work must be performed by an insured, licensed irrigation contractor, since it is a requirement of the County. Ms. Warren stated that was possible. Mr. Petrick questioned why the District was considering this option and creating these documents, since not everyone in the District would benefit, and asked if the District planned to install infrastructure so that everyone could pump water out of the lakes to water their private lots, as the public facility would be used for private benefit, to reduce their irrigation water bills, whether the District has the authority to provide residents with this type of service and if the South Florida Water Management District (SFWMD) permit allow it. Mr. Cunningham stated he was vehemently opposed to placing restrictions on the homeowner to hire a licensed installer, at the exclusion of the owner performing their own work, as he planned to do the work on his own property. Mr. Pincus stated the issue was not the homeowner performing the work but the piping from the homeowner's property line to the lake. Discussion ensued regarding those residents located further away from the lake possibly

needing to obtain an easement and, whether to have further discussions or defer the item. Mr. Dowling asked if the District was authorized to grant this favor to some residents, while other residents would not have the same benefit. Ms. Warren stated yes, from a technical standpoint the District was not limiting access of others to using the pond; however, from a practical and public relations decision, possibly.

Mr. Petrick stated he is opposed to the project for many reasons. Mr. Pincus felt that the Board should vote and stated the main reason to put this item in place is to prevent homeowners, residing close to the lake, from putting pipes in the lake haphazardly, possibly causing issues and the District not knowing about it. The District should put the form or a process in place so the District is aware of who is installing pipes and pulling water from the lakes. Ms. Senior stated the Developer gave certain homeowners access to the lakes and she felt that those that did not take that option to access it but now want to draw from the lake, due to large water bills, should be given that option. Mr. Giangrande stated, because the community is well-established, few people will exercise this option, which is better for the environment, the treatment plant, the City, etc., to irrigate from the lake, in the end it is in the best interest of the District, safety-wise, if the work is performed properly and there are no life safety issues.

Mr. McGaffney was concerned this matter could extend beyond individual residents and potentially involve Associations wanting to tap into the District's stormwater system. Mr. Giangrande stated that he and Ms. Warren considered that possibility, which would include the school and commercial developments, and, if interested, they would need to modify the process and the SFWMD permit, which is limited to single-family homes. Discussion ensued regarding which developments already draw from the lakes and that activating this process would allow developments on the lake to request the same benefit.

**\*\*\*The meeting recessed at 9:29 a.m.\*\*\***

**\*\*\*Mr. Petrick left the meeting at 9:29 a.m.\*\*\***

**\*\*\*The meeting reconvened at 9:33 a.m.\*\*\***

Mr. McGaffney stated the quorum was still established. Supervisors Cunningham, Senior and Dowling were present, in person. Supervisors Pincus was attending via telephone.

**\*\*\*Mr. Petrick joined the meeting, via telephone.\*\*\***

Mr. Dowling stated that Mr. Joe King, of Kings Management Services, Inc. (KMS), the District's landscape contractor, confirmed that Coves 1 and 2 draw irrigation water from the lakes, as does Sail Harbor. If the process was approved, it would be limited to the existing single-family homes within Hamilton Bay and Briar Bay. Mr. Cuningham understood Mr. Petrick's position but could not understand disallowing additional installations based on the fact that some other properties are not on the water and might not have the same option. Mr. Dowling stated excluding Cove, Briar Bay has five separate sub-associations, and, to his knowledge, most of the Waters Edge units on the lake, draws irrigation from the lake but he was not sure of every sub-association.

Mr. McGaffney asked each Board Member for a response regarding approving, in substantial form, for single-family homes, the process that was discussed. Mr. Pincus agreed as long as the District's infrastructure is protected. Mr. Cuningham agreed. Ms. Senior agreed. Mr. Dowling agreed, on the condition that it is verified that the District is not discriminating against any other unit owners that do not have access to the lakes. He is opposed to units that are not on a lake accessing the lake water by any means involving going through CDD, common and/or private property to access the lakes and did not want the District being accused of denying services to a member of the District. Ms. Warren confirmed that the District is not directly excluding others from using it; they just do not have access to the lake, due to their residence not being located near the lake. The documents can be approved, in substantial form, and the fee could be discussed, since a public hearing is needed. Mr. Dowling asked each Board Member for their response on whether to move forward with the project. Mr. Cuningham, Ms. Senior and Mr. Pincus were in favor of proceeding with the project. Mr. Petrick was not in favor. Mr. Dowling stated, without his vote the project will move forward, based on the majority of the votes.

Mr. Dowling stated, in addition to requiring a copy of their contractor's license, the contractor must provide a copy of their business tax receipts and be a licensed irrigation contractor. The Board must still decide whether to allow homeowners to perform the work.

Mr. Pincus asked how applications would be processed and if District Staff would be involved. Mr. McGaffney stated the application fee is for the review process; the District Engineer would review the plans, since it involves reviewing boundary surveys, and

Management would be responsible for recording it, as part of the District's records. Mr. Giangrande stated he would review and approve the application and perform a final inspection. The expense should be minimal and as efficient as possible for all; he would notify Mr. McGaffney and Ms. Warren of the cost. In response to a question, Ms. Warren stated she did not need to be part of the review process, once the Board approves the template. In response to how Mr. Giangrande would receive these requests, it was suggested that his contact information be added to the document. It was also suggested that the District's website be updated to allow residents to download the application. Mr. Dowling confirmed that the document would be submitted to Mr. Giangrande and, after his review, forwarded to the Chair for signature; once the final walk through is complete, the file would be closed. Ms. Warren stated that, before initiating this process, the fee must be determined and a public hearing must be advertised. Mr. Cuningham clarified his intent regarding a licensed contractor reference in the agreement, must be specific in stating, "if a contractor is being hired".

The following changes were made to the draft License Request Form:

- Page 2: Add "copy of the actual permit with the city for the irrigation line construction" to the checklist
- Page 2, #3: Add "the Application Fee", once determined by District Counsel and District Engineer
- Page 2: Add "resident's required to provide, if a contractor is hired they must be a licensed irrigation company, their Contractor's License, a copy of their business tax receipts and their Certificate of Insurance (COI), naming the District as an additional insured during the project
- Add disclaimer to bottom of Document directing that the forms be submitted directly to Mr. Giangrande's office.

The following changes were made to the draft Revocable Non-Exclusive License Agreement as follows:

- Page 3, #4: Add "the Application Fee", once determined by District Counsel and District Engineer
- Include the same items as the document above.

On MOTION by Mr. Cuningham and seconded by Ms. Senior, with Mr. Cuningham, Ms. Senior, Mr. Dowling and Mr. Pincus in favor and Mr. Petrick dissenting, the License Request Form and Revocable Non-Exclusive License Agreement, as amended and in substantial form, authorizing the Chair to work with District Staff to finalize the documents and setting a Public Hearing date to adopt the user rates and fees, for September 5, 2018 at 8:30 a.m.; at this location, were approved. [Motion passed 4-1]

\*\*\*Mr. Petrick left the meeting at 9:38 a.m.\*\*\*

**FOURTH ORDER OF BUSINESS**

**Presentation of Audited Financial Report for the Fiscal Year Ended September 30, 2017, Prepared by Grau & Associates**

Mr. McGaffney presented the Audited Financial Report for Fiscal Year Ended September 30, 2017 and described the information that could be found on each page. No deficiencies in internal control that might be considered material weaknesses were identified; the audit was consistent with past audits. This was a clean, unqualified audit; there were no findings or instances of noncompliance.

**FIFTH ORDER OF BUSINESS**

**Consideration of Resolution 2018-04, Accepting the Audit for the Fiscal Year Ended September 30, 2017**

Mr. McGaffney presented Resolution 2018-04.

On MOTION by Mr. Cuningham and seconded by Ms. Senior, with all in favor, Resolution 2018-04, Accepting the Audit for the Fiscal Year Ended September 30, 2017, was adopted.

**SIXTH ORDER OF BUSINESS**

**Approval of Unaudited Financial Statements as of May 31, 2018**

Mr. McGaffney presented the Unaudited Financial Statements as of May 31, 2018. Assessment revenue collections were at 98% and total revenues were at 99%. Expenditures were at 51%, which was below the 65% prorated projection.

**On MOTION by Ms. Senior and seconded by Mr. Cuningham, with all in favor, the Unaudited Financial Statements as of May 31, 2018, were approved.**

**SEVENTH ORDER OF BUSINESS**

**Approval of May 16, 2018 Regular Meeting Minutes**

Mr. McGaffney presented the May 16, 2018 Regular Meeting Minutes and asked for any additions, deletions or corrections.

**On MOTION by Ms. Senior and seconded by Mr. Cuningham, with all in favor, the May 16, 2018 Regular Meeting Minutes, as presented, were approved.**

**EIGHTH ORDER OF BUSINESS**

**Staff Reports**

**A. District Counsel: *Hopping Green & Sams, P.A.***

This item was presented following the Second Order of Business.

**B. District Engineer: *Giangrande Engineering and Planning, LLC***

This item was presented following the Second Order of Business.

**C. District Manager: *Wrathell, Hunt and Associates, LLC***

**i. 2,263 Registered Voters in District as of April 15, 2018**

Mr. McGaffney reported that there were 2,263 registered voters residing within the boundaries of the District as of April 15, 2018.

**ii. Consideration of ADA Site Compliance Proposal for Website Compliance Shield, Accessibility Policy and One (1) Annual Technological Audit**

This item was presented following the Second Order of Business.

**iii. NEXT MEETING DATE: September 12, 2018 at 8:30 A.M.**

The next meeting will be held on September 5, 2018 at 8:30 a.m., at this location, rather than on September 12, 2018, as originally scheduled. Ms. Senior stated she would not attend the September meeting.

**NINTH ORDER OF BUSINESS****Supervisors' Requests**

Ms. Senior stated she noticed boaters on the lake and asked if boating was allowed and, if not, what should be done to stop it. Mr. McGaffney was unaware of any existing procedural process and asked the District Engineer if he knew of any. Mr. Giangrande stated, historically, the District had "No Boating" and "No Fishing" Rules in place; however it was odd since during that time, they were stocking the lakes with bass, etc. This was the first time in ten years he heard of any issue and did not know if the Rules were ever enforced. That would be left to the District to manage but he was concerned about liability and safety. Mr. McGaffney and Ms. Warren will confirm whether any Rules were in place so that action may be taken. Ms. Senior stated she took pictures; however, her question was about how any of the Rules could be enforced, when the District is not physically on site, and the Homeowner's Association (HOA) cannot enforce CDD Rules, since it is not their responsibility.

Mr. Dowling stated, during his time as Chair, the District has not established a policy and directed Ms. Warren to confirm if it is mentioned in the CDD's official documents; however, the issue remains of how the District could enforce the policy, whether it could send violation letters and what authority and power does the Board have to enforce the Rules. Mr. McGaffney stated he and Ms. Warren would research this and send an update.

Ms. Senior asked for an update on the constant puddle at the right-hand side of the Hamilton Bay entrance. A Board Member recalled this discussion in the prior minutes. Mr. Giangrande stated he toured and photographed the area, which is in the CDD right-of-way (ROW), it was common for handicap ramps and sidewalks to have this issue, when drainage was not considered correctly. For September, he would prepare a memorandum regarding the issue, the entity responsible for its repair and suggestions for economically repairing it. Discussion ensued regarding whether the area was part of the City sidewalk or on CDD property. Mr. Dowling mentioned several sidewalk repairs along the west side of Jog Road

were being done but did not know if the City or County was involved. Mr. Giangrande would ask the City if the District could piggyback off their current sidewalk repair projects.

**TENTH ORDER OF BUSINESS**

**Public Comments**

There being no public comments, the next item followed.

**ELEVENTH ORDER OF BUSINESS**

**Adjournment**

There being no further business to discuss, the meeting adjourned.

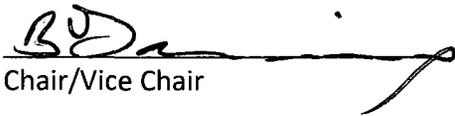
**On MOTION by Mr. Cuningham and seconded by Ms. Senior, with all in favor, the meeting adjourned at 10:12 a.m.**

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



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Secretary/Assistant Secretary



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Chair/Vice Chair