

## **MINUTES OF MEETING**

*The following is a summary of the discussions and actions taken at the Clearwater Cay Community Development District (CDD) Board of Supervisors meeting.*

### **CLEARWATER CAY COMMUNITY DEVELOPMENT DISTRICT**

The meeting of the Board of Supervisors of the Clearwater Cay Community Development District was held on Thursday April 25, 2019 at 5:30 p.m. at the Grand Venezia Baywatch Clubhouse on 2704 Via Murano in Clearwater, Florida 33764.

#### **Present and constituting a quorum were:**

Don Dwyer  
Pat O'Malley  
Michael Herd  
Alan Glidden  
Jeff Wilson

Chair  
Vice Chair  
Treasurer  
Assistant Secretary  
Assistant Secretary

#### **Also present were:**

Cal Teague  
Dan Molloy  
Mark Lawson  
Owen Bites  
Residents

District Manager  
District Attorney  
Attorney  
Economist

#### **FIRST ORDER OF BUSINESS**

#### **Call to Order and Roll Call**

The meeting was called to order and the Chairman called the roll. All were present for today's meeting. Also present was District Attorney Dan Molloy, Attorney Mark Lawson and Economist Owen Bites.

#### **SECOND ORDER OF BUSINESS**

#### **Approval of the Agenda**

The Agenda was accepted as presented.

On MOTION by Supervisor Herd, seconded by Vice Chairman O'Malley, with all in favor, the Agenda was approved as presented.
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#### **THIRD ORDER OF BUSINESS**

#### **Audience Comments on Agenda Items**

Scott Steady who works with Flournoy wanted to reiterate the company's request that is on the Agenda for discussion today.

## **FOURTH ORDER OF BUSINESS**

### **Approval of Meeting Minutes**

#### **A. Regular Meeting Minutes from March 28, 2019**

The Meeting Minutes were accepted as presented.

On MOTION by Supervisor Herd, seconded by Vice Chairman O'Malley, with all in favor, the Regular Meeting Minutes of March 28, 2019 were approved as presented.

## **FIFTH ORDER OF BUSINESS**

### **Old Business**

#### **A. Outstanding Legal Bills**

The Chairman asked that as he has not yet received a detailed work product, that this item be tabled until he receives this.

On MOTION by Vice Chairman O'Malley, seconded by Supervisor Herd, with all in favor, this Agenda item has been tabled.

#### **B. Outstanding Fishkind Bills**

The District Manager discussed with the Board what is owed to Fishkind currently. The Chairman is recommending to not pay this as they are still charging for reassessment methodology that the Board deemed unsupportable. Currently the Board is having to go through the process and expense of reassessment methodology again. There was a motion by Chairman Dwyer and seconded by Vice Chairman O'Malley to not pay these bills.

The Attorney strongly encouraged the Board to pay these bills, given the discounts and the fact that anything can happen if this goes to court. After a lot of discussion, the Chairman took the Attorney's advice and decided to withdraw the motion to not pay. A new motion was called, to pay these bills at the request of council.

On MOTION by Chairman Dwyer, seconded by Supervisor Glidden, with Supervisor Herd and Vice Chairman O'Malley opposed, the Fishkind bills are to be paid.

#### **C. Fishkind Mutual General Release & Covenant Not to Sue**

This was discussed and determined now to be an issue as it had been previously signed by the old Board of Supervisors and by Fishkind.

## **D. CDD Free Standing Garages**

The Chairman distributed the current easement agreement for the garages. A letter was also distributed by the Attorney at the beginning of the meeting regarding this topic. The Chairman discussed that this agreement is still in effect for another three years. The Chair asked for legal counsel on how to proceed. The Attorney stated that the letter from the Trustee is saying that as these garages were purchased with bond money and therefore, they must be made usable to the general public and property owners of the CDD. Currently the Attorney does not have a recommendation on this topic, as such he requested this item be tabled.

On MOTION by Supervisor Wilson, seconded by Vice Chairman O'Malley, with all in favor, this Agenda item has been tabled.

## **E. Shrubbery Screen on Belair Rd. at the Dumpster Area**

The Chairman distributed an estimate for this item for Board consideration in the future.

# **SIXTH ORDER OF BUSINESS**

## **New Business**

### **A. Community Upgrades**

- The Chairman reported on the Grand Venezia roadway flooding. He reminded the Board that last month the storms drains were cleaned out. Then last Friday there was heavy rainfall that lasted about an hour and a half, and there was no flooding. The Chairman stated that this will continue to be monitored during rainy season.
- The Chairman notified the Board of an estimate he received for a set of wooden stairs to be installed in front of building nine. These stairs would be four feet wide and have hand rails on both sides for a cost of \$3,500.

On MOTION by Vice Chairman O'Malley, seconded by Chairman Dwyer, with all in favor, the Board approved a not to exceed amount of \$3,500 for stairs to be built in front of building nine.

- The Chairman notified the Board that he met with Maintenance and changed the schedule from Monday to Wednesday. They decided on Wednesday so that the grass is not overgrown in appearance on the weekends. They also made the choice to not cut the grass so short as it was burning the grass and the result is that now it is looking much healthier.
- The Chairman also reported that the mulch project is complete however, he recommends never using that contractor again. He had to call and have them install more mulch three times as they had not installed enough and his experience with this contractor was unpleasant overall.

- The Chairman also discussed the trimming of the Cluster Palms by the Maintenance Department. He expressed his gratitude towards Maintenance for doing a wonderful job.
- The Chairman distributed an estimate from Alexander's for trimming the Mangroves. He stated that trimming the Mangroves was \$12,500 for last Fall and \$12,500 for last Spring. The estimate received for trimming in the Fall is for \$18,000. Given this increase in price, the Board decided to ask other contractors for estimates.
- The Chairman discussed an estimate he received for a path from the building out front to the Clubhouse. He stated that most residents climb through the shrubbery rather than walking all the way around to get to the clubhouse. This estimate is for \$1,180 to remove the shrubbery and put a weed barrier down and put river rock down to create a pathway. The Chairman wanted to discuss this with the Board but did not want the Board to consider this estimate until he can look further into this matter.

## **B. Flournoy Request**

This Agenda topic is regarding a request from Flournoy that the Operations and Maintenance (O&M) assessment be adjusted as part of the Boards reassessment process. The District Manager explained that currently the assessments are set up by square footage per ERC/ERU. The Chairman's response to this request is that the CDD and management company will look into this and determine what they can and are willing to do in this regard.

## **C. Estimate for Ratification**

The Chairman explained that there was a situation where the Board had to have Alexander's come in on an emergency basis because the fence line between the CDD and the Harborside property had been torn down. The overgrowth was pulling down the fence and creating a wall of sorts where vagrants were living. The Chairman had Alexander's go in there and clean this up. Therefore, the Chairman requested the Board make a motion to authorize payment for Alexander's for this work as it was outside the duties of their contract with the CDD.

On MOTION by Supervisor Glidden, seconded by Supervisor Wilson, with all in favor, a payment of \$3,200 was authorized for the cleaning up of the Harborside property fence line.

## **SEVENTH ORDER OF BUSINESS**

### **Manager's Report**

#### **A. Financial Statements for Period Ending March 31, 2019**

The financial statements were presented and accepted.

On MOTION by Vice Chairman O'Malley, seconded by Chairman Dwyer, with all in favor, the financial

statements for period ending March 31, 2019 were accepted.

## **B. Fiscal Year 2020 Budget Development**

The District Manager apologized as everything was not yet complete on the budget. However, he stated that he will send out the completed budget in advance of the next meeting for the Board to review. The District Manager stated that he has been having difficulties with the budget, given the CDD's current funds are rather low.

## **C. ADA Website Compliance Update**

The District Manager announced that the website should be available by July.

## **D. Bond Payment Information**

The District Manager discussed that they have not yet transferred the funds to the Trustee at U.S. Bank. However, they are obligated to give them this money. Unfortunately, this is not enough money to pay the amount the CDD owes and the District Manager is having trouble getting the exact amount owed from U.S. Bank.

The Attorney stated that the CDD is withholding these funds because the Trustee has not been making payments on the bond and the CDD is concerned that the Trustee is misusing these funds.

The Board asked how the case against U.S. Bank is going. The District Manager stated that Fillers Creek won their case with U.S. Bank, although it was a different scenario. The Board asked that the District Manager get with the Fillers Creek attorney to ask that he consult with the Board on this matter. The District Manager responded that he will set up a meeting.

## **E. Debt Assessment Distribution**

The District Manager discussed with the Board whether they would like to transfer the money collected for debt service to the Trustee or whether they would like to withhold this money. The Attorney made the point that the CDD not paying the Trustee is the CDD's problem and the Trustee not making the payments he or she is contractually obligated to make is that individual's problem. Therefore, the Board should make this payment in order to not be in violation of the contract.

On MOTION by Supervisor Glidden, seconded by Chairman Dwyer, with all in favor, the Board agreed to authorize the Manager to transfer the funds to the Trustee.

**EIGHTH ORDER OF BUSINESS****Attorney's Report****A. Update on lawsuit with Grand Venezia Association**

The Attorney reported that the last event of the lawsuit was the hearing on the motion for final judgement and the court denied that motion. Currently, there are no hearings scheduled.

**B. Discussion/Review of 2018 Assessment Methodology**

Attorney Lawson discussed with the Board picking a date and time for a special meeting before the Public Hearing regarding assessments. He stated that he is happy to get with the bond holder and hold a mediation in this regard. However, given they are not forthcoming with information it most likely won't be beneficial. The Chairman asked that the Board Supervisors email the District Manager their availability or lack of availability from May 22 through the end summer, so that a date for the special meeting can be set.

**NINTH ORDER OF BUSINESS****Supervisor's Requests and/or Comments**

There being none, the next Order of Business followed.

**TENTH ORDER OF BUSINESS****Audience Comments**

Nancy Thibodeau asked about the Boards plan for a certain area in the community. She received the response that they will be replacing the dead Magnolia trees with new Magnolia trees.

Derek Hois had a question regarding 5. A. on the Agenda which is the outstanding legal bills. He asked about the total of the bills currently which the Chairman responded is about \$130,000. Mr. Hois also asked about the 13 emails Supervisor Glidden was asked to produce and why he was having difficulty producing them. Supervisor Glidden responded that the original request was for all emails from the last 5 years and he asked for more specifics as that request would take too much time to fulfill. Supervisor Glidden stated he did not receive a reply after that. Supervisor Herd stated that Supervisor Glidden received several requests. As this was becoming a heated discussion the Chairman told them to work out this conflict through the District Manager. My Hois was wondering why the request for 13 emails was so difficult, as it is only 13 emails. The Chairman responded by discussing his request to the law firm that they provide him with all documentation and work product regarding the charges to the CDD, and he received nothing from the law firm.

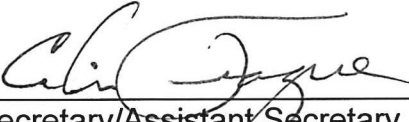
Nancy Thibodeau brought up the fact that all CDD emails are public record, so they need to be presented no matter how many are requested.


**ELEVENTH ORDER OF BUSINESS****Adjournment**

There being no further Orders of Business and,

On MOTION by Vice Chairman O'Malley,  
seconded by Chairman Dwyer, with all in  
favor, the meeting was adjourned at 6:35  
p.m.

**Next Meeting: May 23, 2019 at 5:30 PM**

  
Secretary/Assistant Secretary

  
Chair/Vice Chair