

**MINUTES OF MEETING  
GRAND HAVEN  
COMMUNITY DEVELOPMENT DISTRICT**

A Regular Meeting of the Grand Haven Community Development District's Board of Supervisors was held on **Thursday, August 20, 2015** in the **Grand Haven Room, Grand Haven Village Center, 2001 Waterside Parkway, Palm Coast, Florida 32137** at **10:00 a.m.**

**Present at the meeting were:**

Dr. Stephen Davidson	Chair
Peter Chiodo	Vice Chair
Marie Gaeta	Assistant Secretary
Tom Lawrence	Assistant Secretary
Ray Smith	Assistant Secretary

**Also present were:**

Craig Wrathell	District Manager
Rick Woodville	Wrathell, Hunt and Associates, LLC
Howard McGaffney	Wrathell, Hunt and Associates, LLC
Scott Clark	District Counsel
Jim Sullivan	District Engineer
Barry Kloptosky	Field Operations Manager
Robert Ross	Vesta/AMG
Ashley Higgins	Grand Haven CDD Office
Harold Jurgensen	Resident
Pat Maloney	Resident
Residents	

**FIRST ORDER OF BUSINESS**

**CALL TO ORDER/ROLL CALL**

Mr. Wrathell called the meeting to order at 10:03 a.m., and noted, for the record, that all Supervisors were present, in person.

**SECOND ORDER OF BUSINESS**

**PLEDGE OF ALLEGIANCE**

All present recited the Pledge of Allegiance.

**THIRD ORDER OF BUSINESS**

**PUBLIC COMMENTS (*3-Minute Rule; Non-Agenda Items*)**

Mr. Harold Jurgensen, a resident, presented information on trees and shrubs and provided a handout. He discussed damage that trees and shrubs can cause. Mr. Jurgensen advised that the U.S. Department of Agriculture and U.S. Forest Service developed standards that other agencies must comply with. He stated that live oak, elm and magnolia trees should be planted at least 30' away from any man-made structures. Mr. Jurgensen explained that a tree's root system serves two purposes: to obtain water and nutrients and to anchor it. He voiced his opinion that the District must address the tree root issue because, if not, it would result in a lot of root damage to individual property owners' property.

**FOURTH ORDER OF BUSINESS**

**CONSENT AGENDA ITEMS**

Mr. Wrathell presented the Consent Agenda Items for the Board's consideration.

**A. MINUTES**

**i. Approval of July 16, 2015 Regular Meeting**

**B. UNAUDITED FINANCIAL STATEMENTS**

**i. Approval of Unaudited Financial Statements as of June 30, 2015**

Mr. Wrathell indicated that assessment revenue collections were at 101%.

Supervisor Gaeta pointed out that "Community maintenance", on Page 4, was at 135%. Mr. Wrathell noted that the "Community maintenance" line item was increased to \$75,000 in the proposed Fiscal Year 2016 budget. Supervisor Gaeta questioned why "Water – Creekside", on Page 3, was at 292%. Mr. Kloptosky stated that it was related to the usage issue; he will present the amended agreement later in the meeting. It was confirmed that part of the costs were related to payment of the \$8,000 fee imposed by the City. Mr. Wrathell advised that the "Electric – Creekside - #87064, 70333" line item was increased in the proposed Fiscal Year 2016 budget.

**C. Storm Water Right-of-Way Utility Easements Policy and Agreement Options**

Supervisor Smith referred to Item 2, on Page 2, of the Option 2 agreement.

Mr. Clark agreed with the following changes recommended by Supervisor Smith:

Option 2, Page 2, Item 2, Line 2: Change "District property" to "ROW/Easement"

Option 2, Page 3, Item 9, Line 2: Remove "within 30 days of execution of this Agreement"

**On MOTION by Supervisor Lawrence and seconded by Supervisor Chiodo, with all in favor, the Consent Agenda Items, including amendments to the Option 2 agreement, as presented, were approved.**

## **FIFTH ORDER OF BUSINESS**

## **STAFF REPORTS**

### **A. District Engineer**

Mr. Sullivan expected work to commence soon on the Sailfish Drive project; permitting was cleared, the shop drawings for drainage were approved and the contractor is scheduling crews and equipment. He advised that the environmental permitting for the Creekside parking lot project was cleared and the contractor is completing the final pricing and scheduling for the project. Mr. Sullivan hoped to receive advance notice of commencement of each project.

Mr. Kloptosky stated that the permit application for the Creekside parking lot project will be submitted to City permitting.

Supervisor Lawrence asked Mr. Kloptosky to track each project, including the delays caused by the City and the extra costs incurred by the CDD due to the delays. He wanted to present the information to the new mayor to seek relief for the District.

Supervisor Gaeta suggested holding a “Candidates Night” and believed that only one person was running for mayor.

Supervisor Smith asked if the intent was for Mr. Kloptosky to provide information about delays on past projects. Mr. Kloptosky stated that he did not have documentation on past projects but could try to recall the delays and issues caused by the City. Supervisor Chiodo suggested that Mr. Kloptosky focus on the prominent projects. Supervisor Gaeta noted that the courts should be included. Mr. Sullivan will provide Mr. Kloptosky information about delays and the additional engineering costs incurred.

### **B. Amenity Manager**

Mr. Ross received a request to rent the Grand Haven Room on Sunday, August 30, 2015, for a Democratic fundraiser. The Board confirmed that the room could be rented for that purpose.

Mr. Ross received a request from a person to teach a computer class and one resident was interested in the class. The fee would be \$15 per person, per session. Supervisor Davidson recalled prior discussions about the Amenity Rules and, after much discussion, it was determined

that, if residents were willing to pay another resident for a service, the person collecting the fee would not be required to give 10% to the Amenity Manager. Supervisor Chiodo questioned if a class that only benefitted one resident was beneficial to the community and suggested establishing the minimum number of resident participants. Supervisor Smith pointed out that another room could be used, depending on the number of participants. Supervisor Gaeta was concerned about the computer teacher using the CDD's computer network, residents using their own computers and whether the teacher carried liability insurance. Supervisor Gaeta noted that the computer class information was posted on the "Grand Haven Next Door" website, which is viewed by other communities in Palm Coast, and questioned how the District could ensure that the class was for Grand Haven CDD residents, only. Supervisor Davidson found it interesting that, once posted, another individual stated that he was considering teaching classes at no charge. Supervisor Davidson recommended a signup sheet to gauge interest and specify that the class was only for Grand Haven residents. Mr. Ross questioned if the instructor should be required to have liability insurance. Supervisor Davidson felt that liability insurance was not necessary, as the class was not physical. Supervisor Chiodo thought that liability insurance might be needed if the CDD's network was used. Supervisor Smith pointed out that the instructor would use Wi-Fi. Supervisor Gaeta was concerned about dangers related to use of the CDD's network and setting up tables to hold class. Supervisor Smith felt that the Board should allow Mr. Ross to manage usage of the Grand Haven Room. Supervisor Davidson stated that, if a resident is teaching other residents, the room does not need to be rented.

Ms. Pat Maloney, a resident, pointed out that the computer class instructor wanted to use the Grand Haven Room on Mondays, from 5:30 p.m., to 7:00 p.m., and asked if the women's self defense and Neighborhood Watch meetings, which are always held on Monday nights, would have precedent over the computer classes. Supervisor Davidson indicated that the computer classes would be scheduled around the other activities.

### **C. Field/Operations Manager**

Mr. Kloptosky distributed an updated Capital Improvement Plan (CIP) projects list, which identified projects that commenced and were completed.

Supervisor Smith asked if the deteriorating, short, concrete roadways were added to the projects list. Mr. Kloptosky believed that those roadways were identified but not added to the list; funds were budgeted in the CIP for road repairs but those roads were not specified. Supervisor Smith doubted that the concrete roads were originally included. Supervisor Lawrence

confirmed that those roads were not originally included and recommended that the District Engineer reassess the road conditions because “the longer we can delay paving roads, the better we are”. Supervisor Lawrence voiced his opinion that the District should not commence road repairs based on a two to three-year old Engineer’s Report.

Mr. Kloptosky advised that The Village Center Grand Haven Room project, including duct, ceiling and fan work, commenced; the room will be closed beginning September 4, 2015 and remain closed for approximately three weeks. He felt that the estimated costs were still accurate. In conjunction with the room closure, Mr. Kloptosky wanted to paint and replace wall sconces.

Supervisor Gaeta questioned why the CIP projects list \$51,768 “Repair Osprey Circle drainage pipes – two locations” line item was underlined. Supervisor Lawrence could not recall why it was underlined; however, the project was completed and the amount was correct.

Mr. Kloptosky recalled that he delivered the irrigation fee check to the City and the executed, recorded copy of the agreement was received.

Mr. Kloptosky distributed a copy of a “final resolution” email, received from the County, regarding the citation for the trees in The Crossings. He indicated that the County viewed photographs and visited the site to check line-of-site obstructions. The County determined that the trees were not an obstruction; therefore, the District was not required to remove them. In response to a question about the \$50 fine, Mr. Kloptosky stated that the check was issued but he held it. He felt that the County did not expect payment of the fine, based on its “final resolution” determination; he will return the check to Management.

Mr. Kloptosky advised of issues with residents’ landscaping encroaching onto CDD property and presented photographs. He was concerned that the landscaping was installed without CDD permission and that it could create liability issues for the CDD. Mr. Kloptosky reviewed the photographs.

Discussion ensued regarding the encroachment areas. Mr. Wrathell stated that the resident should be notified that nothing can be placed on CDD property without the CDD’s permission. Management will mail a notification letter with a specified timeframe for removal of the encroachments.

Mr. Kloptosky reviewed photographs of encroachments at a location abutting an area cleared during the Firewise project. Due to the sensitivity of the area, Supervisor Davidson recommended that the resident remove the turf in that area but that the CDD allow everything

else to remain because it controls the visual and sound barrier. Supervisors Chiodo and Gaeta felt that allowing anything to remain would set precedence. Mr. Kloptosky confirmed that irrigation was also installed beyond the private property line. Supervisor Chiodo believed that the District Horticulturalist should make recommendations, if the area needs a visual and sound barrier. Supervisor Lawrence added that landscaping should be for the entire area and not for individual residents.

Mr. Kloptosky explained that, despite resident complaints about the appearance, typically, the District does not clean or maintain natural areas, unless they become a fire hazard. Supervisor Davidson summarized that the District Horticulturalist will evaluate the area and recommend landscape options. It was determined that the letter to the second resident should state that the District Horticulturalist will review the area and recommend options to improve the visual and sound barrier issues.

Mr. Kloptosky advised of property owners who are building a home and demanding that certain lake banks cleaned and cleared. The CDD office advised the property owners that the lake banks were their responsibility and their builder was responsible for cleaning behind the home. He noted that the Board directed him to meet with the property owners; however, he did not meet with them because they were not registered residents but, subsequently, they registered. Mr. Kloptosky indicated that the property owners proceeded, on their own, to trim and cut spartina grass, remove trees and leave stumps, not only on their property but all around the pond, including on private property and CDD property.

Supervisor Davidson asked how much of the cleared area was CDD common property.

Mr. Kloptosky identified the entire area as “CDD natural area”. Supervisor Davidson summarized that the property owners were not in compliance with Best Management Practices (BMPs) for their own lot, they trespassed on private property and trespassed on CDD property, which created a noncompliance issue for the CDD. Mr. Kloptosky pointed out that, during the clearing, the property owners disposed of the debris by stacking it in the natural area across the pond; the property owners were informed that they must remove the stacks of debris. The District Horticulturalist spoke to the homeowners and will work with the New Construction Architectural Design Committee (NCADC) to “make this right”, on the property owners’ land, prior to the home being allowed to close; however, the issues on the private and CDD property were another matter. Mr. Kloptosky indicated that the spartina grass might grow back but some

was pulled out. He noted that the same property owners cut down a tree in the pond without the CDD or the SFWMD's permission.

In response to Supervisor Chiodo's question, Mr. Kloptosky explained that the CDD has an easement around the lakes and installed the spartina grass; however, it is the property owners' responsibility to maintain to the water's edge. Supervisor Davidson indicated that the CDD owns a part of the pond bank, as part of the stormwater system but each property owner is obligated to maintain to the lake edge, including the portion owned by the CDD. Supervisor Lawrence questioned if the CDD could bill the property owners for replacement of the spartina grass.

Regarding the property owners' trespassing on CDD property, Mr. Clark stated that a "stern" letter should be sent regarding the trespass and the damage created. The District should determine the cost to repair and bill the property owners. Supervisor Lawrence contended that the CDD owns the lake bank strip around the lake; therefore, the CDD should assess the damage to all of the areas around the lake and bill the property owners that removed the spartina grass.

Supervisor Davidson directed Mr. Kloptosky to have the District Horticulturalist determine what is salvageable and the cost to replace the spartina grass that was removed and the trees that were cut down. In response to a question, he discussed the City's concerns about removal of natural trees in the Wild Oaks area and the process to remove natural trees, which involved evaluation by the City Horticulturalist.

Supervisor Smith pointed out that the District Horticulturalist must determine if removal of those trees would have been requested, anyway. Mr. Kloptosky will consult with the District Horticulturalist. Supervisor Smith asked if anyone saw the two property owners removing the spartina grass and trees. Mr. Kloptosky did not personally witness it but thought that others did. Supervisor Gaeta and Mr. Kloptosky believed that the property owners removed most of the landscaping themselves. Mr. Kloptosky stated that the property owners admitted to removing the landscaping themselves and recalled that these property owners attended a past meeting with numerous requests. Mr. Wrathell recommended that the District bill the property owners and, if they contest it, the District can secure its witnesses. Mr. Clark advised that the District should secure its witnesses first and document everything.

Supervisor Davidson reiterated that the first letter regarding encroachment should state that everything must be removed and the second letter should indicate that the turf and plantings

must be removed, at the owner's expense but the District Horticulturalist will evaluate the areas for visual and sound barrier options.

Mr. Kloptosky reported that a check for the balance due on the car accident insurance claim was received from the resident involved in the accident; the release will be signed, accepting the insurance claim portion.

Mr. Wrathell indicated that the District did not receive a letter or the check for the Condo Association lake bank repair reimbursement.

Mr. Kloptosky distributed a proposal from Aquatic Systems, Inc., for \$1,472, to stock 2,700 sun fish, otherwise known as shellcracker fish, in the ponds to treat midge flies on Ponds 1 and 2. In response to a question, he confirmed that Ponds 1 and 2 have a midge fly issue; however, the issues only last a few weeks, each year. Mr. Kloptosky noted that it takes several years before the fish mature enough to be effective.

Discussion ensued regarding midge fly season. In response to Supervisor Smith's question, Supervisor Gaeta confirmed that the midge fly condition improved compared to last year. The Board agreed to the proposal.

Mr. Kloptosky distributed a proposal from Web WatchDogs Surveillance Camera Systems (Web WatchDogs). He advised that four cameras at the tennis facility were broken, as well as broken underground lines; the lines were repaired twice, in the past. The \$5,225 Web WatchDogs proposal was to convert the system to wireless by installing a 16-point port DVR in the shed behind the tennis courts, with a wireless transmitter, replace all seven cameras and tie the system into The Village Center; the system could be viewed, remotely, as well. Mr. Kloptosky stated that the new cameras would be higher definition and provide better viewing than the current cameras, and transitioning to wireless would eliminate underground line repairs. He pointed out that the proposal states "8 camera DVD" but it should state "16 camera DVD".

**On MOTION by Supervisor Gaeta and seconded by Supervisor Davidson, with all in favor, the Web WatchDogs Surveillance Camera Systems proposal to convert the tennis court camera system to wireless, install a 16-point port DVR and wireless transmitter, replace seven cameras and tie the system into The Village Center, in a not-to-exceed amount of \$5,225, was approved.**



Mr. Kloptosky reported that staff pressure washed the curbs and gutters in the common areas on Waterside Parkway, Wild Oaks and The Crossings. He felt that pressure washing would be necessary at least once, each year. Mr. Kloptosky observed a demonstration of a pressure washing machine, for flat surfaces, which could cut the work time by 50%, and recommended purchasing the machine. He will present the proposal for consideration at the next meeting. The Board requested other quotes.

Regarding LED streetlights, Mr. Kloptosky recalled that 12 were retrofitted for the trial period; the electrician estimated a cost of \$104,729 to retrofit 483 streetlights to LED, which equates to \$216.83 per streetlight. He will provide a cost-benefit analysis at the next meeting but projected that the conversion cost would be realized in approximately two years, as the electricity cost-savings was approximately 67%, during the trial.

Discussion ensued regarding funding the project. Supervisor Lawrence advised that the project could be funded from the Fiscal Year 2016 CIP budget, as funds will be left over from the Fiscal Year 2015 CIP budget. Supervisor Chiodo noted the immediate cost savings due to lower electric bills. Mr. Kloptosky confirmed that the estimated cost included supplies and labor. Supervisor Lawrence asked how long it would take to complete the conversion. Mr. Kloptosky believed it would take a few weeks to complete the conversion.

Mr. Bob Hopkins, a resident, referred to inconsistencies in the number of streetlights listed on Pages 8 and 9 of the Fiscal Year 2016 budget. Mr. Kloptosky advised that streetlights might have been added, over the years, and the streetlights could have been miscounted. Supervisor Davidson directed Management to update the budget to state 495 streetlights. Mr. Hopkins questioned if the District would obtain additional bids or if it “was just going to take one guy’s bid”. Mr. Kloptosky stated that the bid was obtained from the electrician that performs all of the CDD’s work.

Mr. Ron Merlo, a resident, questioned obtaining only one bid. Mr. Kloptosky indicated that he “knows that the cost is good” because the materials compose the majority of the cost and the electrician’s proposed labor costs were very low. Mr. Kloptosky discussed a proposal from two or three years ago that was about \$240,000. Mr. Merlo pointed out that “This is not two or three years ago, this is today. I cannot understand that you are going to spend \$104,000, one bid” and indicated that he researched power washers last year and found a 3’ model for \$1,600, which was three times as fast as the one presented. Supervisor Davidson directed Mr. Kloptosky to obtain two or three competitive estimates for consideration at the next meeting.

Regarding the streetlight project, Mr. Kloptosky advised that the electrician would obtain equipment from an electrical supply company to retrofit the streetlights, which was included in the bid. Supervisor Chiodo asked if the electrician recommended by Mr. Kloptosky provided a warranty. Mr. Kloptosky stated that the LED bulbs have a five-year warranty.

**D. District Counsel**

Regarding the traffic signal bond, Mr. Clark received the documents requested from the County; the documents are under review but Mr. Clark did not have a final recommendation. He believed that the County had an aggressive plan for developments, to install traffic signals all along Colbert Lane, once it becomes four lanes. He saw no documentation or plans for the four-lane expansion. Mr. Clark felt that people would be “furious” if the County installed the number of traffic signals contemplated; several traffic studies suggested that so many signals were not warranted and a study from about one year ago found that the traffic signal is not currently necessary. He explained that the County forwarded the bond reimbursement request to the City but the City did not respond; he must try to convince the City to reply to the County, stating that the City analyzed Grand Haven’s traffic, through buildout, and accept the reports determining that a traffic signal was not necessary. Mr. Clark noted that the County could still maintain that it is their decision and not the City’s decision. He speculated that the County could be using the City’s lack of a response as an excuse. Mr. Clark theorized that the County might understand that the traffic signal is not currently necessary but might be someday and that the County wants the funds for projects not related to Grand Haven CDD. He voiced his opinion that the County should not use the District’s funds for other projects and the District’s argument should be that, after holding the funds for 17 years, the County should decide that they do not need to hold the money.

Mr. Clark recalled that he was working on a draft rule related to stormwater easement obstructions to formally enact a rule to buttress the District’s authority to take actions. He stated that, eventually a Notice of Rulemaking must be advertised. Mr. Clark distributed the draft.

In response to Supervisor Davidson’s question, Mr. Clark indicated that he has a copy of the Rules of Procedure; Mr. Wrathell stated that the CDD office has them, as well. Mr. Clark reviewed the titles of each chapter in the Rules of Procedure and noted that this would be a new chapter, following Chapter 6.

Supervisor Davidson noted that the Rules of Procedure went from Rule 1 to Rule 4 and asked what happened to the others. He asked that Management email the Rules to the Board.

Mr. Wrathell recalled that many of the Rules predate his firm. Mr. Clark noted that many of the Rules originated in 1998 and the first few years of the CDD. Mr. Wrathell felt that it might take Management time to compile and organize the Rules. Supervisor Davidson confirmed that, currently, it was not a priority for Management to compile and organize the Rules for electronic distribution.

Regarding the rulemaking public hearing, Mr. Clark felt that it should be in conjunction with any other rule changes and be held following the budget adoption. Supervisor Davidson directed Management to add this item to the "Open Items" list on the next agenda.

Mr. Clark discussed recent issues regarding the ponds and easements and recommended taking time to consider other stormwater system matters that the Board might want included in the new rule. This item will be included on the October agenda.

Supervisor Davidson asked if the District had recourse, should the Condo Association fail to pay the \$3,000 reimbursement that it owes to the CDD, aside from imposing a special assessment on individual condo owners. Mr. Clark believed that the individual owners must be assessed. Mr. Clark recalled that the District planned to mail a letter; however, the District held off because it was told that the Condo Association was sending a letter to the District. Mr. Clark felt that the District should send a payment request letter. Supervisor Smith felt that Supervisor Davidson should speak with his contact on the Condo Association Board first, as a courtesy, as he believed that the Condo Association Board did not understand the lack of activity on this matter and that the District would be trying to protect their credibility with the CDD Board. Supervisor Davidson confirmed that he will contact Mr. Chip Hunter.

Mr. Woodville recalled that Management drafted a reimbursement request letter in February, including documentation, which was sent to the Condo Association's old and new management companies. He discussed the matter with someone at the management company in April but nothing was done. Mr. Woodville advised that the second letter was sent to the management company and Mr. Hunter but there was still no response; a third letter was sent directly to Mr. Hunter, with no response. Prior to the last meeting, Mr. Woodville sent a fourth email to Mr. Hunter notifying him that the District did not receive the letter from the Condo Association and asked Mr. Hunter to provide it; Mr. Woodville did not receive a response from Mr. Hunter.

Supervisor Gaeta recalled Mr. Hunter's claim that the check was sent to Management's old address, in Coconut Creek, and, when returned, he would send it to Management's new

address. She stated that, subsequently, Mr. Hunter indicated that the District would receive a letter, following a Condo Association meeting. Supervisor Gaeta felt that the Condo Association received ample time to respond.

Supervisor Davidson confirmed that he would contact Mr. Hunter but pointed out that it would be the fifth communication. Supervisor Smith stated that he was considering the “symptom” and the population of the Condo Association and voiced his opinion that it might not be the financially healthiest organization.

#### **E. District Manager**

##### **i. Upcoming Community Workshop/Regular Meeting Dates**

- **BOARD OF SUPERVISORS MEETING**
  - **September 3, 2015 at 3:00 P.M. Regular Meeting**
  - **September 3, 2015 at 5:00 P.M. Public Hearing**

Mr. Wrathell indicated that the next meeting will be held on September 3, 2015 at this location. The meeting will commence at 3:00 p.m., with the budget Public Hearing at 5:00 p.m., time certain.

- **COMMUNITY WORKSHOP**
  - **September 17, 2015 at 10:00 A.M.**

The workshop will be held on September 17, 2015 at 10:00 a.m., at this location.

Supervisor Chiodo recalled that he will not attend the September 17, 2015 workshop and that the workshop would coincide with the Grand Haven Room renovations. Mr. Kloptosky stated that renovations would be completed enough so the workshop could be held in the Grand Haven Room on September 17, 2015.

**\*\*\*The meeting recessed at 11:38 a.m.\*\*\***

**\*\*\*The meeting reconvened at 11:50 a.m.\*\*\***

#### **SIXTH ORDER OF BUSINESS**

#### **BUSINESS ITEMS**

##### **A. Continued Discussion: Fiscal Year 2016 Proposed Budget**

Mr. Wrathell believed that there were no changes, other than updating the number of streetlights, as previously discussed. He reiterated that the budget Public Hearing would be held on September 3, 2015. Mr. Wrathell explained that assessments would be on the Truth in Millage (TRIM) notice; a “cushion” was not included, as he felt that the District’s assessment levels were “rock solid”.

Discussion ensued regarding erroneous information posted on a website.

Mr. Wrathell stated that the proposed assessment increases were reflected on Page 17 of the proposed Fiscal Year 2016 budget. He advised that, if the issue with the four 9<sup>th</sup> Green site units was resolved, those units could be pulled from the operation and maintenance (O&M) assessment figures.

**B. Continued Discussion: Business Plan**

Supervisor Smith felt that the Board wrapped up discussion of the five objectives and the only remaining matter was to adopt them at a meeting. He recapped the Board's process to determine its "five year goals", which included:

- Maintain/Improve CDD assets
- Develop a Long Term Tree Management Plan
- Improve Security (perimeter, gates, walkways and other non-amenity sites)
- Strengthen Political Capital
- Improve Communications

Supervisor Smith indicated that each goal was assigned to a Supervisor who will develop detail points and implementation plans.

The following changes were made:

Goal 2: Change "Develop a Long Term Tree Management Plan" to "Develop a Long Term Common Area Tree Management Plan"

Goal 3: Change "Improve" to "Maintain/Improve"

Supervisor Chiodo felt that the "five year goals" should be presented at the September 3, 2015 meeting, for informational purposes. Mr. Wrathell suggested that the list be placed just before the budget Public Hearing, on the September 3, 2015 agenda.

Supervisor Gaeta stated that she researched two forms of communications and discussed them with Mr. Kloptosky. She discussed digital signage on televisions in CDD facilities.

The following changes were made:

Under "Outside Funding": Insert "selected special purpose" after "fund"

Goal 1: Insert "to include roads, utilities, amenities and all aboveground assets" after "assets"

Under "Special Assessments": Insert "extraordinary" after "of"

Supervisor Smith noted that the term "objectives" was used during the process but was changed to "goals", as he felt goals were higher-level and objectives are formed under goals.

**On MOTION by Supervisor Smith and seconded by Supervisor Lawrence, with all in favor, the CDD Five Year Goals, as amended, were approved.**

Regarding dissemination of the CDD Five Year Goals information, Supervisor Davidson advised Supervisor Smith to provide the document to Management and suggested including it in the next issue of The Oak Tree. Mr. Wrathell indicated that Management will make the approved changes and forward the information to Supervisor Smith, for final review.

**C. Consideration of/Decision on: Personnel Manual**

The following change was made:

Page 3, Vision Statement, Line 3: Change “exceptionial” to “exceptional”

Mr. Woodville referred to Section 301, on Page 13, and asked if the Board wanted the option of not paying accrued benefits if the employee is terminated. Mr. Clark distributed a suggested addition to Section 301 to give the Board or District Manager the option to not pay accrued benefits to a terminated employee.

Mr. Clark explained that, even if an employee were terminated for cause, it is not usually done, as the District would not want to have a public hearing of certain matters, in a public meeting; therefore, the person is generally terminated without cause. He felt that the Board may want the option to not pay accrued benefits, if an employee were terminated for theft, for example.

The following change was made:

Section 301: Change “annual term” to “current benefit year”

The Board agreed to add the paragraph provided by Mr. Clark, allowing the Board discretion to not pay accrued benefits to terminated employees.

Mr. Wrathell indicated that the Personnel Manual will be updated and considered at the next meeting.

▪ **Funding for Grand Haven Community Information Guide**

*\*\*\*This item was an addition to the agenda.\*\*\**

Mr. Kloptosky stated that the Grand Haven Community Information Guide will be published during Fiscal Year 2016 and asked if the CIP budget could fund the publication, as the expense was not included in the proposed Fiscal Year 2016 budget. Mr. Wrathell indicated that \$24,000 was budgeted for “Miscellaneous contingency”, on Page 4, of the proposed Fiscal Year

2016 budget; “Miscellaneous contingency” will be reduced to \$4,000” and a \$20,000 “Community Information Guide” line item will be added.

**D. Update: Symposium on Street Trees, Sidewalks, Roadways and Homes**

Supervisor Davidson distributed “DRAFT #6.5”, dated August 19, 2015.

Supervisor Davidson stated that the first day would be devoted to infrastructure and the second day would address legal liability and financial considerations.

Supervisor Davidson reviewed the suggested symposium schedule:

DAY 1 – TUESDAY, SEPTEMBER 1, 2015

1. HISTORICAL PERSPECTIVE: (9:00 to 9:45 AM)

DRI Development Order, MPD Requirements: County, then City of Palm Coast  
Admiral Corporation, ITT, Lowe, Landmar, GHMA, GHCCD

Landscape Design Goals and Plans: UCR at the Time, for the District, for  
Residential Lots

Panel: Jim Cullis (Grand Haven Realty), Louise Leister (Arborist & GH District  
Horticulturalist), Dr. Edward Gilman (Prof. Environmental Horticulture  
U.F./IFAS)

Discussion ensued regarding parking, meals, longevity of certain speakers, remaining on schedule and controlling audience comments, questions and interruptions.

Supervisor Davidson stressed that the symposium would be educational; no policy decisions would be made on those days. He noted that many questions were received from interested residents.

Supervisor Lawrence questioned what would be done if there were more attendees than available seats. Supervisor Davidson indicated that speakers will broadcast outside and every available chair will be set up. In response to Mr. Wrathell’s comment, Supervisor Davidson voiced his understanding that the symposium was already advertised.

In response to a resident question, Supervisor Davidson stated that this draft schedule should be posted on the CDD website but explained that it takes 72 hours for the webmaster to change information; the draft was sent to the webmaster last night. The resident asked about the procedure for residents to obtain the \$5 CD audio of the symposium. Supervisor Davidson indicated that the process must be determined but assumed residents would request them directly from the District Manager. Mr. Wrathell suggested that Management produce a batch of CDs for the CDD office to sell.

Supervisor Smith asked how panelists would interact. Supervisor Davidson did not anticipate interaction, other than comments from one panelist regarding statements of another

panelist. In response to Supervisor Gaeta's question, Supervisor Davidson stated that panelists would address questions later in the symposium.

Supervisor Davidson continued reviewing the symposium schedule:

2. CURRENT STATE: (9:45 to 10:30 AM)

A. Benefits:

Beautiful, unique community main entrance and central roadway  
 Shaded central artery of walkways for pedestrians, dog walkers and bicyclists  
 Enhanced property value and sales appeal  
 Reduced energy costs  
 Enhanced visual appearance of community  
 Shaded Village streets for all residents  
 Protected environment (wildlife habitat) for squirrels, birds, etc  
 Contributes to a more healthy environment  
 When properly pruned, protects damage to lawn from intense sun and heat  
 Reduces irrigation expenses by lowering temperature of lawn  
 Reduces erosion from storm water run-off

Panel: Dr. Edward Gilman, Louise Leister, Jason Shaw (District Certified Arborist), G. Matthew Wilson (President, FCAR), Barry Kloptosky, GHCCDD FOM, Troy Railsback, GHMA CM

B. Challenges:

Creates work for residents – Leaf pick up 2x per year  
 Cost of properly trimming and pruning  
 Passage of large trucks  
 Visibility of street signs  
 Street light effectiveness  
 Trees interfering with growth of smaller shrubs, trees, turf  
 Threats from roots and weight of trees to storm water utility inlets, pipes and mitered end sections, common area buried electric, cable, phone utility lines, curbs, roadways,.....  
 Threats from roots and weight of trees to residential sidewalks, driveways, foundations, drains, utility lines, irrigation lines

Panel: Palm Coast City Rep, Jay Sampsel (Cline Construction), David Gerkin (Austin Outdoors GHCCDD Account Manager), Barry Kloptosky, GHCCDD FOM, Troy Railsback, GHMA CM

Supervisor Lawrence pointed out that number of topics in this section, with four panelists, and questioned how the symposium could remain on schedule, with only 45 minutes allotted for this portion of the symposium. Supervisor Davidson advised that this discussion would end promptly at 10:30 a.m., for Dr. Edward Gilman's presentation.

Mr. Wrathell asked how Supervisor Davidson wanted to handle "obligations to bondholders", as it could be from the perspective that, if the character of the community were



negatively impacted, the bondholders could have concerns. Since the street trees and sidewalks are not owned by the CDD, Mr. Wrathell was unsure the issue was applicable to the bondholders. Supervisor Davidson indicated that there would be comments about existing infrastructure design that must be maintained, as an obligation to the bondholders. A Supervisor surmised that, if 3,000 trees were removed, the bondholders would likely become upset at the diminished value of their investment and call the bonds. Mr. Wrathell cautioned against giving the bondholders more rights than they have.

Supervisor Chiodo felt that this section contained a lot of information to discuss in only 45 minutes. Supervisor Davidson noted that the entire afternoon would be dedicated to a round robin discussion of everything listed. Supervisor Smith questioned if the panelists would change between the “Benefits” and “Challenges” discussions. Supervisor Davidson replied that, generally, the “Benefits” panelists would remain and the “Challenges” panelists would join for the “Challenges” discussion. Supervisor Lawrence reiterated his opinion that this section had too many items and suggested limiting “Benefits” and “Challenges” to one panelist speaker for each. Supervisor Davidson felt that the “Benefits” discussion would last ten minutes, which would leave the remaining time for “Challenges”. Supervisor Lawrence questioned how four panelists would comment on “Benefits”. Supervisor Davidson planned to go down the list, item by item, and request feedback from the panelists. Supervisor Smith agreed that someone should state the “Benefits” and urged Supervisor Davidson to state all of the “Benefits” and then ask for feedback from the panelists and do the same for the “Challenges”. Supervisor Davidson was agreeable to identifying all of the “Benefits”, as opposed to going through them one by one, and doing the same for “Challenges”. Supervisor Smith found it awkward to change panelists in the middle of the section. Supervisor Davidson felt that it was necessary to change or add panelists.

Discussion ensued regarding whether the audience would remain in the Grand Haven Room during the lunch break or if the panelists should be given privacy during lunch. Mr. Wrathell will make a statement that the symposium was breaking for lunch and ask the audience to respect the privacy of the panelists during the lunch break.

Supervisor Davidson continued reviewing the symposium schedule:

3. A. PRESENTATION BY DR. EDWARD GILMAN (10:30 to noon, reconvene at 1 PM to....

PROFESSOR OF ENVIRONMENTAL HORTICULTURE UNIVERSITY OF FLORIDA

*"DESIGNING A MANAGEMENT PLAN FOR SHADE TREES"*

To include:

Comments on 2 A + B above

Comments on Possible Solutions

Repair properly with continued maintenance

Structurally prune and trim trees

Prune roots

Grind sidewalk deflections

Install reinforced concrete sidewalks

Install floating, flexible sidewalks

Install linear root barriers

Require PLM contractors and all private landscape maintenance contractors to remove leaves.

Remove Live Oaks

Replace Live Oaks with what other tree variety

#### B. Panel Discussion on Possible Solutions

Submitted Infrastructure Related Q+A from GH Community

Panel: Dr. Edward Gilman, CPC Arborist/DPW Rep., Jason Shaw, Jay Sampselle, Louise Leister, David Gerkin, GHCCD FOM, GHMA CM

A resident recalled previous discussion about determining the magnitude of the issue and believed that it was not determined. Supervisor Davidson indicated that the numbers would be extrapolated from the CDD's common area experiences and then apply those figures to the entire community. The resident felt that the GHMA could have better figures for private property, based on the number of sidewalk citations issued. Supervisor Davidson advised the resident to discuss it with the GHMA. Mr. Wrathell stated that, if the District ever assumed responsibility for the sidewalks and street trees, a budget could be developed by the District.

Supervisor Davidson reiterated that the afternoon session would be an open-ended panel discussion of all the various panelists; he hoped to have panelists speak of issues encountered, strategies utilized and what approaches were successful or unsuccessful. The submitted infrastructure related questions would follow the panel discussion. Supervisor Davidson indicated that he reviewed and organized all of the submitted questions into categories and all questions will be asked. In response to Supervisor Lawrence's question, Supervisor Davidson confirmed that the number of questions submitted was manageable and some questions were repetitive.

Supervisor Lawrence requested that an end time be set. The Board agreed to end at 4:00 p.m.

Supervisor Davidson continued reviewing the symposium schedule:

DAY 2 – WEDNESDAY, SEPTEMBER 2, 2015

4. LEGAL CONSIDERATIONS: (9:00 AM to Noon, reconvene 1 PM to 2 PM)

City of Palm Coast: (9:00 AM to 9:45 AM)

Tree Count Requirements and Permitting Process for Removal/Replacement of Trees

(Suggested) Panel Invitees: Barbara Grossman

Submitted Q+A from GH Community

GHCDD, GHMA, ADC’s, Private Properties (9:45 AM to 10:45 AM)

Current Responsibilities of the GHCDD	Scott Clark, Counsel, GHCDD
Current Responsibilities of the GHMA	Robyn Severs, Counsel, GHMA
Current CC&R’s	Troy Railsback, SSMG
Process to Amend CC&R’s	Troy Railsback, SSMG
NCADC tree requirements for new construction	Tom Byrne
MADC requirements for the removal & replacement of trees on residential property	Tom Byrne

Submitted Legal, Liability and Financial Q+A from GH Community

Discussion ensued regarding whether all questions should be read, if the questions were similar and how much time each speaker would likely have to speak during this section. Supervisor Davidson suggested that questions be read but eliminating answers.

Supervisor Davidson continued reviewing the symposium schedule:

"WHAT IF SCENARIOS" (10:45 to noon, reconvene at 1 PM to 2 PM):

Legal Considerations of GHCDD Assuming Responsibility for Trees and/or Sidewalks: Scott Clark, Counsel GHCDD,

Legal Considerations of GHMA Assuming Responsibility for Trees and/or Sidewalks: Robyn Severs, Counsel GHMA

In response to a question, Supervisor Davidson confirmed that “All” will be inserted before “Trees” in the section above and the section below.

Supervisor Davidson continued reviewing the symposium schedule:

5. LIABILITY CONSIDERATIONS: (2:00 to 3:00 PM)

Current History of Claims and Liability Exposure to GHCDD, GHMA, Private Property Owners:

Mark Grimmel, (Egis, GHCDD Insurance Rep.,)  
Philip Masi, (CIRMS, GHMA Insurance Rep.)  
GHCDD FOM, GHMA CM

"WHAT IF SCENARIOS"

Liability Considerations of GHCDD Assuming Responsibility for Trees and/or Sidewalks: Scott Clark, Counsel GHCDD, Mark Grimmel, GHCDD Ins. Rep

Liability Considerations of GHMA Assuming Responsibility for Trees and/or Sidewalks: Robyn Severs, Counsel, GHMA, Troy Railsback, GHMA CM

6. FINANCIAL CONSIDERATIONS: (3:00 to 4:00 PM)

GHCDD, GHMA, Private Properties

Current Responsibilities, Budgets and Assessments (GHCDD DM, GHMA CM)

"WHAT IF SCENARIOS"

Financial Considerations of GHCDD Assuming Responsibility for Trees and/or Sidewalks: Impact upon Budgets and Assessments

Craig Wrathell, GHCDD, District Manager, Richard Woodville, Asst DM

Financial Considerations of GHMA Assuming Responsibility for Trees and/or Sidewalks: Impact upon Budgets and Assessments

Troy Railsback, GHMA Community Manager

Supervisor Smith questioned whether Mr. Wrathell and Mr. Woodville could compile an accurate estimate of the costs if the CDD assumed responsibility for all trees and/or sidewalks, for presentation on Day 2 of the symposium, based on the data presented during the symposium. Mr. Wrathell indicated that Management was already preparing an estimate of the costs, based on historical costs for the sidewalks in Wild Oaks, along with costs for additional staff, equipment and insurance. Mr. Wrathell stated that the District owns a section of oak trees and budgets \$14,000 per year for those trees; that figure will be extrapolated over the balance of oak trees in the community.

Supervisor Chiodo asked if Management would consider in the calculation that Wild Oaks is the newest community in Grand Haven and sidewalk lifting occurs with age. Mr. Wrathell acknowledged Supervisor Chiodo's point, which was the reason Management would use figures from the highest cost sidewalk repair year in Wild Oaks; however, an age factor could be included. Supervisor Lawrence felt that the Wild Oaks neighborhood was not indicative to the rest of Grand Haven where oak trees were planted in a 5' strip of grass next to the sidewalk. Supervisor Lawrence suggested that Management utilize figures from the District's common sidewalks along Waterside Parkway. Mr. Wrathell clarified that he meant all CDD-owned sidewalks would be included in Management's estimate analysis. Supervisor Davidson pointed out that Wild Oaks only has sidewalks on one side of the street; therefore, the exposure is different. Supervisor Davidson questioned if residents without a sidewalk could be assessed, as there would be no benefit to them. Mr. Wrathell advised that the estimate would be purely hypothetical but Management would be conservative in the estimation.

Supervisor Lawrence believed that a CDD could not maintain anything other than common property. Mr. Clark indicated that, generally, the statement was correct; however, the CDD could maintain items on private property, if the District has an easement. Regarding trees, Mr. Clark pointed out that, if the trees are on private property but hang over CDD streets, the CDD can maintain the trees. Mr. Clark found no basis for the District to maintain trees on other private property areas that do not impact the District. In response to Supervisor Davidson's question, Mr. Clark indicated that he probably does not need to remain for the "Financial Considerations" portion of Day 2.

#### 7. CLOSING REMARKS: GHCCDD Chair, GHMA President

"All information gathered from these two days will be reviewed and analyzed by the GHCCDD and GHMA Boards as objective information. Any subjective opinion will be removed as the Boards recommend retaining, amending or changing existing policies and procedures. Opportunities for Community input will be made available at each of the Boards respective subsequent meetings."

The GHCCDD and GHMA Boards, and the entire GH Community, wish to express gratitude to all the Symposium panelists for their time and effort put forward towards the betterment of our Community."

Supervisor Davidson advised that Mr. Wrathell will attend Day 2 telephonically but Mr. Woodville will attend, in person.

#### ▪ **Bocce Ball Court**

***\*\*\*This item was an addition to the agenda.\*\*\****

Mr. Kloptosky indicated that \$35,000 was budgeted in the Fiscal Year 2016 CIP budget to redo both bocce ball courts. He recalled that the Board authorized him to proceed during Fiscal Year 2015; however, it was difficult to obtain proposals. Mr. Kloptosky stated that the original framework will be used and stucco and stone caps will be added. He advised that the stone veneer, lathe and stucco work proposal was approximately \$15,707, not including the inside surfaces. The inside surface could remain clay and, to convert the shuffleboard court, the concrete must be removed and replaced with a clay surface, which would cost \$9,983, bringing the total to \$25,690. Mr. Kloptosky was advised by Nidy Sports Construction (Nidy) that the trend is to install synthetic turf on bocce ball courts, which would cost \$20,564 to replace both court surfaces, for a total cost of \$36,271, which would exceed the \$35,000 budget. He will seek input and preferences from bocce ball players. Mr. Kloptosky believed that the turf must be replaced every five to six years. He was concerned about mildew and mold but was advised by Nidy that mold and mildew were no longer a concern, due to product improvements. Mr.

Kloptosky noted that Mr. Ross viewed new courts with artificial turf and reported that they were beautiful and everyone liked them; therefore, the Board might want to consider the artificial turf option, as it would be low maintenance.

Mr. Kloptosky recalled that the bocce ball players wanted lights and shade canopies installed. He believed that lights, shade canopies and benches were previously included in the Fiscal Year 2016 CIP budget.

Mr. Kloptosky obtained a quote from Nidy to build a new shuffleboard court.

Supervisor Davidson pointed out that, if lights, canopies and benches were installed at the bocce ball courts, they must also be installed at the pickleball and petanque courts. Mr. Kloptosky stated that the pickleball players did not want lighted courts but the bocce ball players requested lights, from the beginning. Supervisor Davidson recommended obtaining a vote from the bocce ball players regarding the court surface and encouraging the players to play on the new courts at the facility that Mr. Ross visited.

In response to a question regarding permits, Mr. Kloptosky voiced his opinion that the project was a repair to an existing structure.

**E. Consideration of/Decision on: Proposals for 9<sup>th</sup> Green Site Appraisal Services**

- **Cooksey & Associates, Inc.**
- **Doyle Appraisal Services, Inc.**
- **Heffington and Associates**

Mr. Woodville noted that the Flagler County Property Appraiser could not perform an appraisal but the District was advised that it could use the \$25,250 “Just (Market) Value” found on the Property Appraiser’s website.

Mr. Woodville presented proposals for appraisal services for the 9<sup>th</sup> Green site. Cooksey & Associates, Inc. (Cooksey) was \$2,000, Doyle Appraisal Services, Inc. (Doyle) was \$3,000 and Heffington and Associates (Heffington) was \$1,500 for a restricted appraisal and \$1,900 for a more detailed summary appraisal. He advised that only Cooksey previously performed work for Mr. Jim Cullis, of Grand Haven Realty. Mr. Woodville noted that Mr. Cullis had the property appraised five years ago and the appraised value was \$112,000; however, the appraisal was before Mr. Cullis went through the City process and the ingress and egress restrictions on the property. The Property Appraiser conceded that Cooksey probably was aware of the issues that Mr. Cullis encountered with the property.

Mr. Wrathell felt that, when CDDs try to acquire property from a developer, it would be better to obtain an appraisal from an uninvolved appraiser.

Supervisor Lawrence motioned to approve the Heffington proposal for a summary appraisal, in the amount of \$1,900. Supervisor Gaeta seconded the motion.

Supervisor Davidson was advised by Mr. Cullis that he found another developer and the Senior Living project is back on; therefore, Mr. Cullis is again interested in acquiring an easement for drainage.

Supervisor Chiodo agreed that an appraisal was necessary to justify the amount the District would be willing to pay for the 9<sup>th</sup> Green site. Mr. Woodville disclosed the ingress and egress issues to the potential appraisers and the Board's belief that the value was reduced, due to the property's lack of marketability.

Supervisor Smith recalled prior negotiations with Mr. Cullis and suggested that, if the Senior Living project is back on, he wants the data point to be established after the District negotiates a deal with Mr. Cullis where the District sets a fixed purchase price, conditional upon the property meeting an appraisal. If the value is lower, then the District would negotiate but if the value was higher, the District could say "we have a deal". Supervisor Smith did not want an appraised value now.

Mr. Wrathell felt that there was a good chance that the appraised value would be more than \$20,000.

Supervisor Lawrence rescinded his motion.

Supervisor Smith recommended that the District advise Mr. Cullis that the District was still open to purchasing the property but was in no hurry, as Mr. Cullis still had several "unknowns" related to the Senior Living project. It was noted that Mr. Cullis originally requested \$47,000 for the 9<sup>th</sup> Green property, less the \$22,000 "value" of the drainage easement he wanted from the CDD. Supervisor Chiodo will inform Mr. Cullis that the District was still interested in the 9<sup>th</sup> Green property but he must restate whether the drainage easement was still needed and the amount he wanted for the 9<sup>th</sup> Green property. Supervisor Chiodo stated that the deal must be predicated on an appraisal backing up the purchase, in an amount in excess of the deal. Per Supervisor Gaeta's request, Mr. Chiodo will inquire about the date of the public hearing for the Senior Living project.

- **Discussion: Symposium Parking and Lunch**

Discussion of the parking logistics, a reserved parking space for Dr. Gilman and providing box lunches to the panelists ensued. Supervisor Chiodo asked if audience members could preorder lunch on the days of the symposium. Mr. Ross replied affirmatively, provided the menu was limited and the orders were received by 10:00 a.m. Supervisor Smith was not comfortable with the audience remaining in the Grand Haven Room while the panelists ate lunch and asked if the café could provide a sectioned off area for the panelists to eat. Mr. Ross replied affirmatively. Supervisor Davidson did not want to portray anyone as “elitist” and believed that posts on the Next Door Grand Haven website would comment about the “elitist, smug and arrogant.....”. Supervisor Chiodo pointed out that nasty comments would be posted no matter what the District did. Supervisor Smith recommended reserving seats for the CDD and GHMA Board Members, as well as the panelists.

**F. Discussion: Music Licensing (ASCAP, BMI, AND SESAC)**

Mr. Woodville recalled discussion of music licensing and American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), SESAC, Inc. (SESAC). He indicated that licensing agreements were received from SESAC and BMI but anticipated one from ASCAP, as well. Mr. Woodville spoke to representatives at SESAC and BMI to appear before the Board and was advised that neither company would do it unless the District requested an audit. The companies added that the District would never want an audit because it would cost more than the licensing agreement. SESAC and BMI could appear telephonically or via an internet source.

Mr. Woodville distributed a “Grand Haven Music Licensing Review” listing music usage in the community. He pointed out that Bright House music was intended for private use in a private residence and is not licensed for public broadcast. Mr. Woodville stated that BMI’s original fee was \$3,500 but reduced it to \$1,621.62, based on occupancy capacity, for The Village Center and Creekside but not including the fitness center. He advised that SESAC bases its fee on the number of units; the annual fee for 1,500 through 2,999 units would be \$1,220.

Mr. Woodville indicated that the music licensing companies are stepping up their pursuit of licensing fees. He received an email from the SESAC representative, which stated:

*“Mr. Woodville,*

*Using music unlawfully can result in a large monetary penalty so it is important that you understand your legal obligation according to the dictates of the United States Copyright Law. I encourage you to review an information white*



*paper, which was written by the attorney for the NMHC, which stands for the National Multi-Housing Counsel, regarding music licensing requirements for residential communities. A white paper is an authoritative report or guide to help better understand the legal issues and make informed decisions. The paper is available.....”*

Mr. Clark stated that that music sales are down, due to entities streaming music, which caused the music industry to push back to require licensing of its use. He confirmed that copyright laws state that it is illegal to publish the work of another without obtaining a license, paying royalties, etc. Mr. Clark indicated that playing music over a system that is not a confined, residential system is considered the “publication” of music. He explained that, when music sources, such as Bright House or Pandora, broadcast publically, the user is responsible for having the proper licenses to do so.

Mr. Clark discussed a minor exception for small businesses, which is limited to locations such as a café where a radio or television is broadcast through speakers; the exception has square footage limitation and CDs and streaming cannot be broadcast. He discussed litigation involving illegal broadcasting of music. Mr. Clark explained that exercise classes where the instructor plays CDs and other activities with music fall within the licensing requirements; additionally, the venue is responsible, or at least partially responsible, for licensing, even when another party plays or performs music. He advised that each licensing company covers different artists.

Supervisor Davidson asked if the requirements apply to governmental entities. Mr. Woodville indicated that BMI offered a 10% discount for payment within 60 days; there are no special discounts for governmental entities, etc.

Mr. Woodville advised that the annual licensing fees for BMI and SESAC would total about \$3,000; however the fitness facilities must be added to the BMI quote. He pointed out that music played while a caller is on hold also qualifies, under the licensing requirements. Mr. Woodville read a list of the types of broadcasting that require licensing:

*“...bands, disc jockeys at holiday events, social mixers, pool parties, music used in fitness facilities, including aerobics and other exercise classes, television and locker rooms and clubhouses, music on hold, radio stations, remote broadcasting, background music such as radios, tapes, compact discs and DVDs”*

He noted that the list was only the major items.

It was estimated that the combined annual licensing fees would total approximately \$5,000.

Supervisor Davidson voiced his opinion that the CDD falls within the SESAC fee scale for 1,000 to 1,499 units, as not all 1,900 lots are built out; the fee would be \$991. Mr. Kloptosky pointed out that the licensing companies would argue that the lot owners have access to the facilities; therefore, they could benefit from the music played at the facilities and activities. Mr. Woodville believed that SESAC asked for the number of assessable units. Supervisor Lawrence believed there were 1,600 homes in the CDD.

Supervisor Davidson asked about the consequences for refusing to “cooperate with this extortion”. Mr. Woodville stated that it sounded like the District would be sued. In response to Supervisor Davidson’s question, Mr. Clark confirmed that it would be a copyright infringement violation; the District could be subject to an injunction and payment of monetary damages and attorney’s fees.

Mr. Clark voiced his opinion that the prudent decision would be for the District to make its best deal and pay the licensing fees or take measures to ensure that music is not played. Mr. Clark noted that the licensing companies said they would send someone to “check on us”. Mr. Woodville felt that someone would “check” if the District did not pay the fees.

Supervisor Smith suggested that only one person speak to the licensing companies.

Supervisor Lawrence asked about the consequence to residents if the District did not allow music to be played. Mr. Ross discussed classes and activities that play music and stated that music is needed.

Mr. Woodville and Mr. Clark will communicate with the licensing companies.

The Board wanted the emails and white paper emailed to them.

**SEVENTH ORDER OF BUSINESS**

**OPEN ITEMS**

This item was not discussed.

**EIGHTH ORDER OF BUSINESS**

**SUPERVISORS’ REQUESTS**

Supervisor Gaeta asked Mr. Ross to comment about a recent situation.

Mr. Ross indicated that tickets were being sold to the upcoming Labor Day event and explained that the cost for residents is \$5 and \$25 for non residents, comprised of a \$15 ticket

price and the \$10 daily guest fee. He advised of a resident who constantly tries to skirt the system. The resident bought two \$5 resident tickets for herself and her sister and claimed that her sister lives with her, which is not true.

Supervisor Gaeta pointed out that this is the same person that was using the tennis courts and other amenities and received a warning. She stated that this is at least the second or third time this type of thing has occurred.

Mr. Ross asked for guidance. Supervisor Lawrence felt that the District should “call her on it”. Supervisor Gaeta questioned how this would impact the resident’s amenity privileges. In response to Supervisor Davidson’s question, Mr. Ross confirmed that the resident has a Smart Amenity Access Card (SAAC) but her sister does not. Supervisor Davidson stated that resident tickets should only be sold to people with a SAAC. It was noted that if a non resident was spending the night with the resident, they must at least pay the \$15 nonresident event ticket price but not the \$10 daily fee. Supervisor Smith recommended that Mr. Ross maintain a log of these situations and, when sufficient data is collected, he present the information to the Board to consider disciplinary action.

Supervisor Gaeta asked if the District would have a “Meet the Candidate Night” and advised that Mr. Tom Byrne, a resident, would be happy to facilitate it. She noted that there is a mayoral seat and about six people are running for Sheriff.

It was noted that Supervisor Lawrence was the lead person for political capital matters. Supervisor Davidson felt that the District should hold an event, if it wanted to “ramp up” visibility. Supervisor Lawrence will discuss this with Mr. Byrne and schedule a date.

Supervisor Smith asked how the District could use the elections to build more political capital and use it to further the District’s objectives.

**NINTH ORDER OF BUSINESS**

**ADJOURNMENT**

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

**On MOTION by Supervisor Davidson and seconded by Supervisor Gaeta, with all in favor, the meeting adjourned at 2:18 p.m.**

---

Secretary/Assistant Secretary

---

Chair/Vice Chair