

**MINUTES OF MEETING  
HARMONY COMMUNITY DEVELOPMENT DISTRICT**

The regular meeting of the Board of Supervisors of the Harmony Community Development District was held on Thursday, September 27, 2018, at 6:00 p.m. at the Harmony Golf Preserve Clubhouse, located at 7251 Five Oaks Drive, Harmony, Florida.

Present and constituting a quorum were:

Steve Berube	Chairman
Ray Walls	Vice Chairman
David Farnsworth	Assistant Secretary
William Bokunic	Assistant Secretary
Kerul Kassel	Assistant Secretary (via phone)

Also present were:

Kristen Suit	District Manager: Inframark
Tim Qualls	District Attorney
Gerhard van der Snel	District Staff: Field Manager
Residents and Members of the Public	

**FIRST ORDER OF BUSINESS**

**Roll Call**

*Supv Berube* called the meeting to order at 6:00 p.m.

*Supv Berube* called the roll and stated the record will reflect we have a full Board.

**SECOND ORDER OF BUSINESS**

**Audience Comments**

*Mr. Leet* stated: This week Harmony residents were given notice by the developer SunTerra to turnover large portion of conservation lands to the Harmony West CDD. This land includes several trails that have been advertised as part of Harmony Main since its creation. If all this land is given over to the Harmony West CDD we have no guarantee of continued maintenance nor of future resident access. Also, at stake is the final ownership of Buck Lake. If the land goes to Harmony West, as noticed, they would own almost three quarters of the perimeter around Buck Lake. This could adversely affect our long term influence over the lake. Earlier this year SunTerra donated several parcels of land to our CDD. After taking a month to consider the Board chose to accept this donation and now owns those parcels. Under this precedent I would like to ask the CDD Board to engage with the developer, and if necessary the County, to make sure the land between Harmony and Harmony West is divided equitably between the two CDD's.

*Supv Kassel* stated: I have contacted the developer; I can read you the responses. The first response is that it impacts nothing regarding conservation. *"For whatever reason Starwood did not include the north end of Harmony West in the CDD. We did not want to have two CDDs so we expanded. It has no impact on conservation lands or trails. We have no plans to change the lake rules regarding power boats, though I will admit we have discussed small motors for fishing and not water skiing. We would never do this without making it open for public discussion."* When I inquired further about Harmony's butterfly and trails he said, *"Why would we, Harmony West CDD, restrict access to the trails. We control the CDD for now anyway."* I have been engaging the developer and would be happy to bring any other questions to the developer. These are the responses I have received so far.

*Supv Berube* stated: Thank you. Any other audience comments or questions?

*An unidentified speaker* stated: Severn Trent changed their name to Inframark. It still shows as Severn Trent on the Harmony database.

*Supv Farnsworth* asked: Where?

*An unidentified speaker* responded: When you go to Residents and pull it up it still says Severn Trent with the address and telephone number, not Inframark.

*Supv Berube* stated: I think you are dealing with the HROA website where it says Residents.

*Supv Farnsworth* stated: I am pretty on top of this one [*the HCDD website*] and was trying to figure out where you were finding that.

*Supv Berube* stated: I will make note of it and see if we can get the developer to fix it.

### THIRD ORDER OF BUSINESS

### Approval of the Minutes

#### A. August 30, 2018 - Regular Monthly Meeting Minutes

*Ms. Suit* stated: Supervisor Kassel's edits have been included.

On MOTION by *Supv Walls*, seconded by *Supv Bokunic*, with all in favor, the August 30, 2018 regular meeting minutes were approved, as amended.

### FOURTH ORDER OF BUSINESS

### Subcontractors Reports

#### A. Servello

##### i. Grounds Maintenance Status (*Work Chart*)

*Mr. Migues* stated: On the week of September 3<sup>rd</sup> Mr. van der Snel was informed the Pine trees were installed and asked to water accordingly. On the week on September 10<sup>th</sup> Mr. van der Snel was informed on the installation of the annuals and he followed up with the watering on those as well. The four Holly trees at the west entrance were flush cut and completed proposal 1152, which was the Fire Bushes, the Gold Mountain Durante, and the Crotons at Cat Brier and Five Oaks. The annual change out was done with Purple Salvia, Durango Marigolds and fresh potting soil added to the beds.

*Supv Berube* asked: Are you in agreement with that?

*Mr. van der Snel* responded: Yes.

*Supv Berube* stated: I know you and Mr. Feliciano had some back and forth on the layout of the chart. Has that been handled?

*Supv Farnsworth* responded: He has the updated version; it is up to him to maintain it. I just cleaned it up a little bit.

*Mr. Feliciano* stated: I think the punch list is very useful. What I am asking Mr. Migues to do, while everything might not get done that week he needs to respond to what was and was not completed. We should see some results from it. I have inspected the entire property, once we received the punch list, with Mr. Migues. I did see many areas that needed work, especially with weed control and spraying Roundup. I actually followed up the following week and saw many areas where the weeds had died. Our job is to clean up our communication, for one; and two, is to make sure it does not get back to this point. Once an item is completed Mr. Migues will mark them as so. It may stay on the list the following week, but will eventually come off the

list. Some areas will be reoccurring, especially through the winter, with the cutting back of grasses and such. Right now we should be keeping it off the sidewalks.

*Supv Berube* stated: I have a question for when the weeds grow in the evergreens and things. I understand the standard procedure for getting rid of weeds is to spray them with Roundup.

*Mr. Feliciano* stated: In some cases.

*Supv Berube* stated: For grasses or things growing in flowers or bushes that should not be growing there. Typically, the grass grows up through the evergreens; that requires hand pulling and is a lot of labor. I know you cannot just spread Roundup on it. I looked yesterday in several areas and the grass is still coming through those evergreens. What is your plan?

*Mr. Feliciano* responded: A lot of it is hand pulling. The months we are going into the weeds typically scale back and allow you to go in with some Snapshot and into areas with a pre-emergent to prevent the weeds from coming back. Once the weeds are there pre-emergent does no good; you have to either hand-pull it or spray it. It is very difficult with the Juniper beds because they are delicate plants and you cannot spray over the top of them. Once we are in the cooler months it should scale back and the dead stuff inside the Junipers should be getting cut off unless they have spider mites or some type of white fly infestation. Some conditions are wetter than others and Juniper being a drought tolerant plant cannot stand wet feet and it will die off. Those areas coming into the cooler season we need to put off.

*Supv Walls* stated: To give you feedback from my perspective, I do not have much of a problem with what you are doing except for the flowerbeds; that is my biggest issue. As I drive around the community the weeds are everywhere in most beds and it is like they have not been given the attention they need. If we could clean that up I would be 95% happy. For me, that is a big issue. When you drive in the community the bed on the west entrance you see the crabgrass coming out of whatever type of shrubbery that is growing there and it is the thing we want to avoid in terms of the perception of how people see the community when they come in. If you could pay more attention to that I would appreciate it. The other thing I saw on the punch list, which I think is good, that you were communicating about watering certain plants and trees. I want to make sure we are being responsive to that because you are the experts and if you say it needs water I am hoping we are putting down water and vice versa. If it ever becomes an issue for you or you, let the manager or us know because I want to make sure that communication is happening and we never have an issue of 'this died' and you say it needed water; I appreciate you documenting it and going back and forth making sure it happens, both from your side and your side.

*Mr. Feliciano* stated: The purpose is not to be argumentative with it. If I see an issue I have to call it out. One thing I can say is driving through the community Tuesday and today, I can tell there has been more time with the irrigation because a lot of areas are starting to pop now. I am not sure about the rain because I do not get over here that much in the afternoon, but I can where we are running more water to certain areas that we normally would. We got one from Mr. Miguez the other day of a pocket park that was pretty dry; he reported it to me and I explained Mr. van der Snel needs to be copied in that. We have to report it; it is the only way we are going to resolve it.

*Supv Berube* stated: Part of the issue is we have this fancy MaxiCom, which costs a lot of money to put in and a lot of money to maintain it. We found out as we kept expanding MaxiCom with new neighborhoods and everything – we had experts come in and they basically told us we have very expensive MaxiCom system that does not have all the expensive add-ons it really needs. We have a lack of weather stations from one end of this place to the other could be two different weather systems. We have one weather station that monitors it all. To your point, MaxiCom could be running at its 100%, it says everything is perfect and does not need any more water, but the other end may be different. As Supervisor Walls said, we need the communication. We are not against spending money on water.

*Mr. Miguez* stated: We will follow the procedure as Mr. Feliciano was saying and when we see a dry spot I will include Mr. Feliciano and Mr. van der Snel.

*Supv Berube* stated: I am sure you have heard comments about caterpillars. There have been notes sent back and forth from residents that are not happy about the caterpillars. I have done some reading and I know Supervisor Kassel will get the IFAS involved. It seems to me when you read about caterpillars you have two choices – spray the leaves to kill them or let them defoliate the trees. It does not appear the damage to the trees is permanent, they will sprout back next year, but while they eat all of it they leave a lot of brown mess under the trees. You are the experts with trees and caterpillars; are we reading this right?

*Mr. Feliciano* responded: You are absolutely correct. What they are doing is going through their lifecycle. Where you have to be careful with treating with insecticides and look at how high the tree is and if the tree is stable enough where it is going to generate new growth. The majority of your trees along the sidewalk and curb areas, absolutely. What I mean by height is when you spraying any type of insecticide up in the air, you have nests and everything and could be creating a serious problem where someone claims they got sick or an animal got sick. In most cases if they are not six feet or lower, I would not treat them.

*Supv Berube* stated: So being a green nature community, we have two choices – kill the caterpillars or let them defoliate the trees. Defoliating the trees in your opinion should not create tree death.

*Mr. Feliciano* stated: In most cases yes. I would not say I am 100% accurate, but in most cases absolutely because they are there for the foliage alone. The foliage comes from the bark of the tree and as long as the bark is not damaged there is no damage to the tree.

*Supv Berube* stated: Just like they lose their leaves in the winter. The choice is kill the caterpillars or let the trees be naked. I think the way we are going to go is to leave nature to do its business.

*Supv Kassel* stated: I will speak up and say in terms of your contention about spraying the trees because we are a nature community, the recommended chemical is *Bacillus thuringiensis*, which is a parasite that kills the caterpillars. It is not a chemical like 2-4-D or something like that; it is environmentally benign except on the caterpillars and it is not as if spraying them would cause environmental toxins. One of the things the Extension told me is that repeated defoliations can weaken the trees. With the spread of the caterpillars on some of the trees simply cutting of the branches where they are so thick is one way to help control the caterpillar population. We can ask residents who are to some extent responsible for some of the maintenance of their trees on their property, but the question is do we recommend to the residents that if they would like to they can cut off the branches that are affected by the caterpillars.

*Supv Berube* stated: When you look at some of those trees to get rid of the caterpillars you would take the tree down to the trunk.

*Mr. Feliciano* stated: I would not recommend it. I would offer to the residents the chemical that they can use. Some are household chemicals you can buy at Lowe's or Home Depot and if they are a nuisance to the resident they can spray it themselves, but I would not put it into the residents' hands to trim up the limbs with caterpillars.

*Supv Walls* stated: The reality is we are six weeks away from the leaves falling off the trees anyway. I would imagine the caterpillar activity would dissipate once the leaves are gone and see what happens come summer next year.

*Supv Berube* stated: I think this is the first time we have ever had an infestation like this. We have had some light defoliations in the past.

*Mr. Feliciano* stated: This year was a difficult year.

*Supv Berube* stated: There was a lot of exchange on Pine trees with the single toothpicks holding them up. We went to double toothpicks in many instances. Mr. van der Snel, I think, is still a little hesitant as to the durability of the trees and the stakes.

*Mr. van der Snel* stated: In my career and in seeing the developer put in Pine trees this is how they put in Pine trees. These trees are shorter that you put it and is why my response was compared to these toothpicks and I am not very confident with any storm coming that Pine trees will hold. This was my expectation, and I think anybody's expectation, if you have a Pine tree planting going on that is why I was disappointed that I saw the Pine tree with actually what I think is a transportation stake. This is how it is re-staked now and I am still not confident with it, but that is my opinion. I am not a tree specialist, but for me if I look at it I am not confident if there is a storm or high wind that it will stay like this unless Servello can guarantee us they would re-stake the trees again during the growth period and guide them.

*Supv Berube* stated: For the audience, the pictures identified as J – best practices, the stakes in the ground are 1 ½ to 2- inch solid wood pole that is driven into the ground about a foot or so, the straps come up to the tree on opposing sides. The trees Servello just planted in several are supported by basically a ¾ -inch thick pine board driven into the ground about a foot. There is a significant amount of difference between the two staking practices and the trees with the big poles down the road planted by the developer are smaller trees than what we had put in. having said all of that Servello is confident of their staking process, right?

*Mr. Feliciano* responded: Absolutely. The trees on East Five Oaks are larger, they are 25-gallon; 15-gallons were proposed. At each tree size you go up with different stakes that helps the tree itself. With 15-gallon trees they have more foliage at the top and are heavier; you use a smaller stake with them because if you install large poles and they do snap because of wind or anything then the tree itself cannot support the large pole and it tips over messing up the base of the tree. In most cases with a 15-gallon tree you use one stake along the trunk. Most nurseries put a bamboo stake up the trunk of the tree. The younger the tree the lighter the stakes you use to help support. The only issue I had with some of the Pine trees was some were leaning and were stressed at first. Once something gets stressed the foliage drops down along with the weight of the tree and is why a lot of them were tipping over and we put in double stakes.

*Supv Berube* stated: We can debate this forever. Here is what we are after; we do not want the trees to fall over and come out of the ground.

*Mr. Feliciano* stated: I totally agree.

*Supv Berube* stated: If a tree falls over and comes out of the ground, your guys are here every day and can look at them every day, if one comes out they are going to put it back in the ground, re-stake it and we are going to keep track of that tree and if the tree dies we have your commitment you are going to replace it.

*Mr. Feliciano* stated: Absolutely. We do have about four or five trees that have brown foliage from stress, but I do think they will be fine.

*Supv Berube* stated: I know we were manually watering for a number of days. What we need from you is the commitment that, if they go over, you are going to fix them; and if they die as a result of going over, you are going to replace them.

*Supv Bokunic* stated: I really appreciate the punch list. This is the first month we are seeing the correspondence back and forth and everyone is being civil and all of that, but it is really good for us to stay on top of things. I am enjoying the updates.

*Supv Berube* stated: One other thing that was part of the punch list and there was a bit of back and forth on is the mulch at the step at the entrance to the playground. I understand there is a lip there and there always has been. The mulch has always been brought up to where the concrete ends. I understand you have some concerns with the trip hazard. I think we get all of that, but the problem is that whole area got a lot of weeds

and grass growing in it. It is a high traffic area and the step is too big now for the average little kid, some moms want to push the stroller down onto the mulch. There was a thought of bringing dirt in to bring it up, but I think we would be happy with just some mulch to ramp it.

*Mr. Feliciano* stated: We are going to do it next week. He is going to spray the area. We are going to bring in dirt for free. You have to have dirt there, if you try to build it up with mulch the mulch is going to wash to the sides because there is nothing to hold it in there. I am afraid of a child or an adult walking off that lip when the mulch washes away and breaking an ankle. We are going to bring in soil and put mulch back on top.

*Supv Berube* stated: It needs to be watched because it is a high traffic area. It always goes down, but makes it reasonably well from mulch cycle to mulch cycle. There are a lot more people here now and a lot of rain, which probably washed a lot of it away. If you are going to fix that way, we are okay with that. Do you have anything else?

*Mr. Feliciano* responded: I see the sod proposal on the agenda and I want to discuss it.

*Supv Berube* stated: The other thing I wanted to speak to you about while Counsel and Ms. LeMenager is here. Counsel prepared us a dissertation on liability for governmental entities or other entities going onto private property to trim trees. Basically, when I read that it says we do not want to go on private property to trim trees. The well-established Florida and national law is if a tree is overhanging your property, no matter who owns the tree, it is the property owner's responsibility to trim the tree and keep their property safe.

*Mr. Qualls* stated: That is correct, that is the law.

*Supv Farnsworth* asked: Does that apply to a neighbor's tree also?

*Mr. Qualls* responded: Absolutely.

*Supv Farnsworth* stated: You can easily tick somebody off doing that.

*Supv Berube* stated: What I also read in your analysis is that for us to enter private property if something happens we are going to assume the liability by doing that and if we are contracting with Servello to do the work, there is going to be fighting between us, but the end result is we are going to be the ones to produce the contract to go on property and we are going to end up with the liability if something bad happens.

*Mr. Qualls* stated: The point there is if the CDD undertakes to trim branches off a private property owners' property, the CDD is going to be liable for that. Not only that, you need to get the permission of the property owner and then what we are recommending if you want to go this route, notwithstanding the big question of how are you going to pay to do this work on private property and the legality of that, but you need to get a waiver from the property owner that would say if anything goes wrong we are going to waive liability.

*Supv Berube* stated: You found a waiver, which is all encompassing. My thought on waivers is it just gives lawyers something else to argue about so they really do not protect you.

*Mr. Qualls* stated: You asked me a form of this question being can somebody sue us even if we have waiver. I have said this a lot – the three requirements for a lawsuit are a pen, a piece of paper and a jerk. So yes, someone is going to attack a waiver, they are attacked all the time. There are legal requirements for how you make a waiver. What we are trying to say is if you undertake to trim branches on private property, number one – you have no responsibility to do so, it is up to each property owner. Number two – you are essentially providing a service for that property owner and you need to treat it like that by getting a waiver. Then you still have to wrestle with the big question to me which is how can the CDD spend assessment dollars to trim trees on private property.

*Supv Berube* stated: That is where I was going next. We have to have the rule of equal treatment for all residents. You have to treat every resident in the CDD equally as much as possible.

*Mr. Qualls* stated: I think that is fair but the point I am trying to make is if you are going to expend assessment dollars to pay Servello to trim these trees what you are doing is spending public dollars on private property. That I am not certain you could do even if you wanted to.

*Supv Berube* stated: To benefit only a limited few who have the trees overhanging their land or houses.

*Supv Kassel* stated: Speaking of equal treatment, the people on the boulevard get their lawns mowed between the sidewalk and the curb and people on the inside streets do not.

*Ms. LeMenager* stated: In the beginning we were charged extra for that.

*Mr. Qualls* stated: We can look into it, but you are not going to find a lot of examples where public governments are going in and doing this type of project on private land. Unless the private property owner wants to pay for it, then it is a different discussion. Fundamentally, even after you have wrestled with the fact that you are taking on the liability in doing this, you still have to wrestle with the funding mechanism. Essentially, everyone is paying assessments and a portion of those assessments are going to private trees. That is the problem.

*Supv Farnsworth* stated: They are not private trees; that is the wrong terminology.

*Supv Bokunic* stated: The trees are on private property.

*Supv Walls* stated: The branches of the trees are.

*Supv Farnsworth* stated: The branches are, the trees themselves are not.

*Mr. Feliciano* stated: We just renewed a three-year contract with Osceola County. When we went through the hurricane it was the same situation, we had a tree fall on a homeowner's property across County property and we were only allowed to cut what was on County property. We had to give a separate proposal that had to be between myself and the homeowner for us to do. The County did not even want to get involved. I went through and looked at these trees again and some on Schoolhouse Road have been trimmed. They are not on my list so I do not know if the homeowner had it done. If you do take ownership of it you are going to have neighbors saying how come they paid to have that tree trimmed and I had to spend money to have mine done.

*Supv Berube* stated: I think the result of this is going to be we are not going to enter private property to trim any trees.

*Supv Walls* stated: This goes back to what I mentioned last month; we are at a point now because of time and the trees have grown and gotten taller and wider. In our previous policy of going out and trimming those trees we could do that from the street or sidewalk, no problem. We are at the point now where we cannot do that effectively without going onto private property. I think our policy, that we need to publicize, is that it is changing. We are still going to trim the trees, but we can only do the piece we can get to from the street or sidewalk. Anything infringing on your house or property you need to do what you need to do to make sure it is not going to cause damage at some point. We need to publicize that so people know this is the policy going forward. We do not want to take liability walking on to someone's property to cut down a branch and it falls on their house; you do not want to do that for many reasons.

*Ms. LeMenager* asked: When I hire someone to come over and trim the tree is the property line the side of the sidewalk closest to the road or is the property line where the sidewalk ends closest to my house?

*Supv Walls* responded: There is a public easement in terms of the sidewalk. I am not an attorney, but I would say the side closest to your house.

*Ms. LeMenager* asked: If I lop off about 25% of the tree where does that leave me if a hurricane comes and pushes the tree over into the tree across the street and takes them both down?

*Supv Berube* responded: Hypothetical situations, we cannot get into that.

*Mr. Feliciano* stated: I looked at the trees and if you are taking it away from the house you are talking three to four feet. It is really not a lot the homeowner would have to take off.

*An unidentified speaker* asked: Asked what if I trim my tree that CDD planted and someone from the CDD or HROA or one of my neighbors say he butchered the tree? Am I going to become responsible for damaging a CDD tree?

*Supv Berube* responded: If you kill it, maybe. The fact is that people have been trimming trees around here for a long time. There was an owner on Cat Brier who routinely trimmed the trees in front of his house and the ones on CDD property so he could see the golf course better. Keep it so you like the look of it and your neighbors. I think we have covered everything. You wanted to talk about the sod contract.

*Mr. Feliciano* stated: I sent everything back. We are talking about doing the sod in October. There are a couple of areas we wanted to go over to do an irrigation run before we starting ripping up the sod. The one area I am concerned about is the first entrance. If I am not mistaken some of the irrigation heads that covers the turf from sidewalk in to the fence is covered from the heads from the Viburnums. It really concerns me and is why I want to look at it to make sure we get overlapping. Before we even rip up the sod I think it is important we look at those areas and I believe some of those heads are going to have to be ran back to the sidewalk area to get sufficient coverage.

*Supv Berube* stated: We do not argue with him about how much money he is spending on irrigation. Water is cheaper than plants or grass. Any place you have a problem with irrigation prior to the sod going down – quality of the soil, chemicals or whatever, we have had this discussion before; this go round needs to be the last go round for sod.

*Mr. Feliciano* stated: I sent you a calendar request for next week.

*Ms. Suit* stated: You are going to do the pre and post?

*Mr. Feliciano* stated: It is going to be a process. We will do a pre-inspection before we start ripping up sod. Once we rip up the sod he will run it to make sure we did not break heads or anything, and once we do that we will install the sod. Once installed he will run it again and then we will send an email for the watering days which will be every day for the first two weeks and then we will scale back to roughly four days the third and fourth week and then back to the normal watering schedule.

*Supv Berube* stated: We will execute the contract tonight; you have already signed it. It needs an addendum added to it for the timeframe and until you get the inspections done we do not know what your start and finish dates will be. Let us do an addendum based on what you just talked about which is start date, finish date, what the irrigation cycles need to be and all of that. It will be part of the addendum and in that way everybody knows exactly what we are doing here.

*Mr. Qualls* stated: The last I had was you had a suggested revision about the inspection. Is that reflected in the contract?

*Mr. Feliciano* responded: Yes. I believe it is page two.

*Mr. Qualls* asked: You have signed it?

*Mr. Feliciano* responded: Yes, and sent it back.

*Mr. Qualls* stated: I do not have a signed one, but I will get it to you.

*Supv Berube* stated: It is not really a change to the contract. We left the contract open as to dates in writing as to start and finish.



*Mr. Qualls* stated: My notes say a suggested revision by Mr. Feliciano to add additional irrigation system inspection.

*Mr. Feliciano* stated: I added it.

*Mr. Qualls* asked: Is that the one you signed?

*Mr. Feliciano* responded: Yes.

## **FIFTH ORDER OF BUSINESS**

## **Developer's Report**

### **A. Discussion of Land Swap (Tract VC-1)**

*Supv Berube* stated: The developer promises he will be here next month to tie up a lot of loose ends that we have been around for several months.

*Supv Farnsworth* stated: There are at least two initiatives and meetings that people have received notices on. This is one of them for October 15<sup>th</sup> dealing with the expansion. If you have something to say about it show up at that meeting.

*Supv Bokunic* stated: The other one is tonight.

*Supv Farnsworth* stated: There are actually multiples; there is also October 4<sup>th</sup> and the 15<sup>th</sup>. This has to do with rezoning bringing back rural residential.

*Supv Berube* stated: That is what we are. We are the Harmony Rural Community in the PD.

*Supv Farnsworth* stated: Rural Residential does not exist in the PD right now. It did exist, they took it out and now they want to put it back.

*Supv Berube* stated: There are a couple more meetings coming up if you want to say your piece.

*Supv Farnsworth*: [pointed out areas on map & showed artistic concept of what it would look like.]

## **SIXTH ORDER OF BUSINESS**

## **Staff Reports**

### **A. Engineer**

There being none, the next item followed.

### **B. Attorney**

#### **i. Consideration of Adoption of Harmony CDD Website Accessibility**

*Mr. Qualls* stated: The first item is under my report because Supervisor Farnsworth asked us to send something he accidentally sent out when working with the manager. So we had to send via email the actual document Supervisor Farnsworth wanted considered. With your permission I would like to turn this part over to Supervisor Farnsworth.

*Supv Farnsworth* stated: There are two items. The one that was sent out is a basic ADA Compliance Statement, which fundamentally reflects what Osceola County has. It is pretty much an adaptation of that; plus, an extension at the bottom that says, "*here is where you can get help*". It is broad-brush treatment of the subject in total. The second one is for Website Accessibility. It is laser focused on our website specifically, and says to the world, "*this is our policy for what we are going to do regarding accessibility to our website*". I believe you need both. It is a policy of the Board, so the Board needs to adopt it or approve it.

*Supv Berube* asked: Counsel, have you looked at it and given your blessing so far?

*Mr. Qualls* responded: Absolutely. I just want to give the Board some encouragement in this. We found a Dept. of Justice document on website accessibility. It tries to balance the importance of having a website with the importance of having ADA requirement that when you are communicating everyone has equal access to the websites and the District communication. Some of the things you see is provide a way for visitors to request accessible information by posting a telephone number or email on your homepage. Encourage input on improvements. The encouragement is when you heard about the influx of suits related to ADA you have taken steps to make sure you are doing everything that you can. Supervisor Farnsworth has some skill in developing these things and so I think this will be a work in progress, but what you are showing through the record is that you are taking this process seriously. Every meeting, your website it getting better. I think you are doing a good job; I think this is a good policy that is helpful. We can distribute this; it has some useful information.

*Supv Berube* stated: The actual process is you will post these on the website as the cover page or someplace where people can find it.

*Supv Farnsworth* stated: It in the bottom right hand column.

*Supv Berube* stated: It is there now?

*Supv Farnsworth* stated: In tentative form.

On MOTION by *Supv Walls*, seconded by *Supv Bokunic*, with all in favor, the ADA accessibility policy was approved as written.

## **ii. Report on Sales Tax Discussion with Florida Department of Revenue Concerning Garden and Parking Facilities**

*Mr. Qualls* stated: We talked to the Dept. of Revenue and the District is doing what needs to be done. We will continue to work with the manager of the HROA to make sure that continues.

*Supv Berube* stated: Sales tax has all been approved. Somehow I got to be the lead agent on this and provided all the necessary numbers. We are going to turn over the electronic access to the HROA manager to act as our agent to remit the sales tax.

*Supv Farnsworth* asked: Who actually collects it?

*Supv Berube* responded: The HROA manager. They collect, remit and report to us what happens. As of 5:00 p.m. Ms. Scarpone asked if it was okay to turn it over all the information to Mark to pay it. There was a sales tax liability going back to February 2018. He is going to pay all of it and ask for a waiver, which she thinks the Dept. of Revenue will accept due to the confusion.

## **iii. Responsibility for Trimming Limbs Overhanging onto Private Property**

*Mr. Qualls* stated: Let me read into the record the statement: “*The possessor of land is not liable to persons outside the land for nuisance resulting from trees and natural vegetation growing on the land. The adjoining property owner to such a nuisance however is privileged to trim back at the adjoining owners own expense any encroaching tree roots or branches and any other vegetation which has grown onto his property.*” That answers basically every question that was brought up this evening.

## **iv. Legal Analysis of Tax Certificate Process in Florida**

*Mr. Qualls* stated: We submitted a memo on the tax certificate sales process. Are there any questions?

*Supv Berube* responded: It would appear from the reports that I read that two parcels at Osceola County this year. There were actually more than that, but the two developer owned parcels for a sum total of about \$76,000 and it appears from reading the report they have gone through the tax certificate process.

*Mr. Qualls* stated: We focused on VC-1. Not only was a tax certificate auctioned off, but there was no purchaser of the tax certificate.

*Supv Berube* stated: So now it is at the County.

*Mr. Qualls* stated: The tax certificate is struck to the County; meaning the County holds that tax certificate. The County then has the same responsibility as a certificate holder, which is between having that certificate anywhere between year three and seven because you can only apply for a tax deed after two years. The County has to apply for a tax deed and if nobody purchases that tax deed at sale / auction the property will escheat and become County owned property.

*Supv Berube*: [recapped issues regarding SunTerra tax debt and CDD assessments for the audience.]

*An unidentified speaker* asked: Does trading the land for the debt include the building?

*Supv Berube* responded: No.

*Supv Walls* asked: How do you trade land for debt? Now there is a lien on this property with the County that has to be paid. Who is paying that?

*Supv Berube* responded: That becomes the options you have to wrestle with.

*Supv Walls* stated: We are not paying that.

*Supv Berube* stated: Not yet.

*Supv Walls* stated: Not ever.

*Supv Berube* stated: You have to figure out what is the best deal. If nobody buys the land, we are going to write off the CDD debt anyway and the O&M on two parcels. They already went to tax sale this year and nobody bought them for whatever reason.

*Supv Walls* stated: Somebody has to pay what is owed in order to transfer ownership of the land.

*Mr. Qualls* stated: Either the delinquent taxpayer has to redeem said certificate by paying it all or someone has to come in and buy the certificate from the County and pay it all. Or someone has to buy it at a tax deed sale and pay it all. If none of those things happen between years two and seven, then the property will escheat to the County; in other words, it will be owned by the County.

*Supv Berube* stated: Here is our problem, we have debt we have to pay for. They ratepayers in this District must pay the debt on that land. Right now, nobody is paying the debt on the land. As long as it remains a stalemate like this it could go for two to seven years, the County gets it and they are not going to pay the debt on the land, but the people here for this year, next year, three, four, five, six, seven through the budget will be paying the debt on the land on two parcels. As that debt builds up no buyer or investor with half a brain is going to buy land that is landlocked. For us to think someone is going to buy it and relieve us of the debt responsibility – year one has already happened and no one has bought it. We have got to get the developer here somehow to tell us what his plan is and extract the best deal we can from that, whatever it is.

*Supv Farnsworth* asked: Is a developer allowed to just simply walk away from something.

*Mr. Qualls* responded: Yes. What is at stake is there is now a lien against the developer's property to the tune of \$59,000 on VC-1 that continues to accrue interest at 18%, but ultimately if a delinquent taxpayer walks and does not pay their taxes, the big consequence is you lose the property. I do not know what the

developer's intentions are, but it seems the developer has at least made this initial decision that it wants to walk away from this.

*Supv Berube* asked: Are we not the lien holder?

*Mr. Qualls* responded: The lien is against the property itself. The beauty of the property tax system in Florida; it does not follow whoever owned the land when the tax and assessments were initially due; the lien is against the property itself.

*Supv Berube* stated: I understand, but we are lien holder.

*Mr. Qualls* stated: You are not the landowner.

*Supv Berube* stated: Lien holder.

*Supv Walls* stated: There are other taxes on that land, too.

*Mr. Qualls* stated: The lien holder right now is the County because they are holding the certificate. The lien is a first priority lien and superior to any other lien. Anyone who wants to own the property has to satisfy the lien except the government is not going to tax itself so at the point when it escheats to the County which the County does not want either because there is no real utility there. There is no tax or assessment revenue coming in.

*Supv Walls* stated: The reality is nobody is going to buy the property; either one of them. One has a building on it and the other they tried and they cannot. You are at a situation where we are not getting paid for the debt owed on the land, but I do not understand why we want to run up and bail these guys out.

*Supv Berube* stated: We are not bailing anybody out.

*Supv Walls* stated: If we were to take the land we are taking the debt, explicitly taking it rather than just not getting paid from somebody who owes it. They knew that when they bought the land.

*Supv Berube* stated: I do not disagree with you, however if it stays with the County we are behind the scenes absorbing the debt anyway because we have to pay it. Here is the bottom line, VC-1 for the remaining 14 years owes about \$294,000 in debt. The other one is 14 years' times \$15,000 so it will be approximately \$190,000. If they both sit there and the current situation holds true and we just ignore it and let it go, the budget will have to absorb about \$490,000 and we got nothing. Ultimately we will have paid off the debt through the budget over the next 14 years and the land will probably end up with the County however that works. This is the decision making process and it seems to me if we can get the developer here and find out what his thoughts are. He has given away other things to make things happen and we may be able to get something from this developer in exchange for the money we are going to pay anyway. I know he is willing to give up the land.

*Supv Farnsworth* stated: It is not his choice to give up; he has already given it up.

*Mr. Qualls* stated: Technically, the delinquent taxpayer still owns the property until and unless it is sold at a tax deed sale or it escheats to the County because no one buys it at a tax deed sale.

*Supv Berube* stated: None of this is good news.

*Mr. Qualls* stated: The discussion about the assessments and the lien against the property that is important, but what we believe the question the Board needs to answer if there is a desire to acquire the property through donation is does having that property help the District in carrying out its purpose. I think your analysis is helpful because if you go to the end of this story and nobody purchases the property and pays the District then those assessments that were never paid remain unpaid. It is not any different than if the District were to acquire that because the District is not going to tax itself and because it is government owned there is not going to be other property taxes accruing on that.

*Supv Berube* stated: For a long time, people picked on Starwood and all the things they did. All through the recession, the downturn and everything else Starwood wrote checks every single year and paid the bills on their obligation. It was probably millions of dollars starting in 2006 when things died until 2015 or 2016 when Starwood left. If Starwood had walked away the finances here would look a lot different because all of that debt still has to be paid. We still owe about \$26 million on two bond issues and that is our primary purpose here, to protect your rights in this ongoing saga as things development. The people in Stevens Plantation found out a little while ago what happens when people walk away. They had a \$10 million debt due. The City Council said we are not going to pay it and the bondholders said you are going to pay us, every homeowner got a \$30,000 lien. We do not want that to happen here so we are trying figure what the best options are. Our problem is the key player is missing. There is a bunch of stuff going on, we have done the background work, and got the numbers; we have to get the key player here.

*Supv Farnsworth* asked: If a third party came in and bought the tax certificate, do they then own the land?

*Mr. Qualls* responded: What the certificate is, if I were to buy that certificate now I have a lien and it is a first lien superior to any other lien. If anybody wants to buy the property they are going to pay me first, but I also have the option after two years of holding the certificate to apply for a tax deed where the property will be sold at the courthouse steps by the Osceola Clerk of Court.

*Supv Walls* stated: The problem is there is no value in this land compared to what is owed on it. The question we have to ask – them handing us those two pieces of property in exchange for \$500,000 worth of debt, we would be getting the shaft on that deal because the property is not worth anything to us, in terms of that kind of money. They would have to come in with a sweet deal, in my opinion, for us to take on that kind of burden. I get that it is not being paid right now, but it is their burden not ours.

*Supv Berube* stated: Except for the money we are paying because they are not.

*Supv Walls* stated: I get it, but it is their burden not yours.

*Supv Farnsworth* asked: What do you forecast?

*Supv Walls* responded: I do not know. I have not had any conversations with them; I do not know if they want to give it away.

*Supv Berube* stated: All we know is what they have done and what they have signaled several times in things that can be made public is we are not going to pay the CDD obligation on those lands and now they have carried that through. What the next step is I do not know.

*Supv Farnsworth* stated: It sounds like the next step is nothing.

*Supv Berube* stated: There are no good choices for this moment, but at some point we have to drag it forward and get them in here to figure out what they want to do. I am pretty confident based on what I was told today that he will be here next month.

*Supv Farnsworth* stated: If nothing else happens right now, the County is holding the certificate.

*Mr. Qualls* stated: That is right. What happens is somebody does not pay their taxes, the taxes go to tax certificate sale. The bidding starts at 18% and goes all the way down to a ¼. If the tax certificate does not sale, which happened here, the certificate is struck to the County, meaning the County now holds that certificate. Someone can buy it from the County, but if that does not happen the County has the obligation to apply for a tax deed somewhere between two and seven years. Most counties wait for the seventh year because they want to give the delinquent taxpayer every opportunity to come in and keep their property. Again, to the Supervisor Berube's point, if you follow this to the end, while it is an obligation of the landowner and the lien is against the property, if nobody redeems the certificate or buys the tax deed even though the property is assessable you are

ultimately not getting paid any assessments. What I hear you saying when we are looking at the issue of the assessments which are due to the District under either analysis nothing happens or the property is donated to a government, under either analysis those assessments are still not being paid. The difference is if the District acquires the property they are not being paid because it is no longer assessable property; the government does not tax itself. Waiting to do nothing you are still giving time for the tax certificate process to do what it is supposed to do. On non-homestead property the opening bid is going to be the amount of the delinquent taxes, penalties and interest. If the property is valued at whatever it would be and that value of the property is more than the outstanding taxes and interest due you could see how somebody could make a marketable decision to say I could buy it for the price of the taxes, but it is worth a lot more than that. This property is not sounding like it is worth a whole lot.

*Supv Walls* stated: That is why nobody purchased the tax certificate.

*Mr. Qualls* stated: The developer does not seem to value the property otherwise they would not risk losing the property by not paying the taxes.

*Supv Berube* stated: The other thing to remember is you have two factors in play here. The tax bill includes both O&M and the debt and the tax bill is \$52,000 per year. The debt on the parcel is \$28,000 and when we lose the assessment we lose \$24,000 in O&M income on land that we do not have to do anything with.

*Ms. Suit* stated: There is no O&M being paid on it; there is a debt assessment.

*Supv Berube* stated: Everybody pays O&M.

*Mr. Qualls* stated: The theory is everyone benefits on the O&M.

*Supv Walls* stated: To that point, we would have to take care of the land. All I am saying is we should not be too eager to run up and make a deal where we are bailing them out without getting something good in return. At the end of the day it could be struck to the County seven years from now and the County could say CDD do you want this land, we say sure and we take it. It is a hypothetical, they may not say that, but for seven years we are not responsible for the land or for maintaining it.

*Mr. Qualls* stated: Everything everyone is saying makes sense and it is helpful to me. The District's only purpose in life is to maintain and manage the infrastructure of the District. The ultimate question you have to wrestle with is if the developer is willing to give us this land does that help us carry out our mission. I could make some scenarios where I could say it would. If one of the special powers of your District is recreation and this piece of property is in front of the lake, an open space, and makes sure there is access to the lake; whatever the scenario may be, but that is my point, that should be the fundamental analysis of the Board. Yes, you have to think about the fact that the assessments are not being paid. Even if all that was a wash, and this property is not going to help you carry out your mission, then you should not accept the property. Think about does this property help us carry out our single purpose of maintaining infrastructure. Thinking it through that way is the proper lens from a legal perspective.

*Supv Berube* stated: We also need to be good stewards of our ratepayers' money they pay each year. It is important as we carry out the other part of the mission. You cannot just waste money; you have to make the best decision possible. This is an area we have never been in before, but now we have a developer who is running things the way he wants.

*Supv Kassel* stated: It seems to me either way the CDD is not getting those funds. One thing nobody has said is we have been talking for months on the desire to put in a community center of some kind, and that is prime property for it. At one point, we were being asked to pay for property; and at this point, we would be paying by dint of not getting debt paid, but we are not going to get the debt paid anyway. The point I want to make is if we put off not doing anything or accepting the property then we are also putting off any possibility of a community center where at this point we have property available to us for the cost of the CDD debt plus about

\$7,000 in interest. We can move ahead with doing a study on whether that is feasible and even if it is not feasible we can turn that into something that is worthy of our recreation and park facilities.

*Supv Bokunic* stated: Something with value to it.

*Supv Walls* stated: All I am saying is you want to make a good deal and you do not want to be eager to jump into something just because something comes and offers it.

*Supv Kassel* stated: The developer is not going to give us money when they give us the land.

*Supv Walls* asked: Who says?

*Supv Kassel* responded: I have spoken with the developer and they are not looking to give us money along with the land; they are going to walk either way. We are not in a power position here.

*Supv Berube* stated: They have other things that they own; we have squeeze-ability to make this happen, if that is the way we go. The good news is we have had several months now to discuss this and watch this develop. When we got into the other lands, we did not have a clue as to absorbing the commercial vehicle parking lot and the garden, wetland maintenance requirements and other; this one is getting a lot of discussion and eyes on it and we are moving slowly and deliberately. The last thing on this whole thing about debt, as of two days ago there was \$108,104.51 in unpaid CDD assessments this year. Two of those are the two parcels we are talking about from the developer totaling \$76,400 of the \$108,000. I do not know if the other went to tax sale or not; they are all residential lots. This year people did not pay \$32,000 in fees, but the developer missed \$76,400. His did not sale. It is kind of a big deal and that is where we are at.

**v. Report of Completion of OUC Buyout: Phase 3 Roadway**

*Mr. Qualls* stated: The OUC buyout is complete. Thank you to the District Manager for staying on that.

*Supv Berube* stated: For clarification, the OUC buyout of the latest phase we approved is complete. We still have two or three more contracts to pay off next year.

*Supv Farnsworth* stated: Two.

*Supv Berube* stated: In the next fiscal year, we will complete the streetlight buyout and the multimillion-dollar obligation will be erased.

{Supplemental Topic Item}

*Supv Farnsworth* stated: There is additional item for the drainage easement.

*Mr. Qualls* stated: You have done this before; I found it in the minutes. If you are comfortable with it, we would just ask for a motion to approve the Tenth Amendment to the Drainage Easement. I have it here for the Chairman to execute.

*Supv Berube* stated: There is an overall drainage easement for Harmony. As each neighborhood comes online there is a revision to the overall easement package that removes the area with the current land that is being transferred, in this case Neighborhood J, taking it out of the overall drainage easement and gives it a drainage easement of its own. We approve it and it gets recorded.

*Supv Farnsworth* stated: This has nothing to do with taking over streetlights.

*Supv Berube* stated: Nothing at all.

On MOTION by <i>Sup Walls</i> , seconded by <i>Supv Bokunic</i> , with all in favor, the Tenth Amendment to the Drainage Easement was approved.
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**vi. Report on Sod Contract**

{Previously addressed.}

**C. Field Manager**

**i. Facilities Maintenance (Parks, Pools, Docks, Boats, etc.)**

**ii. Facility Use Records (Inclusive – Boats & Other)**

**iii. Resident Submittals (Facebook & Direct)**

**iv. Pond Maintenance (Chart & Map)**

*Mr. van der Snel* asked: Do you have any concerns or questions about my reports?

*Supv Farnsworth* responded: This is one of the best-looking pond reports I have seen as long as I have been here.

*Mr. van der Snel* stated: Mr. Vincent does this pond report; he does a good job.

*Supv Bokunic* asked: How long has he been with us now?

*Mr. van der Snel* responded: About 90 days.

*Supv Bokunic* stated: Tell him to keep up the good work.

*Mr. van der Snel* stated: I am having a hard time finding contractors who actually want to show up or they start the process then say they cannot do it because of distance. I am focusing now on asphaltting the basketball court. I am working with Hall that also did Ashley Park. They said they would give me a proposal today, but I did not receive it.

*Supv Farnsworth* asked: When they do that are they going to do the sloping?

*Mr. van der Snel* responded: Yes, it will be how I want it with water drainage.

*Supv Berube* stated: Crowned in the middle.

*Supv Farnsworth* stated: That is not the original specification for the people who were going to do the work; they wanted it sloped.

*Supv Berube* stated: They wanted some sort of runoff.

*Mr. van der Snel* asked: Does the Board want me to continue informing the Board with the punch list from Servello?

[The consensus of the Board is yes.]

**v. Proposals**

**a. Revised Carp Proposal [Triploid Grass Carp]**

*Mr. van der Snel* stated: Unfortunately, Aquatic Systems came back after the approval at last month's meeting and said the \$1,700 was a range quote and not an official quote. He came back with a different quote that I was disappointed with.

*Supv Berube* stated: \$1,700 was a range.

*Ms. Suit* stated: Mr. van der Snel brought it to me and I said we are not going to do this, let us bring it before the Board. They decided they wanted to add in the cost of driving that they did not add into the original.

*Supv Bokunic* stated: They misquoted so they are calling it a range quote.

*Ms. Suit* stated: Bring up what you thought about the carp.



*Mr. van der Snel* stated: Since it is Baby Spears and not Hydrilla, I would advise putting it on hold for now. The Baby Spears are not as invasive as Hydrilla.

*Supv Kassel* stated: I looked for Baby Spears and could not find anything on it. Can you get back with me on who told you what this was; I want to make sure we are getting a verified idea of what is actually growing in the pond.

*Supv Berube* stated: It was the aquatic guy; the one who offered the carp.

*Ms. Suit* stated: It might be Baby Tears.

*Mr. van der Snel* stated: I will get back with you on that.

## **b. Tractor Quotes**

*Mr. van der Snel* stated: We have the tractor quotes.

*Supv Berube* stated: A couple of months ago we brought up buying a utility tractor, backhoe, loader, etcetera. They are available on the Florida State purchasing contract and the company I work for sales on that contract so I have a pretty good idea how it works as both buyer and seller. I solicited the six dealers listed on the Florida State Contract. They all got the identical email stating we want to buy this tractor with this equipment and out of six, two responded. What it comes down to is we have two bids that meet all the requirements of what we are looking to buy – one is from Kelley Tractor Company for a Massey Ferguson GC1720 in the amount of \$22,526. The second one is Florida Gulf Coast Equipment for a Kubota, similar model, similar horsepower and their bid is \$20,143. It is about \$3,000 less; however, there are a couple of major considerations. The Massey Ferguson has a five-year warranty on the power train, which is engine, transmission and axle. The Kubota is a one-year warranty on the power train. The other thing is there is no field service unless you want to pay exorbitant amounts. For service, you have to load it up and bring it somewhere. If we have to bring it to Kelley Tractor, we have to take it to Orlando, if we have to bring it to Florida Gulf Coast Equipment it goes to Pompano Beach. Massey Ferguson does a good job of comparing their unit to all the others. This is basically the unit we are thinking about buying – the differences would a box blade on the back for maintaining the road, a sunshade, for a small amount of money we have included a grass mower that clips under the bottom of the unit. We would have a versatile tractor to do everything we need to do. Based on the two and the guy who works on everything, I am recommending we buy the Massey Ferguson product. I know it is more money, but I think the value is there in the product; especially considering the warranty and the service distance if you have to bring it somewhere.

*Supv Farnsworth* asked: Does the quote include the backhoe?

*Supv Berube* responded: It does.

*Supv Farnsworth* stated: I think I saw somewhere a set of forklifts.

*Supv Berube* stated: Yes. There are clip-on forks that go on the bucket. Occasionally, they have things come in that are heavy and they have to muscle them off the trucks. Also, at some point we may get into sidewalks repairs and lifting sidewalk pads and things like that, it is perfect for that.

*Supv Walls* stated: My concern is the frequency of use for \$20,000 or \$22,000. Have we looked into renting one for the applications we need?

*Supv Farnsworth* asked: What is the rental rate.

*Supv Walls* responded: That is what I am saying, do you need one ten times a year, what is the cost to rent it as opposed to buying it, pay for maintenance, fuel. My other concern is having people qualified to operate a tractor especially if you are going to be digging and doing things around fiber optic lines and all those

kinds of things are considerations. We need to make sure we are covered before we start sending people out riding around on a tractor and digging stuff up.

*Supv Berube* stated: These are intended for light-duty use by average Joe's. They are joystick operated with automatic transmissions. Obviously, you can do some damage if you are not careful, but the fact is a good use of it is for irrigation. How many times have our guys had to dig up a main line?

*Mr. van der Snel* responded: Seven times.

*Supv Berube* stated: They dig all day. This is a small bucket; it is 12-wide with teeth. The potential of damaging a wire or something else is about equal with a shovel as it would be with this machine.

*Supv Walls* stated: I do not know about that; if I am dropping a bucket in the ground I do not have the precision that I have with a shovel. How many times are we going to use? If you are digging up main lines seven times you may not be able to use a tractor and bucket every one of those seven times depending on location. I want to make sure this is a practical purchase. If we could have used it 45 times this past year, that is one thing, but if it is five times could we have rented one for \$500 for the day and spent \$2,500 instead of spending \$23,000 plus maintenance.

*Mr. van der Snel* stated: As we are evolving and getting more areas online. For instance, after Hurricane Irma it would have been so useful to straighten up the trees.

*Supv Walls* stated: For a couple of days. Could you rent one for a few days, spend a couple of grand and do what you need to do?

*Supv Berube* responded: After Hurricane Irma, no.

*Supv Walls* stated: We got through a decade plus without one. I am not saying we do not need it, I have not seen the analysis that says here is how many times we would use this.

*Mr. van der Snel* stated: It is very hard to know.

*Supv Berube* stated: We do not until we get it.

*Supv Walls* stated: That is a bad methodology. We need to figure out what is our need, does it make sense to buy it or does it make sense to rent.

*Supv Berube* stated: The small ones like this which is what fits our needs at this point with the ability to get around, the ability to store it, and lack of damage to grass when it goes over it, these are very difficult to rent because of the price point. If you drive by Rental World you will see some, but they are double this size. At this price point it is not a huge rental market.

*Supv Walls* asked: Do we know that for sure?

*Supv Berube* responded: I am in the equipment business and I can tell you at this price point there are not a whole lot of rentals available. That is not to say you cannot rent one, you can, but it is not really profitable.

*Supv Kassel* stated: In looking up a 27hp Kubota, it is \$160 to \$200 per day.

*Supv Berube* asked: What is a 25hp?

*Supv Kassel* responded: I would have to look it up. There is delivery and taxes, and that would bring it to between \$250 and \$400 per day for a tractor with a front loader.

*Supv Bokunic* asked: Having one here would we use it regularly? Would it be a weekly thing?

*Mr. van der Snel* responded: For sidewalks, if we do not have a tractor like this we would have to hire a contractor.

*Supv Walls* stated: I am not arguing that there are not jobs it could be used for, but it is going to stay in storage for two to three weeks at a time, we pull it out use it for a sidewalk and then it goes back for another month. That is what I am trying to figure out. If you need one for a day at \$500, it is still less than \$23,000 plus maintenance.

*Supv Berube* MOVED to purchase the Massey Ferguson GC 1720 tractor from Kelley Tractor.

*Supv Bokunic* asked: What is the rush?

*Supv Berube* responded: The price is going to go up.

*Supv Bokunic* asked: Says who?

*Supv Berube* responded: October 1<sup>st</sup> the Florida State Purchasing Contract changes.

*Supv Walls* stated: I am not willing to make a decision when I do not have the analysis. If you can show we did this 25 times per year, that is different. I am not hearing that, I am not hearing we have looked at this and here is why we need it. I understand there are jobs where it could be useful, but I do not know how often those jobs occur.

*Supv Berube* stated: I am going to say it is going to be out a couple of times per week.

*Supv Farnsworth* stated: If this was a second or third unit we were buying, we would have experience to base it on and could tabulate something; but for him to try to put that together now?

*Supv Walls* stated: I am not asking him to put it together now, what I am saying is go back and look at what we have done. We know jobs we have done where it could be helpful and how often do those happen, that is all I am saying.

*Supv Kassel* stated: Why don't we ask Mr. van der Snel to put together a list of how many times and for what purposes we might use a tractor monthly, find out what is available for rental for tractors in terms of what the cost might be, so we could have a more informed analysis, and put the decision off for a month.

*Supv Kassel* MOVED to table the decision for a month. Motion died for lack of a second.

*Supv Bokunic* stated: According to Supervisor Berube that means we are going to pay a higher price.

*Supv Kassel* asked: How much higher?

*Supv Bokunic* responded: I want to ask Mr. van der Snel what his thoughts are.

*Mr. van der Snel* stated: I can tell you I am going to use it twice per week and if I do not then it is going to sit there. I already know, for the sidewalk project, it is going to be used. I do not know if you have seen around the boulevards; that machine is going to be useful and if I have a contract to do that: it is \$1,000 per sidewalk that he charges. Even if I do 20, we have the machine back.

*Supv Walls* stated: I get it, but what I am telling you is that analysis was not anywhere in the agenda, it was not presented to us beforehand. If we are talking a \$2,000 piece of equipment, no problem, but when we get into this kind of money it is our job to make sure we are spending the money correctly and efficiently for all

the residents who pay assessments. If we are going to buy this stuff let us have some analysis that shows why we need it.

*Mr. van der Snel* stated: I think the garden road is a good example. It is going to need maintenance at least twice per month to keep it the way it is.

*Supv Berube* stated: We have several things going on – we have a motion on the table to purchase now, we have a request to purchase a list of what it is going to get used for and how often. Let us deal with the motion I put on the table.

*Supv Farnsworth* seconded the motion to purchase the Massey Ferguson GC 1720 tractor, in the amount of \$22,526, and with *Supv's Berube, Farnsworth, and Bokunic* voting aye, and *Supv's Walls and Kassel* voting nay, the motion was approved.

*Supv Bokunic* stated: I think having an asset rather than renting. We can sell it.

*Supv Farnsworth* stated: We can spend a lot of time proving that we need it.

*Supv Walls* stated: I am not saying we do not; I am saying we should show we do need it before we buy something.

*Supv Farnsworth* stated: I am asking unofficially that you put together a list as requested. We have approved the purchase, but put the list together anyhow.

*Mr. van der Snel* stated: You will see the usage in the coming year; I will put it on my report.

*Supv Farnsworth* stated: I know, but for immediate consumption.

## SEVENTH ORDER OF BUSINESS

## District Manager's Report

### A. Financial Statements for August 31, 2018

*Ms. Suit* stated: Your year to date budget is \$1,767,879 and the year to date actuals through August 31 were \$1,539,345, under budget \$228,534. This does not include the buyout.

### B. Approval of: #221 Invoices, Check Register and Debit Purchases

On MOTION by *Supv Walls*, seconded by *Supv Bokunic*, with all in favor, the Financial Statements for August 31, 2018, Invoice Approval #221, Check Register and Debit Purchases, were approved.

*Supv Berube* stated: There was a late insertion today by email for the audit engagement by Berger, Toombs.

*Ms. Suit* stated: It is the acceptance letter. You have already approved your audit, this is for audit services for the FY 2018 audit.

*Supv Berube* asked: Was this a multi-year approval sometime back?

*Ms. Suit* responded: Usually they are three years.

*Supv Bokunic* stated: This is dated November 2016.

*Ms. Suit* stated: I asked about that. It is a system review report that is now required to go along with the audit engagement.

*Supv Walls* stated: It is a peer review.

On MOTION by *Supv Berube*, seconded by *Supv Walls*, with all in favor, the audit engagement with Berger, Toombs, Elam, Gaines and Frank, in the amount of \$4,355, was approved.

### **C. Discussion of District Manager Special Topics**

#### **i. OUC Buyout Infor for Phase C-2, Phase G and Phase 3 Roadway**

*Ms. Suit* stated: This is for Phase C-2 and Phase G. Phase 3 has been completed.

*Supv Berube* stated: I think we budgeted \$435,000. We can approve items for next budget year, correct?

*Mr. Qualls* responded: Yes.

On MOTION by *Supv Berube* seconded by *Supv Bokunic*, with all in favor, the OUC buyout of Phase C-2 and Phase G streetlight investments, in an amount not to exceed \$345,326.34, to be completed by October 31, 2018 was approved.

*Supv Berube* stated: That will complete the streetlight buyout program.

*Ms. Suit* stated: With the Phase 3 buyout completed, your investments with the September 13<sup>th</sup> invoice will be reduced by \$310.38.

#### **ii. Consideration of Engagement for Arbitrage Services**

On MOTION by *Supv Walls* seconded by *Supv Bokunic*, with all in favor, the LLS Tax Solutions for arbitrage services in the amount of \$600 per year for fiscal years 2019, 2020, and 2021 was approved.

*Supv Berube* stated: The bond underwriters force us every year to make sure we are not making more money on our investments than we are paying in debt on the bonds.

*Supv Walls* stated: It is the IRS.

### **D. Facilities Usage Applications (None Received)**

There being no report, the next order of business followed.

## **EIGHTH ORDER OF BUSINESS**

## **Topical Subject Discussions**

There being none, the next order of business followed.

## NINTH ORDER OF BUSINESS

## Supervisors' Requests

*Supv Kassel* asked: Did you report on the status of the Davey litigation?

*Mr. Qualls* responded: No, but I will very briefly. The plaintiff agreed the venue was improper where the suit was initially filed. They wanted the District to agree to pay for the transfer to Osceola County and we did not. They have paid and the case will eventually be transferred to Osceola County.

*Supv Berube* asked: When it changes venue does the whole process start all over again, you get served again?

*Mr. Qualls* responded: Correct. Once it is transfer we then have 20 days to file an answer.

*Supv Berube* asked: Is there a time limit from the time the venue changes to the time they serve you?

*Mr. Qualls* responded: I have to look into it. We have 20 days to file an answer, but it is not showing up in Osceola County yet.

*Supv Bokunic* stated: I wanted to thank Ms. Suit. Things have gotten so much better since you have been our District Manager. Things are timely and it is like night and day, so thank you.

*Ms. Suit* stated: Thank you, I appreciate that.

*Supv Bokunic* stated: I had a meeting with Mr. Chad Bass of Lakes and Wetlands. They do a variety of pond and lake management. We had a meeting about something totally different and I looped Mr. van der Snel into the meeting briefly just to make him aware of who they were. The meeting had nothing to do with Harmony, but we did discuss our fountains and they would be willing to come out to do a complete analysis of what it would take to get them up and running, if they have any value. One thing that has bothered me is we just said they are going to be too costly to fix. He will do the analysis at no charge and then we will know exactly what it will cost to get them fixed and keep them running.

*Supv Farnsworth* asked: Is that a multi-faceted explanation consisting of if you have to repair what you have, replacement cost for a new installation, a monthly cost to run it, and what would we have to allow for maintenance.

*Supv Bokunic* responded: I believe all of it is part of the analysis.

*Supv Walls* stated: The operative word is "our fountains". Are they our fountains?

*Supv Berube* responded: We do not own the fountains.

*Supv Walls* stated: It is my concern that they are not our fountains.

*Supv Berube* stated: The fountains that are operating now, the dead one by Ashley Park, and the fountains removed from The Estates are not our fountains.

*Supv Bokunic* stated: They are our lakes.

*Supv Berube* stated: They are not our lakes. The three lakes along 192, the ownership is being battled back and forth between SunTerra and Mr. Fusilier. SunTerra is paying the operation cost of those, but SunTerra believes Mr. Fusilier owns the ponds as part of the transfer when he took over the commercial area. What we do know is the three lakes along 192 are not ours.

*Supv Bokunic* asked: What about the one back by The Estates?

*Supv Berube* responded: It is ours; but anything on the golf course property is not ours. The ponds that are ours you can tell by the maintenance list, which is 17 or 18 ponds. If we are going to put fountains anywhere, I am not saying we should, but we would want to put them in the most visible.

*Supv Bokunic* stated: We addressed this as a Board previously.

*Supv Walls* stated: People have asked about the fountains. The primary issue is not our ponds, not our fountains.

*Supv Farnsworth* asked: Are we talking about 44, 45, and 46 that are not ours?

*Supv Berube* responded: The ones right along 192.

*Supv Bokunic* stated: I have an offer to do a free analysis. I know we have one, but it is not up front, it is in The Estates. We could find out what it would cost.

*Supv Farnsworth* stated: We could extrapolate the analysis to other things if we need to.

*Supv Berube* stated: The only pond that would logical to put a fountain in is a pond that has houses that can see the pond. That limits you to about five ponds. If he wants to do the analysis, sure, but now you know the specifics.

*Supv Bokunic* stated: It has bothered me that we just said it cost too much.

*Supv Farnsworth* stated: I have seen different claims about how much it costs.

*Supv Bokunic* stated: It might be that they are just too expensive, but we will have the information.

*Supv Berube* stated: Something I would like the Board to consider and we can talk about it next month, two people have commented that we have Lakeshore Park with the path around the lake, but the area of Schoolhouse is one of the few zones in Harmony that does not have the side of the street treed. There are no street trees and I am sure they were not put in initially because there was no sidewalk installed. A couple of people have mentioned it is bare and should have a row of trees. It is one of the few streets in Harmony that does not have trees. Give it some thought and let us discuss it next month.

*Mr. van der Snel* stated: There appears to be a main line through there.

*Supv Walls* stated: My first thought is probably the view.

*Supv Berube* stated: In the beginning, there was nothing there.

*Supv Walls* stated: There was stuff planned and you have the lake that is tree-lined.

*Supv Berube* stated: The initial plan before the pond was expanded was there was going to be houses on the lake. I am not saying we should put trees, but it seems like a reasonable request.

## TENTH ORDER OF BUSINESS

## Adjournment

There being no further business,

On MOTION by <i>Supv Berube</i> , seconded by <i>Supv Bokunic</i> , with all in favor, the meeting was adjourned.
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Kristen Suit  
Secretary

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Steven Berube  
Chairman