

MINUTES OF MEETING
DUNES COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Dunes Community Development District was held Friday, May 12, 2017 at 9:30 a.m. at the Dunes CDD Administrative Office, 101 Jungle Hut Road, Palm Coast, Florida.

Present and constituting a quorum were:

John G. Leckie, Jr.	Chairman
Gary Crahan	Vice-Chairman
Charles Swinburn	Assistant Secretary
Rich DeMatteis	Assistant Secretary
Dennis Vohs	Assistant Secretary

Also present were:

Richard M. Ryan	District Manager
James Perry	District Representative
Tim Sheahan	Utilities Manager
Michael Chiumento Jr.	District Counsel
Glenn Hertzog	Resident
George DeGiovanni	Resident
George Bagnall	Resident

The following is a summary of the minutes and actions taken at the May 12, 2017 meeting. A copy of the proceedings can be obtained by contacting the District Representative.

FIRST ORDER OF BUSINESS

Roll Call

Mr. Perry called the meeting to order at 9:30 a.m.

SECOND ORDER OF BUSINESS

Audience Comments

There being none, the next item followed.

THIRD ORDER OF BUSINESS

Approval of Minutes

A. April 7, 2017 Meeting

Mr. Leckie stated on page 10, about halfway down, where I'm speaking it says "the public" but it should be "public areas".

On MOTION by Mr. Crahan seconded by Mr. Swinburn with all in favor the minutes of the April 7, 2017 meeting were approved as amended.

FOURTH ORDER OF BUSINESS

Reports and Discussion Items

Status Report on New Toll Collection System

Mr. Ryan stated I passed out what we will be giving to the people when the system goes online. It tries to set forth what the change amounts to because I don't know how many people are going to be concerned about it.

Mr. Leckie asked we're not going to mail this out but it's for anyone that stops at the tollbooth and asks what's happened?

Mr. Ryan responded yes because I think most will not notice any difference. Right now we're scheduled for mid or the end of May to make the changeover. We're still having problems getting the treadle installed. Other than that, the system has been configured and everything has been checked out. We're going to be down next week to do the final check. As soon as that happens and we get the treadle installed we will make the transition.

Mr. Crahan stated in my quick read of this, as soon as I got to "discontinues a bonus approach" I shut down on it because my reaction was, there goes another benefit. I would use the process by which we adjust for the discounted tolls or something like that.

Mr. Ryan stated we're going to institute a simplified program.

Mr. Crahan stated simplified accounting method or something like that. Just get rid of the word bonus because I think it's misleading.

Mr. Ryan stated we can modify that.

B. Discussion on Restoration of Marsh "TB" or Conversion of Marsh "TB" to a Lake

Mr. DeGiovanni stated at the last meeting we presented our letter and our cost analysis. We are asking for an update today. We've gotten an estimate from Cline Engineering and Cline has talked to the same people we talked to at St. Johns and came up with an estimate for

restoring the lake. Their estimate is \$25,000 including the permitting and the design per what St. Johns specified would need to be done. Over and above that would be the \$18,500 mitigation costs so it would come in below \$50,000. Based on that, we wanted to invite Dick and Tim to come down and meet with us at the site with Cline. I understand you're hiring a consultant to help evaluate this. Maybe we can help save some of that money by doing an onsite visit, see what we have in mind and what Cline's estimate includes and see if we can come to a reasonable solution.

Mr. Sheahan stated you have a proposal from PE Group, LLC in your agenda package and it also has Cline's revised estimate. We've worked with the consultant, Bob Paymayesh, before, he is familiar with our permits and that's who we would like to hire to guide us through this process. I've worked with him on this scope and I've tried to incorporate some of the discussions that we had at the last meeting. The first thing I think we need to do is meet with St. Johns to discuss what our options are.

Mr. Ryan stated Bob Paymayesh was the one who originally did the submission for HD Associates when we were in the process of transferring the ownership of the lakes from the Homeowners' Association to the District. I think Tim's approach is the right one. Until we talk with St. Johns to flush out the various alternatives, we really can't make a judgment.

Mr. Swinburn asked to the extent there might be a different conclusion drawn by us than by the participating homeowners as to what can be done out there, am I correct in my understanding that as far as our knowledge goes right now, the difference would probably be caused by the salt content of what is in the marsh?

Mr. Ryan responded it certainly as an impact on that because right now you can't get anything to grow because of the salt content. The soil is contaminated with salt. There are a number of issues with the proposal that the homeowners have come forward with. What they have not looked at is the effect of the salt in the soil and what we can do. Until we determine whether we can use that soil for any purpose of growing, a solution may be to haul it out of there, which was the original concept, but we're looking at a couple hundred thousand bucks.

Mr. Leckie stated or to plant reed-type grass that is salt tolerant.

Mr. Vohs stated at the last meeting, among the options, one was to deed the marsh TB to another entity. Let's assume that was acceptable to the group it was going to. What would that do if it was connected to another lake that was owned by the DCDD.

Mr. Ryan responded if you went in and excavated it and created an extended lake, it wouldn't effect the operation of the balance of the system.

Mr. Leckie asked so it could be an option to deed it to someone else?

Mr. Ryan responded yes.

Mr. Hertzog asked if it appears you're going to go ahead and hire a consultant, I'm back to a time issue since you haven't even hired a consultant yet, how long is this going to take?

Mr. Leckie responded he would come back with his findings in 45 days.

Mr. Vohs stated whatever we do, St. Johns is going to have to issue a revised permit and that could take forever.

Mr. DeGiovanni stated you realize DCDD does not own any lake banks in Hammock Dunes. So once you convert this marsh into a lake and create lake banks, the lake banks should be deeded to either the golf course or the owners on the owner's side. Therefore, whatever soil gets deposited on those lake banks is our responsibility to treat and to maintain. I think that's a distraction from the real problem and the solution.

Mr. Ryan stated the marsh is different from the lakes. The lakes specifically say, to the high water mark, and the banks are not the property of the Dunes CDD in Hammock Dunes. In Ocean Hammock, we do own them so it's just the method of transfer of the property. It's not so much the banks in the marsh, it's where the property line is. We've done a layout of the marsh so we could go back and reference where the actual ownership of the land is. The marsh was preexisting as far as we know so the ownership of the property would be determined by the metes and bounds of the transfer document.

Mr. DeGiovanni stated the mitigation bank allows you to then turn it into a lake, which then allows you to re-deed it as part of your lake and deed the banks to the club and to the owners, so the mitigation points give you that flexibility based on our conversation with St. Johns.

Mr. Leckie stated if the board makes the decision to go ahead with this contract today, I would ask that between now and the next meeting that Dick and Tim have a meeting with St. Johns, assuming you can get that, and discuss this. We can get a report of what your meeting is with them at the next meeting so we can move forward on this.

Mr. Hertzog stated just quit claim it to us. It becomes part of the club or the homeowner's properties. You bought the mitigation points and they allow you to create a new entity called a

lake versus a marsh at any size you want because you've already paid the penalty through the mitigation points. You have the precedence because you don't own any other lake banks in Hammock Dunes.

Mr. Swinburn asked are you ready to commit the golf course and the homeowners' association that you'll accept that quit claim if you've got a pile of dirt that nothing will grow on?

Mr. Hertzog responded yes because we know how to treat it.

Mr. Leckie stated where we are right now is Tim has put a proposal for us to hire an engineering firm that has a 45 day timeframe on it. I would like Dick and Tim to meet with St. Johns by the next meeting with this consulting engineer that we hire and come back and tell us where they are.

On MOTION by Mr. Crahan seconded by Mr. DeMatteis with all in favor to accept the proposal from PE Group, LLC to conduct an evaluation of a marsh versus lake conversion was approved.

Mr. Vohs asked Tim is there a possibility you could meet with them as Glynn requested?

Mr. Ryan responded I don't know the benefit of it until we talk to St. Johns.

C. Update on Evaluating Stormwater Utilization from Hammock Dunes Lakes and Additional Reclaimed Water from Palm Coast

Mr. Sheahan stated we found that the southern lakes, lake five specifically, were pretty low in chloride so a week ago Tuesday we began pumping from the north lakes. We're getting about 500 gallons a minute from that source.

Mr. Ryan stated even though the salinity is higher than we'd like, it's still lower than our wells that we pump from to supplement the irrigation system.

Mr. Sheahan stated you have a proposal under tab C from CPH to design a permanent pump station and pipeline to bring water from the southern lakes. We did a test where we connected into the stormwater system and it looks like that's feasible. I'd like to get the design going on that.

Mr. Vohs asked this is to put the piping under the roadway?

Mr. Ryan responded yes. We would then go to the County to get the permits. We have an existing easement but we still need County approval for going under the roadways.

Mr. Leckie asked what's the cost of the engineering study?

Mr. Sheahan responded \$36,000. I asked them about doing a design / build type of project if it would save time or money and they didn't think so because of the size of the project.

Mr. Leckie stated you said before we've got the right-of-ways and we were going to go underneath the road and now it's \$31,000 to get an engineer.

Mr. Sheahan stated we still need the County permit to go underneath the roadway and that's why we need a design to submit to them to show what we're doing.

Mr. Leckie asked but regardless of what happens with Palm Coast, this is a benefit to the DCDD and the water supply for non-potable and the long-term to have this put in?

Mr. Ryan responded that's correct. It gives us options that we don't have now.

Mr. Crahan asked what's going on with the Palm Coast side?

Mr. Sheahan responded the City of Palm Coast approved their proposal for their routing study so they're going ahead with that. That should be completed by the end of July. Then the City of Palm Coast will do the modeling to determine the size of the pipe and then we'll be ready to do another design.

Mr. Leckie asked but this is something for 2018 and 2019?

Mr. Ryan responded yes this is the real long-term solution. We would leave the lakes in because it's a lot cheaper but to be sure that you have irrigation water capability, the additional capacity from Palm Coast is really critical. It gives you a sure-fire method because the lakes are not.

Mr. Crahan asked is that pipeline solely to provide us increased capacity or is there any other benefit?

Mr. Ryan responded it's primarily to their benefit. They want to discharge large quantities of water into the intracoastal when they have a wet weather discharge. The problem right now is they're limited because of the size of the pipe. This is all about increasing the pipe size. We would contribute a portion of the cost of pipe for the benefit of getting a long-term supply of reclaimed irrigation water.

Mr. Sheahan stated we told them we that we want a minimum of 500 gallons a minute capacity.

Mr. Ryan stated so that puts us around 3 million gallons a day total.

Mr. Vohs asked you've talked in the past about the restrictions that St. Johns has been putting on with irrigation water. Does that make us more subject to those restrictions?

Mr. Ryan responded no, less because it's all reclaimed water and that's the big advantage.

Mr. Crahan asked have we tried any other competitors for a competitive bid?

Mr. Sheahan responded no we haven't.

Mr. Crahan asked are there other competitors that could submit a reasonable bid?

Mr. Sheahan stated we could but it would slow the project down.

Mr. Crahan stated it seems like a high bid for what they're doing.

Mr. Leckie stated do we need another bid? We'd like to be competitive but I'd also like to see this get in as soon as we possibly can, especially if we can get it done by July.

Mr. Ryan stated if the water that we're getting from the north is sustainable I think that puts us in a better position for this year. If that works out and we get through this summer then I think it may be a possibility that by next year we will have the feed in from Palm Coast.

Mr. Leckie stated you might not need this then.

Mr. Ryan stated I think ultimately you'll want to do it but that would give you a chance to go out and look for other proposals.

Mr. Perry stated right now the engineering firms are extremely busy and it's a small job. You've got \$10,000 worth of consultant fees so the actual engineering is about \$20,000. You might be able to save a few thousand dollars.

Mr. Swinburn stated Jim, if I remember right there was some limit in statute below which we're allowed to get a non-competitive bid.

Mr. Perry stated there is and it's in the \$300,000 range so you are well below that and you've used CPH for a number of years and you know their hourly rates are pretty competitive.

Mr. Sheahan stated Palm Coast uses CPH quite a bit also. In fact, CPH is doing this routing study that they're doing for the pipeline.

On MOTION by Mr. Swinburn seconded by Mr. DeMatteis with all in favor to accept the proposal from CPH, Inc. for professional design services on the stormwater pipeline was approved.

Community Projects Report

Mr. Ryan stated we're waiting to finish up all payment of bills for the improvements to the Hammock Dunes Parkway. The work has been done but we haven't coordinated all of the final payments with Ft. Lauderdale and as soon as we do we will have the final numbers. Right now we're done with everything except giving the County money for the Malacompra stormwater system. The good news is finally with that money we have sitting in the state account we're getting paid about \$20,000 a month in interest which is a lot better than the \$2,000 or \$3,000 we were making a while back. The interest rates are going up so if the money sits there, it doesn't hurt us. The community projects are essentially done. We wrote a letter to the County regarding the transfer of \$400,000 for the dunes restoration. It was a very simple letter with Michael's concurrence that when they are prepared to utilize the funds they can contact us and we would then fund the effort that they are putting forth.

Mr. DeMatteis asked should we not be listing that on here?

Mr. Ryan stated we can put it in as pending the same as Malacompra.

Discussion of District Manager

Mr. Leckie stated I want to bring you up to date on our discussion last month about Dick advising that his contract was up September 30th and we would start to look for a replacement. Since the last meeting I've talked with Jim Perry about possibly looking at this job. He advised me that with his position with GMS that he was not a candidate for it. We also talked about several candidates.

Mr. Perry stated we have a relationship with the City of Titusville and the utilities down there so I contacted their director to see if there were possibly any candidates that he would know in the industry and unfortunately he doesn't have any that he could provide. I've also talked to two engineers out of the Orlando area that I've dealt with for several years and their sentiments were pretty much the same, that the job market is extremely tight right now and the criteria that we had talked about and what you're looking for, they really didn't have anybody that they knew was looking actively or maybe could even fit the position. I've talked to two engineers out of the Jacksonville area and it's the same sentiment. They didn't know anybody that was actively looking. There's a job search firm that specializes in governmental employees so that's an option. There's also some services provided by the engineering organizations and also the League of Cities has a website that you can post job openings on. You'd probably get a

lot of feedback from that and you'll probably be over swamped so you'd have to weed through the resumes to maybe get to five or even less.

Mr. Leckie stated the other name you came up with is Dave Root. I have not talked to him. Other people that I have talked to, the name that always comes back up is Dave Root.

Mr. Perry stated I worked with Dave for several years when I was with ITT. The only other name that I can think of would be Richard Adams. I doubt if he'd be interest but that's the only other person that came to my mind.

Mr. Leckie stated Tim and I talked and he's given me some magazines that he gets and they have very good sections for job applicants and it's a place to advertise. I have not done that because I was waiting for Dick to get back so we can sit down and put together what we're advertising for. I also met with Charley Faulkner. He put me in touch with something called VeCard. It's part of the Volusia Chamber of Commerce. It's people that are in this kind of work. He felt there were people in that group that would be interested in this kind of job. He has sent me the director's name. They actually have a branch here in Flagler County. I'm trying to find avenues to go to where we might find people because the people I've talked to either come back with Dave Root's name or they don't know anybody so it's not going to be an easy situation. I'm looking at a person that has either an engineering degree or a financial degree, but a financial business background, not a CPA degree. It's got to be somebody that has run a business or has a good financial background. If they know their way around Flagler County, that would be a help too. I'd like input from any one of you. We're talking about a salary of \$125,000 to \$140,000. We could probably take a part-time person but I don't want to start with that. I think the person has to be full-time to learn this job for the first year or two.

Mr. Ryan stated I mentioned the Florida Association of Special Districts. That may be at least a vehicle to send out for names because that encompasses all kinds of special districts: fire, water, community development and so forth. As part of their operation they actually run schools for people to get certified as a District Manager so they have a really good program and they must have some decent names on their list.

Mr. Crahan stated I'd recommend modifying one of your qualifications in saying not exclusively Flagler County but working with County government in a broader sense.

Mr. Leckie stated I want to go back to this VeCard and let them send out a blast email with the job description and see what comes from that. I expect to do that early next week and try

and look at the magazines and at least put one advertisement. The idea is we have someone before September 1st. Dick said he would go on a limited month-to-month basis after September 30th if we don't have someone there. GMS said if September 30th comes and goes, they would pitch in too.

FIFTH ORDER OF BUSINESS**Staff Reports****A. Attorney**

There being none, the next item followed.

B. Engineer

Mr. Sheahan stated we have a meeting next Thursday on the wastewater plant design. We're at about 90% so we're getting close to going out to bid. Everything is done on Hammock Dunes Parkway except for two special order signs and there's a light pole that will probably be replaced next week. I've got a scope that has been sent to contractors for the storm sewer cleaning. Kisinger Campo performed the bridge inspection. We don't have a report back yet but I expect that in the next month or so. St. Johns River Water Management District issued a new order that's district-wide now; it was just a few of the counties in the district. It's still voluntary however.

Mr. Leckie asked what amount of water are we using right now, especially with the golf courses?

Mr. Sheahan responded last month Hammock Dunes used about 450,000 gallons a day average. Ocean Hammock was about 380,000 gallons a day.

Mr. Leckie asked what was the ocean course at Hammock Beach Resort watering?

Mr. Ryan responded they started to put some sod in but they have not started their sprigging program.

Mr. DeMatteis stated they put sod on all the slopes, around the green and around the lakes.

Mr. Crahan stated but the greens themselves, there's nothing but sand

Mr. Vohs asked are you comfortable with giving them adequate enough warning at this point that the water might not be there?

Mr. Ryan responded we've given it to them in spades – verbally, written. They wanted 800,000 gallons a day and we said that's not possible. We said maybe 500,000 or 600,000 but

that is all rain-dependent. If both golf courses operate in the 600,000-gallon range, we can probably do that for a period of time but it depends on the rain.

Mr. Sheahan stated they are about there now, running about 550,000.

Mr. Leckie asked May looks like it's about 550,000 right now?

Mr. Sheahan responded yes.

D. Manager – Bridge Reports and Traffic Comparison for April

Mr. Ryan gave an overview of the bridge reports for April along with the traffic comparison.

E. District Representative – Report on the Number of Registered Voters

Mr. Leckie noted there were 2084 registered voters within the District.

SIXTH ORDER OF BUSINESS

Supervisors' Requests and Audience Comments

Mr. Crahan asked, Michael, anything more on the Golden Lion easements?

Mr. Chiumento responded I haven't heard anything back from them but apparently the City loves their plan.

Mr. Ryan stated to my knowledge it has not come before Counsel for approval yet.

Mr. Crahan stated as soon as they have a meaningful site plan that's being reviewed, it would be wonderful to get that in advance so that we can start looking at it and make a timely decision.

Mr. DeMatteis asked following up on the bridge thing - the treadle issue is a physical installation issue, or a software issue?

Mr. Ryan it's really the installation because the treadle is located beyond the toll booths and this new system is located in front of the booths so the whole thing has to be physically relocated. Then we're going to have to shut down a lane so there's some work to be done. The biggest delay is the delivery material from their German vendor.

Mr. Crahan asked is all of this affecting the cost?

Mr. Ryan responded no, the cost was fixed.

Mr. DeMatteis asked about the surplus funds issue.

Mr. Ryan responded we're looking at doing a laddered bond portfolio so that we generate additional revenue rather than the 1.1% that we're getting from the state board right now. We will get to that when we get proposals from two firms about what they can offer.

Mr. DeMatteis stated my question was really in the protection of the funds regarding the County issue. I thought we were going to investigate what we should or shouldn't do.

Mr. Ryan responded we have taken that step. Michael has gone through it. The difficulty is there are no case laws. He's done the investigation to determine what steps they would have to take and that we would have to take.

Mr. Leckie stated that's the procedure to take over the bridge but what about protecting the money now?

Mr. Ryan stated it was more of a discussion. Michael cited the City of Palm Coast borrowing from the utility fund and having an obligation to pay it back so the question is do we want to create some kind of obligation. I think the answer is we can't because we're so cash-rich, what obligation can we create?

Mr. Leckie asked we can't fence something off to keep it away from them?

Mr. Ryan responded I don't know that there's an approach to do that.

Mr. DeMatteis stated I just want to keep that topic alive because when and if it happens, it may happen quick and I don't want us to get caught short so if there's some defensive measure we can take.

Mr. Crahan stated we talked about a maximum of the general fund and how much we could transfer over.

Mr. Ryan stated we could transfer funds from the bridge to the general fund so long as it does not impact the operation of the bridge fund and there is a nexus to what you're using those funds for. That's the catch.

Mr. Chiumento asked are you asking if you transfer funds from the bridge fund to the general fund, what you could do with that money?

Mr. Crahan stated I'm saying just park it.

Mr. Perry stated the economics don't make any sense. I think that you would have a hard time defending it if someone were to challenge you. You could in the future in capital projects do bond issues and that would encumber it somewhat even though you're sitting on so much cash. Economically it doesn't make a lot of sense but it does cloud the assets.

Mr. Ryan stated Grau gave the opinion about transferring that you could do it but you would have to have the nexus.

Mr. Perry stated the one thing we talked about was right now you have unrestricted funds on the balance sheet and moving some of that for future capital projects or repairs and replacements.

Mr. Ryan stated we have an obligation under the interlocal agreement with the County to fund future maintenance on the bridge. There's a certain amount you can hold in reserves for that.

Mr. Vohs asked are the state funds not laddered?

Mr. Ryan responded it's a very short ladder because this is in and out money. Essentially there's a money market. They have to keep a pretty significant amount of money available.

SEVENTH ORDER OF BUSINESS

Financial Reports

E. Balance Sheet & Income Statement

F. Construction Schedule

G. Special Assessment Receipt Schedule

H. Approval of Check Register

On MOTION by Mr. Crahan seconded by Mr. Vohs with all in favor the check register was approved.

Mr. Ryan stated Michael had raised the question whether we wanted to proceed with any action against Hammock Beach Resort regarding capacity charges. We had an agreement with Hammock Beach Resort to provide X number of gallons of water for various things and one of the agreements was the water that supplies the water park. That quantity was something like 27,000 gallons a day and they're using eight or ten times that. Their capacity charge calculated against the agreement would be in the hundreds of thousands of dollars. I'm going off the top of my head but when I looked at it a year ago it was like \$600,000 or \$700,000. The question is do we want to now continue the fight that was concluded with the settlement to Milo for money on the water park? It's a significant sum of money.

Mr. Perry asked is there a net deficit on the other components of the agreement?

Mr. Ryan responded we've had that point argued already before and we had opinion from special counsel that came in and said you have six entities you gave capacity to. If entity A is under, you can't transfer that amount they were under to B. We have a legal opinion of that. The issue is was it a standalone for that agreement. There's a separate document for the water park.

Mr. Vohs asked have you had any conversations with anyone relative to Adler on that topic?

Mr. Leckie responded they said not to until all these other things were settled.

Mr. Ryan stated Michael's feeling was that we shouldn't try to take too much on until we resolved the water capacity issue with the homeowners. This dwarfs what the homeowners totaled. It's a big number.

Mr. Chiumento stated the theory at that time was if we go to trial that Rupert Adler would have already ruled on the system capacity fee ordinance so it would have narrowed his focus but we never got to that conclusion.

Mr. DeMatteis asked do we know why they used so much? Is the original capacity calculation not right?

Mr. Ryan responded the original capacity calculation was bogus. We had no basis to look at so we relied on the engineers who were servicing both the District and Ginn. They made the estimates and as it turned out those estimates were way too low. They didn't cover anywhere near the quantities of water they are utilizing. We had heard at one point that they were going to check for leaks to resolve all of this but that never happened. They use probably 20% of all of the water in the District.

Mr. DeMatteis asked has that usage for that particular entity been consistent?

Mr. Ryan responded yes.

Mr. Crahan stated I have two issues. One, I don't think we should ignore them for the reasons that it's going to shape how we approach the new lodge structure which also has a water park. I think we need to set the tone that's appropriate with that in mind. The second thing is to hit them with \$600,000 or \$800,000 knowing that Palm Coast water is on this side of the river but is at the bridge and not up here, \$600,000 buys a lot of pipe.

Mr. Ryan stated Palm Coast cannot come into the District. Chapter 190, provides that the service within the District is protected.

Mr. Chiumento stated plus they would have to pay the water and sewer connection fees to the City of Palm Coast.

Mr. Ryan stated they don't really have an alternative approach.

Mr. Leckie stated the problem is not just the issue of capacity fees but do we have the permitted capacity from St Johns because it may reduce our permit from 1.3 million gallons a day to 980,000 a day. That might be a bigger factor.

Mr. Swinburn stated additionally, we recently set new water rates for all of our users and we generally set them at a break-even plus some reserve to allow us flexibility. Correct?

Mr. Ryan responded we reduced the fixed component of the rate structure. We left the charges for the commodity the same.

Mr. Swinburn asked is the net result of what's going on that 80% of our customers are subsidizing Rupert Adler's water park?

Mr. Ryan responded no because what happens is their usage is so high, they're paying at the maximum tiered level so they're paying a pretty penny for their excess.

Mr. Chiumento stated the system capacity fee just pays for their portion of the infrastructure, not the fluid flowing through.

Mr. Ryan stated the commodity charge is totally separate from the capacity charge. The capacity charge is theoretically a one-time event that you pay up front to get the system in and the commodity is separate. Instead of paying \$2.30 per gallon, they're paying \$4 or \$5. In one way we're losing revenue but they're using an excessive amount of water that at some point may be important to the District.

Mr. DeMatteis stated I've always been concerned that at some point in time, through some event, it's determined that we took commercial action against one set of customers and not another set of customers. I think that's a liability that could be quite significant. I don't think we should ignore it but is there an approach we could take with them? Advise them of what the issue is and then come to some kind of agreement that we revise all of the capacity levels for the entities and then they're subject to excess capacity over that, but maybe change the rates for the commercial user to recoup some of that loss in the excess capacity fees that we're not collecting.

Mr. Chiumento stated you could do that through an amendment to the original agreement that way you avoid any disputes.

Mr. Leckie stated you set a premium on the volume used and they can pay the capacity charge over a period of time.

Mr. DeMatteis stated set new capacity levels that they'd be subject to the fees going forward. We forgive the pass but we sort of collect it in another manner.

Mr. Ryan stated we're at risk by ignoring it. It will in one way or another way or come out that the resort has a capacity issue and they're not being charged and yet the renters and homeowners were charged and it's not fair. It's a requirement of the law that everyone should be treated the same. We're not treating one entity differently. I think we need to do it, I guess the question is whether we want to look at a settlement approach first or not.

Mr. Chiumento stated the rule says you just send them notice the first time.

Mr. Ryan stated yes, just like we did with the homeowners. The Ginn agreement was not a very complex agreement. It was merely a breakdown of the capacity charges and we agreed that they would pay us so much now and so much later and we would have a trial period. The fact was the trial period expired before they had any usage. Our rules override that in the sense that we say we have the right to go back and review the usage and if it exceeds the capacity charge then we can charge a new capacity fee.

Mr. Leckie asked Michael, I'd like to give them a heads up but you're saying that's not what we should do?

Mr. Chiumento responded I'm not saying one way or the other I'm just saying that the rule and the statute require fair and equitable. Yes, we have to do something and the rule just says that we send them notice.

Mr. Swinburn stated I think calling in advance is definitely a step we should take. A legal document puts you immediately on defense. We need to identify we have a problem and what can we sit down and do.

Mr. Leckie asked do we want to wait until the next meeting or do you want him to call Daniel and have some sort of discussion?

Mr. Crahan stated I share Rich's concern that we open ourselves up for preferential treatment and we should not do that.

Mr. Ryan stated this has been hanging out there for two and a half years. We've come to the settlement of the other suit and now it's time to take some action. We can structure it as, here's the problem, let's negotiate or here's the problem, we're going to send you a bill.

Mr. Crahan stated I think we should soft-pedal it a little bit. It is not in our best interest to force them into a situation of bankruptcy or whatever and then you end up with nothing.

Mr. Ryan stated I think that's the same fear everyone in Ocean Hammock has is you don't like what they're doing but you don't want to them to go away either. We can postpone a decision but in the meantime I'll pull this stuff back out and double-check the numbers and we will go from there.

Mr. Crahan asked how do they pay? Is it automatic?

Mr. Ryan responded we send them the bill and they pay it.

Mr. Perry asked do you have any other bulk users or HOA condos that are in the same situation?

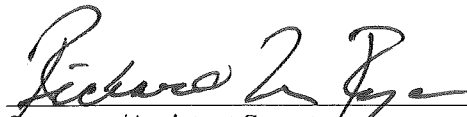
Mr. Ryan responded no. Most of the condos are under it because of the vacancy situation. The water park is always in use so that's why it's so far over budget. We did a quick look at some of the condos just to see if we were missing something. The ones we checked were all under.

EIGHTH ORDER OF BUSINESS

**Next Meeting Scheduled for Friday, June 9,
2017 @ 9:30 a.m. at the Dunes CDD
Administrative Office, 101 Jungle Hut Road,
Palm Coast, Florida**

Mr. Leckie stated the next meeting is June 9, 2017 at 9:30 a.m.

On MOTION by Mr. Vohs seconded by Mr. Crahan with all in favor the meeting was adjourned.


Secretary/Assistant Secretary


Chairman/Vice Chairman