



5 **APPROVAL OF MINUTES OF DECEMBER, 2018 BOARD MEETING**

6 On Page 1 in the last line, “area” should be “areas”.

7 On Pages 2 and 3, the word “aesthetics” was spelled incorrectly.

8 On Page 3, the starred name in the last paragraph is “Swisshell”.

9 On Page 4, the Chairman asked if Mr. Pomerantz had been sworn in, and Mr. Dorrill advised  
10 him that the notarized, written oath for Mr. Pomerantz has been send to the State.

11 On Page 5 under Minutes Approval, in the second line, the name Gordon Walker should be  
12 corrected.

13 On Page 7 in the fourth line from the bottom, “complemented” should be spelled  
14 “complimented”.

15 **On a MOTION by Don Pomerantz and a second by Gordon Walker, the Minutes were**  
16 **unanimously approved as amended.**

17  
18 **FINANCIALS**

19 The FEMA schedules showed that the fund balance at the end of November stood at \$567,000,  
20 mainly due to the \$206,000 shown in the miscellaneous column, as well as the previous  
21 allocation from FEMA. Actual checks received at the end of the month amounted to \$92,000.

22 The total expense related to the hurricane was \$1,200,000.

23 The revenue report showed that \$1,900,000 was booked in the first quarter of the fiscal year,  
24 which is substantially less than the prior year. Mr. Dorrill attributed that to timing as to when  
25 those checks were posted. The number for actual receipts in December was inadvertently left  
26 out, and was noted to be \$546,230, and a revised schedule of this will be sent to the Board.

27 Total receipts for the first quarter came to \$1,950,000. Mr. Dorrill expects the difference from  
28 last year’s receipts to correct itself in January.

29 Chairman Garofalo felt that the \$900,000 shortfall from the previous year was positive, as the  
30 discounts taken will be lower, and the District will realize more revenue.

5 The balance sheet showed \$1,909,000 in cash at the end of November, and with the receivable  
6 that is due the total will be slightly over \$2,000,000. Total fixed assets were \$25,000,000, the  
7 majority of which was infrastructure. Total assets of the District were \$28,079,000, against  
8 \$124,000 in payables.

9 The income statement through the end of November showed actual non ad valorem  
10 assessments were almost \$1,400,000. Through the end of two months, all the expense  
11 categories were below budget at that point. The total operating expenses through the first two  
12 months of the fiscal year were \$607,000 against a budget of \$737,000, even with the purchase  
13 of a few patrol vehicles.

14 Mr. Dorrill briefly went over the status of the projects submitted to FEMA, noting the project  
15 status and the actual payments that have been received through the middle of January. The  
16 reimbursement stands at almost \$369,000. If a project is noted as pending or obligated, that  
17 means eligibility has been determined and that money will be received. Mr. Dorrill felt that the  
18 final total will be anywhere from \$1,100,000 to \$1,200,000.

19 Chairman Garofalo noted that of the eight projects submitted, four have been reimbursed to  
20 the District, two have been passed by FEMA and sent to the State level for verification, and the  
21 remaining two are still at the Federal level. If the trend of a reimbursement of 75 percent  
22 continues, that means that the District will receive roughly another \$750,000. When that is  
23 received and added to the present cash balance, that will put the District back to where they  
24 were before Hurricane Irma.

25 **On a MOTION by Edward Murphy and a second by Don Pomerantz, the Financials were then**  
26 **unanimously accepted by the Board.**

27

28 **MANAGER'S REPORT**

29 A. Surplus Property

30 Florida Statutes require that the Board acknowledge and declare any fixed operating assets

5 as surplus property so they can be sold at auction. There were a half dozen pieces of  
6 equipment, including utility vehicles, Ford one ton trucks, and two outboard engines.

7 **On a MOTION by Edward Walsh and a second by Joe Diaz, the above listed property was**  
8 **declared surplus by the Board for sale at a public auction.**

9

10 **B. Clarification of Transponder Policy**

11 The distribution of transponders was set by Board policy, and a situation occurred the previous  
12 day where an owner of a piece of commercial, professional property at the Galleria requested a  
13 transponder as an owner in order to pass through the community without being cleared at the  
14 gate. Mr. Dorrill felt that this owner is a taxpayer of ad valorem assessments, and while the  
15 District has a right to control access on the roadways, they cannot deny it. Any eligible owner  
16 of property in the District should have equal rights, and staff is recommending approval of his  
17 request. Chairman Garofalo noted that the policy addresses only residents and renters, and  
18 does not address commercial areas at the Galleria. They do pay CDD assessments, and they  
19 should have the right to purchase a transponder

20 The Chairman suggested to the Board that the policy be revised to include certain aspects of  
21 the Galleria at Vanderbilt to allow the purchase of one transponder only by the owner of the  
22 business. If a wife, for instance, is on the ownership of a business as well, she should also be  
23 able to have a transponder.

24 Mr. Calamari clarified that the document would then have four proposed changes, and after a  
25 further discussion of how the policy would be amended, Mr. Pires indicated that public input  
26 would have to be taken on this change, and additionally this would be an interim policy, as he  
27 felt it needed further refining. One of his concerns would be if there was an LLC with multiple  
28 members, each one could argue that they are an owner. Additionally, the CVS in not part of the  
29 Galleria, but as they do pay assessments to the CDD, the same rule would apply.

30 As an interim policy, Mr. Pires recommended that one transponder per identifiable parcel

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5 should be allowed until a refined policy is approved by the Board.

6 Mr. Walsh asked for clarification on a business, for instance, that was rented from an owner of

7 a strip mall with 25 separate businesses. Mr. Calamari added the information that the Galleria

8 is broken down into two outparcels, CVS and the Bank, and the next section is the Shops of

9 Galleria, which is owned by one individual who is a resident of Pelican Marsh. On the other side

10 are the commercial condominiums, which are all owners, not renters. The other area where

11 the tower is located are all condominiums with individual owners as well. Mr. Walsh then

12 pointed out that the only people who would be excluded from the purchase of transponders

13 are those who do not own their space, and Mr. Calamari agreed, noting that the logic behind

14 that was that the owners pay the CDD assessments, while the tenants do not.

15 The Chairman did not agree with staff as it relates to tenants, so he asked that the Board agree

16 first on the owners having a right to a transponder, as the tenant question is much more

17 complicated.

18 Mr. Barton, an owner at Tiburon, pointed out that transponder access that he has accesses the

19 gates at Airport Road and 41, and asked if anyone who had a transponder here could access the

20 gate at Tiburon. The Chairman advised that they could not, and Mr. Calamari added that the

21 transponder on the Pelican Marsh side will not open the Tiburon, Bay Colony, or Grand Isle

22 gates. They are all separate.

23 Mr. Pires added that for the record, the reason that exists is because the roadway tracts are

24 private behind those gates, and the CDD does not own or maintain those roads.

25 Gary \*\*\* from the Gables asked if there was any consideration being given to the new

26 transponders, where friends could come through if they are added to a master list. This is not a

27 consideration, but the residents have the right to call the gate and advise them of guests

28 coming in. Mr. Pires clarified this discussion, noting that it is set up this way as the District

29 roads are public, and members of the public can drive on them. If you are not on a list at the

30 gatehouse, when coming in you are advised that you must stay on the District roads only.

5 Chairman Garofalo indicated that guest lists and transponders are two different things, and the  
6 transponder only gives you the right to bypass the gate, and the two topics are totally  
7 unrelated.

8 **A MOTION was made by Joe Diaz and a second by Edward Walsh to approve the right of an**  
9 **owner of a commercial business to purchase one transponder, provided they show proof that**  
10 **they are the legitimate owner.**

11 Mr. Pires then suggested that the Board direct staff to finalize the principles outlined today, and  
12 bring them back to the Board for final action at the next meeting.

13 The Board members then discussed action to be taken at this point, and it was agreed that if  
14 people approach staff on this issue, they will be advised of the interim policy, and that there is  
15 now direction from the Board as to the requirements to prove ownership in order to purchase  
16 one transponder. The revised policy will be approved once Mr. Pires has made the appropriate  
17 revisions.

18 As it relates to renters in the commercial property, the Chairman felt that these individuals are  
19 paying in their rental price a portion of the owner's expenses, so as a residential renter in  
20 Pelican Marsh has a right to purchase a transponder, they should as well. The difference is that  
21 the Foundation has a form for the renters which the District uses as the authority that they are  
22 official renters, and a form of that type should be used for renters at the Galleria as well.

23 Mr. Walsh agreed that renters should be given the same consideration as owners as far as  
24 access control.

25 Mr. Calamari indicated that the Foundation does go through a vetting process with renters and  
26 they have to be approved by the individual and Master HOAs with background checks. Renters  
27 in the commercial area will not have this approval process, and they could have a five year  
28 lease. The Board felt that the owner would be responsible for assuring that the renter was  
29 appropriate, and the Chairman added that they did not do background checks on owners.

30 Mr. Pires indicated that if the Board decides to allow renters to purchase transponders, any

5 tenant with a five year lease will be paying all the expenses. If the lease is terminated early and  
6 a new tenant comes in, the landlord will want to make sure that the new tenant will have the  
7 same opportunity for a transponder, and the District will probably be notified.

8 The Chairman added that the safety valve on this is that the new tenant will override the old on  
9 the transponder.

10 Mr. Walsh felt that Mr. Calamari and Mr. Vanover were making a mountain out of a molehill, as  
11 there has only been one request for this and the decisions are not going to be advertized.

12 (Overtalk) The Chairman suggested that after Mr. Pires takes a look at the interim decision of  
13 the Board and makes any necessary adjustments or changes. A final determination can then be  
14 made at the February meeting,

15 Gary \*\*\* from the Gables then suggested that perhaps renters could be restricted to a one year  
16 access with a transponder that they would have to renew. The Chairman explained that the  
17 time on the transponder is controlled by the computer, and automatically cancels on the last  
18 day of a lease. The Chairman also felt that most owners will do a background check on a  
19 prospective renter.

20 **The MOTION was then unanimously approved by the Board.**

21 Mr. Pires noted that the issue of renters in commercial areas will be addressed at a later time.  
22 Tony \*\*\* Schreck felt that the Board was going to be put into a position fairly quickly where the  
23 residents will be concerned, as the perception of the residents is that this is a gated community  
24 which is protected. When they find out about this new policy, it will become an issue for the  
25 CDD.

26 Chairman Garofalo noted that a good percentage of the community does not realize that they  
27 are an open, and not a private community. Anyone can come in as the main roads in Pelican  
28 marsh, and some in Tiburon, are public roadways. Mr. Walsh indicated that they are a micro  
29 government and they have a responsibility to the taxpayers who are paying taxes to give them  
30 all the equal rights. Mr. Pires added that the key is that they pay the assessment.

5 Mr. \*\*\* asked about the concept of getting in to Pelican Marsh and getting out. The fact is  
6 that these are public roads, and 90 percent of the people don't know this. He wondered if it  
7 was supposed to be a secret, and was advised that it was not. Mr. Dorrill advised that the  
8 reality is that thousands of cars will be going past the entrance on this day but only a couple  
9 know that this is a CDD. The District has the ability to control access by taking pictures, getting  
10 tag numbers, asking them to produce their driver's license, and telling them that if they deviate  
11 from the public road right-of-way they are subject to arrest for trespass.

12

13 **ATTORNEY'S REPORT**

14

15 **A. Encroachment Agreement**

16 The exhibits have been received on the \*\*\* Encroachment Agreement, and Mr. Pires  
17 anticipates having the agreement ready within the next day or so for signatures. This is a  
18 Tiburon resident who wished to put a fence along the back of his property, which is a common  
19 request.

20

21 **B. Collier County Stormwater Utility Issue**

22 The County has referred this issue to the Productivity Committee for funding sources and/or  
23 real capital and operational costs and deficits related to the County's stormwater management  
24 system. There have been two meetings so far that Mr. Pires has attended, and he feels that  
25 this committee is a good group of people who are looking at all aspects of this issue. It is  
26 expected that the Productivity Committee will report to the County Commission sometime in  
27 March or April as to their recommendations for funding sources.

28 Mr. Pires also found a white paper that was prepared in 2016 which was not provided to this  
29 Committee by staff, and if anyone is interested in looking at it, Mr. Pires can provide them with  
30 the link.

1 Chairman Garofalo briefly explained to the public what the County wanted to do, and advised

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6 them that Pelican Marsh maintains its own stormwater system within the District. It is the  
7 CDD's contention that they should not have to pay the County for maintaining their system,  
8 when the residents already pay the CDD to maintain it, and they are attempting to be exempt  
9 from this Stormwater issue.

10

11 **ENGINEER'S REPORT**

12 A Surveying of New Fence Area

13 Mr. Robson introduced Brent \*\*\* from Johnson Engineering who will be taking over as  
14 engineer for the District. Mr. Robson noted that he is an experienced engineer and is familiar  
15 with the issues within Pelican Marsh.

16 The surveying of the property to be fenced will be done the following day, and Brent will be  
17 provided with the information which Mr. Vanover will also speak to him about as they walk the  
18 area the following day. Mr. Robson will be available for Brent should he be needed.

19

20 **SUPERVISORS' REQUESTS**

21 A. Montclair Lake 25

22 Chairman Garofalo received an email from Mr. Wallace regarding Lake 25, which they recently  
23 found out is still owned by \*\*\*Centrex. Mr. Wallace asked if the CDD would still do the lake  
24 bank erosion work, as apparently Montclair will be taking over ownership of the lake. This lake  
25 is scheduled for erosion protection in spring of 2020.

26 The question becomes whether the lake should be transferred to the District or to Montclair,  
27 and Mr. Pires indicated that the District has easements over the east and west half of Lake 25.  
28 There is a small sliver and buffer that they do not have an easement for. Mr. Pires stated that  
29 he always recommends ownership of a lake, as there is a better opportunity to enforce  
30 trespass, among other things. His recommendation would be for District ownership.

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5 Mr. Walsh agreed, and the Chairman felt that it would be to Montclair’s benefit as well. Mr.  
6 Pires suggested as well that \*\*\*Centrex or the Association should pay all the costs associated  
7 with the legal, engineering and administration for the transfer, and have them prepare the  
8 necessary documents as well. Staff will coordinate this effort, and Mr. Pires will wait to hear  
9 from Mr. Adamczyk and then move forward on this issue.

10

11 **PUBLIC COMMENT**

12 Chairman Garofalo noted that they had received bids on cutting down the dead pine trees in  
13 the preserves and other areas. The contractor will be working on them on a daily basis with a  
14 crew of five men, and Mr. Vanover will be coordinating this effort. The work will begin the  
15 following week.

16 The Chairman encouraged anyone who knew of areas where the trees were dead and needed  
17 to be taken down, to contact Mr. Vanover who will schedule the work.

18 Jim \*\*\* from Watercrest noted that if the trees are left on the ground they will become a fire  
19 hazard, and the Chairman indicated that this is another big issue, and he was not sure if it was a  
20 good idea to have the County come into the District preserves, as that opens up even more  
21 issues. Mr. Vanover advised that he had been in Pelican Marsh for 20 years and there has  
22 never been a fire in the preserves.

23 Mr. \*\*\* from Seville noted that their fountain has been broken since July of last year, and it has  
24 not yet been repaired. Mr. Vanover indicated that the Landscaper for Seville cut the wire while  
25 planting a pine tree after the hurricane. A permit and inspection was required for repair, which  
26 was done, and the tree then died. When it was pulled out, the wire was broken again. The CDD  
27 is now in the process of relocating the meter next to the FPL transformer to avoid the necessity  
28 of having to get permits for any repairs in the future.

29 Mrs. Swisshell from Portofino thanked Mr. Vanover for advising her via email about the crews  
30 coming in to remove the pine trees. The name of the company is Bushwood Tree Service.

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5 Chairman Garofalo noted that between the cart path and Mrs. Swisshell's house there was a  
6 dying tree, and he wondered who that tree belonged to. Mr. Vanover indicated that it does not  
7 belong to the CDD, but while they are there they will have it taken down.

8

9 **ADJOURNMENT**

10 With a reminder that the next meeting would be held on February 20<sup>th</sup>, the meeting was  
11 adjourned at 10:10 a.m. **on a MOTION and a second.**