

MASTERS AT PELICAN SOUND
MINUTES OF THE BOARD OF DIRECTORS MEETING
HELD OCTOBER 30, 2018
AT THE RIVER ROOM IN THE RIVER CLUB COMPLEX

CALL TO ORDER – The meeting was called to order at 2:02 pm by Board President Marcy Holtz

DETERMINATION OF QUORUM – A Quorum was noted with the presence of the following Board Members: Bill Ellis, Nancy Freeman, Marcy Holtz, Jim Swanger, Pam Venosa

ALSO PRESENT – Brandy Callahan of Cambridge Management; Steve Hart of Collier Financial

PROOF OF NOTICE – Notice was provided per statute

APPROVAL OF MINUTES – After Nancy read the minutes of April 11, 2018 to the Board, Bill Ellis moved; Pam Venosa seconded to approve the minutes as read; all voted and approved. After Nancy read the minutes of February 1, 2018 to the Board, Jim Swanger moved; Marcy seconded, to approve the minutes as read; all voted and approved.

2019 BUDGET WORKSHOP – Steve Hart went through line items on proposed 2019 budget. Must decide if we are going to paint in 2019. Increases in many items. Professional review of governing documents will cost about \$3,000. Will go for bids on tree trimming. Quarterly assessments would increase to about \$634 quarterly.

OPEN FORUM- no one spoke

OFFICERS REPORTS/ARC/LANDSCAPE REPORT –

. President's Report – Marcy voted to approve PSGRC budget for 2019 based on the responses from polling the community: 49 Masters' residents responded with 46 yes and 3 no. Budget was approved by all NVR's.

. Comcast will be updating fiber optics and single family home owners will make appointments for them to come into their homes.

. 2 complaints were received from a Masters resident against the Board and an attorney was contacted. His opinion was that the Board acted correctly. There were no objections to accepting the opinion.

. Payment of bills for stump removal was denied by RRCD and PSGRC. Trees in ROW are "in no man's land".

. Estero Golf Tournament is Saturday. Don Jancin said he has money left from previous socials and would donate \$35 for Masters' hole sponsor sign on the golf course for event.

OLD BUSINESS – Pam and her committee have reviewed all our Masters documents. Hope to confirm changes by mid-December; reviewed by attorney by Feb. 1; sent to members in time to be voted on at Annual Meeting scheduled for March 4.

NEW BUSINESS – Roofs were cleaned in 2016. Scheduled for cleaning again in 2019.

Houses were painted in 2012. Scheduled for painting in 2019.

Jim Swanger presented idea of a Masters Website. Ben Bachrach is working on this. Fee of \$110 yearly could be involved. Dusty Rhodes mentioned it must be updated often or people won't go to site.

NEXT MEETING – December 6, 2018, 1PM – Sound Room – 2019 Budget

ADJOURNMENT – With there being no further business to discuss, Nancy moved to adjourn meeting; Pam seconded; all voted and approved. The meeting was adjourned at 3:15 pm.

Respectfully submitted by Nancy Freeman, Board Secretary

Attachments – Letters to and from RRCDD and Pelican Sound; Sept. 13 letter from attorney; Sept. 25 letter from attorney

21880 Masters Circle
Esterro, FL 33928
September 7, 2018

Mr. Chuck Adams, District Manager
River Ridge Community Development District
9220 Bonita Beach Road, Suite 214
Bonita Springs, FL 34135

Re: Removal of tree stumps in Right of Way

Dear Mr. Adams,

Enclosed please find a paid invoice for removal of 4 stumps in the Right of Way fronting Masters homeowner's lots. The stumps were the remains of 4 trees that were blown over by Hurricane Irma.

The ROW is owned by River Ridge CDD. Therefore, we ask that River Ridge CDD reimburse the Masters Homeowners Assn. for the cost of the stump removals.

Thank you for your consideration of this request.

Sincerely,
Masters Homeowners Board of Directors
Marcy Holtz, President
Pam Venosa, Vice President
Bill Ellis, Treasurer
Nancy Freeman, Secretary
Jim Swanger, Director

Cc: Bob Schultz, Chair
River Ridge CDD

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Nancy

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RIVER RIDGE
COMMUNITY DEVELOPMENT DISTRICT
OFFICE OF THE DISTRICT MANAGER
9220 Bonita Beach Road
Suite 214
Bonita Springs, FL 34135
(239) 464-7114

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(8 day

September 13, 2018

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RE: Removal of tree stumps in Masters ROW

Dear Masters BOD,

We are in receipt of your letter dated September 7, 2018 regarding the above referenced subject and requesting CDD reimbursement for the removal of 4 tree stumps that were located within the CDD owned road right of way. The CDD has recently spent a great deal of time reviewing it's ownership rights and responsibilities with regards to facilities within a CDD owned road right of way and that are unrelated to the roadway, drainage and sidewalks. Specifically with regards to the trees, the CDD is not accepting any responsibility for a tree that may be within a CDD owned road right of way fronting a resident's property or neighborhood association's property. This position was formally adopted by the CDD Board via resolution 2018-03, with supporting position background and legal memorandum on the subject. (attached for your information and reference). In light of the above, the CDD will not be making the requested reimbursement.

0-30-

Should you have any questions, please contact me.

Sincerely,

RIVER RIDGE COMMUNITY DEV ELOPMENT DISTRICT

Chesley E. Adams jr.
District Manager

enclosures
cc. Robert Schultz w/o enc.

PSGRC stump reimbursement.docx

21880 Masters Circle
Estero, FL 33928
October 11, 2018

Mr. Eric Long, General Manager
Pelican Sound Golf & River Club
4561 Pelican Sound Blvd.
Estero, FL 33928

Re: Removal of tree stumps in Right of Way

Dear Eric,

Enclosed please find a paid invoice for removal of 4 stumps in the Right of Way fronting Masters homeowners lots. The stumps were the remains of 4 trees that were blown over by Hurricane Irma.

The paid invoice was submitted to the owner of the Right of Way, River Ridge Community Development District. They denied reimbursement citing River Ridge CDD Resolution 2018-03. By way of this Resolution Pelican Sound G&RC was given the responsibility for trees in the ROW. (See attached letter from River Ridge CDD.)

By way of this letter, we ask that Pelican Sound GRC reimburse the Masters Homeowners Assn. for the cost of the stump removals.

Thank you for your consideration of this request.

Sincerely,
Masters Homeowners Board of Directors
Marcy Holtz, President
Pam Venosa, Vice President
Bill Ellis, Treasurer
Nancy Freeman, Secretary
Jim Swanger, Director

Cc: Neil Severance, President
Pelican Sound Board of Directors

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Pelican Sound
Golf & River Club

Masters Homeowners Board of Directors
ATTN: Marcy Holtz
21880 Masters Circle
Estero, FL 33928

Dear Mrs. Holtz,

We are in receipt of your letter dated October 11, 2018 regarding the removal of tree stumps in The Masters 'ROW' that River Ridge CDD has denied reimbursement of citing the Resolution 2018 - 03 in which resolution Pelican Sound was given the responsibility for the trees in the 'ROW.'

Per the Declaration of Covenants, Conditions, Restrictions and Easements for Pelican Sound Golf & River Club, Inc., Article V, Maintenance; Section 5.2, paragraph 6:

Trees within a neighborhood Association that are on an easement will be maintained by the Neighborhood Association including trimming, fertilization and replacement. The cost of any maintenance, repair or replacement caused by the owner's neglect of his/her irrigation system will be levied against such owner. If said trees are damaged as a direct result of a storm, the Neighborhood Association shall be responsible for replanting or replacing.

The Club's documents state very clearly that it is a neighborhood matter and should be handled as such; therefore, the Club will not be reimbursing The Masters for the stump removal.

Should you have any questions, please contact me at 239-948-5232.

Regards,

Eric Long, PSGRC General Manager
Cc: Neil Severance, PSGRC Board President

Pelican Sound Golf & River Club, Inc. | 4569 Pelican Sound Blvd., Estero, FL 33928 | 239-948-5223



GOEDE / ADAMCZYK / DEBOEST / CROSS

ATTORNEYS AND PROFESSIONAL COUNSEL

INFO@GADCLAW.COM / WWW.GADCLAW.COM

Via E-Mail Transmission to: MCHoltz@aol.com

September 13, 2018

Board of Directors
THE MASTERS AT PELICAN SOUND
NEIGHBORHOOD ASSOCIATION, INC.
21820 Masters Circle
Estero, FL 33928

Re: Hurricane Irma Tree Removal and Clean Up

Dear Board Members:

As a result of two complaints received from a Master's homeowner, you have asked me to review your governing documents and the law regarding the Association's authority to remove downed trees caused by Hurricane Irma and charge the cost as a common expense. Additionally, you have asked me to look into the Association's removal of certain stumps that appear to be on property that is not common area of the Association or part of an individual lot. In short, my opinion is that both of these activities were appropriately conducted by the Association and it was appropriate to charge the cost as a general common expense. Below I will explain the basis for my opinion.

It is my understanding that approximately four (4) trees were blown down as a result of Hurricane Irma. In response, the Association removed the trees and charged the cost as a common expense.

First, Article VII, Section 1 of the Declaration of Covenants provides in pertinent part that:

“... the Association shall be responsible for contracting for landscaping, which shall include at a minimum, lawn care, trimming shrubs, trimming sable palms under 14 feet and irrigation system maintenance as shall be particularly set forth in the annual contract adopted by the Board for each and every Lot within the Community, and the cost shall be a Common Expense.”

Thus, removal of downed trees from common areas and/or Lots is appropriately within the authority of the Association and the cost is, pursuant to the foregoing Section, a common expense of the Association. Moreover, Section 720.316(1)(i) of the Homeowner's Association Act, provides that in response to an emergency situation, the Association has the authority to “mitigate further damage, including taking action to contract for the removal of debris” from the community. Finally, the foregoing practice is consistent with the Association's historical practice of removing trees that were blown down during prior hurricanes, including but not limited to Hurricane Charlie and Hurricane Wilma and charging the cost as a common expense.

Board of Directors
THE MASTERS AT PELICAN SOUND
NEIGHBORHOOD ASSOCIATION, INC.
September 13, 2018

Therefore, it is my opinion that the foregoing actions were appropriate, within the authority of the Association and consistent with the governing documents and the law.

Next, it is my understanding that the Association removed approximately four (4) tree stumps that were in an area within the community that may or may not be common area of the Association and, thus, within the Association's authority.

Again, Article VII, Section 1 of the Declaration of Covenants provides in pertinent part that:

“The Association may maintain other property which it does not own, including, without limitation, publicly owned property, conservation easements held by non-profit entities and other property dedicated to public use, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.”

Based on the foregoing provision the Association has clear authority to remove the stumps in question and charge the cost as a common expense. It is my understanding that while the Association has not yet done so, the Board of Directors will be seeking to recover the cost of the removal of the stumps in question from the entities that are ultimately determined to be responsible for them. Again, this is completely appropriate and within the authority of the Board of Directors.

I trust the foregoing is responsive to your inquiry, however, if you should have any additional questions, please do not hesitate to contact me.

Very truly,
GOEDE, ADAMCZYK, DEBOEST
& CROSS, PLLC



Richard D. DeBoest
For the Firm
Signed electronically to avoid delay

RDD/jmm



GOEDE / ADAMCZYK / DEBOEST / CROSS

ATTORNEYS AND PROFESSIONAL COUNSEL

INFO@GADCLAW.COM / WWW.GADCLAW.COM

Via E-Mail Transmission Only to: mcholtz@aol.com

September 25, 2018

Board of Directors
THE MASTERS AT PELICAN SOUND
NEIGHBORHOOD ASSOCIATION, INC.
c/o Marcy Holtz
21820 Masters Circle
Estero, FL 33928

Re: Sunshine News Edition 13.5

Dear Board Members:

You have asked that I respond to several items in the Masters' Sunshine News Letter 13.5. In response thereto, it should be noted that it contains several misstatements and inaccuracies as to the law and the facts.

1. The common law regarding trees is that if a tree falls on your property you are responsible to remove it and pay the cost even if the tree came from another property. However, in the case of the Masters, the Declaration of Covenants contractually changes the common law by giving the Association the authority to maintain the landscaping on the Lots as a common expense. This would include tree removal. There is nothing in the Statutes or the case law that prohibits this type of arrangement and, frankly, it is one of the purposes of private covenants. i.e., to establish uniform rights and authorities regarding individually owned property for efficiency and uniformity within a geographically defined area.
2. The trees downed by Hurricane Irma were removed shortly after the storm during the period of the declared emergency.
3. The Association is seeking reimbursement from River Ridge for the stump removal.

Board of Directors
THE MASTERS AT PELICAN SOUND
NEIGHBORHOOD ASSOCIATION, INC.
September 25, 2018

Should you have any additional questions, please do not hesitate to contact me.

Very truly,
GOEDE, ADAMCZYK, DEBOEST & CROSS, PLLC



Richard D. DeBoest, Esq.
For the Firm
Signed electronically to avoid delay

RDD/jmm