

MINUTES OF MEETING  
REUNION EAST COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Reunion East Community Development District was held Thursday, October 13, 2011 at 2:00 p.m. at the Heritage Crossing Community Center, 7715 Heritage Crossing Way, Reunion, Florida.

Present and constituting a quorum were:

John Gray	Chairman
David Burman	Vice Chairman
Marty Pawlikowski	Assistant Secretary
Duane Owen	Assistant Secretary
Lee Beekman	Assistant Secretary

Also present were:

Jason Showe	Assistant District Manager
Colt Little	District Counsel
Steve Boyd	District Engineer
Alan Scheerer	Operations Manager
Mike Searles	FrontDoor Communities
Several Residents	

**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. Showe called the meeting to order.

**SECOND ORDER OF BUSINESS**

**Approval of the Minutes of the September 8, 2011 Meeting**

Mr. Showe stated the next item is approval of the minutes of the September 8, 2011 meeting. Those minutes have been provided to you as part of your agenda package. We can take any corrections or changes to those at this time.

On MOTION by Mr. Pawlikowski seconded by Mr. Owen with all in favor the minutes of the September 8, 2011 meeting were approved as presented.
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**THIRD ORDER OF BUSINESS**

**Review and Acceptance of Fiscal Year 2010 Audit Report**

Mr. Showe stated the next item is review and acceptance of the Fiscal Year 2010 audit report. We sent that out as part of your agenda package. On page 30 is the letter to management where they detail all the findings required per Florida Statutes. There were no findings or recommendations from the previous year's report; we complied with investment and audit properties. The only finding they had was that we failed to make the bond payment and there could be a financial emergency condition, which the Board is aware of and we have been dealing with until we get the foreclosures wrapped up that is a common comment you will see in the audit. Other than that it is a clean audit and we can take any questions or comments you may have at this time. If there are none you can have a motion to accept the audit and authorize staff to transmit it to the State of Florida.

Mr. Gray asked did they accomplish the audit within the timeframe that they assumed?

Mr. Showe responded yes, we got it in the last day that we had to get it completed.

Mr. Gray asked are you content with this group since they are new?

Mr. Showe responded I think we are okay with it. We approved them for the next set of audits so we will keep an eye on it. I will note that there are additional requirements this year that require that it be done within nine months not twelve months so we will push them a little harder this year to get it done in a more timely fashion.

On MOTION by Mr. Gray seconded by Mr. Pawlikowski with all in favor the Fiscal Year 2010 audit was accepted and staff authorized to transmit it to the State of Florida.
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#### **FOURTH ORDER OF BUSINESS**

#### **Discussion of Non-Resident User Policy and Fees**

Mr. Showe stated the next item is a follow-up from a previous meeting and that is discussion of non-resident user policy and fee.

Mr. Little stated some of you may be familiar with this in other districts. Generally our facilities have to remain open to the public, however, tax opinions have stated that in order to be equitable you can charge individuals who do not live within the District some type of user fee that would equate roughly to what an individual who does reside within the District pays for the operation and maintenance of those facilities. It is pretty obvious on its face that it would be fair and just to charge outside users the same type of fee or charges that the residents have to pay to operate and maintain the facilities. What we have done in other districts is most of the time it

hasn't been an issue we haven't had an influx of people but in some cases where we have had people taking advantage of the facilities at no cost we found it appropriate to create a user fee for such individuals so that they become a paying member to use the CDD's facilities that puts them on par with the residents. We can't simply prohibit them from using the facilities at all but we can ensure that they are paying their own way just as the resident does through their operation and maintenance assessments. What this process entails if the Board decides to go forward is actually a rulemaking process whereby we have to publish certain notices with respect to initiation of rulemaking process, rule development and hold a rulemaking hearing whereby we establish the criteria for the type of user fee we are going to have, the amount and things of that nature with respect to actual use of the facilities. Most commonly that is done on an annual basis and I think in all the districts that we have instituted this user fee we have never had anyone sign up. I don't know if Jason has seen it.

Mr. Showe stated I don't think in any of our districts anyone has taken advantage of the program.

Mr. Little stated it is almost a form of housekeeping item in the sense that it is in place just in case someone does decide they want to take advantage of the facilities and use them we will already have the rule in place and it also continues the theme that our facilities are open to the public but it is certainly equitable for anyone who doesn't reside here to be placed on a level standing with residents regarding the cost of operating and maintaining the facilities. If that is something the Board wants to pursue we can begin the process over the next couple of months publishing the required notices of rule development and notice of hearing. We will have a rulemaking hearing at which we will present to you documents related to user agreements that control the liability issue with respect to non-resident users, some of the rules they would be subjected to in order to use the facilities and the fee. Those documents have to be drafted in substantially final form at the time the notice is published so that anyone who wishes to provide input with respect to those rules can do so in advance of the public hearing. It is kind of a lengthy process that we need to take formal action on today if you want to initiate that and we will begin organizing the notices for publication and start drafting a draft set of rules. I will leave that to the Board for discussion and you can determine whether or not it is something you want to pursue. Clearly there are costs involved with formulating the rules, drafting the agreements and rules, publishing the notices, things of that nature and it comes down to a cost

analysis. Is this a real problem in this community of people taking advantage of these being public facilities without paying a user fee or are we willing to spend the money to put this in place in case it becomes an issue one day. That is a business decision of the Board.

Mr. Gray asked if you were to estimate some of those other districts that have gone through the rulemaking process to establish a fee which has never been paid by anybody what would that cost have been \$10,000, \$20,000?

Mr. Little responded in order of magnitude I don't know that it would go as high as \$10,000 it depends on the publication costs which is controlled by the local newspaper sometimes it can be really high sometimes they are not as high but we will be drafting the rules and agreements and liability waivers and things of that nature and we have a lot of that stuff in the form of those but I can say exactly it depends largely on the cost of publication and also how much rule development we end up doing. You have to have a workshop to develop the rules and things of that nature.

Mr. Gray stated let's move to the second phase. How many of those districts that have gone through the rulemaking process and adopted a fee that has never been paid had access control to their facilities?

Mr. Scheerer stated there is only one that I am aware of and that is Falcon Trace in Orange County that has a user fee and still has card access but we have a fulltime pool staff.

Mr. Little stated that is the obvious next step. If you are going to have rules that control access you also have to physically control access and that is where there sometimes is a very substantial cost in creating some type of entry system for either residents or paid users. I believe in other districts we had in North Florida years ago did the same thing and never even instituted much of an access program they just had the user fee established if people inquired they could tell them yes you can but there is an annual fee. Again, it depends largely on the circumstances on the ground in this particular District, how much of an issue is this, how much outside use do you have? If it comes to the point where the District wants to invest a substantial sum of money not only in developing the rule but the hardware necessary to regulate access and then the whole management of that system as well. It is really a business decision. We can obviously go either way it just has to be a determination by the Board as to whether this is something that warrants the investment.

Mr. Glasser asked in these other districts that have the system established was the system established when the District was incorporated or subsequently?

Mr. Little responded many years later.

Mr. Glasser asked what were their reasons for them going that route?

Mr. Little responded in the latest one we have done it was not actually because we had outside users it was a push from residents that they wanted to do it and felt like it was needed and we told them that is fine we can certainly do it but one thing I will caution you is that sometimes the process of implementing this rule draws more attention to the fact that you are open to the public than you would have otherwise. It was a balance for them and it just so happens where they are located they don't get any traffic anyway they don't have any real problems it is something they decided they wanted to do so we implemented it.

Mr. Harding stated we are definitely having problems here with the public coming through and using the facilities in fact in the Terraces area and I hope the Board goes along with seeing this through as far as setting up a fee for the general public. I think most of us see it as a major problem and I know Mike has our security people trying to set up some access control devices for the various facilities like the Terraces, the pools, the 7 Eagles and so forth and I think we are being inundated by people coming in and in some cases it causes liabilities for the CDD as well. I hope you do something to follow through because I think it is a real problem.

Mr. Pawlikowski stated I'm not trying to think about what your saying and the logic we can develop the rules that is not an issue but there is a fee that has to be paid. The issue is we still have to prevent people from coming in.

Mr. Harding stated I understand. I understand the likelihood of people going ahead and paying the fee whether it is \$1,000 or \$1,100 a year or whatever I think that is highly unlikely. I think security would like to have some sort of leverage. I think Darrel's biggest problem when we talk to Homestead when we have our neighborhood watch meetings that is one of the biggest problems he runs into is being able to try to control access as far as people are in here and people are required to have some kind of identification or card saying they are paying an annual fee then that gives him some sort of leverage to say you are not doing that, get out of here. He is between a rock and a hard place trying to make sure that the people coming here are the right sort of people we want and if there is public coming here willing to pay the fee then okay fine but I don't think we are going to have that many people sign up anyway.

Mr. Owen asked is this in the pool area or on the public roads?

Mr. Harding responded in the pool area in 7 Eagles, coming into the Terraces and creating all kinds of havoc over there. Darrel has run into problems like that on a regular basis. I just hope you do something along those lines to try to control access and put in the devices to try to help too. People are always going to hop fences and that kind of thing, that is going to happen to anybody but I think it is a must.

A resident stated let me point out that there is a cost but there is an offsetting cost because the outsiders using it are also not using it well when they are use the facilities. There is a cost in damage they incur so that could offset the cost of traffic control.

Mr. Harding stated I think there are people in that work out room on a regular basis that don't belong here. They know it is there they come in there and they use it. Thank God you took some action and cleaned it up with new carpet.

A resident stated one evening there was a public affair at the 7 Eagles and these people came in from the outside and partook of the buffet and everything else that was involved. It was like come over we are having a good time we are having a party. There was no way to say to them that you have to leave.

Mr. Harding stated I think make it difficult for the resort too as far as having functions and so forth at CDD facilities.

A resident stated even if it was gate access for your card that alone would help security if there is some trouble to ask if they are members and ask them to leave. I don't know how expensive it would be this is for the pools and gym I don't know how it would be with card access realizing people jump the fence but then it is clearly whoever is jumping the fence is most likely not one who pays for the facilities.

Mr. Gray asked do we have to install access control systems or can we just go with Darrel the security guard asking people to show their green band and if they don't have one then they are allowed to say leave?

Mr. Little stated you can do that but one problem you run into with some districts is certain residents are annoyed that they have to carry identification with them at their own pool.

Mr. Gray stated if the residents wants "A" they would have to comply with "B".

A resident stated basically everybody carries their ID because when you charge at the bars and things you have to show your card.

Mr. Little stated it was this particular group of residents, I'm not suggesting you feel the same way but in a different district that was an issue that was making a big deal of it with some residents.

A resident stated I think it is a major issue here, maybe it is an incremental thing we need to get employees then we may not go all the way to the access card immediately unless you have security now have the ability to go in and talk to people and find out if they belong there or not is the first step. If that is not adequate then maybe there is a second or third step.

Mr. Harding stated even some of us as neighbors checking people out and saying okay you really belong here or especially if they are causing problems and calling security and security coming over and they don't have a right to be here and paying the fees then they are out of here. If you need any help writing up this stuff I will help you and I can probably get some other volunteers too.

A resident stated the only thing I will bring to your attention and caution you on is the devil is in the details, how you handle renters and how do you deal with guests. As far as the statutes they are allowed to use the facilities too so how do you currently keep ID cards you are giving guests and renters not to get out and have those cards out there.

Mr. Little stated we had that very issue in another district where we allowed residents who rented their house out in the summertime and it came to a point where we had to draw a line and they finally made a decision that they only allow so many guests per resident and they only allow renters privileges could or could not be transferred to someone who was using their house. There has to be some give and take there and we will figure that out there will be lines drawn.

A resident stated I personally haven't noticed a problem but clearly there is a problem so I would just say that the next step probably ought to be a more current cost estimate, the details of what we are talking about because we can't expect the Board to approve something that isn't tied down at this stage.

Mr. Burman stated I think all three parts, to develop the rule development process, the hardware whatever that will be and then the ongoing management, which is by far the most important part, who is going to maintain and manage all these cards is by far the most important part.

A resident stated just so the Board can take some action on this, if it is considered an incremental way let's just get this in place so at least security has ways to deal with it can happen

without thinking we need to also recognize all the costs of the other levels is going to be the first step I think that would help. Otherwise if we have to do all this other stuff in order to take the first step that can slow down the process. There are problems out there. Whether you need to go and check every card or not may be in question but if you have an unruly group doing things that are obviously wrong now you give security a reason to talk to them. Once it is in place and security is involved their reputation gets around it is going to be checked and right now the reputation that is around is that it is not being checked.

Mr. Gray asked is there any discussion?

Mr. Burman stated I would be willing to take that first step. Playing devil's advocate I don't think that anybody can say with absolute certainty that the unruly people are not residents or guests of residents not guests of the resort, it could be anybody. Living in Reunion doesn't mean you are not unruly but I would be willing to take that first step and at least start the rule development process.

Mr. Little stated the process requires 29 and 28 day notices.

Mr. Showe stated in talking to George we would probably be looking at setting that rule up in conjunction with the December meeting. Another note is for now we looked at basically the highest O&M and the highest debt service I think for the advertisement we probably recommend \$2,961 be that annual fee for now. You can always lower that at the hearing but we think it is better to advertise a higher fee to start with but that is comparable to what a single-family home in Reunion West would pay as their debt service and O&M on an annual basis.

Mr. Little stated that is perfect that is what the tax people tell us puts them on an equal footing with an average resident they should be required to pay on an annual basis about the same the resident pays for assessments.

Mr. Gray stated they are not dictating that the fee be some incremental percentage of the annual assessment they are saying the entire assessment.

Mr. Little stated when you think about it considering the amount especially in a district like this that has a lot of recreational facilities anybody who is using them is benefiting from most aspects of the infrastructure whether it is roads, landscaping, pools, etc. consider that to be generally fair. With that being said it is never really been challenged so I can't tell you what happens if someone does challenge it will they strike it down but the fact that professionals we

had involved before, tax attorneys, suggested in their general opinion it seems reasonable doesn't mean it wouldn't be struck down but it seems reasonable.

A resident stated technically right now you can't really stop anybody from coming into this hall right here and using it and assuming the guard unlocks it and I want to have a meeting here.

Mr. Little stated you can have reasonable hours and rules for your facilities. It is just like a city government they can't march into city hall and do anything they want to. We can have reasonable restriction in the rules for our facilities.

Mr. Showe stated that recommended fee would probably be the highest we would go. We may lower that at the meeting we may look at some other rate that may be more tied into just the facilities but at this point we think it is better to advertise the higher amount and you can bring it down from that point.

A resident asked what if somebody wants to put a horse in the stables?

Mr. Little stated we don't allow anybody to put a horse in the stables we don't have to give any special privileges.

A resident stated but we use those facilities to store materials and so forth.

Mr. Little stated just like a government who owns a yard they use for maintenance equipment they don't let John Smith who lives down the street store his lawnmower in there. It is the same situation. If a government has a yard for construction equipment it is not open to the public, it is public property but it is not open to the public.

A resident stated say it is the same type of material the resort stores there.

Mr. Little stated the District entered into that agreement it is not for any use. The same way a city or county government has certain facilities you can't march into a water treatment plant and give yourself a tour just because you want to. They are not going to let you do that. It is the same situation, certain facilities are not open to the public they are owned by the public but they are not open to the public.

A resident asked can we put hours on 7 Eagles and say anybody in there not during those hours can be kicked out?

Mr. Little responded yes but your residents won't be able to use it either. It is all or nothing.

Mr. Pawlikowski asked you mentioned the price of \$2,961 can you round it up and just say \$3,000?

Mr. Little stated for purposes of the public hearing.

Mr. Pawlikowski stated and just say the \$39 is a processing fee.

Mr. Little stated usually what we have seen in order for districts to kind of hedge their bets they often set the figure somewhat lower than the annual assessment just because the \$200 or \$100 below that is not going to deter or encourage anyone to pay the user fee but you are showing good faith that you are not trying to be overly burdensome.

Mr. Harding stated I think the biggest thing is want to rapidly fight the interest fees.

Mr. Burman stated I think Mr. Harding is right you are not going to get outsiders at any price to buy it to get access to five pools it is not going to happen. Then it becomes a defacto identification program for owners and the appropriate people to be here.

Mr. Little stated just so we are clear on the record the rule is not and cannot be instituted as a deterrent to people using the facilities. It cannot be used for that purpose it cannot be designed for that purpose it is not for that purpose. I want to make that clear to everyone it is not a deterrent it is to put people on an equal equitable footing as the residents who do pay their assessments.

Mr. Harding stated that is what we want.

A resident stated we sympathize we live here you guys don't live here.

Mr. Gray stated if we have what we want if we close our eyes and have some mechanism where somebody could walk up and say show me your card and if you don't have one get out of here. The guy who is doing the walking up isn't in this room because he works for the resort. So any process that is created by us has to be as always in union with the resort so we may take you up on your offer not to necessarily draft documents because I think Colt's group could crank them out by pushing a copy button is to maybe work with the resort and I won't name a name but just say the resort and the management group to come up with okay here is how we are going to get to that because we can't do it sitting here talking about what we want to do. It is going to be we all know what we want to have a card that somebody comes and says show me your card or you are going to have to leave without going through all the \$50,000 or \$100,000 worth of hard costs and putting in actual access control. We want to put it out there in the public that if you don't have your card you are going to get thrown out. But we have to have a hammer for some

length of time for it to be actually enforced. Can we maybe ask that you work with the Manager and Darrel's group?

Mr. Harding stated our committee can work with the resort and come up with something.

Mr. Gray stated I'm not trying to suggest that the Board is pushing the responsibility off on the members but it would be a good idea to say this makes sense this will work, this is what we would like to see happen and then come back and say here is what the cost is to get that first phase implemented where the threat is there with a real live hammer.

A resident stated the ABOG would be very happy to help out with those things to go.

Mr. Little stated just a word of caution. I think it is certainly appropriate and very helpful to seek input from those individuals in the community but we have to make sure we are not in any way suggesting that this is a committee of the District that would be subject to sunshine and things of that nature. What we really could use is some individuals and how you want to convey that information is fine we can get that information distributed.

A resident stated maybe the cost of physical access controls may not be that substantial either because Mike has Darrel looking at it and we ought to at least see what he comes up with. That might be an avenue too. A simple card swipe at the gate is better than not having anything at all. You have a two-step process so as long as he is getting that information we could come back with that as well.

Mr. Burman stated they are not terribly expensive. We put one on a pool out in St. Cloud a couple months ago and it was \$700 a piece or something like that and included 400 cards so that part is not expensive. It is the management I'm concerned about, who and how is it going to get done.

Mr. Gray stated from our standpoint we wouldn't be voting on anything we would just be tabling the matter in order for some individuals in the community to comment.

Mr. Showe stated the Board will need to authorize us to move forward with the rulemaking process so that we would be able to have that meeting in December to at least adopt the rule. Again, the administrative part can come after but if you want to move forward with the rulemaking process we are about 60 days out from being able to have that meeting.

Mr. Gray stated our logic would say that means it cost X dollars to empower you to do something.

Mr. Showe stated yes, District Counsel to draft the rules and us to advertise the hearing.

Mr. Gray stated again we are back to if we say that is going to be \$5,000 maybe the Board would say for \$5,000 it is becoming the freezing cold part of the year that is a good spend of money let's get it in place so that it is there for next spring or we wouldn't want to spend \$5,000 right now why don't we wait until spring, why don't we wait until fill in the blank. What do the other Board members think about this? We have to have some amount, some authorization level to be able to say it is going to cost X and therefore, in our budget we are authorizing the payment of X dollars to have this process started.

Mr. Owen stated I think we should go ahead and proceed rather than delaying.

Mr. Pawlikowski stated I don't have any objection to it I'm just going into rulemaking process whether or not doing the advertisements for December with the holiday season coming up and everybody's schedules that if it would be better off to push it back. What happens if you miss it?

Mr. Little stated we have to publish a notice of meeting for that day and if you don't have a hearing then you can't adopt the rule.

Mr. Showe stated you would have to advertise in accordance with the 29 and 30 day notices again so you are pushing it back probably another 60 days.

Mr. Pawlikowski stated that is what I'm suggesting because the timeframe to put things together instead of December do it either January if we don't have it available and miss it.

Mr. Little stated it certainly allows for flexibility.

Mr. Burman asked do we have a dollar figure on Counsel's expense and advertising expenses for this?

Mr. Little stated I haven't drafted one of these in a couple of years I'm starting to dig out some old documents that I do have. The most variance to my time is in advertising. I don't know what the advertising rates are some have gone up tremendously.

Mr. Showe stated it is a matter of how big the ad is and what paper we use. It is probably going to be at least \$2,000 for the advertising because you have to advertise it twice and it has to stay there.

A resident asked how much does it cost to advertise this meeting?

Mr. Showe stated we advertise once at the beginning of the year.

A resident stated that is still a notice and that is a one time notice.

Mr. Showe stated it is a different advertisement it is a much longer ad.

A resident stated I appreciate that but my point is still my point. You have a cost factor that you know the cost of that particular newspaper wherever it may be.

Mr. Pawlikowski stated that is not necessarily true it depends on the document that has to be advertised. As an example our ad for our meetings is only so big and depending on how much rulemaking you have to provide it could be very large.

Mr. Boyd stated for example when I advertised for the consumptive use permit just the public notification of it, it was \$3,600 on the East side versus \$1,000 on the West side.

Mr. Showe stated I would estimate you are looking between \$2,000 and \$3,000 for advertising but that is my best guess at this point.

Mr. Pawlikowski stated there is another factor that influences that as well it depends on when you put the ad in. If you wait until the last minute like 2 days before the deadline the rates go up.

Mr. Showe stated with this type we would have enough time to advertise it and get it in as quick as we can.

Mr. Burman asked are we looking for a January hearing date? Is that the point?

Mr. Pawlikowski responded yes.

Mr. Burman moved to authorize staff to prepare draft rules and notice the rulemaking process for the January 12, 2012 meeting.

Mr. Gray stated just to be sure I heard the reason it can't be in December is?

Mr. Little stated I think Mr. Pawlikowski was suggesting more flexibility if for some reason there are discrepancies with what we put in the draft rules and things of that nature that have to be advertised and we have another 30 days to make sure the document is in order and if there are scheduling issues he suggested in December if there are scheduling issues for the hearing.

Mr. Gray asked can we try to do it for December?

Mr. Little stated we have to advertise a specific date.

Mr. Gray asked but if we said we wanted to do it as soon as possible and the comments don't come in from the individuals where everyone is aware that we gave it a try?

Mr. Little stated we would have to readvertise.

Mr. Burman asked but at this point isn't the rule going to be pretty fixed anyway? Isn't that the purpose of our meetings back and forth to develop controls and cards and card swipes and that kind of thing detailed more?

Mr. Little stated after that but we have to have a draft rule in place the day it is advertised.

Mr. Showe stated if someone calls our office and requests a copy of the rule we have to be able to at least have a draft.

Mr. Little stated it has to be available prior to the hearing so they can provide public comments in advance of the hearing.

Mr. Gray asked do we have time sitting here today to make the January 12<sup>th</sup> meeting?

Mr. Little responded yes I think that is reasonable.

Mr. Burman stated I am agreeable to the January meeting.

A resident asked can you possibly supply us with what was done in the other communities?

Mr. Little responded I will just draft this one and circulate it.

Mr. Showe stated if you want to get with me after the meeting I know we have one or two in our office and I can email them to you if you give me your email address just so you can see what other districts look like.

A resident stated good, thank you.

Mr. Pawlikowski seconded the motion.

Mr. Gray asked how are we with our budget?

Mr. Showe responded January may be better just for that reason because we will probably start getting some of those assessments on the O&M side in. That is probably better on that end too.

On voice vote with all in favor the motion passed.

**FIFTH ORDER OF BUSINESS**

**Staff Reports**

**A. Attorney**

**i. Status of Pending Foreclosure Actions**

Mr. Little stated the two updates I have on the foreclosure suits, the first is the suit the District initiated against Ginn Reunion Borrower in which their lender Wells Fargo trustee for Morgan Stanley is also a defendant. At the last meeting I told you we had an upcoming hearing to strike their affirmative defenses and 24 hours before said hearing Wells Fargo and Morgan Stanley withdrew their affirmative defenses. That hearing didn't have to occur they have now reissued basically a cookie cutter type answer with no affirmative defenses. We are through the complaint answer stage without any affirmative defenses being asserted by the defendant, however, a few days ago we were served with a request for production from Ginn Reunion Borrower who initiated discovery phase in the litigation with document production. We are hoping to kind of curtail that process as much as possible. All of our records are public we can invite them to feel free to make a public records request or to obtain any records they like but we are now in the discovery phase in that litigation and until that is concluded in some way, shape or form whether it be with formal discovery or some type of expedited process involved in public records production we would then be in a mode to move for summary judgment. But until that is straightened out we are not able to do that. It is typical litigation but we are past the initial pleading stage and now into discovery and I hope we will be able to curtail that to some degree.

Also recently within the last couple of weeks BB&T has initiated foreclosure against a specific residential lot owned by an end user I don't know whether it is an investment company or individual owner in Reunion East and they actually named the District as a defendant. I think as we all know at this point our assessment lien is coequal with state and local taxes and is superior to any mortgage liens or things of that nature, however, it is taking a lot of convincing, he won't actually agree to dismiss us from the lawsuit he seems intent on making us answer, but we will try to seek attorney's fees because it seems a bit frivolous to keep involving us in this lawsuit if he did a little research he would discover that he can't foreclose our assessment lien. It is legally impossible. I just want to make you aware of that. We will have to file an answer if he refuses to dismiss us but I will keep you posted on it.

Mr. Burman stated last month the hearing got canceled. Was that because they had asserted some defenses and you had a motion to strike? Is that the thing that got canceled?

Mr. Little responded yes we had a motion to strike and it got canceled because they withdrew their affirmative defenses.

A resident asked so what does all this mean?

Mr. Little responded with respect to Ginn Reunion Borrower as I stated we are in the discovery phase of litigation and until that is concluded in some way, shape or form we won't really be in a position to file a motion for summary judgment. Again, I'm trying to expedite that process it is typical foreclosure process it takes time. The other one is just a nuisance suit really with respect to the District and we expect to have that dismissed in short order.

Mr. Gray asked have you received a public records request?

Mr. Little responded no just the formal pleading and request for production to initiate the discovery process. I hope that again, because being a landowner in the District they are familiar with all the documentation, the process, the District governance, etc. that this would be seriously curtailed to some degree so I will do my best on that.

Mr. Gray asked on the first part is there a timeframe? Let's make believe you can't convince people to curtail the discovery process. I know there is no date you can throw out there that anybody could hold you to but are there statutory requirements of answering and getting back if we said we want to keep pushing as hard as we possibly can?

Mr. Little responded what we have working for us is that we don't have any private records. There are some things that are attorney/client privilege and things of that nature that aren't discoverable but in general the basic records of the District are public. I have seen discovery go on for two years in certain commercial litigation cases where they have to squeeze to get every last single document out of opposing counsel but that is not the case here. It is an open book we would invite them to come and sit in George's office and go through reams of documents if they want to so that should make this process a lot simpler and more straight forward. Am I going to give you a timetable? I can't tell you how quickly that can be accomplished. I don't know what it is they are after. I don't know what they could be looking for. I'm not sure what their defense is going to be with this foreclosure. In our opinion they don't have a valid defense but in the worst case scenario in large commercial litigation processes discovery has gone on for months and years but I don't see that happening at all. It should be much quicker considering the public nature of records.

A resident stated you didn't say anything about any statutory requirements on time. Does that mean there are none?

Mr. Little stated as far as the discovery process goes I will ask our litigators it is really not my forte. We just got served with a request for production a number of days ago and I think we have until the end of this month or somewhere there about to answer that request for production. Again, I'm hoping to side step that entire litigation process by simply inviting them to come and search themselves and find whatever they like in the public records. I'm hoping we can avoid that entire process.

A resident stated it may good for us to know because when we sign a note it can't go beyond a certain time.

Mr. Little stated I will try to get a time table.

A resident stated the amount of money keeps piling up here. Wells Fargo for instance how much money do they owe us now and does the money outweigh the property?

Mr. Little responded Wells Fargo is a private lender to Ginn Reunion Borrower they don't owe us any money it is Ginn Reunion Borrower who is not paying the assessments. In a foreclosure suit when someone doesn't pay the amount of lien of the foreclosure suit you are also entitled to attorneys fees when you obtain a judgment. If they never pay and you get the property at a foreclosure sale that amount is rolled into your credit bid through your judgment. Again, you are still left with the property that is your security. That is the District's only recourse to foreclose against the property.

Mr. Burman stated but it is superior to the mortgage.

Mr. Little stated right. When the District does foreclose an assessment lien on property that assessment is wiped out and we essentially receive the judgment of property in lieu of those assessments so you are back to a clean slate on that property. You can obviously market and sell that property in an effort to recoup your lost assessments that is your recourse.

A resident stated if we can find somebody who wants to buy the same tax burden that was on the property before.

Mr. Little stated property taxes yes but not assessments there is no longer any CDD debt on the property.

A resident asked but ongoing?

Mr. Little responded O&M right.

A resident stated so ongoing there would be assessments.

Mr. Little stated O&M assessments when the debt service is gone it is pretty substantial obviously.

Mr. Gray stated which is far less than buying the property and paying the mortgage off and the taxes that are in arrears.

A resident asked if a property has 2,600 units attached to it that O&M is a situation where the developer has to have some way of having a return on investment to pay for the 2,600 units. Who would pay the taxes on that property now?

Mr. Little responded the District would we are the owner.

A resident stated actually we go further in debt because now we own this property and have to pay the real estate taxes.

Mr. Little stated yes but that is the only recourse we have it is just like any other lender who has a mortgage on a property if he forecloses and takes title he is the owner and pays taxes and he is now further in debt than he was when he had the mortgage on it. There is no other way around it. It is the same position as a commercial entity would be in and now he tries to successfully market the property and get a return on his investment.

Mr. Owen stated if you recall several years ago I spoke out and said to the audience be very careful what you are wishing for when we push to go into foreclosure.

Mr. Little stated you have to all remember the debt service burden on this property is bondholders and that was their investment money that they sunk in the project and they will recoup if the property sells. The O&M we just have to hope for the best that we can market the property at a price that will enable us to recapture some of that. It is just the dangers of the real estate market unfortunately.

A resident asked what does that mean, so taxes on those parcels are due in March, does that mean the CDD would go out on a limb and prepay property taxes or they would let it go to a tax sale and then hope to redeem?

Mr. Little stated eventually because even if the certificate sold there is not a tax deed issued for years and our litigation would be long before then so it would all be part of that process.

A resident asked what property are you talking about?

The area was pointed out on the map.

A resident asked what is the dollar amount?

Mr. Little stated approximately \$36 million.

A resident asked is there an appraisal of how much that property is worth?

Mr. Little responded it is probably early for that. We are a ways away from being concerned about marketing that property and we are still hopeful that at some point that someone whether it be the current developer or the current lender, a different investor intervenes this process and keeps us from having to pursue foreclosure to its termination. That would be the ideal situation that someone comes in and offers to make a deal of some sort.

A resident asked so portions of the property can be sold?

Mr. Little responded we can't sell it, we don't own it. They are under the lien of foreclosure right now and it has to be an agreed upon deal based on a business transaction with all parties involved.

A resident stated it is my understanding that there is some large investor who invested money to purchase the property across from the water park.

Mr. Little responded no.

Mr. Searles stated just from a purely economic perspective that land was marketed for nine months by a national real estate firm. We had a huge contact interface of investors and given the bonds that are outstanding, the assessments associated with them there is nobody interested. I hear what Colt is saying about that would be great if somebody came in and bought it but that is not going to happen. What is really going to have to happen is the bonds need to be restructured so you can make sense of the carrying costs associated with it because the entitlement is generating a huge assessment and you can't make sense of it. You can't build 20 15-story buildings to take up all the entitlements to make sense of the assessments to pass onto third parties. The assessments need to be rationalized and that means entitlements need to be rationalized and that is up to the bondholders.

A resident asked would the bifurcation of bonds help in that process?

Mr. Little stated that has more to do with the flexibility of the bonds themselves. It is out of our hands now we have done our part and it is in process but I will follow-up with Mr. Crumbaker to see if it is finalized. The legal question is easy we keep marching forward the economic question is the bigger one that needs a solution because we can't address that.

## **B. Engineer**

- i. Discussion of Soliciting Bids for 2012 Bridge Inspection**
- ii. Discussion of Turning Over Bridge Inspections to FDOT**

Mr. Boyd stated FDOT contacted me last week and wanted to check on the status of our upcoming bridge inspections, which are due in June of next year and I had a conversation with them about actually having DOT potentially take over the inspections of the bridges. We are talking about the I-4 overpass, Davenport Creek Bridge and the 545 overpass and they said they could and would do that if we invited them to do so. The two options are (1) would be to continue to do the inspections ourselves and submit those bi-annually as we are required to do or (2) talk to DOT about having DOT take over the inspection process. The last time I had the inspections done I believe it was about \$11,000 to hire the bridge inspectors and get his reports prepared and then turned over to DOT. I wanted to present that to the Board today as an option. We don't have to move forward today but we would need to move forward in time that the June deadline doesn't pass because the State DOT is getting a lot of pressure from the federal government to make sure they submit the inspections, that they are keeping their inspections up to date and not letting those slip by. With your authorization I can continue to talk to DOT about what would be involved in having them take over the inspection process and getting those wheels started otherwise we can wait until December or January to solicit bids to get the inspections done.

Mr. Gray asked what would be the logic of a cash strapped government organization saying they would like us to spend additional money, what benefit is it to them or detriment to us?

Mr. Boyd responded the only issue that needs to be considered would be if DOT themselves is doing the inspections then we do lose some control over how those inspections are paid for. Obviously an inspection if we pay for it or DOT does turns up a substantial deficiency the CDD is still responsible for repairing the bridge so that is the only issue. You are not giving the responsibility to maintain it you are basically handing off the responsibility to do the inspections and the costs associated with that.

Mr. Gray asked if a fact is a fact and a test is a test their inspectors wouldn't come up with anything more than ours.

Mr. Boyd stated you are right it is the same criteria and probably the same inspectors because you are hiring firms to do the work.

Mr. Gray stated they need to be DOT certified.

Mr. Boyd responded yes.

Mr. Burman asked did DOT talk about costs? Do they have a fee?

Mr. Boyd responded the bridges would go onto their roll and part of their budget.

Mr. Gray stated I think it would be a good idea for you to continue your discussions with them to see if we could potentially save money provided that the discussions don't result in any worse position for the CDD.

Mr. Beekman stated the worse case scenario is they identify something and it costs \$11,000.

Mr. Boyd stated I will do that and report back next month.

A resident stated I don't know if this is the right spot for this or not but engineering I believe is in charge of all maintenance of all public buildings as well as the rights of ways. We are starting to have concern and I hate to bring it up with the budget problems you have but we have quite a concern about the maintenance of the buildings. This one in particular if you look at it the roof is leaking, the carpets were soaking wet a couple weeks ago. These buildings are now 7, 8 and 9 years old and are starting to have major maintenance problems. I'm wondering how this is being addressed by the engineering group here and what provisions are being made for the future because of this.

Mr. Scheerer stated as recently as Tuesday I personally met with the resort staff we went up on the roof and we are aware of the roof leaks. Last month I believe the developer approved some additional expenditures that they paid for to do some roof work and we are in the process of getting bids from multiple roofing companies to remove and install the roofing on the flat portions of the roof, this portion here and the hallways as well. That is where we are with that and the resort staff is also looking at pressure washing and cleaning up the exterior of the building. The damage that is incurred from what the resort is telling me some of the wood areas, some of the molding, some of the woodwork that is starting to swell will be addressed after we get the bids and we hope to have them next month and I have been talking to our District staff as well that this is going to be coming up and we will have to see what the numbers are so we can get the roof done.

A resident stated there is also interior wood damage.

Mr. Scheerer stated that is what I was referring to there is some ceiling damage. The porte cochere just recently as part of the work that the developer approved and has paid for was completely rebuilt. There was a small section and right now the edges are being stripped back where the shingles meet the flat roof and those areas are being worked as we speak. There is some ongoing work they are not quite done, obviously the recent rains kept them from getting back up there but they are due out again this week and next to finish that.

A resident asked is this a responsibility of the CDD or the resort? When I read the MSA the MSA called for maintenance by the resort it called for building maintenance as much as it did for housekeeping.

Mr. Scheerer stated a capital expense anything over \$2,500 falls back to the District.

A resident asked so \$2,500 and more falls back to the CDD?

Mr. Scheerer stated for capital expenditures and the roof would be considered a capital expenditure and that is what we are in the process of doing. All the other buildings, the pool buildings those structures and any lighting associated with that are being done in-house through my office. They will be pressure washed and cleaned, we have some lights scheduled to be replaced and we recently did the door lock and did door adjustments to all the pools. The heat will be coming on the first of the month and we will start preparing for the cooler stuff. Any of the pool or any of that facility stuff would be directed through me so if you have any questions I will be more than happy to answer those for you or meet me after the meeting and we will take care of whatever issues you have.

A resident asked I think it was one or two meetings ago we heard about a road accident where somebody ran into a bridge, has that all been fixed?

Mr. Boyd responded that has all been repaired.

## **C. Manager**

### **i. CDD Action Items**

Mr. Showe stated we have the action items list. The first item is the entrance to the nature trail.

Mr. Scheerer stated we are just doing general maintenance to that area until such time as that can be developed to what it is supposed to be.

A resident asked what would it take to remove the cinder block that was supposed to be some kind of entrance arbor?

Mr. Scheerer stated I can have those removed.

A resident stated I think it would look more natural and no one can run into it.

Mr. Burman stated it is about 2 feet tall and was the start of a trellis.

Mr. Showe stated the next item is turnover of the irrigation.

Mr. Scheerer stated it is ongoing repairs.

Mr. Showe stated the developer is going to provide us with the documentation prior to the purchase of the conservation.

Mr. Searles stated our whole point was there was some minor encroachments and so we were going to put additional lands to cover those encroachments that was actually more land area into the conservation easement but what they are saying now is that the Florida Fish & Wildlife Commission doesn't have a process to accept that so they are recommending that we go into the conservation easement and build a retaining wall. They want us to go into the conservation easement with heavy equipment and build a retaining wall. I am going to try to have a rational decision from somebody at Fish & Wildlife.

Mr. Burman asked they are saying to go into the conservation area with heavy equipment? I thought that was one of the rules that you can't go in there with equipment.

Mr. Pawlikowski stated you have to get to the right person. I had the same situation.

Mr. Searles stated I am going to handle that specifically because I know we can find somebody rational.

Mr. Showe stated the next item is District staff is negotiating and working with the MSA updates. I don't think at this time we have any firm updates on that but we have begun negotiations with the developer and we hope to have something to bring back on that in the future.

The next item is review options for facility access control. That was tied into the conversations we had earlier on the user fees so those will continue with those discussions as we move forward.

## **ii. Approval of Check Register**

Mr. Showe stated the next item is approval of the check register for checks 1895 through 1920 in the amount of \$287,459.62 and September payroll in the amount of \$754.80 for a grand total of \$288,214.42. Those invoices are provided behind the summary and both Alan and myself can answer any questions you may have on those.

On MOTION by Mr. Pawlikowski seconded by Mr. Burman with all in favor the check register was approved.

### **iii. Balance Sheet and Income Statement**

Mr. Showe stated the next item is the balance sheet and income statement. There is no action required by the Board on this item but it is provided for your information. The last item is the special assessments receipt schedule on roll we are collected at almost 100%.

### **iv. Status of Direct Bill Assessments**

Mr. Showe stated the last item is the status of the direct bill assessments. These are basically the same as you have seen previously and is for Fiscal Year 2011, the bills just went out for 2012 so you will see an update next month with the new bills but there has been no change in those.

The last item is not on the agenda and is the 2010 ADA Compliance Report. We didn't plan on having any discussion on that today but we wanted to distribute that to the Board and we will have discussion at the next meeting. I think the main findings are that there is going to be a lot of things required for the pools to ensure ADA access but we will get into that more at the next meeting. We wanted to distribute it to Board for review.

Mr. Burman asked is it fair to say that this is a done deal? There is no flexibility to that? I was reading through some of this and it looks like a lot of work.

Mr. Little stated we have not heard anything to give us indication that it is going to be rescinded in any way.

Mr. Pawlikowski stated if it is any consolation in the municipality I work in we are going to most likely close the pools down because of that cost.

Mr. Showe stated we recently received the report and haven't had a chance to digest it and give you any firm numbers or anything but we wanted to distribute it to the Board and we

will have more discussion on that as we move forward. We will most likely make that an item for the action items list.

Mr. Gray asked can you put this on the website so the residents can see what we are seeing?

Mr. Showe responded yes.

A resident stated a couple of things relative to security and things of that nature. One of the things we had talked about once before was the need for lighting over in the Grand Traverse Parkway area.

Mr. Burman stated that is on the West side.

A resident stated by the water park there are some concerns by the owners and a lot of people that the traffic coming towards the water park is almost dangerous for people crossing there. Our ABOG board was talking about an idea of maybe putting a flashing yellow light there to slow down traffic that would go both ways. I'm really concerned there will be a fatal accident there with people coming over the bridge and coming down there and all of a sudden realizing there is a bunch of people crossing the street there with kids and that sort of thing. I don't know what you can do different but a flashing light was an idea that came up.

Mr. Glasser stated part of the problem is that the white lines for pedestrian crossings are in the wrong place. If you look at where the ingress and egress is to the parking area and look at where people cross through the driveway rather than at the painted lines and what happens when the kids get to the edge of the sidewalk they run across that road. There is also and Mr. Searles is well aware of this because we have been having a discussion last week is a propane truck still parks in the middle of the road or the side of the road but right upon the pedestrian crossing painted lines. He was there last week.

Mr. Searles stated it does slow down the traffic.

Mr. Glasser stated it only slows down the traffic when the guys in the golf carts are trying to overtake and you have cars coming down on the other side. It is an area of congestion and an area of absolute danger and you can see it almost every single day. It needs a lot of attention to that area.

Mr. Burman stated I think part of the problem with the cross walk is I don't think they can be within a certain proximity of a curb cut or intersection or something like that but I wouldn't mind us looking at some sort of solution to slow down traffic there.

A resident asked does a flashing light help?

A resident stated we spoke at neighborhood watch to the police department we tried on a temporary basis to get one of those radar signs that flash what speed you are going to try to slow people down but until you have an incident there until you show you have some major problem there they are not going to redeploy the equipment from a location that supposedly justifies its use greater than us. That is why we came up with the idea of possibly, they do it on school crossings just a flashing yellow beacon that would be right below the speed limit sign to hopefully get peoples attention similar to the radar thing. I think David's point is well taken about the location of the crosswalk relative to the bottom of the bridge and maybe we should just look at the area and see if we can better engineer as far as the relocation of the crosswalk in connection with a sign or anything else.

Mr. Glasser stated the thing to me is if you are walking out of the water park you have all the green hedging and all the open gravel parking on the left hand side. I know the right hand side is an existing parking area. Before the water park you really should have the cars park on the side of the water park where there is that open field at the moment so that people don't have to cross roads.

Mr. Beekman stated that is not a CDD issue, parking for the water park, we can't control that.

Mr. Glasser stated I'm raising it because the problem is crossing the road, that is where the problem is.

Mr. Burman asked do we have cars or motorists driving too fast or do we have kids not obeying crosswalk signals?

A resident stated it is a speed issue, you come off that bridge and it is almost a natural thing that you are going fast.

Mr. Glasser stated there was someone out there with a radar gun yesterday afternoon at 5:00 p.m. and I don't know what the result of that was.

Mr. Burman stated you might be able to convince the sheriff's office to come down and put a flashing light up.

A resident stated what I don't understand is if you drive through Celebration they have traffic control signs everywhere. Why can't we get one?

A resident stated I think they justified theirs from the standpoint that the entrance of Celebration is basically a commercial area with a speed limit of 35 mph or 40 mph and when you enter Celebration you immediately drop down to 25 mph. They are basically telling you to slow down you are going to get a ticket.

Mr. Little stated we are district counsel for Celebration as well and the main reason they have a lot of these types of interactions with law enforcement is because they have a relationship with them and they have a relationship with the county commissioners as well. I think votes speak, individual residents speak, there is power there among the residents in this community. It does work. They have a relationship there with the sheriff's department and that makes a difference.

A resident stated one of the things I was working with George Flint and our security people here I was very much interested in a punch clock system where security patrols getting out of their cars to go into the CDD facilities for example, punch in making sure they were walking around the premises and so forth. It turns out that they were, they have a wand system and I guess that answers that they go there and we were glad to hear that from Darrel that is how he gets his guys to get of the car and walk into those facilities on a periodic basis and check in.

I also want to thank Alan for responding to a lot of our issues regarding the bathrooms, the exercise room the carpeting in there was really bad and they painted the walls and so forth and it looks really good and I appreciate the response from Alan on those issues. The sidewalks have been fixed so that is good.

#### **SIXTH ORDER OF BUSINESS**

#### **Other Business**

There not being any, the next item followed.

#### **SEVENTH ORDER OF BUSINESS**

#### **Supervisor's Requests**

There not being any, the next item followed.

#### **EIGHTH ORDER OF BUSINESS**

#### **Audience Comments**

A resident stated I want to ask a question about something I heard earlier that caused me some concern. You mentioned that we missed a bond payment. I wanted to ask how much was that payment and are we planning to make it in the future?

Mr. Little responded the reason it was missed was because of the unpaid assessments hence the foreclosure. When we don't get the assessments paid to the District we can't make the bond payment. It is not news it is something that happened a year ago it is what triggered all of this litigation and foreclosure trying to collect those assessments to make the bond payments.

A resident asked have we made a bond payment since?

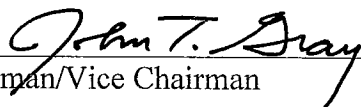
Mr. Little responded no we are still not collecting assessments but this is not news, the bondholders have been involved in this process the entire time. It is not like your mortgage company who will swoop in one day if you are not paying your mortgage and initiate foreclosure, we are working with the bondholders and they are in fact paying the costs of the litigation for the foreclosure because they are interested in protecting their investment. It is all part of the process. Originally, that was triggered by a lack of assessment payments from landowners is why we couldn't pay the bondholders and that is why we are in the situation we are in now.

A resident asked so basically because we cannot meet the total obligation of the payment we made no payment at all?

Mr. Little responded we can collect a certain amount of debt service but you can't make full payment so there is still debt service being paid to the bondholders that we collect from people who are paying their assessments.

On MOTION by Mr. Pawlikowski seconded by Mr. Beekman with all in favor the meeting adjourned at 3:20 p.m.

  
Secretary/Assistant Secretary

  
Chairman/Vice Chairman