

**MINUTES OF MEETING  
ARBOR GREENE  
COMMUNITY DEVELOPMENT DISTRICT**

The regular meeting of the Board of Supervisors of the Arbor Greene Community Development District was held on Monday, December 21, 2009 at 6:30 p.m. in the Gathering Room, Arbor Greene Community Center, 18000 Arbor Greene Drive, Tampa, Florida.

Present and constituting a quorum were:

John P. Brickley	Chairman
Adam Tanenbaum	Assistant Secretary
T. Dorsey Yawn	Assistant Secretary

Also present were:

John Ricciardi	District Manager
Harve Turner	General Manager
Audience Members	

*The following is a summary of the minutes and actions taken at the December 21, 2009 Arbor Greene Board of Supervisors meeting.*

**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. Brickley called the meeting to order and the Supervisors identified themselves at roll call.

**SECOND ORDER OF BUSINESS**

**Approval of the Minutes of the  
November 23, 2009 Meeting**

Mr. Brickley stated each Board member received a copy of the minutes of the November 23, 2009 meeting and requested any additions, corrections or deletions.

Two corrections were requested; the word *more* on page 2, first bullet point, will be changed to *less* and on page 6, the word *special* will be deleted from the fourth paragraph.

On MOTION by Mr. Yawn seconded by Mr. Brickley with all in favor the minutes of the November 23, 2009 meeting were approved as amended.
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**THIRD ORDER OF BUSINESS**

**Approval of the November 30, 2009  
Financial Statements**

Mr. Brickley reported on the November 19, 2009 Budget Workshop noting the following:

- The revenue is at 8.8% of budget, which includes the first increment of the annual assessments. Expenses are at 14.8%, which is basic and on track with budget.

It was discussed that 2010 will see the last payments of the mediation settlement with Arbor Greene Joint Venture.

- The additional CD's of investment use was discussed and will be revisited at the January meeting.
- The financial statements for the end of November, 2009 were recommended for approval.

On MOTION by Mr. Yawn seconded by Mr. Tanenbaum with all in favor the financial statements as of November 30, 2009 were approved.

Mr. Ricciardi reported that as of December 15, 2009, of the assessments collected we received 87% of the general fund collections for a total of \$1,490,358. These collections came in after the financials were done.

At this point Mr. Brickley asked the Board's permission to realign the agenda items to allow Mr. Doug Hartnagel, President of the HOA to address the Board.

Mr. Brickley introduced Mr. Hartnagel and the following was reported by him regarding towing vehicles on District streets:

- The towing issue was discussed at the last CDD meeting and it was recommended that the HOA and CDD attorney confer on the issue.
- A discussion between the two attorney's took place and based on that discussion it was suggested that Mr. Hartnagel go back to the CDD Board to discuss their support in allowing the HOA to tow vehicles on District streets.
- Article 8, Section 1, Sub Section AA of the Declarations and Covenants which speaks to the issue of parking by owners within the streets and rights-of-way being

prohibited and the Association's entitlement to tow vehicles in violation was discussed.

- Regarding the procedure, the HOA would have to follow Florida Statute 715.07(2), which addresses authorization for towing vehicles. This statute notes that the vehicle owner must be notified in writing or signs need to be posted. The HOA is prepared to follow the requirement of notifying the vehicle owner in writing and is not asking the CDD to provide signage.
- Initially the HOA is planning to publish a notice in the Newsletter informing the community of their procedural policy for towing of vehicles parked on District streets and explain the reasons for the policy. As part of the HOA annual meeting, they are prepared to send out an enclosure to their meeting documents regarding the parking issue in order for each homeowner to be aware of what will be taking place.
- The Property Manager would identify the vehicle in violation, check with the Department of Motor Vehicles to verify the ownership of the vehicle and a certified letter would be sent to the owner informing them that should the vehicle remain parked overnight (anytime after 1 a.m.) it would be subject to being towed.
- The HOA feels this procedure would be sufficient notice to give somebody before taking action.
- It will also be noted in the Newsletter that any homeowner who has a number of vehicles that cannot be parked either in their garage or driveway can ask for a variance.
- Currently there are approximately four habitual violators of this parking policy.
- The overnight parking procedure outlined above was discussed at the last HOA meeting and it was approved.

Mr. Tanenbaum asked if there is an appeal process available to residents and Mr. Hartnagel responded that residents have the right to appear before the HOA board to appeal the notice of violation.

A suggestion was made by Mr. Tanenbaum that Ameritech identify habitual violators and notify the CDD that they want to tow the vehicle from a CDD owned street and the CDD Board would approve or disapprove the towing of the vehicle; the towing could be approved on a case by case basis as opposed to giving carte blanche authority to the HOA.

Mr. Yawn offered comments on the towing issue and referred to Article 6, Section 6C, Extent of Easements; the text indicated “the CDD or the Board of Directors of the Neighborhood Association as the case may be, shall have the powers to place any reasonable restrictions upon the use of any roadways owned by the CDD within a neighborhood including but not limited to the maximum and minimum speeds of vehicles using such roads, all other necessary traffic and parking regulations and the maximum noise levels of vehicles using such roads”.

Mr. Yawn also referred to the covenants previously mentioned by Mr. Hartnagel and he noted the Declarations of Covenants govern the CDD and the HOA and both should be followed.

Mr. Ricciardi noted it may be debatable; some attorney’s say the covenants do not attach to the CDD because the CDD common area is not generally covered by covenants.

Mr. Tanenbaum suggested that the CDD send a certified letter to the owner of the vehicle that is habitually violating the covenant, who is a neighbor of Ms. Jackson, giving them 30 days to remove the vehicle or vehicles in violation. If, after notification, the owner chooses to appeal the overnight street parking covenant, they must appear before the CDD Board to state their appeal.

Mr. Ricciardi suggested that the CDD pass a parking rule at a public hearing so that it cannot be contested. If and when the rule is adopted, a sign would be posted at the front entrance indicating that the vehicles in violation of the parking rule will be towed.

Mr. Brickley asked if the procedure suggested by Mr. Ricciardi would do away with any public, private or letters noticing the violators? Would we need to conduct a public hearing first?

Mr. Ricciardi responded yes; we could advertise a public hearing including the proposed overnight parking rule in the published ad.

Mr. Turner reminded the Board that Devonshire currently has a sign posted noting no overnight parking and vehicles have been towed from that community.

Mr. Hartnagel noted it is the HOA attorney’s position that the most favorable position would be for the two boards to enter into an agreement to allow the HOA to tow vehicles off of CDD streets. We are asking if the CDD is willing to enter into an agreement with us, the

HOA. Both attorney's could work on preparing the agreement and both Board's would have to approve the agreement.

Mr. Tanenbaum MOVED and Mr. Yawn seconded the motion to have the Arbor Greene CDD invite Ms. Jackson to provide the address of the habitual offender; after verifying ownership of the vehicle a certified letter will be sent to that household on behalf of the CDD, giving the offender 30 days to desist from parking on the streets or to appear before the CDD Board at the January 25, 2010 meeting to show cause why the Board should not authorize and direct towing of any vehicles parked on CDD streets in front of their house.

Mr. Tanenbaum explained the reason he made the motion is because Ms. Jackson has gone to the trouble of bringing her case to the floor. He noted he has no reason to believe she is not telling the truth and believes her story has been corroborated by the President of the HOA.

He continued, the larger point of the motion was that if you are intent on enforcing generally and the reason it has come before this Board is because there are 4 or 5 instances where this is going on where there are problems, let us not give carte blanche authority to the HOA to start towing on District streets.

Mr. Turner noted in the past when there were issues with the covenants, the attorney advised on many occasions that the enforcement of the covenants is an HOA responsibility and not the CDD. The Board was cautioned about getting into a position of trying to enforce the covenants that are the responsibility of the HOA.

Mr. Tanenbaum noted we are not trying to enforce the covenant; the HOA is asking for CDD Board authorization to tow vehicles.

Mr. Yawn suggested that Mr. Robin read the covenants.

Mr. Brickley noted he would like recommendations from the HOA Board on other major cases in order to send out more than one violation letter. He also suggested getting the counselors together and come up with a draft agreement to be discussed by the Board; this would include the rule that would be agreed to.

Mr. Turner asked about how the HOA plans to verify the vehicle's owner and license plate number as he has tried to get that information from TPD in the past and has been told that

they cannot verify license numbers of residents vehicles just because it was requested; it must be an official action being taken in order for them to verify the vehicle ownership information.

Mr. Hartnagel responded he would ask the HOA attorney about that.

Mr. Tanenbaum WITHDREW his previous motion and will consider making the motion at another meeting.

On MOTION by Mr. Tanenbaum seconded by Mr. Yawn with all in favor a workshop meeting to discuss establishing an overnight parking rule is scheduled for January 21, 2010 at 7:00 P.M. immediately following the budget workshop meeting scheduled to begin at 6:30 P.M.

Mr. Brickley introduced Mr. Toby Thompson, a resident and club attendant who presented a memorandum to the Board regarding Community Center safety.

Mr. Thompson indicated that the club attendants cannot visually see all areas and suggested that an additional attendant be hired to check identification cards and additional entrances.

*A copy of the memorandum submitted by Mr. Thompson is attached hereto and will be made part of the public record.*

Mr. Bob Farrell will submit a club house security assessment at a future meeting.

**FOURTH ORDER OF BUSINESS**

**District Manager's Report**

Mr. Ricciardi reported the following:

- The format on the recording of assessments has been changed.
- Regarding public access to the District once the bonds are paid off, Mr. Gary Moyer was consulted and he noted this is a new issue since most CDD's were established in the 1980's and most bonds are 30 year bonds; some Districts are nearing the end of paying off their bonds.

Mr. Moyer noted that the Golden Lakes CDD in Orlando has paid off their bonds and have taken the position to close public access to the CDD until it is challenged in the courts. This was a very personal decision by that board and is not based on anything legal at this point because it has not been challenged in the courts.

He suggested if more CDD's get to this point they should seek the guidance of their attorney and be prepared to pay legal costs because it probably will be or could be challenged at some point.

- Regarding the playground damage at the Trace, the Tax Appraiser's office still lists Mr. Larson as the owner of the house and an email has been sent to the Board with that information. Ms. Nelson had requested that Mr. Ricciardi draft a letter to Mr. Larson explaining the remaining debt owed and ask him if he would be willing to make restitution for the remaining debt owed for the damages done by his son.

Mr. Ricciardi drafted a letter and distributed it to the Board for review.

The Board suggested changes to the drafted letter and Mr. Ricciardi will call Mr. Larson to inform him that a letter is forthcoming.

**FIFTH ORDER OF BUSINESS**

**Attorney's Report**

There not being any, the next item followed.

**SIXTH ORDER OF BUSINESS**

**Engineer's Report**

There not being any, the next item followed.

**SEVENTH ORDER OF BUSINESS**

**General Manager's Report**

Mr. Turner reported on the following items of his report:

- Regarding the follow up item Vendor Request to Renew Bar Code, the vendor, Ms. Brethen was to appear before the Board to present her request for a new bar code. Ms. Brethen did not show up for the meeting, therefore no action was taken.
- Item 1.b. – Community Center Club Guest Passes – Enclosure #2 was referred to. It was recommended that the chart in enclosure #2 be used as a guideline for issuing the number of guest passes.

On MOTION by Mr. Tanenbaum seconded by Mr. Yawn with all in favor the recommendation to use the chart in enclosure #2 of the General Manager's Report as a guideline for issuing guest passes was approved.

- BMI Music Licensing Fee – BMI claims the CDD is obligated to pay fees for radio broadcasts of music in the community center to comply with copyright laws.

Mr. Yawn reported the CDD is obligated under copyright law to purchase a license to continue to play music received over a radio station and play through the District receiver in the community center.

Mr. Tanenbaum questioned whether the District is violating the copyright law and questioned the need for playing the radio in the clubhouse at all.

It is Mr. Tanenbaum's opinion that the license contract fee of \$326.25 is not an issue, but the issue is the contract itself.

Mr. Yawn stated the Board's options regarding this issue.

Mr. Tanenbaum MOVED to direct Mr. Turner to turn off the radio in the clubhouse.

Mr. Tanenbaum suggested writing a letter to BMI denying their assertions that the District is responsible for any fee they claim the District is responsible for paying and indicate to them that the radio is no longer being played in the community center and within any public area within the Arbor Greene community.

Mr. Ricciardi asked if the Board wanted to consider passing this issue by the District counsel and Mr. Tanenbaum indicated that would not be necessary since counsel has already advised the Board on this issue.

Mr. Turner and Mr. Ricciardi indicated that they have not yet communicated this issue to District Counsel, Mr. Robin.

Mr. Tanenbaum's previous motion was withdrawn and Board consensus was to have Mr. Tanenbaum draft a reply to BMI indicating the District's position on paying a license fee and also indicating that the radio has been turned off and will not be used in any public areas of the Arbor Greene community. The drafted response will be forwarded to Mr. Turner for the Chairman's signature.

A brief discussion on the issue of the fitness instructors using music for their classes ensued. The consensus of the Board was to request instructors to obtain the appropriate music copyright licenses and forward copies for the District files.

- Storm Drain Repair Cost – It was recommended by Mr. Turner to proceed with the repairs.



On MOTION by Mr. Brickley seconded by Mr. Tanenbaum with all in favor the storm drain repairs described and recommended by Mr. Turner at a cost of not to exceed \$4,500, subject to review and approval of the District Engineer was approved.

- Resident request to place a Menorah in the Gathering Room – The consensus of the Board was not to allow any religious decorations or displays in the club house.

A brief discussion on some of the remaining items on the General Manager’s Report ensued.

*A copy of the General Manager’s Report and supporting enclosures is attached hereto and made part of the public record.*

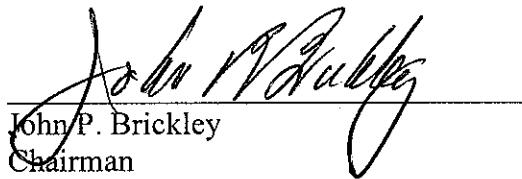
**EIGHTH ORDER OF BUSINESS** **Supervisors’ Requests**  
 There not being any, the next item followed.

**NINTH ORDER OF BUSINESS** **Audience Comments**  
 Mr. Farrell reported on a previous security incident and Mr. Turner noted the outcome of the incident indicated a favorable effect of engaging the new security officer.

**TENTH ORDER OF BUSINESS** **Adjournment**  
 There being no further business,

On MOTION by Mr. Brickley seconded by Mr. Yawn with all in favor the meeting was adjourned.

  
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 John Ricciardi  
 Secretary

  
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 John P. Brickley  
 Chairman