

**MINUTES OF MEETING  
SOUTH KENDALL  
COMMUNITY DEVELOPMENT DISTRICT**

The regular meeting of the Board of Supervisors of the South Kendall Community Development District was held on November 30, 2018 at 9:00 a.m. at Tuscany Village Clubhouse, 12801 SW 133<sup>rd</sup> Terrace, Miami, Florida.

Present and constituting a quorum were:

Jesus Hernandez	Chairman
Sergio Valdes	Vice Chairman
Ernesto Frye	Assistant Secretary
Betty Fayad	Assistant Secretary

Also present were:

Luis Hernandez	District Manager
Scott Cochran	District Counsel
Yamilex Ortega	Club Manager

**FIRST ORDER OF BUSINESS**

**Oath of Office for Newly Elected Supervisors at General Election - Seat #2 and Seat #4**

**SECOND ORDER OF BUSINESS**

**Roll Call**

Mr. Luis Hernandez called the meeting to order, called the roll, and indicated the oath of office for Ms. Fayad and Mr. Frye were administered prior to starting the meeting in order to have a quorum. The signed oaths will become part of the public record.

**THIRD ORDER OF BUSINESS**

**Organizational Matters**

**A. Consideration of Resolution #2019-01 Confirming the General Election Results**

Mr. Luis Hernandez: Moving on to Organizational Matters, the first item we have is Consideration of Resolution #2019-01 Confirming the General Election Results. Support in the resolution shows that Betty and Ernesto won their respective seats uncontested because no one else ran for those seats so by approving the resolution, the Board is accepting and ratifying the general election results and a motion to approve it would be in order.

On MOTION by Mr. Valdes seconded by Mr. Frye with all in favor Resolution #2019-01 Confirming the General Election Results was approved.

- B. Consideration of Resolution #2019-02 Declaring a Vacancy on the Board of Supervisors for Seat #1 and Consideration of Appointment of Supervisor to Vacant Seat
- C. Consideration of Appointment of Supervisor to Unexpired Term of Office (Seat #1 - 11/2020)

Mr. Luis Hernandez: Moving forward, with Seat #1, which is Jesus's seat, at the time that he tried to qualify he had not registered with Miami-Dade County and was not able to fulfill that and for that reason Resolution #2019-02 finds that no one ran for Seat #1 and at this point by adopting Resolution #2019-02 the Board is going to be accepting that the District has a vacant seat. With that being said, I just need a motion to approve Resolution #2019-02 at this time.

On MOTION by Mr. Valdes seconded by Mr. Frye with all in favor Resolution #2019-02 Declaring a Vacancy on the Board of Supervisors for Seat #1 and Consideration of Appointment of Supervisor to Vacant Seat was approved.

Mr. Luis Hernandez: Does the Board have anyone they would like to appoint?

On MOTION by Mr. Valdes seconded by Ms. Fayad with all in favor Mr. Jesus Hernandez was appointed to fill the vacancy for Seat #1.

**D. Oath of Office for Newly Appointed Supervisors**

Mr. Luis Hernandez, being a Notary Public of the State of Florida administered the oath of office to Mr. Jesus Hernandez. The signed oath will become part of the public record.

**E. Consideration of Resolution #2019-03 Electing Officers**

Mr. Luis Hernandez: As I was explaining to the other Supervisors at the time I provided the oath, since you have served in the past, I am not going to be spending additional time explaining to you all of the Sunshine rules and regulations and so on and so forth, because all of that information you are aware of, but if you do have any

questions, it is not my intent to skip any information that would be important or appropriate for the Supervisors. Based on your prior knowledge I believe it is not necessary and with that being said, welcome back and we can address the next item, Resolution #2019-03 Electing Officers. As the Board is already aware, all of the Supervisors have the exact same powers. It does not mean the Chair or Vice Chair have any different powers than the other Supervisors, it is just to sign documents that have already been approved by the Board. Prior to the election, Jesus was Chair, Sergio was Vice Chair and Betty and Ernesto were Assistant Secretaries. At the same time, we have Patti Powers from my office as Treasurer, I am Secretary and Rich Hans from my office is also an Assistant Secretary. At this point the Board can elect whomever you want, make as many changes as you want, or keep the same slate of officers and I just need a motion to approve Resolution #2019-03.

On MOTION by Mr. Frye seconded by Mr. Valdes with all in favor Resolution #2019-03 Electing Officers was approved and the Board retained the same slate of officers.

**FOURTH ORDER OF BUSINESS                      Approval of Minutes of the August 24, 2018 Meeting**

Mr. Luis Hernandez: The next item we have is Approval of Minutes of the August 24, 2018 Meeting. Unless anyone has any questions or comments, a motion to approve them would be in order.

On MOTION by Mr. Jesus Hernandez seconded by Ms. Fayad with all in favor the Minutes of the August 24, 2018 Meeting were approved.

**FIFTH ORDER OF BUSINESS                      Consideration of Engagement Letter with Carr, Riggs, & Ingram to perform the Audit for Fiscal Year Ending September 30, 2018**

Mr. Luis Hernandez: Moving forward, the next item we have is Consideration of Engagement Letter with Carr, Riggs, & Ingram to perform the Audit for Fiscal Year

Ending September 30, 2018. This is the firm the Audit Selection Committee and Board have approved, and at the same time, it is the same company the District used in the prior year. I have reviewed the contract and the amount matches what was approved; therefore the recommendation from staff is to ask for a motion to enter into the agreement to perform the audit for fiscal year ending September 30, 2018, which also authorizes the appropriate officials to execute it.

On MOTION by Mr. Valdes seconded by Mr. Jesus Hernandez with all in favor the engagement letter with Carr, Riggs, & Ingram to perform the audit for fiscal year ending September 30, 2018 was approved.

**SIXTH ORDER OF BUSINESS**

**Staff Reports**

**A. Attorney**

Mr. Luis Hernandez: Moving forward to Staff Reports. Scott?

Mr. Cochran: The item I have, and I won't go into it too much on the record, but there was a question posed about comfort dogs being allowed on CDD premises or being used on CDD premises. Luis provided me with the existing rules, which seem to distinguish between pets and service animals, so in the rules there is a provision that says no pets except trained seeing eye dogs used by blind renters or guests are permitted in the club areas, and then in the CDD Tuscany Village club rules and regulations, there are a few provisions as well. One deals with pets. It says no pets with the exception of those assisting persons with disabilities are permitted on any portion of the club property, including without limitation the pool area, and any other areas of the club facilities. That is in Section 3.4. There is another section, Section 7.12, which says no pets are permitted in the pool area at any time. We have looked at the Florida Statutes and the rules seem to be consistent with what the Statutes provide, which is that they draw a distinction between pets and service animals. The Statutes issue Section 413.08, Florida Statutes, and in that Statute, what it does is it provides that an individual with a disability has the right to be accompanied by a service animal in all areas of public accommodation that the public or customers are normally permitted to occupy. Now CDD-owned facilities

would qualify with the Statutes as a place of public accommodations because the definition includes places to which the general public is invited and that includes CDD facilities. Now the Statutes define a service animal as an animal that is trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. It goes on describing those tasks, and gives examples of the tasks, but the same definition further provides that the crime deterring effect of animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for purposes of this definition. So if an animal is merely a comfort animal or to help prevent crime, it does not qualify a service animal under the Statutes. Even for purposes of service animals, they have to be under the control of the handler with a harness, lease, or other tether, unless the handler is unable because of a disability to use one of those devices, or the device would interfere with the service animal's safe, effective performance of the work or tasks. The Statute says the documentation the service animal is trained is not a pre-condition for providing service to an individual company by service animal. A public accommodation may not ask about the nature or extent of an individual's disability, but it does say to determine the difference between a service animal and a pet, a public accommodation may ask if an animal is a service animal required because of a disability, and what work or tasks the animal has been trained to perform. So if somebody wants, they are entitled to ask that. They cannot ask about disability, but they can ask if it is a service animal and what tasks it has been trained. There is also a provision that a public accommodation may exclude or remove any animal from the premises, including a service animal if the animal is out of control, the animal's handler does not take effective action to control it, the animal is not housebroken, or the animal's behavior poses a direct threat to the health and safety of others. So those are the main provisions of the Florida Statutes that would apply. Again if it is merely a comfort animal, it does not meet the definition of a service animal so it can be excluded and is in the same category as a pet for purposes of what public accommodations require it to do. One other thing Luis had asked about, and with respect to pools, even if animals qualify as a service animal, there is a regulatory provision, the

Florida Administrative Code, which is Rule 64E-9.004, and that rule prohibits service animals from being in public pools. What that particular rule states is that individuals with a disability and service animal trainers may be accompanied by a service animal as defined in Chapters 413.08 of the Florida Statutes, which is the Statute we just talked about, but the service animal is not allowed to enter the pool water or onto the drain area of an interactive water feature in order to prevent a direct threat to the health of pool patrons. The administrative ruling says that if an animal is a service animal that meets the definition, the normal rules still have to apply. They have to maintain control of the animal with a leash or something like that, it is not allowed in the pool area, and that kind of thing.

Mr. Jesus Hernandez: Is there any documentation they have to present for the service animal or they can just state that they are?

Mr. Cochran: They don't have to provide documentation. You can ask them if it is a service animal for individuals with disabilities and you can ask what services or tasks that animal has been trained to perform. They don't have to provide documentation about it, but you are entitled to ask questions and have them answered. That is essentially the governing law with respect to service animals and comfort animals.

Mr. Valdes: Okay, just for purposes of clarification, service animals are allowed obviously in the public areas and surrounding pool areas, just not in the pool. However, emotional support are not.

Mr. Cochran: Correct.

Mr. Valdes: Okay. That is contradictory of what our attorney from the HOA stated, which is that the provisions of the Florida Statutes looks at it one way, and HUD looks at it a different way. HUD considers an emotional support animal to be the same. The club resides within the boundaries of the community. The Florida Statutes look at it one way, but HUD does not see it that way, so we cannot deny them for purposes of other things within the community. Basically you are saying that, and what I want to clarify is that regardless of how HUD looks at it, and obviously HUD would pertain mostly to housing as opposed to a public area, so I assume there is a distinction there?

Mr. Cochran: Yes, I believe so. I am not aware of HUD regulations or whatever controlling the CDD and what it can do on premises.

Mr. Valdes: The only reason I asking these questions, and I understand it probably goes a little bit over and above, is because we want to make sure we follow the rules correctly. It has not happened yet that anyone has shown up with a dog, but considering previous events in the last few weeks that may very well happen, so we want to make sure we know already from the HOA responsibilities the do's and the don'ts and pretty much from a HUD perspective, in fact that dog is no longer considered a dog when it comes to HUD even though it is a pitbull and not allowed in Miami-Dade County. The fight is that it is an emotional support dog and it is no longer a pitbull. For all practical purposes it is another human being. That is why I posed the question earlier, which was to make sure if there is a distinction that we understand clearly so that when they show up at the front door, we are following the rules the way they should be.

Mr. Luis Hernandez: Let me kind of make several steps so we cannot get confused as to what is the intent of the discussion and how it can be perceived. One, everything that is being done is done in response to an action, which is preventing and making sure proactively the CDD is aware of as to what needs to be done in reference to the clubhouse. Whatever takes place somewhere else, we can discuss it, but the part that we are getting from the attorney today is the response as to what is being said as per the District's rules, and how those rules are being supported by the Florida Statutes. That is what I understand. Based on that, he is telling us how it is that the CDD needs to act. The part that is being brought up is how other parallel legal circumstances could affect potentially the development and involvement of the public facility, so the part I will suggest is it pass on all of the information that was received on the HOA side, let the attorney review it to make sure that none of it affects or creates any type of obligation on the public side before we even start discussing it. What our opinion is not what counts. What counts is what those facts are and it is not appropriate for us to be letting our minds go on the public record, so let's go ahead and let the attorney come back and explain those facts to us. Does the Board think that makes sense?

Ms. Fayad: From the HOA side, it was the attorney's opinion.

Mr. Luis Hernandez: That is fine. It is a matter to be discussed at a HOA meeting, but the part I don't want is to be creating any kind of legal breach for something that was said that applies for the HOA until the attorney reviews it from the legal side and comes back and tells us more.

Mr. Valdes: The HUD ruling is on the Miami-Dade County website. I can try to get it for you so you can see it if you think it would be necessary, unless you think that just following the Florida Statutes is sufficient.

Mr. Cochran: What I am saying is that so far I have not been asked to look into whether things that apply to HOA under HUD and so forth.

Mr. Valdes: I am just trying to say that even though the Florida Statutes states that, and even though Miami-Dade County does not allow pitbulls, once they become either support animal or an emotional, it is no longer a pitbull, so you see how the law is overwritten by the Florida Statutes and the HUD rules. So what I want to make sure is that even though the Florida Statutes are pretty clear and what you have said, I clearly understand what you are saying, it is more than clear, but if there is another entity that looks at it from another perspective that could be a loophole, it doesn't create a problem.

Mr. Cochran: Right. I can't answer that because I haven't yet researched it.

Mr. Valdes: So maybe for the next meeting you can look at that and see if any portion of it applies to CDDs?

Mr. Cochran: Sure. It is not within our purview to do the job of the HOA attorney and say what is permissible on HOA controllable things, but what we can do is see if there is a ruling out there if that would be applicable to CDDs.

Mr. Valdes: Absolutely. I use the HOA as a reference, not that it has anything to do with the CDD. All I am trying to say is since it has been brought to our attention, the HUD regulation, and they see differently from a different perspective from the Florida Statutes, and associations have been taken to court. Again, I use the word could, the CDD could be taken to court for the same reasons. And with the HUD ruling, even though the Florida Statutes says another thing, the associations have lost. I want to make sure that

under the HUD the CDD is also following those guidelines, or that they do not apply, whichever way it goes is fine. We just want to make sure that we know what to do so that we do the right thing.

Mr. Luis Hernandez: Now for purposes of the administrative matter, what I do want to get clear on the record is, and that is for you to make sure that all of your personnel is aware of is that as of this point until December 12<sup>th</sup>, if the attorney comes up with different direction, no one is allowed to bring any dogs, unless they are service animals. The only pet if you want to categorize it on that side who will be allowed to enter the facilities is a service animal as of what we know today. If we have a different distinction on December 12<sup>th</sup>, it will be highlighted and raised so that if anyone were to come here, at least we know on the administrative side what will be our steps. The part that I do want for personnel is that if anyone comes, we are as courteous as we can be with that individual and let him or her know what the rule is, and we let them know the steps the Board is taking to ensure that is what needs to be done if that were to take place.

Mr. Jesus Hernandez: So if somebody comes in with a service animal, our answer would be as of right now the service animal is not allowed here?

Mr. Luis Hernandez: No, a service animal is allowed.

Mr. Jesus Hernandez: Then an emotional support animal is not until we can do further investigation?

Mr. Luis Hernandez: As of right now, they would need to contact the club manager, Yami, and what she needs to tell them is that we are double-checking, give me two weeks and we will have a full response if that answer is different.

Mr. Cochran: Yes, just to be clear, service animals are allowed, but even if they are service animals, they have to be leashed or controlled, and they cannot be causing any safety concerns.

Mr. Luis Hernandez: Typically they wear a vest or something that identifies them, and as it was indicated by the attorney, we can ask if it is a service animal and what it has been trained to do. Excellent. Anything else you need to present today, Scott?

Mr. Cochran: I don't have anything else at this time.

B. Engineer – Acceptance of 2018 District Engineer’s Report Pursuant to the Improvements Financed by Special Assessment Bonds Series 2004A, 2008A, and 2010A

Mr. Luis Hernandez: We have received the annual engineers report. Our District Engineer has reviewed all of the improvements for the District. If you had a chance to go ahead and read it, part of the report is basically all the District’s improvements seems to be in good condition. Based on his report, with that, it would be appropriate to have a motion to accept the 2018 District Engineer’s report.

Mr. Valdes: I just have a quick question. The drainage public right-of-ways, is that the drains here in the street? Those belong to the county?

Mr. Luis Hernandez: Yes.

Mr. Valdes: So basically if we have problems with the drains inside the community who is responsible? That is confusing.

Mr. Luis Hernandez: Since I don’t know the exact answer to that, let’s call the engineer after the meeting.

Mr. Valdes: I just saw that and wondered.

Mr. Luis Hernandez: Not a problem. Let’s call him right after the meeting. He will be able to explain that to us. It does not affect the Board accepting the report.

Mr. Valdes: It also has sewer.

Mr. Luis Hernandez: Yes. The sewer is county. If you have any sewer issues, that would also be the county. That one I do know for a fact.

Mr. Valdes: Drainage, onsite tracts. I don’t know if there is a difference between drainage of public right-of-ways and onsite tracts? Is a drainage public right-of-way the one in the street like 129<sup>th</sup> Avenue and drainage for onsite tracts inside areas?

Mr. Luis Hernandez: We will call him right after the meeting and get those answers for you.

On MOTION by Mr. Frye seconded by Ms. Fayad with all in favor the 2018 District Engineer’s Report Pursuant to the Improvements Financed by Special Assessment Bonds Series 2004A, 2008A, and 2010A was accepted.

**C. Club**

Mr. Luis Hernandez: Anything to be presented from the club side?

Ms. Ortega: No, it was already discussed.

**D. Manager**

Mr. Luis Hernandez: Nothing under Manager, aside from the next meeting that we have is December 12<sup>th</sup> and based on the item we just discussed that we are still handling, it seems it would be appropriate for the District to have that meeting.

**SEVENTH ORDER OF BUSINESS      Supervisors      Requests      and  
Audience Comments**

There not being any, the next item followed.

**EIGHTH ORDER OF BUSINESS      Financial Reports**

A. Approval of Check Run Summary

B. Balance Sheet and Income Statement

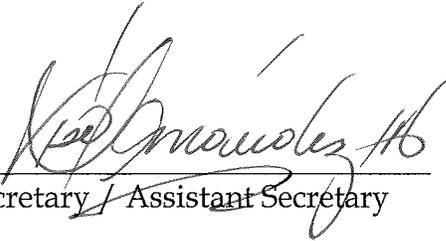
Mr. Luis Hernandez: The next item we have is the Financial Reports. Tab A has the check run summary, and tab B is the balance sheet and income statement. Unless anyone has any questions on those, a motion to approve the financials would be in order.

On MOTION by Mr. Frye seconded by Mr. Valdes with all in favor the check run summary and the balance sheet and income statement were approved.

**NINTH ORDER OF BUSINESS      Adjournment**

Mr. Luis Hernandez: And last we just need a motion to adjourn the meeting.

On MOTION by Mr. Valdes seconded by Mr. Jesus Hernandez with all in favor the meeting was adjourned.

  
Secretary / Assistant Secretary

  
Chairman / Vice Chairman