



BAREFOOT BAY RECREATION DISTRICT

Board of Trustees Regular Meeting Tuesday, January 26, 2016 7 P.M. –Building D&E

The Barefoot Bay Recreation District held a Regular Meeting on January 26, 2016 in Building D&E, 1225 Barefoot Boulevard, Barefoot Bay, Florida. Mr. Klosky called the meeting to order at 1:00 P.M.

Thought for the Day

Mr. Klosky asked for a moment of silence to honor our service personnel both past and present who have helped protect our country. He also asked that we remember our Barefoot Bay residents.

Ms. Wright led the Pledge of Allegiance to the Flag.

Roll Call

Present: Mr. Klosky, Ms. Wright, Mr. Lavier, Mr. Diana and Mr. Cavaliere. Also present: John W. Coffey, Community Manager, General Counsel Cliff Repperger and Dawn Myers, District Clerk.

Minutes

Mr. Cavaliere made a motion to approve the minutes from January 8, 2016 with one correction. Second by Mr. Diana. Motion carried unanimously.

Treasurer's Report

Mr. Cavaliere presented the Treasurer's Report for January 26, 2016.

Mr. Diana made a motion to accept the Treasurer's Report with corrections. Second by Mr. Lavier. Motion carried unanimously.

Audience Participation (Agenda items only)

None brought forward

Old Business

None brought forward

New Business

Fiscal Year 2015 Audit Presentation

Mr. Ehab Azer of Moore, Stephens and Lovelace, presented the Draft Audit Report as of September 30, 2015. Mr. Azer briefly reviewed the report. He stated that that he was pleased to announce that for the first year in the several years that he has performed the audit for Barefoot Bay Recreation District, there are no findings and he is presenting a clean report.

Mr. Diana made a motion to accept the FY15 Audit Report as presented. Second by Mr. Cavaliere. Motion carried unanimously.

Contract for Legal Services

Barefoot Bay Recreation District and GrayRobinson, P.A. (Clifford R. Repperger, Jr.) entered into an initial contract for Legal Services in April 2007. The initial Agreement was renewed in 2010 and 2013 via Memoranda of Understanding for an additional three (3) year term and currently expires on April 14, 2016. GrayRobinson, P.A. is proposing renewal of the Contract for an additional three (3) year term beginning April 14, 2016 ending April 13, 2019. All terms, including rates and termination, are proposed to stay the same.



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Tom Guinther addressed the Board on behalf of General Counsel Repperger, noting his professionalism, his long term position with Barefoot Bay, and the subsequent benefit to the Bay due to his experience here. Mr. Guinther urged the Board to extend the contract with GrayRobinson for three years. He stated that in his personal experience working with General Counsel for the past several years as a Trustee on the Board, he can honestly state that this firm and Counsel Repperger is the best representation the Bay has ever had.

Ernest Loening stated that these are his own opinions and no one else's. He commented on his concern that General Counsel will refer to the Mulhearn case on future issues that question the use of a referendum. He stated his dissatisfaction with General Counsel's opinion on Building F and his recommendation that we seek other counsel or the Attorney General's counsel if not in agreement with his decision.

Jeanne Osborne stated that General Counsel Repperger has represented us well. As former Chairman, she can state that his representation has been exceptional. Barefoot Bay benefits from an association with his firm as they are connected to all the government bodies in the Florida. She stated it is a mistake to even consider letting him go. She urged the Board to renew General Counsel Repperger's contract.

Carol Joseph commented on General Counsel's recommendation during the Lounge renovation. She stated that at the time, he advised staying within the footprint of the building and not expanding walls or floor space. Ms. Joseph stated that he has recently retracted that statement claiming that he never gave that opinion. Ms. Joseph asked that the Board consider this in their deliberation.

Mr. Cavaliere and Mr. Lavier stated that this is not the time to change legal counsel and supports option one to renew the contract. Ms. Wright recommended we go out for an RFP as we could benefit from other opinions besides our current Counsel. Mr. Diana recalled Counsel's representation on sensitive issues in the past and fully supported his firm.

Mr. Cavaliere made a motion to extend the contract with Gray Robinson for three years. Second by Mr. Lavier. Ms. Wright and Mr. Klosky opposed. Motion carried 3-2.

Amended Agreement for Maintenance of Softball Field Recreation Facilities

On October 1, 2014 BBRD, as part of the approved BBRD budget, agreed to compensate the Over 60 Softball League up to six hundred and eighty-eight dollars (\$688.00) toward field maintenance. The Amended Agreement is intended to reflect the current budgeted payment and liability issues. In review of this issue, General Counsel, Repperger has identified various insurance coverage concerns. General Counsel, Repperger is also concerned about the fact that BBRD is "contracting" with a non-legal entity. As such, enforceability of the Agreement is an issue. Forrest Banta asked for clarification on exactly what the Board was requiring as far as insurance coverage. General Counsel confirmed that the coverage currently held by the Over 60 Softball League is sufficient according to the Board. He suggested modifying the terms to reflect the District does not require an additional insured on the agreement. Additional discussion ensued regarding the needs of the softball field's condition of the clay on the infield. Mr. Coffey stated that the core sample revealed the sand level is appropriate and the vendor claims the core sample is erroneous. Board consensus was to move forward with a plan to fix the sand content on the field.

Mr. Diana made a motion to approve the agreement as amended. Second by Mr. Lavier. Motion carried unanimously.



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Referendum Regarding Term Limits for BBRD Trustees

At the District meeting held on January 8, 2016, the Trustees directed General Counsel Repperger to draft proposed referendum language related to the imposition of term limits (three consecutive terms of two years) for BBRD Trustees. Although General Counsel Repperger has not found any direct authority regarding preemption of term limits as to the specific language used by the Legislature above, there are strong indicators of preemption such that a local bill (or general law amendment) authorizing the use of term limits is advisable prior to attempting to adopt and enforce the same. General Counsel provided three options.

1. Pursue a local bill with the Brevard Legislative Delegation in the 2017 session to allow for the implementation of term limits and then proceed to referendum in November 2017.
2. Proceed to referendum in November 2016 with the understanding that such term limits may be unenforceable with a local bill or general amendment to Sec. 418.302 (3), F.S.
3. Pursue an Attorney General opinion to further examine preemption of term limits by the Legislature.

Richard Schwatlow was not in favor of special legislation to decide term limits. He stated that the residents can vote a trustee out of his seat if they are not satisfied with them.

Mr. Diana made a motion to proceed with Option 1: Pursue a local bill with the Brevard Legislative Delegation in the 2017 session to allow for the implementation of term limits and then proceed to referendum in November 2017. Second by Mr. Cavaliere. Motion passed unanimously.

Attorney General Opinion Building F Replacement Referendum

Various Trustees have requested that an agenda item be prepared to consider writing for an opinion from the Attorney General as to the application of Article IV, Section 13 of the Charter to the Building F Replacement Project. General Counsel Repperger opined on March 13, 2015 that Article IV, Section 13 of the Charter did not require a referendum on the Building F Replacement Project. Previously, on August 4, 2000, the Attorney General rendered an informal opinion regarding the application of Article IV, Section 13 of the Charter to a golf course irrigation project. The Attorney General has not rendered an opinion on the interpretation of Article IV, Section 13 of the Charter or its application to any project since the Brevard County Circuit Court ruling in *Mulhearn v. BBRD*, Brevard County Circuit Court Case No.: 05-2001-CA-008554-XXXX-XX.

Jack Reddy stated that the Board should take the issue of the replacement building to the residents for their vote. He was not opposed to helping disseminate the information. In his opinion, the Board should be able to provide enough information to the residents in order for them to make an informed decision.

Greg Deslandes stated that he supports the replacement of Building F and Building D/E legally. He requested plans for the replacement building and complete costs for the entire project. Mr. Deslandes also requested the subject of replacing the building with a new structure should be brought forward to the Attorney General or a Brevard County court for a definitive ruling. He inquired about the reasoning behind the previous referendum for Building F being placed on the ballot to which General Counsel stated that it was the desire of the Board at that time.

General Counsel stated the Board has every right to pursue another opinion through the Attorney General which is simply another opinion. The only true definitive ruling would be through the court system. Board consensus was to take no action at this time.



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Rich Schwatlow inquired about how long the case would take if taken to court. General Counsel stated that this is an unknown.

Jeff Jones stated that he is in support of replacing Building F but he is aware it will take a lot of money. He supports taking the issue to the residents to have them decide if it requires a referendum.

Jeanne Osborne encouraged the Board to move forward. The public had opportunities to voice their opinion during the planning phases in the past two to three years. The building was voted on and it is time to move forward now.

Board consensus was to take no action at this time.

Appointment to Facilities Planning Committee

Barefoot Bay residents Leonard Pelligrino and Greg Deslandes have applied for seats on the Facilities Planning Committee. Per BBRD policy the seats must be approved by the Board of Trustees.

Mr. Diana supported both appointments.

Mr. Cavaliere made a motion to approve Leonard Pelligrino and Greg Deslandes to the Facilities Planning Committee. Second by Mr. Diana. Motion carried unanimously.

Establishment of a Security Committee

Mr. Diana stated that due to various problems with crime and other misconduct in the Bay the Facilities Planning Committee recommended we move \$25,000 into the FY16 budget for the implementation of security cameras in several common areas. Another 25,000 was moved into FY17 for future additional cameras. In addition to the FCP recommendation, Mr. Diana recommended we establish a Security Committee made up of former law enforcement personnel to discuss and interact with the Brevard Sheriff Office in an effort to resolve current and potential issues in the Bay.

Mr. Schwatlow requested that a dedicated deputy in the community should work with the current C.O.P.S. program. He asked the residents work together for a change in the Bay.

Mr. Diana made a motion to establish a Security Committee made up of former law enforcement officers. Second by Mr. Cavaliere. Motion carried unanimously.

Manager's Report

Per the Board workshop held on January 19, 2016 a revision to the Rules of Trustees will be placed on the February 12, 2016 agenda for adoption. Staff is currently researching the cost of options for sheds suggested by residents and staff. Several factors are currently being researched before the sheds are ordered. Several factors are currently being researched before the sheds are ordered. Staff signed the final paperwork (payment request summary form) and returned it the grant writer. Once the notice of limitations is recorded at the Clerk of the Court's Office, the reimbursement package will be mailed to Tallahassee. Due to some oversights in the design fees in the active project cost calculations, only a maximum of \$198,221.74 will be requested for reimbursement.

Attorney Report

General Counsel Repperger commented on his time working with the Trustees and residents in the Bay. He communicated his respect for the evolution of the Board and this community in the years he has been here. He hopes to continue to assist the Board in the best way he can. He thanked the Board for the opportunity to continue working for Barefoot Bay. He asked for direction from the Board regarding several offers for 406 Raven Drive. The Board gave authorization to move forward with the offers. General Counsel will bring the final proposal back to a subsequent meeting. He discussed his



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communication with the attorney for the HOA regarding the upcoming HOA/BOT fining authority workshop. He stated that there is a good understanding between himself and the HOA attorney and believes there will be productive dialogue at the upcoming meeting.

Trustee Liaison Report

Resident Relations/ARCC/Violations/RV Storage/Shopping Center Liaison - Mr. Klosky reported on the recent Violation's Committee Meeting with four cases still remaining in violation out of eighteen. Since January 1, 2016, 207 cases have been opened. At the ARCC committee Mr. Klosky noted twenty-four applications received and twenty-four approvals. Ms. Wright commented on recent resident dissatisfaction regarding District meetings being cancelled without alerting the public. She asked that we remove the meetings from the calendar, which are traditionally cancelled due to the proximity to the holidays in advance, instead of waiting until a few weeks before the meeting. Ms. Wright reported on the upcoming events and promotions at the Lounge and the 19th Hole. Tickets are now available for the Superbowl for Sunday, February 7th and for the "Foods You Love" musical event and buffet lakeside on February 27th. Tickets can be purchased at the 19th Hole, the Lounge and resident relations for \$10 each. She discussed the new program "Barefoot Friends". Provide your email address to receive coupons for anniversaries, birthdays and special events. Registration forms are available at the both Food and Beverage locations. The mystery shopper program begins in February. Kathy Mendes, Food and Beverage Manager, has teamed up with "Service with Style" in effort to provide the best service possible to our residents. Mystery shoppers will have lunch and drinks in both of our establishments and will report on service, cleanliness and food quality. A written report will be submitted to Ms. Mendes. Welcome back snowbirds. In an effort to ensure resident enjoyment and comfort, local favorite band, Dreamer, will play on Feb 12th and on March 25th in Building A from 7-10:30PM.

Golf/Property Services Liaison - Mr. Lavier announced the Golf Gala scheduled on Feb 13th. This Saturday is the Bayside High School Football Booster Club fundraiser. He reported on the great time had by all at last weekend's 16th annual Veteran's Golf Tournament. Sebastian Skydivers made an appearance and was a spectacular sight as they jumped with the American flag, the POW flag and one jumper even had smoke trailing behind as they landed onto our golf course. Over 172 participants showed up to participate. Mr. Lavier thanked Sandy Lobello and Ernie Cruz for a great job coordinating the successful event and asked for a round of applause for their efforts.

Administration Liaison - Steve Diana as liaison to District Clerk/Administration, reported on a job well done. He reported on the recent Special Facilities Committee meetings where committee evaluated and approved the 5yr Plan presented by Mr. Coffey.

HOA Liaison - Mr. Cavaliere reported he will make a more concerted effort to attend all the HOA meetings going forward starting with the Executive Board meeting scheduled on February 2nd. He looks forward to working with them as he sees the collaboration between the Board and the HOA as a valuable source to get information out to the homeowners. He announced the Finance meetings will be held on the first Thursday of the month with next month meeting discussion involving financing options as presented by Special District Services. He assured the residents that the Board's goal is not to raise the assessment but he is committed to fixing our current facilities. He asked that the residents remember prices have gone up and he is investigation the best way to finance these projects.



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Trustee's Incident Remarks

Mr. Diana requested Staff investigate installing a cell tower disguised as a tree at the Barefoot Bay beach as a potential source of revenue. He stated the cell service in that area is limited and there is a potential to incur \$8-\$10,000 per month by having the tower situated in that location.

Audience Participation

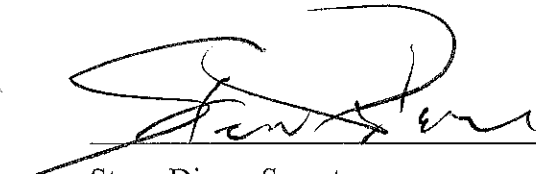
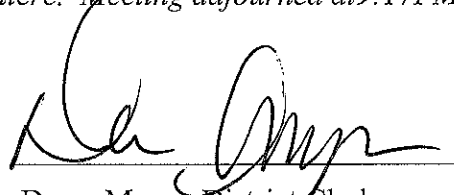
Nancy Eisele reminded and invited the residents to the New Homeowners Orientation on the last Sunday in February.

Carol Joseph discussed the "Free Libraries" program. The County Library provides the equipment to set up a free book exchange and gently used books. It is centrally located in the community that houses one. She asked for approval from the Board to establish the Free Library here in Barefoot Bay. The Board was in consensus to proceed with establishing the program.

Harold Wortman discussed the upcoming HOA/BOT Fining Workshop on February 2, 2016 at 2:30PM. He is confident that we are moving in the right direction in working together to improve the operations in the Bay. He announced the HOA General Meeting on February 8, 2016 at 7PM in Building A and the HOA card party scheduled for February 27, 2016 from 7-10PM. Tickets are on sale please call 321.327.9116 or stop by the HOA office from 1-3PM on Monday and Wednesday.

The next meeting is scheduled for Friday, February 12, 2016 in Building D/E at 1PM.

Mr. Diana made a motion to adjourn. Second by Mr. Cavaliere. Meeting adjourned at 9:17PM.


Steve Diana, Secretary
Dawn Myers, District Clerk