

**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, November 19, 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 (<i>via telephone</i>)	Assistant Secretary
Ray Smith	Assistant Secretary

Also present were:

Craig Wrathell	District Manager
Howard McGaffney	Wrathell, Hunt and Associates, LLC
Scott Clark	District Counsel
Jim Sullivan	District Engineer
Barry Kloptosky	Field Operations Manager
Robert Ross	Vesta/AMG
Roy Deary	Vesta/AMG
Jim Cullis	Grand Haven Realty
Louise Leister	District Horticultural Consultant
Ashley Higgins	Grand Haven CDD Office
Rob Carlton	Resident
Jim Gallo	Resident
Mark Schreiber	Resident
Ron Conklin	Resident
Olga Lagunchik	Resident
Ilya Lagunchik	Resident
Nikolai Lagunchik	Resident
Vincent Smodic	Resident
Beverly Kaucher	Resident

FIRST ORDER OF BUSINESS

CALL TO ORDER/ROLL CALL

Mr. McGaffney called the meeting to order at 10:02 a.m., and noted, for the record, that Supervisors Davidson, Chiodo, Gaeta, Lawrence and Smith were present, in person. Supervisor Davidson was not present.

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. Jim Gallo, a resident, recalled previous mention of leaf removal from streets and possible discussion or research of it and asked if the District would delve into this matter any further.

Mr. Gallo recalled the District Engineer’s Road Resurfacing Plan presentation, at the last meeting, and voiced his opinion that the streets are in very decent shape; the areas around manhole covers had the most issues.

Mr. Mark Schreiber, a resident, thanked the Board for their efforts. He pointed out that the per parcel tax assessment growth rate was about 4% per year, for the past five years. Mr. Schreiber urged the Board to consider the 4% annual increase because, by Fiscal Year 2018, the assessment, per parcel, would be approximately \$2,569. He wanted the District to increase assessments by no more than 2% per year.

Mr. Ron Conklin, a resident, thanked the Board and Mr. Kloptosky for their efforts on the new pickleball courts. In the future, the District might need additional pickleball courts or lights could be installed to allow for evening play.

- **Quality Security Assessor (QSA) Report-P2PE EMV Compliance Update**
******This item, previously Item 7.B.i., was presented out of order.***

Mr. Deary reported that Vesta/AMG changed payment processor vendors, when notified by Enterprise Solutions Industries (ESI) that a change was necessary. Vesta/AMG received notification, yesterday, that it was approved by the new payment processor and the change over process will begin today. Mr. Ross believed that the process commenced at 11:00 p.m., last night. ESI led Mr. Deary to believe that it could take two weeks to receive and install the new card readers. It was thought that the new readers could not be ordered until Vesta/AMG received

approval from the new payment processor; therefore, the readers were probably ordered today, since approval was received late yesterday. The new system would likely be operational by the end of November or early December.

Mr. Deary advised that every attempt was being made to become compliant and Vesta/AMG would take responsibility for any issues involving the POS system prior to the system being in compliance.

Mr. Clark stated that, in the interim, the District could be liable for fraud during the time the system was not compliant. Discussion ensued regarding liability for identity fraud and issues with the District's previous system.

In response to a request, Mr. Deary will provide a letter confirming Vesta/AMG's acceptance of liability for issues while the system is not compliant.

FOURTH ORDER OF BUSINESS

RESIDENT APPEAL

- **Ilya Lagunchik: *34 Marshview Land (Trespass Notice)***

Mr. Ilya Lagunchik requested that the Trespass Notice issued five years ago, when he was 15, be lifted or rescinded. Previously, his mother provided copies of his Associates of Arts diploma from Daytona State College, where he graduated in May, 2015, with honors, along with his acceptance letter and scholarship from Stetson University and two recommendation letters from August, 2015.

The Board Members and Mr. Ross had no comments.

Mr. Kloptosky recalled that the Trespass Notice was issued November 11, 2010. He alleged that Mr. Lagunchik was observed at the Amenity Center on numerous occasions since 2010. Mr. Kloptosky stated that he informed Mr. Lagunchik that he was in violation of the Trespass Notice.

Mr. Kloptosky claimed that a CDD staff member observed Mr. Lagunchik playing basketball at Creekside on September 16, 2015; the CDD staff member provided Mr. Kloptosky with a letter documenting the observation.

Mr. Kloptosky voiced his opinion that Mr. Lagunchik has shown "blatant disregard" for the Trespass Notice and demanded that Mr. Lagunchik give a reason for the "blatant disregard".

Mr. Lagunchik stated that, growing up in Palm Coast, there are few opportunities for young individuals to “stay busy in a positive way”. He likes to play basketball and finds it therapeutic but agreed that he should not have played basketball in Grand Haven.

Supervisor Gaeta asked if Mr. Lagunchik drives. Mr. Lagunchik replied yes. Supervisor Gaeta asked Mr. Lagunchik if he should be allowed to drive if he was issued several tickets or had a serious violation and lost his driver’s license. Supervisor Gaeta stated that the District has rules and regulations and voiced her opinion that Mr. Lagunchik thinks those rules and regulations do not apply to him. Supervisor Gaeta believed that Mr. Lagunchik knowingly came back to the amenity facilities and “broke the law again” and asked Mr. Lagunchik if “that would be okay”.

Mr. Lagunchik stated that it was not okay for a person to drive if their driver’s license was suspended. He felt that this situation and Supervisor Gaeta’s driving without a license analogy were completely different things. Mr. Lagunchik apologized for playing basketball in Grand Haven.

Supervisor Lawrence stated that the Board previously gave Mr. Lagunchik a second chance but he violated a rule again. Supervisor Lawrence indicated that his vote will be to deny Mr. Lagunchik future use of the amenity facilities for as long as the Board is allowed to do so. Supervisor Lawrence hoped that Mr. Lagunchik remembers this for the rest of his life and that it is a lesson for him that, when given a second chance, a person will not get a third chance. Supervisor Lawrence avowed “I have extended a second chance to you, that’s it, that’s all I have to say”.

Mr. Nikolai Lagunchik, Mr. Ilya Lagunchik’s father, apologized and acknowledged that he and his wife are still responsible for their son and respect the community and the country. He noted huge improvements in their son’s behavior and his accomplishments in recent years. Mr. Lagunchik asked the Board to not just judge but to provide help and understanding, although, he understands that it is probably easiest for the Board to deny the request.

Mr. Ilya Lagunchik stated that he grew up in Palm Coast and Grand Haven and his parents pay taxes for the amenities. He stressed that he is not the person he was many years ago. He expressed his love and respect for the Grand Haven community. Mr. Lagunchik noted the difficulty for a young man to “stay busy” when leaving a “horrific crowd of friends and peers that were giving him bad influences on life”.

Mr. Lagunchik stated that he tried to “get his act together” through school “but, if all you want to do is just attack me, then, so be it but I would just like to say that I do apologize, I do respect Grand Haven, I respect you all and whatever your final decision is, I will have to respect it and that’s it.”.

Supervisor Smith referred to Supervisor Lawrence’s comments and asked when the Trespass Notice was previously rescinded. Supervisor Gaeta replied that it was previously rescinded about two years ago.

Mr. Clark did not remember the Board rescinding the Trespass Notice. Supervisor Lawrence stated that the Trespass Notice was rescinded within the past several months and, within a month of the Board rescinding it, Mr. Lagunchik violated it again.

Supervisor Davidson questioned how a “rescinded” Trespass Notice could be violated; he was not aware of this. Supervisor Lawrence contended that the “rescinded” Trespass Notice was violated “because he went and did something; he used our facilities when we said he couldn’t”.

Mr. Clark reiterated that his memory of Mr. Lagunchik’s situation was not the same as Supervisor Lawrence’s. He recalled a similar situation with someone else. Mr. Clark confirmed that the Trespass Notice against Mr. Lagunchik has remained in place since 2010, without interruption. In 2014, Mr. Lagunchik requested that the Trespass Notice be lifted. The Board did not lift it but asked him to reappear but he did not, at that time. Mr. Clark reiterated his opinion that the Trespass Notice against Mr. Lagunchik was never lifted or that the Board ever gave a “reprieve” or partial relief from it; the terms have remained the same since 2010.

Supervisor Smith asked Mr. Ross if he had any difficulties with Mr. Lagunchik in the past year. Mr. Ross replied “no, none”.

Supervisor Smith asked Mr. Kloptosky if there were any other incidents, other than Mr. Lagunchik playing basketball.

Mr. Kloptosky stated that Mr. Lagunchik played basketball at Creekside a number of times, over a period of time. There were only two or three instances over the past two or two-and-a-half years; many of the prior instances were within one year of when the Trespass Notice was issued. He knew of no other issues with Mr. Lagunchik. Mr. Kloptosky voiced his understanding that Mr. Lagunchik is trying to improve himself; however, he was concerned about whether Mr. Lagunchik fully understands what he did by violating the Trespass Notice and the consequences of violating “anything in life”.

Supervisor Chiodo asked if the original Trespass Notice had an expiration date. Mr. Clark replied no; it remains in effect until the Board lifts it. The District has procedures or rules requiring the Board to hear and consider whether to lift the notice and the Board previously decided against lifting it. Mr. Clark noted that the prior reasons for not lifting it were probably no longer present; however, the current concern expressed was that the Trespass Notice was violated.

Supervisor Davidson asked if there was an option other than fully rescinding the Trespass Notice.

Mr. Clark replied “not really”. In his experience, the duration of this Trespass Notice is extraordinary and he previously expressed concern that the District not use trespass procedures in order to enforce CDD Rules, as there are procedures for Rules and Rule violations. Mr. Clark surmised that the reasons for the original Trespass Notice are no longer present; therefore, the Board is faced with deciding whether to use the Trespass Notice to punish a violation of the Notice rather than to address the original behavior. If the Board lifts the Trespass Notice, a first warning could be issued, retroactively, for the recent basketball playing instance reported by Mr. Kloptosky but the notice could not be immediately reinstated. There are specific instances for a Trespass Notice, such as violence, danger to property or residents or staff orders the person to leave but they do not leave, which leads to the Sheriff’s involvement. In that instance, a new Trespass Notice could be issued.

Supervisor Smith supported lifting the Trespass Notice, along with immediate issuance of a first warning, as explained by Mr. Clark.

Supervisor Chiodo was concerned that the Trespass Notice was in effect for five years and agreed with Mr. Clark’s recommendation.

Supervisor Gaeta wanted to partially lift the Trespass Notice and institute a probationary period. Supervisor Davidson recalled that the answer was no and asked Supervisor Gaeta for her opinion. Supervisor Gaeta stated that she previously made her opinion clearly known; she was against lifting the Trespass Notice.

Supervisor Lawrence agreed with Mr. Clark’s recommendation.

Supervisor Davidson supported Mr. Clark’s recommendation.

On MOTION by Supervisor Davidson and seconded by Supervisor Chiodo, with Supervisors Davidson, Chiodo, Smith and Lawrence in favor and Supervisor Gaeta dissenting, lifting the Trespass Notice and issuing a first warning letter to Mr. Lagunchik for playing basketball in September, while the Trespass Notice was in effect, was approved. (Motion passed 4-1)

Supervisor Davidson advised Mr. Lagunchik that the Trespass Notice is lifted and he is free to use all of the CDD facilities, without restriction.

Mr. Lagunchik thanked the Board.

FIFTH ORDER OF BUSINESS

CONSULTANTS, GUEST REPORTS & PRESENTATIONS

- **Jim Cullis: *Grand Haven Realty***

Mr. Jim Cullis, of Grand Haven Realty, introduced Mr. Vince Smodic and Ms. Beverly Kaucher, of 17 Blue Oak Lane, who received a letter from District Counsel regarding common area violations related to vegetation clearing. He indicated that Mr. Smodic and Ms. Kaucher regretted the occurrence and were anxious to put it behind them. Mr. Cullis had a contractor clean up the clippings in the common area and Mr. Kloptosky inspected the area following the clean up.

In response to Supervisor Davidson’s question, Mr. Kloptosky confirmed that the areas were cleaned up and the common areas were restored to their prior conditions, with the exception of regrowth and there was no further destruction to the natural areas. Ms. Leister stated that the areas were “looking fine” and was hopeful that the spartina would grow back; it will be monitored. Ms. Leister recommended educating residents about spartina and its benefits.

Supervisor Davidson noted that the issue of the violation occurred, despite prior conversations with Ms. Leister.

Ms. Leister received a complaint from a Blue Oak Lane resident regarding Mr. Smodic and Ms. Kaucher’s disturbance of the natural area and the common area around the lake bank, which were being pruned and cleared. After Mr. Smodic and Ms. Kaucher trespassed and cleared private and CDD property, Ms. Leister advised them that they could not perform work on property that was not theirs.

Supervisor Davidson explained that the CDD has detention ponds that serve a purpose and must adhere to certain specifications, regardless of resident opinions of the appearance. He hoped that Mr. Smodic and Ms. Kaucher understood this.

Mr. Smodic presented photographs in defense of his actions and discussed why he cleared areas that were private or CDD property. Supervisor Davidson directed Mr. Smodic to contact the CDD regarding issues on CDD property. Mr. Smodic stated that he tried to notify Mr. Kloptosky on several occasions.

Ms. Leister confirmed that she addressed the matter with Mr. Smodic and explained that the vegetation that was cleared grows naturally and could not be removed, as it stabilizes the integrity of the lake bank. She stressed that clearing lake banks of naturally growing items will not eliminate snakes and alligators, which are part of the natural Florida ecosystem and could be expected when living on a lake.

Ms. Kaucher reiterated that they tried to contact Mr. Kloptosky numerous times but were directed to the GHMA management company. The builder referred them to Page 24 of the Rules and Regulations, which stated “nothing is to be grown on the lakes and retaining ponds but spartina grass”; however, Page 29 states “The rows and columns and grasses must be kept clear to prevent dangerous wildlife from being hidden from view. Invading weeds, vines, brush, shrubs, between plants must be removed immediately”. She contended that the builder led them to believe that removing the vegetation was okay. Ms. Kaucher apologized.

Ms. Leister pointed out that the issue was not with Mr. Smodic and Ms. Kaucher clearing their private property; rather, the violation was clearing CDD common areas and another homeowner’s property.

Mr. Kloptosky stated that the calls to him referenced issues on Mr. Smodic and Ms. Kaucher’s private property, which was why they were informed that the CDD does not handle private property issues; he only became involved when notified of the clearing on CDD common areas and private property.

Ms. Kaucher contended that she and Mr. Smodic did not hear from or speak to Mr. Kloptosky until after they received the violation letter from Mr. Clark. Mr. Kloptosky indicated that he did not contact them because Ms. Leister was addressing the matter.

Ms. Leister previously advised the GHMA management company to contact Mr. Smodic and Ms. Kaucher because they were approaching the vegetation issue incorrectly.

Mr. Smodic discussed other things he did around the lake area, including unclogging a pipe, using a grappling hook. Supervisor Davidson advised Mr. Smodic that the mitered end section of the stormwater system is the District's responsibility and he should not have done anything to it.

In response to Supervisor Davidson's question, Mr. Clark indicated that the violation letter required reimbursement of expenses. Supervisor Davidson surmised that the issue was resolved.

Supervisor Gaeta pointed out that the District utilizes a wetland management company and advised Mr. Smodic to contact Mr. Kloptosky regarding issues on CDD property.

Mr. Cullis indicated that ICI Homes (ICI) is purchasing Lot 18, which is adjacent to the current Grand Haven Realty parking lot on Lot 17. ICI will build a model home on Lot 18 and, since Grand Haven Realty's office will relocate at about the same time, ICI wanted to know if the existing parking lot could remain on Lot 17 for 18 months to two years. If allowed, Mr. Cullis or ICI would agree to refurbish Lot 17, at the end of use. The advantage would be that people going to the model home would not pass through the guard gate.

Supervisor Davidson suggested that, if the District agrees to this favor, ICI should agree to a favor in return.

In response to Ms. Leister's question, Mr. Cullis indicated that, if the parking lot remains and there is a driveway to it, the sign at the entrance would remain but could be smaller. Ms. Leister felt that the sign should be much smaller and compliant with the current signage in Grand Haven.

Supervisor Davidson polled the Board and surmised that the Board was in agreement, provided there was a smaller sign and, possibly, on "comp".

Mr. Cullis recalled the previous discussions and offers regarding the 9th Green site.

Supervisor Davidson asked Supervisor Gaeta for her position on the purchase of the 9th Green site. Supervisor Gaeta was in favor of the purchase.

*****Supervisor Gaeta temporarily left the meeting.*****

Mr. Cullis indicated that an agreement for the CDD to purchase the 9th Green site was reached, with the caveat that the District share payment of the closing costs; however, he no longer wants the District to pay any of the closing costs. The only change to the prior agreement was that Mr. Cullis would no longer need the conservation or drainage easements but requested

that the agreement be changed to give him five years to obtain it, if needed. His understanding of the agreement was that the Fiscal Year 2015 and 2016 assessments were part of the closing and requested reimbursement by the District for the Fiscal Year 2015 assessments, at closing, as he paid them while the agreement was being negotiated, and that the District waive the Fiscal Year 2016 assessments.

- **Louise Leister: *District Horticultural Consultant***

Ms. Leister gave a presentation regarding proposed uses for the 9th Green site, including creation of a park for the entire community, with a community area that could be utilized for events or activities, such as family reunions, weddings, concerts, barbeques, Art in the Park, etc. Additionally, the new Grand Haven oak tree could be planted in the park.

Supervisor Davidson felt that it would be “great” if ICI and Grand Haven Realty coordinated to fund the new, large Grand Haven oak tree in a community park. Mr. Cullis believed that \$2,000 was a fair amount for ICI to contribute and he was willing to contribute, as well. Ms. Leister noted that the condo association should also contribute. The new oak tree should have a plaque listing the sponsors.

Supervisors Chiodo and Smith supported Ms. Leister’s ideas.

*****Supervisor Gaeta rejoined the meeting, via telephone.*****

Supervisor Smith pointed out that the cart path from the bag drop to the clubhouse and a portion of the cart path leading to the driving range are on the 9th Green site. He questioned if there was an agreement with the Golf Club and prior owners concerning this issue. The Golf Club previously provided Mr. Cullis with documents believed to allow them to encroach on the 9th Green site; therefore, any plans for the property should be coordinated with the Golf Club.

Discussion ensued regarding giving the Golf Club an easement.

Mr. Cullis believed that the master documents must be reviewed to determine whether the Golf Club actually has the right to encroach. Mr. Clark was familiar with similar situations and noted that the District may “have to live with a cart path that encroaches”.

Supervisor Smith recalled that, according to the Flagler County Property Appraiser’s website, the assessed value of the property was \$25,000, and asked if it was a factor that must be considered. Mr. Clark replied affirmatively; however, it is not definitive. Generally, the District should want equivalent value when it spends public funds. As there is some disconnect and the District wants to acquire value equal to what it pays, Mr. Clark suggested that Mr. Cullis give the

CDD rights to the Grand Haven logo, as part of the deal, with the CDD licensing the rights to Mr. Cullis to use for a specified time.

Mr. Cullis was not interested in Mr. Clark's suggestion; however, he was still willing to allow the CDD to utilize the logo. Mr. Clark recommended obtaining a formal license to use the Grand Haven logo.

Supervisor Davidson pointed out that the assessed value and market value on property are entirely different. The District decided against obtaining an appraisal due to the danger of the appraised value being significantly lower than the selling price. Mr. Clark confirmed that no statutes or rules mandate that the District obtain an appraisal or that the District could not pay more than the appraised amount.

Ms. Leister was unsure how much her suggested plan would cost but felt that, long term, the District could generate "huge income" from the property by renting it for various events, etc. The District could responsibly develop the property to make it an area suitable for the community to rent for events, hold concerts and other revenue generating activities; it could be an investment in the future.

Supervisor Davidson indicated that settlement funds of approximately \$250,000 were available.

Discussion ensued regarding whether to reimburse Mr. Cullis for the Fiscal Year 2015 assessments and to waive the Fiscal Year 2016 assessments. Mr. Cullis indicated that, if the District will not reimburse the Fiscal Year 2015 assessments and waive Fiscal Year 2016, he will increase the purchase price by those amounts. Mr. Wrathell pointed out that the Fiscal Year 2016 assessment was already on the tax bill; therefore, the only option would be to file a correction, if possible.

On MOTION by Supervisor Davidson and seconded by Supervisor Gaeta, with Supervisors Lawrence, Chiodo, Gaeta and Davidson in favor and Supervisor Smith dissenting, purchasing the 9th Green site for \$32,500, using the unencumbered settlement funds, reimbursing approximately \$8,000 to Mr. Cullis for the Fiscal Year 2015 assessments, waiving the Fiscal Year 2016 assessments and paying off the associated bond debt on the property, were approved. (Motion passed 4-1)

▪ **Vine, Firewise and Landscape Update**

*****This item was part of Ms. Leister's report.*****

Ms. Leister gave a slide presentation of her Fiscal Year 2015 review and Fiscal Year 2016 plans and recommendations.

The Fiscal Year 2015 review included photographs and discussion of the following:

- ✓ Diseased palm trees on the Canary Island and at The Village Center that were removed.
- ✓ New landscape was installed at the Main Gate.

Ms. Leister was advised by Ms. Julie Maddux, Flagler County Wildfire Mitigation Specialist, that the upcoming El Niño season will result in a wet and cold winter, with a lot of frost and freezing, followed by a volatile fire season the following year. This is the same climate condition and the same forecast as in 1998, when Flagler County experienced many fires. The Firewise Program must continue forward at the current pace. Residents must understand that certain Firewise work is necessary for the community's safety. Many tornadoes are anticipated during the winter and the heat and drought indexes will be in the 800 range, as it was in 1998.

Ms. Leister reviewed photographs and discussed the Firewise work performed in the following areas:

- ✓ Waterside Parkway and Flamingo Court vine and Firewise Program, including the Golf Course, utility box area and the pond at Waterside Parkway.
- ✓ Egret Drive corner and Waterside Parkway, including area around the Osprey Lakes sign and the Waterside Parkway view of the Golf Course.
- ✓ Grandview Drive and Waterside Parkway Golf Course view and vine removal.
- ✓ Montague Street and Waterside Parkway Corner bridge, pond and sidewalk areas.
- ✓ Main Gate; south side of the CDD parcel along Colbert lane, inside the fence.
- ✓ Wild Oaks Estates vine removal; Willow Oak Way by the ponds and natural area.
- ✓ The Village Center and areas along Waterside Parkway, including tennis courts.
- ✓ South Gate and Colbert Lane areas.

Ms. Leister discussed the bald eagles, other birds and the natural habitats in Grand Haven and proposed creating birding trails throughout the community, along with a corresponding map. The cost for this type of project had not been researched but Ms. Leister felt that the cost would

only involve creating a map, signs and some pathways; some sidewalks would already be part of the trail.

Supervisor Smith recalled that \$50,000 was budgeted for vine clearing and asked if it was within budget. Ms. Leister replied that vine clearing was under budget in Fiscal Year 2015 and Fiscal Year 2016 commenced in October; she asked that the District continue budgeting for vine removal in future years, as it is a never ending project.

Discussion ensued regarding additional Firewise work that was underway.

Ms. Leister found large amounts of debris in several areas and suggested that the District remind residents that dumping debris in Firewise areas is prohibited.

▪ **Landscape Encroachment Issues**

****This item was part of Ms. Leister's report.****

Ms. Leister presented photographs and discussed the following landscape encroachment issues:

- ✓ 5 Ibis Court South: The homeowner landscaped on CDD property where Firewise clearing was underway. In order for the project to proceed, the irrigation, sod and landscaping must be removed.
- ✓ 11 River Park Drive North: The homeowner planted a garden and installed raised wooden plant beds, wire fencing, fence posts, stepping stones, electrical and many large clay pots in the natural area, which are impeding Firewise mowing; the natural area is CDD property. All of the items must be removed as soon as possible.
- ✓ 19 St. Andrews Court: The homeowner installed landscaping, including plants and trees, on CDD property.
- ✓ 17 Blue Oak Lane: The homeowner cleared and/or mowed CDD and private property along the lake bank and dumped debris in the pond and natural areas. Despite Ms. Leister meeting with the homeowner four times, these actions still occurred.
- ✓ 139 West Waterside Parkway: The homeowner wanted to plant a hedge on CDD property and had already planted palm and citrus trees on CDD property and in a Firewise mowing area.

- ✓ Jasmine Drive Natural Area: Ms. Leister reviewed photographs of vine work in the natural area.

Ms. Leister indicated that, going forward, the areas cleared during the Firewise project will be monitored and not be allowed to return to their prior conditions.

Ms. Barbara Ford, a resident, and her husband, were pleased with the vine removal. She did not realize that her landscaping crossed the property line; they were trying to beautify and create a barrier from the Waterside Parkway traffic and a light illuminating their backyard.

Supervisor Davidson wanted an accommodation so that some of the landscaping could remain or for the District to install plants to create a sound and visual barrier. Ms. Leister indicated that the hedge could remain but items such as the sod, irrigation and birdbath must be moved onto the homeowner's property.

Supervisor Davidson felt that the District could accommodate these property owners, as a one-time exception, since the encroachment was not blatant and their property abuts the road. Mr. Kloptosky confirmed that a shield could be installed on the back side of the light but noted that the irrigation, birdbath and sod encroach and a decision must be made whether to allow those encroachments to remain, as well. Supervisor Davidson stated that the birdbath should be moved. Ms. Leister will review the irrigation system to determine whether it can remain.

Regarding 11 River Park Drive North, Supervisor Davidson indicated that the District will remove the encroachments, if necessary, as the property owner was notified several times. District Counsel will send a letter advising that the District will commence with "reclaiming" its property.

*****The meeting recessed at 12:37 p.m.*****

*****The meeting reconvened at 12:48 p.m.*****

Mr. McGaffney and Mr. Jeff Kilpatrick, a CDD employee, met with the property owner of 139 West Waterside Parkway. The property owner questioned why the District was not maintaining or mowing the grass from the sidewalk to where Firewise clearing occurred and why he could not install a privacy hedge. Mr. McGaffney advised the resident to contact the GHMA about certain issues. Documentation was provided to the property owner, showing that the citrus and palm trees, as well as the proposed hedge location, encroached on CDD property. Regarding maintenance or mowing of grass, Ms. Leister previously notified the property owner that the sod was overgrowth from their property and the District does not maintain sod in natural areas; it is

not a landscaped parcel. Mr. Kloptosky reiterated that the trees encroach and noted that, previously, other property owners were required to remove encroachments; he did not want the appearance that the District was “favoring” one resident over another. Supervisor Davidson asked if the trees must be removed. Ms. Leister felt that they should be removed.

Mr. Kloptosky noted that, for five years, the resident questioned why the CDD was not maintaining the area.

Ms. Leister stressed that the District should monitor to ensure that a hedge is not installed on CDD property. It was noted that property owners often submit plans with items on their own property but the items are then installed on CDD property. Ms. Leister recommended that a visual inspection be completed when the Architectural Design Committee (ADC) receives a landscaping plan for review. Supervisor Davidson suggested that the ADC require staking out areas bordering CDD property prior to approving plans.

Supervisor Davidson believed that, for consistency, the District should require removal of the citrus and palm trees at 139 West Waterside Parkway.

Supervisor Smith was not comfortable with requiring removal of the trees, as “we are talking about a couple of trees”.

Ms. Leister pointed out the potential for more items to be installed on CDD property if the trees are allowed to remain. Mr. Kloptosky recalled that the resident’s sod extends 16’ onto CDD property and asked about CDD liability since the resident has his private landscaping company maintaining it.

Mr. Clark stated that the CDD could be liable but it is not different than anyone being on other CDD property. The trees sit on CDD property; therefore, they are the CDD’s trees and the Board can decide what to do with them.

Supervisor Smith favored leaving the trees. Supervisor Davidson stated that the CDD’s options were:

- 1) Send a letter advising that the area can remain intact but the property owner cannot personally or have anyone, such as landscape crews, perform work on CDD property; all maintenance of the area must cease and desist.
- 2) Remove all sod and trees and install mulch; disallowing property owner to install anything on CDD property.

On MOTION by Supervisor Davidson and seconded by Supervisor Chiodo, with all in favor, authorization for District Counsel to send a letter advising the property owner at 139 West Waterside Parkway that the area can remain intact but the property owner cannot personally, or have anyone, such as landscape crews, perform work on CDD property, including tree trimming, mowing or other maintenance activities, and that all maintenance of the area must cease and desist, was approved.

It was decided to send a letter to the property owner at 19 St. Andrews Court, advising that all encroachments must be removed.

Supervisor Lawrence questioned if the decision to allow encroachments to remain on CDD property at the 139 West Waterside Parkway location set a “bad” precedence or if the reason for not requiring the property owner to remove them was based on his claim that he did not install the encroaching items so he should not be required to remove them.

Ms. Leister stated that the difference between allowing the items at 139 West Waterside Parkway to remain and requiring those at 19 St. Andrews Court to be removed was that the St. Andrews Court location involved exotic invasive plants impeding on the CDD’s living hedge and it is detrimental to the hedge when sunlight cannot shine on the back side.

Supervisor Lawrence wanted the Board’s decisions about encroachments to be consistent. Supervisor Davidson felt that the situations were different; the encroachments on St. Andrews Court were detrimental to the living hedge on common areas and the Waterside Parkway encroachments posed no eminent threat. Supervisor Smith questioned if the property owner at 19 St. Andrews Court admitted to planting the encroachments. Ms. Leister and Mr. Kloptosky acknowledged that the property owner did not specify whether they planted them. Supervisor Smith pointed out that the District’s position could be as previously stated by Mr. Clark; the encroachments are on CDD property so the CDD can do whatever it wants with them, including removing them. There was no consensus on whether the property owners at 19 St. Andrews Court knew that their property would be discussed today. Mr. Clark recommended that the District Manager send an initial letter, consistent with the initial letters sent to the other property owners with encroachment issues, and allowing them the same opportunities as the others. It was determined that District Counsel should send an official letter to the property owner at 139 West Waterside Parkway.

Ms. Leister reviewed photographs of landscape updates and future plans near the Main Gate.

Ms. Leister and Mr. Kloptosky will coordinate for a solution to the holiday light issue. Mr. Kloptosky explained that the uplighting at the entrances must be replaced and he and Ms. Leister will research options for landscape lighting, uplighting, LED and holiday lighting.

*****It was noted that Supervisor Gaeta and Lawrence were no longer on the conference call.*****

SIXTH ORDER OF BUSINESS

CONSENT AGENDA ITEMS

A. APPROVAL OF MINUTES

- i. October 1, 2015 Community Workshop**
- ii. October 15, 2015 Regular Meeting**

B. APPROVAL OF UNAUDITED FINANCIAL STATEMENTS

- i. Unaudited Financial Statements as of October 31, 2015**

Supervisor Davidson presented the Consent Agenda Items for the Board’s consideration. Revisions to the minutes were previously submitted to Management.

On MOTION by Supervisor Smith and seconded by Supervisor Chiodo, with all in favor, the Consent Agenda Items, as amended, were approved.

SEVENTH ORDER OF BUSINESS

STAFF REPORTS

A. District Engineer

- i. Update: Road Resurfacing Plan**

Mr. Sullivan reviewed the Road Resurfacing Prioritization Update, which included priority recommendations, recommendations regarding the concrete streets and the approximate lengths and costs for each area to be resurfaced.

Mr. Kloptosky presented a list of areas with curb and gutter issues that might require repair. Several of the issues were on Lagare Street, which was included on Mr. Sullivan’s priority list for Fiscal Year 2016. Mr. Kloptosky suggested completing curb and gutter repairs on Lagare Street, in conjunction with the road resurfacing project. Curb and gutter repairs were

also necessary at two locations on Waterside Parkway that will not be resurfaced but should be repaired and patched. Mr. Kloptosky will obtain quotes for the identified curb and gutter repairs.

Supervisor Davidson pointed out that, based on economies of scale and for convenience, it would be best to complete as much resurfacing as possible, at one time.

*****Supervisor Lawrence rejoined the meeting, via telephone, during this discussion.*****

Supervisor Lawrence asked for confirmation that the priority list was comprehensive and that there were no other roads that needed to be resurfaced during the specified time frame. Mr. Sullivan replied affirmatively; it was comprehensive within the identified time frame.

Mr. Sullivan will deliver the final information related to the permit application submittal to the City of Palm Coast for the Creekside parking lot project.

B. Amenity Manager

Mr. Ross reported that tennis fee revenues continue rising; however, a former resident continually tries to avoid paying. Supervisor Davidson questioned if the former resident has a right to play tennis or is the guest of a resident. Mr. Ross replied no. It was noted that the \$10 daily fee is only for guests of residents; if the person is not a guest, they cannot simply pay \$10 and utilize the facilities. The Board directed Mr. Ross to contact the sheriff to initiate issuance of a Trespass Notice to the former resident, if he refuses to leave.

i. Quality Security Assessor (QSA) Report-P2PE EMV Compliance Update

This item was not discussed.

C. Field/Operations Manager

▪ Consideration of/Decision on: S.E. Cline Construction, Inc., Change Orders for Sailfish Drive Project

i. Change Order 1: \$402.25

ii. Change Order 2: \$4,002.53

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

Mr. Kloptosky presented the S.E. Cline Construction, Inc. (Cline), Change Orders 1 and 2. Change Order 1 was for site work fees and Change Order 2 was for costs related to relocating an existing water main with fittings and restraints to install a storm box. With these change orders and a credit for work that was not necessary, the new Construction Agreement price was \$182,268.60.

Mr. Kloptosky reported an issue where a sewer line was in line with where Cline must install another pipe but was unsure if Cline would submit another change order for the additional work necessary to resolve the issue.

On MOTION by Supervisor Smith and seconded by Supervisor Davidson, with all in favor, Change Orders 1 and 2, were approved.

Mr. Kloptosky presented a letter and photographs from the resident at 10 Sailfish Drive. There are issues with the sewer inlet location, in relation to their driveway, and the resident wants the CDD to replace it with a curb gutter. The home location was previously two lots and the inlet was between the lots. The homeowner believed that the District should pay for it because they were not the original owners; the estimate was \$8,781. Supervisor Davidson felt that the District should not pay for the repair; the homeowner may hire a contractor to make the desired repairs. Mr. Clark and the Board agreed.

Mr. Kloptosky recalled The Village Center spa repair project budgeted in Fiscal Year 2015, for \$10,000; however, the repairs were not completed, the money did not roll over into Fiscal Year 2016 and the project was not on the approved Capital Improvement Plan (CIP) projects list. During a recent inspection, the health department inspector placed the spa on a list of items that must be repaired within three months or the spa must be closed.

On MOTION by Supervisor Lawrence and seconded by Supervisor Smith, with all in favor, the Blue Ribbon Pools proposal to repair the Village Center spa, was approved.

Mr. Kloptosky reported significant erosion of the pilings at the Esplanade footbridge, north of River Trail. Proposals are being obtained for additional pilings on every other piling, bring the pilings to the proper depth and install cross bracings. The bridge is still usable.

Mr. Kloptosky indicated that the insurance claim for the monument sign that was damaged by lightning was \$12,242, with a \$5,000 deductible. The insurance company advised that the \$7,242 payable would be further reduced by \$2,048, for depreciation. Mr. Wrathell will contact the insurance company.

Mr. Kloptosky advised that the conversion to LED streetlights was completed. Mr. Kloptosky forgot to e-blast the community; however, to date, no comments were received. Supervisor Davidson asked that notification be delayed three months and that the e-blast contains information about how the conversion was fiscally responsible.

Regarding the lakes stocked with shellcracker fish, the contractor informed Mr. Kloptosky that the District is not receiving the benefit of eliminating midge flies in the lakes that do not have aeration. Supervisor Smith recommended that Mr. Kloptosky obtain quotes for aerating the other lakes but delaying the decision until after the next midge fly season to determine if the issue was resolved without aeration.

Mr. Kloptosky recalled that extra security cameras were recently installed and it was discovered that the District's internet speed is not adequate enough to download or maintain the images. The upgrade will cause the Bright House bill to increase \$88.08, monthly.

Mr. Kloptosky noted that Universal Protection Service acquired ABM Security; there should be no change in the District's security services.

Mr. Kloptosky received many complaints regarding vegetation along lake banks. Austin Outdoor cannot spray within 20' of the water line; however, Aquatic Systems could be hired to spray the lake banks because they are licensed to spray lake banks within that 20' area. The proposal will be presented at a future meeting.

Mr. Kloptosky indicated that three people who damaged entrance gates and were billed for repairs refused to pay. One person was a renter who moved from Grand Haven; however, according to CDD policy, the homeowner can be billed for the repairs. The other two instances involved contractors. He asked if staff should continue pursuing the unpaid bills, which totaled \$915, and whether they could be turned over to a collection agency. Mr. Clark pointed out potential liability if the collection agency did not follow the law.

Regarding the 2016-2018 Community Information Guide (COG), Ms. Higgins met with a new printer and provided a proposal that should save approximately \$10,000, compared to the Class A Printing (Class A) estimate. The difference is that the pages in the directory portion would not contain color bars on the edge. The cost would be \$10,825 for the guide and layout costs of \$3,000, for a total cost of \$13,825. Advertisement sales are at approximately \$9,000 and additional ads are anticipated. Mr. Kloptosky noted that the Board previously authorized the COG but with Class A's proposal. The Board directed staff to proceed with the new printer.

▪ **Mr. Kloptosky's Health Care Premium**

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

Mr. Wrathell recalled that the District reimburses Mr. Kloptosky 50% of his health care premium. The new premium will increase \$224.57 per month, which will be split between the District and Mr. Kloptosky.

On MOTION by Supervisor Davidson and seconded by Supervisor Chiodo, with all in favor, authorization the increase Mr. Kloptosky's insurance premium reimbursement allocation to the amount necessary to pay 50% of the total annual insurance premium cost, was approved.

D. District Counsel

Regarding the exempt nature of video camera recordings on CDD property, Mr. Clark indicated that the District cannot do anything with video feeds, other than view them and turn them over to law enforcement if there is a terrorist investigation. Mr. Kloptosky asked if the video could be provided to law enforcement when requested for any type of investigation. Mr. Clark explained that the District must ask law enforcement if the video is for a terrorist investigation and, if it is not, then the District cannot turn it over without a court order. The videos are exempt and confidential; therefore, the District does not have discretion to turn over video, at will, including law enforcement, in a non-terrorist investigation. Supervisor Davidson suggested that the CDD's video camera feeds go directly to the Sheriff. Mr. Clark stated that a possible bypass would be for the District to declare portions of the camera feed not part of the security system. Supervisor Smith was in favor of implementing a statutory "work around". Mr. Clark will continue researching the matter. In response to Supervisor Lawrence's question, Mr. Clark confirmed that CDD employees and Staff and Board Members can review the video, internally but not at a public meeting. Mr. McGaffney asked if the CDD can voluntarily provide video to law enforcement. Mr. Clark replied no. Supervisor Davidson questioned whether turning over video was a criminal act. Mr. Clark indicated that it might be and could carry liability. The District could comment on what was observed on video.

Mr. Clark reported that he and Mr. Wrathell will meet with Flagler County staff regarding the traffic light bond on November 30, 2015.

E. District Manager

i. Upcoming Community Workshop/Regular Meeting Dates

o BOARD OF SUPERVISORS MEETING

- December 17, 2015 at 10:00 A.M.**

The next meeting will be held on December 17, 2015 at 10:00 a.m.

o COMMUNITY WORKSHOP

- January 7, 2016 at 10:00 A.M.**

The next workshop will be held on January 7, 2016 at 10:00 a.m.

EIGHTH ORDER OF BUSINESS

BUSINESS ITEMS

A. Consideration of/Decision on: S.E. Cline Construction, Inc., Change Orders for Sailfish Drive Project

- i. Change Order 1: \$402.25**
- ii. Change Order 2: \$4,002.53**

This item was presented during Item 7.C.

EIGHTH ORDER OF BUSINESS

OPEN ITEMS

Supervisor Davidson pointed out that the previous meeting minutes imply that Supervisor Lawrence believed the Riverview Condo Association was confused about maintenance responsibilities and whether the District could recover costs. Supervisor felt that there is a distinct difference between maintenance obligations of a homeowner to maintain land to the pond bank and the actual maintenance and repair of the stormwater drainage system, including slopes and flow. The CDD, as the permit holder, is the party authorized to perform that maintenance but, in this situation, the Riverview Condo Association made an incorrect change to the permitted flow and pond bank structure, which was not its responsibility. The Riverview Condo Association made a “repair”, it did not perform “maintenance”. Mr. Wrathell confirmed that the \$3,000 payment check was just received.

TENTH ORDER OF BUSINESS

SUPERVISORS’ REQUESTS

There being no Supervisors’ requests, the next item followed.

ELEVENTH ORDER OF BUSINESS

ADJOURNMENT

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

On MOTION by Supervisor Chiodo and seconded by Supervisor Smith, with all in favor, the meeting adjourned at 2:23 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



Secretary/Assistant Secretary



Chair/Vice Chair