

**MINUTES OF MEETING
VISTA LAKES
COMMUNITY DEVELOPMENT DISTRICT**

The regular meeting of the Board of Supervisors of the Vista Lakes Community Development District was held on Thursday, May 12, 2011 at 10:00 A.M. at the Vista Lakes Clubhouse, 8841 Lee Vista Boulevard, Orlando, Florida.

Present and constituting a quorum were:

John Rose	Chairman
James Shelton	Assistant Secretary
Ron Cumello	Assistant Secretary
Dr. Harold G. Banks	Assistant Secretary

Also present were:

Gary L. Moyer	Manager: Moyer Management Group
Scott Clark	Clark & Albaugh, LLP.
Barry Roy	Engineer: Bowyer-Singleton
Gary Van der Laan	Property manager

FIRST ORDER OF BUSINESS

Roll Call

Mr. Moyer called the meeting to order at 10:02 A.M. and stated that all Supervisors were present with the exception of Mr. Rose and Mr. Holihan.

SECOND ORDER OF BUSINESS

Approval of the Minutes of the February 10, 2011 and April 7, 2011 Meetings

Mr. Moyer stated that each Board member received a copy of the minutes of the February 10, 2011 and April 7, 2011 meetings and requested any additions, corrections or deletions.

There not being any,

On MOTION by Mr. Cumello seconded by Pastor Banks with all in favor the minutes of the February 10, 2011 and April 7, 2011 meetings were approved.
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THIRD ORDER OF BUSINESS

Presentation of Fiscal Year 2012 Proposed Budget

A. Fiscal Year 2012 Budget

Mr. Moyer stated all of you are familiar with this process where management prepares a budget and submits it to the Board.

The record will reflect that Mr. Rose joined the meeting.

Mr. Moyer stated at this meeting, I will ask the Board to adopt a resolution approving the budget for the purpose of setting a public hearing for August 11, 2011 at 10:00 A.M. at this location. I differentiate the word “approve” from “adopt”. This starts a process of providing this budget to the County and City for their input. After taking public comment at the public hearing, I will ask the Board to adopt the budget. In the past, we scheduled a budget workshop meeting in July. That is always a good idea to answer any questions from the Board. The good news is that we did not anticipate having to raise assessments this year and provide for a reserve of \$91,500, which is consistent with the updated Reserve Fund and a positive Fund Balance of \$22,000, which can be used to cover contingencies. The reason we are in better financial shape this year than two years ago is because of the good work Mr. Rose did with the street lights as we show revenues from Interlocal Agreements as well as a reduction in the reserve amount requirement. We have some room that we did not have two years ago.

Mr. Cumello stated we seem to be able to carry over a Forward Balance every year. I would like for the Board to consider a five percent cut in this budget. We made decisions in the past that we would not have to touch reserves and continue to pull money out of the fund balance. Effectively our reserves are growing and we would be using them in some cases. As you go through the exercise of doing this, I would like for the Board to consider the five percent cut.

Mr. Moyer stated we will take a look at that, but do not be misled by the Fund Balance. For example, in this fiscal year, where it says “Projected Total 2011”, it shows \$171,000 in addition to the Fund Balance. Keep in mind that of that \$171,000, \$105,000 was budgeted for reserves. It is not shown as an expenditure against the reserves, it is shown on the bottom line. You really do not have as much available surplus as you think you have.

Mr. Cumello stated yes, but looking at five percent, we are only talking about \$60,000 to \$70,000, which is not a great deal of money.

Mr. Moyer stated I would be happy to bring something back to you.

Mr. Shelton stated I suggest that the Board consider contributing to the off-duty police officer that the HOA is paying to keep the community safe. A great deal of the property they are patrolling is CDD property. Basically, the HOA is paying some costs to watch CDD owned property. I have not worked out any figures, but most of what the police are patrolling are CDD

owned facilities. We had an issue with activity taking place in the conservation areas, which are owned by the CDD. If the Board wants to consider that, I can work up some equitable justification for what costs logically belong to the CDD based on how the police spend their time.

Mr. Moyer stated it is up to the Board as to whether or not you want to do that.

Mr. Rose stated I would not support this.

Mr. Shelton asked why?

Mr. Rose responded I question the need for an increase in the budget from an HOA perspective.

Mr. Shelton asked even though some costs borne by the HOA are CDD costs?

Mr. Rose responded I do not believe that the benefit outweighs the cost.

Mr. Shelton asked what is the police officer supposed to do if they see activity on CDD property? Should the HOA have to pay for it?

Pastor Banks responded the POA is not paying for it anymore and are separate from the HOA. We did pay for it, but not any longer.

Mr. Shelton stated alright. The other suggestion I have is to consider extending the irrigation line on a section of Chickasaw as there is a definite demarcation coming down from Newport, which has irrigation and picks up north of the lift station. South of this area the grass is green both on the street and non-street side and the same with Newport. Furthermore, the entrance into Vista Lakes is nice on one side, but not on the other. I recall discussion that there was irrigation available from either side of the road.

Mr. Rose stated there is a proposal in our agenda package to do what you just said.

Mr. Moyer stated the proposal was for \$9,100, which was in this year's budget.

Mr. Shelton stated that is all I have.

B. Consideration of Resolution 2010-2 Approving the Budget and Setting a Public Hearing

Mr. Moyer stated if there are no further questions, I request that the Board consider Resolution 2010-2, which sets the public hearing for August 11, 2011 at 10:00 A.M. at this location.

On MOTION by Mr. Rose seconded by Mr. Cumello with all in favor Resolution 2010-2 Approving the Proposed Budget for Fiscal Year 2012 and Setting a Public Hearing for August 11, 2011 at 10:00 A.M. at the Vista Lakes Clubhouse, 8841 Lee Vista Boulevard, Orlando, Florida was adopted.

Mr. Rose stated I am not going to be in town on August 11. If we have a workshop, perhaps we can talk about re-scheduling the meeting. We have time to advertise this meeting.

FOURTH ORDER OF BUSINESS

Discussion of Re-bidding the Landscaping

Mr. Cumello stated I mentioned to Mr. Moyer at the last meeting that it has been awhile since we obtained landscaping bids. Over the last two years, we had issues with Servello & Son and seem to get a lot of crab grass in the common areas. I think it would benefit the CDD at this time to go out for competitive bids to see what the prices are and make a decision.

Mr. Rose stated I thought we already started this process.

Mr. Van der Laan stated we talked about it as well as separating out the fertilization and pest control when we go out for bids. That is the plan for next year.

On MOTION by Mr. Cumello seconded by Mr. Rose with all in favor the landscaping contract will be re-bid.

FIFTH ORDER OF BUSINESS

Manager's Report

A. February and March Financial Statements

Mr. Moyer stated we provided the financial statements through March 31. In terms of collections of our non ad-valorem assessments, we are at 91% collected versus 89% collected at the same time last year. So we are right on target to where we were a year ago. As all of you know, the tax bills are due and payable by March 31. This does not include any distributions we would have received in April. I did not get an update, but I do not think there is anything to be concerned about. We are in good shape on the expenditure side. There is not much to highlight in this Financial Report.

B. Check Registers

Mr. Moyer stated the check registers were provided to the Board. After the Board's review, I would ask for a motion to approve.

On MOTION by Mr. Shelton seconded by Mr. Rose with all in favor the check registers for February and March were approved.

C. Discussion of Action Item List

Mr. Moyer stated the Action item List was provided to the Board.

Mr. Cumello asked when are we going to get a cost estimate of the plantings for the fountain?

Mr. van der Laan responded I believe we received a breakdown.

Mr. Moyer stated I will provide this to the Board. Do you recall the order of magnitude?

Mr. van der Laan responded I believe it was in the area of \$20,000 and \$25,000. More was done on Chickasaw and Lee Vista.

Mr. Moyer stated I should have something by the next meeting. Clearly, this will reflect the budget in terms of being under budget this month, but you will not be very much under budget next month, when this is added in.

Mr. van der Laan stated I worked with the contractor and the numbers are within budget. The bulk was the planting project for 2011, which was item 2 on the Action Item List and has not been completed. Item 15 should be removed from the list as the soccer field is entirely the HOA's responsibility. In regards to item 16, you received a proposal from the Agronomist, Mr. Larry Smith for an overall landscape plan. It was not exactly what I was looking for from him. It was \$21,000. As part of the bid process with the landscape companies, I suggest that we get a separate proposal for the landscaping around the ponds. In regards to item 17, we provided a proposal in the agenda for putting in irrigation along Chickasaw Trail from Newport to the lift station and replacing the Bahia with St. Augustine. The amount of the proposal was \$9,135.75. Item 18 was to provide a priority list of proposals to be obtained. I was not sure what that meant, but I believe that falls into the overall landscaping design plan. In regards to item 19, Aquatics Systems was put on notice and we are getting aquatic maintenance bids. We should have those in the next 30 to 60 days.

Mr. Cumello asked do you think we should still go out for bids due to the fact that the ponds look better?

Mr. van der Laan responded I am sure that the improvement has to do with the change in weather. The aquatics contracts were bid out two and a half years ago so it is time to go out for bids.

Pastor Banks stated I just put Floritan in my yard and it costs me a fortune to maintain. Why would we remove the Bahia since it is easy to maintain as St. Augustine will cost a fortune to maintain.

Mr. Shelton stated it is the community standard that all yards have Floritan. Bahia looks bad in the winter.

Pastor Banks stated so does St. Augustine.

Mr. Shelton stated not like Bahia. In my opinion, the landscaping should be consistent with the rest of the landscaping.

Mr. Cumello stated I think the issue we have along Chickasaw is there are mostly weeds in the summer because there is no maintenance on it. We spent "x" amount of dollars to replace the grass on the east side of Chickasaw and the west side has weeds in the summer.

Mr. Moyer asked do you want to consider the proposal for \$9,135.75? We probably should.

Mr. Cumello stated I am stuck with the fact that we are spending a lot of money on landscaping. How much money are we actually spending against the budget? We spent another \$30,000 two months ago to fill in all of the pond areas.

Mr. van der Laan stated the landscaping is within budget at this time. The proposal for \$9,135.75 may put us \$2,000 to \$3,000 over for the landscaping budget. All of the aerators, which cost \$30,000 each, will come out of reserves.

Mr. Moyer stated the actual amount is \$31,912.

Mr. Cumello stated I thought we were paying for everything out of the Fund Balance instead of the reserves.

Mr. Moyer stated maybe I misunderstood. The reason I think we take money from reserves is that is money allocated for that purpose. The Undesignated Fund Balance gives the Board more latitude because it is not encumbered as a reserve. It can be used for any purpose.

Mr. Cumello stated I saw the invoice and it was paid. The question was what it was paid out of.

Mr. Moyer stated it came from reserve funds.

Mr. Shelton stated what was the total cost of the landscaping on the east side?

Mr. van der Laan responded \$25,000.

Mr. Shelton stated there is a definite improvement, but it is debatable whether it is \$25,000 better. I have taken the attitude that instead of setting the budget for landscaping, which is always a guestimate, we consider the maintenance and replacement. However, the Board has the authority to make a decision on major improvements, whether it is budgeted or not. I would like to see a proposal come to the Board for approval.

Mr. van der Laan stated we did discuss this issue prior to work starting three months ago and the Board reviewed the proposal and drawings. I took that as my direction to proceed.

Mr. Shelton stated I did not mean to imply otherwise. No one did anything wrong, but I suggest that we make this a policy for future items.

Mr. van der Laan stated Mr. Cumello had suggested two months ago that whenever we do these types of improvements over a certain dollar amount, we should get additional proposals. I will certainly do that in the future.

Mr. Cumello stated I am concerned about the timing issue. We have done so much landscaping in this fiscal year and we have this proposal. We also have an action item to get a price on planting trees around the ponds on Lee Vista. Once those residents saw the landscaping around the fountain, they wanted landscaping. I am interested in the impact on the budget.

Mr. Moyer stated we have a line item for R&M Common Area, which we allocated \$20,000 for in the budget and no monies have been spent. We also have a line item for trees and trimming, which we budgeted \$30,000. However, the pro-ration is \$15,000 through the first six months. We spent \$2,800 to \$2,900 against this line item and I do not know what our plans are.

Mr. van der Laan stated that money was for Lee Vista Boulevard. Three years ago, the landscaping was bid out and \$150,000 was budgeted. The R&M Common Area was set aside for restoration due to hurricanes in 2004/2005 to replace the trees along Chickasaw and Vista Lake. As we get those proposals in for landscaping and see what the suggestions are, we will know what we need to budget for. Each year we spent \$40,000 to \$50,000 for the past three years to target each area based on need.

Mr. Cumello stated according to the budget for landscaping in the Field Budget, we budgeted \$160,000 for flowers, irrigation, mulch, trees and trimming. I assume that is all discretionary.

Mr. Moyer stated some of it is programmed. We have some surplus money. Because flowers were \$9,100 under budget and mulching was \$8,500 under budget on a pro-rata basis for our six month expenditure, those funds can be re-allocated.

Mr. Rose stated that would include the Servello & Son contract.

Mr. Cumello stated the street lighting contract is \$295,000. I am looking at \$160,000 of discretionary funding for the replacement of shrubs and year to date through March we spent \$90,000 plus another \$45,000 for the proposal.

Mr. van der Laan stated the discretionary funding is actually for the R&M Trees and Shrubs and irrigation. We have been spending more for irrigation because the irrigation out front is not working. Part of the \$9,100 was for the installation of irrigation along Chickasaw and restoring the berm irrigation systems, which have been completed. Once we get through next year and finish up the remainder of the irrigation overall, that number will come down in the 2013 budget. We mulch every year and it costs \$50,000 for the mulch.

Mr. Cumello stated what I am saying is that we mulched already in this budget year. Correct?

Mr. van der Laan responded this budget does not reflect the berm mulch that was done recently. We are going to get close to the \$50,000 budgeted number.

Mr. Cumello asked what line item will the \$40,000 that still has to hit from Servello & Son come out of?

Mr. van der Laan responded part of it is coming out of irrigation, part out of flowers and another part out of trees and trimming.

Mr. Cumello stated I am still struggling with whether we are going to blow through these line items as we keep approving them. The ponds came out of reserves so that is a non issue. We are paying for the repairs of the fishing pier out of operating funds. I am trying to figure out what we are doing to the bottom line.

Mr. Rose stated we just said if we approve the \$9,100, it is going to increase the budget so let's not approve it.

Mr. Cumello stated I am trying to get a handle on where we are at before we make a decision.

Mr. van der Laan stated the intention is that the work that was done would come out of landscape budget as we had spent the full discretionary amount of \$70,000 per year for the past

three years. We are close to this amount. Next year, I can look at having a project list, look at the priorities and get back to the Board on how we are going to spend the \$70,000.

Mr. Moyer stated if you look at the balance sheet on the financials, we have designated reserves of \$268,000. That is the money we have been saving over the past three years pursuant to the Reserve Study. We also have unreserved/undesignated funds of \$877,000 through March 31. If we spent against the budget, we have another \$650,000 to spend for the next six months.

Mr. Cumello asked what do we spend as an average each month?

Mr. Moyer responded we are spending \$100,000 each month or \$600,000 for six months. In an order of magnitude, you probably have \$200,000 of available funds to be used by the Board any way you want to use them. Even if we expend more than what is in the budget, we would have to do a budget amendment to reflect that, but that money would come from the undesignated fund balance at the end of the year. You have a couple hundred thousand dollars to do that.

Mr. Cumello stated we already authorized the repairs, which was \$18,000; plus the drains, which were another \$6,000 to \$7,000 for a total of \$25,000. We just need to understand what we are doing.

Mr. Moyer stated correct.

Mr. Cumello stated it sounds like we can spend another \$9,000.

Mr. Moyer stated we have the money to cover the \$9,000, but it will require a budget amendment and the money will come out of the \$200,000 that is an unreserved fund balance.

Mr. Cumello stated we are getting to the point where we need capital funds as we are getting into hurricane season.

Mr. Rose stated we always need to be careful.

Mr. Cumello stated from the standpoint of where we are regarding this discretionary spending, we need to have a plan, which is an action item. We need to determine where that is on the list and where we are getting the money from so when we make these decisions, we make them based on facts. That is all I am asking for.

Mr. Moyer stated I think part of that needs to be a Board discussion in terms of what you see as future capital projects. When we have our workshop, let's put that as an item for discussion, where the Board members put on the table, items the community needs on a going forward basis.

On MOTION by Mr. Cumello seconded by Mr. Shelton with all in favor the proposal for putting irrigation along Chickasaw Trail from Newport to the lift station and replacing the Bahia with St. Augustine in the amount of \$9,135.75 was approved.

Mr. Rose asked is that only the area between the road and the sidewalk?

Mr. van der Laan responded yes.

Mr. Rose stated so this does not include the area near the Newport adjunct.

Mr. Shelton stated correct. But there is some space outside of these areas on the sidewalk towards the woods. Everything else is fixed up to some extent.

Mr. van der Laan stated that opens up an entirely other issue because on the east side of Chickasaw, we were able to tie into existing areas. We did not go on the opposite side as it would require new valve boxes. It is a much more extensive project to try to get irrigation on the other side of this sidewalk.

Mr. Roy stated I think the slope is actually a conservation area just outside of the ROW and it is supposed to be natural and not planted.

Mr. Shelton stated there are parts of it that are.

Mr. Roy stated there is a five foot sidewalk so it would be easier to get piping over there, but I believe the area goes right to the edge of the sidewalk. Theoretically it should not be St. Augustine, but natural grasses.

Mr. Cumello stated item four had to do with hiring an Electrician to inspect the entry feature lights. Someone from the HOA pulled some information on these wall lights and it is inconclusive. As an example, over a six month period of time, some lights are being replaced, but other lights have not had a problem in six months. On one side of the Amhurst Wall, a light was replaced, while the light on the other side was not. On the Carlisle Wall and Melrose Wall, they had to replace the lights twice, but in Champlain and Colonie, they never had to replace any lights. It seems to be spotty and we do not have a reason why certain lights continue to need to be replaced. I suggest that we continue to monitor this to see if the trend continues.

Mr. Rose stated I would expect our maintenance staff to replace lights if they need to be replaced.

Mr. Cumello stated they do. The issue was why certain ones were continuing to burn out and whether or not we had a problem with the fixture or the electricity.

Mr. Rose stated if we are having continuing replacement on a certain light, then we need to have someone look at it.

Mr. Cumello stated the action was for the CDD who owns the lights to hire an Electrician to take a look at the ones we are continually replacing. There was discussion about getting some information on which lights these are before making the decision to hire an Electrician. I am proposing for this action item to monitor it to see if this trend continues. I would like to add another action item. There was some work done on Lee Vista Boulevard between the pond by the school and Tivoli Gardens where a fire hydrant was replaced. The contractor never came back to re-do the landscaping. It is all St. Augustine and there is probably 20 to 30 feet on the school side that is ripped up. I assume that it is on CDD property because half of the conservation area goes to Tivoli Gardens.

Mr. Roy stated I assume that OUC or Orange County did a repair.

Mr. Cumello stated whomever did it, did not restore the landscaping. How do we find out who did it and ask them to restore it?

Mr. Roy responded the fire hydrant should be the responsibility of Orange County. The first option would be to contact them to restore it. I do not know if they will restore the St. Augustine.

Mr. Cumello stated lets open an action item on this matter.

Mr. Moyer stated will do.

Mr. Roy asked in regards to the fixtures that continue to have maintenance issues, has anyone looked at the irrigation in that area?

Mr. Cumello responded there are two theories. The first theory is that the installation had small horizontal panels and as they aged, they were replaced with more fixed fixtures. We are trying to determine which type of fixtures were causing most of the problems. The other theory is that some of these fixtures are where there are school bus stops and the kids are stepping on them. These are just theories.

Mr. Rose asked can we close this action item as part of our normal way of business.

Mr. Cumello responded I suggest closing them after the next meeting because the action was to have an Electrician look at these fixtures, which has not been done. If we continue to replace lights in Carlisle and Melrose, then we can pinpoint the ones we want to look at.

Mr. Roy stated I did not realize item five was my responsibility.

Mr. Moyer stated I do not recall the context that was discussed.

Mr. Roy stated the original specifications are in the CDD documents that the Landscape Architect created.

Mr. Rose asked do we know who asked for this and if it is needed anymore?

Mr. Cumello responded I suggest that someone look at the minutes.

Mr. Roy stated on the new action item list, item two, the answer was that the pilings go five feet deep into the water. On item four, I have to get the work order to find out what material the dock was made of. Someone from Southern Dock was going to coordinate with Mr. Moyer on getting the Notice of Commencement and contract signed. As soon as he had the signed documents, he would apply for the permit for the dock. He should be getting with you this week. The start date depends on the permit, but it should be the end of this month. However, the end of this month is Memorial Day.

Mr. Cumello stated I would have him start after Memorial Day.

Mr. Roy stated within 10 days, they should have the dock dismantled and the new one installed. He spoke with the drainage contractor to coordinate his work. In regards to item five, there were no cost savings doing both docks at one time. He gave us the best price.

Mr. Moyer stated we decided not to proceed with the canoe dock. We will delete this item from the Action Item List.

Mr. Roy stated item six is in regards to a resident in Melrose who had ponding water in his curb upstream of his driveway. You will see minor ponding throughout the community as this is a City of Orlando requirement that the developer install a pipe at the barrier curb, which requires the builder to saw cut out 40% of the curb, rip it out and pour a driveway. When the homebuilder builds those driveways sometimes they do not take the care necessary to maintain the flow in the gutter. That is what is occurring in his driveway. His driveway is actually creating the ponding upstream. The cost for replacement is probably \$25 per foot to cut out curb and replace it. You have to be careful because you have a tenth of an inch gradient across a 25 foot area. If the City standards would allow for it, the builder could tie into the back side and the flow path would be maintained through the driveway. It was something we tried to address with the City beforehand and they would not approve it.

Mr. Shelton stated I passed along information to the homeowner that say \$20 per foot and informally indicated to him that he was not going to get satisfaction from the CDD and if he wanted to discuss it, he could come to the meeting.

Mr. Roy stated he probably has not said anything because it's been dry for three months. You will find throughout the community that most of the time there is a problem with the driveway that was poured and it should have been addressed with the home builder prior to closing on those homes.

Mr. Shelton stated I will pass it on to the homeowner.

Mr. Cumello asked is it a CDD issue? It is a gated community. I recall talking about the water management system belonging to the CDD. Are we considering having the curb part of the water management system.

Mr. Roy stated the curb is what the CDD reserves funds for.

Mr. Cumello asked is it beyond the storm drain piece?

Mr. Roy responded yes. The curb and base were considered part of the storm drainage conveyance system.

Mr. Cumello stated if it is a City street, we have no responsibility.

Mr. Roy stated correct.

SEVENTH ORDER OF BUSINESS

Engineer's Report

Mr. Roy stated in regards to the Waverly/Carlisle inlet repair. He spoke to the contractor who indicated that he had not been down there. I know I have seen the work authorization to proceed. I contacted some vendors to try to get some prices. Does the Board want me to pursue and monitor this work or is it something that the District Manager or management company should do?

Mr. Cumello responded I think the project for the drainage on the dock should be handled by the Engineer.

Mr. Roy stated I can do that, but it is generally not our responsibility unless the Board requests us to. I will go ahead and monitor it.

Mr. Cumello stated you are familiar with the specifications.

Mr. Rose stated I believe that making sure contracts are signed is the responsibility of management, but we need you to review the contracts.

Mr. Cumello stated you need to make sure that the installation is done according to code and according to the specification. I assume you have written the specification or approved it.

Mr. Roy stated the contractor will be providing the specification with his permit application. I have not seen that yet. Although, I have seen his work and know that he is a qualified contractor.

Mr. Cumello stated the bottom line is there are going to be some costs associated with doing this work.

Mr. Roy stated correct. I have no problem doing this. Is the fishing pier a CDD asset?

Mr. Cumello responded yes. We included it in the Reserve Study two years ago. We had this discussion because the pier sits on the lake, which is CDD property and the 20 feet from the lake. It would make no sense for it to not be our asset. Do we need an Access Agreement.

Mr. Clark stated new ADA regulations were enacted last fall. I prepared an analysis for different Districts that I represent. There are certain publicly owned facilities that are required to be retrofitted, even if they were not built under the new rules that required a retrofit for specific assets. One of those are fishing piers. In this process, if there is a permitting element to this, the City would pick up on this and would insure that, but I do not know if that would happen. We are required to meet the new regulations. For piers, we must provide wheelchair or motorized vehicle access, a turnaround and physical access from a parking lot to the facility. I do not know what the situation is with this facility, but that needs to be looked at. One option is to say that the asset belongs to the CDD who will maintain it and take all of the consequences that flow from that. In most Districts, this discussion revolves around pools owned by the CDD where they are required to add lifts or sloped entries. If you have a fitness center, the problems are generally access and the placement of the fitness equipment so a wheelchair can get around them. However, with this facility, we have docks and access is going to be an issue. Consider the cost of potentially building a five foot sidewalk from the parking area, if that is something you want to entertain.

Mr. Roy stated I believe the parking and fishing pier will all be compliant as there are slopes on the sidewalks and there is access to the area. However, because the slope going down the canoe dock does not meet the maximum five percent grading of sidewalks, we would have to install handrails. Part of the reason why I am asking is because if it is CDD property, you cannot control public access. That is why there is a gate at the entrance.

Mr. Cumello stated that is not true. It is not that you cannot control access. With CDD property, the public has access to it whether there is a gate or not. The walkway has no gate and people can walk into that area.

Mr. Roy stated when the walkway was originally set up, I believe this was an HOA fishing pier so the HOA can monitor access and make it a private fishing pier; same with the park. We are spending CDD funds for the drainage repair on an HOA park. Those were my concerns.

Mr. Cumello stated I looked back through the minutes and in early 2007, this Board asked the HOA to take over both the fishing pier and park. At that time, the HOA agreed to do that. Effectively it was the CDD who wanted the HOA to take them over. This led into several discussions on who built what and where the money came from. The piers where in before the park and the documentation on whether or not the piers were built by the CDD were inconclusive because we could not get enough information from Newland. Then we went into discussions about the gates, which were owned by the CDD, which were on HOA property. We questioned how this happened so a decision was made to transfer the maintenance of the gates, but not the ownership from the CDD to the HOA. The HOA now pays to fix the gates, but the CDD still owns them. Furthermore, an Access Agreement was created by the Attorneys on both sides to have gates on HOA property. Then we had a discussion a year or two ago about the piers and whether we need the same type of agreement if the piers were going to be owned by the HOA. The answer was "Yes", we would need the same type of agreement. We discussed that it made no sense to go through it a second time. Why would the HOA want an Access Agreement to go onto CDD property to replace the fishing pier? There is no upside to this. We had the piers put back into the Reserve Study for the CDD. This is the third time we are having this discussion.

Mr. Roy stated I suggest listening to what Mr. Clark is saying since this is CDD owned property and there could be impacts to what you do out there.

Mr. Cumello stated but you and I have looked at that pier and it is flat with the land from the park. There are no limitations to someone in a wheelchair to go out on that pier. I would agree, based on my interpretation, it does not look like it is going to impact that particular pier.

Mr. Shelton stated I understand what you are saying as far as public access to the pier. That is satisfied due to the fact that even though there is a vehicular gate, there is no pedestrian restriction and people can park outside and walk in.

Mr. Cumello stated the gates are meaningless. They were built by the developer so the builders could charge more money for the plots. People think security is a benefit, but it is just a marketing ploy. You need to get past the idea of the gates. They mean nothing.

Mr. Rose stated they have the areas that are being maintained behind those gates by the HOA.

Mr. Cumello stated that is a different issue. That is an issue where the street has been deeded to the HOA and not to the City. They could have deeded it to the City. Those gates are designed so that 10 cars can go through at once because they have trip wires in the streets. They are absolutely meaningless. They are just a product of how you price the homes.

Mr. Shelton stated I am sure all of us agree with you, but it is not how we perceive the gates, but how the Attorneys are going to perceive the gates and how legally, whether opening the pedestrian gates satisfies the requirement of public access to the park.

Mr. Clark stated I do not want to comment on that without looking into this further.

Mr. Shelton asked is that the issue as far as public access?

Mr. Cumello responded there is total confusion because if you look at the Warwick side, you have pedestrian and vehicle gates. The Waverly side only has vehicle gates. Then you have the entire lake and all of the land around it being owned by the CDD, plus a walking path along the side of the lake, which is also owned by the CDD. None of it makes sense from a design or legal standpoint, because you have these artificial barriers, which were CDD built that stops vehicles from coming in. We had the same discussion in 2006 and wondered how this happened.

Mr. Shelton stated I think we are deciding what impact that has on the park and what we do with the docks. We can either ignore the possibility that it might be considered non-access or get an education from the ADA.

Mr. Roy stated you have public access through the open walkway, but then you have an HOA park that you have to go through to get to the fishing pier.

Mr. Cumello stated unless you walk on CDD lake property and climb over the fence.

Mr. Rose stated the two issues I see is whether we have a problem with the new dock and whether it has ADA access.

Mr. Shelton stated the third issue is whether we have a handicap issue with the regular dock and the answer seems to be "no".

Pastor Banks stated this seems to apply if we do work or alterations to the dock. We are not touching the canoe dock so it is not an issue.

Mr. Clark stated unlike most of these regulations in the past, which say this is for future work; there are certain categories of publically owned infrastructure that are required to be retrofit to meet these requirements. They are listed here, but generally for CDD's, the things that are going to apply are fishing piers, fitness centers and pools. The new dock does not meet the standard.

Pastor Banks stated there is no parking for either dock.

Mr. Clark stated that may be a blessing.

Mr. Roy stated there is a handicap accessible path along the sidewalks, but no parking.

Mr. Clark stated it probably would be suggested if we provided parking to include handicapped spaces. If we take the position that it is strictly pedestrian, we can say that we do not need to provide parking for that facility.

Mr. Roy stated I do not recall in the minutes where it was said to make the fishing pier CDD property, but we could find out.

Mr. Rose stated we are learning new things all the time. Like I said two years ago, if we need to change it, we need to change it, but it does not sound like we need to change anything right now in regards to the decision of whether it is owned by the HOA or CDD.

Mr. Cumello stated I suspect that we need to have a new agreement between the HOA and CDD to have HOA property on CDD property.

Mr. Clark stated maybe we should have something in writing that says we thought about it and agreed to do this.

Mr. Cumello stated this would be similar to the gate agreement. Of course we would go back to what would be the benefit of doing this to either organization.

Mr. Rose asked can we just say that we do not want to do anything?

Mr. Cumello responded we made a decision to keep it in the CDD.

Mr. Rose asked as the CDD, do we have to do any modifications to the canoe dock to comply with the new ADA regulations?

Mr. Clark responded that is a question for our Engineer or an ADA Consultant.

Mr. Roy stated we did not do the canoe dock. It was created by a Landscape Architect. I know that the access to the dock is steeper than 5%, but it was not set up to be a CDD owned dock. It was basically a private dock.

Mr. Cumello stated we have a situation where there is no HOA property associated with that canoe dock.

Mr. Roy stated correct. The worst thing we would have to do to the canoe dock is put handrails down the sidewalk to the dock.

Mr. Rose asked what is the implication of doing nothing?

Mr. Roy responded someone can challenge the ADA regulations.

Mr. Clark stated there are going to be some Districts that are faced with decisions about closing a facility rather than complying with the new regulations. Doing nothing is probably not a good idea because there are plenty of Attorneys, like the ones you see on television, who sue for violations of statutes like this and look for targets. I expect that they will look at public facilities for targets so they can file a lawsuit and get \$100 recovery for their client and a \$10,000 fee for themselves. That is how it works. We need to see what would be required to be done or take the position "We did not build it so we do not own it".

Mr. Shelton stated if we do nothing until we are sued, would it be too late to tear down the dock?

Mr. Clark responded it would be too late for that plaintiff. You would deal with that lawsuit and then remove the dock.

Mr. Shelton asked have you ever seen anyone use that dock?

Mr. Cumello responded never. Only birds use it. People launch their canoes right from the shore.

Mr. Rose stated I seem to recall discussion about that we just cannot tear it down.

Mr. Cumello stated that is an issue for the HOA because HOA property cannot be torn down by the CDD.

Mr. Rose stated if it is not used and will cost us maintenance dollars and a lot of ADA issues, let's tear it down.

Mr. Shelton asked is there a downside?

Mr. Rose responded the cost involved in doing this.

Mr. Clark stated and the fact that the 100 people who never used it before will suddenly decide that they have been deprived of it.

Mr. Roy responded I suggest you consider it. The guy who is repairing the fishing pier can easily pull that out while he is here. He will not need a barge so he can be done fairly quickly.

Mr. Rose stated that is what I propose.

On MOTION by Mr. Shelton seconded by Pastor Banks with all in favor, the fishing dock will be repaired and the canoe dock will be removed.
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SIXTH ORDER OF BUSINESS

Attorney's Report

Mr. Clark stated we covered my first item, which I provided a memorandum for with the recommendation that the Engineer or ADA Consultant look at the facilities and make sure nothing is required to be done to retrofit by March of next year. Secondly, it came to my attention a few weeks ago that the City Street Lighting Agreement had come to the end of its term. If you recall, we did another agreement for the reimbursement and I thought it would be beneficial to extend the term of the underlying agreement. We contacted the City Attorney's office to ask them what the procedure would be and if they have a form. They have not done anything yet and I will ask them to follow-up, unless the Board indicates that they do not wish to extend this agreement. I think we should and I will get the extension and bring it back to you. Finally, I have not seen the long awaited final report on Pinecastle.

Mr. Cumello stated there has been no decision document published at this time.

Mr. Clark stated we will continue to eagerly await it.

SEVENTH ORDER OF BUSINESS

Engineer's Report

Mr. Roy stated I have nothing further to report.

Mr. Rose asked in regards to the ADA regulations, can we ask you to confirm that we have nothing else to worry about and are going to be in compliance?

Mr. Roy responded we will look at the fishing pier and other facilities to make sure they were in compliance with the ADA standards at the time of construction.

EIGHTH ORDER OF BUSINESS

Community Association Manager

A. Activity Report

B. Agronomist Report

Mr. van der Laan stated a copy of the monthly Activity and Agronomist Reports were provided to the Board in the agenda package.

C. Lake Report

As discussed earlier, we are in the process of obtaining bids for the lake maintenance and will be putting together a bid package.

D. Fountain Report

E. Consideration of Proposal from Servello & Son for Chickasaw Trail Sod Replacement

We received approval for the sod along Chickasaw Trail and will inform Servello & Son.

NINTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Cumello stated the last item on the Action Item List is the cost estimate for planting around the lake areas. That \$21,000 proposal did not say anything.

Mr. Van der Laan stated I believe that was for the overall and was not specifically for the lake areas. We asked them to revise the proposal. The biggest obstacle we have is the fact that there is no access or irrigation around the lakes nor can we get irrigation.

Mr. Moyer asked why would we do that? The whole idea is to have unrestricted access to the lakes and we need to get in there to maintain them.

Mr. Van der Laan responded as far as I know, a homeowner requested this.

Mr. Cumello stated Lee Vista Boulevard looking on the north side lake, which is the Pembroke Lake, has palm trees. There are no trees around the Waverly Lake.

Mr. Van der Laan stated Pembroke Lake is the only lake with trees. I am not sure why those were put in. My bigger concern is for the small lakes on the interior of the properties. I do not know how we would go about getting access to those.

Mr. Rose stated there are some trees around the finger of Newport Lake. The opinion was when we planted them, "If they survive great! If not, oh well."

Mr. Van der Laan stated those trees were removed from somewhere else and were re-planted. I remember watching them die because there was no irrigation.

Mr. Cumello asked how is that pond recovering? A few months ago, we talked about the option of restoring the water level and then decided to wait for the rainy season.

Mr. Roy stated I do not recall getting much rain. We are supposed to get some rain this weekend.

Mr. Cumello stated we still need a proposal for that first lake.

Mr. Rose stated I would like just one Action Item List.

Mr. Moyer asked do you want to schedule a workshop in July to go over the budget and capital projects?

Mr. Cumello responded I think we should.

Mr. Rose stated we already have a meeting scheduled for July 14, 2011 at 10:00 A.M.

Mr. Moyer stated this is the regular meeting. The public hearing is in August. We will discuss the budget at the July meeting.

TENTH ORDER OF BUSINESS

Audience Comments

There not being any, the next item followed.

ELEVENTH ORDER OF BUSINESS

Adjournment

There being no further business,

On MOTION by Pastor Banks seconded by Mr. Rose with all in favor, the meeting was adjourned.

Gary L. Moyer
Secretary

John Rose
Chairman