

**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 Thursday, May 14, 2009, 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	Attorney
Lee Smith	Holland & Knight
Barry Roy	Engineer: Bowyer-Singleton
Nicole Bolinger	Leland Management
Gary van der Laan	Leland Management

FIRST ORDER OF BUSINESS

Roll Call

Mr. Moyer called the meeting to order and stated all Supervisors were present with the exception of Mr. Holihan.

SECOND ORDER OF BUSINESS

Approval of the Minutes of the April 9, 2009 Meeting

Mr. Moyer stated each Board member received a copy of the minutes of the April 9, 2009 meeting and requested any additions, corrections or deletions.

There not being any,

On MOTION by Mr. Shelton seconded by Mr. Cumello with all in favor the minutes of the April 9, 2009 meeting were approved.
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THIRD ORDER OF BUSINESS**Presentation of Fiscal Year 2010
Proposed Budget****A. Discussion of Fiscal Year 2010 Proposed Budget**

Mr. Moyer stated the action today we are looking for is for the Board to approve the proposed budget and set the public hearing for August. When I say “approve”, we are not “adopting” the budget as this will happen in August. The approval of the Budget simply authorizes that we send it to the local governments for their review. In June and July, we will look at this budget or have a workshop if it is the desire of this Board. It is in the same format as your current operating budget. However, there are a couple of noteworthy increases that will require us to increase our non-ad valorem assessments if we stay with the same amount. The biggest increase is for *Electric*. As you are aware, Progress Energy has been threatening to increase their rates and they received approval from the Public Commission to do this. I looked historically at our electric and interestingly enough, if they increased their rates, it has not been reflected in what we have been paying for the last couple of months. The Electric is normally \$17,000 to \$18,000 per month and sometimes \$19,000, but generally it is in the \$18,000 range. We increased the proposed budget by almost \$90,000. This is an issue we are going to refine as we go through the process in June and July. I am going to contact Progress Energy to find out exactly what they plan to increase the rates to and what this means to those of us who have contracts with them for streetlights. I realize the Board only had this budget for a day or two so if you have any questions, I would be happy to answer them. Again, this is only starting the process and you will have plenty of time to discuss this budget in the next couple of months.

Mr. Cumello stated I noticed there is an increase of \$112,000 from last year’s budget. In looking over this budget briefly, some of the increases besides *Electricity* is *Assessment/Collection Fees* of approximately \$3,000 and *On-Site Maintenance* of \$11,000.

Mr. Moyer stated correct.

Mr. Cumello asked what are driving those increases? Are they based on actuals?

Mr. Moyer responded it is based on staff looking at where we are currently with Mr. van der Laan’s input on our expenditures for next year.

Mr. Cumello asked is there an increase of 60% for *On-Site Maintenance*?

Mr. van der Laan responded yes.

Mr. Cumello asked did you build in a cost of living increase?

Mr. van der Laan responded there was no increase from last year's budget and the new maintenance company was hired at a higher rate than what was budgeted for and we had to adjust for it.

Mr. Cumello asked what is the *Assessment/Collection Fees* increase due to?

Mr. Moyer responded it was driven 100% on the non-ad valorem assessments on roll and the percentage we pay to the Tax Collector.

Mr. Cumello asked is it still 2%?

Mr. Moyer responded I believe it is 2%. If we can reduce the budget, the assessments will correspondingly reduce as well.

Mr. Cumello stated we need to look at this budget closely. I noticed that we have no proposed increase if we want to do anything from a legal standpoint in the future.

Mr. Moyer stated correct. There is a useful chart in this budget showing what the increase on a per unit basis will be based on this proposed budget.

Mr. Cumello asked have we made an assumption that we will get additional money from the POA on Lee Vista Boulevard at this point in time?

Mr. Moyer responded that is not in the budget, but I am glad you brought this up. We determined that eight parcel owners should be sharing in the cost. We sent them a letter saying "Please contribute and here is your share. If you do not contribute the total amount at one time, we will assume you want us to bill you." We gave them until May 1st and did not receive anything so we sent out a bill to them. Now we are going to wait and see if they are going to pay the bill.

Mr. Cumello asked do you know how much income this will be?

Mr. Moyer responded I do not think it was very much.

B. Consideration of Resolution 2009-2 Approving the FY 2009 Proposed Budget and Setting a Public Hearing

Mr. Moyer stated if there are no further questions, I am request that the Board consider Resolution 2009-2, which sets your public hearing for August 13 at 10:00 A.M. at this location.

Mr. Rose asked is this our regular meeting?

Mr. Moyer responded yes.

On MOTION by Mr. Rose seconded by Mr. Cumello with all in favor Resolution 2009-2 Approving the Proposed Budget for Fiscal Year 2010 and Setting a Public Hearing for August 13, 2009 at 10:00 A.M. at the Vista Lakes Clubhouse, 8841 Lee Vista Boulevard, Orlando, Florida was adopted.

FOURTH ORDER OF BUSINESS**Acceptance of Audit for Fiscal Year 2008**

Mr. Moyer stated in my absence, Ms. Burgess read the highlights of the Audit into the record at the last meeting in terms of it being a clean Audit opinion. This means the Auditors found that the statements we gave them as of September 30, fairly represented the financial position of the District. They found us to be in compliance with the laws, rules and regulations and there were no material weaknesses in our accounting reporting. They had no recommendations to make in terms of how we could improve our internal controls. Taken in its totality, this was a clean opinion and a good Audit. However, the Board had some questions related to the assets of the District and what we carry on our books.

Mr. Cumello stated the main question was why the Auditor said our assets were over \$17 million.

Mr. Moyer stated I thought we sent an email to the Board regarding this matter. The issue was whether we were carrying the roadways as an asset of the District. The answer to this question is "Yes we are." We went back and looked at our records to determine if any deeds were given to the City on the roadways. All of the roadways, as I understand it from various reports, were dedicated by plat. There are two schools of thought on dedications by plat and ownership. One school of thought says "Yes, that in fact is a legal conveyance and the ownership would become that of the City." There is another school of thought that says "No, the plat simply gives rights and maintenance responsibility, but the only way you can dispose of underlying ownership is by a deed." We never issued deeds on these roads and the Auditor is taking the position that if we have not formally deeded these roads to the City, they still remain under our ownership even though we do not have any maintenance responsibilities.

Mr. Cumello stated so legally, we can install a toll booth on Lee Vista Boulevard and Chickasaw.

Mr. Moyer stated no, because the District is a government entity of the State and the roads have to be open to the public even though we own them. We cannot block or control them.

It has been awhile since Mr. Clark and I discussed the difference between deeds versus plat dedications.

Mr. Clark stated it is clearer to me that a plat dedication conveys a public easement right and maintenance obligations and not title. With that type of dedication if they are abandoned, title would revert over to someone else. Then there is another argument about whether it reverts to abutting owners. If it was owned by a public entity it reverts to us. The CDD is somewhat new in that it has not been tested. They are correct that the underlying roads are owned by the District.

Mr. Cumello stated that would not be true for any of the roads that were deeded, based on the utilities, correct?

Mr. Moyer responded if they are formally deeded and accepted.

Mr. Clark stated that applies to dedications.

Mr. Cumello stated the roads in Melrose, Windsor, Waverly, Carlisle and Warwick are gated communities that were built by CDD funds and deeded to the HOA. Did they take the \$10 million it cost to build the roads out as an asset?

Mr. Clark responded if they were conveyed by deed, then it is inconsistent with what they are suggesting here.

Mr. Cumello stated so we still have an open issue.

Mr. Moyer stated we may have, but our records do not indicate that we deeded any roadways.

Mr. Cumello stated the deed was in the name of Terrabrook through the Vista Lakes Community Association. I have a copy of all the Quit Claim Deeds. Another question is whether Terrabrook had the right to convey them through Quit Claim Deeds to the Vista Lakes Community Association.

Mr. Clark stated I do not have an immediate answer to that question.

Mr. Rose asked why do we care at this point?

Mr. Cumello responded because the Audit says that they are assets of the CDD. I am going to assume that the Auditor is basing that on the cost.

Mr. Moyer stated correct.

Mr. Clark stated if we find that the roads were built with bond funds, I would say that the bond covenants on those funds would probably contain a provision that required us to retain ownership of them or convey them to a public entity, which would not include the HOA.

Mr. Cumello stated this is a discussion that has been ongoing for three years on how Terrabrook determined what assets were going to be retained by individual organizations. We went through the research to find out who built the roads and obviously we have the contracts showing that the roads were built by the CDD except for the last inch and a quarter of asphalt, which has been conveyed to the HOA.

Mr. Moyer stated we would have to look at the plats to see if there was an easement to the District. We need to have legal rights in order to spend public funds and that could take the form of an easement as well as direct ownership. We will keep looking at it.

Mr. Cumello stated it has been an open issue because we wanted to understand why one Association had to take the cost and reserve for them, how that happened and who paid for these assets. It looks like we are still trying to understand that.

Mr. Clark stated I will obtain those plats and review them. I already have the deeds you are referring to.

Mr. Cumello stated there is one issue on Warwick where the developer told us they ran out of funds and some of the work done in Warwick was paid for with private funds and not CDD funds. We will have to look more closely to see whether the road was built with their funds or CDD funds. I know the wall between the Mockingbird property and Warwick was constructed with developer funds. When we went through the transition period with the developer, we had access to their records and we have copies of all the Quit Claim Deeds for all of the property transferred over to the Association.

Mr. Moyer stated at this time, the Board needs to accept the Audit so I can file it with the State, with the understanding that we will continue to look at the assets. Obviously we have some work left to do on this issue, but the good news is we still get the use of those roads regardless. I would have argued with the Auditor that even if we did not own the road, you have an asset in terms of use. Owning a road after it is constructed is a liability, not an asset. The Auditors are going to disagree. If there needs to be a change, next year when we do the financial accounting and the Audit for the District, we will go back and make those adjustments.

Mr. Cumello asked is this contingent on us continuing to investigate whether or not the asset number is correct?

Mr. Moyer responded yes.

Mr. Shelton asked did previous Audits list the same assets?

Mr. Moyer responded yes. The only amount that changed year after year was the depreciation, but the initial asset values stay the same and are based on the issuance of the bonds and construction costs.

Mr. Cumello asked what is the downside if it turns out this number needs to be reduced?

Mr. Moyer responded the downside is your liabilities are greater than your assets, which by definition means you are in a financial emergency. However, so many CDD's build infrastructure on behalf of Counties and Cities as part of their Development Orders and dedicate them. They clearly dedicate rights-of-way and the roadways to the appropriate general purpose government such as the County or Municipalities, which leaves their Audits and financial statements to show a negative. The Auditor General for awhile actually put those Districts on a list of government entities that were in a state of financial emergency, but they have now come to realize that this is not a financial emergency and have categorized it differently. For example, if it turns out we have to reduce our assets down to a level reflecting what we own and it happens to be less than our liabilities, I do not think there is going to be a problem for the District in the end.

Mr. Shelton asked is this a problem because the liabilities are covered by future assessments?

Mr. Moyer responded yes. I know the Board is not 100 percent comfortable accepting the Audit in this position, but I need to file it with the State. Their filing deadline is the end of September.

On MOTION by Dr. Banks seconded by Mr. Shelton with all in favor the Fiscal Year 2008 Audit prepared by Grau & Associates was accepted, subject to further investigation on the assets of the District.

FIFTH ORDER OF BUSINESS

Discussion Item: Discussion of Cleared Land on Chickasaw Trail

Mr. Moyer stated this is an item that Mr. Shelton brought up at the last meeting.

Mr. van der Laan stated I have a proposal from Servello & Son to install trees and ground cover to block off the point of access. It appears there are five or six areas where there were trees planted there at some point. My guess is they disappeared during the 2004/2005 hurricane season because you can still see the mulch beds. We moved the conservation area sign several feet so it is immediately in front of the section where it appears people are walking through. The sign was originally behind some overgrowth and you were not able to see it. It is clear that someone is going through there on a regular basis. The proposal for the trees and ground cover is \$1,670.

Mr. Shelton stated the reason why I originally brought this up was because when you walk along Chickasaw Trail it is like an open invitation to cut through because it is a grassy area. Some of the residents in the Melrose and Champlain area brought this to my attention because of people cutting through their backyard.

Mr. van der Laan stated there is money in the 2009 budget for replanting.

Mr. Cumello stated I noticed that the proposal was for 25 gallon plants, which are fairly large. In addition, these are much older plants, which mean their lifespan is less.

Mr. van der Laan stated we went with larger plants because it is being used as a pathway now and if we used smaller plants, they would be trampled. They would have to be large in order to be effective.

Mr. Shelton asked what is a water bag?

Mr. van der Laan responded there is no irrigation out there so they actually use a large polyurethane bag with holes in it. They pour water into it and it drains into the soil in the course of a week. We will do this for a couple of months until they get established.

On MOTION by Mr. Shelton seconded by Mr. Cumello with all in favor the proposal from Servello & Son to install trees and ground cover to block off the point of access to Chickasaw Trail in the amount of \$1,670 was approved.
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SIXTH ORDER OF BUSINESS

Manager's Report

A. Financial Statements

Mr. Moyer stated the financials through March 31, 2009 were included in your agenda package. We are currently 89 percent collected on your non-ad valorem assessments, which is

good. Your budget is in good shape. We are currently \$247,000 in the positive for the Fund Balance.

Mr. Cumello asked what is our monthly spend rate?

Mr. Moyer responded most of these items are straightforward over the years so you are looking at \$100,000 a month. The *Audit and Assessment Collections* would not be on a monthly basis so you are probably looking at slightly less than \$100,000. Your total *Fund Balance* is \$761,000 under the year to date actual and your budget anticipates at the end of the fiscal year, you will have \$276,000 to start your next fiscal year with.

Mr. Cumello stated the reason why I am asking is because in looking at the proposed budget, we have not made any assumption of what the carry over would be to cover some of the increases.

Mr. Moyer stated correct.

Mr. Cumello stated I assume we could consider that in the budget to offset some of the increases.

Mr. Moyer with one notable caution, which is built into your budgets as *Renewal and Replacement Reserve Funds*, which is reflected in the *Fund Balance*. We started with \$30,000 in 2007 and added \$95,000 in 2008. Some of the \$276,000 needs to be used as reserves. I can make that calculation for you.

Mr. Cumello stated I think that would be helpful because there is a new budget cycle to understand if there was any carryover that would benefit the 2010 budget, which would reduce the costs. If you could make that an action item, we would appreciate it.

Mr. Moyer stated I will take a look at it.

Mr. Cumello asked is there a *Reserve Fund* account in the General Fund?

Mr. Moyer responded no. However, in the Financial Statements, there is a *Designated Reserve* under the *Fund Balance*. We also have an *Undesignated Reserve*. The *Designated Reserves* are what we are going to be putting aside.

Mr. Cumello asked will the \$99,500 move into the *Dedicated Reserve* at the end of the fiscal year?

Mr. Moyer stated correct.

B. Invoice Approval #106

Mr. Moyer stated Invoice Approval #106 was provided to the Board.

Mr. Rose stated it looks like we are receiving invoices for Gentry Park going back to 2008.

Mr. van der Laan asked were they in this agenda package? I know we discussed this last month.

Mr. Rose responded yes. I forgot to bring them with me. There was an invoice for \$24,500 for BP Landscaping for straw mulch. Where was the straw mulch placed?

Mr. van der Laan responded we have Pine Straw on all of the berms, which holds up better than pine bark.

<p>On MOTION by Mr. Rose seconded by Dr. Banks with all in favor the financial statements for the period ending March 31, 2009 and Invoice Approval #106 dated May 14, 2009 in the amount of \$104,949.40 were approved.</p>
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Mr. Cumello stated I noticed last week there were 12 pages of tax certificates up for sale. Were any for Vista Lakes?

Mr. Moyer responded I will get you an answer.

Mr. Cumello stated you said we were 89 percent collected, which means 10 percent have not been paid.

Mr. Moyer stated we will not get all of our assessments through our normal collection process.

C. Discussion of Action Item List

Mr. Moyer stated the action item list was provided to the Board. Are there any comments or additions? In regards to the unclaimed funds, the Management Company is continuing to try to get more accurate address information. This came about because the County inadvertently overcharged our residents by assuming that our levy was going to be the same as in 2006, which resulted in a surplus that we should not have received. We actually wrote checks back to our taxpayers.

Mr. Rose asked at what point do we just write it off and keep the money?

Mr. Moyer responded we will try one more time to see if we can locate those people.

Mr. Rose asked procedurally, do we need to set aside the funds in case they come back and put a claim against it?

Mr. Moyer responded that is what you have to do. This is an area we do not usually get involved in, but we could place an advertisement listing the name of the people we are holding money for and giving them until December 31 to claim it or it will revert back to the CDD. Most of the time the Auditors will say you need to reserve it.

Mr. Cumello asked what happens if it is a bank who owns the property since we have about 200 foreclosures?

Mr. Rose responded the answer we are getting is there are many companies and banks who own these properties. If you cannot find SunTrust Bank, that is a problem.

Mr. Moyer stated I will take a look at the list of foreclosures. I am assuming that the County is doing their job.

Mr. Cumello stated there are two issues in my mind; the first is that the person who originally owned the home may no longer own it and on some of the foreclosures, the banks cannot find the owner. Even though there is a Settlement Record stating at one time they owned the house, no one knows where they are. Could that be part of the issue with the uncollected 10 percent where there are foreclosures because the banks are not paying the taxes?

Mr. Moyer responded probably.

Mr. Cumello asked what is the procedure for us to go after the banks?

Mr. Moyer responded unfortunately, once you start collecting your assessments by putting them on the tax bill, you are in the tax collection process. The Tax Collector follows all of those procedures. There are several State Statutes dealing with what the Tax Collector can and cannot do. We are tied to the Tax Collector and there is nothing that we can do independently to go after those delinquent assessments. I have never seen a District do that.

Mr. Clark stated in Districts where we have large parcels that do not get paid and do not have tax certificates sold because of the amount of the debt, I have advised those Districts that they could go through a process of removing them from the tax roll based on obligations they have under the Trust Indenture to collect money through Quit Claim Deeds. Platted lots are different. If you find there are some problem properties, one thing you could do in connection with your budget process would be to determine whether you wanted to remove them off of the roll and then proceed with a foreclosure. Typically when you are talking about \$1,500, it may not be worthwhile to do that. You are going to have to pay fees and make a judgement for the best marketable price so you can recoup the money. There is a mechanism to do this. This is a

difficult decision to make with platted lots as opposed to a 40 acre piece that some developer has abandoned. As far as the budget process, we should look at the foreclosure list to identify what is out there.

Mr. Cumello asked does the District Manager look at these properties to see if they are in foreclosure in regards to the 10 percent uncollected assessments?

Mr. Moyer responded not in the normal course of what we do. We are pretty much relying on the Tax Collector to be our agent on these assessments.

Mr. Cumello stated my concern is you are looking at 12 pages of tax certificates that probably did not sell. Why would you purchase one if the risk is too great today? Do we have a significant risk here that we are not going to collect all of our income this fiscal year?

Mr. Moyer responded this year as part of our budget process, we may need to recognize this and show an amount that we anticipate as uncollectible. As we go through this process year after year, we usually end up getting in many cases, more than we levied because we anticipate everyone will pay their taxes in November and take the full 4 percent discount. But as you are aware, that does not always happen. If it does not happen, then we are the beneficiaries. We usually always collect 100 percent of our assessments.

Mr. Clark stated traditionally, platted lots have sold tax certificates. I do not ever say that the rules are different now in this environment, but there are enough people who make a living by buying tax certificates who would bet that a mortgage holder will pay them off and they are going to get their money back with a return or they will acquire an improved piece of property. Even a house in the Pine Castle area for \$1,500, is a good business deal.

Mr. Cumello asked what is the benefit to purchasing a tax certificate for a house in foreclosure by the bank? They are not going to get \$1,500.

Mr. Clark responded if the holder of the tax certificate is not paid after two years, they can apply for a tax deed and can go after everyone other than governmental tax obligations and special assessments.

Mr. Rose asked can they just take the property?

Mr. Clark responded yes. It is a good deal and many people do that as a full-time investment.

Mr. Cumello asked what is the downside for us to purchase the tax certificates on the properties that are not paying with the understanding that we can turn them over?

Mr. Clark responded to purchase tax certificates you have to pay your own assessment plus the outstanding taxes. You are talking about \$1,500 of your money and the tax bill could be another \$6,000 to \$7,000. You need to have the money available to do that. There are people who do this professionally who could acquire a piece of property for \$6,000 to \$7,000.

Mr. Cumello asked do we need an action item saying we need to look at the risk associated with this to see whether or not we are effectively going to have a problem at the end of this budget cycle? An uncollectible could turn out to be never collected.

Mr. Moyer responded I will put this item on the action item list.

Mr. Cumello stated on the Association side, we know which properties are in foreclosure. I do not know whether or not that would bring any value.

Mr. Moyer stated if the rest of the Board is interested.

Mr. Cumello stated the Association would have to first make a determination as to whether or not they want to share this information with the Board.

Mr. Moyer asked are there 200 foreclosures?

Mr. Cumello responded yes. We generally find enforcement problems, foreclosures, bankruptcies and unpaid dues. You can send me an email if you feel there is any value to the Board having this information. The other thing to consider when looking at this is the list of the properties.

Mr. Moyer stated it is easy for me to get the list of delinquencies from the Tax Collector's office.

Mr. Clark stated to some extent, your collection report of 89 percent will not reflect those people who wait to pay until the deadline. That number will increase to 93 or 94 percent.

Mr. Cumello stated it is now in the District Manager's hands.

Mr. Rose stated we need to take the required next steps, whether this is to perform our due diligence and advertise a listing of the names of the people we are holding money for or place something on our website. What is the status of action item four?

Mr. van der Laan responded I looked at the increases in our irrigation billing over the past two months. As I suspected, it was entirely related to the changes we are making to our irrigation system in anticipation of St. Johns reducing the watering to one day a week at the end of this year. They have been adjusting sprinkler heads, exchanging out lines and installing

bubblers along the trees in order to reduce the amount of water we need to run. I have this item marked off as completed.

Mr. Shelton asked what changes are they making to the irrigation system?

Mr. van der Laan responded we are trying to eliminate the rotor heads as they use more water than pop up spray heads do. In all of the planting beds, we are removing the pop up spray heads and replacing them with bubbler systems, which apply water directly to the roots of plants. We are also doing this in all of the areas where you have trees up and down Chickasaw. The advantage is it uses a lot less water and we eliminate the overspray and the waste of water. We can actually run them during the day since they are applying water directly to the roots. The County does not have an issue with us running them during the day as you do not have evaporation and over spray. This also allows us to get around our problem of running out of reclaimed water during the Summer. If you recall, during the Summer the tanks in East Orange County run dry and we are not able to get through our entire watering cycle. By being able to pull all of the bubbler zones off of our regular watering cycle, we should be able to adjust to watering only one day a week.

Mr. Shelton asked do you have complaints about malfunctions?

Mr. van der Laan responded we have 120 zones and there is not enough water pressure in the reclaimed system to run that many zones in the 10 hours we are going to be allotted one day a week. We just physically cannot run all of them. If we can pull 40 or 50 zones off of the system and turn them into bubblers that we can run off cycle, then we will be able to run through the others in one day.

Mr. Moyer stated Mr. Clark was supposed to do some research on Lot 64.

Mr. Clark stated Mr. Smith and I determined that it was appropriate from a title assessment standpoint for us to take this lot and provide a proposed affidavit and Quit Claim Deed. I asked if they would be willing to either provide a special Warranty Deed, which gives some assurance that they have an ownership interest or provide Title Insurance. Mr. Smith indicated he thought they would provide us with a Title Insurance policy in connection with this to answer any questions we have with ownership. No further action is required as this was approved at the last meeting and is more of an update.

Mr. Cumello asked was the deed processed?

Mr. Clark responded the deed was drafted and provided to me for review. I approved it with that comment. Mr. Smith thought they would address this comment by providing Title Insurance. What is the timetable?

Mr. Smith responded we expect it to arrive at the end of this week, if not early next week.

Mr. Clark stated we will wrap this matter up in the next couple of weeks.

Mr. Moyer stated in regards to item eight, we contacted the City by email and they gave us a timeframe on when they anticipate completion. They are going to restore and repair the landscaping and irrigation. In regards to item nine, we are continuing to discuss this matter in terms of the Statute of Limitations.

Mr. Clark stated I am not contending that we are determining when the Statute of Limitations runs out, but the request was to review minutes from October of 2006 and for me to comment on the Statute of Limitations. I read the minutes and in the context, it appears this is when the Board was first informed about this problem. Therefore, I would like to count four years from that point in time, which brings us to October of 2010 and advise you that the arguments get tougher as you get closer to the Statute of Limitations. We discussed the Statute of Limitations in the context of the June 2005 deeds and I was careful to say that I do not believe this creates a Statute of Limitation. However, this date should be known by the District in case the Board wanted to take action. October of 2006 is another date of when the Statute of Limitations started to run. I use four years because there are many rights and causes of action that expire after four years and another cluster expiring after five years. The difference is that the four years generally relates to negligence, fraud and misrepresentation versus five years, which generally relates to breach of a written agreement or breach of a statutory duty.

D. Report on the Number of Registered Voters – 2,896

Mr. Moyer stated you received a letter from the Supervisor of Elections indicating there are 2,896 registered voters in the District. To put this into perspective, you might ask yourself why we are tracking registered voters. The reason is when a District has over 250 registered voters and are in existence for six years, we start a process on how Supervisors are elected going from land ownership to resident registered voters and qualified electors. We have already gone through this process, but unfortunately that does not mean to say once you meet the threshold and make the conversion, you can stop asking for this information. This is nothing more than an

administrative housekeeping item to keep us in compliance with Chapter 190. It is good information to know how many registered voters we have.

Mr. Cumello stated it is interesting because there are 2,183 units and very few units that do not have registered voters. I assume there are two people per household as an average.

SEVENTH ORDER OF BUSINESS

Manager's Report

This item was discussed above.

EIGHTH ORDER OF BUSINESS

Attorney's Report

There not being any, the next item followed.

NINTH ORDER OF BUSINESS

Engineer's Report

Mr. Roy stated I worked with Mr. van der Laan to resolve the road settlement issue in Warwick when a storm drainage pipe cracked. We hired a contractor to dig up the pipe, repair it and repave the road.

Mr. Cumello asked what was the total cost to the District?

Mr. Roy responded the proposal was just faxed to me. In the worst case, the work will amount to \$13,336. I received another proposal from another contractor for \$18,850. The actual invoice for the repair was \$6,503.

Mr. Moyer asked what are they doing in Melrose?

Mr. Roy responded County sanitary sewer repairs. I have some pictures of the repair that was done and the problem we discovered. By the time the invoice comes to Mr. Moyer, they should have the results of the soil testing and compaction tests as well as additional pictures.

Mr. Cumello asked was there any issue with the contractor since this area sits in the Pine Castle footprint?

Mr. Roy responded they had no concerns about the extensive excavation work needing to be done.

Mr. Cumello asked do we have any recourse to go back to the original contractors who did this work?

Mr. Roy responded there is a two year warranty per the City code. I believe this work is outside of this period. I contacted the original contractor, but he was not able to submit a proposal to me in a timely manner. The day they were making repairs, a car drove over it and it actually settled eight to 10 inches. We thought this warranted an emergency situation.

Mr. Cumello stated this is another concern we have from a budget standpoint. We had three similar situations in Carlisle. In Champlain, the City installed a temporary road. Horizon has one of their entryways blocked off by Melrose because of a similar problem. These repairs need to be budgeted unless they come out of reserves. How else can we pay for them?

Mr. Moyer responded out of the *Fund Balance* or *Reserve*.

Mr. Roy stated there should be monies left in the *Reserve*.

Mr. Cumello asked are you going to pay for the \$6,000 repair out of the *Reserve Fund* or *General Operating Fund*?

Mr. Moyer responded this will be paid for out of the *General Operating Fund* until we get into September. If it looks like we are going to exceed the *General Operating Fund*, then I will come back to the Board to request the transfer of monies from the *Reserve Fund*.

Mr. Cumello stated we have not had a good history of these failures. I spoke to the County and their feeling was that the site was not properly dewatered. I do not know whether this is a true statement or not.

Mr. Roy stated all I can say is they were on-site the entire time as the work was being done. If they had any issues, it should have been brought up at that time. I know there were numerous discussions about having a dry ditch when the lines go in. I am familiar with the Inspector who was here and he was on their case all the time.

Mr. Cumello stated I heard they are having the same problem on Narcoossee where they are putting in the new roads on the east side.

Mr. Roy stated dewatering is always an expensive part of the installation.

Mr. Shelton stated the leak in the sanitary sewer is under the bricks at the entrance to Melrose, which is CDD property.

Mr. Cumello stated the gates are on HOA property.

Mr. Roy stated that is actually City right-of-way.

Mr. Shelton stated I spoke to a contractor who was working in Horizons and he said it is not predictable whether or not the County will take that on or not, but it is on private property.

Mr. van der Laan stated the County is looking at it. I never thought they would take care of the Horizons issue because that is well inside of the gates, but they agreed. We are hoping they will also take care of the Melrose issue.

Mr. Shelton asked did the County contact you to say they will come out and look at it?

Mr. van der Laan responded they already looked at it, but they have not decided whether they are going to make the repairs. From the time we reported the Horizons problem to them to when they started has been about four months. I suspect we will have to wait two more months before we will know.

Mr. Roy stated the Orange County Utilities criteria for public versus a private system is they require a manhole at the right-of-way line. It is usually just inside of the right-of-way or five feet back within the easement. Their ownership is up to the first manhole. So the manhole just outside of Melrose is County property in terms of maintenance responsibilities. I think all of Melrose is owned by the County. However, Horizons has a private sewer system past the first manhole. Therefore, the County owns the manhole in the center of the street and the ones at the gate. Everything past that is considered private ownership and only for commercial purposes. They own the entire system in the residential areas.

Mr. Shelton asked what about the storm sewer system?

Mr. Roy responded the storm sewer is owned by the CDD. They should take responsibility for that manhole.

TENTH ORDER OF BUSINESS

Community Association Manager

A. Activity Report

B. Agronomist Report

Mr. van der Laan stated the monthly Activity and Agronomist Reports were provided in the Board's agenda package. I covered most of the items under my report, but I provided a proposal for the installation of a fountain in Pond 9, which is just south of Pembroke along Lee Vista Boulevard. I have a map if anyone is interested to see where this lake is. This is the second fountain we are installing this year. If you recall, we budgeted \$2,000 per year until all of the lakes have fountains. I would like Board approval.

Mr. Cumello asked is this fountain budgeted?

Mr. van der Laan responded yes.

Mr. Rose asked how many ponds do we have left to do?

Mr. van der Laan responded six.

Mr. Rose asked why did we decide to have fountains?

Mr. Cumello responded to control the flow of water.

Mr. Rose stated I thought we were supposed to have aerators.

Mr. Roy stated the cost is the same for fountains and aerators.

<p>On MOTION by Mr. Cumello seconded by Mr. Shelton with all in favor proposal from Vertex Water Features for a fountain in Pond 9 in the amount of \$8,411.67 was approved.</p>
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Mr. Cumello asked is the fountain at Vista Lake working? I noticed we are getting a build-up.

Mr. van der Laan asked on the Warwick side?

Mr. Cumello responded yes.

Mr. van der Laan stated we normally do not have problems in Vista Lake because of the size of the lake. The fountain on the Warwick side is more decorative, but is not as deep as the rest. At some point, we may want to consider some bubblers. I do not recall what the oxygen level was in Vista Lake, but I can take a look.

Mr. Cumello stated your contractor needs to take a look at the lakes now because I am noticing a lot of them are starting to build up.

Mr. Rose stated the fountain in Warwick must be using a lot of energy because we are paying \$1,300 per month for the meter.

Mr. van der Laan stated I will take a look at it. That sounds like a lot of energy. It only supposed to run eight hours a day.

Mr. Roy stated there should be a separate meter for the Lift Station. Are we still paying for the Lift Station?

Mr. van der Laan responded we should not be paying for it. We had it switched over to Orange County.

Mr. Rose stated I was told we were not paying for it. The meter is against the wall of the Lift Station.

Mr. Roy stated it should be on a separate meter, but we should make sure we are not paying for the Lift Station.

Mr. van der Laan stated I will check.

ELEVENTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Rose asked what is the status of the Wachovia landscaping, in regards to not being up to standards? We were supposed to go back to the POA and ask them why they are not telling Wachovia to comply.

Mr. van der Laan responded I believe they were not able to connect to the water system and they had to connect to the public water system. I recall Mr. Holihan telling me that Publix had told him that they could not connect to their system because there was a problem with the irrigation.

Mr. Roy stated it is my understanding that previous Boards decided not to allow private connections to the Vista Lakes irrigation system due to billing issues. In addition, the system was not sized to handle this capacity. I am surprised that it was not accounted for in the Publix development to provide irrigation stubouts for the outparcels off of the main feed going into Publix. Their connection points would either be just before the Publix meter or across the street by directional drill and tying into the 30-inch City meter.

Mr. van der Laan stated I have a meeting scheduled with the POA Board in two weeks and I will bring to their attention what our next step is from the commercial side.

Mr. Roy stated you are going to have a similar situation with the other outparcels. Your irrigation line goes right in front of them should you elect to allow them to connect and charge them for that water or they should be tying into the stubouts for the Publix parcel. That was all one parcel.

Mr. Rose stated I thought we already resolved that. We need to figure out the resolution to their watering and they need to take responsibility for complying to the community standards. The POA needs to make sure that happens or we do because their landscaping looks horrible.

Mr. van der Laan stated if they do not have water, they cannot water their landscaping.

Mr. Rose stated I understand that, but they need to do whatever it takes to get water and comply. It is their responsibility.

Dr. Banks asked how is it a POA problem?

Mr. Rose responded the POA is responsible for making sure the commercial properties comply with the community standards.

Dr. Banks asked but if they do not have access to water, how can we make them comply? That is a problem.

Mr. Cumello responded they have access to potable water.

Mr. Roy stated they have potable water, but they cannot access the City's reclaim line and put in a separate meter.

Mr. Rose stated they have access to water, but they may have to install a pipe somewhere.

Mr. Cumello stated they have water coming into their building. Most residents do not have reclaimed water.

Mr. Rose stated everyone is responsible for making sure that our bill payers are compliant with the community standards. Wachovia should be as well. I would like for this matter to be added to the action item list. The other item I wanted to follow up on was the wall at Horizons. We had to pay to repair the damage from the collision that occurred several months ago because we were under the impression that we owned the wall. However, I do not believe we were reserving money towards the wall. Has this been resolved and are we now reserving money for the wall? If we are not, either we need to convey the wall to Horizons or start reserving for it.

Mr. van der Laan responded my understanding is that you are in fact reserving for it. It is on the Reserve Study.

Mr. Rose stated about a year ago, I mentioned doing an RFP for the combined management companies so one was eliminated. I just want to let everyone know that is currently in process and I am working on it. Hopefully, I will be able to present something to the Board at the next meeting. I will be looking for any feedback from the Board on the document I will be presenting.

Mr. Roy stated in regards to the Horizons wall issue, the wall was built by Horizons and since the irrigation line was within their easement, they wanted a hold harmless for their wall should there be a CDD issue with their irrigation line. I am not sure why the CDD would be reserving the funds for the wall.

Mr. van der Laan stated I will double check the Reserve Study because I believe it specified the irrigation line.

Mr. Rose stated it sounds like we need to bill them back for the invoice that we paid.

Mr. Roy stated that wall is not in any CDD easement. You are basically maintaining a wall in someone else's easement.

Mr. Rose stated this should be added to the action item list.

Mr. Cumello stated we discussed the work the Army Corp. of Engineers is doing and some of the reports they are going to be publishing. They just published a site specific final report for the time critical removal action, which concentrated on the work they did in 2007 and 2008 at Odyssey Middle School, 100 acres of the Mockingbird property, the Warwick community and Tivoli Gardens. It also included some CDD property and the conservation area between the middle school and Tivoli Gardens. You should have received an email that had a link to the report. I have a hard copy of the report. I would like to share with you what I believe is a major shortcoming in the report, which is their conclusion.

Dr. Banks stated we already heard this report. Why is this important?

Mr. Cumello responded according to the background information, we are going to have to make a decision at some point in time on this matter. As a community we participate in meetings with the Army Corp. of Engineers and we were promised these reports, which will help the community understand what they have done and where they are going. I am bringing this to your attention so you can see that the focus of this report is very limited. It is a Contractor Report and does not address any concerns the community would have and there are no findings regarding any risk nor are there any soil and water testings. As we move forward and get to the point of where we are eventually going to have to consider whether or not the CDD wants to take any action, this is another piece of information on what the Army Corp. of Engineers is doing. From my perspective, it lacks sensitivity to the community in providing accurate information at this point in time.

Dr. Banks stated I disagree. I think the Army Corp. of Engineers are doing their job well and have done exactly what they said they were going to do. You continually laugh at them. I think you are wrong and they are right. Whether or not it is going to impact us, is another issue. You are constantly after them. I spoke with them many times and they always answer my questions. This has to stop!

Mr. Cumello stated this is simply background information for the Board as we move forward. Last month I distributed the GAO Report, which discussed their shortcomings.

Mr. Rose asked what do we need to do to resolve this matter?

Mr. Cumello responded this year was a critical year from the standpoint of additional information that the Army Corp. of Engineers provides the community. This is one of two major

documents they planned to provide. For anyone to make a decision, they have to be informed and you still have more information forthcoming.

Mr. Rose asked do we need to collect any information on our own?

Mr. Cumello responded you can, but I share everything they publish with you as it becomes available.

Mr. Rose stated I personally look to you for guidance on what additional information we need to obtain in order to make a decision, because I do not know the answer.

Mr. Cumello stated I think we are going to get more information on their findings. As an example, today they are exploding a 500 pound bomb at 2:00 p.m. on Mockingbird property. I have been approached by someone who told me they have copies of documentation of the borrow pits where the City or County moved dirt from one area to the other. They told me that some of this dirt was moved from the Mockingbird property to other areas in the community. I do not recall seeing this information in the documents that were turned over to the CDD and I do not know if our Engineering Company has copies. There was a plan that basically said the exact locations and how much dirt was going to be moved from one area to the other. Does the Engineer have those documents?

Mr. Roy responded originally, Vista Lakes Boulevard had retention pond sites that were used for drainage and to provide fill for the road. I have to see what the limits of the Mockingbird property are. I do not know if the property goes north of Lee Vista Boulevard or south and east of Vista Lakes. There is a retention pond south of Econ Trail on Lee Vista Boulevard and another retention pond East of 417 north of Lee Vista Boulevard.

Mr. Cumello stated I am questioning whether these documents exist for CDD property, which indicates the plan to move "x" tons of dirt from the borrow pit. Someone told me those documents exist.

Mr. Roy stated the construction plans would show the retention ponds that were dug for the roadways.

Mr. Cumello asked does the CDD have those plans?

Mr. Roy responded the CDD should have them.

Mr. Cumello stated I do not recall seeing them in any of the boxes we have.

Mr. Roy stated separate plan sets were done for Lee Vista Boulevard East from Narcoossee Road out to 500 feet past 417 where the road previously terminated, for Econ Trail and Chickasaw Trail showing the retention ponds associated with those roads.

Mr. Cumello stated I will look in the boxes we have, but I do not recall seeing any plans. I am only bringing this up because when you read these documents, the Mockingbird property is the most contaminated and that is where they are concentrating. The question is whether they moved any dirt from the Mockingbird property to CDD property during construction.

Mr. Roy stated the material from the ponds was intended for the road. The material from the ponds within the community was filled within the community.

Mr. Rose stated it sounds like nothing needs to be done right now.

Mr. Cumello stated there is no action for the Board to take because we are still getting information. I read a document from the 1980's indicating a road called Mine Road that came down from the Old Chickasaw Trail during pre-construction. I do not know if this was a paved or unpaved road.

Mr. Roy stated I am not familiar with this road as this area used to be all pasture. I know there was a 100 foot section owned by the County at the north end of Chickasaw Trail tying into the existing Chickasaw Trail.

Mr. Shelton stated I have a couple of comments to make on the website. It was suggested last month that we put up a general statement of when meetings are going to be held on the home page. There is such a statement, but there is a typo. It says Tuesday instead of Thursday. It was still there as of 9:00 a.m. today. When you click on "*Current Meeting Schedule*" it still has the 2007/2008 schedule. On the page for the "*Current Meeting Agenda*" there is no agenda there.

TWELFTH ORDER OF BUSINESS

Audience Comments

There not being any, the next item followed

THIRTEENTH ORDER OF BUSINESS

Adjournment

There being no further business,

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

Gary L. Moyer
Secretary

John Rose
Chairman