

**MINUTES OF MEETING
RIVER HALL
COMMUNITY DEVELOPMENT DISTRICT**

A Regular Meeting of the Board of Supervisors of the River Hall Community Development District was held on Thursday, July 5, 2018, at 3:30 p.m., at the River Hall Town Hall Center, 3089 River Hall Parkway, Alva, Florida 33920.

Present were:

Michael Morash	Chair
Paul D. Asfour	Vice Chair
Joseph E. Metcalfe, III	Assistant Secretary
Joseph Lundquist (<i>via telephone</i>)	Assistant Secretary
Ken Mitchell	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant Regional Manager
Jason Olson	Assistant Regional Manager
Daniel H. Cox (<i>via telephone</i>)	District Counsel
Richard Lewis	Resident
Leon Herring	Resident
Rob Stark	Resident
Paul Carapella	Resident
Jacklyn Peterbolt	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 3:30 p.m. Supervisors Morash, Asfour, Metcalfe and Mitchell were present, in person. Supervisor Lundquist was attending via telephone.

On MOTION by Mr. Asfour and seconded by Mr. Metcalfe, with all in favor, authorizing Mr. Lundquist's attendance and full participation, via telephone, due to exceptional circumstances, was approved.

SECOND ORDER OF BUSINESS

Public Comments (3 minutes per speaker)

There being no public comments, the next item followed.

THIRD ORDER OF BUSINESS

Update: Additional West Turn Lane at River Hall Parkway and SR 80 Intersection

Mr. Adams stated that, regarding an additional west turn lane at the River Hall Parkway and SR 80 intersection, a re-submittal to the Florida Department of Transportation (FDOT) is scheduled to go out this week, in response to a request for additional information.

FOURTH ORDER OF BUSINESS

Update/Discussion: Perimeter Access Control Initiatives

Mr. Adams stated that the permit application submitted by Carter Fence (CF) for the new fence and relocation of the existing gate was still under review by Lee County and awaiting approval and comments. The start date is pending, receipt of the permit.

******Mr. Cox joined the meeting, via telephone.******

FIFTH ORDER OF BUSINESS

Update/Discussion: SR 80 Waterline Drainage Issue

Mr. Adams stated that feedback from the County regarding the SR 80 Waterline drainage issue was pending and Mr. Brian DeBoy, of FDOT, indicated that he is still developing the scope of work for the repairs.

SIXTH ORDER OF BUSINESS

Update/Discussion: Encroachment on CDD Property (FPL Easement)

Mr. Cox stated that an ejectment complaint was prepared and a copy of the draft letter, addressed to the encroacher, was provided to Mr. Adams. If the litigation goes to court, the Board can expect that the Court would allow the CDD to remove the fence, with no obligation to replace it; however, if the Board is willing to offer to replace the fence, it may prove cost-effective, in the long run. It would cost approximately \$2,000 to replace the fence versus the cost of litigation, leaving the encroacher with the obligation to place it; therefore, Mr. Cox is recommending avoiding litigation and the cost of replacement. If the Board wants to make the offer, it could be arranged and opting to replace the fence also benefits the CDD in securing its

border. In response to Mr. Lundquist's question regarding the litigation costs, regardless of the outcome, Mr. Cox stated that the cost would range between \$2,000 and \$3,000 and the result will still be that the Board has the right to remove what is on CDD property. Discussion ensued regarding the cows, fence, easement, property line and encroacher's obligations. In response to whether District Counsel forwarded a letter stating the cost, Mr. Cox replied no but he set up a drop box to share and evaluate documents with Management and develop a strategy to go forward; he was willing to modify the letter. Mr. Adams has yet to access the letter. Mr. Cox stated that he attached a courtesy copy of the complaint to the letter, along with public record documents depicting ownership of property, an exhibit that Mr. Krebs prepared showing that the fence is located squarely on CDD property, the CDD has the right to ask for the fence to be removed from its property and that the CDD is asking the encroacher to pay for removal, plus the cost of the action, minus the legal fees. Mr. Cox stated that, although the CDD is within its rights to remove the fence, he is not in favor of self-help and would like a Court to rule in the CDD's favor. Whether the fence is reinstalled by the CDD or the encroacher, the District will expend funds to secure the area. A Board Member asked if the encroacher can argue that the fence has been there so long that he has the right to keep it there. Mr. Cox replied affirmatively; the encroacher could argue that but he would lose and it would still be costly for the CDD, in that the Court will grant the CDD an order that will eject the property owner from any occupation of CDD property, which means the CDD can remove the fence. The options are for the CDD to spend between \$3,500 to \$4,000 to bring the case before a judge, or spend as little as \$700 to file it. If the encroacher fails to answer and the CDD gets a default, it must still remove the fence and build a barrier, so it is best to offer to move the fence to the resident's property line and, instead of expending funds on litigation, it would be best to expend funds on fence movement. Discussion ensued regarding securing the boundary, trespassers and splitting the cost with the encroacher. Mr. Lundquist felt that the CDD should offer to put the fence on its property and take ownership of it; the District should pay for it and get it done.

Mr. Asfour inquired about the exact location of the fence and how the CDD would recoup funds from the encroacher. Mr. Cox stated that the fence should be installed on CDD property and the CDD must maintain it. Mr. Adams stated that the CDD would obtain proposals and receive the encroacher's portion and then proceed with installation. Mr. Cox stated the draft letter demands an answer by July 15 and, if one is not received by July 16, the complaint

would be filed; it is a matter that can easily be handled by summary judgment before a judge but the matter will not go away. The facts are clear; the property owner owns to the center line north, the CDD owns to the center line south, there is an encroachment onto CDD property and the encroacher has not done what is necessary to claim adverse possession; the facts are all laid out in the complaint. Mr. Cox stated that the CDD will win whether by default or by summary judgment and asked that the motion be restated. Mr. Cox would structure the agreement to state that the resident will pay half and if he does not, the CDD has a contract to take action against him.

On MOTION by Mr. Metcalfe and seconded by Mr. Asfour, with all in favor, the CDD and the encroacher splitting the costs to remove and install a new fence on the CDD side of the property line and, if the encroacher fails to pay half, the CDD would take legal action, was approved.

SEVENTH ORDER OF BUSINESS

Update: Lake 3-5D Erosion Remediation

Mrs. Adams provided the following update:

- GulfScapes inspected the lake banks on June 18 to make the necessary repairs to the three addresses, previously discussed.
- Management noted that the restoration repairs were compromised and the contractor will re-address the issue at no charge to the District.
- Per Mr. Lundquist’s request, Staff inspected Earl Moore’s property and two areas will require erosion repairs as well.
- Staff is examining other areas on the golf course side and will have updated information on them by the end of the day tomorrow.
- Littoral plantings are on hold until the lake banks have been stabilized.
- Once stabilized, the plantings will be installed all around the pond’s perimeter, with the exception of the required erosion repairs of those residents who refused to comply.

In response to Mr. Asfour’s question, Mrs. Adams stated that Mr. Moore has not repaired his property. A Board Member stated that there is severe erosion behind a neighbor’s residence and asked Mrs. Adams to inspect the area when she revisits the lake with the contractor. Mrs. Adams replied affirmatively. In response to a question, Mr. Adams stated

that, due to recent changes, GulfScapes fell short on stabilizing the lake and the errors nullified all the prior lakeside work; GulfScapes must restore all of that area at no additional charge to residents or the CDD. Mr. Asfour inquired about recourse, if property owners do not repair their properties. Mr. Adams stated those properties would remain as is, for now; it does not make sense to restore the lake bank side until how the water is entering the lake is addressed.

EIGHTH ORDER OF BUSINESS

Consideration of Resolution 2018-4, Adopting the Annual Meeting Schedule for Fiscal Year 2018/2019

Mr. Adams presented Resolution 2018-4. The schedule is essentially the same as the past, with meetings on the first Thursday of each month. The only change from last year was scheduling the July meeting on the second Thursday to avoid a conflict with the Fourth of July.

On MOTION by Mr. Asfour and seconded by Mr. Metcalfe, with all in favor, Resolution 2018-4, Adopting the Annual Meeting Schedule for Fiscal Year 2018/2019, was adopted.

NINTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of May 31, 2018

Mr. Adams presented the Unaudited Financial Statements as of May 31, 2018. On-roll assessment revenue collections were at 98%. The financials were accepted.

TENTH ORDER OF BUSINESS

Approval of June 7, 2018 Regular Meeting Minutes

Mr. Adams presented the June 7, 2018 Regular Meeting Minutes and asked for any additions, deletions or corrections. The following changes were made:

Lines 56 and 57: Change "Deputy Duncan, of the County Sherriff's Office" to "Mr. Solon Duncan, from the County Sherriff's Office and a resident,"

On MOTION by Mr. Mitchell and seconded by Mr. Asfour, with all in favor, the June 7, 2018 Regular Meeting Minutes, as amended, were approved.

Staff Reports

A. District Counsel: *Daniel H. Cox, P.A.*

There being no report, the next item followed.

B. District Engineer: *Hole Montes*

Mr. Adams provided the following report, on Mr. Krebs' behalf:

➤ Mr. Krebs submitted the LDO to Lee County for the bike lane and signage adjustments to improve the safety of how the bike lane comes across the intersection with Hampton Lakes, as the two lanes merge into one lane; a sketch was included.

➤ Mr. Krebs modified a separate wetland preserve exhibit, along with the lake exhibit, and incorporated the Cascades' lakes and preserves as CDD-maintained areas. The exhibits will be attached to the Request for Proposals (RFP) for lake and wetland maintenance and mailed within the next few days.

In response to a Board Member's question regarding copies, Mr. Adams stated that Mr. Krebs shared a drop box link that can be forwarded to Board Members directly. Mr. Adams would forward the link.

C. District Manager: *Wrathell, Hunt and Associates, LLC*

Mr. Adams reported that an individual filed a few complaints against companies and CDDs, regarding Americans with Disabilities Act (ADA) compliance for websites. Most of the complaints on the private sector side were settled and the focus has now pivoted to the governmental side. The complaints state that the CDDs are not providing access for the visually-impaired. To rectify the issue, Management's staff is undergoing training and making sure documents are formatted correctly before posting them on CDD websites, going forward. No monetary settlements are being sought; just injunctive relief, meaning correcting the website and paying the attorney's costs for filing the complaints.

i. Consideration of ADA Site Compliance Proposal for Website Compliance Shield, Accessibility Policy and One (1) Annual Technological Audit

Mr. Adams stated that Management engaged ADA Site Compliance (ADASC), who will charge \$200 annually to review, evaluate and render the CDD's website ADA-compliant. A certificate of compliance would be placed on the homepage.

Mr. Cox stated the cost of litigating an ADA complaint may be covered by the CDD's insurance carrier but not the cost of remediation, which can be costly. As the Board plans its

budget, it should consider setting aside funds in case an ADA lawsuit is filed against the District. In response to Mr. Asfour's question regarding a motion to dismiss, Mr. Adams stated that the Department of Justice has not officially adopted any ADA compliance policies to provide guidance to governmental entities; the courts have made judgments based upon technical assistance materials (TAMS) and not based on a law or policy. The documents on the website and videos must be accessible to the visually impaired. Discussion ensued regarding the CDDs that were sued, the results of the motion to dismiss filings and what District Staff is doing to make websites ADA-compliant. Mr. Cox stated that the Florida Association of Special Districts (FASD) produced a list of recommendations that certain cities and counties have adopted, all the policy that should be adopted is advisable and should be considered. Mr. Asfour asked if Mr. Cox must draft the policy. Mr. Cox stated that involves advertisements, a public hearing and adoption but, as long as the CDD's website is compliant right now, he is satisfied. He recommended adopting and implementing because it will provide additional protections. The Board should adopt a formal policy, by rule, which deals with the evaluation, audit and continued compliance, in order to avoid a lawsuit. Mr. Morash asked for a rule to be presented at the next meeting. In response to Mr. Lundquist's question regarding accelerating the process, Mr. Adams stated Mr. Cox is comfortable with Management's approach addressing the issue, that it has been quick to react and is currently establishing permanent maintenance.

ii. **NEXT MEETING DATE: August 2, 2018 at 3:30 P.M.**

The next meeting was scheduled for August 5, 2018 at 3:30 p.m., at this location, not August 2.

▪ **Operations Manager: *Wrathell, Hunt and Associates, LLC***

*****This items was an addition to the agenda.*****

Mrs. Adams stated reported the following:

- The Hog Contractor recently inspected the facilities, discovered four or five hogs and traps will be set tonight. There has been no hog damage in the past few weeks because the contractor has been feeding them very well.
- A second alligator was reported at last month's meeting; animal control was contacted.
- Pipe cleaning is scheduled to commence on August 6.
- The flower rotation was scheduled for the end of July but they look so good now, so she would hold off and revisit that at a later date.

➤ The RFP results for the lake and wetland management contract, including the Cascades, will not be available by the August meeting. Mrs. Adams is still finalizing all the steps and does not want to rush it. It could be approved at the September meeting for an October 1 start date.

Mr. Adams stated that he contacted Mr. Ron Boyles regarding receiving advance notice of big events that could potentially overflow onto the Parkway and asked him to keep the CDD informed so that events can be monitored. Additional parking will be provided and the lines of communication are open for August.

TWELFTH ORDER OF BUSINESS

Public Comments: Non-Agenda Items (3 minutes per speaker)

Mr. Paul Carapella, a resident, stated that the pond behind his residence seems to need grading, it is not maintainable; it is difficult to mow. A berm comes up in the back of the lot; there is a slope from the pond and at the bottom of the slope, a pipe goes to the next pond. He was unsure if the pond was not constructed properly but would like to have something done to it. Mr. Adams would inspect the area in question and took Mr. Carapella’s address.

Ms. Jacklyn Peterbolt, a resident, stated that she submitted a fence application over a month ago and has not heard back and expressed concern about the parking and speeders. Mr. Adams stated that she should appeal to the HOA.

Mr. Leon Herring, a resident, felt that “Members Only” or “No Trespassing” signs should be posted in the community because of the several extra golf carts about and bicyclists gaining entry into the community and the guards were ineffective. Mr. Asfour stated that he conferred with HOA representatives regarding installing “Residents Only” signs on the Country Club side of the guard house, on both sides but, so far, received no response. Discussion ensued regarding HOA responsibility, signage and security issues.

THIRTEENTH ORDER OF BUSINESS

Supervisors’ Comments/Requests

Mr. Mitchell voiced his concern regarding the alligators in the lakes and asked if the Board should take more initiative to inform people to stay away from the lakes. Mr. Adams stated that the CDD had no duty to provide any alligator signage, per the District’s insurance carrier. In response to a Board Member’s question, Mr. Adams stated that circulating a courtesy mailing regarding the alligators must be done in conjunction with the HOA because

the CDD does not keep an email database because they would need to be public records. A Board Member stated that the problem is that the HOA does not respond to residents. Mr. Adams was asked email a request to the HOA, on behalf of the Board, requesting that the HOA issue an advisory regarding the alligators.

Mr. Metcalfe received a notice that Portico will soon ask for a zoning change and will propose 1,600 new dwelling units; it is currently at 1,178. Although the Board has no control over zoning, it should follow up on the water coming in, as he thought this would have impact on the amount of runoff the CDD receives. He wanted to alert Mr. Krebs that they are changing the zoning, which might affect the studies that were done for the water drainage. Mr. Adams stated that Mr. Krebs found that there is a perimeter berm requirement that keeps their flow within the Portico boundaries. Mr. Adams will forward the notice to Mr. Krebs.

Mr. Asfour congratulated Mr. Metcalfe, who was re-elected to the Board, and Mr. Robert Starck, who will be replacing Mr. Lundquist in November.

Regarding the August meeting, it was determined that a quorum could be met on Thursday, August 23.

On MOTION by Mr. Asfour and seconded by Mr. Mitchell, with all in favor, rescheduling the August Regular Meeting and Budget Public hearing from August 5 to August 23, 2018 at 3:30 p.m., at this location, was approved.

FOURTEENTH ORDER OF BUSINESS

Adjournment

There being no further business to discuss, the meeting adjourned.

On MOTION by Mr. Asfour and seconded by Mr. Mitchell, with all in favor, the meeting adjourned at 5:02 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair