

**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, July 8, 2010 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
Randy Holihan	Vice 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
Travis Rentz	Clark & Albaugh, LLP.
Barry Roy	Engineer: Bowyer-Singleton
Ray Malavé	Bowyer-Singleton
Lee Smith	Holland & Knight
Gary van der Laan	Leland Management

FIRST ORDER OF BUSINESS

Roll Call

Mr. Moyer called the meeting to order and stated that all Supervisors were present.

SECOND ORDER OF BUSINESS

Approval of the Minutes of the May 13, 2010 Meeting

Mr. Moyer stated that each Board member received a copy of the minutes of the May 13, 2010 meeting and requested any additions, corrections or deletions.

Mr. Shelton stated on Page 1, the affiliations of the attendees were incorrect.

Mr. Cumello stated on Page 9, third paragraph from the bottom, the sentence "*You should lose the billing*" should be "*You should review the billing*". On the next page, I said "*I recall paying \$192*", not Mr. Rose.

On MOTION by Mr. Shelton seconded by Mr. Rose with all in favor the minutes of the May 13, 2010 meeting were approved as amended.

THIRD ORDER OF BUSINESS

Manager's Report

A. April and May Financial Statements

Mr. Moyer stated behind Section 3A, we provided the financial statements. What is noteworthy is we collected 94% of our non-ad valorem assessments through May 31, 2010. On the General Fund side, we still have \$58,000 in delinquent assessments. We will have to follow this and see how this is affected by the tax certificate sales. Otherwise, we are in good shape.

Mr. Cumello stated on Page 6, the explanation for *Contracts-On-site Maintenance* says "*Favorable YTD variance result of reduced pool staff during the winter*". That does not seem appropriate.

Mr. Moyer stated I agree.

Mr. Cumello stated the top of the next page has the same comment.

Mr. Moyer stated I will have the Accountant give you the proper explanation.

Mr. Cumello asked do they mean "maintenance staff"?

Mr. Moyer responded yes.

Mr. Cumello stated I am not sure what on-site maintenance is.

Mr. Shelton stated we do not have reduced on-site maintenance staff.

Mr. Rose stated no we do not.

Mr. Moyer stated I will get with Mr. van der Laan and the Accountant to figure out what they mean.

Mr. Rose stated whether it is pool or maintenance staff, it is incorrect.

Mr. Moyer stated thank you for pointing that out!

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.

Mr. Rose stated everything looks good. The only thing I noticed is that we were doing good for awhile in making sure that all backup information was included, such as receipts for maintenance expenses and payroll charges. That information is not there anymore. We need to stress to the Accountant that we would like to see this. I do not know what happened this month, but the invoices were not in the correct order like they normally are.

Mr. Cumello stated we have two invoices from the City of Orlando. One is a fine for \$1,000 and the other is a reimbursement in costs for \$1,507 for the overflow. Are they appropriate?

Mr. Moyer responded that resulted from a blockage at the structure at Odyssey Middle School, which ended up flooding Lee Vista Boulevard. We thought this was the school's responsibility, but it ended up being our responsibility. We were charged \$1,500 by the City because they had to come out to drain the roadway. We were also fined \$1,000 for not maintaining the structure, which we are now maintaining through Servello & Son or our aquatics contractor in regards to discussion that the Board had last month. There were time frames associated with these payments. I do not think the fines were at issue so we paid them so we did not incur any additional fines through the City.

Mr. Cumello stated I was involved with that incident. In fact, I recall communicating with Mr. Roy at the time. I thought we were the ones who sent someone over to clear out the problem so the water would flow properly. I do not think the City did anything. All they wanted us to do was to block traffic. I am curious as to why they are charging us for labor. Mr. Roy, do you recall why?

Mr. Roy responded I think they sent out a crew to set up traffic control. I thought they were trying to unclog the structure or pumping from the storm system. The flooding was already over with by the time I arrived.

Mr. Cumello asked is the fine appropriate? Do they have the right to fine us \$1,000?

Mr. Roy responded they are saying this is our second offense. You would need to get a report saying that the structure was clogged.

Mr. Cumello asked under what Statute do they have the right to fine us?

Mr. Roy responded through their Stormwater rule. That was my understanding.

Mr. Rentz stated I am not sure, unless there is something in the City Code. I will have to look at the City Ordinance.

Mr. Cumello stated I have a copy of the City Code.

Mr. Rentz stated Mr. Clark was involved in this matter and he commented about the cost to look into this matter further as opposed to paying the fine.

Mr. van der Laan stated I recall him saying that and sent an email to that effect.

Mr. Rose asked do we still want to look into this?

Mr. Cumello responded the City had no right to fine us.

Mr. Holihan stated my guess is that the City has some right to impose a fine. I estimate that we will spend \$200 of Mr. Clark's time disputing a \$1,000 fine and it does not seem like it is worth the money.

Mr. Cumello asked do we have a plan to prevent this from happening again?

Mr. Moyer responded I will defer to Mr. van der Laan, but we asked Servello & Sons to monitor the structure when they are mowing. I believe that we informed the aquatics contractor to do the same.

Mr. van der Laan stated correct. We also notified on-site maintenance staff. Mr. Roy put a recommendation in his report.

Mr. Roy stated the City wanted a recommendation on how to resolve the issue so we included a sketch of a cage to keep the weeds from accumulating in the corner against the structure and blocking the outfall. Mr. Moyer forwarded a copy to the County.

Mr. Moyer stated correct.

Mr. Cumello stated we have 14 ponds. What is so unique about this one that we had a problem?

Mr. Roy responded the outfall structure on this pond is three inches by three inches. It is down at the bottom and all of the weeds seem to collect there. Something is pushing them into that corner of the pond and blocking the orifice.

Mr. Shelton asked do the other ponds have a different outflow mechanism?

Mr. Roy responded they are similar, but their orifices are larger in diameter. They are not in the corner of the ponds. We are putting in an apron to keep the weeds from blowing directly in there and a chain link cage to keep the weeds that get blown into that area away from it so it does not clog the hole.

Mr. Cumello asked is that what it currently has or what is proposed?

Mr. Roy responded that is the recommendation. A baffle was installed to keep out the weeds, but the weeds are getting underneath the baffle and plugging the hole.

Mr. Rose asked are we planning on implementing this?

Mr. Moyer responded we are going to get you a price. I do not know whether Mr. Roy was talking with Albright & Williams. The plan was to get a contractor who Mr. van der Laan and I could work with to get a price and provide it to the Board.

Mr. Rose asked what is the status?

Mr. van der Laan responded I hoped to have an estimate for you today, but I did not receive one yet. As soon as I receive it, I will provide it to Mr. Moyer to forward to the Board.

Mr. Roy stated I have not received any prices from them.

Mr. Rose stated the invoice said that we needed to submit a plan, but that never happened.

Mr. Moyer stated that may have been the case when we received the invoice, but we submitted the plan in a timely fashion.

Mr. Roy stated we submitted the plan in the timeframe that the letter indicated, which was 30 days.

Mr. Rose asked did we receive something when this first happened to make sure this did not happen?

Mr. van der Laan responded no. The first time this happened back in 2008 was when we were not maintaining the pond and that incident is how we found out that we needed to be maintaining it.

Mr. Roy stated prior to that, Odyssey Middle School was maintaining the pond and then they just stopped and never told anyone that they were no longer maintaining it.

Mr. Cumello stated it sounds like we need to add this item to the action item list.

Mr. Moyer stated yes. I do not see any reason why we would not have the estimate for next month's meeting and approve a contract for this work.

On MOTION by Pastor Banks seconded by Mr. Holihan with all in favor the April and May financial statements and check registers were approved.

C. Discussion of Action Item List

Mr. Moyer stated the Action item List was provided to the Board. Mr. Cumello can bring us up to date on the Army Corp. of Engineers.

Mr. Cumello stated we are waiting for a community meeting that the Army Corp. of Engineers have scheduled for July 22, 2010 to discuss their final report and recommendations, which they have not yet released. As soon as they publish their report, we will distribute it.

Mr. Moyer stated in regards to the Reserve Study, after the last meeting, we provided a retainer to Reserve Advisors and confirmed that they had everything they needed to commence

with the report. They confirmed that they had all of the information they needed. This will be an ongoing project.

Mr. Cumello stated I saw the transmittal letter, which said that they anticipate the report to be complete in 90 days. Is that going to be a problem in relation to when our budget is approved?

Mr. Moyer stated it is going to be a problem in terms of the budget. We will follow what was in the budget that was presented to the Board for this fiscal year and if there are any changes, we will provide them to you. As you saw from the budget analysis, we will end up with \$100,000 in unreserved funds at the end of fiscal year 2011. If they come back and say that they need another \$15,000, there are monies available. What is the status of the Street Lighting Agreement?

Mr. Rentz responded the proposed change was submitted to the City and they approved the change. I received some correspondence from the City Attorney yesterday and the agreement is set for approval at the July 26, 2010 City Commission meeting.

Mr. Cumello asked do you have to take it to the City Commission to modify the agreement?

Mr. Rentz responded yes.

Mr. Cumello asked is it just unique to us?

Mr. Rentz responded I do not think so. The City Commission does not need to approve the modification, but they have to approve the final agreement. It was never submitted to the City Commission for initial approval.

Mr. Cumello asked what are the chances of the City Commission saying that they do not have any money for this?

Mr. Rentz responded I do not know.

Mr. Moyer stated there probably is that possibility.

Mr. Rose asked what about the seal coating in regards to whether there is a benefit or if it is strictly cosmetic?

Mr. Roy responded most of the information that I found says that there is a benefit, that comes from seal coating contractors and others in that industry. Literature from outside of the industry says there is some benefit. There is also research saying that there is a detriment to water bodies from the seal coat washing into the storm system. I believe there is some benefit to

seal coating, but I cannot tell you that it will extend the life of your asphalt by 10 years. Mr. Cumello said that the entrance to Waverly/Carlisle was seal coated.

Mr. Cumello stated the City seal coated all of the City streets.

Mr. Roy asked how long ago?

Mr. Cumello responded last year.

Mr. Roy stated I cannot tell any difference between that asphalt and the asphalt inside of the gates. It has been down a year and there is no evidence of the seal coat. The black coal tar that they use has an offensive smell and residents will probably have an issue with it. However, they have an asphalt emulsion that does not have an offensive smell nor does it have the same properties as the coal tar. I believe there are benefits and detriments to seal coating. We normally do not see it used on roadways, but more on driveways and parking lots.

Mr. Rose asked how do we resolve the disconnect between Reserve Advisors saying that we should do the seal coating and allocate funds towards it and the fact that there may or may not be any benefit to it?

Mr. Roy responded I can continue doing research or ask Reserve Advisors if they want to re-address it in their amended Reserve Study.

Mr. Moyer asked what about micro-resurfacing. Are you familiar with this? Florida Highway Products does this type of work. They have done this in several Districts that I am familiar with. It certainly appears to be a much better product than seal coating because it has some aggregate.

Mr. Malavé stated that makes a lot more sense. From the perspective of engineering and the life of the asphalt, the seal coat provides some protection for one year. After that, the roadway will go back to looking like it did before. I think it is worth looking into the micro-resurfacing. At least you get some value out of it and it does have some aggregate.

Mr. Moyer stated what these communities were told when they went ahead with the micro-resurfacing was that it would provide service for the road for seven years. In some of these communities, the microsurface has been down for three years and it certainly looks like brand new asphalt.

Mr. Malavé stated we will look at that as a good option of how to resolve this. You just need a recommendation from us and then you can act on it.

Mr. Rose stated I think it is a good idea to go back to Reserve Advisors to question why they are requiring seal coating and have them provide some research. The bottom line is if we should be doing this, we should do it, but if we do not need to be doing it, then why waste the money.

Mr. Roy stated you should be re-sealing every three to four years so there will not be just one application.

Mr. Rose stated in the Reserve Study there is a schedule of when we should be re-sealing the roads. However, if it is not going to do any good, then why bother. If it is just the people that are selling it telling us that we need to do it, that is a red flag, but if it is actually going to provide benefit, then lets do it.

Mr. Shelton stated we also need to look not only at whether it will do some good, but whether the good that it does is worth the cost.

Mr. Rose stated of course. I think we need to answer the first question before looking at the second one. Number nine on the Action Item List was to check with the Auditor to see whether the disclosures from the Audit were sufficient.

Mr. Moyer stated I have not been able to get in touch with them, but I will follow up for our next meeting.

Mr. Rose asked was the last item on the Action Item List taken care of?

Mr. Moyer responded we will make sure that Reserve Advisors includes the fishing pier as a District asset on the reserve list.

D. Comments and Questions on the Proposed Budget for Fiscal Year 2011 and Review of Current Contracts

Mr. Moyer reviewed the budget for fiscal year 2011, which was included in the agenda package and available for public inspection at the District Office during normal business hours.

Mr. Moyer stated the primary purpose of this meeting is to delve more into the proposed budget for the fiscal year that starts on October 1, 2010 in preparation for our public hearing in August. We are not proposing an increase in the non-ad valorem assessment as there are sufficient revenues to be generated at the current rate to provide funding for the operation and maintenance costs of the District. Under the administrative expenses, the only notable increase deals with engineering over what we budgeted last year. That is totally driven by our use of the Engineer and it has been a busy year with the issues we asked Mr. Roy to look into. Hopefully

this will not occur next year, but based on our history this year, we are budgeting an increase of \$18,000. There have been other changes that are minor in nature.

Mr. Cumello stated on Page 1, the *Misc-Assessment Collection Cost* in the current budget is \$25,597, while the year to date is only \$1,102. It looks like we have some latitude there.

Mr. Moyer stated I think the discrepancy is rather than doing it on a percent of the assessment levy, which is what this budget number is based on, they changed to a flat per parcel charge, which is much lower than if it was based on a percentage of the budget. For our public hearing, I will make sure that is the case because that is why we are so far under budget at the present time.

Mr. Cumello stated I was looking at it more that we have the latitude to move money from that line item to something else.

Mr. Moyer stated that is correct.

Mr. Cumello stated on Page 2, I noticed that several items were zeroed out under *R&M-Drainage*, *R&M-Entry Feature*, *R&M-Fence* and *R&M-Monument*.

Mr. van der Laan stated I have been working with staff at Severn Trent on some of these small line items. You will see that there is a new line item called *R&M-Common Area* where \$20,000 was budgeted. That is where we combined all of the ones that were zeroed out rather than having individual items.

Mr. Cumello asked does the \$20,000 equal what we budgeted under the other line items?

Mr. van der Laan responded they added up to \$21,000.

Mr. Cumello stated that explains it. On Page 3, there are Total Reserves of \$103,700 under the adopted budget for fiscal year 2010, but the proposed budget for fiscal year 2011 is \$108,100. Is that an error?

Mr. Moyer responded no. That is a nuance of what is called "fund accounting" because they do not expense the reserves. It would be more clear if they did do that, and I agree with you 100%, but we should be showing at the end of the year that we expended the reserves. The reality of showing that we are going to have \$113,000 in excess revenues at the end of the year is that \$103,000 of that \$113,000 is reserves. We may be slightly under budget, but we are not going to be much under budget. I think it is good to bring up these issues and put them into the record and you are now getting the idea of what fund accounting is all about. You just need to look at those reserves versus excess revenues and subtract the two.

Mr. Cumello asked can we note this in the narrative where all of the R&M line items are listed? We should say that these items are going to be consolidated under *R&M-Common Area*.

Mr. Moyer responded sure.

Mr. Rose stated we should note that they are being deleted because they were consolidated under one line item.

Mr. Cumello stated on Page 10, the capital projects are based on the last version of the Reserve Study, which was in 2007. Right?

Mr. Moyer responded correct. Page 4 shows the balance of the *Reserve Account* where at the end of 2011, we will have accumulated \$415,000. However, our *Fund Balance* is anticipated to be \$579,000; so there is going to be a reserve of \$164,000. If the Reserve Study comes back and we need to allocate more money into reserves we can use this money or use it as working capital to get us through November and December.

Mr. Cumello stated overall, the budget looks good.

Mr. Shelton stated on Page 8, the narrative for *Contracts On-Site Management* show that the contract is based on a \$12,000 flat fee plus \$1.25 per resident per fiscal year. I assume this is per door and not resident.

Mr. Moyer stated right.

Mr. Shelton stated on Page 10, *Gate Operators* and *Gates* are part of the reserve. I thought the HOA was paying for those.

Mr. van der Laan stated it should be "replacement".

Mr. Moyer asked are we changing *Gates* to *Gate Replacement*?

Mr. Shelton responded yes. *Gate Operators* should be changed to *Gate Operator Replacement*.

Mr. van der Laan stated *Gates* refers to the replacement of the metal gates and *Gate Operators* refers to the motors.

Mr. Shelton stated according to Page 4, we have a *Fund Balance* of \$600,000. Is it always that high or are there fluctuations or is it there in case there is a drop in income?

Mr. Moyer responded the *Fund Balance* is comprised of the two components we are discussing; one of which are the Reserves that we set up, which we will add to every year. That *Fund Balance* will continue to grow when we add additional reserve monies.

Mr. Cumello stated it is not operating expenses.

E. Report on the Number of Registered Voters – 2,964

Mr. Moyer stated this is for your information. Every year we obtain this number from the Supervisor of Elections. It was meaningful when we had less than 250 registered voters because our elections were held by the landowners, but once we reached six years and 250 registered voters, we converted to a qualified elector process and the Board is now elected by the residents and registered voters of the community. We are still required to make this disclosure every year.

FOURTH ORDER OF BUSINESS

Attorney's Report

Mr. Rentz stated I do not have anything new to report. I believe that Mr. Clark asked Mr. Roy and Mr. Malavé to provide an update to the Board.

FIFTH ORDER OF BUSINESS

Engineer's Report – Warwick Wall Issues

Mr. Malavé stated originally when Vista Lakes was developed as a project, the owner of the land also owned the triangular piece on the south. It was part of the property, but never purchased as part of Vista Lakes. There were also farmers that owned various properties that had some association with the owner of the triangular piece. That is where all of the properties tie together. As part of the work originally done for the development, there was a lot of coordination with the City. One of the coordination efforts was a force main and reuse line that went through the property. It was part of the roadway system for the City and did not have anything to do with Vista Lakes, other than the fact that they owned the ROW and they wanted an easement. The force main reuse line is 24 inches, which is rather large. It comes down Vista Lakes Boulevard and down our entire property line. The only reason we were involved is because they needed an easement for those pipes.

Mr. Cumello asked does the City of Orlando own those pipes?

Mr. Malavé responded yes. There is a 20 foot easement along the property line and continues all the way down.

Mr. Cumello asked is that under the berm?

Mr. Roy responded it is on the back side of the berm.

Mr. Malavé stated but on our side of the property.

Mr. Roy stated the property line, berm and pipes sit where the drainage runs. It is all within five feet of each other on the west side of the berm.

Mr. Malavé stated there are three pipes along that side and because all of the properties between Narcoossee and our western property line drain to our property, a pipe was installed as part of our development that collects stormwater through a series of inlets. We actually reviewed various sites, particularly Home Depot and Kohls that tie into our system to make sure that they do not impact our existing stormwater system. In an agreement with the City and the property owners south of us, including the property owner that originally owned Vista Lakes, they wanted us to extend the drainage pipe further south along those pipelines in order for them to drain those properties. They did not have a good outfall as their current outfall was an existing ditch that went into a wetland and the borrow pit. All of these had zero outfall to where they could not discharge and basically stored the water. As part of our master system, we installed an outfall pipe that comes to Vista Lakes along Vista Lakes Boulevard into the canals further down. That provides an outfall for being able to draw our system down and maintain the system.

Mr. Shelton asked where is the outfall for this lake?

Mr. Roy responded it is in the corner of Vista Lakes and goes down past Econ Trail up to the canal system where the powerlines are located.

Mr. Malavé stated it goes along the powerlines and into a major ditch that goes north to the Econ Trail. As part of that effort and in order to get the easement, the City agreed to install a storm pipe that would provide for their collection. Because the CDD had the drainage master permit for everything coming into our lake, SJWMD County said in order to install the pipe, we needed to ensure that Vista Lakes does not get affected or alter or modify their permit. So, there were modifications to our master permit, which is referred to as Modification 6. It took into account the property owners land by assuming how much water was going to drain there by installing a 24 inch pipe. That pipe would be extended so they could discharge into our system to draw down their drainage.

In the process, two structures were built; one is the Super Stop that relied on that permit modification as well as the outfall pipe. The other was Narcoossee Road, which was widened by the City to six lanes and relied on the same pipe for drainage. This pipe was actually constructed as part of the construction of the two pipes with the City and at the same time with all of the work that was done in Vista Lakes through Terrabrook. Today, the Super Stop is losing ROW from Narcoossee Road. The City went through a condemnation case to get that ROW. Super Stop now currently owns all of this land and they are suing the City because they are getting

flooded. We looked at the Narcoossee roadway construction plans a long time ago because they required a letter from the CDD to be able to discharge into our system through that pipe. They have since constructed a pond for the drainage of the southern portion of Narcoossee Road. The argument between the Super Stop and the City with SJWMD is the City was taking capacity out of that pipe to discharge more flow into the Vista Lakes system and so their other properties would have enough flow. That is their argument.

Mr. Cumello stated it sounds like an economic problem.

Mr. Malavé stated that is correct. Instead of going through a court process, the Super Stop petitioned SJWMD complaining that the permits that were issued were erroneously done by SJWMD. As a result, SJWMD studied all of the permits and asked the CDD whether they had any problems with the pipe. Right now, everything that we originally did does not cause us any flooding and since it is per our permit, we do not have any concern over that. However, the City and Super Stop have a challenge in that the pipe that was constructed from south of our property was done without a permit. No one can locate the permit. The issue is that the SJWMD admitted to us that they issued two permits to tie into this pipe and they recognized it was there. However, the as-builts that were done originally for all of the infrastructure in Vista Lakes shows the pipe. They were made aware that it was constructed as part of the infrastructure, even though no one can locate the permit application or the permit for construction of the pipe.

Mr. Cumello asked does this go back ten years?

Mr. Malavé responded it goes back to 1997.

Mr. Roy stated it was certified in 2000.

Mr. Rose asked is that something we did not do?

Mr. Holihan responded the pipe was installed by Super Stop. Right?

Mr. Malavé responded the pipe was part of the City project, not the Vista Lakes project.

Mr. Rose stated so it has to do with something the City did not do.

Mr. Malavé stated SJWMD is saying that the City did not obtain a permit for that pipe. They were the ones that needed it as part of their forcemain and reuse lines. This gets confusing from the perspective that the CDD had a permit to have the drainage flow into that pipe. However, that permit did not authorize any construction. The reason this is important for us is that we need to make sure that any water that gets drained into this pipe and ends up into our lake system does not affect us. We need to make sure that it does not affect the total discharge off of

our property and it does not flood anybody. Therefore, we are concerned from that perspective. This is similar to what we did when we reviewed these projects as any discharge that they did was going to be per their permit and minimize it so it does not affect our site.

Mr. Moyer asked by the sheer fact that the pipe was 24 inches, does that not limit the amount of discharge you can get in a 24 inch pipe and do we have any concern at all?

Mr. Malavé responded we looked at the 24 inch pipe and it does limit the amount of discharge. However, you can put a head on it, but that could cause flooding. Our concern is the lots in back of the pipe have inlets that could be flooded. We need to make sure that their head does not create a specific problem that does not flood those lots. The rest of the system is not affected.

Mr. Roy stated water cannot get to those lots due to the inlets on the back side of the berm.

Mr. Malavé stated no, but there is a concern there. We have to make sure it does not cause any problems. Mr. Clark, Mr. Roy and I met with SJWMD and they are requesting that the CDD assist the City in the permitting of that pipe. They indicated that we need to modify our Master Stormwater Permit for Vista Lakes to accommodate for the construction of that pipe. Mr. Clark questioned why the CDD should spend any monies for something that benefits the City, and other properties, but not us as we believe it is the responsibility of the City. I recall the City indicating at the meeting that they have a need for this pipe because they have a pond for a roadway that is already widened and a pipe that they are discharging into that does not have a permit. We did commit to them that we would cooperate just like we do with all of our other properties. We have a process where they submit an application and pay the funds for staff to review the permit on behalf of the CDD. They have to follow the same process as everyone else. That is where we left this with the SJWMD.

Mr. Shelton asked how much of Vista Lakes drains into this pipe.

Mr. Malavé responded it does not drain into this pipe at all. All of the property between Narcoossee and our property line drain into an outfall. The pipe collects all of the water coming into our property. Being on the down side, you have to pick up all of the water that comes from higher ground.

Mr. Holihan stated so we are not draining to it, the pipe just collects the water.

Mr. Malavé stated correct.

Mr. Shelton asked is our concern flooding if the pipe cannot handle the amount of water?

Mr. Malavé responded on the back lots. We just have to make sure this does not occur. Based on our analysis, we do not believe it will do that, but that is our concern.

Mr. Holihan asked is there any concern regarding future development of Vista Lakes based on the capacity of what we have for storage?

Mr. Malavé responded yes.

Mr. Rose asked is that the end of this issue?

Mr. Malavé responded we left it with the SJWMD that we would review this matter. If they come to us for a permit, it is the City's responsibility to pay any fees related to this permit process, just like any other property owner has done along Narcoossee Road.

Mr. Rose asked did you confirm that with the SJWMD?

Mr. Malavé responded yes. We brought them up to speed.

Mr. Rose stated I am good with that.

Pastor Banks stated I am not sure why we would spend any additional time and money for something that is not our problem.

Mr. Rose stated I personally think that we need to find someone who can reimburse us for the money and time we have spent.

Mr. Moyer stated once we get our Street Lighting Agreement approved, I would be happy to write that letter on your behalf requesting reimbursement.

Mr. Roy stated in regards to the Warwick Wall matter, I saw an email indicating that Mr. Cumello was going to be meeting with the homeowner, Mr. Jim Cotterman to review his concerns.

Mr. Cumello stated I sent you the last email from Mr. Cotterman who was complaining about the swells and what he believes is a problem on his property. When I spoke to Mr. Roy about this, he explained that the swells were there for a reason and part of the design. I do not know how to fix this problem.

Mr. Roy stated there is basically an undulation of the ground adjacent to the wall to direct the water to the bleeders in the wall. The only thing I can see as an issue is during maintenance of the grass, it appeared that we were scalping some of the tops of the undulations. I do not know whether or not that is Mr. Cotterman's concern, but I do not believe there is water ponding on the property.

Mr. Rose asked is the ground not level by the wall?

Mr. Roy responded basically there is a bleeder through the wall every 10 feet where the back 15 feet drains to the east towards the wall and across the easement. To make sure that the water reaches those bleeders or openings in the wall, the ground meanders from high to low so the water flows to those bleeders.

Mr. Cumello stated if I understand correctly, the swells come out about five feet from the wall, which means they are a good four feet onto the property of these owners. They are complaining that they have to mow over them. They do not like the way they look cosmetically and the fact that they have to mow over them. I do not know what the solution is. If you agree to remove them, because we installed them, will it cause flooding on their side of the wall? Further, would we need to obtain a release from each individual homeowner saying that the CDD would pay to have a landscaper come in and flatten them out, but in doing so stipulate that they cannot come back to the District to complain about flooding?

Mr. Roy responded as far as I know, it is only on that one lot.

Mr. van der Laan stated that is the only one I was aware of. I did not observe any others.

Mr. Roy stated the only issue with the flooding is the property having spongier grass adjacent to the wall because it does not have as much slope to get to the bleeder if we remove the undulation. In a hard rain, there will be an inch of water until it forces its way through the bleeder.

Mr. Shelton asked are there undulations under several houses, but we are only hearing complaints from one homeowner?

Mr. Roy responded yes. This homeowner probably has the longest lot. It is a pie shaped lot.

Mr. Holihan asked is it all the way down the wall?

Mr. Cumello responded no, only 10 feet.

Mr. Roy stated I do not believe that any other homeowners are having an issue with the flooding, just this one homeowner.

Mr. Holihan asked was it there when Mr. Cotterman purchased the lot?

Mr. Roy responded I think he was living there before the wall was installed.

Mr. Cumello stated Mr. Cotterman indicated to me that "The swells were installed after the developer or his agent decided to raise the natural grade along the wall above the weep holes

in certain areas. The developer or his agent dumped fill along the wall, spread it out over the common property in hours, burying the weep holes and our irrigation heads. Then the developer or his agent came back to dig out the weep holes and the HOA then arranged for the irrigation sprinkler heads to be raised to a functioning level as a temporary measure until this could be corrected.” According to Mr. Cotterman there is history post the purchase of the property.

Mr. Roy stated the weep holes were tentatively set at existing ground level so any grade that was getting to that point would flow through the weep holes on the adjacent piece. What the resident was referring to was there was a footer at the wall and dirt mounded up on both sides to install the footer and then it was backfilled. The contractor for the wall did not do the best job at grading. He went back in several times and we ended up having Pro Scape going back in to complete the grading and sodding.

Mr. Cumello asked do we fix this and appease this resident who has been complaining for a year? Can we regrade it to get rid of the swells he is complaining about and what is the downside to doing this?

Mr. Roy responded we can take a sod cutter to cut the sod out and grade it so it is flat or knock the high points off of the undulation and put sod back in. We will probably have to adjust some sprinkler heads.

Mr. Cumello asked is there a risk or no risk from the standpoint of the resident coming back and complaining about standing water?

Mr. Roy responded you need to have them sign off while you are doing the work because the water has to get to the wall and under the weep holes. Flattening it might take longer and you may have puddles during a major storm and he will complain about that.

Mr. Cumello asked should we go back to Mr. Cotterman and say “We are prepared to remove the swells if you sign a release”? We are not going to do this more than once.

Mr. Rentz responded you can get a release.

Mr. Cumello stated we will give the option to the resident to either keep the current design or remove it so long as he does not come back to us if he has a flooding problem because we changed the design.

Pastor Banks stated the next thing he is going to complain about is how soggy the grass is when he is cutting it, as it will leave treadmarks.

Mr. Cumello stated he will have to understand that.

Mr. Rose stated I do not know where this property is because the walls in my community do not have swells.

Mr. Roy stated this is an area where the back part of the property drains to the wall and the lots pitch away from the wall because they were tied to the existing ground on the east side and the last lot had to pitch in that direction. Several lots pitch more than shown in the modified plans.

Mr. Shelton asked does whatever you decide to do on that lot affect the lots next to it?

Mr. Roy responded not that I know of.

Mr. Shelton stated I am just worried that we will make the repairs and then the person next door complains about his swells.

Mr. Rose stated we do not know for sure that their swells are affected.

Mr. Roy stated I believe that this lot has more extensive undulation than the other ones. If I recall, that was one of the last areas that the original contractor was grading and sodding and was not doing it correctly so Pro Scape did the remainder of them.

Mr. Cumello moved to inform Mr. Jim Cotterman that District staff will remove the swells if he signs a release saying that they cannot come back to the District to complain about flooding.

Mr. Rose asked should we make sure that the release is logged in case we hear from subsequent owners by the Warwick wall?

Mr. Rentz responded I recommend sending a release to the successors and assigners of the owner of the lot because you may have complaints from future owners of the lot.

Mr. Moyer asked can you record it?

Mr. Rentz responded yes, but I am not sure that this is a document you want to record.

Mr. Cumello stated none of those property owners have ever signed the easement document.

Mr. Moyer stated that is correct.

Mr. Holihan stated the only way that you are going to give notice to any homeowners is to have it recorded.

Mr. Rentz stated we can draft the document and record it.

Mr. Shelton asked what is the cost to record a document?

Mr. Rentz responded around \$10.

Mr. Holihan seconded the motion with all in favor, staff will inform Mr. Jim Cotterman that District staff will remove the swells if he signs a release saying that they cannot come back to the District to complain about flooding.

Mr. Cumello asked who will officially communicate this to Mr. Cotterman?

Mr. Moyer stated I will write the letter if you will deliver it.

Mr. Rentz asked do you want me to prepare a release to send with the letter?

Mr. Cumello responded yes.

Mr. Holihan stated I recommend doing this.

Mr. Rentz asked how much area are we talking about that the swells cover from the rear of the lot?

Mr. Roy responded the swells are five feet from the wall. It affects one foot of CDD property and five feet of homeowner property.

Mr. Rose asked do we have an easement?

Mr. Roy responded we have a five foot wall easement covering the five feet.

Mr. Rose asked do we need an access easement if we need to do the work?

Mr. Cumello responded it is part of the release. Basically we would cut the swells down, put the sod back and adjust any irrigation heads affected by the action.

Mr. Moyer reiterated that all of this is taking place within five feet. It cannot be that big of a mound.

Mr. Roy stated from the weep hole to the highest part of the undulation is another four inches.

Mr. Holihan asked would we be better off to physically do the work or agree to reimburse Mr. Cotterman for the cost up to a certain amount and let him do the work. When we start messing with the sprinkler system, it could come back to haunt us.

Mr. Cumello stated according to Mr. Cotterman, we already re-set his sprinkler system.

SIXTH 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. We placed an order to replace the signs on CDD property. This includes the entrance signs, no trespassing signs and the lake signs. I expect the signs to arrive by the end of August.

Mr. Rose stated on the request for service from Aquatic Systems, the Technician noted that the pond looks unacceptable and there is a breeding ground for disease.

Mr. van der Laan stated that was the comment that I provided to them.

Mr. Cumello asked for which pond?

Mr. van der Laan responded Carlisle.

Mr. Rose asked have we done something to fix this?

Mr. van der Laan responded we have been treating it. This is the pond in Carlisle that we are continuing to have trouble with. Out of 14 ponds, eight of them currently either have fountains or aerators. The remaining ponds we continue to have issues with and do extra treatments on. The problem is the more treatments they do, the more algae growth they kill off and it just sits there and with the low water levels, it starts to smell. The pond in question is the next one in line to receive an aerator as soon as we get into the next budget year. The order we are doing them was based on the oxygen levels when Aquatic Systems tested all of the ponds. Two of the worst ones were done this year and two will be done next year. Within the next three years all of the ponds will either have fountains or aerators. Once those aerators were installed, we had no further issues with the algae growth.

SEVENTH ORDER OF BUSINESS**Supervisors' Requests**

Mr. Cumello stated a resident was caught trespassing on one of our lots when he attempted to plant shrubs next to his property line. I approached the homeowner and told him I would issue a Trespass Order if he did not get off of our property, which they did. They moved their shrubs to the other side of their fence. However, in the process of planting, they put sand on our property and it is still there. In my conversations with the resident, he said that he would pay for fixing the property, which involves removal of the sand. He originally wanted to remove the sand and I stopped him and told him we would get back to him. I think we need to take

action to put this resident on notice to stay off of our property. I heard that he already removed shrubs from CDD property, but I cannot confirm this.

Mr. Roy stated that is not correct.

Mr. Shelton asked are the shrubs on CDD property?

Mr. Cumello responded the shrubs are on his property now.

Mr. Shelton stated so there is nothing on the CDD property except for sand.

Mr. Cumello stated correct.

Mr. Rose asked did he put the sand there?

Mr. Cumello responded yes. He was going to build a berm and put the shrubs on the berm, which is CDD property.

Mr. Shelton stated the resident sent an email to the Board complaining that the guidelines are not being enforced for other houses in the neighborhood.

Mr. van der Laan asked was there an issue where he claimed the fence was in the wrong place?

Mr. Cumello responded yes. He claims that the fence is two feet over on his property. I am questioning this because the fence was installed before the house was built.

Mr. van der Laan stated my response to him was for him to send us something showing that according to his survey, the fence was in the wrong place.

Mr. Shelton asked is there a marker on the sidewalk?

Mr. Cumello responded I did not notice one. I had several conversations with the resident. The last conversation he said that he was willing to pay for the restoration of the CDD property. How do we go about notifying him officially on the cost for the restoration work? I assume that we need to obtain an estimate on what it would cost to remove the debris and re-seed it with Bahia. Then we can officially send a letter to him saying that due to his actions, there is a cost to restore the property.

On MOTION by Mr. Cumello seconded by Mr. Rose with all in favor District staff was authorized to obtain an estimate and send to the owner who attempted to plant shrubs on CDD property.
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EIGHTH ORDER OF BUSINESS

Audience Comments

There not being any, the next item followed

NINTH ORDER OF BUSINESS

Adjournment

Mr. Rentz asked what is the City plot number and what community is the affected lot in.

Mr. Roy responded it is Warwick, Lot 4. I will confirm that this information is correct.

There being no further business,

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

Gary L. Moyer
Secretary

John Rose
Chairman