

**MINUTES OF MEETING  
HARMONY COMMUNITY DEVELOPMENT DISTRICT**

The regular meeting of the Board of Supervisors of the Harmony Community Development District was held Thursday, April 30, 2020, at 6:00 p.m. via virtual teleconferencing using WebX.

Present and constituting a quorum were:

|                  |                     |
|------------------|---------------------|
| Steve Berube     | Chairman            |
| Bill Bokunic     | Vice Chairman       |
| Kerul Kassel     | Assistant Secretary |
| David Farnsworth | Assistant Secretary |
| Mike Scarborough | Assistant Secretary |

Also present were:

|                                     |                                       |
|-------------------------------------|---------------------------------------|
| Kristen Suit                        | District Manager: Inframark           |
| Tim Qualls                          | District Attorney: Young Qualls, P.A. |
| Tristan LaNasa                      | Young Qualls, P.A.                    |
| Steve Boyd                          | District Engineer                     |
| Gerhard van der Snel                | Field Services Manager                |
| Residents and Members of the Public |                                       |

*The following is a summary of the discussions and actions taken at the April 30, 2020 Harmony CDD Board of Supervisors meeting.*

**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 quorum.

Supv Berube opening remarks setting forth the parameters of the meeting and the Governor Executive Orders 20-69. He noted there were two speaking requests received.

Ms. Suit opening remarks noting the meeting was noticed seven days in advance as required by statute. She further noted Mr. Qualls recommends that all actions be ratified at the next face-to-face meeting.

Supv Berube further addressed the meeting format and requested all place their phones on mute when not speaking.

**SECOND ORDER OF BUSINESS**

**Developer's Report**

**A. Discussion of VC-1 Parcel Usage**

Nothing new to report.

**THIRD ORDER OF BUSINESS**

**Audience Comments**

Ms. Teresa Kramer addressed the March 26, 2020 minutes noting the motion on page 7 regarding the status quo for District recreation facilities is not as stated by Supv

Berube. She further addressed the Survey Monkey Questionnaire noting the questions are in the agenda package, but there is no language to introduce the questions she proposed the Board consider some language that gives more information about what is being considered for a community center and read her proposed language. She noted the item for the alleyways and the fact that the alleyways are in horrible condition; encouraging the Board to move forward on the alleyways.

Ms. Marilyn Ash-Mower addressed request for management fee increase / user supported facilities she is concerned this is a discussion on garden fees for next year.

Supv Berube noted there is no contemplation of changing any fees at either facility. The management fee increase is due to budget season and looking forward to next year; the HROA Manager has requested a small increase in his management fee for next year.

Ms. Ash-Mower inquired as to the neighborhood sidewalk maintenance at \$9,600.

Supv Berube noted it is a project coming up and is an expansion of what Field Services has been doing with sidewalks.

Discussion continued on the sidewalk.

Ms. Ash-Mower inquired why they are purchasing a stump grinder.

Supv Berube noted it is the best way to cut the roots out under sidewalks panels.

**FOURTH ORDER OF BUSINESS                      Approval of the Minutes**

**A.        March 26, 2020 – Regular Monthly Meeting Minutes**

On MOTION by Supv Kassel seconded by Supv Bokunic, with all in favor, the March 26, 2020 regular meeting minutes were approved as amended.

**FIFTH ORDER OF BUSINESS                      Subcontractors' Reports**

**A.        Servello**  
           **i.        Grounds Maintenance Status (*Work Chart*)**

Mr. van der Snel reported they are doing good. They have refurbished the Estates entrance, worked on Town Square, on a weekly schedule of mowing. The team is motivated and positive. The mulching was to be finished today, but due to the weather they will finish it tomorrow. The pools still need to be done with black mulch and the pine straw. There are some small areas still to be done with mulch.

**SIXTH ORDER OF BUSINESS****Staff Reports****A. District Engineer****i. Updated Reserve Study**

Mr. Boyd reported on the reserve allocations table noting the addition of the entry features and fences along US192 on CDD property and within CDD tracts. The main entries were constructed in 2003 and based on an estimated lifetime before major improvements would be needed of 30 years, they would be looking at improvements in 2033. For the fencing it was given a lifetime of 15 years. It was also installed in 2003 which means the fences would be due for major maintenance in 2018. The next items are the entrances at H1 and H2. There are fences along US192 and fences that come in along Five Oaks Drive, all of which are in CDD tracts. The entry features would be due in 2037 and the fences on Five Oaks Drive in 2030 and the fences along US192 in 2022.

Items that have passed or are approaching the targeted dates, depending on actual conditions and how things have aged or not aged, the dates still may not be accurate.

Supv Kassel noted it still states all costs are in 2013 dollars.

Mr. Boyd noted this is not a true reserve study, it is the District Engineer's estimate at targeting costs. To keep it up to date from an accounting standpoint they may need to look at transferring it to a professional reserve auditor. He noted he appreciates Ms. Suit's recommendations on how to keep it up to date with inflation. When it was prepared originally there is a table at the bottom for the annual budget allocating a 3% increase over future years forecasting how much the overall number would need to increase over time as an effort to try to keep the overall budget caught up with inflation.

Supv Kassel noted if she is understanding correctly the current total for the annual reserve at \$58,961 has already been increased by 3% since the 2013 initial preparing of the document.

Mr. Boyd noted it has not.

Supv Kassel noted the \$58,000 reflects the 2014 annual price and the probably should have calculated some kind of increase up to 2020 and then added on to that, is that correct?

Supv Berube suggested adding 1% per year bringing to 7% and would give an additional \$4,000 bringing the reserve to \$63,000 per year going into reserves. He addressed the ongoing maintenance program at District facilities noting Field staff looks

at items every day. For the swim club, one resurfacing has been done changing the life and are probably aiming for another resurface now. He also addressed the fence noting it was recently rejuvenated and brought up to speed with cross pieces being remounted, now tops on all the posts so the fence changing its life with a relatively inexpensive repair. He wooden docks and boardwalks are repaired, cleaned and stained as needed. There is ongoing maintenance everyday which is one of the benefits of having a Field staff. It skews the lifespan of many things within the reserve study. He does not know that they need to do a lot more than know what they have on the list and adhere to the \$63,000 going into reserves for the worst-case scenario.

Ms. Suit requested they receive information in advance to put in the agenda package, so residents have an opportunity to see the information being discussed.

This item to be placed on next month's agenda.

Mr. Boyd will update the numbers and it may result in a higher number for discussion.

Supv Kassel addressed the resurfacing for 2014 for G. The planned update year is 2017 and is not highlighted. Also, there is a 2016 on the first page under A1 pool building.

Mr. Boyd noted this item lines up with the pool equipment.

Supv Kassel addressed the items outlined by Supervisor Berube noting it may add a year or two of life but not five or ten years.

Mr. Boyd clarified his ability to budget for the items – what he was trying to say was because all the facilities were put in at different times and have different lifespans, to keep each line item in current year dollars would be a complex tasks that is more of a financial services task than something the District Engineer should do, but from the standpoint of keeping an overall budget and an increase in the bottom-line number on an annual basis, if that suits their purpose he is comfortable doing so.

**B. District Attorney**

**i. Consideration of Interlocal Agreement – Buck Lake / Harmony West**

Nothing to report

**ii. Update on PoolWorks Matter**

Mr. Qualls addressed the PoolWorks matter noting he spoke with the attorney for PoolWorks and suggested it would be a good idea to have a representative come out to meet with Mr. van der Snel to go over the issues and did not hear back from them. He requested an update and was told the attorney is trying to stress the importance of a meeting with his client but did not get any feedback. Where they are is PoolWorks is unresponsive as far as showing a willingness to come out and look at the issue and try to address it. From a legal standpoint there are things to consider such as, is this problem going to exacerbated and is it going to threaten the health and safety of the users of the pool. He believes the answer to the first is yes, it is only going to get worse and the second with as far as if it could be a safety issue, he thinks that it could. Another provider of these services came out and did an inspection of the issue and quoted an amount around \$60,000 to solve the problem. He Board has a decision to make on how they want to move forward.

Supv Berube noted the immediate problem of the delamination has been patched. The pool surface is serviceable and safe by all pool users. If that were to change, they would address it immediately. There is a visual concern with all the patchwork on the pool and the ongoing delamination. The pools are coming back into pool usage time with summer approaching and he would not recommend shutting down the pools now to do any repair work putting it off until the winter. This would also give time to have conversations with PoolWorks attorney to let them know how the District is proceeding. If they are still told no they can then make a more rational decision as to where they go legally with it. If they looked at this estimate it is just under \$60,000 to repair the pool which consists of removing all the failed and/or failing surface installed by PoolWorks and their subcontractors, bringing it down to the prior solid surface, replacing all the tile, and then putting on another surface layer over the existing pool shell. What costs \$40,000 to do eight months ago will cost \$60,000 to fix due to the labor involved with removing the failed surface.

Supv Kassel noted she requested a total from Mr. Qualls on how much they have spent so far on the Davey litigation. They have spent over \$28,000 litigating Davey for money they probably are not going to see and is probably throwing good money after bad and she wonders if they may be doing the same with PoolWorks. They are again

probably throwing good money after bad on an issue where it is probably unlikely to recoup anything on.

Discussion continued on the Davey litigation with Supervisor Kassel noting she is applying it to the Davey litigation and PoolWorks and is putting it out to the Board to consider as to what to do moving forward – do they say they have spent enough trying to litigate PoolWorks and let it go, do they continue spending more money, do they do the same with Davey.

Supv Bokunic noted he does not think they are going to get a penny from PoolWorks. The Davey situation is a little more complex. His opinion would be to cut their losses with PoolWorks and move on.

Supv Berube noted the issue with PoolWorks is if they were to come in, as they already did once, and repair the pool it is certainly cheaper for them to fix what they did than potentially litigate the payment of an outside contractor to come. With PoolWorks it is to get them to come back and continue the fix they did before and whether they will do it, he would not advocate if they are going to be resistant because of the Davey matter and knowing only the lawyers win generally, he would not advocate suing PoolWorks. However, giving them the opportunity to repair it at their cost rather than another contractors cost is the drive. On the Davey matter when you get sued you either have to accede to the plaintiff and write them a check or try to settle or fight it as they are now. He does not anticipate encouraging litigation against PoolWorks. Trying to get them to fix their mess, yes.

Discussion continued on PoolWorks and whether they should be the one to repair the pool surface or whether the District hires a contractor to do the work.

Supv Scarborough addressed the response provided from PoolWorks several months ago noting they had done all the work they were going to do.

Mr. Qualls addressed the fact that the attorney for PoolWorks was not aware of the second contract for the surface of the pool. He or anyone can send a letter to PoolWorks letting them know they had someone look at the issue and it is going to be \$60,000 to repair the issue and they, PoolWorks, is responsible for it. It does not say you are going to sue but simply puts them on notice of what the issue is and the fact that they have to mitigate it, they are taking the appropriate steps and will hold PoolWorks accountable. There would be no downside in doing that.

Supv Farnsworth inquired as to what hold accountable means.

Mr. Qualls noted if you have a contractor and they do not fix something you communicate that you expect them to fix it, the contractor ignores it, so you say you did not come to fix it so we have to get another contractor and that contractor says he is going to charge “x”, you are on the hook for “x” because you did not do the job right. That is holding them accountable.

Discussion continued with it being noted litigation is a decision you make at that time and they understand they are under the risk if they decide to fix on their own, their Counsel will advise them they may be on the hook for \$60,000. Whether they move for with a lawsuit is another matter.

Supv Berube noted he is comfortable proceeding the way they are with having District Counsel send a letter saying here is what it is going to cost to repair, what do you want to do now.

Supv Kassel addressed the Davey litigation noting she understands their suit partly being that the District did not pay their last invoice and wondering if it is advisable to go back to their attorney to say we will drop it if you will drop it.

Mr. Qualls noted they did that, making a settlement offer and it was rejected. The choice is to meet their demands or move forward to defend themselves in this action. All the District did was countersue. He advised that they not discuss noting they can do a separate meeting. The Governor just issued another Executive Order, and nothing is going to change as it relates to the meetings with Phase 1 being in place. Once the Governor implements Phase 2, they will see the suspension of the physical quorum requirement go away. When that happens, based on this discussion, they will set up a meeting to talk about the litigation, but do it in a way they are not showing Davey all of their cards through the minutes.

**\*\*\* Governor’s Executive Order**

Mr. Qualls reiterated the Governor’s Executive Order press conference of the previous night noting essentially what the Governor is doing is following White House protocols for reopening the State of Florida. The main change in Phase One is retail operations and restaurants can have a 25% capacity. Maintaining social distancing and the groups of 10 or less has not changed. In the order is an extension of the Executive

Order suspending the physical quorum requirement. There is no timetable in the order on when the Governor will go into Phase 2. Phase 2 will include things such as bars opening and also in Phase 2 is where they will see the physical quorum requirement reinstated. He would anticipate for next months meeting doing it this way again.

He would like to commend everyone on the call for the orderly meeting. They have done a good job under difficult circumstances to get work done.

Supv Berube addressed the gradual phasing of the reopening of facilities. The pools and boats are the last pieces. The pool will be opened subject to caution signage and request that people follow social distancing, no large groups, just as the parks have reopened. Boats will come back online for use starting tomorrow as well. He inquired if Mr. Qualls is still comfortable with the plan as they have been putting into action with the facilities reopening.

Mr. Qualls noted they are advising clients across the state, excluding Palm Beach, Broward and Miami-Dade, their guideposts is always going to be the Executive Order. What the Executive Order says is an essential activity, exercise is an essential activity. There are two components – one is the social distancing aspect and the second is no groups larger than ten. He believes based on the signs he saw they have those two items. The Board's only job description is to maintain the infrastructure. He does not think the Board has done anything but follow the Executive Order and they will continue to encourage the Board to do that. The steps they have taken follow the spirit and the letter of the Executive Order.

**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)**
- v. Wetlands Report (Chart & Map)**

Mr. van der Snel noted his reports were in the package and inquired if there were any questions or concerns. He addressed the comments at the bottom of the Wetlands Report noting these are not their comments; they will revise the reports.

Supv Berube inquired about the water hyacinth growing in the canals and other areas.

Supv Kassel noted she has not been there in the last month.



Mr. van der Snel thanked the volunteers who painted signs.

Supv Berube addressed the photo of the irrigation pipes noting the irrigation pipes run directly under the trees and the roots get on pipe, crushing it and causing a leak. To repair they have to dig around the tree and do a diversion on the pipes around the tree. In most areas the irrigation lines are under trees and this is what is happening and takes two days' worth of work to repair. Page 30 is the Old-World Climbing Fern. They are spending four days a week working on this and the infestation is a lot worse than they were led to believe.

- vi. **Authorization to Purchase Stump Grinder - \$1,899.00**
- vii. **Authorization for Neighborhood Sidewalk Proposal – Arrow Pavement Services - \$9,600.00**

Mr. van der Snel addressed the purchase on the stump grinder noting the contractor said if they can remove the roots it will save the District a lot of money.

Supv Berube noted it is a two-phase approach to remove the roots and install the sidewalk panels.

Supv Farnsworth inquired why there is only one proposal.

Mr. van der Snel noted he called six contractors and one called him back.

Discussion continued on getting contractors to do smaller jobs.

On MOTION by Supv Berube seconded by Supv Kassel, with all in favor, the Arrow Pavement Services proposal in the amount of \$9,600.00 was approved.

On MOTION by Supv Berube seconded by Supv Bokunic, with all in favor, the purchase of a stump grinder in the amount of \$1899.00 was approved.

## **SEVENTH ORDER OF BUSINESS**

### **District Manager's Report**

#### **A. Financial Statements for March 31, 2020**

#### **B. Approval of: #240 Invoices, Check Register and Debit Purchases**

Ms. Suit reported as of April 20<sup>th</sup> they were \$1,574,010 uncollected in total assessments.

Supv Berube noted they have collected 60% and spent 48%.

Supv Kassel inquired if they have contacted the Tax Collector since April 20<sup>th</sup> on whether there have been any additional collections.

Ms. Suit noted they will not receive any further notices until the beginning of May.

On MOTION by Supv Kassel seconded by Supv Bokunic, with all in favor, the March 31, 2020 financials, Invoice Approval #240, Check Register and Debit Purchases was approved.

**C. Acceptance of the FY 2019 Audit**

Ms. Suit noted it was a clean audit for the fiscal year ending September 30, 2019.

On MOTION by Supv Kassel seconded by Supv Farnsworth, with all in favor, the audit for fiscal year ended September 30, 2019 was accepted.

**D. Registered Voters – 1,901**

Supv Berube noted they have 1,901 registered voters in the District.

**EIGHTH ORDER OF BUSINESS**

**Old Business**

**A. Discussion of Survey Monkey Questionnaire**

Supv Kassel noted Ms. Kramer suggested some preliminary wording which she agrees they should have to give additional information. There is no one pressing them to build a community center or have the questions so they can give their opinion. She would be willing to work with Ms. Kramer on some initial wording and also to address any questions about Survey Monkey and presenting something next month.

**NINTH ORDER OF BUSINESS**

**New Business**

**A. Discussion of US192 Median Maintenance**

Supv Berube addressed the medians from Old Hickory Tree Road to east entrance. They have an FDOT agreement to maintain and he understands why it was put into place. When you drive the road and look at the area, they are spending money on to keep improved he does not think it looks necessarily different from the couple of miles of median before and the few miles of median after. The question is do the continue to have Servello maintain the center median or go along with the prior movements towards not ours.

Discussion followed on the FDOT agreement with the question being presuming they can get out of the agreement and FDOT agrees to pick up the maintenance

maintaining it to the same standard as the rest of the median being maintained, are they in favor of stopping the CDD maintenance.

The consensus of the Board is yes, if FDOT will pick up the maintenance of the median.

Mr. Qualls will reach out to FDOT regarding terminating the agreement.

Mr. van der Snel noted Field Services keeps the area clean of debris. Do they continue doing so.

Supv Berube noted to carry on the status quo for now and then they will make a decision based on what Counsel tells them.

**B. Request for Management Fee Increase / User Supported Facilities**

Supv Berube outlined the request from Association Solutions for an increase in management fee rate for the User Supported facilities.

Discussion followed on the request for a 20% increase.

Discussion followed on the status of the parking area and what the holdup is with it being noted the county is holding the CDD up for misdeeds of prior ownership. The Board authorized R.J. Whitten & Associates to revise the PD to conform to County code and be included in the PD. It has become a lot of details – site development plans, fencing, opaque fencing, landscaping – a lot of details required to get the PD properly aligned. The garden is a conforming use to the current PD, but everything else – the office trailer, the Servello storage lot, the planned expansion of the parking and storage area – is non-conforming use so they have to shield anybody in the garden from seeing the non-conforming uses. There was a conference call yesterday with the Engineer and John Adams of R.J. Whitten & Associates. They put it all together, revising the boundaries, making sure they are meeting the wetland setbacks and all of that. The hope is within the next 30 to 60 days the County accepts all of the changes and they can proceed with the fence and completing the project.

Mr. Boyd noted Mr. Adams is amending the PD zoning. There is strict rules for open space and strict rules for where vehicles would be stored, and complying with the zoning ordinance through what the PD says is what they are working through and doing so in a way that makes sense.

Discussion returned to the requested increase.

On MOTION by Supv Berube seconded by Supv Bokunic, with all in favor, the increase from \$200 to \$250 monthly for FY 2021 Management of User Supported Facilities was approved.

Supv Berube requested the increase be placed in the FY2021 budget.

**TENTH ORDER OF BUSINESS**

**Topical Subject Discussions**

There being none, the next item of business followed.

**ELEVENTH ORDER OF BUSINESS**

**Supervisors' Requests**

**A. Discussion of Obtaining Proposals for Alleyway Conditions Study, with a Recommended Schedule for Refurbishment/Repair**

Supv Berube addressed a proposal they received today from Pavement Rehab Services. He addressed spending funds to obtain an alleyway conditions study noting it could be spent on the alleyway.

Supv Kassel noted it cannot hurt to have the Engineer take a look at the alleyways and provide his opinion.

Supv Bokunic and Supv Farnsworth, concur with Supervisor Kassel.

Supv Scarborough concurs with Supervisor Berube that there is nothing significant wrong with the alleyways.

Mr. Boyd was requested to inspect the alleyways and provide an opinion.

Mr. Boyd noted he will do a drive-thru and update and reprioritize on the reserve allocations report.

**TWELFTH ORDER OF BUSINESS**

**Adjournment**

There being no further business,

On MOTION by Supv Berube seconded by Supv Kassel, with all in favor, the meeting was adjourned.

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Kristen Suit  
Secretary

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Steven Berube  
Chairman