

**MINUTES OF MEETING
HAMAL
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the Hamal Community Development District held a Regular Meeting on February 7, 2022 at 6:00 p.m., at the Briar Bay Clubhouse, 3400 Celebration Blvd., West Palm Beach, Florida 33411.

Present were:

Joseph Petrick	Chair
Steven Pincus	Vice Chair
Ione Senior	Assistant Secretary
Benjamin Cuningham	Assistant Secretary
Marc DePaul	Assistant Secretary

Also present were:

Cindy Cerbone	District Manager
Jamie Sanchez	Wrathell, Hunt and Associates, LLC (WHA)
Andrew Kantarzhi	Wrathell, Hunt and Associates, LLC (WHA)
Michelle Rigoni	District Counsel
Steve Smith	District Engineer
Wesley Finch	Operations Manager, Kings Association Management, Inc. (KAM)
Landscape Supervisor	
Susan Ritchie	Resident and HOA President

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Petrick called the meeting to order at 6:00 p.m. Supervisors Petrick, Pincus, Senior and Cuningham were present. Supervisor DePaul was not present at roll call.

SECOND ORDER OF BUSINESS

Pledge of Allegiance

All present recited the Pledge of Allegiance.

Ms. Cerbone introduced Mr. Andrew Kantarzhi, a new District Manager with WHA.

THIRD ORDER OF BUSINESS

Public Comments

There were no public comments.

FOURTH ORDER OF BUSINESS

Discussion: Wall Maintenance

A. Pressure Cleaning/Painting

B. Structural Review

Ms. Cerbone recalled discussion at the previous meeting regarding wall maintenance in one or more locations. A \$79,000 proposal was presented and discussed.

Mr. DePaul arrived at the meeting.

Ms. Cerbone stated performing a structural review of the wall before entering into an agreement or approving a maintenance proposal was also considered.

Mr. Finch reported the following:

- In 2021, wall and crack repairs and pressure cleaning and painting the walls on Jog Road, back walls behind Sail Harbor and the pump house, were facilitated on the same contract.
- Upon inspection, there were no additional cracks.
- There is considerable ficus overgrowth and palm tree growth near the wall; the ficus are not yet pushing against the wall but they should be trimmed before painting.

Ms. Senior stated she observed encroaching vegetation on the wall behind some homes and asked if residents are asked to trim the foliage when maintenance is being performed. Ms. Senior was advised that the HOA could better answer her question. Crews would have to inform Mr. Finch so he can advise Management. Depending on the severity of the overgrowth, the resident would be asked to trim the foliage so the wall can be maintained. Ms. Cerbone asked how this item should be addressed. Ms. Rigoni stated it is similar to a tree overhanging their neighbor's yard; the property owner has the right to cut the overhang to the fenceline. Ms. Cerbone stated this is not an overhang, it is on the wall. Mr. Finch stated that section of the wall has never been painted. He recalled discussion at the last meeting about whether to paint the wall on the highway side to protect it structurally or for esthetics.

Discussion ensued regarding the by-laws, HOA landscaping, asking residents to trim the vegetation, emailing photos of the overgrowth to the HOA, maintenance easements and a structural review of the wall. Ms. Rigoni would research the plats to determine if there are easements. Mr. Smith would facilitate a structural inspection of the wall.

FIFTH ORDER OF BUSINESS

**Discussion: Fence Located at/near Lake 9
Between the Tides and Vista Lago
Communities**

Ms. Rigoni reported the following:

- District Management received a public records request from a person who is requesting a permit and a contract related to the previously damaged fence at or near Lake 9 between the Tides and Vista Lago Communities.
- A cease-and-desist letter regarding the same fence was sent per Board direction.
- It was discovered that construction of the fence was not authorized by the CDD as confirmed by District Manager who reviewed the minutes.
- The permit that was pulled at the time was under the HOA's name and, although an invoice is on file, there is no contract.
- Staff researched the minutes, dating back to 2016, and did not find any proof or information stating that the CDD Board approved construction of the fence.

Ms. Rigoni stated the Board must determine what to do about the fence. She discussed the following options:

1. Ask the HOA to remove the fence because the CDD never authorized it.
2. Give the HOA a license or an easement to maintain the fence.
3. If the Board is amenable, the CDD could accept the improvements, subject to a bill of sale, and a document stating the CDD would accept the fence.

Ms. Rigoni stated if the third option is selected, she would recommend that the document contain strong indemnification language. Asked if the fence is on Hamal property, Ms. Rigoni replied affirmatively, at least the portion located on the District stormwater pond tract. Asked about the indemnification language, Ms. Rigoni stated it is the typical verbiage found in all of District Counsel's maintenance agreements basically, in this case, setting forth that the HOA must indemnify the CDD for any and all claims that arise out of its acceptance and maintenance of the fence. Asked if she spoke to the HOA attorney about the indemnification language, Ms. Rigoni stated that she has.

Referencing an aerial view of the fence and surrounding homes, the Board and Staff discussed the indemnification language, HOA, resident accommodation request relating to the fence, the Tides property, the fence permit that was obtained through Briar Bay HOA and the lack of CDD Board approval to construct the fence in the minutes.

Resident and Briar Bay HOA President Susan Ritchie stated she would not sign anything stating that Briar Bay is at fault for anything that could and will happen for the life of the fence,

such as damages or anything else. Ms. Cerbone stated that the CDD could consider extending the maintenance agreement with the HOA. Ms. Rigoni stated that the maintenance agreement would contain the indemnification clause.

Discussion ensued about the former CDD Supervisor’s rationale for the fence, safety concerns, potential CDD liability if the fence causes injury, sovereign immunity, modifying indemnification language to make it acceptable to the HOA, removing the fence piecemeal, re-installing the fence, inspecting the entire fenceline, conducting a survey and permitting.

Mr. Petrick asked Ms. Ritchie if she would be amenable to District Counsel contacting the HOA’s attorney to discuss the fence issue and then discussing it with the February HOA Board meeting. Per Mr. Petrick, Ms. Rigoni would contact the HOA attorney.

On MOTION by Ms. Senior and seconded by Mr. Pincus, with all in favor, authorizing the District Engineer and Mr. Wesley to inspect the fence at/near Lake 9 between the Tides and Vista Lago communities and for the District Engineer to prepare a cost proposal to conduct a survey for presentation at the next meeting, was approved.

SIXTH ORDER OF BUSINESS

**Consideration of Work Authorization/
Proposal for Stormwater Management
Reporting Requirements**

Ms. Cerbone presented the Work Authorization/Proposal for preparation of the Stormwater Needs Analysis Report that is due by June 30, 2022, and every five years thereafter. Mr. Smith stated the \$6,640 fee is based on an hourly rate. Ms. Cerbone stated that this item was not budgeted so it would be in a separate line item, once the expense is incurred.

On MOTION by Mr. Cuningham and seconded by Mr. DePaul, with all in favor, the Work Authorization/Proposal for Stormwater Management Reporting Requirements for preparation of the Stormwater Needs Analysis Report, in a not to exceed amount of \$6,640, was approved.

SEVENTH ORDER OF BUSINESS

**Continued Discussion: Jog Road
Maintenance Responsibilities and
Consideration of Proposed Maintenance
Scope**

• **Consideration of Revised Form of Permit**

Ms. Rigoni reported the following:

- She and Mr. DePaul recently met with County Representatives regarding the proposed Jog Road maintenance issue.
- The County presented a standard form of permit for the median area.
- In response and per the Board’s direction, Ms. Rigoni made a few revisions to the permit and submitted it to the County. Thus far, the County has not responded.
- Ms. Cerbone and Mr. Finch would discuss more developments about Jog Road.

Mr. Petrick stated he recently filled out a conflict-of-interest form because he accepted a position with Palm Beach County, in a department involved in this matter; therefore, he would not be able to partake in discussions regarding the Jog Road issue, going forward.

Ms. Cerbone stated she was recently informed that DR Horton received a compliance violation letter and she conferred with District Counsel regarding a possible connection between the DR Horton letter and the delayed response from the County.

Discussion ensued regarding the revised permit, how patient to be with the County, DR Horton’s violation letter, installation of irrigation lines on Jog Road and if the next meeting should be held in March or April. An additional meeting date was set for March 28, 2022.

Ms. Rigoni would follow up with the County.

EIGHTH ORDER OF BUSINESS

Continued Discussion: IT Issues Related to Pumphouse Software

This item would be carried over to the next agenda.

NINTH ORDER OF BUSINESS

Consideration of Resolution 2022-03, Implementing Section 190.006(3), Florida Statutes, and Requesting that the Palm Beach County Supervisor of Elections Begin Conducting the District’s General Elections; Providing for Compensation; Setting for the Terms of Office; Authorizing Notice of the Qualifying Period; and Providing for Severability and an Effective Date

Ms. Cerbone presented Resolution 2022-03 and read the title. Seats 1 and 2, currently held by Mr. DePaul and Mr. Cuningham, respectively, would be up for election.

On MOTION by Mr. Pincus and seconded by Mr. Cuningham, with all in favor, Resolution 2022-03, Implementing Section 190.006(3), Florida Statutes, and Requesting that the Palm Beach County Supervisor of Elections Begin Conducting the District’s General Elections; Providing for Compensation; Setting for the Terms of Office; Authorizing Notice of the Qualifying Period; and Providing for Severability and an Effective Date, was adopted.

TENTH ORDER OF BUSINESS

Consideration of Resolution 2022-04, Designating a Registered Agent and Registered Office of the Hamal Community Development District

Ms. Rigoni presented Resolution 2022-04.

On MOTION by Ms. Senior and seconded by Mr. DePaul, with all in favor, Resolution 2022-04, Designating Sarah R. Sandy, of Kutak Rock, LLP, as the Registered Agent and the office of Kutak Rock LLP, 113 South Monroe Street, Suite 116, Tallahassee, Florida 32301, until February 15, 2022, and commencing February 16, 2022, the office of Kutak Rock LLP, 107 West College Avenue, Tallahassee, Florida 32301 as the Registered Office of the Hamal Community Development District, was adopted.

ELEVENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of December 31, 2021

Ms. Cerbone presented the Unaudited Financial Statements as of December 31, 2021.

On MOTION by Mr. DePaul and seconded by Mr. Pincus, with all in favor, the Unaudited Financial Statements as of December 31, 2021, were accepted.

TWELFTH ORDER OF BUSINESS

Approval of December 13, 2021 Regular Meeting Minutes

Ms. Cerbone presented the December 13, 2021 Regular Meeting Minutes.

The following changes were made:

Lines 304, 306 and 333: Change “Pincus” to “Petrick”

Line 307: Insert “asked if” after “and”

Line 500: Change “Mr. Pincus” to “it was”

Line 507: Change “Ms. Pincus” to “Mr. Pincus”

On MOTION by Mr. Pincus and seconded by Mr. Cuningham, with all in favor, the December 13, 2021 Regular Meeting Minutes, as amended, were approved.

THIRTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: *Kutak Rock LLP*

Ms. Rigoni stated Staff is monitoring the legislative session and would give an update on any bills that pass that would impact the CDD.

B. District Engineer: *Craig A. Smith & Associates*

There was no report.

C. Operations Manager: *King’s Management Services, Inc.*

Mr. Finch reported that staff resolved a few minor pump issues on the Hamilton Bay side and the fountain is operational.

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

- **NEXT MEETING DATE: May 9, 2022 at 6:00 P.M.**
 - **QUORUM CHECK**

All Supervisors confirmed their attendance at the March 28, 2022 meeting.

FOURTEENTH ORDER OF BUSINESS

Supervisors’ Requests

There were no Supervisors’ requests.

FIFTEENTH ORDER OF BUSINESS

Public Comments

There were no public comments.

SIXTEENTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Cuningham and seconded by Mr. DePaul, with all in favor, the meeting adjourned at 7:38 p.m.



Cindy Ceballos

Secretary/Assistant Secretary



Chair/Vice Chair

Chair/Vice Chair