

**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 Wednesday, November 12, 2008, at 10:00 a.m. at the offices of Leland Management, 5955 T.G. Lee Boulevard, Suite 300, Conference Room 3002, 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
Barry Roy	Engineer: 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 all Supervisors were present with the exception of Mr. Holihan.

**SECOND ORDER OF BUSINESS**

**Approval of the Minutes of the October 8, 2008 Meeting**

Mr. Moyer stated each Board member received a copy of the minutes of the October 8, 2008 meeting and requested any additions, corrections or deletions.

There not being any,

On MOTION by Mr. Rose seconded by Mr. Cumello with all in favor the minutes of the October 8, 2008 meeting were approved.
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**THIRD ORDER OF BUSINESS**

**Manager's Report**

**A. Financial Statements**

Mr. Moyer stated the financial statements for the period ending September 30, 2008 were provided to the Board in the agenda package. We are in the process of closing out our books for

the last fiscal year, which is why the financials are not updated through October. As soon as I receive the October financials, we will forward them to the Board. We collected all of the revenue we anticipated and actually collected slightly more. Our expenses were under what we anticipated and the bottom line is we added \$143,000 to the fund balance. This brings our fund balance to \$217,000.

**B. Invoice Approval #100**

Mr. Moyer stated Invoice Approval #100 was provided to the Board.

On MOTION by Mr. Cumello seconded by Mr. Rose with all in favor the financial statements for September 30, 2008 and Invoice Approval #100 were approved.
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**C. Discussion of Action Item List**

Mr. Moyer stated I provided an action item list to the Board. One item, which has been under my realm of responsibility for a long time, was to compile a list of requisitions for the Board from the 2000 and 2002 series of bonds. I distributed this information and do not expect the Board to do anything with it at this meeting, but over the next month if you have any questions, please feel free to contact me and we can get you copies of the actual requisitions. One particular requisition is the first requisition on the 2000 series list, which is for a company called WULI. This requisition was issued at the request of Terrabrook who gave us instructions to wire \$4,052,581.13 from the 2000 series and the 2,621,856.58 from the 2002 series for the acquisition of completed improvements.

Mr. Cumello asked what does this mean?

Mr. Moyer responded this means before we sold the bonds, Terrabrook had undertaken certain work anticipated to be completed by the District. When we sold the bonds, they submitted an invoice for this work and we acquired the work as part of our overall infrastructure.

Mr. Cumello asked do you have the details of this work?

Mr. Moyer responded yes. We can provide you with the backup for any requisition, however, I can tell you they were primarily for mass grading and earthwork.

Mr. Clark asked can you check to see if you have Acquisition Agreements to support that?

Mr. Moyer responded when I checked on the WULI requisition, the Accountant told me there is an Acquisition Agreement attached to the Requisition. She did not tell me whether it

was supported by the details of the exact work completed, but as I mentioned this backup does exist in someone's records. It will either be in the District's records or the Engineer's records, because they had to certify this work was completed appropriately.

Mr. Cumello asked what is the next step?

Mr. Moyer responded in addition to these requisitions, related to the bond issue, there is a cost of issuance and underwriters discount that is not reflected on these reports. I recommend we get the amounts expended in the cost of issuance accounts and true this up with the amount of bonds sold by the District from these two bond issues. When you have time, please go through all of these requisitions and identify any questions you have. Some of this is repetitive as it occurs over and over again through the construction process, but they fall into engineering, architecture, planning and soil testing through a company called PSI. Holland & Knight served as Bond Counsel to the District for the sale of the bonds.

Mr. Cumello stated I spent time between the last meeting and this one going through the CDD documents. I looked at the contracts and the total amounts for each job. I assume these are incremental payments for the individual contracts.

Mr. Moyer stated correct.

Mr. Cumello stated I started with the total value of the bonds issued. Looking at the documents from our refinancing, there were four bonds; Series 2000 A and B and Series 2002 A and B. Each document equals \$38.3 million. I also found that the agreement between the developer and the City of Orlando could raise up to \$50 million for the CDD. This was interesting to me because I never heard this number before. My analysis shows there was at least \$38.3 million of revenue generated by the bonds. In looking at the contracts themselves, 81 contracts were turned over to us. Of those 81 contracts, the total value was \$24.4 million, which represents 64% of the \$38.3 million. We do not have any documentation with the information that was turned over, to explain what the other \$14 million was spent on. We can do some additional analysis based on what you just provided to us. I recognize some of the vendors are not the contractors we currently have. When I looked at the contracts, it was obvious there were three mass grading contracts and contracts for individual neighborhoods that provide the roads, sewage, water, sidewalks and curbs. According to the contracts the following were paid for by the CDD:

- Lee Vista Boulevard
- Chickasaw
- Vista Park Boulevard
- All CDD roads and City streets
- Brick walls
- Lee Vista Boulevard, Chickasaw and Amenity Center landscaping
- Irrigation system
- Engineering services (\$2.1 million was paid to Bowyer, Singleton)
- Kiosks
- Lee Vista Boulevard & Chickasaw traffic signals
- Melrose gate

Mr. Cumello stated based on my quick analysis, we have documentation for 64% of the dollars at this point in time. I do not know how we come to closure on this matter as the numbers do not add up to \$38 million.

Mr. Moyer stated no, but the difference between the \$24 million amount you came up with and what these bond issues add up to, which is closer to \$30 million, is the total for the first requisition from each bond series for acquisition, which is \$6.7 million. This would match to the documentation you have if you add those numbers to the amount you came up with, which is the \$38 million. This seems to be consistent. We will look at the original Offering Documents to identify where the balance of the money is. You traditionally look at 2% for underwriter's discount. On \$38 million, the underwriter took \$800,000. There is still a gap in reserves because each one of the bond funds went into a reserve held by the Trustee.

Mr. Cumello asked where is that reserve booked?

Mr. Moyer responded it is carried on our balance sheets.

Mr. Cumello asked is there \$4 million on our balance sheets in reserves?

Mr. Moyer responded possibly.

Mr. Cumello asked if it does still exist, why does it exist after all the development was completed?

Mr. Moyer responded it would exist on day one, but as the B Bonds are paid down, those reserves are applied to those B Bond payments and over time those reserves would go away. You are correct. If you look at the 2007 debt service funds, we only have \$640,000 currently in

the reserve account. I think this is where you are going to find the difference is in the reserve funds.

Mr. Cumello stated I do not recall that we applied any reserve funds to lower the amount of bonds when we refinanced the bonds in 2007.

Mr. Moyer stated we did this on the A Series of bonds, not the B Series, because the B Series would have gone away as we paid down the bonds from lot closings. We will pull the 2007 documents and take a look at where those monies went. I would not be surprised if you had reserve funds in the A Series of bonds.

Mr. Cumello stated we still have to figure out how to balance this.

Mr. Moyer stated I will undertake to do this, at least to get us in the ballpark.

Mr. Cumello asked what confidence level do we have on the requisitions? Does this represent what the Trustee has?

Mr. Moyer responded yes.

Mr. Cumello stated there is a 10% reserve, which is approximately \$3.8 million and another \$1 million for the issuance.

Mr. Moyer stated there is also an additional \$150,000 per bond issue for Cost of Issuance.

Mr. Cumello stated we are still missing several million dollars.

Mr. Moyer stated correct. It is typical on new construction projects that you will put money into a prepaid interest account called 'Capitalized Interest', sometimes for 12 months and sometimes for 18 months. I am just speculating, but this would account for the remaining money. This is why I am recommending we look at the Offering Statements to see where the sources of the money within the bond issue went, but the reserves and Capitalized Interest would probably account for the discrepancy.

Mr. Clark stated what we have is an analysis of the Construction Fund, which will tie into the total. There will be a document with each of those closings showing funds being deposited into different accounts so we can take the construction deposits and tie them back into this number and then we will come up with the other numbers you are referring to.

Mr. Cumello stated the missing dollars should be on the balance sheet, even if they were put into these reserve accounts.

Mr. Moyer stated you are correct.

Mr. Clark stated I cannot imagine there was not some reserve benefit and the refinance was used in an insurance type of reserve. There would have been some balance, which was used to reduce the principle of the refinancing.

Mr. Cumello stated I recall the refinancing, but I do not recall any conversation from that third party that did the refinancing for us. They never applied any dollars against reducing the principle. In fact, on the 2002 issuance, there was minimal savings, which went back to the individual homeowners. The 2000 issuance had bigger savings because it was used seven years later when the bonds were paid off. I think we still have a mystery to solve.

Mr. Moyer stated we still have work to do. There is no question about it. However, I feel good about at least having construction numbers so we know where the money went. I will work on this over Thanksgiving and have something to you in December. Once I get the Offering Statements for the three bond issues, I think we can probably piece this together.

Mr. Cumello stated I offer you my analysis of the contracts, which is the best that I can determine, because there are a lot of Change Orders against these contracts.

Mr. Moyer stated great! Thank you!

Mr. Cumello stated I will provide a copy to Mr. Moyer and he can distribute it to the Board. If the CDD built all of the streets, how is it possible those streets can arbitrarily be public or City streets? What is the legal basis?

Mr. Clark responded the CDD has the power to dedicate its public infrastructure to another public entity. Each deal is done differently in gated communities than the CDD retains for the ownership and maintenance of the streets. In other deals, the design is for the streets to be maintained by the City or County. When you do that, you dedicate them with the plats. In those cases, the CDD built them, but deems it to be a good deal to not have the ongoing maintenance and using tax dollars to pay for it.

Mr. Moyer stated they are both public entities so the nature of the improvement does not change; vis-à-vis the ownership.

Mr. Cumello asked is the HOA considered legally to be a public entity?

Mr. Moyer responded no.

Mr. Cumello asked what is the legal basis for transferring those streets to the HOA?

Mr. Clark stated I do not believe there is one.

Mr. Cumello stated the HOA deeded all of the streets, which were built with CDD dollars.

Mr. Clark stated I have some Districts where the HOAs own their streets. This occurred when the developer sold off a pod, which has been developed by someone else who uses non CDD money to build those streets.

Mr. Cumello stated I can only go by the contracts I read. It clearly states Kearney Development Corp or Southern Site Works built individual neighborhoods, streets, curbs and sidewalks for every neighborhood with the exception of Warwick. We were always told Warwick was not built with bond money. Those contracts basically spell out what each contractor did. It is clear that the street I live on, Vista Park Boulevard, was built with CDD money.

Mr. Moyer stated the only way we would do what you said would be for the District to build the base, curbs and gutters as part of the drainage improvements for the subdivision. The asphalt would have been done by the developer and retained privately.

Mr. Cumello asked the inch and a quarter?

Mr. Moyer responded correct. We would break the road out into its component parts and differentiate whether it is drainage related or transportation related.

Mr. Cumello asked is there a legal basis for doing this?

Mr. Moyer responded legal opinions evolve over time. Back in early 2000, it was not unusual for a developer to use bond funds for the drainage portion of the road, but yet retain the asphalt portion of the road as private.

Mr. Clark stated the rationale for this was to allow for a gated community.

Mr. Moyer stated correct.

Mr. Clark stated I am not expressing an opinion.

Mr. Shelton asked what about the sidewalks?

Mr. Cumello responded the common sidewalks were built with CDD funds. Your developer built the sidewalk in front of your house.

Mr. Shelton stated the sidewalks in the gated areas were constructed after the homes were constructed using developer funds under a separate contract.

Mr. Cumello stated when you look at the individual contracts, if you spent \$1.5 million to build the roads in a specific neighborhood, there is a listing of all the items paid for including the

sewer system, water management system, curbs, common sidewalks and the asphalt. In some cases, it included one and a quarter inches of asphalt and in other cases, did not include the asphalt. It depends on the individual road.

Mr. Clark stated it did not include the sidewalks in front of individual lots.

Mr. Cumello stated I still do not understand. If you spent CDD money to build the sidewalks on Vista Lakes Boulevard, generally the ROW is in the sidewalk or on the lake side of the sidewalk. I always questioned who owned the sidewalks because the plat shows the HOA owning the sidewalks. It is still very confusing. The bottom line is it was built with CDD money.

Mr. Rose asked what is the concern?

Mr. Cumello responded it is conceivable that someone is not reserving for some of these things.

Mr. Rose stated I thought we already confirmed in the Reserve Study who was doing what.

Mr. Cumello stated I am not sure. We are going to have to redo the Reserve Study. When we do, we have to look at these items.

Mr. Rose stated in the first Reserve Study those were included.

Mr. Cumello stated I do not think the HOA reserved for any sidewalks.

Mr. Rose stated I thought they were included in the Reserve Study.

Mr. Shelton stated we do not know who owns the sidewalks because of the right-of-way.

Mr. Cumello stated we need to make sure these items are included in the next Reserve Study.

Mr. Rose stated we had conversations in the past. If it is on the HOA's land, then it is their sidewalk. Right?

Mr. Cumello responded yes.

Mr. Moyer asked are there any updates from staff on the action item list?

Mr. Roy responded I believe Mr. van der Laan contacted the City regarding the Chickasaw sidewalk.

Mr. van der Laan stated I was not sure what this referred to because it said "Determine whether the contractor is responsible for repairs". Did this have to do with the irrigation valve issue?

Mr. Roy responded the valve and the City performing trenching behind the sidewalk. The sidewalks are owned by the City.

Mr. Moyer asked is this still an open item or did the City take care of it?

Mr. van der Laan responded the City of Orlando has not come out in regards to the valve repair work, which is item 3, although they said that they would. We can go ahead and close item 2.

Mr. Shelton stated you still have a couple of open spots in the sidewalk.

Mr. van der Laan stated that is what we wanted to contacted the City about. We want to have the Landscaping Company repair the irrigation valves so the City could not come back and say the valve was the problem. Now we have put the onus onto the City for the repair work.

Mr. Shelton asked the repair work to the valves?

Mr. van der Laan responded the valves are repaired. Now the City needs to come back and take care of the erosion problem.

Mr. Shelton asked is that not a CDD issue?

Mr. van der Laan responded it is a City sidewalk.

Mr. Shelton asked does the CDD own the land next to the sidewalk?

Mr. Roy responded the right-of-way goes to a slope, which then goes down to the conservation area, which is owned by the CDD. I believe the City owns the slope.

Mr. Shelton asked is there a plat showing what the CDD owns?

Mr. Roy responded yes.

Mr. Cumello stated two meetings ago, a resident brought up the condition of Chickasaw and there was a community meeting with the City last week. I had an opportunity to discuss this matter with the City Planners and City Traffic people and there is a construction plan to resurface Chickasaw in the next few years, but not in the near future.

Mr. Clark stated in regards to item 4, I did not receive a letter from Mr. van der Laan to respond to the City of Orlando regarding the Lee Vista retention pond. In regards to item 5, I wrote a letter to the Water Management District expressing my concerns about the right of entry for the conservation area. I received a phone call from Mr. Chris Davis shortly after receiving my letter to discuss those concerns. I had some email contact after the phone call and understand at least one conference call took place between the Army Corp. of Engineers and the Water

Management District and another one is scheduled. They have discussed this matter, but have not decided what they want to do about it.

Mr. Rose asked can I get a copy of the letter that was sent?

Mr. Cumello responded it was sent out to everybody.

Mr. Moyer stated if you still need a copy, just email me.

**FOURTH ORDER OF BUSINESS**

**Attorney's Report**

There not being any, the next item followed.

**FIFTH ORDER OF BUSINESS**

**Engineer's Report**

There not being any, the next item followed.

**SIXTH ORDER OF BUSINESS**

**Community Association Manager –  
Agronomist Report**

**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. In regards to the Mockingbird reimbursement for the maintenance, Mr. Lee Smith provided us with a copy of the agreement last month. They contacted me and we scheduled a meeting with Sullivan Properties for next week to discuss the repayment. The contractor is working on the power for the lake aerator in Pembroke Lake this week and it should be working by the end of the week.

Mr. Rose asked can you make sure Progress Energy opens the accounts appropriately under the CDD umbrella? There was a huge mess the last time this occurred.

Mr. van der Laan responded yes. The account is going to be tied directly into the street light account for Pembroke. They are actually going to pull off one of the street lights. I did not realize this could be done, but this is the way Progress Energy issues permits.

Pastor Banks stated this is happening on our property for the trailer.

Mr. van der Laan stated I knew they could do this temporarily, but I did not know it could be permanent.

Pastor Banks stated we have our own meter.

**SEVENTH ORDER OF BUSINESS**

**Supervisors' Requests**

Mr. Rose asked are they back billing for the two meters on the water for Gentry Park and the HOA? I was reminded of this today when I was looking at the water bills. There is a 60/40 split for Gentry Park, but the HOA is supposed to cover 100% because their meters run off of our lines.

Mr. van der Laan stated a temporary meter was installed in Gentry Park. This matter has been resolved in Gentry Park as the electric is entirely a CDD expense.

Mr. Rose stated not the electric, the reclaimed water.

Mr. van der Laan stated the reclaimed water is being split. There was an issue with the electric, but then we realized the CDD built the kiosk and the entry walls and the power was being used wholly by the CDD and was a CDD expense. The HOA's meter is in Amhurst.

Mr. Rose stated this was for the power to the Amenity Center.

Mr. van der Laan stated I do not know why this changed. It should be split every month.

Mr. Rose stated so it is being billed to the HOA.

Mr. van der Laan stated correct.

Mr. Rose stated we do not have any visibility and I wanted to make sure this was still occurring.

Mr. Shelton stated I would like to tell the residents about the reserve funds. Clearly any repairs to the road, curbs and drainage system are paid for out of the reserve funds. Where does it say any repairs will be paid out of the reserve funds? Is there any documentation?

Mr. Roy responded in the Reserve Study for Melrose.

Mr. Shelton stated the study does not indicate what the residents pay for. The question is who owns the sidewalk and the driveway apron. If I have a crack in my sidewalk, do I pay for the repairs?

Mr. Roy responded those are owned by the City of Orlando.

Mr. Cumello stated not in gated communities. The sidewalks are owned by the HOA in a gated community and the HOA needs to maintain them. I think they set some reserves aside for this purpose.

Mr. Moyer asked are you referring to the Reserve Study for the HOA?

Mr. Shelton responded I am looking at the Reserve Study for Melrose. Is it part of the HOA policy that the sidewalks, concrete curbs, gutters and driveway aprons are part of the Reserve Study and therefore the HOA will pay for all repairs out of the Melrose Reserve Fund?

Mr. Cumello responded I do not know. We have to look at the HOA documents.

Pastor Banks stated I believe this was a recommendation for reserves and your HOA documents would take precedent. I can see a resident being responsible for the driveway in front of his home, which is an individual use being assigned to an individual resident, but I cannot see this occurring with the curb and sidewalks.

Mr. Shelton stated this is good common sense. I can see a resident with a concrete truck damaging their sidewalk when doing construction on their property.

Pastor Banks stated the HOA should take exception to the homeowner destroying the sidewalk and asking for reimbursement so the entire community can pay for it.

Mr. Shelton asked is there a legal basis?

Pastor Banks responded I am sure the HOA can do this.

Mr. Clark stated there are legal theories supporting this if the HOA wants to spend money pursuing this.

Mr. Shelton stated it is another grey area.

Pastor Banks stated in our neighborhood, we have a gate and we get a construction deposit from every resident who wants to do construction on their property, guaranteeing they are going to take care of community property. When they are finished, if there was any damage, the price for repairs comes out of the construction deposit.

Mr. Clark stated the efficient and proper way to do this is to look at the covenants and the right for the HOA to assess for any damages. I do not have any idea what these HOA documents say. If they do not have this language, but there are theories for negligence, it would give the HOA the right to recover any monies.

Mr. Lee Smith stated I think there are provisions in there. If you have an issue with aprons, the declaration provides that the Association can designate special common areas for use of a particular individual or neighborhoods if you wanted to push the apron expense onto individual lot owners. They can make an assessment or contribution for the individual who alone uses that common area. There are flexibilities in the documents.

Mr. Shelton asked do you know if the broad issues are addressed at all in the conveyance documents?

Mr. Lee Smith responded it is addressed in Vista Lakes Community Association Declaration.

Mr. Shelton stated I felt this was a legitimate question.

Mr. Lee Smith stated your HOA should fix the sidewalk in front of your house if you did not cause the damage.

Mr. Shelton stated my tree caused the damage. I certainly appreciate the assistance since we have a lot of expertise here.

Mr. Moyer stated it is probably not directly on point for the District, but anytime we can get something in the public record explaining something for everyone's benefit, I do not see any problem with it.

**EIGHTH ORDER OF BUSINESS**

There being no further business,

**Audience Comments**

**NINTH ORDER OF BUSINESS**

There being no further business,

**Adjournment**

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

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Gary L. Moyer  
Secretary

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John Rose  
Chairman