



**PORT MALABAR HOLIDAY PARK
MOBILE HOME PARK RECREATION DISTRICT**

215 Holiday Park Blvd. NE
Palm Bay, Florida 32907-2196
Office: 321-724-2240

BOARD OF TRUSTEES

REGULAR MEETING AGENDA

April 11, 2022 – 7:00 PM

Richard Brooks
Chairman

Secretary

Gary Vincent
2nd Vice President

Ursula Breunig
Trustee

Karen Allen
1st Vice President

Keith Rittscher
Treasurer

Mark Bodoh
Assistant Treasurer

Assistant Secretary

Terry Steimer
Trustee

Sheree Morris
District Manager

Karl Bohne
District's Attorney

***To comment on an item, after you have been recognized by the Chair, please go to the microphone, and clearly give your name and address for the record. You may speak for up to three minutes. Note: If formal action is to be taken on an item by the Board, public comment will be requested prior to the vote.**

***Silence ALL cellphones during public meetings.**

NOTE: MINUTES OF BOARD MEETINGS ARE PREPARED IN SUMMARY FORM ONLY. PER CHAPTER 286.0105 FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL A DECISION OF THE BOARD, HE/SHE SHOULD ARRANGE FOR A VERBATIM RECORD OF THE PROCEEDINGS WHICH INCLUDES THE TESTIMONY IN EVIDENCE ON WHICH THE APPEAL IS MADE.

"A community intended and operated for persons 55 and older"



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1. Meeting Call to Order
2. Invocation
3. Pledge of Allegiance
4. Roll Call
5. Chairman Announcements
6. Approval of the Meeting Minutes for 03/28/22

Action: Motion to Approve 03/28/22
Trustee Comment
Public Comment
Call for vote

7. District Managers Report

Action: Motion to Approve
Trustee Comment
Public Comment
Call for vote

8. New Business

- a. Upgrade and improve sound and technology in the clubhouse as presented by Don Washington not to exceed \$25,000.00. (copy of presentation attached)

Action: Motion to Approve
Trustee Comment
Public Comment
Call for vote

- b. Resigned from the Board of Trustees.

Carol Sommers
Paul Goblick

- C Resigned from ACC Board

Ron Foote, David Curtis, Bill Linhares and Howard Weigle



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9. Old Business

a. Health Insurance buy-out for Sheree Morris

**Action: Motion to Approve
Trustee Comment
Public Comment
Call for vote.**

b. HR Committee

**Action: Motion to Approve
Trustee Comment
Public Comment
Call for vote**

c. Parks Lawyer on grandfathering (email attached)

**Action: Motion to Approve
Trustee Comment
Public Comment
Call for vote**

10. Public Comments

13. Trustee Remarks or Announcements

14. Adjournment

Presentation by Don Washington to upgrade and improve sound and technology in the clubhouse

- Change the internet capacity for the hall. Requests in for Spectrum and ATT, this will give the office dedicated hardwired, firewalled internet
- Improve capacity and range for guest wifi
- Dedicated internet for the hppoa, this will include hardwired firewalled for the office
- A Hppoa wireless router dedicated for the Hall, this will give unlimited streaming capability. Sound, movies, internet tv steaming for sport events and public interest programs, workshops.
- New laser overhead projection system for powerpoint presentations.
- Oriented screen over the large stage. This will work well for any streaming video or tv.
- Paid music subscription so we have any music we want in the hall, or building
- Roku, firestick, Amazon prime, Apple tv. In our overhead projector system. No wires. Any laptop or smart phone or tablet can stream to the projector
- New rack built for zoom soundcraft board.
- Dedicated speakers for zoom meetings. Eq'd to give better sound quality for all meetings.
- Ipad control for easy set up between trustee, hppoa and Acc meetings.
- Blue tooth wireless transmitters for people with hearing disabilities. Hearing aid compatible. This will work for meetings and audio visual presentations.
- Wireless headset upgrades for line dancing, and bingo. Bingo will have its own dedicated system

- New sound system for the pool, including properly wired speakers. Streaming capability for music of the public's choosing.
- Sound system for the pool hall. Background music is needed.
- New soundboard and speaker upgrade for our mainstage. LED lighting for entertainment enhancement, again controlled by iPad for better sound and visual management.

All new and repurposed sound equipment will be run through an electronic power conditioner. This will prevent fade and offer surge protection. This is meant to protect our investment.

Requesting a budget of "not to exceed" \$25,000



Rick Brooks <rnbrooks4@gmail.com>

FW: Grandfathering of non conformities

3 messages

sheree@holidayparkfl.com <sheree@holidayparkfl.com>
To: rnbrooks4@gmail.com

Fri, Apr 1, 2022 at 7:54 AM

Attorney's response

From: kbohne@fla-lawyers.com <kbohne@fla-lawyers.com>
Sent: Thursday, March 31, 2022 4:58 PM
To: sheree@holidayparkfl.com
Subject: Grandfathering of non conformities

The issue of whether the district (a governmental body) can enforce the restrictions against properties which have had non-conformities for a substantial length of time has its roots in the legal concepts of estoppel and waiver. "Estoppel" is generally defined as encompassing the following elements: (1) a representation as to a material fact that is contrary to a later-asserted position, (2) reliance on that representation, and (3) a change in position detrimental to the party claiming estoppel, caused by the representation and reliance thereon. Stated another way, and in the context of covenant enforcement, estoppel applies when:

The enforcing agency took material action, spoke about material facts, **failed to act when they should have acted**, or concealed or was silent about material facts at time when they knew of the material facts.

The property owner relied in good faith upon the enforcing agency's material action, words, **inaction, or silence**; and

The property owner's reliance on the enforcing agency's material action, words, **inaction, or silence** caused the owner to change the owner's position for the worse (expenditure of money is an example).

X Also, in conjunction with estoppel, the defense of statute of limitations (here 5 years) would also apply. Meaning the failure to enforce beyond the 5 year period where the district new of the violation would prohibit enforcement. Sometimes the defense of "waiver" also applies which generally is defined (in this context) as the enforcing agency's right to have the owner do something actually existed; the enforcing agency knew or should have known it had the right to have the owner do something; and the enforcing agency freely and intentionally gave up the right to have the owner perform the obligation.

Now that doesn't mean that all is lost. Such "violations", even assuming estoppel, statute of limitations or waiver applies, are still non-conformities and would not prevent the district from a future enforcement if the violation is expanded or increased, if the violation ceases and a new violation is created, in the context of a structure if the structure is destroyed and is trying to be replace4d and if a repair constitutes more than 50 % of the structure you could probably force compliance. In some circumstances abandonment and discontinuance can also apply.

So based upon the above the District would be hard presses to enforce the restrictions that have been existing for any significant time or where we knew they existed and allowed them to stay. While we could prevent any expansion or

rebuilding of a non-conformity, it would be my advice that we consider a DOR amendment that specifically addresses the issue of non-conforming uses or structures.

May be something like the following:

Where a lawful structure exists due to estoppel, waiver or the applicable statute of limitations that could not be built under the terms of this Declaration, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such structure may be enlarged, extended, expanded or altered in a way which increases its nonconformity.
- (2) Any structure or portion thereof may be altered to decrease its nonconformity or to make it conforming with this Declaration.
- (3) Should such structure be destroyed or in need of repair or replacement by any means to any extent of more than fifty (50) percent of its replacement cost at the time of destruction, repair or replacement or more than 50% of the structure is destroyed or in need of repair or replacement, it shall not be reconstructed, repaired or replaced except in conformity with the provisions of this Declaration.
- (4) such structure may not be moved or relocated for any reason and distance whatever, if so, it shall thereafter conform to this Declaration.

On any structure which is in whole or in part to any nonconforming, ordinary repairs, or repair or replacement of non-load-bearing walls or structures or supports, fixtures, wiring or plumbing, may be done provided that the cubic content of the structure shall not be increased.

Some of this is complicated by the fact the District is a governmental body and that we are bound by due process requirements and the applicability of constitutional protections that are beyond the scope of this inquiry.

Karl W. Bohne, Jr.

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8:30 a.m. to 5:00 p.m. Monday thru Thursday

8:30 a.m. to 12 Noon on Friday

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