

MINUTES OF MEETING  
DEER RUN COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Deer Run Community Development District was held Wednesday, August 28, 2019 at 6:05 p.m. at the Holiday Inn Express & Suites Palm Coast, 200 Flagler Plaza Drive, Palm Coast, Florida.

Present and constituting a quorum were:

Mark Dearing	Vice Chairman
James Teagle	Assistant Secretary
Jan Doan	Assistant Secretary

Also present were:

Ernesto Torres	District Manager
Sarah Warren	District Counsel
Rey Malave	District Engineer
William Viasalyers	Field Manager
Brian Stephens	Riverside Management
Jerry Lambert	Operational Manager
Robin Tyler	Facilities Manager
Heather Elliot	Vesta
Dan Fagen	Vesta
Several Residents	

**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. Torres called the meeting to order.

**SECOND ORDER OF BUSINESS**

**Public Comment Period**

Ms. Lambert stated I want to address the amenity rules and policies. No alcohol is allowed for instance private events we need a licensed bartender to be able to have alcohol. I think in our own community we should be able to bring our own beer and wine. Is that a possibility?

Ms. Warren stated typically that is something that our insurance carrier requires for liability coverage. It is because they are public recreational facilities maintained by a public entity so the coverage they require can be different than they require for private entities.

Ms. Golden stated the fee to rent the facilities was proposed at \$250.

Mr. Torres stated it is a range from 0 to \$250. If you have a range in mind you would like to propose you can do that.

Ms. Golden stated \$100 seems reasonable as we are already paying for it but \$250 seems very high based on developments I have lived in before for use of facilities like that. Regarding the irrigation system, mine is not working and I have been told it is because of low pressure from the system. Is that going to be addressed tonight?

Mr. Viasalyers stated I will get with our landscaper. The low water pressure will be addressed.

Mr. Teagle stated it is a City of Bunnell issue and the lines coming to the community are old so Horton has talked to the people at the city and the city recognizes the problem but they don't have the money to fix it so Horton is going to be undertaking the fix to run new water lines through the community. It will be addressed at Horton's expense.

Mr. Malave stated we use recycled water that the city supplies our system.

A resident stated I have a concern about the amenity center being open without supervision. I don't think it is anybody in this room's responsibility to police it and enforce rules and confront someone when something occurs and I think you should reconsider having a fulltime staff whenever that amenity center is open. To not do so opens us to liability as homeowners and residents.

A resident asked how much extra would that run?

Mr. Torres stated that is on the agenda to approve a fulltime amenity position along with part time staffing. Their hours can vary and we can discuss that at that point and hopefully you will be pleased with what you hear. We have budgeted to award a company with a fulltime service.

Ms. Lambert stated going back to the rental, would a community club be subject to that rental?

Mr. Torres stated the meeting room is appropriate for something like that and we talked about having no charge for that use as long as it is a resident and doesn't conflict with any other schedule.

Mr. Day asked why are we paying for the use of that center when we are already paying for the use of that center?

Mr. Torres stated usually there is cleaning and staffing that has to stay to accommodate and that is not part of their scope of work.

Ms. Warren stated the rental fee collected is used to offset the ongoing operation and maintenance of the facilities over the course of their lifetime.

A resident asked are we as tenants liable for any injuries that happen at the amenity center? I read where the Board is not liable, but it did not say if the tenants were liable for injuries sustained. If my neighbor is injured at the amenity am I liable for that?

Ms. Warren stated generally speaking if your neighbor is injured and it is completely unrelated to you being at the facility or using it, then no. I can't tell you that the District or POA isn't going to be sued I have no control over who is included in a claim. The District has liability insurance, we have sovereign immunity as a governmental entity so there is protection in place.

A resident stated in your rules and policies for the amenity center it states the Board will not be held liable. There is nothing in there that states the tenants will not be held liable.

Ms. Warren stated the District is the entity that is responsible for operating the facilities that is the reason that is in there.

**THIRD ORDER OF BUSINESS**

**Approval of the Minutes of the May 23, 2019 Meeting**

On MOTION by Mr. Doan seconded by Mr. Teagle with all in favor the minutes of the May 23, 2019 meeting were approved, as presented.

**FOURTH ORDER OF BUSINESS**

**Review and Acceptance of Fiscal Year 2018 Audit Report**

Mr. Torres stated the audit is a 35-page report from Berger, Toombs, Elam, Gaines & Frank, the District's auditor, providing the results of the independent audit for year ending September 30, 2018. The report provides an overview of the financial statements and on page 33

reminds us of the state of the District in 2017, stating the District is working directly with the trustee and bondholders to resolve all financial issues. However, our current status states, this finding has been corrected as of September 30, 2018. It is the auditor’s opinion that Deer Run CDD complied in all material respects with the foregoing requirements during the year ended September 30, 2018. It is a clean audit.

On MOTION by Mr. Teagle seconded by Mr. Doan with all in favor the Fiscal Year 2018 Audit report was accepted.

**FIFTH ORDER OF BUSINESS**

**Acceptance of Audit Committee Recommendation and Selection of #1 Ranked Firm to Provide Auditing Services for Fiscal Year 2019**

Mr. Torres stated next is acceptance and of the Audit Committee’s recommendation and selection of the no. 1 ranked firm.

On MOTION by Mr. Teagle seconded by Mr. Doan with all in favor the recommendation of the Audit Selection Committee of Berger, Toombs, Elam, Gaines & Frank as the no. 1 ranked firm was accepted.

**SIXTH ORDER OF BUSINESS**

**Public Hearing**

Mr. Torres stated this is a public hearing on the budget for Fiscal Year 2020. There is an increase from last year, the total O&M revenues in 2019 was \$282,634 to operate the District. That is separate from the debt assessment. In Fiscal Year 2020 when we start funding operation of the amenity center the budget totals \$264,150 so there is a \$571,620 total budget for operations and maintenance. There are other differences under the maintenance line we have an increase of \$33,136 and that is for utilities and landscaping issues. Having the amenity center and the amount of residents we have currently and for the future this is on the low end. In opening the amenity center there are a lot of things we did not have in prior years and it is quite an increase.

On MOTION by Mr. Doan seconded by Mr. Teagle with all in favor the public hearing was opened.

Mr. D'azzo asked is it possible to put a cap on the yearly increases? I'm concerned if you come up with a \$600 or \$700 increase in two years.

Ms. Warren stated we typically don't put caps in place. You can't anticipate from year to year what may come up. This District has changed dramatically from last year to this year, you have a number of services that have come online that weren't previously being funded. What we find is over the course of the District lifetime this will level out and become more consistent. We will have some years of history to know how much it typically costs to maintain all the lakes; how much it costs to provide all the services that you would like to see at the amenity center, so they typically level off. What you are seeing this year has to do with how drastically the District changed.

Mr. Scott asked how many of these amenity centers have you made budgets for the first year of operations, 40, 50?

Mr. Torres stated in rough numbers, yes.

Mr. Scott stated you are very confident that is what it is actually going to cost to run our amenity center. All the line item numbers appear to be in line with what I expected. You are pretty confident that \$265,000 a year is about what it is going to cost us to run this place every year provided we don't add something new or make a capital investment?

Mr. Torres stated provided that the lines remain where they are today, we are very close in our estimate.

Mr. Scott stated I feel confident that we are not looking at a \$200,000 increase next year or the year after that. This is about what it is going to cost to run this place. The reason our expenses are going up is solely because each year we have to assume the cost of running the amenity center. I think what everybody here is concerned about is when we get our letter next year we are going to see another \$300 increase in our annual assessment. Can you say to us with confidence that is not likely to happen?

Mr. Torres stated absolutely, it will not happen next year.

Mr. Scott stated you were 3% under budget in 2019 and when you add unbudgeted expenses for the amenity center you are over budget about 18%. Was the \$53,000 from the developer given to us to offset the unexpected cost of the amenity center?

Ms. Warren responded yes, we had a deficit funding agreement in place with the developer knowing that there were going to be different services coming online at different

stages throughout the year and rather than increasing a large amount last year before we really knew, the developer agreed to cover overages.

Mr. Scott stated Horton has essentially paid the cost of opening the amenity center this year and getting it set up and next year it is on us. Next year it is going to cost \$264,000 and you would anticipate in future years you are going to see a 4%, 5% or 6% increase in that expense, which would be customary for amenity centers like this one?

Mr. Torres responded yes.

Mr. Scott stated then our fear that next year you are going to say we have another \$250,000 in additional expense is not really founded.

Mr. Torres stated that is correct.

Mr. Lambert stated the only thing that might go up is if you add more services to the facility like more managers, more hours and things like that and that will cost more.

Mr. Scott stated the cost of maintaining the fountains is outrageous at \$12,000 a year not including electricity. I think you need to shop around for another vendor to do that. You budgeted an increase in field management of 100%. Can you tell me what that is about?

Mr. Torres stated this is an item we contract with GMS Central Florida and now that the amenity center is open and we have more landscaping and more of these responsibilities under his supervision, visiting the facilities and coordinating, there is an additional fee. In previous budgets his visits here were very limited.

Mr. Scott stated the other question deals with a 38% increase in new lake management fees. I wasn't aware we had any lakes.

Mr. Viasalyers stated originally we were maintaining 13 to 14 lakes and coming into the new fiscal year we are budgeting an addition of 10-12 lakes.

Mr. Malave stated the District is responsible for maintaining and operating all of the lakes because they are part of our permit and the permit is in the name of the CDD. That is the process we are going towards to make sure we are doing our duty of what we are responsible for in operating and maintaining those lakes.

A resident asked can I ask about the golf course lakes?

Ms. Warren stated we have a cost share agreement in place where they contribute towards the stormwater maintenance. We have budgeted \$4,800 for their contribution for maintenance of the stormwater ponds that abut the golf course.

Mr. Bomely stated the problem I have with you raising the fees is I'm not seeing what I'm supposed to be getting for the fees I'm paying today. Specifically, the maintenance of the common areas outside our properties, between the property line and the water areas. I have been trying for months to get it cleaned up, nobody will respond, there is trash and algae back there and nobody is taking care of it.

Mr. Viasalyers stated I will take a look at your property and work on it. That is part of my field manager report.

Mr. Peter Lambert stated I believe the budget is fairly reasonable as it is, we are more or less satisfied that it may not increase too much next year and the year after. I would like to know the total cost is split between what? The houses and lots that are about to come right now or are we paying for it now and the empty lots are still getting paid for by Horton?

Mr. Torres responded that is correct.

Mr. Peter Lambert stated this budget is split between 800 lots?

Mr. Torres stated that is correct, it is 849 lots, the golf course contributes, D.R. Horton contributes and as homeowners come in they pick up that portion. Your assessments are not going to be reduced as new homeowners come in.

A resident stated the budget references 15 commercial lots. What are those?

Mr. Torres stated we are not planned for commercial lots; it is zero on the bottom.

Mr. Malave stated whoever owns those parcels that were commercial are assessed that amount. The original plans had commercial located on U.S. 100 at the entrance on the two corners still owned by D.R. Horton. There is no intent to have commercial.

A resident stated there is an easement between my property and my neighbor that is not being maintained. I'm paying my landscaper to maintain half of that.

Mr. Viasalyers stated I will make sure our landscaper is doing it.

Ms. Silvestri asked is there a greater portion of the assessment that is going to be paid by the 61 lots? Was it a one to one ratio?

Mr. Torres responded it is a matter of the frontage of the lot. It is divided by front footage and that is the amount you pay.

On MOTION by Mr. Doan seconded by Mr. Teagle with all in favor the public hearing was closed.

**A. Consideration of Resolution 2019-08 Adopting the Fiscal Year 2020 Budget and Relating to the Annual Appropriations**

On MOTION by Mr. Doan seconded by Mr. Dearing with all in favor Resolution 2019-08 Adopting the Fiscal Year 2020 Budget and Relating to the Annual Appropriations, was approved.

**B. Consideration of Resolution 2019-09 Imposing Special Assessments and Certifying an Assessment Roll**

On MOTION by Mr. Teagle seconded by Mr. Dearing with all in favor Resolution 2019-09 Imposing Special Assessments and Certifying an Assessment Roll, was approved.

**SEVENTH ORDER OF BUSINESS                      Consideration Items**

**A. Fiscal Year 2020 Budget Deficit Funding Agreement**

Ms. Warren stated this is the deficit funding agreement between the District and the developer and it is similar to what we had in place last year to cover overages. Because we are in a situation where we have done our best to project what we think it will cost to run the amenity center and the additional services, in case there are things that come up we would put a deficit funding agreement in place with the developer where they agree to cover any overages we might encounter.

On MOTION by Mr. Teagle seconded by Mr. Doan with all in favor the Fiscal Year 2020 budget deficit agreement with D.R. Horton, Inc. – Jacksonville was approved in substantial form and the Chairman was authorized to execute the final agreement.

**B. Proposal from VGlobalTech for ADA Website Compliance**

Mr. Torres stated this is a proposal from VGlobalTech and as you are aware from other Districts you may be a member of it is a requirement of Chapter 190 for our District website where we post PDFs, to have ADA accessibility. This is in order for our insurance provider to continue to cover us for liability, we are required to have an ADA compliant website and this is a proposal to do that.



On MOTION by Mr. Teagle seconded by Mr. Doan with all in favor the proposal from VGlobalTech for ADA website compliance was approved.

**C. Proposal from LifeSafe Services for AED Supplies and Services**

Mr. Torres stated this proposal is to have AED supplies and equipment at the amenity center. The proposal has the purchase of two at \$2,100 with a standard service agreement of \$400. These items are not required, the law encourages public facilities to have them and it is before you for consideration. We have funds in facility maintenance or contingency to cover this. I recommend starting with one until our budget levels out a little bit.

Mr. Lambert stated if we only have one we will put it in the amenity office. It would be good common sense to have one. They are definitely a lifesaver and we would have it in the office and we will have a person trained on it and also they are monitored.

A resident stated it should be on the pool deck or common area.

Mr. Lambert stated the person using it should be trained on it.

On MOTION by Mr. Dearing seconded by Mr. Teagle with all in favor the proposal from LifeSafe Services for AED Supplies and services for one unit, was approved.

**D. Proposals for Amenity Management, Pool, and Janitorial Services (2)**

Mr. Torres stated we have two proposals for amenity management, pool and janitorial services and both companies are here to answer any questions the Board may have regarding their proposals. I know you are familiar with both companies. I looked at the budget and we can accommodate most of their proposal based on the adopted budget.

*Mr. Fagen gave an overview of his company and the services provided in their proposal.*

*Mr. Stephens gave an overview of his company and the services provided in their proposal.*

Mr. Torres stated the only item not covered in the adopted budget is the janitorial, you can amend the budget to reduce the pool contract line and add additional funds to the facility maintenance line item.

On MOTION by Mr. Dearing seconded by Mr. Teagle with all in favor the proposal for Fiscal Year 2020 Amenities Management, Pool Service and Janitorial Services with Riverside Management Services was approved with the contract to be negotiated and prepared by District Counsel and the Chairman was authorized to execute the final agreement.

#### **E. Interim Amenities Rules & Policy**

Mr. Torres stated there is a draft of the amenity rules in the agenda packet that we have used in opening other amenity centers. There are some decisions that need to be made tonight. On the second page is the user fee structure, for non-resident users.

Ms. Warren stated the process by which the rules and policies for the amenity facilities are adopted, the rulemaking process is we come to you with a set of proposed rules and policies and we will discuss those tonight and set some highwater marks on potential rental fees, non-resident user fees and the purpose of setting the highwater mark is that you will publish the rulemaking notices and set a public hearing on the final set of amenity policies for a future Board meeting and at that time we will set the final rental amount and the Board will formally adopt the policies. The proposed policies will operate as interim policies until formal adoption at that public hearing. The reason there is a non-resident user fee is because as a governmental entity the District owned and operated facilities are considered public facilities meaning they have to be open to any member of the public. That doesn't mean they have to be open for free, obviously you pay your debt and O&M assessments and typically we set the non-resident user fee at an amount that is somewhat near or has a basis in relation to the amount of assessments that residents within the community pay. I have one District where we have a non-resident user paying, it is one non-resident user and it is grandparents of a child that lives in that particular community. It is not typically something that we see exercised very often. I recommend we set an amount to advertise.

Mr. Torres stated I think in the range of \$2,500 would be fair. The other rules I want to highlight is we are limiting it to four guests per household, there are renter privileges, we are issuing two cards that are free and there is a fee for replacement cards, anyone under the age of 14 requires an adult to be present, no alcohol and for rental purpose you can have someone who is licensed to do that, pickleball and bocce ball courts are first come first served, the facility can be rented up to 10:00 p.m., the proposed rates are listed.

Mr. Dearing stated all these rules are a starting point, as things move along we can add to them, we can revise them at subsequent meetings as things go on.

A resident asked when there would be homeowner representatives on the Board.

Ms. Warren stated it is set forth in Chapter 190 and the requirement for beginning the transition of Board seats starts when the District is six years from the date of establishment and there are 250 qualified electors, which are registered voters, living within the District’s boundaries. The six year threshold has been met for quite some time and we will get a letter in May from the Supervisor of Elections that will tell us the number of registered voters living in the District and if that number exceeds 250 then two of the seats will transition during the general election next year. For residents living in the District if you are interested in serving on the Board of Supervisors the process is that you will file qualifying papers with the Flagler County Supervisor of Elections and your name will be on the ballot and you will vote as part of the general election process. Two years later another two seats will transition and the final seat will transition two years later.

On MOTION by Mr. Doan seconded by Mr. Teagle with all in favor the Interim Amenities Rules and Policies, were approved.

Ms. Warren stated we will want to authorize staff to advertise the public hearing for adoption of the rules and we need at least 30 days and we will do it for your next Board meeting.

**EIGHTH ORDER OF BUSINESS**

**Ratification Items**

**A. Landscape Management Agreement with Yellowstone Landscape**

On MOTION by Mr. Teagle seconded by Mr. Doan with all in favor the Landscape Management Agreement with Yellowstone Landscape was ratified.

**B. Work Authorization for Amenity Management with Riverside Management Services, Inc.**

On MOTION by Mr. Teagle seconded by Mr. Dearing with all in favor the Work Authorization for Amenity Management with Riverside Management Services, Inc. was ratified.

**C. Standard Commercial Security Agreement with Alpha Dog Audio Video Security**

On MOTION by Mr. Teagle seconded by Mr. Doan with all in favor the Standard Commercial Security Agreement with Alpha Dog Audio Video Security was ratified.

**D. Standard Fire Alarm Agreement with Alpha Dog Audio Video Security**

On MOTION by Mr. Teagle seconded by Mr. Doan with all in favor the Standard Fire Alarm Agreement with Alpha Dog Audio Video Security was ratified.

**E. Coverage Endorsement Agreement with Florida Insurance Alliance**

On MOTION by Mr. Teagle seconded by Mr. Dearing with all in favor the coverage agreement endorsement with Florida Insurance Alliance in the addition premium of \$3,458.00 for property coverage was ratified.

**F. Requisitions 5-6**

Mr. Torres stated these were paid out of capital projects and #5 was for Micamy Design Studio for furniture in the amount of \$111,844.45 and #6 was for K&G Construction in the amount of \$465,390.36.

On MOTION by Mr. Teagle seconded by Mr. Doan with all in favor requisitions 5 & 6 from the special assessment revenue and refunding bonds Series 2018 were ratified.

**NINTH ORDER OF BUSINESS**

**Staff Reports**

**A. Attorney**

There being none, the next item followed.

**B. Engineer**

There being none, the next item followed.

**C. Manager**

**1. Approval of Check Register**

**2. Balance Sheet and Income Statement**

A copy of the balance sheet and income statement were included in the agenda package.

**3. Presentation of Arbitrage Rebate Calculation Report**

**4. Approval of Fiscal Year 2020 Meeting Schedule**

Mr. Torres stated this is the last time we will meet here, our meetings will be onsite at the amenity center and we ask that the Board consider having six meetings and due to the holiday we may need to change the November meeting and I can work with Bob on that date.

On MOTION by Mr. Doan seconded by Mr. Teagle with all in favor the Board approved a meeting schedule reflecting the following dates for Fiscal Year 2020: November 27, 2019, January 22, 2020, March 25, 2020, May 27, 2020, July 22, 2020 and August 26, 2020.

**5. Field Manager's Report**

Mr. Viasalyers stated at the last meeting several residents voiced concerns of overgrown vegetation in a swale starting behind 112 Grand Reserve and heading down 130 and from an economic standpoint and a less aggressive approach is for quarterly treatments throughout the year and slowly burn it back and it will start to decay and we will remove all the dead vegetation when it dies.

On MOTION by Mr. Doan seconded by Mr. Teagle with all in favor staff was authorized to contract with Applied Aquatics for the quarterly treatments for the swale along Grand Reserve Drive.

Mr. Lambert stated the pool is fully operational with Florida operating permit posted, janitorial is set up with supplies.

Mr. Tyler stated not only working here but being a resident, one of my objectives is to make sure each and every one of us enjoy this facility. I am open to ideas.

**TENTH ORDER OF BUSINESS**

**Other Business**

Ms. Angell stated I have been using the gym and I like the gym and would like it to stay that way. One thing I noticed is there is no signage such as, wipe down the equipment when you are done so people don't wipe down the equipment when they are done. People are pushing light buttons because they don't know how to use the equipment, there is no instruction guide or information on how to use the equipment. It is not going to stay very nice for very long if people push buttons and don't know what to do.

Mr. Tyler stated all those things are being addressed. Our initial objective was to get you access cards to have access. Now we are looking at details for the rules and guidelines, posting signs and everything will be done in the upcoming weeks.

Ms. Angell stated there should be a mirror by the weights so that you can see if you are using them properly.

Mr. Tyler stated we will prioritize the things we can do with the budget we have.

A resident stated Grand Reserve Drive going out to 100 has a couple of potholes. Who is responsible for that?

Ms. Warren stated they are working on turning the roads over and they will ultimately be the responsibility of the City of Bunnell.

Mr. Viasalyers stated we can address the potholes.

A resident stated there is a sign on every piece of equipment telling you how to use the equipment.

A resident stated is the \$3.2 million in insurance for property damage or liability?

Ms. Warren stated that is the property insurance.

A resident asked what about liability?

Mr. Torres stated I can get back to you on that, I don't have the policy with me.

A resident stated there are times when you can't get pressure out of the irrigation system.

Mr. Viasalyers stated that issue was addressed earlier. D.R. Horton is working on updating the piping to help get that water where it needs to go.

Mr. Malave stated it is a city issue because it is on the city system and D.R. Horton is going to help provide the solution.

A resident asked are the bad actors going to be thrown out?

Mr. Torres stated I have asked for a report from a witness or two to identify that and I'm told no one wants to do that.

Ms. Warren stated in the amenity policies once formally adopted there are processes for suspension and termination of amenity privileges.

Mr. Torres stated but we have to know about it and be able to identify the person and right now we don't.

A resident asked the age limit for younger adults to go in the pool is that a Florida law, can it be raised a little bit, can it be raised to 16?

Mr. Torres stated yes. We can look at that.

A resident stated on page 13 of the rules you have to change the name.

Mr. Torres stated my contact information is on the website and I have talked to many of you and you can reach out at any time if you have a question or issue.

**ELEVENTH ORDER OF BUSINESS      Supervisor's Requests**

Mr. Torres stated our next meeting is on the schedule for November 27<sup>th</sup> tentatively, but we will address that with the Chair when he returns and do the proper notification if it changes.

On MOTION by Mr. Teagle seconded by Mr. Doan with all in favor the meeting adjourned at 7:42 p.m.

Secretary/Assistant Secretary

Chairman/Vice Chairman