

**MINUTES OF MEETING  
HERITAGE HARBOUR MARKET PLACE  
COMMUNITY DEVELOPMENT DISTRICT**

The Regular Meeting of the Heritage Harbour Market Place Community Development District's Board of Supervisors was held on Thursday, **June 1, 2017**, at **2:15 p.m.**, at the **River Strand Golf & Country Club (Clubhouse), 7155 Grand Estuary Trail, Bradenton, Florida 34212.**

**Present and constituting a quorum were:**

Terry Kirschner	Chairman
William Riley	Vice Chairman
David Negip	Assistant Secretary
Russell Smith	Assistant Secretary
Matthew Morris	Assistant Secretary

**Also present were:**

James P. Ward	District Manager
Jere Earlywine	District Counsel
Shane Cooper	District Engineer
Steve Akins (via telephone)	Keefe McCullough
Courtney Callan	Hopping, Green & Sams

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Ward called the meeting to order at 2:45 p.m., and roll call determined that all members of the Board were present.

**SECOND ORDER OF BUSINESS**

**Acceptance of the Resignation of Mr. Christopher Kemper from Seat 4.**

Mr. Ward stated Mr. Kemper resigned effective March 14, 2017. He asked the Board to approve his resignation for purposes of inclusion in the record.

**MOTION was made by Mr. Kirschner and seconded by Mr. Riley to approve the resignation of Mr. Christopher Kemper from Seat 4, and with all in favor, the motion was approved.**

**THIRD ORDER OF BUSINESS**

**Consideration of Appointment and Administration of the Oath of Office to Mr. Russel Smith for Seat 4**

Mr. Ward said the next item was the consideration of the appointment to fill Mr. Kemper's term, which was set to expire in November of 2019. The statute permitted the Board in its sole and absolute discretion to appoint an individual to fill this position. He called for a motion for from the Board on a replacement member.

**MOTION was made by Mr. Kirschner and seconded by Mr. Riley to appoint Mr. Russel Smith to Seat 4, and with all in favor, the motion was approved.**

Mr. Ward, a notary of the state of Florida, administered the Oath of Office to Mr. Smith, who then signed it. He provided Mr. Smith with copies of the Guide to Sunshine Amendment, the Code of Ethics for Public Officers and Employees and the Statement of Financial Interests.

#### **FOURTH ORDER OF BUSINESS**

#### **Consideration of Resolution 2017-3**

Mr. Ward stated this resolution designated the officers of the District. He said currently Mr. Kirschner served as the Chairman, Mr. Riley served as Vice Chairman, the balance of the Board served as Assistant Secretaries, and he served as the Secretary-Treasurer. He called for a motion to re-designate the Officers of the Board.

Mr. Smith moved that the officers remain the same as described above.

**MOTION was made by Mr. Smith and seconded by Mr. Riley to approve Resolution 2017-3 as described above, and with all in favor, the motion was approved.**

#### **FIFTH ORDER OF BUSINESS**

#### **Consideration of Minutes**

Mr. Ward asked for any additions, corrections or deletions to the minutes of the February 2, 2017 meeting. Hearing none, he asked for a motion for their approval.

**MOTION was made by Mr. Riley and seconded by Mr. Kirschner to approve the minutes of the February 2, 2017 meeting, and with all in favor, the motion was approved.**

**SIXTH ORDER OF BUSINESS****Consideration of Acceptance of the Audited Financial Statements for the Fiscal Year Ended September 30, 2016**

Mr. Ward introduced Mr. Steve Akins, the individual who prepared the audit, who was on the phone. He asked Mr. Akins review the audit with the Board and answer questions. He added the Financial Statements have been filed with the appropriate agencies.

Mr. Akins explained that the audit opinion on Pages 1 and 2 gave a clean audit opinion. He said the unpaid assessments had been carried over from prior years. He said these had been highlighted for the reader. He said on Pages 23 and 24, the internal control procedures were discussed, and no weaknesses were noted. He said in the compliance paragraph on Page 24, two instances of non-compliance were noted: One was the Bond Indenture Debt Service Reserve account did not have adequate funds as of September 30, 2016, and two, the debt service requirements had not been made for the 2005 Bond. He said the District had put forth a response to those two comments, which gave the reader the overall situation. He said on Page 25 and 26 was a standard report required by the State of Florida for all submitted financial statements. He added his firm was required to make sure the Annual Financial Report submitted by the District to the State of Florida agreed with the Financial Statement.

Mr. Akins continued that the actual Financial Statement was on Page 9 to 13. He pointed out several items here and gave explanations for the figures. He told the Board that he had highlighted Note 5 on Page 14, which detailed the long term debt of the District, and Note 7, which detailed foreclosure proceedings in the event of default.

Mr. Akins reported that the Financial Statements had been finalized and issued.

Mr. Ward called for questions or discussion. Hearing none, he called for a motion to accept the audit.

**MOTION was made by Mr. Kirschner and seconded by Mr. Riley to accept the Audited Financial Statements for the Fiscal Year ended September 30, 2016, and with all in favor, the motion was approved.**

**SEVENTH ORDER OF BUSINESS****Consideration of Agreement with LNR Heritage Harbour, LLLP to settle the Civil Foreclosure Action for Non-**

**payment of both the Debt and  
General Assessments**

Mr. Earlywine provided some background on the foreclosure proceedings of the District. He said the District had been in foreclosure proceedings to LNR Properties on both debt and assessments in the 2015 and 2016 fiscal years. He stated that Courtney Callan, litigation council, was on the phone and has been working with LNR on a settlement. He said the up-to-date version of the settlement agreement stated that LNR would agree to deed over its property in the District to a Special Purpose Entity controlled by the bondholders. He said property would be sold and the proceeds would be used to pay the O&M assessments, and hopefully, leave the debt assessments in place to continue for future years. He said the LNR entity would dismiss the counterclaim in the case and drop out of the case, and this would allow the District to proceed with the foreclosure.

Mr. Earlywine asked Ms. Callan for additional comments, and she stated that one other benefit from a timing perspective was the process would be shorter. Mr. Earlywine added that this particular agreement just got the deed for the property, and the foreclosure would be figured out later. He said in concept the objective was to try to close out the O&M first and leave the debt in place.

Mr. Smith asked if the current version of the agreement contained a release to Lennar. Mr. Earlywine responded that it did contain some release language.

Ms. Callan stated that Mr. Earlywine was referring to an Assignment of Claims, which was an assignment from the landowner, LNR, to T.H. Harbour, LLP. She said in the latest version of the agreement, T.H. Harbour had assigned to the CDD any claims that T.H. Harbour may have had or has right now against Lennar and against the HOA, so essentially that gave the CDD the ability to release those claims if it so chose.

Mr. Smith asked if the release of the claim specifically related to the impact fee was being assigned to the special purpose entity. Ms. Callan responded that it was being assigned to the Special Purpose Entity.

Mr. Smith asked if all claims included in their countersuit were being released. Ms. Callahan responded this was correct, and all claims related to the lawsuit and the CDD and its affiliates have been released. She said the assignment related to claims against Lennar or the HOA.

Mr. Earlywine advised that there were some minor changes to the agreement since the Agenda had been published and asked if he would like the Board to review those.

Mr. Smith asked that this item be tabled to the next meeting as the Board did not have the latest version of the agreement to review.

**MOTION was made by Mr. Smith and seconded by Mr. Negip to table the approval of the agreement described above, and with all in favor, the motion was approved.**

**EIGHTH ORDER OF BUSINESS****Consideration of Resolution 2017-4**

Mr. Ward stated this Resolution would approve the proposed Budget for Fiscal Year 2018 and set the public hearing for August 3, 2017. He stated the proposed budget was consistent with what had been seen in the past. The assessment rates were consistent with past rates. Mr. Ward stated, as he has for a number of years since they have been in foreclosure, the General Fund of the budget was basically fully funded by all of the other parcels, other than 19 and 20. The debt service will go into a deficit position as it had in the past.

Mr. Ward called for discussion. Hearing none, he called for a motion to accept.

**MOTION was made by Mr. Smith and seconded by Mr. Negip to approve Resolution 2017-4 as described above, and with all in favor, the motion was approved.**

**NINTH ORDER OF BUSINESS****Staff Reports**

- a) Attorney – No report was given.
- b) Engineer – No report was given.
- c) Manager -

Mr. Ward reported the number of voters reported to the Supervisor of Elections was zero as the District was essentially a commercial district. Secondly, Board members would be receiving Form 1 in the mail soon and to be sure to file them on time.

**TENTH ORDER OF BUSINESS****Adjournment**

**MOTION was made by Mr. Smith and seconded by Mr. Riley, and with all in favor, motion to adjourn the meeting was approved.**

The meeting was adjourned at 3:05 p.m.

  
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James P. Ward, District Manager

  
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Terrence Kirshcner, Chairperson

**OATH OR AFFIRMATION OF OFFICE**


I, Russell Smith, a citizen of the State of Florida and of the United States of America, and being an officer of the **Heritage Harbour Market Place Community Development District** and a recipient of public funds as such officer, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida, and will faithfully, honestly and impartially discharge the duties devolving upon me as a member of the Board of Supervisors of the **Heritage Harbour Market Place Community Development District**, Manatee County, Florida.

  
\_\_\_\_\_  
Signature

Printed Name: Russell Smith.

STATE OF FLORIDA  
COUNTY OF MANATEE

Sworn to (or affirmed) before me this 1st day of JUNE, 2017, by Russell Smith, whose signature appears hereinabove, who is personally known to me or who produced \_\_\_\_\_ as identification.

  
\_\_\_\_\_  
NOTARY PUBLIC  
STATE OF FLORIDA

Print Name:  \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_