

**MINUTES OF MEETING
PORTOFINO ISLES
COMMUNITY DEVELOPMENT DISTRICT**

A telephone conference meeting of the Board of Supervisors of the Portofino Isles Community Development District was held on Tuesday, August 11, 2020 at 10:00 a.m. It is being held in accordance with the Office of the Governor, Executive Orders authorizing the use of communications media technology, the Board of Supervisors and members of the public may attend and participate in the meeting utilizing the call-in information 1-646-749-3122, Access Code: 612-474-709.

Present and constituting a quorum were:

Dan Duncan
Ronald Willemstyn
Juan Azcona
Frank Austin

Chairman (via teleconference)
Vice Chairman (via teleconference)
Assistant Secretary (via teleconference)
Assistant Secretary (via teleconference)

Also present were:

Ginger Wald
Paul Winkeljohn
Butch Terpening

District Counsel (via teleconference)
District Manager (via teleconference)
District Engineer (via teleconference)

FIRST ORDER OF BUSINESS

Roll Call

Mr. Winkeljohn called the roll and stated we have a quorum.

SECOND ORDER OF BUSINESS

**Approval of the Minutes of
the July 14, 2020 Meeting**

Mr. Winkeljohn: The minutes from your July 14th meeting have been circulated, and if those are in order a motion would be appreciated.

Mr. Duncan: There are many small things, but two actually for the Board. On page 14, instead of saying that I would be involved with Nick, it is written that I would not be involved with Nick, that's on page 14.

Mr. Winkeljohn: Ok.

Mr. Duncan: And on page 20, instead of the word “sterilizes” it should say, stabilized.

Mr. Winkeljohn: Which page was that?

Mr. Duncan: Page 20, I mean the fountains cannot be sterilized, but can be stabilized.

Mr. Winkeljohn: Ok, got it. Good catches, any others?

Mr. Duncan: No.

Mr. Winkeljohn: With those changes, is there a motion to approve?

On Motion by Mr. Willemstyn seconded by Mr. Austin with all in favor, the Minutes of the July 14, 2020 Meeting with the indicated changes were approved.
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THIRD ORDER OF BUSINESS

Update on Rules

Mr. Winkeljohn: The rules update, as you guys know our public hearing on the latest draft of the rules will be next month. I have added a little bit of language to be more clear on prohibited uses of the lakes and the preserve, and also adding an element that we would be related with the HOA, whatever enforcement they adopt would be in concert basically. So, those small tweaks are the latest, and we can go over that in more detail next month. If there are any rules that we don't have that we want to add, now is the time to do that, or edits I should say.

Mr. Duncan: I don't know what language we can put in our rules that will prevail the HOA to adopt similar rules.

Mr. Winkeljohn: No, we can't and I just made reference to the HOA should they adopt rules, they would be in concert basically, that we're aware of their rules.

Mr. Duncan: Yes, but I have a problem because if they adopt a rule that is not in concert, actually our rules need to be stated clearly.

Mr. Winkeljohn: I'm open to anything we can put in there that will work, Ginger how far can we go without referencing their rules to accomplish that? Can we put in a term of precedence?

Ms. Wald: No, and I'm not necessarily 100% understanding what you're attempting to do.

Mr. Winkeljohn: Well they don't have rules that they've adopted, but we're sort of putting in our rules that, should the HOA adopt rules we would want them to be in concert with ours, or some reference to the HOA, just so that we acknowledge that they may enforce our rules.

Ms. Wald: So, what we're doing in September is formally adopting rules which we didn't previously, and so the language that Paul added was to give the flexibility if the HOA chooses, and also the CDD chooses, the HOA would be enforcing the CDD's rules, not the HOA rules, it would be enforcement of the CDD rules that you would be looking to adopt in September.

Mr. Winkeljohn: Right.

Mr. Duncan: And my comment was, obviously if they choose to do the right thing, but what has to, if the HOA rules are in conflict with the CDD rules, then the CDD rules will prevail.

Ms. Wald: Prevail over the CDD property regardless, what would happen would be this, the CDD, if the HOA decides to go ahead and be agreeable with what we're attempting to do with a few things, one being the rules, we would have an agreement with the HOA, where the HOA is agreeing to enforce the CDD rules on CDD property, not any HOA rules as to CDD property.

Mr. Duncan: I understand that and I think that would be wonderful. I read the basic agreement that you put together and if I personally would be a HOA Board member, I would never agree to that because it's binding, it's arbitration, it's suing, I mean it's a lot of things that neither party will benefit, why the HOA would want to exercise that. So, before it was more like a gentleman's agreement, there are no repercussions, there is nothing the CDD can do if the HOA breaks this agreement. So, this is how I see it, this is why before there was a memorandum of understanding, people agreed to do things but if they don't do it, they don't do it, but anyway this is a different topic.

Mr. Winkeljohn: Right and for today's topic it's just to open up the discussion of the rules, I heard Dan's comment that he would like the precedent, but I think the term

that the HOA can enforce the CDD rules is basically the only element we're talking about and that should be non-controversial I think, whether they do it or not, or how it's done, that's a whole other topic, but putting in our rules just saves us the effort of having to go back later and adding them.

Mr. Duncan: I agree, and I think the last time I asked Ginger to look at the covenants that specifically addresses the fact that as far as the natural preserve, for example, there is something written there that they shall, once they have the right.

Ms. Wald: And again, remember as to these covenants it specifically has the sentence that all the duties, responsibilities, and obligations of the association under this declaration relating to the improvements and functions undertaken by the CDD shall terminate and such duties, responsibilities and obligations shall thereafter be undertaken and performed by the CDD. So, when the declaration was prepared and entered into, it was contemplated that the CDD would be in existence or at some point already was in existence, and with being in existence would take over some of the common areas and properties, but what the developer was trying to do was have it both ways, have it as CDD and have it as association, and with the declaration to have that ability to do so with the association unless the CDD went ahead and took that over. So, that's why that sentence is in there saying, if the CDD then is taking over that responsibility, that ownership, such as the transfer of the permits that we talked about, and it is now the CDD's responsibility, it's no longer the responsibility of the association. That does not prevent the CDD and the association from agreeing between each other, whether it's by a formal agreement, whether it's by a memorandum of understanding, however you want to prepare it and the parties agree to, or to agree to something else.

Mr. Duncan: But what would be the interest of the HOA to do so?

Ms. Wald: The interest of the HOA to do it, is the interest of you being residents. Since everybody that is in the CDD, now we're also talking about the infrastructure, or also as part of the association, you're paying association dues and you're paying CDD special assessments. If you are somebody who resides in the community as every single one of the people on this phone call does, other than Paul and myself, wouldn't you want one entity and unit that's actually onsite to be performing these functions, it should be a lesser cost. If it doesn't work for whatever reason, whether it's because of

a management company, whether it's because of certain vendors, and you end up with a two system, which is what you have now, it always works better when it works in concert as to the CDD and the association which Paul can attest to on multiple CDDs that he represents. So, the benefit for the association to do it is that the residents, who make up the association Board understand that this is going to be a cost savings function, and our community is going to, as Paul said, look better.

Mr. Duncan: I have no problem in the rules giving them the right to enforce the property rules.

Mr. Winkeljohn: Very good, so if there are any other corrections or language that we want to massage, send them to me and we'll have a final draft for our meeting in September to vote on.

Ms. Wald: Paul, and it's already been advertised, correct?

Mr. Winkeljohn: Yes.

Ms. Wald: Ok, so the rules that you have that are advertised, so these would be suggestions for the public hearing.

Mr. Winkeljohn: Correct.

Ms. Wald: You can't change them midstream, but you can change them at the public hearing.

Mr. Winkeljohn: Right, at the meeting.

FOURTH ORDER OF BUSINESS

Consideration of Lake and Fountain Maintenance Services Agreement with The Lake Doctors, Inc.

Mr. Winkeljohn: Item No. 4 is the lake and maintenance agreement, it's in your packet, and it looks in pretty good shape and in standard form by my eyes. Are there any questions or comments about the agreement?

Mr. Duncan: No, I don't have any, except that in this moment with our lakes we have the same problem, maybe even worse, than the problems we had last year. So, lake management offered to do a mechanical harvesting within 3 weeks at no cost to us. So, I don't think that it's smart to actually change the horses who lead the race for a couple of months.

Mr. Winkeljohn: Ok, so would you like to authorize this and then table the execution of it until the work is done?

Mr. Duncan: Exactly.

Mr. Winkeljohn: Ok, and I shouldn't use the word table, but postpone the execution until the last project by the current contractor is complete.

Mr. Duncan: Yes, delay the execution.

Mr. Winkeljohn: Ok, so is there a motion to that affect?

On Motion by Mr. Willemstyn seconded by Mr. Austin with all in favor, accepting the lake and fountain maintenance services agreement with The Lake Doctors, Inc., and postponing the execution of the agreement until the last project is completed by the current contractor and notice is given was approved.

FIFTH ORDER OF BUSINESS

Staff Reports

Mr. Winkeljohn: That brings us to staff reports, Ginger?

A. Attorney – Discussion of 2020 Legislative Update Memorandum

Ms. Wald: In your agenda packet is the 2020 Florida Legislative update that we provide to you every year, the one item that I would like to point out to you which is directly related to CDDs is the website compliance. If you recall a few years ago, probably about four, there were new requirements that certain items had to be on the CDD's websites, and that included the entire backup material for an agenda packet, and because of the requirements for ADA websites now, it was pretty pricey for some CDDs to put their entire backup materials on. With that, the legislation changed and went into effect on July 1, 2020 in which all that backup material no longer has to be on the website. That doesn't mean that it doesn't exist, it will always exist, but it doesn't need to be on the website itself. So, it's mainly just that one or two page agenda listing what's going to be on the meeting, so it could be a cost savings down the road for this CDD, along with other CDDs since sometimes your agenda backup material gets pretty lengthy. That also includes the audit report that you usually had to put on the agenda, now you just have to have a link to the Auditor General, that's another document that

you no longer have to have on there, and then additionally with that, the engineers report that is usually done every year which includes pictures and a report of your improvements, that doesn't have to be on there, it's called the public facilities report. So, ultimately again there should be, down the road, a cost savings for each one of the CDDs. It's up to the CDD itself what it wants on its website, and just knowing that you have certain requirements that need to be there, these are no longer them. The remainder of the legislative items are really dealing with contracts that CDDs and other Districts and municipalities and counties enter into, they changed some of the levels as to what has to be competitively bid, the retainage is no longer 10%, it's now 5% and a few other items. Other than that, it's things that probably do not directly involve this CDD, but I would suggest after you review them, if you have any questions feel free to get in touch with me. If you want to read the entire Chapter itself with the changes that were made, I'm more than happy to send that to you.

Mr. Duncan: I read the summary, and the only thing that I need to understand is, what's the difference except storage in posting the documents on the website versus a link to a different place?

Ms. Wald: About 2 years ago it started a slew of litigation lawsuits that were filed against municipalities, counties, and Special Districts including CDDs, that their websites were not ADA compliant for sight impaired people because they weren't in the right format. It required then at that point for CDDs and other governmental entities to engage the services of experts to make every single one of those materials ADA compliant for sight impaired people. Therefore, what happened with that is it cost more money because the more things you have to have on your website, the more that you have to make compliant, to which, that no longer has to be done for those items that I just identified. So therefore, the link takes it to the state, and now the state has to make sure they're ADA compliant, but the CDD does not on that document.

Mr. Duncan: Ok.

Mr. Winkeljohn: Well said, and we all have battle scars trying to solve that problem so it's a welcomed change from the legislature.

B. Engineer

Mr. Winkeljohn: Butch texted me this morning that his hearing with the city or the county is taking a little while and he's not available right at this moment, but he may be able to call in before we're done.

C. Field Manager

Mr. Winkeljohn: Frank, I know John's not on the call today, but would you like to pass on any information from the field?

Mr. Austin: Yes, we're just doing kind of general stuff as Dan eluded to, I know John talked with the lake management guys about the condition of the lakes and they did agree to cover the next 2 or 3 weeks to clean up some of the mess, and then we basically have been, a large percent of the time dealing with these violations trying to get agreement signed which we've been successful with everybody's help in getting everybody to agree with the exception of 1822, Ms. Beverly, so we left an agreement packet for her yesterday at her door because every time we've been there, probably half a dozen times, either she doesn't answer her door, or there's no one there, she keeps her car in her garage so we don't really know. Other than that, seems like we're in pretty good shape, it's just very time consuming and I know we're kind of on a tight timeline with getting the work done within the 90 days granted by South Florida Water Management, but I think we're pretty close to getting done. The authorization, Dan can give the vendors the authorization to begin work, that's basically it.

Mr. Duncan: Well, I would like to acknowledge the tremendous amount of work and effort that Frank made not only on this but on sprinkler maintenance and everything else, and especially keeping track of all the tasks, Frank now has spreadsheets of work to be done and work that is completed and that's very important if we get more litigation for Ginger because now we have step by step of all the events that we've done. I would want to ask Ginger to actually send a letter to Beverly basically saying that if she's not in compliance we will actually follow up with legal means that are required, because she's the only one out of 8, we have now an agreement with 7 homeowners. I had to compromise a little bit at the last meeting to say that we would allow the homeowner to pay in installments because their cost was about \$1,000. I reduced that to \$500 because it's probably cheaper for us to get paid than actually have to do a letter, so

there are 2 or 3 homeowners that are paying installments. There is another issue Paul, and I talked to Patti about it, we paid two invoices that are actually related to the replanting, these two invoices have to be put in a separate account, so all the money that we spent for replanting has to be put in a separate account, then we will put the reimbursement from the homeowners, and whatever is left at the end we will know because the homeowners do not pay the entire cost, we pay for the water, we pay for removal.

Mr. Winkeljohn: Right, for tracking purposes we're going to isolate this whole project, there's revenue tied to it, hopefully from the non-compliant people paying for their share, but there's also quit a few expenses and it would be good to put that altogether, good.

Mr. Duncan: Ok. So, I would also like a motion from the Board to approve us purchasing a shed. I want to thank Butch and Roberto because they actually provided me the drawing for the location of the shed on our property, which I need to get a permit, but we will have to purchase the shed because we have a lot of stuff that needs to be stored

Mr. Winkeljohn: It was a much better price using their garage but I understand we probably should have our own.

Mr. Duncan: Right, it's an imposition, but we need to do it.

Mr. Winkeljohn: Right, and how much is the shed?

Mr. Duncan: I think \$4,500, somewhere in that range.

Mr. Winkeljohn: So just for authorization, how about a not to exceed \$5,000, that gives a little latitude?

Mr. Duncan: That's fine.

Mr. Winkeljohn: Is there a motion?

On Motion by Mr. Willemstyn seconded by Mr. Austin with all in favor, authorizing a not to exceed amount of \$5,000 to purchase a shed as stated on the record was approved.

Mr. Winkeljohn: And actually, there's quite a bit of work on where it's going to be located, and Butch is on the phone now. Dan, did you have any details you wanted to share on that?

Mr. Duncan: Yes, the funny thing is that we purchased a shed from a dealer which is the manufacturer, and actually the dealer is hiring a subcontractor that has a license in Port St. Lucie to bring it onsite, and fasten it for storms and everything else. However, I have to hire another contractor to go and get the permit from the city. So, we found somebody, and that would be for \$500, and he'll get the permit, but this an additional \$500 that we shouldn't have paid, but these are the rules of the city.

Mr. Winkeljohn: Right, and ultimately, we're going to do some landscaping as well to make sure that it's properly concealed.

Mr. Duncan: It is, we will put in a place where there's natural vegetation around it.

Mr. Winkeljohn: Ok, good.

Mr. Duncan: So, I would like to thank Butch and Roberto in his office because they worked with me on the site map.

Mr. Winkeljohn: Great, thank you. Anything else Frank or Dan on the field activities?

Mr. Austin: No, but I saw an email this morning that Dan forwarded that was actually from Juan regarding a renter over on 1757?

Mr. Winkeljohn: Yes, thanks for bringing that up, there was some work done in somebody's backyard where they cut the cable.

Mr. Austin: Well, John and I went over there and inspected that, I guess it was last Monday afternoon, or sometime last week, anyway, they did survey it, they had the stakes there and the machinery was loaded on a trailer, so he had already dug a little trench, but if there was any problems with AT&T at that point we were not aware of it, but they were on their property line, and if I'm not mistaken that is the same area when we had the problem with AT&T because John, Dan and I walked every lake and I think at the corner of that particular lake they had a box too close to the water, and they had to move it up the bank, so I don't know where they put the cable, but from what we saw

on our inspection the other day, the resident was on his property line with those plantings.

Mr. Duncan: I think what happened, you had the AT&T cable to the box that went around the neighborhood. From the box there's a wire that comes to the homeowner, it's to his property, so most likely the guy cut the wire coming from the box to his house, but I don't think he cut the main wire, but I'll go and inspect it but there is nothing we can do. The only thing that we should pay attention to is the bank of the lake, it's actually affected by what the guy is doing.

Mr. Azcona: This is Juan, that was my concern too, just for the record, it's 1747, not 1757, and the homeowner did the survey on the type of the property, everything looks fine to me, so that was all good. What I saw was concerning is that even though the drawing of the survey, I guess they did a straight line from the front of the property to the back of the lake and they posted the stakes there, but they did some digging with a bobcat very close to the lake bank and then they did a trench, and they added planted material. Again, on the side of the property everything looks fine, on the side that is from the lake bank, it seems like it is very close to the lake, and AT&T, they had a 2 person crew working for 3 hours and digging an additional trench, they came like 2 or 3 days, and they had to dig extra and I don't think the cable from the box to the homeowner, they were digging sideways, parallel to the lake. So, I'm concerned that may affect the lake bank, so I think we need to look into that part in that area.

Mr. Duncan: It's 1757?

Mr. Azcona: No, it's 1747.

Mr. Duncan: Ok, 1747, I will check it.

Mr. Azcona: And then let's check with AT&T because it's not like they were there like 10 minutes, they were there for several hours and 2 people digging, and they had to come back 3 times.

Mr. Duncan: But after we gave them the easement, AT&T has a contract with the HOA. If the bank of the lake is affected, we have a bond that we can use to repair whatever damage happened.

Mr. Azcona: Correct, but I think if you can reach out to AT&T to get information directly from them, just to say hey what happened, and what did you have to do because you guys were digging there, just to see what they have to say about it.

Mr. Duncan: Ok.

Mr. Winkeljohn: Thanks Juan.

Mr. Azcona: And then my other question, those wires, they were supposed to be buried under the CDD's plan, correct, the ones that go around the lakes?

Mr. Duncan: That's correct, 2 feet down or 18" down.

Mr. Azcona: Ok, so then if the cable was cut, following it to the lake, that means that the trench is within the CDD property.

Mr. Duncan: Not always, sometimes some areas, the cable goes on the edge of the homeowner's property on the inside. We gave them an easement, by the way they run the cable to be inside the homeowner's property.

Mr. Azcona: Ok, but they would not know because the homeowner, what the homeowner did is they did the survey and then they supposedly did the trench, like a foot or 18" into their property, so that would have meant that AT&T went at least 18" into the homeowners property.

Mr. Duncan: Right and that's their easement, we gave them the easement to give them the right to put it outside the homeowner's property, but if they put it inside the homeowner's property, it's their distance between them and the homeowner.

Mr. Azcona: But that's kind of like concerning, or it needs to be because if that's something that they did throughout the community, every time a homeowner does something, do they need to talk to AT&T about it because from my understanding is that we need the detail and we hope that the project, because of this with AT&T, because we didn't know where the cable was buried and so forth, and now we may have more homeowners digging into their property in the event this homeowner didn't go into the CDD land, which I'm not sure, but if the homeowner did it, and just went into the property, every time another homeowner does digging within their property, should they notify AT&T prior to doing any work because they may start and they may affect not just their home, but they may affect other people's internet.

Mr. Duncan: Listen, the design first, there is some common sense, you see where AT&T placed the main box. The main box is outside your property, and the next main box is also outside the neighbor's property, so the cable is outside your property. If the next box is inside your neighbor's property, so the cable goes between the boxes in a straight line. So, you don't have to be a rocket scientist to look and see where the boxes are.

Mr. Azcona: But common sense is not very common around here like many other places, so we cannot assume that people have common sense.

Mr. Winkeljohn: Juan, the bottom line is to tell people that they need to call No Cuts no matter what, or where they're digging and have it located, and that absolves them of some of the responsibility. If they do that, the only lines that are not covered under No Cuts are what are called secondary lines, or the lines from those boxes directly to the private residence and sometimes they'll mark those as well.

Mr. Duncan: Ok, but the contractor that did the digging, it's a free service.

Mr. Winkeljohn: Right, and they shouldn't do it without confirming where the utilities are located, part of the utility taxes pay for it.

Mr. Duncan: Right, sure common sense says, if you know there's a cable around, then find out where the cable is.

Mr. Azcona: So, should that be something that the HOA has to communicate I guess with the homeowners, that before they do any work, before they do any approval of digging any trenches, they need to provide documentation that they did request already from the utility company where they can dig or where they cannot dig?

Mr. Duncan: Absolutely.

Mr. Winkeljohn: Right, and that's a perpetual information sharing issue, it has to be constantly reminded.

Mr. Azcona: Ok.

Mr. Duncan: So, I don't know what the HOA does, but it seems to me that if they do something, or they if build something, they have to get the HOA approval of some sort, so Nick says to make sure that you call No Cuts before you do any work.

Mr. Winkeljohn: Very good, thanks Juan.

Mr. Azcona: And then just make sure that the digging that AT&T did closer to the bank, because they are digging there, let's see that it didn't damage the lake bank.

Mr. Duncan: I promise that I will personally go there and take a look.

Mr. Winkeljohn: Very good.

Mr. Azcona: Thanks.

Mr. Winkeljohn: Butch was able to join us, and we moved passed his report, so Butch how are you today?

Mr. Austin: Paul, can I just add something there, what Juan is saying, obviously that happened after John and I left, and I'm talking about 1747, because we looked for the AT&T boxes and on one side of that house the AT&T box was closer to the water than where they had dug and put their plantings. So, it's my guess, you know when they pulled that piping to put their cable in, when they put that ditch, which they were digging a trench, they obviously dug deep enough to hit that thing, and that's why there was so much there, because Juan said they came back a couple of times and were there for a number of hours, so they probably had to replace that whole run from box to box and so John and I will go take a look and see how close they did get to the water.

Mr. Winkeljohn: Very good.

Mr. Azcona: Yes, thanks Frank, and Frank, AT&T came after, and I don't know the amount of work that AT&T did because I wasn't watching them for 3 hours, but I just know that they were there with shovels and they were saying, this is our "idiots", blah, blah, so kind of like that.

Mr. Duncan: Give me a second, Frank, is this the box that I requested in my design to be moved from to that area?

Mr. Austin: Correct, yes, and I'm not sure that's the location, that they had to put the box within 3 feet of the water.

Mr. Duncan: Ok, so let me check on it because I think that I know what happened.

Mr. Winkeljohn: Ok, let's move on, I think we have it covered.

Mr. Austin: Ok, so that was my comment, that John and I will go and look, but we did actually talk to the homeowner, and the lady said, yes, I had it surveyed, they had it staked with ribbons tied around it, so everything seemed to be the way it should

be for them to do the work there, but as Dan said earlier, sometimes they have to pull that piping to put the cable, and sometimes it's within the easement that we gave them, and sometimes it's on the homeowner's property, so they might have cut it twice.

Mr. Winkeljohn: That's entirely possible. Thank you and Juan, good job birddogging, we appreciate your eyes on that one.

B. Engineer (Cont.)

Mr. Winkeljohn: Back to the engineer's staff report, Butch, how are you?

Mr. Terpening: Good, and Mr. Chairman, sorry I was late this morning, I had another public hearing I needed to Zoom in on. As an update, we did get permission to gain access through the preserve area to restore the wetlands and the preserve areas that were impacted. The District did ask us to set up a preconstruction conference prior to undertaking the restoration work, so that they're aware and address other calls that they would be getting. I told District staff that we would let them know the schedule once that schedule had been developed to come in and do the replantings.

Mr. Winkeljohn: When you say through the preserve, you mean from access to get to the planting area so they can only go through the preserve and there aren't other paths, I'm a little bit cloudy on what you mean by that?

Mr. Terpening: That they can go through the preserve to access the areas they need to restore.

Mr. Winkeljohn: Do we have the right to cross private property to get to it?

Mr. Terpening: Not private, only in those areas where we have access.

Mr. Winkeljohn: So, they have to go to one of the open spots, and cut through our own property to get to it?

Mr. Terpening: Correct, and in the process of it, but if they make a path that doesn't damage the vegetation in the preserve the best they can. If we damage the preserve vegetation in the act of restoring the damaged areas in the preserve, then the District would also want those areas that we damaged restored during the damaged areas to be repaired.

Mr. Duncan: We cannot do that; we have an agreement with the homeowners that allows us to go through their property to get into the preserve.

Mr. Winkeljohn: Right, we'll go that way, that makes sense, but I understand what Butch clarified.

Mr. Duncan: Ok.

Mr. Winkeljohn: Very good.

Mr. Austin: Butch, this is Frank, can you clarify what they mean by damage in the preserve?

Mr. Terpening: Well, let's say that one of your neighbors was running a bobcat back and forth putting his plant material in, then if they damaged vegetation within the preserve that we would be responsible for any additional damage that was caused by the restoration that the homeowner did.

Mr. Austin: I haven't seen any locations that we would have to put a bobcat or anything like that in.

Mr. Duncan: But Frank, you're forgetting, we actually looked at how much damage they would do trying to come from 5 properties away when they carry everything there.

Mr. Austin: That's not even realistic to begin with, we have to access behind the homeowner's property to give us their access which they signed the agreement saying they would give us access.

Mr. Winkeljohn: So hopefully it's a moot point that we have a better path and we're not going to invoke this problem with South Florida Water Management.

Mr. Duncan: Well, at this it's a moot point, but I understand what Ginger said about the covenants, but in the covenants, even if you give access to the property, there is a section related to the natural preserve and abiding by the South Florida Water Management. *(inaudible comments)* I'm pretty sure that I read that somewhere that in order to maintain that we can cross the homeowner's property, even if I take over that, how can I get to something if I don't have the access, so it has to be an easement of some sort.

Mr. Winkeljohn: Right, that would be common, and Ginger, can you think of where that is, and I haven't seen where it's worded but I assume it would be there.

Ms. Wald: It's not specifically worded that way, as I was reaching out previously to Butch to see if we, because it does make reference to the plats, whether there

actually was on the plats easement language that would give us the access through the private property owner's property, or one of the easements that the HOA has that we can pick up to get into the preserve versus those two access areas on each side, and I didn't see anything in the plats that I reviewed, and I don't have them all.

Mr. Terpening: And I didn't see anything in any of the ones that have been filed.

Mr. Duncan: Well, this is an agreement, you cannot maintain something if you don't have access to it, and in the covenants, it's actually based, I remember the wording, to follow the South Florida Water Management requirements, so how can I do that, if I have one point access and I need a bobcat that cuts a 10' path through 600', I mean I'm destroying more than I'm trying to repair.

Ms. Wald: The declaration is the association granting to South Florida Water Management District, the Corp of Engineers, the county and the State of Florida personnel, you did read this Dan, that they have the access, the common maintenance areas, where the permit is actually located or conducted at all reasonable times for purposes of inspection, and testing to determine compliance with the permits, and so that would be the association common areas providing that access to South Florida Water Management District, which of course could provide it the CDD. The question is whether inbetween those homes there actually are association common areas.

Mr. Duncan: We don't know, anyway we'll resolve it a later time, but it's a big issue that doesn't allow the CDD to maintain the natural preserve and it needs to be resolved.

Mr. Winkeljohn: Ok, but long term, big picture it's something we need to hone in on it, I understand.

Ms. Wald: I think from a legal perspective only, I think the best way is to start addressing it after we correct these issues with South Florida Water Management District who does have the right of the access for the preserves, and to see exactly where that is, and pursuant to the declaration and also their easement, and if it is not broad enough, then get South Florida Water Management District or the Corp of Engineers, or the county or even the city, to get us the ability through their powers because they have the power, we do not, to obtain additional access points as part of an easement and then we can have the ability to do so through that.

Mr. Winkeljohn: That makes sense.

Mr. Duncan: Well, now I'm thinking that lake management in entering the preserve, it's crossing homeowner properties.

Ms. Wald: Butch, tell me if I'm wrong, aren't there 2 other access points to get into the preserve that are not on homeowner properties that are, and let me look at my map here for a second.

Mr. Winkeljohn: I remember there were some corridors that are not part of private properties.

Ms. Wald: It's on the west areas.

Mr. Terpening: There's access points that are maybe not convenient, but there are some access points, and there's some drainage easements coming off the roadway to the preserve between homes, not a lot of them, but there is one or two, and we do have a right to enter from the drainage.

Ms. Wald: And if we can find specifically on the map where those are, and to see if they are doable for lack of a better term, and then if not, to go ahead and pursue what we were just talking about.

Mr. Terpening: Yes, and I'm about to update the ownership maps to show those rights to the easements, so I'll add those to that.

Ms. Wald: Ok, and we've got those two open space tracts, and I'm just looking at your old one, we have those two open space tracts that are on the southwest quadrant and the northeast quadrant of the conservation tract.

Mr. Terpening: And I have one that's not far from where we already have access that's the problem, it's only about 10 lots down from the northwest access point, so let me mark those up.

Ms. Wald: Yes, I think that would help.

Mr. Terpening: At least everybody will know where they are.

Mr. Duncan: Ok.

Mr. Winkeljohn: Very good. Butch, anything else for our friends today?

Mr. Terpening: No, not today.

Mr. Winkeljohn: Thank you sir.

D. CDD Manager - Discussion of Financial Disclosure Report from the Commission on Ethics and Reminder to File Annual Form

Mr. Winkeljohn: Under manager's report, I'm still not seeing Piotr's financial disclosure form, but everyone else has filed, so I appreciate that.

SIXTH ORDER OF BUSINESS

Supervisors Requests and Audience Comments

Mr. Winkeljohn: Are there any other Supervisor requests or comments for the next meeting? I think we have a pretty big agenda ready for September with our budget and rules. Yes sir?

Mr. Azcona: This is Juan, and I do have a couple of comments.

Mr. Winkeljohn: Please.

Mr. Azcona: The first is about my oath of office and acceptance, so I don't know if we have to do that like we've done it in the past?

Mr. Winkeljohn: Right, the one with the state, yes, that one you do and I think it's a \$10 fee you have to send it.

Mr. Azcona: Ok, how do I go about it, download a form?

Mr. Winkeljohn: They usually mail you a copy of it. This is your position that you've been elected to starting in November because nobody else ran against you, so you're automatically in that spot starting again, and renewing your seat basically. So, they should send you the oath and you'd fill it out and have it notarized. If we're in an in person meeting, I'm happy to do it, but I don't expect that to happen for another month or so.

Mr. Azcona: Ok, but I still have to do this by November, so if we meet before November, we should be able to do it in person then.

Mr. Winkeljohn: After November, correct.

Ms. Wald: After November, so it's two weeks after the election, so you have time, you're a holdover until then anyway, so I would not stress out about the timing right now for the oath of office, you have time.

Mr. Azcona: Ok. Then the other question is with regard to, there is still confusion between HOA maintenance of common areas, so where do we stand, is there

like clarity what the HOA is maintaining and the CDD is maintaining, I know we supposedly have at least a map of common areas and who's doing what, but they are claiming that John is going around and having conflicts of interest. So, as Ginger was saying before, it's in our interest to have one vendor doing the work for the common areas so we don't have to address it, and we don't have to spend double.

Mr. Winkeljohn: Right.

Mr. Duncan: Juan, I don't understand what is the conflict of interest?

Mr. Azcona: I mean, not so much a conflict of interest, but I mean not a full understanding on their part knowing what parts of the landscape do they have to maintain or which ones the CDD has to maintain, it's just that it's still unclear.

Mr. Duncan: There is a contract that they just signed with a new company that has a map that clearly identifies everything that company does. There is no ambiguity, they actually have a contract with a map, with all the areas that this company does.

Mr. Azcona: Ok, and when was that new contract executed and signed?

Mr. Duncan: About a month ago, maybe two months ago.

Mr. Azcona: Ok, so as of now there should be no misunderstanding from the HOA about what the CDD has to maintain and what the HOA has to maintain, everything is clear and they have a map with an overlap of the land or the areas and they have a full understanding of what they need to do, correct?

Mr. Duncan: Ok, well there was never a misunderstanding in the past because they use the same map that they used with the previous vendor, BrightView. That has been the map that the HOA used for the last 15 years or whatever. So, the CDD is actually doing Brigantine, all of the other areas are done by the HOA, so the areas that people talk about are areas around the lakes, which always have been cut by the HOA, that is CDD land. So, if they have a problem with that, we said forever that if it's around the townhouses where you cut, they benefit by the lake, we can let it be a no maintenance. If the HOA wants to mow it based on their standards, the CDD will allow them to do it, otherwise, in order to maintain the bank of the lake, we want vegetation, that is actually taller with bigger roots. We also agreed that homeowners that want to maintain behind their properties the bank of the lake for aesthetic reasons, the CDD will allow them to mow that area. There are a couple of areas that are CDD property that

today are mowed by the HOA. Paul, if they have a problem, and this is done on CDD land, it's intermingled with HOA land, and we didn't want to divide it in such a way that there is two vendors cutting the grass at different times, so they decided to cut it. Now, Paul says ok I'll work with them to see if we can actually take over some of the areas, including their areas, to counterbalance the fact that they mow our area, and it's a give and take.

Mr. Winkeljohn: Yes, and since our last meeting I have had an initial conversation and verbally those concepts were all agreeable in the various areas that are in discussion with an encompassing agreement, and there was no conflict.

Mr. Azcona: Ok, so Paul you had a conversation with Nick and the HOA, and everybody is supposedly on the same page?

Mr. Winkeljohn: Yes, generally speaking, I mean the reality Juan is we do know every time John does something, there's some history where HOA leadership or posting on social media gets a little bit out of hand, but my advice to all of you is to ignore that and not respond to it and in due time that will hopefully go away.

Mr. Duncan: I mean they accused me that I have taken bribes.

Mr. Winkeljohn: Right, there's some historical paranoia and we just want to move past it.

Mr. Azcona: No, I wasn't basing my comments on social media, this is just what I heard directly from property management there was some kind of a misunderstanding, so I just want to make sure that there is no misunderstanding at this point in time, each party, the HOA and the CDD should know exactly what they need to do, and we should all be on the same page, and then if there is some kind of misunderstanding from their part and they want to reach out in writing to us and voice their concerns.

Mr. Winkeljohn: Right, and we're working in that direction and hopefully I'll get more responses from them and we'll get that ironed out.

Mr. Azcona: Ok great.

Mr. Duncan: If you can get involved, find out who does what and what, and find out what the problems are, and the fact that somebody says that they're not aware, or a conflict where the same thing has been done for 20 years, it's beyond that.

Mr. Winkeljohn: Right, no doubt.

Mr. Azcona: Ok.

Mr. Winkeljohn: Are there any other Supervisors comments?

Mr. Azcona: Ok, I just wanted it on the record that we are doing what we are supposed to be doing, that's all.

Mr. Winkeljohn: Excellent, thank you. Any other comments from the Supervisors?

SEVENTH ORDER OF BUSINESS

Financial Reports

A. Approval of Check Register

B. Balance Sheet and Income Statement

Mr. Winkeljohn: Not hearing any, your financial reports, are in your packet, if those are acceptable a motion to approve would be appreciated.

Mr. Duncan: I checked them, they are ok, all the checks are in order.

Mr. Winkeljohn: Is there a motion?

Mr. Austin: Paul, can we back up just a second, I have to say this and I understand what Juan is saying, but since I'm involved with the CDD, the grass cutting and whose responsibility has never been an issue. However, as Joe Clark came on the Board he has repeatedly posted on Newport Isles Facebook, when somebody complains about the grass around the lakes, particularly the townhomes or different places, he is making the statement online, on Facebook, that's CDD property and they refuse to cut it, and that's not accurate. As Dan just said, there was an agreement because the CDD's responsibility is to maintain the lake bank.

Mr. Winkeljohn: Yes, and we all understand that Frank.

Mr. Austin: So, don't confuse maintaining with cutting the grass, because that's what he's doing is raising that issue and that's what's causing the confusion.

Mr. Winkeljohn: Right, and we all have lived that already and fully understand that.

Mr. Azcona: I do have one more comment with regard to finance to the bond, the current bond outstanding we have one for \$6 million and then another one for \$4,180,000.

Mr. Winkeljohn: Right, and one is for Portofino Isles proper, and the other is for Portofino Court, which is the one that's in default.

Mr. Azcona: Is there a possibility for refinancing because one we have at 5.6% interest rate and the other one is at 4.75% to take advantage of lower interest rates, would it be a possibility in the near future to entertain refinancing those bonds?

Mr. Winkeljohn: The Portofino Court one is not an option because it's in default and it's been defeased, or it's basically frozen. Your bond, for your community was refinanced probably 5 years ago, and that one would probably be limited to a refinancing but I could ask. My firm constantly looks at the market and if we see any that the lines cross and there's a benefit, we would bring that to you, or our financial advisors that work for you would, but I can ask them just to double check on that.

Mr. Azcona: Ok.

Mr. Winkeljohn: Bond rates, though the rates may be low, the market has to be right, so there has to be a sales opportunity and the market isn't moving really fast right now is my understanding, but I can look at it.

Mr. Azcona: Ok.

Mr. Winkeljohn: We constantly keep an eye on that, that's for sure.

Mr. Azcona: Ok, thank you.


Mr. Winkeljohn: I do believe we had a motion from Ron on the financials, was there a second on them, I think it was two people at the same time.

On Motion by Mr. Willemstyn seconded by Mr. Azcona with all in favor, the Check Register, Balance Sheet and Income Statement were approved.

EIGHTH ORDER OF BUSINESS Adjournment

Mr. Winkeljohn: With no other business, a motion to adjourn would be in order.

On Motion by Mr. Austin seconded by Mr. Willemstyn with all in favor, the Meeting was adjourned.


Secretary / Assistant Secretary

Chairman/Vice Chairman