

**MINUTES OF MEETING  
TERN BAY  
COMMUNITY DEVELOPMENT DISTRICT**

The Regular Board Meeting of the Tern Bay Community Development District's Board of Supervisors was held on **Thursday, October 7, 2010, at 9:00 a.m.**, at the office of **Charlotte Engineering and Surveying, 1700 El Jobean Road, Port Charlotte, Florida 33948.**

**Present and constituting a quorum were:**

Matthew Morris	Vice Chairman
Richard Brylanski	Assistant Secretary
Mark Gillis	Assistant Secretary
Neale Montgomery	Assistant Secretary

**Also present were:**

James P. Ward	District Manager
Joe Menen	District Engineer
Scott Clark	District Counsel (Telephonic)
Bill Riley	CAS Asset Management
Kathy Karlen	Audience
Bill Karlen	Audience
Ceil Fillenworth	Audience
Tom Tillenworth	Audience

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Ward called the meeting to order at 9:08 a.m. and noted that all members of the Board are present at roll call with the exception of Supervisor Brylanski, who has indicated he will be joining us soon.

**SECOND ORDER OF BUSINESS**

**Consideration of Acceptance of the resignation of Mr. Ward, effective September 30, 2010 and appointment of an individual to fill the unexpired term for Seat 4 (term expires November, 2012)**

Mr. Ward: I did include in your agenda package my resignation letter effective September 30, 2010; it coincides with the next item on your agenda, which is the effective

date of my employment agreement as your Manager. The first thing I'll ask the Board to do is, just by motion, to accept my resignation.

**On MOTION by Mr. Morris and seconded by Mr. Gillis with all in favor, to accept the resignation of James P. Ward effective September 30, 2010 was approved.**

Mr. Ward: My term expires November 2012. The way this statute works, the balance of the Board appoints an individual to fill that unexpired term. The only requirements are that the individual be a citizen of the United States and a resident of the State of Florida. You may do that at this meeting or we can take that up at your November meeting. It's your choice how you would like to do that, or if you would like me to find a suitable candidate for you, I can do that in the intervening month also. Tell me what you would prefer.

Ms. Montgomery: Do you want to do it? You've been on the longest.

Mr. Gillis: Are we talking about having someone as a Chairman or a new Board member?

Mr. Ward: Just as a new Board member. The Chair position will come up in a couple items.

Mr. Morris: I don't have anybody in mind.

Mr. Gillis: I don't either.

Mr. Ward: We'll leave it vacant for another month and I'll see what I can do about finding someone for the Board.

**THIRD ORDER OF BUSINESS**

**Consideration of Agreement with JPWard & Associates, LLC, to provide Management, Accounting, Recording and Financial Advisory Services for the District.**

Mr. Ward: The agreement is the exact same agreement that you saw in the proposal that was sent to you along with the pricing structure. I believe Scott had one minor change that was made. With that, if you have any questions, I'll be glad to answer them. Otherwise, just a motion to approve the agreement.

Mr. Gillis: I had one question, I'm a little confused about the reimbursable expenses, in particular the travel cost. When you come over for the regular meetings, are you charging for travel?

Mr. Ward: No, I don't. I only charge for travel if I'm asked to go to Tallahassee or other regulatory agencies for some matter. Just in the normal course of business of managing a District, I do not charge for travel.

Mr. Gillis: Then the other one was on page three, item 11, you talk about enforcing the agreement will be in Hillsborough County?

Mr. Ward: Yes, that should be Charlotte County, right.

Mr. Gillis: I didn't have anything else.

**On MOTION by Mr. Morris and seconded by Ms. Montgomery with all in favor, to engage JP Ward & Associates, LLC, to provide Management, Accounting, Recording and Financial Advisory Services to the Tern Bay CDD was approved, subject to the minor changes mentioned above.**

**FOURTH ORDER OF BUSINESS**

**Consideration of Resolution 2011-1, Re-designating the Officers of the Tern Bay Community Development District.**

Mr. Ward: The next three resolutions are necessary to effectuate the transition from Rizzetta to my firm. The first, with my resignation as your chairman, is for you all to consider the designation of the Chairman, Vice Chairman and Assistant Secretaries. Currently, Matt is your Vice Chairman, and then Neale, Rick and Mark serve as Assistant Secretaries. You can move them up the ladder or change them around as you so desire. I would suggest you decide what you want to do and we can do it all in one motion by adopting the resolution with those appointments.

Ms. Montgomery: Matt, I jumped ahead, but it seems since you've been here the longest and you're the Vice Chairman, it would be logical for you to be the Chairman.

Mr. Morris: Sure, I don't have a problem with that. Which one of you wants to be the Vice Chairman?

Mr. Gillis: Well, I had a question on that. I think our term is up in November.

Mr. Ward: Yes, for all three of you, your terms are up in November.

Mr. Gillis: Including Rick?

Mr. Ward: Yes, Rick's term is up too.

Mr. Morris: Does my term run through 2012?

Mr. Ward: Your term is up in 2012, right. I would like you to appoint a Vice Chairman today. If we have to change it again in November because of some issues, then we can make those changes at that point. For purposes of signature cards, bank resolutions, etc., I would like to have a Vice Chairman in place.

Mr. Gillis: Now you were sworn in before me, (speaking to Ms. Montgomery) so I'll recommend you.

Mr. Ward: We'll add Mark and Rick as Assistant Secretaries. A motion to adopt Resolution 2011-1, naming Matt Morris as your Chairman, Neale Montgomery as your Vice Chairman, Mark Gillis and Rick Brylanski as Assistant Secretaries, and then I've included my name as your Secretary and Treasurer would be in order.

**On MOTION by Ms. Montgomery and seconded by Mr. Morris with all in favor, to approve Resolution 2011-1 with the Board positions and names as stated above.**

**FIFTH ORDER OF BUSINESS**

**Consideration of Resolution 2011-2, Removing all existing checking account signer's and re-designating checking account signer authority to the Chairman, Vice Chairman and Treasurer of the Tern Bay CDD.**

Mr. Ward: Resolution 2011-2 removes all checking account signers on the existing SunTrust bank account, which is intended to remove all the Rizzetta individuals from the signatory authority, although they have already done that by removing themselves from the signatory at SunTrust with the names of the Chairman, Vice Chairman and me, as your Treasurer, as the signers on the District's bank account. It is with SunTrust, which is where I normally bank anyway, so we'll leave that in place also. If that's acceptable to the Board, a motion to adopt Resolution 2011-2 is recommended.

**On MOTION by Mr. Morris and seconded by Mr. Gillis with all in favor, to approve Resolution 2011-2.**

Mr. Ward: The record will reflect Supervisor Brylanski has joined us.

**SIXTH ORDER OF BUSINESS**

**Consideration of Resolution 2011-3, Designating the Registered Agent, Registered Office and Office of Record for the Tern Bay CDD.**

Mr. Ward: What I would recommend to the Board is that Scott Clark be named as your registered agent; he's the District's General Counsel, and his office is the registered office for the District. It's used primarily in the event of litigation in any event and is probably the most appropriate in my mind. Thus, Scott and his offices will be named as your registered agent and registered office. I've included in here a provision for the office of record that's provided for 190.011(6), which is Charlotte Engineering. It just simply means that if some member of the public wants to go to a specific location and look at a District record, it has to be in the county where the District is located. Charlotte Engineering, whose office is here and can do that. In the normal course of business, the way I normally do things, all of your records will be made electronic in the coming months.

Generally, if anybody needs anything, they just send me an email and I send them the documents electronically or a CD as needed. It's never been a problem in all the years that I've been doing this. The statute requires we name an office of record. With that, if you have any questions, I'd be glad to answer them. Otherwise, a motion for the resolution is in order and recommended for your consideration.

**On MOTION by Mr. Morris and seconded by Ms. Montgomery with all in favor, to approve Resolution 2011-3.**

**FOURTH ORDER OF BUSINESS****Staff Reports****A. District Counsel - Scott Clark****i. General Matters**

There being no report, the next item followed.

**ii. Foreclosure Matters**

Mr. Clark: Just some updates to give in connection with the foreclosure litigation. I've had no different communication from the bondholders in terms of their plan for scheduling a sale of the property. I'm continuing to press to have them tell us what's going on, what they're thinking, and if there are any changes in strategy, and I haven't gotten any new information on that. The other side, Tarpon IV, the tax deed parties, are moving forward with their appeal of the judgment. They will, probably within the next ten days, if I'm remembering my calendar, have to file their initial brief. I'm prepared with the response. I know the issues, and I know what I want to say, but I'll need to be filing that response between now and by the time of our next meeting, and I will follow up on that.

The other thing I will report to you, and this matter has been sitting dormant for a while. The District was sued by Ryan Golf back late in 2007, early 2008. They have not pursued that litigation for quite some time. We have been, for quite some time also, trying to get a party at Lennar to sign an affidavit so we can file a motion for summary judgment. Our position is that the District paid all of the invoices that were rendered to it. The developer did not pay some of the invoices that were rendered to it, and Ryangolf decided to sort of mix the issues up, because they knew the developer wasn't going to pay.

The Court, about two weeks ago, on its own motion set the matter on a schedule for trial, which will be coming up in the next several months and demanded that we start moving in that direction to get the case off the docket. Jim, I'm going to be working closely with you in the next few days to get you to help me with some records that showed payments that we made, so we can go ahead and file a motion and get rid of the case. Quite some time ago we had been trying to get an affidavit from Rob Price to indicate that the payment was made, and that he had kept the records and knew that. He, I understood, was no longer employed by Lennar, and they couldn't find him.

Jim, I know you probably know some people associated with Lennar through your other work and might be able to help me with that too, but we'll take care of that matter and try to bring it to closure now that the Court's brought it back to the forefront. I'll report on that at the next meeting.

Mr. Ward: Are there any questions from the Board? Does the audience have any questions for staff?

Mr. Karlen: The Ryan Golf situation, I was under the impression that when the CDD became the sort of titleholder, that all previous claims against the property were null and void. But since this is an action directed at the CDD, I assume that's why this one was not zeroed out.

Mr. Clark: That's correct. It's not a lien action against the property, it's a contract action against the CDD. There were some questions in the documents about whether the CDD was even required to do anything; there were some defenses that we raised, because we believe the CDD simply agreed to direct construction funds from the bond issue toward payment of invoices for the work on CDD property, and we did that. Invoices were paid. Jim, you'll find as we look in it that the requisitions are there. Unfortunately, a lot of the records on the construction process were being kept by Lennar, and then Lennar relatively quickly folded up some of its offices, and we're not sure where those documents are.

Ms. Montgomery: So you don't really expect us to go to trial then; you expect the summary judgment will be granted?

Mr. Clark: Yes, I expect to pursue a summary disposition, and I don't think that Ryan Golf expects it to go to trial. We've not heard a peep from them in quite some time, so I'm not sure how they'll approach the trial scheduling.

Mr. Karlen: Ryan Golf is suing because of nonpayment. Some of those bills date back quite a ways, and it would be a great curiosity to me as a homeowner as to when those bills were presented to the developer in relationship to when we purchased our home. Is there any way to get that information?

Mr. Clark: Sure. Since the Board is transitioning since this matter even came up, I'll produce some information and get a brief memo summarizing the arguments and get that circulated to the Board.

Mr. Karlen: I appreciate that very much, thank you.

Mr. Ward: Any other questions for Scott?

**B. District Engineer**

There being none, the next item followed.

Mr. Ward: Any questions from the Board? Any questions from the audience?

**C. District Manager - CAS Asset Management Report**

Mr. Ward: Under my report, we've reordered the agenda just a bit with Bill's report. What we're doing is trying to transition this report, not so much as a monthly operating report under the CDD, but more a report on where we need to go with the District over a short and long period of time. In this interim period while we're doing those transitions, Bill was kind enough to make some improvements, as indicated in the letter that outlines what his overall observations and comments are and what his summary of recommendations are for the Board for today.

**i. Field Management Report**

Mr. Riley: I'll do a quick review of the status of the property. Not too much has changed. We're still doing the landscaping with Valley Crest scheduled to take over November 1<sup>st</sup> on the property. Everything seems to be moving along with that. We've been pretty good with trespassing issues and operations. There are some things I'll get into a little detail, some repairs you've got to make to some of the pump stations on an emergency basis. We've had some low-pressure problems on the irrigation system on and off, and we've been able to work with some of the homeowners on that. We haven't identified them specifically, because they seem to come and go. We're monitoring it, between myself and the pump maintenance guy.

With the lakes, we thought we had an exotic nuisance specie; it turned out to be native species, and we met with the lake contractor technician out there, as well as some of the homeowners, and that's been resolved for the most part for now. The wetlands are listed in here, but we don't have anything as far as moving forward with some long term things that aren't listed in here. As far as the wetlands, the maintenance, the monitoring, exotic nuisance species, the longer they grow in there, the more it's going to cost to get them out. They'll choke out the native species. We have a proposal in here to take care of some of the vegetation along the edge of the pavement, because it's destroying the pavement.

Moving forward, depending on how things play out in the spring, there's a lot of vegetation, trees that are growing in the right of way that are ten, twelve, fifteen feet tall. It's more of a weed variety, but they're very woody, and they've grown up to transformers and come out into the roads. You probably have to address that moving forward if nothing happens with the District negotiations with someone else, at least mow the right the way back to the utilities and maybe do it quarterly. Right now it's gotten to the point where it's getting invasive.

As far as the items listed on here, page two of the budget, the first item, concrete structures; there's a price quote from a vendor to move some concrete structures down to the south entrance where trespassers stole a gate, they keep removing signs every time they're out there. Get some large structures there to put them across the roadway to the tree line, which they won't be able to move, and they might find another way in, but that will restrict their access. On the landscaping, we're going to add mowing from the edge of the pavement to along the right of way along Burnt Store Road, and add that to the existing landscape contract that's coming up. This was the price, it's \$140 per cut; it's a little over seven acres of area; it was \$160 and we got them to come down a little on the pricing.

The sod, and that's an estimate, it depends on how much square feet. We actually priced two landscapers and some sod vendors as far as what we'll replace.

Mr. Morris: Is there any of that we can talk to Pinnacle about, or is this sod other than what was damaged by the chinch bugs?

Mr. Riley: No, this was chinch bugs.

Mr. Morris: Is that something that's in the contract we had with Pinnacle, if it said something about replacing anything that was damaged because of their lack of treatment?

Mr. Riley: We spoke about that at the last meeting.

Mr. Morris: Were we just going to go ahead and replace it? I didn't realize that it was \$5,000 worth of sod.

Mr. Ward: Yes, I'm not sure I realized it either. I think what we should do is reserve the final payment on Pinnacle until I've had a chance to take a look at it.

Mr. Riley: If you want to do every part of the maintained area, some are going through different periods over time, it would even be more, because we're adding in maintaining down to the coach homes for Lennar when they let go. There's four feet of weeds on it.

Mr. Morris: I envisioned it last month when we talked about it as being \$1,000 worth of sod.

Mr. Riley: It depends on how much we really want to get into it or not. We're not going to replace every bit. Some will come back and the visibility windows; there's some that's damaged by the hogs and that's included in that, which we can't go back to Pinnacle for, which they tore up and weeds took over by the trailer area. We could look at that and see, come up with a hard number. The lake outfall structures, that's something for Aquagenix as the lake maintenance contractor; when we removed all the vegetations and we did the inspections, this is an estimate. I'll get a hard, firm number from them just to spray out the cattails and the torpedo grass, so it doesn't out the storm structures coming up, and that would be added to their contract they have now.

The storm water system, that was to spray the cattails on the south side of \$50 a month, which might not, because the lake guys started to do it on their own, I've been pushing them on some of the vegetation, so there might be no cost incurred. They've just been doing it, adding it to their scope, so we might be able to take that out. The storm inlets, there are sandbags on some of the inlets and fabric; we did the inspection. The rest of them, you know much of the area is vegetation, we had additional bags put on there; it will prevent future sediment from going down there. We cleaned the roads; even after that, you get a heavy rain, it will wash off the property. A lot of your vegetation, the trees are choking out the inlets. It's just ponding the water and other issues.

Roadway sediment, we've cleaned them once or twice. It's an ongoing thing, because we start getting water laying in the road, which degrades the asphalt and we start getting vegetation, cattails growing around.

Ms. Montgomery: You have one of those vacuum sweeping things?

Mr. Riley: It depends; it gets kind of heavy. Usually they go out there with machines and laborers and scrape it off and shovel it and take off the heavy sediment. It's the heavy dirt, and the sweeper, typically, the mud, he just moves it around the street if it gets too heavy. Weed whack the vegetation, that's between the curb and the valley gutter and the pavement; that's to knock down what's there now before they spray it, and for \$100 they would go around and spray the weeds out ten times a year to keep them from coming back and busting out the asphalt and rooting in the base. There's some asphalt down where the

residents live in the cul de sac that's breaking up a patch; that because all the cars turn around on that spot, so that's to pull down and fix that before it breaks up more.

Pumps and wells, it's to rebuild the DSR, that's a downstream relief valve on the pump station; it controls the pressure, so there's no pressurizing and blowing the pipes apart. When we had our inspection, they found that was defective. The copper line and the pressure line was defective and they had to replace them before we had a mainline blowout.

Mr. Morris: This says September; was that done this past September?

Mr. Riley: Yes, this past September. That's something you have to do immediately before it turns into a bigger problem. There's some corrosion on the piping at the pump stations on the pumps that needs to be addressed before it becomes a bigger problem. The high chloride content and salt in the water is very unforgiving to all the pumps. The control handles on the wells, they're all rusted out and not operable right now, so they need to be swapped out.

Ms. Montgomery: Things need to be done, but they all cost money, so where does that leave us?

Mr. Ward: I think we should go ahead and authorize the work to be done. I'll take a look at the budget and make sure we have sufficient funds to cover all of proposed work.

Mr. Morris: I went out there with Bill a few weeks ago and it's pretty nasty. The areas where the residents live hasn't been maintained too bad, other than some of the other homes that are around there, the landscaping has not been taken care of very well and is looking pretty bad. Some of the areas, like Bill said, when you get back away from where it's been maintained, it's literally like trees growing up along the side of the road where there used to be weeds, but they've just grown for a year. Now they're literally two-inch, three-inch around trees that are growing up right along the side of the roads, so it's pretty significant once you get back into those areas where they haven't been maintained for a while.

I was somewhat relieved with the amount of maintenance we've been paying for that; it looks half way decent up in the front when you come in, but once you get in the back, it was pretty bad.

Mr. Ward: If you are okay with everything, I think just one motion to approve the summary of recommendations page.

Ms. Montgomery: I'll make a motion to approve those summary recommendations with the understanding that you're going to check the budget and make sure we have to pay for it.

**On MOTION by Ms. Montgomery and seconded by Mr. Morris with all in favor, to approve the authorization of the work detailed on the summary recommendations page of the report, subject to the District Manager's approval as stated above.**

**FIFTH ORDER OF BUSINESS****Supervisor Requests and Audience Comments**

Mr. Karlen: I know I've brought this up to Bill in the past. There was a time, and it's been a while now, where it was determined that there are four lakes around the residential areas, and it's the CDD's responsibility to maintain a 20-foot border around each of these lakes. The CDD, it's been very selective on what little area has been done or not done on those four lakes, and those four lakes are heavily surrounded now with thick overgrowth. I don't know if there's any plans to follow through on that commitment to clean out around those lakes, that 20-foot border. My understanding was it was to surround all four lakes, 20 feet, and it never got done.

Mr. Riley: It's on the far side of the residents' lakes. There the cattails that's maintained in the back of lake one, but some of the other residents on the far side where it's the golf course on the back side of the lakes, there's weeds and grass and pretty much everything growing in there.

Mr. Karlen: In the back side, that one lake that borders up to the side of the homes on Sawgrass or Key Grass, that hasn't been done either.

Mr. Riley: Yes, and then in the common areas and the golf course back up in there.

Mr. Ward: We'll take a look at it; I'm not sure if we're going to be able to do anything as it relates to the golf course, even in the 20-foot buffer area, but I'll talk to Bill about it and see what we can come up with.

Mr. Karlen: I was wondering if anybody can check; there are probably six lots that are located within the developed homes. We have three or four in our street on Purple Emperor, and then there's a couple more open on Key Grass that the lots have become overgrown, and they're between two homes. This is really a rodent problem.

Ms. Montgomery: Most local governments have lot-mowing ordinances.

Mr. Karlen: I've followed it through all the way to the County, the Forestry Department, nobody will do anything, not even for fire danger will they come cut those lots. My question would be, not just could we get them to cut, but I'm not so sure they're not actually purchased lots. They may be owned by Lennar.

Ms. Fillenworth: Not Lennar, no. They used to be owned by 8810. I don't know who owns them now; Lennar does not own them.

Mr. Karlen: If there could be some follow up through up on that.

Ms. Montgomery: They are privately owned. I don't care what the County says, there's a lot-mowing ordinance. They mow it and they charge it back to them. If they don't pay it, they put a lien on the property and then they foreclose.

Mr. Karlen: Yes, we seem to be ineffectual in our ability to get it done.

Mr. Brylanski: I wonder if there's anything in the deed restrictions or the POA docs that enforce lot mowing is what I'm saying.

Ms. Montgomery: I don't know if that's something Scott can do.

Mr. Ward: I can at least look up who the lot owner is and send them a letter and see if we can get them to maintain it if it's not Lennar.

Mr. Karlen: We really appreciate it, yes. They're getting so bad.

Mr. Riley: It's about six feet tall, the weeds.

Mr. Karlen: That's between two homes, so you can imagine the rodents and things; it's a pathway.

Ms. Montgomery: We talked about this a couple months ago, and for a variety of reasons we didn't deal with it. Are we in compliance with all the permit requirements for the District? One of the things, just in listening to you and looking at your list, you're supposed to maintain your system free of exotics, so that's an issue. Are there other areas of noncompliance?

Mr. Riley: The Water Management District, it has suspended the reporting requirements right now; they've agreed to suspend reporting. They know the condition of the properties; they give us correspondence on that. There is no notice of intent or it was terminated for the storm water, but there's numerous violations, and these we'll address, the ones in Phase I, the things I have in here, even though there's no SWPPP plan, storm

water prevention plan in place. Phase II is another kind of animal onto itself, because it's such a large disturbed area bordering the wetlands. I started working on a preliminary budget, and it's about 850,000 square feet of disturbed area that borders the wetlands and things like that, and lakes.

Mr. Morris: This may be a question for Joe; the storm water system has been turned over to the Operations & Maintenance Phase, right?

Mr. Ward: No, we have not been able to do that, because there was no developer to sign off.

Mr. Morris: I thought that it was, and we were trying to get it transferred over, because it's still in the construction phase.

Mr. Ward: We did, but we sort of hit a block wall with the regulatory agencies, and we put that on hold for the moment. The thought was that we would have finished this foreclosure by now and we would have been able to do it ourselves; we're still in a holding pattern on that issue.

Mr. Morris: Once it's time to do that, especially when it comes out, to do some kind of inspection. I would doubt that it they would say anything other than, no way, if we wanted to transfer it at this point but we can't transfer it anyway. I think at times Bill has been communicating with them.

Ms. Montgomery: The other side is the District (SWFWMD) can take enforcement action against a party and it would be nice to try and avoid that if possible.

Mr. Morris: I think the concept that Bill has been communicating with them on —

Mr. Riley: I haven't broached the subject; I don't know if they've flown the property or seen Phase II as it borders Charlotte Harbor, which I'm sure they could. They just never stabilized, and it's been here for years; it's very shelly.

Mr. Morris: The whole question would come down to whose name is on the permit that's supposed to be doing it, and it's not the CDD's name, so I don't know that anything would come back into our lap.

Mr. Ward: I think the big issue is getting past what's going to happen with this foreclosure, and what the bondholder is going to do with this property moving forward. We do not have any ability to make any reasonable decision on what to do with that.

Ms. Montgomery: That's what we said the last time.

Mr. Ward: I don't see much choice here. Yes, sir.

Mr. Karlen: I do have a question about that foreclosure situation. We missed our auction date, and that was a four-month wait to get to the auction date. The auction date was requested to be put off by the bondholders and it doesn't seem, at least on our end as homeowners, that the bondholders have been very forthcoming with any progress reports on where we stand, who they're dealing with, have there been any solid offers, where are we on that. It's frustrating to us to see that not having take place. It just seems to be an ongoing event of no forward momentum.

Mr. Ward: You're going to continue to see that; the negotiations over the sale of a large tract of property aren't best handled in the public eye and, as result of that, information that comes to Scott or to me or to the balance of the Board ends up becoming a public record. That might not necessarily be the best course of action for this project. As a result of that, bondholders have had discussions with developers, builders, whatever they may be, relative to this particular property. Some of the questions I've had, I've gotten phone calls from people with respect to them, but I don't think we're going to be getting much and, frankly, I don't think we should ask for much at this point, simply because it's best handled outside of the public eye, especially as it relates to the Tarpon IV, LLC, issues that we have.

We just need to let the players deal with the issue, especially since I also know the bondholders are still waiting on their asset report from the firm they hired to do it, which I believe is Cushman & Wakefield.

Ms. Fillenworth: Are the bondholders and Tarpon IV aware that the CDD has a finite amount of funds?

Mr. Ward: I'm sure the bondholders are intimately aware of that. I don't think Tarpon IV knows much about the District.

Ms. Fillenworth: Then we have to be very careful on how those funds are used.

Mr. Ward: Yes, at this point that is definitely a big issue.

Mr. Fillenworth: Our concern is that, let's say that this thing does drag out and the CDD's money dries up and they can't keep this thing going. What happens to the homeowner in there? Do we just move out or close our doors?

Mr. Ward: We've had this discussion at our budget hearing, but the District is spending a quarter of a million dollars a year plus on the maintenance of the project where we get in \$20,000 a year off of non-developer owner property. So the numbers don't work at the end of the day. What can the District do? The answer is really clear: a) nothing, or b) the balance of you have to pick up the difference in the cost. From this point moving forward, as Cecil mentioned, we need to be extraordinarily careful. The ramification of not having money is a very dreadful situation that could happen for you all.

Mr. Fillenworth: We have to make some decisions as to the worst-case scenario. I don't know if someone could put a gate across the entrance, but it ultimately looks like that, so we're saying we own a house without access to it, because I don't know how those roads haven't been turned over to the County yet.

Ms. Montgomery: The CDD is a public entity; it's a government, so when the CDD owns something; it's owned by a government.

Mr. Brylanski: You're on platted lots too. Those are common areas that have been dedicated for public access.

Ms. Montgomery: They may not maintain it well, but your access is there.

Mr. Ward: I think Neale is right. The access is not really the big issue. I think it's just how do you fund \$225,000 worth of expenses off the backs of very few people. That's not realistic. But it's a decision that's at least a year out; hopefully within the coming period the bondholders will make some decisions on what to do with this property, and Scott will be able to get through this foreclosure action.

Mr. Karlen: Is there a possibility of putting the auction date back on the table?

Mr. Ward: Not at this point, I don't think it is.

Mr. Karlen: Would that be a move that might light some fire in anybody's direction to have that date looming again?

Mr. Ward: As I said, I think we need to sit and let the bondholders do their job and not push this issue at this point.

Mr. Clark: Yes, let me weigh in on that. I agree with Jim; I won't say that we might not get to the point in the future if it drags on where we would need to do something like that. Right now it would be counterproductive, because some things are being funded by the

bondholders and, should they decide to quit funding what they're funding, we're not going to be any better off.

Mr. Ward: Any other questions? I think we handled audience comments already; any other comments from the Board? I'll just ask the Board to recognize I sent you all an email and indicated that we're going to do something for Jon Miller. I personally feel somewhat bad for him in the situation that he was put in, but just to say thank you very much from the Board of Supervisors for the hard work that he did in performing his duties for the Tern Bay CDD, and something small that we could say thank you very much and send to him; I thought would be appropriate.

Ms. Montgomery: I think that's great. He did his best; he was just hamstrung a bit.

Mr. Ward: I agree. Any other comments or questions from the Board.

Mr. Brylanski: Would it be possible to get a map in here for the District meetings in case they talk about specific areas, so we can see a graphic of it.

Mr. Ward: Yes.

Mr. Brylanski: I'm not as familiar with the grounds as everybody else.

Ms. Montgomery: We all like aerials anyway.

Mr. Brylanski: I'm a picture guy all the way. Thanks.

**SIXTH ORDER OF BUSINESS**

**Adjournment**

Mr. Ward: If there are no other questions, a motion to adjourn would be in order.

**On MOTION by Mr. Morris and seconded by Ms. Montgomery with all in favor, to adjourn the meeting at 9:51 a.m. was approved.**

  
\_\_\_\_\_  
James Ward, Secretary

  
\_\_\_\_\_  
Matthew Morris, Chairman



JAMES P. WARD

September 20, 2010

Tern Bay Community Development District  
c/o Clark & Albaugh, LLP  
655 West Borse Boulevard  
Suite 212  
Winter Park, Florida 32289

Attention: Mr. Scott Clark, General Counsel  
Board of Supervisors

Dear Scott and Members of the Board;

I would like to take a moment and thank the Board in selecting my firm as your new District Manager and I look forward to working with each of you and appreciate the opportunity to serve the community.

With that, I must now step down as a member of the Board of Supervisors to assume the Manager's role and will do that effective with the close of business on September 30, 2010. The new contract with **JPWard and Associates, LLC** becomes effective October 1, 2010 and at our October 7, 2010 meeting I will be sitting with you as the District Manager.

Again, many thanks for your valued support and I look forward to working with you.

In the meantime, I remain,

Yours sincerely,

James P. Ward