

**MINUTES OF MEETING OF HERITAGE HARBOUR NORTH
COMMUNITY DEVELOPMENT DISTRICT**

The Regular Meeting of the Heritage Harbour North Community Development District's Board of Supervisors was held on Thursday, November 3, 2016, at 2:00 p.m., at the River Strand Golf and Country Club (Clubhouse), 7155 Grand Estuary Trail, Bradenton, Florida 34212.

Present and constituting a quorum were:

Terrence Kirschner	Chairperson
William Riley	Vice Chairperson
John Wisz	Assistant Secretary
Nancy Lyons	Assistant Secretary

Absent was:

David Negip	Assistant Secretary
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Also present were:

James P. Ward	District Manager
Greg Urbancic (via telephone)	District Counsel
Dave Underhill	District Engineer

Audience present were:

Pauline Tasler
Mike Fisher

1. Call to Order & Roll Call

Mr. Ward called the meeting to order at 2:00 p.m., and roll call determined that all members of the Board were present with the exception of David Negip.

2. Consideration of the Minutes of September 1, 2016 Regular Meeting

Mr. Ward asked if there were any additions, corrections, or deletions to the minutes. There being none, he asked for a motion.

Motion was made by Ms. Lyons and seconded by Mr. Wisz, to approve the September 1, 2016 minutes, and, with all in favor, the motion was approved.

3. Consideration of the Agreement with Aquaterra Utilities regarding the use of the District's irrigation system to provide irrigation water to the District.

Mr. Ward gave some background on this item saying that part of the facilities that were built by the district from 2007 Bond proceeds are irrigation lines that are in the district and used by Aquaterra Utilities to provide irrigation water to the community itself. Mr. Ward stated that there was no previous agreement with them for this service.

Mr. Urbancic affirmed Mr. Ward's statement that there was not currently a formal agreement with Aquaterra Utilities. He stated that Aquaterra Utilities would be the ultimate owner of a water use permit issued by Southwest Florida Water Management District. He said that in the agreement they have outlined and shown by exhibit what the CDD owns in terms of irrigation lines. He stated that the agreement memorializes the fact that the CDD is going to allow Aquaterra to use their lines to deliver irrigation water to the community. The CDD will have ultimate maintenance authority of the lines. He said that the residents will continue to pay the current fee and the agreement will be in effect until 2036.

Mr. Ward added that there was an agreement with the Homeowners Association where they maintain any assets of the District.

Ms. Lyons asked what the consideration was for the service. Mr. Ward answered that it was providing less expensive water. He stated that the negotiators of the agreement did not look at consideration as an important issue; they just wanted to allow the use of the irrigation lines. She also asked if Aquaterra was a subsidiary of Lennar, and Mr. Ward confirmed this.

Mr. Ward stated that any fees that would be charged would end up being charged back to the residents.

Ms. Lyons asked if there was a way that this agreement could be used as an offset to the CDD operations maintenance section which would allow CDD taxes to go down. Mr. Ward stated that it could be used for that if Aquaterra agreed to it, but traditionally they have not agreed in the past.

Ms. Lyons asked for clarification of the reason for the 20-year initial contract and 10-year extensions. Mr. Ward said because it was consistent with what was being done in Heritage Harbour South.

Ms. Lyons asked if there were any matrices to look at to stipulate that the current rates will continue. Mr. Ward stated that the CDD does not have utility rate authority over Aquaterra Utilities, so they could not put in the agreement anything related to the rates that are charged.

Ms. Lyons asked if there was any competition. Mr. Ward stated that generally there is no competition across the State of Florida for utility companies. Ms. Lyons said she could understand that if they owned the lines; but if they do not, that presents an issue.

Mr. Urbancic added that he did not know if they could get a permit to draw water because of the existing water use permit.

Ms. Lyons stated that it was her understanding that the use permit belonged to Lennar, and it was going to be assigned over to Aquaterra. She then asked if someone would explain how that works.

Mr. Underhill explained it went back to the restrictions of the property that basically said that the CDD will use Aquaterra, and that was what governed. He also explained that it would be very costly to not use Aquaterra.

Ms. Lyons inquired as to where these restrictions could be found. Mr. Underhill stated that he thought they were in the Master Declaration. Mr. Urbancic confirmed, and stated he would try to get a copy for the Board.

Ms. Lyons stated that she would like more information before making a decision. Mr. Ward said frankly that there was not much that could be done since the Master Declaration stated that the water would be provided by Aquaterra and the current permits were in Aquaterra's name. Mr. Ward expressed that the agreement was not a bad agreement and it is unfortunate it was not put in place a number of years ago. He stated the agreement allowed less expensive water to be provided to the community than would otherwise have been provided because the County did not have irrigation water available for the community.

Mr. Ward stated that the rates they were paying were not out of line and were comparable to what other areas pay.

Ms. Lyons asked Mr. Urbancic to give his legal opinion on the agreement. He answered that the use permit was definitely in Lennar's name, and it was going to be converted over to Aquaterra. He stated that the covenant was read to him during the process and it does state that they needed to use Aquaterra. He stated that this offered the most cost effective manner possible for getting irrigation water. Mr. Urbancic stated that he had emailed the originator of this agreement and asked him to send the covenant so he could send it to the Board.

Mr. Ward stated that before an item can come to the Board it must be approved by Mr. Urbancic, and so by virtue of this procedure, he has given his opinion. Mr. Ward suggested that they add a signature page for Mr. Urbancic to approve formally. Mr. Urbancic agreed.

Ms. Lyons asked if the wording "certain restrictive covenants" could stipulate which paragraph out of which document. Mr. Urbancic said that could be done.

Mr. Ward asked if there were any other questions from the Board or the audience. None was asked.

Motion was made by Mr. Kirschner and seconded by Mr. Wisz to approve the agreement with Aquaterra Utilities with the change noted above, and, with all in favor, the motion was approved.

4. Staff Reports

- a. **Attorney** – Mr. Urbancic had nothing further to report.
- b. **Engineer** – Mr. Underhill had nothing further to report.
- c. **Manager** - Mr. Ward had nothing further to report.

5. Supervisor’s Requests and Audience Comments

Mr. Ward asked for comments from the Board or the audience, and there were none.


6. Adjournment

Motion was made by Mr. Wisz and seconded by Ms. Lyons to adjourn the meeting, and, with all in favor, the motion was approved.

The meeting was adjourned at 2:26 p.m.



James P. Ward Secretary



Terrence Kirschner, Chairman