

**MINUTES OF MEETING**

*Each person who decides to appeal any decision made by the Board with respect to any matter considered at the meeting is advised that person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which such appeal is to be based.*

**DIAMOND HILL  
COMMUNITY DEVELOPMENT DISTRICT**

The regular meeting of the Diamond Hill Community Development District was held on **Monday, January 13, 2014 at 4:00 p.m.** at the office of Rizzetta & Company, Inc. located at 3434 Colwell Avenue, Suite 200, Tampa, FL 33614.

Present and constituting a quorum:

Ferdinand Ramos	<b>Board Supervisor, Chairman</b>
Linda Dunn	<b>Board Supervisor, Vice Chairman</b>
James Oliver	<b>Board Supervisor, Assistant Secretary</b>
Doug Taggerty	<b>Board Supervisor, Assistant Secretary</b>

Also present were:

Greg Cox	<b>District Manager; Rizzetta &amp; Company, Inc.</b>
Lindsay Whelan	<b>District Counsel; Hopping Green &amp; Sams</b>
Jason Walters	<b>District Counsel; Hopping Green &amp; Sams</b>
Jordan Caviggia	<b>District Engineer; Bayside Engineering</b>
Scott Smith	<b>Operations Manager; Rizzetta &amp; Company, Inc.</b>
Rachel Welborn	<b>HOA Manager; Rizzetta &amp; Company, Inc.</b>

**FIRST ORDER OF BUSINESS**

**Call to Order**

Mr. Cox called the meeting to order and read the roll call.

**SECOND ORDER OF BUSINESS**

**Consideration of Minutes of the Board of Supervisors' Meeting Held Nov. 18, 2013**

Mr. Cox presented the minutes of the Board of Supervisors' meeting held on November 18, 2013 to the Board for consideration.

On a Motion by Mr. Ramos, seconded by Mr. Taggerty, with all in favor, the Board approved the minutes of the Board of Supervisors' meeting held on November 18, 2013 as presented for the Diamond Hill Community Development District.
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**THIRD ORDER OF BUSINESS**

**Consideration of Operation &  
Maintenance Expenditures for November  
and December 2013**

Mr. Cox presented the Operation & Maintenance Expenditures for November 2013 totaling \$14,505.46 and December 2013 totaling \$7,736.86 to the Board for ratification.

On a Motion by Mr. Taggerty, seconded by Mr. Oliver, with all in favor, the Board ratified the Operation & Maintenance Expenditures for November 2013 totaling \$14,505.46 and December 2013 totaling \$7,736.86 for the Diamond Hill Community Development District.

**FOURTH ORDER OF BUSINESS**

**Consideration of Board Member  
Resignation**

Mr. Cox presented supervisor Michael Headley's resignation from seat #4 effective January 2, 2014 to the Board for consideration. Mr. Cox also noted that seat #4's term is a four-year term expiring in 2016.

On a Motion by Mr. Oliver, seconded by Ms. Dunn, with all in favor, the Board accepted the resignation of Board supervisor Michael Headley from Board seat #4, which has a four-year term expiring in 2016, for the Diamond Hill Community Development District.

The Board discussed the process for filling the vacant seat and noted that Tim Vorick has expressed interest in the position and asked to put consideration of the appointment on the next meeting agenda.

**FIFTH ORDER OF BUSINESS**

**Update on Pond #1 Erosion Repairs**

Mr. Caviggia provided an update of pending repairs to the banks of pond #1 to the Board.

**SIXTH ORDER OF BUSINESS**

**Monthly Pond Inspection Reports**

Mr. Cox presented the latest pond inspection report from Lake Masters to the Board.

**SEVENTH ORDER OF BUSINESS**

**Landscape & Irrigation Update**

Mr. Smith provided an update on current landscape maintenance events and advised that Austin Outdoor will soon be presenting monthly landscape reports to the Board. Dana Brandt and Justin Santoro of Austin Outdoor were present and introduced themselves to the Board. Discussion was held regarding the current status of entrance landscaping and common areas within the community that are the District's responsibility. The Board requested quotes from Austin Outdoor for entrance landscaping upgrades.

**EIGHTH ORDER OF BUSINESS**

**Discussion of Holiday Decorations Cost-Sharing**

Board discussion was held regarding a request from the HOA to help fund the cost of holiday decorations installed at the community entrances. The Board agreed to contribute \$650.00.

On a Motion by Mr. Ramos, seconded by Mr. Taggerty, with all in favor, the Board approved the contribution of \$650.00 toward the cost of holiday decorations installed at the community's entrances for the Diamond Hill Community Development District.

**NINTH ORDER OF BUSINESS**

**Consideration of LED Lighting Proposal**

The Board reviewed a proposal from M.C. Building Services for the installation of LED lighting and GFCI outlets at the east and west entrances. After discussion the Board chose to proceed with installation after final approval of the plans by the Chairman.

On a Motion by Mr. Taggerty, seconded by Ms. Dunn, with all in favor, the Board accepted the proposal from M.C. Building Services for installation of LED lighting and GFCI outlets at the east and west entrances following the Chairman's final approval of the plans for the Diamond Hill Community Development District.

**TENTH ORDER OF BUSINESS**

**Consideration of Amended Disclosure of Public Financing**

Ms. Whelan presented the Amended Disclosure of Public Financing document to the Board for consideration. With the amendment of removing now-resigned Michael Headley's name from the document, the Board approved the document for execution.

On a Motion by Mr. Ramos, seconded by Mr. Taggerty, with all in favor, the Board approved the Amended Disclosure of Public Financing document and authorized the Chairman to execute the document for the Diamond Hill Community Development District.

**ELEVENTH ORDER OF BUSINESS**

**Summary of Monthly Unaudited District Financial Statements**

Mr. Cox presented the summary of monthly unaudited District financial statements as of November 30, 2013 to the Board for review.

**TWELFTH ORDER OF BUSINESS**

**Staff Reports**

**A. District Counsel**

Ms. Whelan introduced Jason Walters of Hopping Green & Sams as the

temporary District Counsel standing in for Michael Eckert. Ms. Whelan then presented a memorandum (**Exhibit "A"**) summarizing the status of present easements related to Copper Height Court and provided historical information related to the issue. The Board reviewed the memo and concluded that the HOA now will need to pursue action to work with the County regarding status of the easement to access Copper Height Court.

**B. District Engineer**

No additional information to report.

**C. District Manager**

Mr. Cox confirmed the next regularly scheduled meeting will be held on March 10, 2014 at 4:00 p.m. and presented the Board with a fact sheet of information on the November 2014 general elections. He informed the Board that seats #1 (Mr. Oliver), #2 (Ms. Dunn) and #3 (Mr. Ramos) will be up for election at that time.

**THIRTEENTH ORDER OF BUSINESS**

**Supervisor Requests**

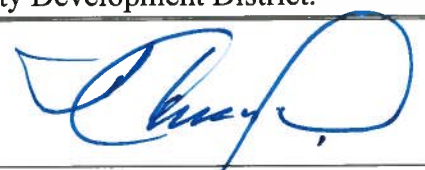
There were no additional supervisor requests.

**FOURTEENTH ORDER OF BUSINESS**

**Adjournment**

On a Motion by Mr. Taggerty, seconded by Mr. Oliver, with all in favor, at 5:14 p.m. the Board adjourned the meeting for the Diamond Hill Community Development District.

  
Secretary Assistant Secretary

  
Chairman/Vice Chairman



# **Exhibit A**

# Hopping Green & Sams

Attorneys and Counselors

## MEMORANDUM

**TO:** Diamond Hill Community Development District  
Board of Supervisors

**FROM:** Michael Eckert  
Lindsay Whelan

**RE:** Status of Present Easements Relating to Copper Height Court

**DATE:** January 13, 2014

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### Overview of Present Situation

In relation to the Board of Supervisors' (the "Board") consideration of an amended Disclosure of Public Financing for the Diamond Hill Community Development District (the "District"), the Board inquired as to the ownership of the water and sewer utilities on Copper Height Court (or the "Roadway"). As you are aware, Copper Height Court is unique in that for a portion of its length it is unplatted and serves as a connection between a portion of platted property which is not contiguous to the remainder of the platted property (the "Island Parcel"). Both the Island Parcel and the remainder of the platted property are located within the boundary of the District, while the unplatted portion of Copper Height Court is not included within the District's boundary. The referenced properties are depicted in the attached **Exhibit A**.

After researching the matter, our office determined that while the water and sewer systems for the majority of the District were dedicated to and are presently owned and maintained by Hillsborough County, the water and sewer systems located on Copper Height Court are presently owned and maintained by the Diamond Hill Master Association (the "DHMA"). The previous District Engineer advised that the Brandon Swimming Association (the "Swim Association"), which owned both the golf course and the unplatted portion of Copper Height Court, refused to provide an easement to the county for utilities. As a result, Hillsborough County would not accept ownership of the utilities located on the Roadway, and the utility infrastructure was instead dedicated to the DHMA, as further discussed below.

At the District's Board of Supervisors meeting on November 18, 2013, the Board requested that our office further research the present easements associated with the Roadway. The purpose of this memorandum is to outline those easements.

### Overview of Present Easements Rights on Copper Height Court

#### *The Transfer of Easement Rights*

The first step in the inquiry as to the current easements on Copper Height Court requires an analysis of the chain of title associated with the Island Parcel and the unplatted portion of the Roadway. Prior to 1973, title to the both the Island Parcel and the surrounding golf course, which includes the unplatted portion of Copper Height Court, was held by the Swim Association. This common ownership was severed in October 1973 when the Island Parcel was conveyed to a third party. Four express easements were subsequently established by the Swim Association for the benefit of the Island Parcel (the "Quit Claim Deed"). The easement identified as "Easement No. 1" in the Quit Claim Deed consists of the unplatted portion of Copper Height Court, and is described in the Quit Claim Deed as a "perpetual non-exclusive easement for surface and sub-surface drainage, underground utility services and vehicular ingress and egress with full right to install and maintain same" (the "Easement").

The golf course property, including the unplatted portion of Copper Height Court, was conveyed to its present owners by deed from the Swim Association in 1989 (the "Golf Course Deed"), which deed expressly provided that the golf course property was subject to the easements created by the Quit Claim Deed. The Swim Association later reacquired ownership of the Island Parcel, including the Easement, and subsequently conveyed the Island Parcel by deed to The Ryland Group ("Ryland") in 2003 (the "Ryland Deed"). Although the language used in the Ryland Deed is not particularly clear, it appears that the Swim Association intended to convey the right to use the Easement to Ryland. However, regardless of whether the Swim Association intended to convey the easements set forth in the Quit Claim Deed, the right to use the Easement was likely conveyed to Ryland by virtue of the Ryland Deed because the Easement is an easement appurtenant (meaning that it runs with the title to the Island Parcel). As a result, it appears that Ryland acquired the rights to use Easement in connection with its acquisition of the Island Parcel, either expressly or due to the nature of the Easement itself.

In 2005, after platting the Island Parcel and subsequently conveying the platted lots to the ultimate property owners and to the District for its amenity center, Ryland conveyed that portion of the Roadway located on the Island Parcel to the DHMA (the "DHMA Deed") subject to all restrictions, easements and covenants of record. As a result of this conveyance, the DHMA received rights to utilize the Easement because the DHMA owns property within the parcel benefitted by the Easement (i.e. within the Island Parcel). The rights granted by the Easement include the right to own and operate the road and utility improvements located within the unplatted portion of Copper Height Court. Presently, the DHMA appears to have retained ownership of the road and utility improvements, including those located within the unplatted portion of Copper Height Court, as our office has not found any subsequent transfer of these improvements.

#### *Scope of Present Easement Rights*

The final step in the inquiry as to the current easements on Copper Height Court requires an analysis of the scope of the present easements, specifically the right of third parties in general, and the DHMA in particular, to utilize the Easement for the purposes of improving the Island Parcel with utility and road improvements. As noted, the Easement is a non-exclusive easement allowing utility and transportation uses. Thus, construction and maintenance of utility improvements within the easement area is not only permissible but it was expressly

contemplated at the time the Easement was established. Accordingly, it appears that Ryland and/or its successors and assigns had the authority to grant rights, such as the right to construct, operate and maintain improvements within the easement area, to third parties such as the District, the DHMA, or the owners of platted lots within the Island Parcel which are benefitted by the Roadway.

### Maintenance of Copper Height Court and Related Infrastructure

#### *The Master Declaration*

In 2003, shortly after platting the real property located within the boundary of the District, Ryland subjected that property to a Master Declaration of Covenants, Conditions and Restrictions (the "Master Declaration"). Article VII of the Master Declaration stipulates that the DHMA shall be responsible for the exclusive management and control of the "Common Area," and that the DHMA shall be responsible for all costs, charges and expenses incurred in connection with the operation, administration and management of the Common Area. Further, Article XI Section 2 stipulates that in the event the public common areas and the wearing surface of the roadways are not "committed to a Community Development District," the maintenance, repair, replacement, management and operation of such amenities shall be the responsibility of the DHMA to the extent that the infrastructure is not otherwise dedicated to a public authority. The Master Declaration goes on to obligate the DHMA with respect to roads, surface water management systems, and other similar amenities used in common by the property owners, which were not otherwise dedicated to a public authority.

The Master Declaration defines "Common Area" as all real property, including improvements thereon, owned now or in the future by the DHMA or the District for the common use and enjoyment of the property owners. Additions to the Common Area must be "accepted" by the DHMA, and acceptance is conclusively presumed by the recording of a deed in the Public Records of Hillsborough County.

#### *Analysis of Responsibilities*

Assuming that the DHMA remains the present owner of the road and utility improvements, then it is undoubtedly responsible for maintaining the same, as DHMA's maintenance obligations naturally flow from DHMA's title to these improvements.

Additionally, the easement area should be considered a "Common Area" under the Master Declaration, as it is real property owned, in common with other owners of property within the Island Parcel, by the DHMA for the common use and enjoyment of the community's property owners. The DHMA's acceptance of the Common Area was conclusively presumed upon the recordation of the DHMA Deed in the Public Records of Hillsborough County on August 23<sup>rd</sup>, 2005. As a Common Area, the DHMA has express maintenance and operation responsibilities for the road and utility improvements, including those located within the unplatted portion of Copper Height Court, pursuant to the terms of the Master Declaration.



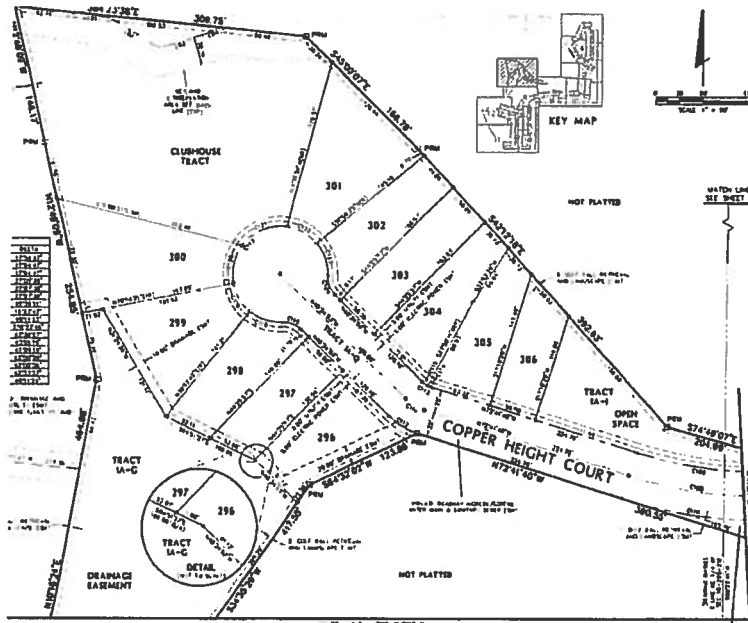
### Conclusion

Based on the above analysis, it appears that Ryland acquired the right to use the Easement in connection with its acquisition of the Island Parcel. By virtue of its delivery of the DHMA Deed to the DHMA, Ryland granted the apparent right to use the Easement to the DHMA property located within the Island Parcel. Additionally, as a Common Area under the Master Declaration, the DHMA appears to be vested with the authority to operate the road and utility improvements, including those located within the Easement on the unplatted portion of Copper Height Court, and is responsible for maintaining the same.

# EXHIBIT A

## Depiction of the Subject Properties

### Island Parcel



### Unplatted Portion of Copper Height Court

