

**MINUTES OF MEETING
HERITAGE HARBOR
COMMUNITY DEVELOPMENT DISTRICT**

The regular meeting of the Board of Supervisors of the Heritage Harbor Community Development District was held Thursday, September 21, 2017 at approximately 6:30 p.m. at the Heritage Harbor Clubhouse; 19502 Heritage Harbor Parkway, Lutz, Florida.

Present and constituting a quorum were:

David Penzer	Chairman
Russ Rossi (Temporarily via phone)	Vice Chairman
Shelly Grandon	Assistant Secretary
Patrick Giambelluca	Assistant Secretary
Clint Swigart	Assistant Secretary

Also present were:

Andy Mendenhall	District Manager
Tracy Robin	District Counsel
Lynn Jackson	Severn Trent

Residents

The following is a summary of the discussions and actions taken at the September 21, 2017 Heritage Harbor Board of Supervisors meeting

FIRST ORDER OF BUSINESS

Roll Call

Mr. Penzer called the meeting to order and roll was called.

SECOND ORDER OF BUSINESS

Audience Comments

None.

THIRD ORDER OF BUSINESS

Approval of the Minutes of the August 23, 2017 Meeting

A correction to the minutes was requested; the motion to approve the July 20th minutes was made by Mr. Giambelluca. The minutes will be amended.

On MOTION by Mr. Giambelluca seconded by Ms. Grandon with all in favor, the minutes of the August 23, 2017 meeting were approved as amended.
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FOURTH ORDER OF BUSINESS

Approval of Financial Statements

Mr. Robin suggested waiting for Mr. Rossi to arrive at the meeting to further discuss the financials and agenda item 20, Discussion of Strategic Plan for Golf.

On MOTION by Mr. Penzer seconded by Mr. Swigart with all in favor the financial statements were accepted.

FIFTH ORDER OF BUSINESS

Staff Reports

A. Golf Course

Ms. Jackson indicated Jim Poertner could not attend today's meeting. He wanted to let the Board know that the groups have enjoyed the greens for many years and they asked to not change anything that is being done. He will be using \$3,000 to over-see the greens as soon as possible.

Ms. Jackson also reported John Panno could not attend this meeting and he will be on vacation next week.

SIXTH ORDER OF BUSINESS

Attorney's Report

Mr. Robin noted he distributed an email to the Board earlier regarding the Lim case which included his recommendation to the Board. The email was from an attorney representing several Heritage Harbor residents.

A copy of the email/letter mentioned above will be attached to the final minutes of this meeting.

SEVENTH ORDER OF BUSINESS

Engineer's Report

None.

EIGHTH ORDER OF BUSINESS

District Manager's Report

Mr. Mendenhall reported the Board's approval of using Fifth Third Bank as the local bank for doing deposits has been completed.

The record will reflect Mr. Rossi joined the meeting.

NINTH ORDER OF BUSINESS

Operation Report

None.

TENTH ORDER OF BUSINESS

Discussion of Strategic Plan for the Golf Course

Mr. Robin suggested having this follow-up discussion to support the previous discussion on this item.

Mr. Rossi re-discussed the proposed Golf Course Business Plan he prepared and presented at the last meeting.

As part of the discussion Mr. Swigart noted he has lost interest in forming a financial committee for now. He feels comfortable with communicating a plan, but doesn't feel comfortable with bringing a formal committee together at this time.

Mr. Robin discussed conversations he had with Mr. Wendell Gaertner regarding managing the golf course in terms of improvements.

The Reserve Study was discussed.

Mr. Rossi noted he has information together and will meet with Mr. Mendenhall and others regarding the Reserve Study.

Ms. Grandon stated the weeds are a problem on the golf course, they have been a problem on the golf course for months and this needs to be addressed now.

Mr. Poertner will need to develop a plan on what he needs and can do right now and present an image on how the expense can be balanced out during the rest of the year.

A discussion ensued regarding preparing options for use by Mr. Gaertner of PRAG as he prepares funding presentations for the Board.

A discussion ensued regarding the RFP for management services.

Mr. Robin noted his recollection is that after looking at five proposals the Board short-listed three companies, Severn Trent, DPFPG and Rizzetta. There is no need for Severn Trent to make a presentation. The property manager from each short-listed company should also attend the meeting that is scheduled for the management company presentations.

The record will reflect Mr. Penzer left the meeting and Mr. Rossi took over as Acting Chairman.

The Board consented to schedule a meeting for Monday, October 2, 2017 at 6:30 P.M.

Mr. Rossi noted his preference is to have October 2nd as a follow up to the whole business plan and the meeting on October 19th be dedicated to the management presentations and other business plan follow-up including Mr. Wendell Gaertner's presentation. The time for the presentations will be coordinated by Mr. Robin.

ELEVENTH ORDER OF BUSINESS

Supervisor Requests

Mr. Giambelluca reported he had TECO come out and fix area lights and had them fix a street light near the main entrance. He also had public works come out and fill in the pot holes on Heritage Harbor Parkway.

TWELFTH ORDER OF BUSINESS

Audience Comments

An audience member expressed her opinion on how the district's budget is displayed.

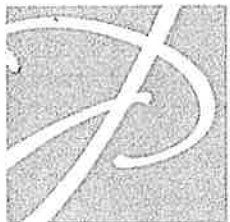
THIRTEENTH ORDER OF BUSINESS

Adjournment

On MOTION by Ms. Grandon seconded by Mr. Rossi with all in favor the meeting was adjourned.



David Penzer
Chairman



**JOHNSON
POPE
BOKOR
RUPPEL &
BURNS, LLP**

COUNSELORS AT LAW

TAMPA ■ CLEARWATER ■ ST. PETERSBURG

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FILE NO. 001086

August 14, 2017

Via Email and Certified Mail, Return Receipt Requested

Tracy J. Robin, Esq.
Straley Robin Vericker, P.A.
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trobin@srwlegal.com

**Re: Heritage Harbor Community Development District (“CDD”)
Demand for Directors’ and Officers’ Insurance Policy
Notice of Formal Protest for Special Assessments Dated July 27, 2017**

Dear Mr. Robin:

Please be advised that our law firm is counsel to several homeowners, including, but not limited to: Glenn G. and Rosemary Perry (Strap # 1827040H9000022000170U), Henry and Joanna Stormski (Strap # 1827040H8000011000100U), Damienti Mistry (Strap # 1827045NQ00003000200U), Douglas and Mi Sook Gregg (PIN U-04-27-18-0H8-000009-00002.0), Atharali M. Shaikh and Angelina E. Lim (Strap # 1822740H800009000010U), David J. and Dayle M. Crawford (PIN U-04-27-18-5TO-000011-00016.0), Teresa St. Pierre (PIN U-04-27-18-0H8-000007-00004.0) and Richard Parker, Jr. (PIN U-04-27-18-0H8-000013-00001.0). This letter is written on their behalf and others who are similarly situated.

This letter gives formal notice to the CDD Board that the residents intend to make a claim against the CDD’s D & O insurance and hereby demand a copy of the CDD’s insurance policy (and any other applicable management policy issued to the CDD wherein the CDD, its affiliates or any of its officers, directors or employees are insured), pursuant to § 627.4137, *Florida Statutes*. We demand that the CDD notify any and all of its insurance carriers of this claim. This letter also serves as a formal protest against the increase in special assessments, which are caused by the wrongful acts of the CDD Board and its agents. The CDD Board breached its fiduciary duties in numerous ways.

The CDD Board made “loans” from the residents’ General Revenue Fund to the “Enterprise Fund” to fund payments owed on the unsecured Recreational Revenue Bond that are not authorized under Florida. The Recreational Revenue Bonds are only secured by the revenues from the golf course and are NOT the responsibility of the residents. The CDD



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unlawfully made the residents responsible for paying the Recreational Revenue Bond without their votes and consent. Currently, the CDD Board is wrongfully attempting to raise all or most of the Special Assessments to make up for the \$250,000 depletion of the General Revenue Bond. These acts are in violation of Fla. Stat. § 190.016. Further, this recent proposed increase is also misleading to the residents because the CDD does not explain the connection between the depletion of the \$250,000 to pay the Recreational Revenue Bond and the reason for this thirty-five percent (35%) increase.

The CCD Board members permitted the accounting and the bank accounts of the golf course operations to be comingled with the general operations of the CDD. That comingling obscured the negative golf course operating trends and financials. The Board failed to timely obtain separate financial information from the golf course operations to detect and address the severe downward trend of the golf course operations. It took months to obtain the requisite financial information on the golf course operations and they were produced only within a week or so before the meeting held on April 20, 2017. A former CDD Board member asked for these financials in October 2016 or earlier. Other than the one former member of the Board, no other CDD Board member sought the relevant financial information. The CDD Board remained ignorant or indifferent to the situation. The CDD failed to supervise Severn Trent, the manager of the golf course, to provide timely and accurate financials pertaining to the golf course. Because of its failure to supervise Severn Trent or to otherwise require proper management of the golf course and the restaurant, the golf course’s financial performance has declined steadily. Apparently, the CDD has loaned money from the General Bond Fund (the CDD had no authority to make loans) to the unsecured Revenue/Enterprise Bond Fund to cover its failure to manage this situation.

Severn Trent informed the CDD Board in June 2016 that there were ample funds in the General Revenue Fund to create a dog park when, in reality, the General Revenue Fund was insufficient to maintain an adequate reserve and pay the Recreational Revenue Bond debt that the CDD Board voted to pay without legal authority. The dog park is incomplete and cost the residents \$35,000. The CDD is now attempting to raise the residents’ special assessments by thirty-five percent (35%) to cover the insufficiencies in the General Revenue Fund caused by its failure to supervise Severn Trent and its unlawful loans to pay the Revenue Bond obligations.

The CDD Board has failed to negotiate with the holders of the unsecured Revenue Bond. The CDD’s professionals, including its manager, could not even identify the two institutional bondholders (Wells Fargo, as Trustee, and Investco, a mutual fund) when asked. A former CDD Board member, however, easily got that information. The CDD Board’s failure to negotiate a resolution of the Revenue Bond’s failure to pay the institutional bondholders is a clear dereliction of its duties. Why the Board chose to prefer the interests of the bondholders over the interests of residents of the CDD is baffling.



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The CDD Board has failed to adopt any plans to stem the losses from the golf course operations. The Board has not considered retaining any professional managers or the sale of the golf course. In part, it is because the CDD Board members are aware that these companies would need the lease of the restaurant facility as well. The CDD recently renewed the lease for another three years, without regard to the golf course operations. That lease transfer the lucrative golf cart business and revenues to the restaurant lessee despite the financial need of the golf course.

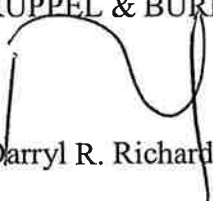
There have been allegations that the members of the CDD Board who are also members of the HOA have broken the sunshine laws by discussing amongst themselves CDD business without disclosure of these communications to the public. These communications specifically relate to the golf course issues for which the HOA has no legal involvement and responsibilities.

In light of the above, we demand that the CDD and its agents preserve all CDD reports, documents, communications, including emails, texts between members of the CDD, communications between a CDD Board member and any of the CDD's agents or employees. Agents would include, but are not limited to, communications with the golf course employees, the restaurant lessee, and employees of Severn Trent. We also demand that all communications, including e-mails, texts, and social media posts between members of the board of the HOA who are also CDD Board members be preserved as it has been alleged that these CDD Board members have illegally been communicating secretly regarding CDD business under the guise of the HOA, circumventing the Florida sunshine laws.

If you have any questions regarding the foregoing, please do not hesitate to contact our office. Please provide the requested insurance information to me at my Tampa address above. Thank you.

Sincerely,

JOHNSON, POPE, BOKOR,
RUPPEL & BURNS, LLP



Darryl R. Richards

DRR/gb

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