

**PELICAN MARSH COMMUNITY DEVELOPMENT DISTRICT
REGULAR BOARD OF SUPERVISORS MEETING
Wednesday, May 17, 2017**

The Board of Supervisors of the Pelican Marsh Community Development District met on Wednesday, May 17, 2017 at 9:00 a.m. at the Pelican Marsh Foundation Building, Naples, Florida.

APPEARANCES:

Frank Garofalo, Chairman
Robert Smith, Vice-Chairman
Don Pomerantz, Treasurer (Via Speakerphone)
Gordon Walker, Assistant Secretary
Joe Diaz, Assistant Secretary

ALSO PRESENT:

W. Neil Dorrill, Dorrill Management Group, Secretary
Tony Pires, Board Counsel
David Robson, Johnson Engineering
James Calamari, Access Control

(There was a Motion made here, but the tape only caught its unanimous approval. Approval of Mr. Pomerantz' participation via speakerphone maybe?) Let me know, I can fill it in.

RECOGNITION OF ROBERT SMITH'S SERVICE

Mr. Smith was thanked for his 16 years of service to the Pelican Marsh CDD, and a token of appreciation for his excellent service was given to him with the thanks of the Board and the Community. Those present gave Mr. Smith a round of applause.

ROLL CALL

All Board members were in attendance with the exception of Mr. Pomerantz who was participating via speakerphone.

PUBLIC COMMENT

Jeff Randall addressed the Board regarding transponders.

(Tape back on at this point)

Chairman Garofalo indicated that he saw no solution, and that they were not going to throw away perfectly good readers because some of them don't work for some people.

Mr. *** suggested that he buy Mr. Smith's transponder, but was advised that it would not work for him as Mr. Smith switched his back and forth between vehicles, and it won't work on a second switch.

Ray ***Zoebat, from the Timarron HOA, where he has been on the Board since 2001, addressed the Board, indicating that Timarron is having a problem with their lake, Lake 35, and has for the past four years. It has been green with algae and fish have been dying, which brings out the vultures. The smell has been quite bad, and they are at a loss as to what has gone wrong with this lake. Mr. Vanover is aware of it, and Mr. Zoebat wanted to make sure that the CDD was aware of it as well. In response to Chairman Garofalo's question, he indicated that they have had only one landscaper for 16 years, *** Landscaping and Mr. Vanover indicated that this problem happens when the water gets warmer. He added that when Lake 35 had some lake bank work done, the contractor indicated that he had a hard time finding sand to fill the tubes. There are aerators in this lake, and it was felt that they needed to be flushed out as they don't seem to be dispersing the water the way they used to. Mr. Vanover will check on that, and the Chairman indicated that he would take a look at the lake as well.

Some of the lakes in the District do have more problems, and usually it is the smaller, shallower lakes that get warmer than the rest of the lakes. Additionally, one of the biggest reasons for algae creation is the nutrition from the fertilizers that the landscapers use washing into the lake. Another contributor to this problem is decaying leaves. The State has regulations for fertilization, and following them does help with the algae problem. Chairman Garofalo assured this gentleman that they would take a look at the lake.

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Dominic Zampela, the president of the Timarron HOA, added that two out of the last three years Lake 35 has had a fish kill. Mr. Vanover looked at the lake the previous year and spoke to Mr. Zampela about it, and the issue was addressed and the pond treated. This year for the past two months the lake has been pea green. Mr. Vanover had someone come out and look at the problem, and at the same time the aerator went out. The lake was treated and the aerator was fixed, and for a brief interim time, the lake turned a dark color, but then returned to the pea green color. Mr. Zampela asked the Board to put Lake 35 on a more consistent basis for treatment, which would be very much appreciated.

Chairman Garofalo indicated that they do have a troubled lake list and Lake 35 is on it. In the future they will make sure that the man treating the lakes looks at this one every single week.

APPROVAL OF THE AGENDA

On a MOTION by Gordon Walker and a second by Don Pomerantz, the Agenda was unanimously approved as submitted.

APPROVAL OF MINUTES OF APRIL 19, 2017 REGULAR BOARD MEETING

On Page 1, David Robson was the engineer in attendance.

On Page 3, on the bottom line, the word “returns” should be “return”.

On Page 4, in the third line of the second paragraph, the word “in” should be deleted.

In the third paragraph on that page, the word “a” should be inserted before “gentleman”.

On Page 5 in the first line of the last paragraph, the word “bite” should be “bites”.

On Page 7, in the fifth line from the bottom, the words “in cash” should be deleted.

In the fourth line from the bottom on that page, the words “fund balance” should be replaced with “total assets”.

On Page 15, in the second paragraph, at the end of the fourth line, the word “them” should be changed to “Tiburon residents”.

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Additionally in that paragraph, in the fifth line, “complemented: should be “complimented”, and the word “know” in the seventh line from the bottom should be corrected.

At the top of Page 12, the at the beginning of the sixth line, “that document” should read “the plat”. **With those corrections, the minutes were unanimously accepted on a MOTION by Robert Smith and a second by Gordon Walker.**

FINANCIALS

The midyear financials were provided to the Board, and year-to-date the revenue report was just as expected, with the revenue about \$40,000 less than the previous year. Mr. Dorrill felt that this would be attributable to one of the commercial properties that has not paid its taxes. The auction of the delinquent taxes will take place very soon, and that revenue will be shown during the course of May and June as the certificates, if necessary, will be sold.

The balance sheet showed almost \$2,900,000 in cash, with the associated contingencies for cash flow and emergency designated contingencies being noted. Total assets, both current and fixed, were slightly more than \$30,000,000 against \$61,000 in payables at the end of March.

The income statement showed that the total year-to-date assessments were approaching \$3,200,000, which is almost 95 percent of revenue.

There were no material differences noted from the presentation the previous month on the expense side. Legal advertising is over budget, which is a function of advertising for job vacancies. The overall salaries within Access Control are under budget, again, due to the vacancies.

Mr. Dorrill noted that the irrigation water purchase from the County’s north regional plant year-to-date is about \$11,000, which in his opinion was due to the very dry winter. Lake levels are at the lowest Mr. Dorrill has seen at Pelican Marsh, and Mr. Smith agreed. Mr. Vanover noted that they have had less than four inches of rain.

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Total operating expenses year-to-date are \$116,000 under budget, which is a good number at midyear.

Mr. Dorrill noted that the Board at Pelican Marsh has been very fiscally conscientious, and indicated that he will miss Mr. Smith. Mr. Smith questioned why there was a credit for Mr. Pires of \$787.50 back to the District, and asked him why that line item was a negative. Mr. Dorrill noted that it may be a credit back, but he will check on that item.

The Chairman also noted that if a third party needs Mr. Pires to do some legal work, they are responsible for the cost, but to keep things simpler, the District pays Mr. Pires, and are then reimbursed by the third party. Chairman Garofalo suggested that this \$787 figure may be that kind of a reimbursement.

On a MOTION by Robert Smith and a second by Gordon Walker, the midyear financials were unanimously accepted by the Board.

DRAFT 2017-2018 BUDGET

As previously mentioned, the budget for the coming year is fairly straightforward. Three years ago there was a modest 6 percent increase in the non ad valorem assessment, and again this year the District is not projecting or contemplating an increase.

Mr. Dorrill felt that in part they have benefitted from some of the third party revenues that are collected from the Mercato shops and the Naples Daily News.

There is a very small increase projected in the cost centers containing management fees or salaries for the employees for a Christmas bonus, which would be at the discretion of the Board at the appropriate time.

Chairman Garofalo noted that when working on this budget, they took the last two full actual years, and the last two full budget years, looking for trends in the costs. If there was a question on any line item, they used the current year to clarify and verify. The adjustments in the budget are based upon the trends in the actual budget experience, which they feel is much

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more accurate than the way it has been done in the past.

Mr. Gorran from Watercrest asked about the fact that they are not raising the assessment for the third year in a row, and are moving dollars by cost center and line item to offset that. He wondered what the value of the 2 to 3 percent increase for manpower was, as most of the budget is people oriented. Mr. Gorran's other question related to insurance, and whether it was liability, property or health and welfare insurance, they are all going up, and he wondered how the budget handles that and where the money is being found.

Chairman Garofalo gave Mr. Gorran one example, salaries, and the number used in the upcoming budget were the actual salaries being paid out. It was not based on what was budgeted for the past five years, but what the actual payroll was, and there was a \$15,000 difference between what was in the budget and what was actually paid. A very senior person left and was replaced by a very junior person, and that is where the \$15,000 came from.

Last year there was a reduction in landscape personnel the previous year when the Vanderbilt Beach project was completed. Many efficiencies on the part of staff have been a part of their ability to find money, which is why the budget is based on actual this year and the ability to analyze trends.

Mr. Dorrill added that the single largest cost center is landscaping, and that's where all the salaries are for the supervisors and crews. The actual line item for salaries has decreased by almost \$15,000, as a result of the lower starting salaries for the replacements. Insurance is also lower, as a younger work force gives the District a decrease in premium costs. The salary line item is almost \$600,000, and insurance is almost \$60,000, so those two items are a huge part of the budget.

Mr. Dorrill felt that Mr. Gorran's observation was very astute, and Mr. Gorran did note that at some point in time the assessment will have to be raised, as money cannot keep being found. Chairman Garofalo agreed. Mr. Dorrill added that there was a decrease \$3,000 next year in fuel due to lower gas prices, and the Chairman added the capital outlay budget had \$16,000 left

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from the previous year that was carried over.

The process for the staff involves going through the entire budget and checking the positives and negatives to find out what the impacts are on the budget. Mr. Dorrill mentioned as well that the preliminary assessment roll for next year, which is a function of the final phases of development in Tiburon, shows an additional two units will be added onto the roll. That number changes a little every year, and next year will be increased by two.

(Overtalk.)

Chairman Garofalo indicated that they understood and agreed with Mr. Gorran's concerns, but their budget is very detailed and is watched very closely by staff. Every line item is looked at and the budget is based on the trends. Mr. Dorrill offered his copy of the budget to Mr. Gorran which will help him see what was done, and he added that the District did switch to a community based bank last year, which realized additional savings with no fees, and also they made money with three times the interest rate at \$8,200 in interest for the first six months over last year's amount of \$3,000 for the entire year.

Adding up the \$13,000 anticipated interest for the year, the savings of \$13,000 with one less person on the payroll, and \$16,000 from the capital outlay carried over, is quite a bit of money. There is also a \$35,000 contingency budgeted, and if more money is needed it can be taken from there. There is no need for an assessment at this point, but if a change is needed next year after staff review, it will happen then.

On a MOTION by Robert Smith and a second by Gordon Walker, the tentative budget of \$3,398,875 was approved by the Board, the assessment of \$1,162 will remain the same, the final adoption hearing was set for August 16th and the Chairman was authorized to sign the resolution to that effect on a unanimous vote of the Board.

Mr. Dorrill will send the tentative budget to the County for review, and it will be formally adopted in August. The Budget can be lowered at that time, but it cannot be increased. The budget will then be sent to the property appraiser to merge onto the roll.

MANAGER'S REPORT

A. Policy Enforcement

From time to time staff can become involved in requests regarding the enforcement of deed restrictions and condominium rules, and in this case it involved someone having a garage sale under the guise of calling it an estate sale. Staff was inundated with phone calls and did some preliminary inquiries. Mr. Dorrill did not want to belabor the issue, but wanted to affirm the District's position and have the Board adopt a two sentence procedure that will go into the procedures manual to advise residents that in these situations they need to contact their property manager or an officer of the board of their neighborhood association.

Mr. Calamari indicated that there was an error on the document, and it was corrected to eliminate the words "any policy" along with the date, and once that is done it will be posted on the website. The idea is to stress that the CDD enforces CDD policies and HOAs must enforce their own.

On a MOTION by Robert Smith and a second by Gordon Walker the policy was amended reflect the Board's policy regarding their enforcement of CDD policies only on a unanimous vote of the Board.

Jim *** indicated that this policy may already be in the Foundation documents, and it is something that the Foundation also enforces. Chairman Garofalo indicated that he had the Foundation Policy dealing with residents, and he read it to those present as follows: "The business activity does not involve persons coming onto the properties who do not reside on properties, or direct solicitation of owners or residents of the properties." That is the policy, and the Foundation document also indicated that there are no estate sales. The Foundation policy is saying that you cannot have a customer who is not a member of the household come to the house, and garage and estate sales fall under that. The Chairman noted that on his street alone they have had three garage sales in the past three years.

At any rate, the CDD staff and Board will not get involved in these issues in the future.

B. Livingston Road Landscape Buffer

This item is a continuation of the Livingston Road buffer discussion from the previous month, and a request for some follow up discussions concerning additional plantings or proposals via email along with some sketches from Mrs. Powell.

Chairman Garofalo noted that there were three things in the email that were of concern to him. First, the subject of Mrs. Powell's email was a budget request. In this case, the request is not detailed enough and does not show what, how many and where. This is a very big job, and details are needed as well as something that the Board can sign off on the plan and assign a cost. Additionally, Mrs. Powell indicated that this landscaping will be going on CDD property. This area is between Tiburon and Livingston Road at the berm. At the top of the berm is a fence, and that fence and berm belong to the golf course. The CDD property is east of the berm up to Livingston Road, so that will have to be clearly defined. Whatever is planted will have to be below the berm, and it looked to the Chairman when he was at the area a few days previously that the CDD property appears to be very low, and there is a ten foot step between the top of the fence and the CDD property. What that means is whatever is planted there, if it is to be seen from the golf course, will have to be well over ten feet high. The power lines are 25 feet off the ground, so they would have to plant something that would grow very high to hide the power lines.

Mrs. Powell also was concerned about the noise, and the Chairman indicated that he understood that, but he also wanted to talk about the safety issues as there is a very big area that needs to be landscaped to improve the noise factor and the safety of the residents.

Mrs. Powell then addressed the Board, noting that what she is proposing is that there should be a berm, then planted material, trees and shrubbery. She added that there should be a berm on CDD property, but she did not expect there to be planted material all along the fairways and the other areas the Chairman was describing, because the landscape was not removed all along the Two and Three fairways, but only within the direct sight line of the holes Two and Three.

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She added that in the photographs that the Board was given, eight homes in Serafina are visible from Livingston Road. Approximately 12 condominium buildings in Castillo can now be seen as well, and none of these could be seen before the landscape was removed.

Chairman Garofalo noted that this was why it was so important to document what the expectations are, and have it put on paper so the whole issue is clarified.

Mr. Smith asked for clarification on what Mrs. Powell was asking for, if it was for the CDD to plant shrubbery on the CDD property since the golf course took the plants down on their property. The Chairman indicated that this was correct, and Mr. Smith asked why the District would contemplate reimbursing Tiburon for something someone else did. He felt that they should stay on the golf course, and support the residents by getting the shrubbery back in those areas.

Chairman Garofalo agreed with Mr. Smith, indicating that he thought at the last meeting that this issue had been closed with the residents, but Mrs. Powell had another idea and the Chairman wanted to give her a chance to address it. Her idea was that the CDD come up with a new berm because of what the golf course did. When asked what the objective was, Mrs. Powell noted the noise and safety factor, which she felt was the most important as their homes can now be seen from Livingston Road. The Chairman agreed that nothing was planted along the fairways to replace what the golf club removed, and the sable palms they did put in do not block anything as there is no canopy. At this point the club has refused to spend any more money, and they will not discuss anything further with the CDD.

The question now is should the CDD get involved and put up a second berm with trees and shrubs. At this point the cost of this is unknown.

Mrs. Powell indicated that they had an engineer walk the area, and he had indicated that it that it would cost approximately \$3,300 to stake the area to actually see how far the golf course crew cut into the CDD property, and if they did at all. Additionally, Mrs. Powell reminded the Board that she had looked at all the County documents which granted approval to Pelican

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Marsh and Tiburon, and part of the approval for Pelican Marsh was to have a buffer along Goodlette-Frank and Vanderbilt Beach Roads.

Mr. Dorrill asked if the Code Enforcement Department has taken any action recently, as the Board does think that the residents of Tiburon and/or the Master Association have standing in this case with the County to enforce the Type B buffer requirements. Mrs. Powell indicated that after the last meeting she filed a complaint on the telephone, and three days later two individuals from Collier County Growth Management came out and looked at Holes Two and Three on Fairways Two and Three, and said that to their knowledge it looks like the landscaping should not have been removed, and they asked to be given a week to handle this. As this time it has been three weeks and nothing has been done. They opened a case file, but did not provide a case number to Mrs. Powell.

Chairman Garofalo, when advised that the expectations were to have these areas returned to the way they used to be, indicated that he felt that was unrealistic. (Overtalk) The Chairman felt that the issue here is what can be done to satisfy the impacted residents. It is impossible to go back to the way it was, as some of trees were 30 feet high and it would be very costly to replace them with the same sized trees. He reiterated to Mrs. Powell that she needed to provide a plan that says very specifically what is requested in what areas, so the scope can be understood. He added that this is a critical document to have.

Mr. Dorrill indicated that what is pertinent for today is that the Tiburon residents still have a forum with the CDD Board. A case file has been opened and a number assigned, which is CEVR20170006851. The case file goes on to say that the area has been inspected and improper clearing has taken place. This led Mr. Dorrill to believe that Tiburon is in the system, and the County is going to work this up. Failure to get it resolved will result in things starting to happen automatically, and the issue could end up in front of the Code Enforcement Board which has the ability to levy fines in addition to whatever mitigation they feel is appropriate if they find that there has been a violation.

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Mrs. Powell advised the Board that she was here today because she was hopeful that some of the demolition occurred on CDD property, which they don't know yet, and secondly, that as a realtor, and what WCI failed to think about, was the consequences of their actions. So many prospective buyers this season have noted the problem, and have indicated that they will not buy any property in Serafina and Castillo until this issue is resolved. Those residents are going to take a tremendous loss on their homes, for the sake of speeding up play on Holes 2 and 3. She was told that this was the reason by two golf members, and the trees were removed over a period of 15 months, bit by bit.

Mr. Smith noted that he felt, and he believes the Board does as well, that the residents will have to work with the golf course through the County, and the CDD cannot pay for something that someone else did, which is not on CDD property. Mr. Powell added that they still don't know if WCI encroached on CDD property when they cut trees and shrubbery down, and she is continuing to collect evidence as part of her appearance today.

At this point Mr. Smith indicated that he had to leave, and was given another round of applause. Mr. Pires noted that it had been a pleasure to work with him, and asked him to submit a formal letter of resignation for the file. Additionally a Form 41F that Mr. Dorrill will advise him of, may be sent by the Secretary of State may send to Mr. Smith regarding a final financial disclosure.

C. Ventura Fence Update

The Ventura fence construction and replacement has concluded, and staff is awaiting the final documents: the bill of sale, release of lien and evidence of permits so that the wall is not in any way encumbered. This item took two years to complete, Ventura replaced the wall at their expense, and the District will partially offset that cost with whatever the value of a chain link fence would be. Once the documents are received, they will be processed and the project will

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be complete.

D. Lake Bank Restoration Update

The 2017 Lake Bank restoration project is concluded, and it went extremely well. The Arielle, Tiburon and Sweet Bay lakes were done as well as two in Terrabella. Some similar work is in the budget for next year, and the District will continue with the schedule and master plan that is in place.

A resident asked if that included the Augusta lake, and was advised that they do have a survey and ranking of the work needing to be done based on severity. This gentleman indicated that the lake runs along one of the major roads in the community and looks quite bad right now. Mr. Dorrill agreed, noting that the lakes as a whole do not look good right now due to the very low water levels, but indicated that staff will look into that particular lake.

Mr. Vanover has a schedule of every lake in Pelican Marsh and Tiburon and updates it every year. The schedule of work has been updated for the next two years, and Mr. Vanover can advise him of when the Augusta lake is scheduled to be done, and he thought that it is scheduled for next year. Mr. Pomerantz will also be given a copy of that schedule as he may not have seen it, and Chairman Garofalo suggested that it be put in the Board's meeting book for the June meeting.

ATTORNEY'S REPORT

A. Filling Board Vacancy

Mr. Pires reminded the Board that the Statute indicates that the vacancy left by Mr. Smith should be filled by appointment, and a number of years ago the Board adopted a rule indicating that the remaining supervisors "shall endeavor and use their best efforts to fill any vacancy within 60 calendar days of the date the vacancy was created". The resignation will be submitted the following day, so the Board will want to fill the position within 60 days from

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then. Mr. Pires indicated that this is an endeavor, as the Statute does not have a hard and fast rule on that.

Chairman Garofalo asked that anyone who is interested should submit an email to Mr. Dorrill, and the Board will make a selection from the people who have indicated their interest in serving on the Board. A time frame for the submittal, with any information they wished to include, was suggested to be sent in two weeks before the June meeting so that they can be included in the agenda packet.

ENGINEER'S REPORT

A. Phase 1 of Pelican Marsh Boulevard Repaving

Back in 2009 this area was patched, and Mr. Robson brought a picture for the Board to see and reminded them of what the process for repaving was at that time. They ran into the problem with the crown of the old road disintegrating, and they pulled that layer off and thickened that area with increased asphalt capping. Mr. Robson indicated that they got an additional eight years out of that process.

The transportation people took a look at the roadway and they recommended a fix for this area and a few others that have the same issue. There is an area by Bay Colony where the road tapers down to the bridge, which is the worst area.

At this point Mr. Pires suggested that as there was no longer a quorum present and that Mr. Pomerantz' participation via speakerphone does not count for a quorum, and the meeting should be recessed briefly. (Overtalk) It was agreed that Mr. Robson could finish his report.

Mr. Robson noted that the construction engineering people who deal with repaving jobs recommended that the repaving be done 50 feet west, 50 feet east, and to cut all that pavement out all the way down to the base and redo that whole section with a minimum of

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one inch of asphalt back, which will get into the base.

Chairman Garofalo noted that the worst area was at the entrance of Bay Colony, then they have the joint where the two lanes were put in and came together. That joint runs several hundred feet but is not as bad as the area at Bay Colony, so there are two different situations that may have two different plans.

Mr. Robson noted that the fifty feet on either side he was referring to is for the one bad area, and the other areas that are starting to show in three to five years may have to have the same thing done.

The Chairman questioned whether 50 feet east and 50 feet west was going to be necessary for the cutout, but Mr. Robson noted that the engineers are saying that you don't know until you have torn it all out and it was determined that one inch from curb to curb would be possible.

This is for the two lanes on the south side, and that zone tapers from two lanes down to one.

Chairman Garofalo asked if it would be possible to get a drawing showing where the work needs to be done, and Mr. Robson said that drawings tell a lot, but they won't identify something as precise as 10 feet versus 30 feet versus 40 feet. The experts are saying that they would not do less than 100 feet, because the other areas are going to have the same issues.

The Chairman asked if cold patching would last for a few years, and Mr. Robson indicated that the professionals do not recommend cold patching because the problem is just going to resurface, but it would buy time. The problem could be addressed in the recommended fashion, or the area could be cold patched and buy time.

Chairman Garofalo felt that to have a company come in and fix an area that large will be very expensive, but if it can be done in conjunction with the next paving project, it may cost much less. Mr. Robson did not feel that this would be the case, but there might be a slight difference in mobilization costs. The Chairman noted that if the cold patch could last for a couple of years until a complete paving job is done, that may be the best way to go about this. Mr. Robson stated that what a cold patch will do is keep the water from going down into the roadway

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during the rainy season, and he felt that a little time could be bought that way. Mr. Dorrill suggested that staff get a couple of proposals and then share them with the Board at the June meeting.

SUPERVISORS REQUESTS

A. Board Opening

Chairman Garofalo reminded those present that anyone who is interested in serving on the Board to get their information to Mr. Dorrill in a timely fashion so the Board can consider them at the June meeting and a decision can be made no later than July.

ADJOURNMENT

With the agreement that the June meeting would be held on the 21st, **the meeting was adjourned at 10:24 a.m. on a MOTION by Joe Diaz and a second by Gordon Walker.**