

# ***CALABAY PARC AT TOWER LAKE HOMEOWNERS ASSOCIATION, INC.***

## **MEETING MINUTES**

### **BOARD MEETING**

**April 11, 2017**

**3:00pm**

**Calabay Parc at Tower Lake  
539 Pineloch Drive  
Haines City, FL 33844**

- I. Call to order AT 3:03 Pm by Jennifer Conklin of Highland Community Management (HCM)
- II. Verification of Quorum: Board Members present in-person were Josh Vaillancourt, Jim Grant and Colin Barr. Members in attendance via phone conference: LeRoy Sanchez. Director Leo Pacheco submitted votes via email to HCM
- III. Approval of Previous Minutes from previous Meeting: Josh moves to approve minutes, Jim 2nds motion, board approves unanimously.
- IV. Purpose of Meeting
  1. Review tree removal and front entrance landscaping quote:
    - Introductions of the Landscaping Vendor Prince (Eric Schloemer, Ian Prince and Jerry Robertson) who attending meeting
    - Discussion on work being performed within community, notice to update community on scheduling of work, discussion on proposed landscaping update and mulch installation: The board votes to table the landscaping bid until needed changes are made and votes to approve mulch installation in common areas and requests quote for mulching for all homes.
    - Board discussed concerns on irrigation repairs; board votes to approve new irrigation repairs and requests a more detailed irrigation report to include incorrect sprayers
    - The board reviewed a tree removal quote from Monkey Business and requested Prince Landscaping to submit a bid for the same work. Board moves to approve bid from Prince should the bid be at same cost as Monkey Business, if higher the board approves bid from Monkey Business.
  2. Discussion of approval of screen doors
    - The board reviewed pervious emails from the ARC with the requests of screen door installations. As this is a change to previous ARC regulations, the ARC Committee is seeking board approval to allow screen doors and limit type that is allowed.
    - The board approves the ARC to allow screen doors to be approved when application is submitted provided the door is one of the doors that were approved at the meeting.
    - HCM to post pictures and description of approved screen doors on community website.
  3. Review and approval of fencing options on Sheen Circle
    - The board submits within the formal meeting minutes the approved repair and install of the bard wire to finish the fence on Sheen circle due to damage from vandalism.
  4. Review SWFWMD on retention wall on Tower Lake Blvd.
    - The board requested SWFWMD to inspect the new elevations of the homes to be built on Tower Lake Blvd to make sure there will be no issues with future SWFWMD inspections. The inspector stated that at this time all elevations are within the required standards.
  5. Joint use and maintenance agreement of wall on multiple lots on Tower Lake Blvd
    - The board had requested that the owners of lots 33-35 on Tower Lake Blvd be made aware of

the retaining wall that is within the property lines and not within an HOA easement be made aware that this wall will be the responsibility of the lot owners and that a joint maintenance agreement be drafted to keep within Association records.

- A response to this request was given by the lot owners and is attached to the meeting minutes for review with future legal correspondence to be submitted.
6. Review and approval of retention wall mitigation repair off Pineloch Dr.
    - The board has tabled this item to await bids from contractors as none have been given at this time.
  7. Review of towing contracts and approval of signs
    - The board approves Anytime Towing and allows the contract to be completed and enforced. Only the approved persons on the contract will have the authority to tow within the community with the exception of: police and vehicles that are parked fully within an owners' property lines.
    - The board reviewed the 2 bids for No parking signs to be placed upon turns within the community and approved ASAP Promotions to install once the amount and areas are approved by the board.
    - The board also requests ASAP Promotions to produce a quote to replace worn street name signs within the community to be reviewed at next meeting.
  8. Review new camera quotes and lower clubhouse door lock quote
    - The board puts into official record that the revised camera bids were approved as the revised quotes were lower than the original quotes approved at previous meeting.
    - The board unanimously approves the lower clubhouse door lock proposal as well as the walking gate proposal from the Minniehaha Circle gate.
    - The board requests Miller security to also submit a quote for a "mag-lock" system for the vehicle gate at Minniehaha Circle and ask if the installation of this would inhibit the use of this gate for construction vehicles.
  9. Review policies and procedures of clubhouse rental
    - Board reviewed and discussed with community the proposed option for private reservation/rental of the upper level of the clubhouse for private functions.
    - The HOA will be looking to procure a sign to be used to inform residents of a private function along with the installation of the lower door lock to allow residents use of the gym area.
    - Anyone looking to use this clubhouse for private event must submit a rental agreement form along with payment. Tenants or Guests may rent the area provided they have signed written approval from the property owner.
    - HCM will send the agreement to attorney to review and approve. The board approves the use of Rental Agreement provided it is reviewed and approved by legal.
  10. Review Dock Repair Quote
    - The board has agreed to able this quote until quotes for the erosion issues are obtained and the budget is reviewed
  11. Review Wall painting quotes
    - This item has been tabled as we are still awaiting quotes
  12. Assignment of open board member position: LeRoy Sanchez to step down due to declarant status under 10% of lots per statute.
    - Per email response sent by Leroy Sanchez (attached), DR Horton would like to exercise their Developer Rights per Florida Statute 720.307 to remain on their board position until they are at the 5% threshold
    - The board and HCM asked for clarification of the emails sent on 4/11/18 (attached) as there was conflicting information and asked for R Horton to provide numbers of how many lots are to be sold to be under the 5% ownership.
    - HCM concluded from HOA records updated on 4/11/18 that DR Horton currently owns 19 lots within the community putting them at 6% ownership and once the sale of 4 lots are complete, this will put them under the 5% threshold.
    - It was discussed to look at appointing a new member to the board at the current meeting for a seamless transition once the 5% threshold has been met.

- LeRoy questioned why the board seat would be appointed by the board and not sent for community vote. It was discussed per the governing documents of the community along with Florida Statute 720, the board has the right to appoint a new board member once a board member resigns or is removed to replace that member up until the time of the next annual meeting and election.
- LeRoy moves to table the appointment of the succeeding board member until the 5% threshold is met and a new meeting is called with the option of a community vote. This motion was denied by a 3-1 vote.
- Josh moves to include a resolution to appoint a successor to the board position that will be open at the time that the 5% developer rights have been met: motion so carries with a 4-1 approval vote; the resolution states:  
*D.R. Horton's board member's term will automatically terminate upon the sale of the 4th lot. The Board has identified Monique Moore as Leroy Sanchez's successor. Monique Moore will assume his/her position upon the Board immediately upon the sale of the lot. DR Horton shall notify the Association, and Leroy Sanchez shall execute a resignation from the Board, effective the date of the Closing on the 4<sup>th</sup> lot. Regardless, Leroy Sanchez's term will automatically terminate on the date of the closing/sale of the 4<sup>th</sup> lot.*

### 13. Community Concerns

- Owner of lots on Cherokee Ave (350-356) has concerns of encroaching weeds and tree branches from the conservation tract behind his lots are starting to overtake the property. The board and HCM will be contacting SWFWMD to review the area and get approval of proper remedies for the property as not to disturb the conservation area.
- Jim Grant from the ARC requests that the original color chart be found and updated on the website should owners like to paint their homes using the original colors. HCM will post this information on the website.
- Concerns were discussed with residents and John Auld, representative of DR Horton, regarding the change of elevation on Sheen Circle and the city requirement of the placement of the swale to reduce water runoff. The board requests the ARC committee to produce the approved ARC elevation requests. John Auld discussed he will discuss the swale issue and help find a solution to this.

V. Adjournment was called at 5:39PM

## Jennifer Conklin

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**From:** Leroy Sanchez <LSanchez@drhorton.com>  
**Sent:** Wednesday, April 11, 2018 10:27 AM  
**To:** Jennifer Conklin  
**Subject:** Meeting 4/11/18

Jennifer,

I am in receipt of your agenda for the April 11 Board Meeting, and am concerned that you have included item 12, "Assignment of open board member position: LeRoy Sanchez to step down due to declarant status under 10% of lots per statute (sic)". I am concerned with this inclusion as I currently have no plans to step down from my board seat, and do not believe that the facts you assert in this item heading are accurate. At this point in time D. R. Horton still owns in excess of 5% of the lots in Calabay Parc and, pursuant to Florida Statute Section 720.307 (2), "is entitled to elect at least one member of the board of directors of the homeowners' association as long as the developer holds for sale in the ordinary course of business at least 5 percent of the parcels in all phases of the community". Based upon the foregoing, I believe that D. R. Horton still retains its right to appoint a director to the board, and I remain Horton's appointee for that position. Of course, when the relevant threshold of Lot ownership by D. R. Horton is reached, I will, at that time, resign my board seat. Since we have not yet reached that threshold, I will not be stepping down, there is no open board position to be filled, and I therefore take issue with this item. Further, on behalf of D. R. Horton, I am advising you that Horton also objects to the inclusion of this item on the board agenda and will take all legal action necessary to preserve its right to the board seat, consistent with applicable Florida law.

In addition to the foregoing, I have been advised that our management team has prepared and will deliver today a response on several of the items on the agenda that involve D. R. Horton. That being the case, and to give the Board time to digest the response, would a postponement of the Board meeting, perhaps a few weeks be appropriate?



**Leroy Sanchez**  
**Land Acquisition**

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Highland Community Management  
co/o Jennifer Conklin

RE: Calabay Parc HOA

Jennifer,

This correspondence will confirm receipt of various communications from you regarding Calabay Parc, including three letters, two dated February 12, 2018 and regarding "ARC Committee Documents Request" and "Transition of Declarant Rights," and one dated March 12, 2018 regarding "Record Request of lots on Tower Lake Blvd." Although we have communicated about and resolved many of the issues in these letters, I wanted to provide a more formal response to ensure that we can work toward resolution of any open issues.

**Transition of Declarant Rights (February 12, 2018).**

In this letter, you seem to be requesting action or information pertaining to turnover and/or certain developer obligations (such as record keeping) for the Association. DR Horton has never been the Developer for Calabay Parc. I believe that there was extensive communication on this subject with prior Association counsel. If helpful, I would be happy to forward it. Please let me know how you would like to proceed.

You also ask in this correspondence that "any damages done to the community be corrected within the 90-day period." You then identify the following as items needing attention or repair by DR Horton (a) broken arm bars at the gate entrance on Minnehaha Circle; (b) SWFMWD compliance issue due to construction debris and run-off that is needing to be repaired in phase 3 of the Community and (c) retaining wall on Cherokee Ave. First, DR Horton stands ready to resolve any inadvertent damages that may have been caused during the construction process, and it has continually demonstrated its commitment in this regard. However, it does not agree to any arbitrary repair deadline. All agreed repairs will be undertaken within a reasonable time frame. With respect to the three items noted: (a) D.R. Horton had requested documentation from the Association to substantiate the damages incurred. This was not provided. However, in the spirit of resolving this issue, and as a demonstration of good faith, D.R. Horton has approved the repair of the arm bar, and this repair will be undertaken immediately; (b) As to the SWFMWD issue, D.R. Horton understands that this has been resolved and that no further action is needed or required. (c) With respect to the Cherokee Ave. retaining wall, D.R. Horton is actively working with its engineer to ensure that there are no outstanding issues. D.R. Horton's position has been made through counsel and in response to the Demand to Cure sent previously by Association counsel. Other than the three items referenced above, DR Horton is not aware of any other damage at Calabay Parc in need of repair.

**ARC Committee Documents Request (February 12, 2018)**

In this letter, you make certain requests related to the Architectural Review Committee ("ARC"). However, it appears that most of the information being requested relates to approvals that would

have been undertaken by the Developer before DR Horton had any role with the ARC. Second, you suggest that the plans and approvals are not being properly submitted for review and filed within the community records. DR Horton takes issue with this characterization and notes that the Declaration vests the ARC with full authority to regulate the use and appearance of the Property consistent with the Declaration, grants the ARC sole and absolute discretion with regard to changes to the exterior appearance and allows for the ARC to grant waivers for minor deviations. If there are specific matters for which the Board of Directors ("BOD") believes formalities are lacking and for which there are existing rules that require such, we should set this as an agenda item to discuss at the next Board Meeting. Notwithstanding the foregoing, DR Horton, as a member of the ARC, will work with the BOD to ensure that the Application and Approval Processes outlined in the Declaration and applicable By Laws are followed.

**Record Request of Lots on Tower Lake Blvd. (March 12, 2018)**

In this letter, you raise a number of issues with regard to Lots 35 and 36 on behalf of the BOD. As a preliminary matter, these issues would be more appropriately raised as an Agenda item at the next BOD meeting so all interested parties have the ability to communicate openly with regard to same. As DR Horton is also a BOD member, it would be appropriate that these queries not be formulated in a vacuum and without DR Horton's participation. To help shape this conversation for future discussion by the complete BOD, I would note that DR Horton is not aware of any authority by the BOD to require a joint maintenance agreement, a full engineering report and/or liability waiver with regard to construction on Lots 35 and 36 in accordance with approved plans and specifications.

Further, with respect to Lot 35 D.R. Horton is reviewing the issues raised with its engineer. To ensure consistency and the needed collaboration, our respective engineers should communicate so that a mutually agreeable resolution can be reached.

If there are any other open issues not addressed herein, please let me know. Otherwise, we will await further instruction and feedback from you to help guide next steps.

Sincerely,

Leroy Sanchez