

**MINUTES OF MEETING**

*Each person who decides to appeal any decision made by the Board with respect to any matter considered at the meeting is advised that the person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which such appeal is to be based.*

**GRAND HAVEN COMMUNITY DEVELOPMENT DISTRICT**

The regular meeting of the Board of Supervisors of Grand Haven Community Development District was held on **Thursday, August 20, 2009 at 3:00 p.m.** at the Grand Haven Room, located at Grand Haven Village Center, 2001 Waterside Parkway, Palm Coast, Florida 32137.

Present and constituting a quorum:

Peter Chiodo	<b>Board Supervisor, Chairman</b>
Charles Trautwein	<b>Board Supervisor, Vice Chairman</b>
Dennis Cross	<b>Board Supervisor, Assistant Secretary</b>
Stephen Davidson	<b>Board Supervisor, Assistant Secretary</b>
Samuel Halley	<b>Board Supervisor, Assistant Secretary</b>

Also present were:

Dave Berman	<b>District Manager, Rizzetta &amp; Company, Inc.</b>
Melissa Dobbins	<b>District Manager, Rizzetta &amp; Company, Inc.</b>
Scott Clark	<b>District Counsel, Clark &amp; Albaugh</b>
Barry Kloptosky	<b>Field/Operations Manager</b>
Howard McGaffney	<b>Amenity Center Director, AMG</b>
Bill Goudy	<b>Representative, AMG</b>
Roy Deary	<b>President, AMG</b>
Mark Grimmel	<b>Guest Speaker, EGIS Advisors</b>
Bill Kelly	<b>Representative, EGIS Advisors</b>

Audience Members

**FIRST ORDER OF BUSINESS**

**Call to Order**

Mr. Chiodo called the meeting to order and read the roll call.

**SECOND ORDER OF BUSINESS**

**Guest Experts/Speakers**

This presentation was given under the first business item.

**THIRD ORDER OF BUSINESS**

**Consideration of District Management Proposals**

This item was deferred to the end of the meeting. Rizzetta & Company, Inc. is requested to leave the meeting at that time. District Counsel is to take minutes for this section of the meeting.

**FOURTH ORDER OF BUSINESS**

**Supervisor Requests & Updates**

**A. Discussion of the Role, Function, and Formation of the Grand Haven CDD Ad-Hoc Fact Finding Groups including Circle Landscape Study (Supervisors Davidson & Cross)**

This item was tabled until the Workshop Meeting on August 25, 2009.

**B. Discussion on External Relations Task Force (Supervisor Halley)**

This item was tabled until the Workshop Meeting on August 25, 2009.

**FIFTH ORDER OF BUSINESS**

**Consideration of District's Insurance Policy Quote Presented by Mark Grimm, EGIS Insurance**

Mr. Grimm and Mr. Kelly, EGIS insurance advisors presented the insurance policy quote for the Board (Exhibit A).

On Motion by Supervisor Trautwein, seconded by Supervisor Davidson, with all in favor, the Board accepted EGIS Advisors as the insurance agent and approve the insurance policy as presented (Two Million for Employment Practice; Four Million for General Liability) for the Grand Haven Community Development District.

**SIXTH ORDER OF BUSINESS**

**Audience/Resident Comments for  
Non-Agenda Topics**

Mr. Natielo stated he was not in favor of the Ad Hoc Fact Finding Group, and is concerned about personal opinions affecting the Ad Hoc Fact Finding Group's results.

Ms. Layng is concerned about the Ad Hoc Fact Finding Groups and wanted to know if Sunshine Laws are applicable when this group meets and if the Fact Finding Group meetings are public.

Ms. Penrose is concerned about the erosion behind the mailboxes on Osprey Circle.

Mr. McKeen is concerned about the streetlights and walking paths in Wild Oaks Phase 2.

Mr. Johnstone and Ms. G. are concerned about the daily fee for guests.

**SEVENTH ORDER OF BUSINESS**

**Consideration of Wild Oaks Phase 2  
Procedures to Track Landmar Costs  
(Supervisor Cross)**

Supervisor Cross requests a procedure of stamping invoices to track Wild Oaks Phase 2 invoices.

Ms. Dobbins presented a Wild Oaks Phase 2 spreadsheet (Exhibit B).

A general discussion ensued.

On Motion by Supervisor Cross, seconded by Supervisor Trautwein, with all in favor, the Board approved Supervisor Cross's procedures for tracking Wild Oaks Phase 2 expenditures for the Grand Haven Community Development District.

**EIGHTH ORDER OF BUSINESS**

**Review of Creekside Trial Policies**

Mr. McGaffney reports that there are no major violations of the trial policies.

Mr. Clark to review current trial policies before the Board adopts the trial policies.

On a Motion by Supervisor Chiodo, seconded by Supervisor Trautwein, with all in favor, the Board approved to extend the Creekside Trial Policies through September 30, 2009 for Grand Haven Community Development District.

**NINTH ORDER OF BUSINESS**

**Consideration of AMG/AOM  
Amendment Proposal-Updating 2009-  
2010 Contract**

Board requested that AMG increase their General Liability coverage to two million to match the District's previously approved insurance policy.

On a Motion by Supervisor Davidson, seconded by Supervisor Trautwein with all in favor, the Board approved the amended AMG/AOM Agreement (District to receive credit for pool chemicals) for Grand Haven Community Development District.

**TENTH ORDER OF BUSINESS**

**Consideration of the Minutes from the  
Board of Supervisors' Meeting held on  
July 16, 2009**

Supervisor Davidson requested a change to minutes on page 7, first line, delete "Property Appraiser assessment" and in its place insert the words "Tax Collector".

On a Motion by Supervisor Davidson, seconded by Supervisor Cross, with all in favor, the Board approved the Minutes as amended from the Board of Supervisors' Meeting held on July 16, 2009 for Grand Haven Community Development District.

**ELEVENTH ORDER OF BUSINESS**

**Consideration of the Minutes from the  
Special Workshop Meeting held on July  
22, 2009, and Minutes from the  
Workshop Meeting held on July 28, 2009**

On a Motion by Supervisor Davidson, seconded by Supervisor Cross, with all in favor, the Board approved the Minutes from the Special Workshop Meeting held on July 22, 2009, and Minutes from the Workshop Meeting held on July 28, 2009 for Grand Haven Community Development District.

**TWEVELETH ORDER OF BUSINESS**

**Consideration of Operation and  
Maintenance Expenditures for August  
2009**

On a Motion by Supervisor Davidson, seconded by Supervisor Trautwein, with all in favor, the Board approved the Operation and Maintenance Expenditures for August 2009 totaling \$181,534.52 for Grand Haven Community Development District.

**THIRTEENTH ORDER OF BUSINESS**

**Consideration of Construction  
Requisition, Series 2004B, Requisition  
#172**

Supervisor Cross reviews five reasons not to pay requisition #172.

Mr. Clark supports not paying requisition #172.

On a Motion by Supervisor Trautwein, seconded by Supervisor Cross, with all in favor, the Board will not approve the Special Assessment Bonds, Series 2004B, Requisition #172 made payable to S.E. Cline Construction in the amount of \$5,425.00 for Grand Haven Community Development District.

**FOURTEENTH ORDER OF BUSINESS**

**Consideration of Construction  
Requisition, Series 2008, Requisition #15**

Supervisor Cross states same reasons not to pay requisition #172 apply to requisition #15.

On a Motion by Supervisor Cross, seconded by Supervisor Trautwein, with all in favor, the Board will not approve the Construction Requisition, Series 2008, Requisition #15 made payable to Environmental Resources Solutions, Inc. in the amount of \$387.50 for Grand Haven Community Development District.

*(A brief recess was taken from 4:45 p.m. to 5:00 p.m.)*

**FIFTEENTH ORDER OF BUSINESS**

**Public Hearing on Fiscal Year 2009-2010  
Final Budget**

On a motion by Supervisor Trautwein, seconded by Supervisor Cross, with all in favor, the Board opened the Public Hearing on the Fiscal Year 2009/2010 Final Budget for Grand Haven Community Development District.

Supervisor Cross presents a Cash Flow example indicating District Reserve Funds are very adequate. Supervisor Cross presents a chart indicating the Landmar impact on the budget increase (Exhibit C).

General discussion ensued. Supervisor Halley requested that a residents letter be read into record (Exhibit D).

On a motion by Supervisor Chiodo, seconded by Supervisor Cross, with all in favor, the Board closed the Public Hearing on Fiscal Year 2009/2010 Final Budget for Grand Haven Community Development District.

**SIXTEENTH ORDER OF BUSINESS**

**Consideration of Resolution 2009-05,  
Adopting the Budget for the Fiscal Year  
2009-2010 & Consideration of Resolution  
2009-06, Assessment Levy for Fiscal Year  
2009-2010**

On a Motion by Supervisor Trautwein, seconded by Supervisor Davidson, with all in favor, the Board approved Resolution 2009-05, Adopting the Budget for the Fiscal Year 2009-2010 for Grand Haven Community Development District.

On a Motion by Supervisor Davidson, seconded by Supervisor Chiodo, with all in favor, the Board approved Resolution 2009-06, Assessment Levy for Fiscal Year 2009-2010 for Grand Haven Community Development District.

*(A brief recess was taken from 6:45 p.m. to 6:55 p.m.)*

**SEVENTEENTH ORDER OF BUSINESS**

**Staff Reports**

**A. District Counsel's Report**

Mr. Clark reviewed his revised report for the Board (Exhibit E). No Board action necessary.

**B. Field/Operations Manager's Report**

Mr. Kloptosky reviewed his report for the Board (Exhibit F). Mr. Kloptosky presents gate parts spreadsheet (Exhibit G).

On Motion by Supervisor Davidson, seconded by Supervisor Cross, with all in favor, the Board approved purchase of gate parts not to exceed \$4,925.00 for the Grand Haven Community Development District.

A general discussion ensued regarding Wild Oaks Phase 2.

Supervisor Cross requested a six month progress report on the five pond trials. A general discussion ensued regarding the pond project including the following points:

- Mr. Kloptosky directed to get submerged aquatic vegetation treatment for ponds 1, 2, and 3.
- Keeton to provide monitoring/sampling on ponds 2, 19, and 20.
- Pond Project progress report to be requested of Dr. Clark.
- Stratification testing might be necessary.
- Mr. Kloptosky to inquire about discount on Microbes.
- The report should include pond numbers and village locations for the 15 ponds.

A general discussion regarding erosion issues in the community ensued.

**C. District Engineer's Report**

Not present.

**D. District Manager**

The Board directs District Manager to withhold all payments to Arcadis until the issues with Requisitions 150 & 151 are resolved.

**E. Amenity Center Manager**

Mr. McGaffney reviewed his report for the Board (Exhibit H).

Supervisor Halley expresses concerns about the café.

**F. District Liaison**

Not Present.

*(District Managers leave meeting in progress 8:15 p.m.)*

**EIGHTEENTH ORDER OF BUSINESS**

**Consideration of District Management Proposals**

Mr. Clark presented to the Board the score sheet of the four District Management Proposals scores. Mr. Clark stated these were based on the score sheet's he received from the Board members prior to the meeting. Mr. Clark stated the ranking was from 1 to 4 with 1 being the best and 4 being the worst, and the company with the overall score in each category which had the lowest score was the favored company in that category.

The companies were rated on experience, staffing, suitability, price, individual manager, and all around score. The results were as follows: Experience: Rizzetta & Company, Inc. received the lowest score; Staffing: DMS received the lowest score; Suitability: Wrathell received the lowest score; Price: Wrathell received the lowest score; Individual Manager: Wrathell received the lowest score; All around score: Wrathell received the lowest score. Board decided to only consider DMS and Wrathell in their discussion.

Supervisor Chiodo stated the Board would not consider public comment during this discussion. Supervisor Chiodo asked each Board member to say which company they liked best and why and then they would take a vote.

Supervisor Chiodo stated his pick was Wrathell based on the fact that they lost four years ago by one point and that the President of the company will be the District Manager for the first year. Supervisor Trautwein stated his pick was Wrathell based on the fact that they have the staffing and the District Manager has a strong personality and he worked previously with another management company. Supervisor Cross stated his pick was Wrathell based on the fact that the President of the company would be the District Manager for the first year and that he listens to the Board. Supervisor Halley stated his pick was Wrathell. Supervisor Davidson stated his pick was Wrathell based on his experience working with them in the past and that the President will be the District Manager for the first year.

An Audience Member requested to speak on this matter and was given permission to do so by the Chairman. The Audience Member voiced concerns over the transition with Rizzetta & Company, Inc. and that maybe the Board should have the District turned over before the sixty days are up unless the contract states they are to be the District Managers for sixty days following the termination notice. The Audience Member stated that a clause about a smooth transition should be put into the new contract in case they decided to change in the future.

Mr. Clark stated that there are legal constraint requirements that will make sure that this will be a smooth transition. He went on to state that he has worked with Bill Rizzetta and Pete Williams and that Rizzetta & Company, Inc. are all very professional.

Mr. Clark asked the Board to direct him to send a termination letter to Rizzetta & Company, Inc. and to allow him to contact Pete Williams and explain why and express appreciation for the work that has been done up to now. Mr. Clark stated he will contact Wrathell to get them to send him a contract to review.

On a Motion by Supervisor Cross, seconded by Supervisor Davidson, with all in favor, the Board approved District Counsel to send out a termination letter to Rizzetta & Company, Inc and to speak to Pete Williams regarding termination for Grand Haven Community Development District.

**NINETEENTH ORDER OF BUSINESS**

**Supervisor Requests & Updates**

**A. Discussion of the Role, Function, and Formation of the Grand Haven CDD Ad-Hoc Fact Finding Groups**

Supervisor Davidson passed out a handout regarding the policy and procedure problems and recommendations on correcting them. Supervisor Davidson requested that Mr. Clark comment on the hand out.

Mr. Clark stated that when he first started working for the District he set up parameters for these groups. Mr. Clark went on to state he was concerned that there not be groups set up to



Mr. Clark stated that when he first started working for the District he set up parameters for these groups. Mr. Clark went on to state he was concerned that there not be groups set up to set policy but to be limited to a short term problem and solution groups. Mr. Clark is concerned they are looked at like committees which would be a Sunshine Law violation.

Supervisor Cross stated his understanding of these groups were that they were to just gather facts and not to become committees. Supervisor Cross stated he felt these guidelines were negative and discouraging residents to help out with the District in areas of their expertise.

Mr. Clark stated the fact finding groups cannot be long standing groups as it is again a violation of the Sunshine Laws. Mr. Clark requested the Board send him an e-mail of all the current fact finding groups or groups that have been set up to help the District so he may review them and make sure there is no violation of Sunshine Laws.

A general discussion ensued. The Board tabled this item to the next Workshop Meeting on August 25, 2009.

**TWENTIETH ORDER OF BUSINESS**

**Adjournment**

On a Motion by Supervisor Chiodo, seconded by Supervisor Davidson, with all in favor, the Board adjourned the meeting at 9:05 p.m. for Grand Haven Community Development District.

  
Secretary/ Assistant Secretary

  
Chairman/Vice Chairman

# **Exhibit A**

**Grand Haven Community Development District  
Year to Year Insurance Premium Summary**

**PGIT Policy Premium 2007 - 2010**

Coverage	Original				Revised					
	2007-08	2008-09	+ / (-)	% Diff.	2009-10	+ / (-)	% Diff.	2009-10	+ / (-)	% Diff.
Property	\$ 28,660	\$ 21,733	\$ (6,927.00)	-24%	\$ 22,904	\$ 1,171	5%	\$ 20,291	\$ (2,613)	-11%
Inland Marine	\$ 1,203	\$ 1,245	\$ 42.00	3%	\$ 1,326	\$ 81	7%	\$ 1,326	\$ -	0%
Crime	\$ -	\$ 217	\$ 217.00	100%	\$ 500	\$ 283	130%	\$ 500	\$ -	0%
General Liability	\$ 1,000	\$ 3,251	\$ 2,251.00	225%	\$ 3,738	\$ 487	15%	\$ 3,738	\$ -	0%
Public Officials	\$ 1,744	\$ 1,569	\$ (175.00)	-10%	\$ 1,569	\$ -	0%	\$ 1,569	\$ -	0%
Employment Practice Liability	\$ 747	\$ 1,046	\$ 299.00	40%	\$ 1,046	\$ -	0%	\$ 1,046	\$ -	0%
Hired Non-Owned Auto Liability	\$ 500	\$ 500	\$ -	0%	\$ 500	\$ -	0%	\$ 500	\$ -	0%
<b>Sub-Total</b>	<b>\$ 33,854</b>	<b>\$ 29,561</b>	<b>\$ (4,293.00)</b>	<b>-13%</b>	<b>\$ 31,583</b>	<b>\$ 2,022</b>	<b>7%</b>	<b>\$ 28,970</b>	<b>\$ (2,613)</b>	<b>-8%</b>

**Optional Coverage Changes to Consider**

**Property**

A. By increasing the per occurrence property deductible limit from \$1,000 to \$5,000 the premium would decrease to \$19,440 from \$20,291 which is a net savings of \$851.00.

**Recommended**

No

**General Liability**

A. By increasing the General Liability \$1M/\$2M deductible to \$1,000 the premium decrease to \$3,645 from \$3,738 which is a net savings of \$93.00.

No

B. Increasing the General Liability limit from \$1M/\$2M to \$2M/\$4M will result in a premium of \$3,925 which is a net increase of \$187.00.

Yes

**Public Officials and Employment Practices Liability**

A. Increasing the Public Officials Liability limit from \$1M to \$2M will result in a premium of \$1,746 which is a net increase of \$187.00.

Yes

B. Increasing the Employment Practices Liability limit from \$1M to \$2M will result in a premium of \$1,164 which is a net increase of \$118.00.

Yes

# **Exhibit B**

Grand Haven CDD  
Wild Oaks Phase 2 Costs  
As of July 31, 2009

<u>Vendor</u>	<u>Inv. Date</u>	<u>Invoice #</u>	<u>Invoice Description</u>	<u>Amount</u>	<u>Paid From</u>	<u>Doc #</u>
Clark & Albaugh, LLP	11/03/08	5956	Wild Oaks Phase 2 Turnover 10/08	1,975.00	CPF - Series 2004	CR159
Clark & Albaugh, LLP	12/01/08	6029	Wild Oaks Phase 2 Turnover 11/08	141.00	CPF - Series 2004	CR160
Clark & Albaugh, LLP	12/31/08	6094	Wild Oaks Phase 2 Turnover 12/08	1,927.00	CPF - Series 2004	CR163
Clark & Albaugh, LLP	02/02/09	6171	Wild Oaks Phase 2 Turnover 01/09	2,215.60	CPF - Series 2004	CR165
Clark & Albaugh, LLP	03/02/09	6232	Wild Oaks Phase 2 Turnover 02/09	413.00	CPF - Series 2004	CR169
Clark & Albaugh, LLP	04/01/09	6308	Wild Oaks Phase 2 Turnover 03/09	164.50	CPF - Series 2004	CR166
Clark & Albaugh, LLP	05/01/09	6361	Wild Oaks Phase 2 Turnover 04/09	781.85	CPF - Series 2004	CR168
Clark & Albaugh, LLP	06/01/09	6410	Wild Oaks Phase 2 Turnover 05/09	987.00	CPF - Series 2004	CR169
Clark & Albaugh, LLP	08/03/09	6540	Wild Oaks Phase 2 Turnover 07/09	258.50	CPF - Series 2004	CR174
<b>Clark &amp; Albaugh, LLP Total</b>				<u>8,863.45</u>		
City of Palm Coast	05/22/09	356985-47720 05/09	04/16/09-05/18/09 200 Willow Oak Way - Ph. 2	21.89	General Fund	3090
City of Palm Coast	05/22/09	356985-47721 05/09	04/16/09-05/18/09 225 Willow Oak Way - Ph. 2	21.89	General Fund	3090
City of Palm Coast	05/22/09	356985-47723 05/09	04/16/09-05/18/09 232 Willow Oak Way - Ph. 2	47.00	General Fund	3090
City of Palm Coast	06/19/09	356985-47720 06/09	05/19/09-06/16/09 200 Willow Oak Way - Ph. 2	5.63	General Fund	3120
City of Palm Coast	06/19/09	356985-47721 06/09	05/19/09-06/16/09 225 Willow Oak Way - Ph. 2	5.63	General Fund	3120
City of Palm Coast	06/19/09	356985-47723 06/09	05/19/09-06/16/09 232 Willow Oak Way - Ph. 2	11.17	General Fund	3120
<b>City of Palm Coast Total</b>				<u>113.21</u>		
Florida Power & Light	05/19/09	18084-25449 05/09	04/20/09-05/19/09 200 Willow Oak Way LS - Ph. 2	34.86	General Fund	3091
Florida Power & Light	05/19/09	43562-78517 05/09	04/20/09-05/19/09 46 Scarlet Oak Cir #Lights - Ph. 2	87.45	General Fund	3091
Florida Power & Light	05/19/09	58398-04449 05/09	04/20/09-05/19/09 225 Willow Oak Way LS - Ph. 2	20.03	General Fund	3091
Florida Power & Light	05/19/09	75615-11028 05/09	04/20/09-05/19/09 1 Turkey Oak Ln Lights - Ph. 2	103.28	General Fund	3091
Florida Power & Light	05/19/09	89648-00026 05/09	04/20/09-05/19/09 16 Blue Oak Ln Lights - Ph. 2	109.00	General Fund	3091
Florida Power & Light	05/19/09	93754-47514 05/09	04/20/09-05/19/09 14 Scarlet Oak Cir Lights - Ph. 2	98.95	General Fund	3091
Florida Power & Light	06/18/09	18084-25449 06/09	05/19/09-06/18/09 200 Willow Oak Way LS - Ph. 2	10.61	General Fund	3128
Florida Power & Light	06/18/09	43562-78517 06/09	05/19/09-06/18/09 46 Scarlet Oak Cir #Lights - Ph. 2	41.45	General Fund	3128
Florida Power & Light	06/18/09	58398-04449 06/09	05/19/09-06/18/09 225 Willow Oak Way LS - Ph. 2	10.37	General Fund	3128
Florida Power & Light	06/18/09	75615-11028 06/09	05/19/09-06/18/09 1 Turkey Oak Ln Lights - Ph. 2	51.83	General Fund	3128
Florida Power & Light	06/18/09	89648-00026 06/09	05/19/09-06/18/09 16 Blue Oak Ln Lights - Ph. 2	48.29	General Fund	3128
Florida Power & Light	06/18/09	93754-47514 06/09	05/19/09-06/18/09 14 Scarlet Oak Cir Lights - Ph. 2	40.66	General Fund	3128
<b>Florida Power &amp; Light Total</b>				<u>656.78</u>		
<b>Grand Total</b>				<u><u>9,633.44</u></u>		

# **Exhibit C**

BUDGET

DWC  
8/20/09

## LANDMAR BUDGET IMPACT

WILD OAKS PHASE 2 Maintenance Costs	\$18,570
BANKRUPTCY/LEGAL COSTS	\$10,000
	<hr/>
ANNUAL COST	\$28,570
COST/UNIT (1901)	\$15.02

**\$15.00 OF INCREASE DUE TO LANDMAR**

# **Exhibit D**





Grand Haven c. d d

FAX 904 436-6277  
Tel: 904 436-6270

Melissa Dobbins  
District Manager

Rizzetta & company INC  
2806. N. FIFTH STREET unit 403  
ST Augustine FL 32084  
August 17th 2009

Grand Haven community  
Development  
29 Marlin DR  
a Single family lot  
FLASHER County

I Nisha Shakur Responding on Behalf  
for my Husband Danny Shakur about the hearing on August  
20th about 2009. The property he owned we would like to  
voice our opinion about all additional increase it is  
very difficult for us not able to sell any property with  
the crisis and the economy we are senior citizen and  
he is disable he had surgery with 8 screws and a steel  
Plate on his foot I have a Heart condition and we  
more to assist our children they are in the arm forces  
our sons and Daughter in law went to the Middle east  
I do hope that I can get some kind of assistant  
from the Boords members or the District Manager  
Please take a few minutes of your time and  
consider our letter we are on a fix income  
I my self have a financial crisis I would like some  
information if I can get accomodation at this  
hearing the property value is not there it is lower  
than the assessed value if we can get the government  
to Buy Back and pay us the price we paid we Be  
glad to do so my contact No is 702 685-7230  
I made 2 phone call and did it <sup>8/14/09</sup> <sub>8/16/09</sub>  
hear from anyone call Back on 8/17/09  
and Replying

Thank you  
Danny Shakur

TAX Folio# 16-11-31-5921-00000-0050

# **Exhibit E**

**GRAND HAVEN MEETING ATTORNEY REPORT LIST (8/20/09)  
(UPDATED)**

**1. DEVELOPER BANKRUPTCY**

Since our last meeting, the Debtor filed a motion for authority to sell property free and clear of liens. This is a typical order in a bankruptcy, but does not work well in districts where there are outstanding installments of assessments due for several years. I wrote a letter (attached) to Debtor's counsel explaining the issue. As a result, the order granting the motion included language that I supplied. (See page 7 of the attached).

**2. R.A. SCOTT LITIGATION UPDATE**

In the past few days I have received correspondence and a call from the attorney for R.A. Scott seeking to move this case forward by scheduling an arbitration. We are discussing the timing and procedure for this, but it appears that we will now be forced to take on the defense of this action since the Developer is in Chapter 11. I will have further updates on this matter

**3. DISTRICT MANAGER INTERVIEWS**

The District Manager contract discussion will move forward at the next meeting. I will bring the rankings produced by each board member.

**4. SOLAR FIT LETTER**

I sent the attached letter to this contractor at the board's direction from the last meeting.

**5. WILD OAKS REQUISITIONS**

After the last meeting, it came to my attention that the Developer had forwarded to the District a requisition to be paid from the 2004 Bond funds for work that Cline performed on the damaged weir. I expressed to the District Manager my opinion that the Board had requested all requisitions from that Bond issue to come before the Board for discussion, rather than being handled in the manner that was previously done, in which the requisitions merely came forward for ratification after the fact. My concern with this invoice is that there are insufficient funds in the 2004 Construction Fund to handle all of the anticipated claims. The Developer has an agreement to complete the costs of this phase in the event funds were not adequate. Given the Developer's financial condition, I think the requisition should be discussed. I believe it would not be advisable to pay further requisitions while the R.A. Scott matter is pending.



**IT IS HEREBY ADJUDGED and DECREED that the below described is SO ORDERED.**

**Dated: August 17, 2009**

*Craig A. Gargotta*

**CRAIG A. GARGOTTA  
UNITED STATES BANKRUPTCY JUDGE**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

-----X	
In re	: Chapter 11
	: :
CRESCENT RESOURCES, LLC, <i>et. al.</i> ,	: Case No. 09-11507 (CAG)
	: :
Debtors.	: Jointly Administered
	: :
-----X	

**ORDER PURSUANT TO SECTIONS 105, 363, AND 365 OF THE BANKRUPTCY CODE AUTHORIZING ASSET CONVEYANCES, PURSUANT TO CERTAIN CONVEYANCE PROCEDURES AND LIEN PROCEDURES, CLEAR OF ALL LIENS, CLAIMS, AND ENCUMBRANCES**

Upon the motion (the "Motion") of Crescent Resources, LLC ("Crescent Resources") and its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors in possession (collectively, the "Debtors"), seeking entry of an order, pursuant to sections 105, 363, and 365 of title 11 of the United States Code (the

“Bankruptcy Code”), authorizing (a) Asset Conveyances<sup>1</sup> pursuant to the applicable Conveyance Procedures, free and clear of liens, claims, and encumbrances; (b) the Debtors, in their discretion, to assume prepetition Asset Conveyance agreements and related Executory Contracts in accordance with the Conveyance Procedures; and (c) the Debtors, in their discretion, to establish procedures to satisfy Liens out of the proceeds of Asset Conveyances and in compliance with the DIP Agreement, all as more fully described in the Motion; the Court having reviewed the Motion; and the Court having jurisdiction to consider the Motion and grant the requested relief in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and the Debtors having provided notice of the Motion and Hearing (as defined below) to the Notice Parties; and the Court having held a hearing to consider the requested relief (the “Hearing”); and upon the record of the Hearing, and all of the proceedings before the Court, the Court finds and determines that the requested relief is in the best interests of the Debtors, their estates, creditors, and all parties in interest; the Debtors have provided due and proper notice of the Motion and Hearing and no further notice is necessary; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED that the Motion, as modified herein, is granted; and it is further

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<sup>1</sup> Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Motion.

ORDERED that the relief granted herein shall not affect, supersede, or in any way modify the terms of and the obligations of the Debtors' under the Cash Collateral/DIP Order or the DIP Agreement. Nothing herein shall operate or be construed to prejudice the rights of the DIP Agents (as defined in the Cash Collateral/DIP Order) and DIP Lenders (as defined in the DIP Agreement) under the DIP Agreement or the Cash Collateral/DIP Order, or prejudice the rights of the Pre-Petition Secured Lenders (as defined in the Cash Collateral/DIP Order) under the Cash Collateral/DIP Order; and it is further

ORDERED that the Debtors are authorized, but not directed, to enter into Asset Conveyance agreements, to perform under existing Asset Conveyance agreements, to take any reasonable actions that may be necessary to effectuate closings under Asset Conveyance agreements, including modifications of prepetition Asset Conveyance agreements, and assumptions of prepetition Asset Conveyance agreements and related Executory Contracts, and to close and effectuate Asset Conveyances, whether through a public or private sale, assumption, auction, or otherwise,<sup>2</sup> and pursuant to the appropriate Conveyance Procedures and in compliance with the DIP Agreement (if applicable to the subject Debtors) and the Cash Collateral/DIP Order, and pay all applicable Transaction Costs, without further notice or order from this Court; provided, however, that the Debtors shall only conduct a (a) Non-Noticed *De Minimis* Conveyance in adherence with the Non-Noticed *De Minimis* Conveyance Procedures and only for (i) real property

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<sup>2</sup> In each case, the Debtors will comply with applicable requirements under the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules for the Western District of Texas in respect of any conveyances.

Assets priced equal to or less than \$1 million and not in the ordinary course of business and (ii) personal and intangible property Assets priced equal to or less than \$500,000; (b) Limited-Notice *De Minimis* Conveyance in adherence with the Limited-Notice *De Minimis* Conveyance Procedures and only for Assets priced more than \$1 million but less than \$10 million; (c) Fully-Noticed Conveyance in adherence to the Fully-Noticed Conveyance Procedures and in compliance with the DIP Agreement and only for Assets priced more than \$10 million but less than \$25 million; and (d) conveyance for Assets priced in excess of \$25 million pursuant to individual 363 Conveyance Motions that will be filed with the Court in each instance; and it is further

ORDERED that notwithstanding the corresponding definition in the Motion, a Non-Noticed *De Minimis* Conveyance will be defined as an Asset Conveyance, whether through public or private sale, assumption, auction, or otherwise that involves (i) real property Assets priced equal to or less than \$1 million and not in the ordinary course of business and (ii) personal and intangible property Assets priced equal to or less than \$500,000; and the Non-Noticed *De Minimis* Conveyance Procedures for such Non-Noticed *De Minimis* Conveyances shall remain as set forth in the Motion and are authorized under this Order; and it is further

ORDERED that notwithstanding the corresponding definition in the Motion, a Limited-Notice *De Minimis* Conveyance will be defined as an Asset Conveyance, whether through public or private sale, assumption, auction, or otherwise that involves Assets priced more than \$1 million but less than \$10 million; and the Limited-Notice *De Minimis* Conveyance Procedures for such Limited-Notice *De Minimis*

Conveyances shall remain as set forth in the Motion and are authorized under this Order; and it is further

ORDERED that the Debtors will provide to (i) the Official Unsecured Creditors Committee and (ii) counsel to each of the DIP Agents, a weekly report (the "Weekly Report") detailing (i) a list, by Debtor, of pending and closed Asset Conveyances for the preceding week (the "Asset Conveyance List"), (ii) the public listing price (the "List Price") of each Asset on the Asset Conveyance List to the extent a List Price exists, or the net book value of the Asset to the extent a List Price does not exist with respect to the respective Asset, and (iii) the gross and net proceeds received for each closed Asset Conveyance; and it is further

ORDERED that following the entry hereof and in addition to any reporting required under the DIP Agreement, the Debtors will file a report every month (the "Monthly Sale Report") with their monthly operating reports, which Monthly Sale Report will provide the following information with respect to each Asset Conveyance that has closed in the preceding month:

- a description of the Assets that were the subject of the Asset Conveyance and their location;
- the identity of the Debtor conveying the respective Asset;
- the identity of the non-Debtor party or parties to the Asset Conveyance and any relationships of the party or parties with the Debtors; and
- the net proceeds received from the Asset Conveyance;

and it is further;

ORDERED that notwithstanding the foregoing, with respect to any Asset Conveyance that seeks to sell, transfer, assign or otherwise dispose of either (i) the



Debtors' direct or indirect interest in the joint venture with John Hancock Life Insurance Company (U.S.A.) ("John Hancock") known as Phipps Tower Associates, LLC ("Phipps IV"), or (ii) the Debtors' direct or indirect interest or management role in the Phipps Tower project located in Fulton County, Georgia, (each a "Phipps Conveyance"), the Debtors will provide counsel to John Hancock prior notice of such proposed Phipps Conveyance and an opportunity to object to such proposed Phipps Conveyance in accordance with the appropriate Conveyance Procedures; and it is further

ORDERED that notwithstanding the Conveyance Procedures set forth in the Motion and granted in this Order, in the event that the Debtors seek to consummate a non-ordinary course Asset Conveyance related to The River Club project in Suwanee, Georgia (the "River Club"), the Debtors will provide counsel to the River Club Members Association, LLP (i) notice of the proposed River Club Asset Conveyance; (ii) an opportunity to object to such proposed River Club Asset Conveyance; and (iii) if necessary, an opportunity for hearing; and it is further

ORDERED that, pursuant to section 363(f) of the Bankruptcy Code, all Asset Conveyances shall be free and clear of all liens, claims, and encumbrances, without limitation, all Mechanics' Liens and Lenders Liens, whether asserted or unasserted, known or unknown (collectively, "Liens"), if any, with any and all valid and perfected Liens to attach to net proceeds of the conveyance with the same validity, priority, force, and effect those Liens had on the Asset immediately prior to the conveyance (and in an amount not to exceed the proceeds of such conveyance), including, if appropriate for a transaction, by escrow of proceeds with a title company or similar entity, and subject to the rights, claims, defenses, and objections, if any, of the Debtors and all interested

parties with respect to any asserted Liens; and for the avoidance of doubt, notwithstanding any other provision in this Order, ad valorem and non ad valorem tax claims owed with respect to the Asset conveyed will be satisfied directly from the proceeds of the closing; and it is further

ORDERED that notwithstanding the Lien Procedures set forth in the Motion and this Order, any Asset, subject to valid and enforceable community development district (the "CDD") liens (the "CDD Liens") on which the CDD imposes yearly assessments or assessment installments (the "CDD Assessments") under Chapter 170 and Chapter 190 of the Florida Statutes (*see* Fla. Stat. §§ 170 and 190.021(9) (2009)), will not be conveyed to a purchaser free and clear of such CDD Liens, and such CDD Liens will remain in force and effect and will run with the land upon any Asset Conveyance; and it is further

ORDERED that, upon the closing of an Asset Conveyance, to the extent a CDD Assessment is past due with respect to the Asset subject to such Asset Conveyance, the Debtors will pay that portion of the CDD Assessments relating to such Asset, which are known, and validly due, and owing for that calendar year (and any prior period) out of the sale proceeds of such Asset Conveyance; however, the purchaser of such an Asset will assume the obligation at closing to pay the portion of the CDD Assessments from the closing date forward, including, (i) payment of a CDD Assessment in the year that the Asset Conveyance closed if, at the time of closing, the CDD had not yet assessed the Asset for the yearly CDD Assessment and (ii) payment for all future CDD Assessments with respect to the Asset conveyed that will come due in subsequent calendar years, and so long as that purchaser owns the Asset; and it is further

ORDERED that for an avoidance of doubt, to the extent that any Asset in the state of Florida is encumbered by a valid and enforceable assessment certificate (the "Certificate"), which Certificate encumbers such Asset with the same priority as an ad valorem property tax lien, the Debtors shall pay that portion of the Certificate, relating to the Asset, that is owed to the certificate holder out of the sale proceeds; and it is further

ORDERED that, the Debtors and any intermediary financial institution participating in any Asset Conveyances are authorized to transfer title, deed property, and take any other actions as may be necessary to transfer the ownership and/or interest to the Debtors' buyers; and it is further

ORDERED that, the holders of any mortgage or lien under the Debtors' prepetition secured financing facilities are directed to deliver partial releases and other instruments reasonably requested by the Debtors evidencing releases of the Lender Liens upon the request and at the expense of the Debtors as required under the terms of the applicable prepetition financing agreements to the extent such a request is in accordance with the Cash Collateral/DIP Order and the DIP Agreement; and it is further

ORDERED that, the Debtors' title insurance agents and underwriters are authorized to provide title insurance without exception, notwithstanding any statutory, regulatory or underwriting requirements for the delivery of owner's affidavits, a "gap affidavit" or other documentation ordinarily required by title insurance companies to provide such coverage; and it is further

ORDERED that, title agents and title insurance underwriters may rely upon the filing of a copy of this Order in each county where the Debtors are conveying Assets subject to this Order, to issue their title policies on Assets located within each such

county without exception to the Mechanics' Liens and Lender Liens, whether asserted or unasserted, known or unknown; and it is further

ORDERED that, the Debtors are authorized to hold and use the proceeds of Asset Conveyances in accordance with the DIP Agreement and the Cash Collateral/DIP Order, subject to the terms set forth herein, and any intermediary financial institution or transfer agency participating in the closing of an Asset Conveyance pursuant to this Order is authorized to transfer such proceeds to the Debtors to be held by them; and it is further

ORDERED that, Mechanics' Lien Claims secured by valid and enforceable Mechanics' Liens shall be deemed secured claims against the Debtors to the extent of, and shall attach to, the proceeds from the Asset Conveyance on the subject Asset, as applicable, with the same priority in such conveyance proceeds as such Mechanics' Lien Claims had against the applicable Asset transferred; and it is further;

ORDERED that, no Mechanics' Lien Claimant shall have any claim against the Debtors' title insurance agents or underwriters or any purchaser of an Asset with respect to any asserted Mechanics' Lien or other claim or interest relating to any Asset sold pursuant to this Order; and it is further

ORDERED that, with respect to each Asset Conveyance, the Debtors will satisfy Mechanics' Lien Claims to the extent of the corresponding Mechanics' Lien in accordance with the priority thereof and only from the proceeds of the applicable Asset Conveyance within ten (10) business days after determining that such Mechanics' Lien Claims: (i) are reflected in the Debtors' books and records; or (ii) the Debtors determine

that such Mechanics' Lien Claims are either valid or would be more costly to dispute; and it is further

ORDERED that, any Mechanics' Lien Claimant which believes it has a valid Mechanics' Lien against a particular Asset owned or conveyed by the Debtors and whose asserted Lien has not been paid or addressed by the Debtors under the procedures set forth above (an "Incipient Mechanics' Lien Claim") may send a written demand for payment (a) setting forth the location(s) of the Asset sold, (b) stating the amount of its asserted claim(s), (c) describing, with particularity, the reason(s) the Mechanics' Lien Claimant believes it has a valid Mechanics' Lien against the individual property being sold, and (d) attaching documentation (i.e., invoices or purchase orders) or other information sufficient to demonstrate that a valid Mechanics' Lien Claim exists with respect to such property or existed as of the Closing Date with respect to such Asset (a "Demand"). If any Mechanics' Lien Claimant exercises its rights under this paragraph and sends a Demand, the Mechanics' Lien Claimant is no longer required to take any steps that may be required under applicable non-bankruptcy law to obtain, record, or perfect a lien and the lien will not be determined to be invalid solely as a failure to take such steps; and it is further

ORDERED that, the Demand must be mailed to (i) the Debtors at the following addresses: (a) Crescent Resources, LLC, 400 South Tryon Street, Charlotte, North Carolina 28285, Attn: Kevin H. Lambert; (b) Weil, Gotshal & Manges LLP, 200 Crescent Court, Suite 300, Dallas, Texas 75201, Attn: Martin A. Sosland, Esq. and Michelle V. Larson, Esq.; and (c) Hohmann, Taube & Summers, LLP, 100 Congress Avenue, Suite 1800, Austin, Texas, 78701, Attn: Eric Taube, Esq.; and (ii) the advisors

to Prepetition Administrative Agent, Moore and Van Allen PLLC, 100 North Tryon Street, Suite 4700, Charlotte, NC 28202, Attn: Alan W. Pope, Esq.; and it is further

ORDERED that, unless the parties mutually agree otherwise, all Demands must be submitted within thirty (30) days from the date on which the Debtors file the Monthly Sale Report, reflecting the conveyance of an Asset on which an Incipient Mechanics' Lien is asserted. The Debtors must respond to each Demand within fifteen (15) business days after receipt of the Demand with a copy to all parties set forth in the paragraph above. If the Debtors determine that a Demand is valid or that disputing the Demand will be more costly than honoring the Demand, the Debtors may pay the Incipient Mechanics' Lien Claim reflected in the Demand after consultation with the Pre-Petition Bank Agent and the DIP Agents (each as defined in the Cash Collateral/DIP Order), without further order of the Court; and it is further

ORDERED that, if the Debtors dispute the validity or extent of the Incipient Mechanics' Lien Claim asserted in the Demand, the parties shall negotiate in good faith to resolve the dispute. If the Debtors resolve the dispute at a lower value than the amount reflected in the Demand, the Debtors may pay such amount without further order of the Court. If the dispute is not resolved within thirty (30) days after receipt of the Demand (the "Demand Resolution Period"), either party may seek a determination from the Court (a "Demand Resolution Proceeding") as to the validity and extent of the underlying Lien. Any Demand Resolution Proceeding shall be heard at the Court's next regularly scheduled omnibus hearing date (in accordance with any case management procedures, including notice requirements, then in effect), or as agreed by the Debtors and the holder of the Incipient Mechanics' Lien Claim; *provided* that if the Debtors

determine during the Demand Resolution Period that the Demand is not likely to be resolved, the Debtors may commence a Demand Resolution Proceeding at any time before the expiration of the Demand Resolution Period and may seek an expedited hearing with respect thereto; and it is further

ORDERED that, upon entry of a final non-appealable Order that the Debtors are required to satisfy an Incipient Mechanics' Lien Claim asserted in a Demand, the Debtor shall pay such Incipient Mechanics' Lien Claims, to the extent of the proceeds of the conveyance of the underlying Asset, within ten (10) business days of the date of entry of such final, non-appealable Order resolving the Demand Resolution Proceeding; and it is further

ORDERED that, subject to the Cash Collateral/DIP Order, the Debtors shall not be required to escrow any Asset Conveyance proceeds due to unresolved Demands; provided that, the Debtors maintain cash proceeds in an aggregate amount sufficient to satisfy all Demands against conveyed properties that have been received but that remain unresolved; provided further, that (a) in no event shall the Debtors be required to maintain cash on hand for unresolved Demands in an amount greater than the purchase price for a particular Asset, and (b) with respect to any Demand that asserts an Incipient Mechanics' Lien applicable to more than one Asset, the Debtors shall be required to reserve only for the portion of the Mechanics' Lien Claim allocable to the particular Asset or Assets conveyed pursuant to this Order; and it is further

ORDERED that, the Debtors are authorized to satisfy any Mechanics' Liens from the proceeds of the Asset Conveyances according to the Lien Procedures set forth in this Order; and it is further

ORDERED that, all Mechanics' Lien Claimants paid pursuant to the terms of this Order are directed, upon receipt of payment and at the request of the Debtors, to provide documentation evidencing the release of their Mechanics' Lien Claims; and it is further

ORDERED that, no payment made pursuant to the terms of this Order is intended or should be construed as an admission to the validity or extent of any Mechanics' Lien Claim against the Debtors or a waiver of any rights of the Debtors or other party in interest to dispute the validity or extent of any Mechanics' Lien Claim as provided in this Order; and it is further

ORDERED that, all financial institutions are directed to receive, process, honor, and pay all checks presented for payment and electronic payment requests relating to the relief granted in this Order; and it is further

ORDERED that any party acquiring Assets from the Debtors pursuant to the relief granted in this Order shall be entitled to the protections afforded by section 363(m) of the Bankruptcy Code in the event of a reversal or modification on appeal of this Order; and it is further

ORDERED that all Asset Conveyances shall be binding upon and shall govern the acts of all parties and entities including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any



title or state of title in or to any of Asset conveyed pursuant to this Order; and each and every federal, state, and local governmental agency or department is hereby directed to accept this Order as sole and sufficient evidence of the transfer of title to any particular party, and such agency or department shall rely upon this Order in consummating the transactions contemplated hereby; and it is further

ORDERED that, to the extent applicable, the Debtors are authorized to assume prepetition Asset Conveyance agreements and related Executory Contracts pursuant to section 365 of the Bankruptcy Code provided that the Conveyance Procedures are adhered to in each instance and in accordance with the terms of this Order; and it is further

ORDERED that, to the extent applicable, the 10-day stay of Bankruptcy Rules 6004(h) and 6006(d) are hereby waived, and this Order shall be effective immediately, and Asset Conveyances, Conveyance Procedures, and assumption of prepetition Asset Conveyance agreements and related Executory Contracts shall be deemed to be authorized, pursuant to the terms of this Order and no further or additional waivers of the 10-day stay of Bankruptcy Rules 6004(h) and 6006(d) shall be required for the Debtors to consummate an Asset Conveyance or assume a prepetition Asset Conveyance agreement or related Executory Contract, subject to compliance with the notice and other Conveyance Procedures set forth in the this Order; and it is further

ORDERED that the relief granted in this Order shall not apply to any sale or other conveyance of any interest relating to the Palmetto Bluff Development in the Town of Bluffton, Beaufort County, South Carolina or the real property therein or relating thereto ("Palmetto Bluff Properties"), and the Palmetto Bluff Properties are

excluded from the terms of this Order but remain subject to the *Order Authorizing the Debtors to (I) Assume Certain Prepetition Contracts and to Continue to Enter into Contracts to Sell Home Lots, Condominiums, Outparcels, and Certain Parcels of Land Free and Clear of Liens, Claims, Encumbrances, and other Interest in the Ordinary Course of Business, (II) Pay Sale Agents and Certain Developers their Commissions and Fees, and (III) Establishing Procedures for the Resolution and Payment of Lien Claims* (dated June 25, 2009, Dkt. No. 116); and it is further

ORDERED that this Court shall retain jurisdiction over any and all matters arising from the interpretation or implementation of this Order.

###

**CLARK &  
ALBAUGH, LLP**  
ATTORNEYS & COUNSELORS AT LAW

SCOTT D. CLARK  
MITCHELL E. ALBAUGH\*  
R. TRAVIS RENTZ

655 W. Morse Boulevard, Suite 212  
Winter Park, Florida 32789  
Telephone 407-647-7600  
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\* BOARD CERTIFIED CONSTRUCTION LAWYER

July 30, 2009

Eric J. Taube, Esq.  
HOHMANN, TAUBE &  
SUMMERS, L.L.P.  
100 Congress Avenue, Suite 1800  
Austin, Texas 78701

**RE: In Re: CRESCENT RESOURCES, LLC, et al.  
Chapter 11 Case No. 09-11507-cag Jointly Administered  
Claims of Community Development Districts**

Dear Mr. Taube:

I act as counsel to Grand Haven Community Development District ("District"), which is an independent special district established under Chapter 190, Florida Statutes, and is a creditor in the above-styled case.

I write to initiate a discussion with you about a problem arising from your motion for entry of an order approving procedures for the conveyance of the Debtors' assets (Doc #209; hereinafter, the "Motion"). In paragraph 32, the Motion proposes that all Assets be sold "free and clear of all liens, claims, encumbrances, and other interest." Then, in paragraph 33, it proposes that valid and enforceable Mechanic's Liens "be deemed secured claims against the Debtors up to the amount of the conveyance proceeds on the subject Asset" and that ad valorem and non ad valorem taxes claims with respect to an Asset conveyed be satisfied directly from the proceeds of the sale. Any such Asset located within the District sold pursuant to your proposal would not be free and clear and that presents a problem for the District.

The District has issued bonds in separate series, which are secured by special assessments adopted pursuant to Chapter 190 and Chapter 170, Florida Statutes. The assessments are payable over a number of years.

Based on the above proposal, I believe that my client is compelled to consider its claims to collect assessment installments on the bonds would be compromised, and will be forced to look to the sales proceeds for full payment of those assessments. I will elaborate below as to my reason for this belief.

**Eric J. Taube, Esq.**  
**July 30, 2009**  
**Page Two**

The effect of this portion of the Motion is that liabilities which were to have been assumed by the purchasers of homes with respect to the bond assessments will now become a charge against the Debtors' estate. This will lessen the funds available to pay unsecured creditors or to pay secured creditors holding mortgages, which are inferior to the assessment liens. I do not believe this result was intended, and it does not appear to benefit any party other than the purchaser of the home.

I suspect that the intent of the Debtors is that assessment installments for the bonds would be placed on the tax roll for the years subsequent to the transfer of the home and would be charged to the purchaser in the same manner as would ad valorem real estate taxes. Therein lies the problem. It is clear that ad valorem tax liens are annual liens, which attach to real property as of January 1 of each year pursuant to FLA. STAT. §197.122(1). Because of this, the lien of taxes would not be affected by your proposal, since it attaches anew each year. However, Florida law is clear that special assessments and taxes are not the same and are governed by disparate rules. See *In re Olde Florida Investments, Ltd.*, 297 B.R. 848 (Bankrcty, M.D. Fla. 2003); *City of Gainesville v. State*, 863 So.2d 138 (Fla. 2003); *City of Boca Raton v. State*, 595 So. 2d 25 (Fla. 1992); *Duck Dog, L.C. v. Brownstar Properties, LLC*, 2008 WL 398811; 33 Fla. L. Weekly D522 (Fla. 2<sup>nd</sup> DCA, Feb. 15, 2008).

Under applicable state law, the special assessments adopted by the District became a lien on real property upon adoption of the final special assessment resolution by the board of supervisors. FLA. STAT. §170.08. At that time the special assessment lien came into existence. See *Duck Dog, L.C. v. Brownstar Properties, LLC*, 2008 WL 398811; 33 Fla. L. Weekly D522 (Fla. 2<sup>nd</sup> DCA, Feb. 15, 2008). Unlike the ad valorem taxes billed to the home purchasers subsequent to their closing, the special assessments are subject to the argument that they are pre-petition liens, which would be expressly released as to their homes under your proposed methodology. Because of this, the District is compelled to seek full payment of those assessments from the cash collateral generated by the home sales.

The purpose of this letter is to bring this issue to your attention in hopes that we can craft a solution which will eliminate my concerns. This might be accomplished by providing that the special assessments are not eliminated by the sales order. We have been able to handle similar issues in other Chapter 11 filings in this manner. In that regard, I look forward to speaking with you on this matter.

Sincerely



Scott D. Clark

SDC/

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† BOARD CERTIFIED CONSTRUCTION LAWYER

Bill Gallagher  
President, Solar-Fit  
1523 Ridgewood Avenue  
Holly Hill, FL 32117

RE: Grand Haven Community Development District/ Solar Bid Process

Dear Mr. Gallagher:

I received your letter dated June 24, 2009 and discussed it with the Board of Supervisors for Grand Haven Community Development District. I wanted to further explain the process before the Board going forward.

Please understand that the Board has not determined that your company is not able to perform this project. The Board's action merely reflects that, during the process of negotiating a contract, it became clear that there were issues about the installation that the Board had not been able to consider. Given that the Board has just made a considerable expenditure on the roofs involved, it was also clear that the Board would not be properly discharging its duties unless it received independent advice on the proper specifications and scope of work for this project. For that reason, the Board rejected all bids and is working on a scope of work in order to solicit new bids. Of course, your company will be welcome to participate in the new bid process.

To the extent that you believe or fear that the Board's action is a reflection on your company's reputation, please be advised that this fear is not founded on anything which the Board has said or done in this process, and the Board's actions have no reflection on your company.

Given the Board's direction in this matter, a further meeting between you and the Board at this time would not be appropriate. You will be advised in the future as to the opportunity to bid on the work.

Sincerely,



Scott D. Clark

# **Exhibit F**

## Operations Manager's Report 8/20/09

CDD Insurance deductibles

Propane service – update

Marlin Drive expansion project - update

Waterside parkway paving project - update

- Paving & punch list complete & inspected by engineer
- Paver repairs need to be done - not part of original contract
- Crosswalk striping needs to be done - not part of original contract

Update on spare gate parts list

Wild Oaks phase II

- Landscape repair - update
- Spillway erosion issues
- Coquina path erosion issues
- Stormwater drainage issues

Pond treatment update & options

Community storm erosion issues

1. Osprey circle storm water drain collapse
2. Jasmine (Boardwalk entrance) erosion
3. Esplanade erosion @ North Front Street
4. Coquina path erosion @ Front Street
5. South Lake pond #19 - mitered end section erosion

# **Exhibit G**



**GRAND HAVEN LIFTMASTER GATE & DOOR KING ACCESS CONTROL SYSTEM STOCK**

ITEM #	ITEMS COMPATABLE IN THE FOLLOWING GATES - N = NORTH, M = MAIN, S = SOUTH, C = CROSSINGS, WO = WILD OAKS	DESCRIPTION	COST	SUGESTED STOCK QUANTITY	COST FOR SUGGESTED STOCK QUANTITY	QUANTITY NEEDED FOR DESIRED STOCK	COST OF QUANTITY NEEDED FOR DESIRED STOCK
MS001UL	N,M,S,C & WO	Main Board for Mega swing gate operator	\$300.00	1	\$300.00	1	\$300.00
1837010	N,M,S,C & WO	Control Board DKS large display (PHONE BOARD)	\$1,300.00	1	\$1,300.00	1	\$1,300.00
DSP-7	N,M,S,C & WO	DSP-7 Loop Detector	\$160.00	2	\$320.00	0	\$0.00
DSP-10	N,M,S,C & WO	DSP-10 Loop Detector	\$160.00	2	\$320.00	1	\$160.00
BI-155	N,M,S,C & WO	Xformer 16vac/20va	\$20.00	4	\$80.00	2	\$40.00
SK029W	N,M,S,C & WO	Touch plate card reader format 60 - Version 3.50	\$600.00	1	\$600.00	1	\$600.00
1895016	N,S,C & WO	DKS keypad for 1837	\$130.00	1	\$130.00	1	\$130.00
1896012	N,S,C & WO	DKS 1837 display	\$500.00	1	\$500.00	1	\$500.00
MA003M	N,M,S,C & WO	Mega tower/swing drive motor	\$310.00	1	\$310.00	0	\$0.00
MA005	N,M,S	Mega tower gear box	\$600.00	1	\$600.00	0	\$0.00
pc1270	N,M,S,C & WO	12v LM battery	\$50.00	4	\$200.00	0	\$0.00
8056-080	N,M,S,C & WO	Receiver - DKS 8056	\$165.00	1	\$165.00	1	\$165.00
MA010	N,M,S	Mega arm bracket to barrier	\$90.00	1	\$90.00	0	\$0.00
	M,C	Photo eye	\$250.00	1	\$250.00	0	\$0.00
	N,S,C & WO	SOS	\$500.00	2	\$1,000.00	1	\$500.00
	C,W,O	Arm Assembly for a Liftmaster Swing gate operator	\$300.00	1	\$300.00	1	\$300.00
	C,W,O	LIFTMASTER Swing gate operator	\$2,250.00	0	\$0.00	0	\$0.00
	N,M,S	LIFTMASTER Mega Tower (Main, North & South gates)	\$2,750.00	0	\$0.00	0	\$0.00
SW005	C,W,O	SWING GATE GEAR BOX	\$930.00	1	\$930.00	1	\$930.00
<b>TOTALS</b>			<b>\$11,365.00</b>	<b>26</b>	<b>\$7,395.00</b>	<b>12</b>	<b>\$4,925.00</b>

<b>NOTES</b>	<b>DOES NOT INCLUDE PARTS FOR THE TWO REMAINING DOOR KING TOWERS WE HAVE AT THE NORTH</b>
	Prices are as of 6/22/09

# **Exhibit H**



**Grand Haven's Director of Amenities  
CDD Report-Howard McGaffney (Mac)  
CDD Meeting Thursday, August 20, 2009**

**STAFFING**

- **Bill Goudy - V.P. in charge of G.H. Amenities and Waterside Café**
- **Howard (Mac) McGaffney – Director of Amenities**
- **Trisha Mon – Asst. Director of Amenities**
- **Rhonda Leandro – Café and Banquet Manager**
- **Rob Heard – CPO**

**POOLS AND SPAS**

- Light burned out in Village Center Pool, waiting on new bulb.

**FITNESS CENTERS**

- No report at this time

**TENNIS COURTS**

- We continue to monitor the tennis courts after heavy rains and washouts. Last Friday we received 6 inches of rain in only a couple hours. Rob used 8 bags of top clay and rolled courts and treated for algae during the recovery processes over the past 2 weeks.

**BASKETBALL, SOCCER**

- Repair/Replace crack in the Basketball Court
- Would like to repaint and reline basketball courts as a part of planned maintenance.

**BOCCE BALL COURT, CROQUET COURTS, SHUFFLE BOARD**

- Because of the Rains we have had to hold off on scheduling to repaint the croquet wickets, wood around Bocce Courts and the shuffle board court.

**HORSE SHOE PITS**

- No reports at this time

**GRAND HAVEN ROOM**

- Received quote on the annual stripping and waxing needed in the Grand Haven Room.

**WATERSIDE CAFÉ**

- Passed Health Inspection
- Installed new bar coolers. Need to call D.G. Meyer to come and pickup old units with Freon still remaining in their tanks.

## **OTHER ITEMS TO REPORT**

- The Grand Haven Olympics went very well despite the scorching heat.
- Hawaiian Luau is planned for Sept. 5<sup>th</sup>.
- I am working on better communications and planning to assist the C.E.R.T. team and partner with the community.