

MINUTES OF MEETING
INDIGO COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Indigo Community Development District was held Wednesday, September 22, 2010 at 1:00 p.m. at Daytona State College, Building 100, Room 402L, 1200 West International Speedway Boulevard, Daytona Beach, Florida.

Present and constituting a quorum were:

Robert Welsh	Chairman
Ed Bertsch	Vice Chairman
John Zemball	Supervisor
Thomas Leek	Supervisor
John McCarthy	Supervisor

Also present were:

Jim Perry	District Manager
Lynn Small	District Counsel
Jonathan Johnson	Hopping Green & Sams (by phone)
Tim Sharpe	CH2M Hill
Kurt von der Osten	Solaris Management
Jamie Rountree	Rountree
Residents	

FIRST ORDER OF BUSINESS

Roll Call

Mr. Perry called the meeting to order at 1:00 p.m.

SECOND ORDER OF BUSINESS

Organizational Matters

A. Appointment of a New Supervisor to Fill the Unexpired Term of Office

B. Oath of Office for Newly Appointed Supervisor

Mr. Perry stated prior to this meeting I swore in Mr. Bertsch.

C. Election of Officers, Resolution 2010-06

Mr. Perry stated whenever there is a new appointment in regards to a supervisor, we ask the board if they would like to look at the officer's that are currently serving and if they would like to make any changes. We do not have a Vice Chair at this time.

On MOTION by Mr. McCarthy seconded by Mr. Welsh with all in favor Resolution 2010-06, appointing Mr. Bertsch as Vice Chairman & all the other positions remaining the same was adopted.

THIRD ORDER OF BUSINESS

Approval of the Minutes of the August 25, 2010 Meeting

Mr. Perry stated included in your agenda package is a copy of the minutes of the August 25, 2010 meeting. Mr. Bertsch's name is misspelled throughout the minutes. Are there any additions, corrections or deletions?

Mr. McCarthy responded on page five Dennis' last name is spelled McGee.

On MOTION by Mr. McCarthy seconded by Mr. Welsh with all in favor the Minutes of the August 25, 2010 Meeting were approved as revised.

Mr. Leek joined the meeting.

FOURTH ORDER OF BUSINESS

Jubilee HOA Landscaping Agreement

Mr. Perry stated included in your agenda package is the Jubilee HOA landscaping agreement. We have had it on the agenda in the past and we deferred it to after the budget.

Mr. Leek stated we have contacted the Jubilee board about reopening negotiations. The response indicates that they would like us to pay the invoice they sent for replacing plants and then talk about maintenance. We are trying to set up a meeting next week to move forward with that.

FIFTH ORDER OF BUSINESS

Consideration of Contract Renewal with Aquatic Systems

Mr. von der Osten stated Aquatic Systems is the existing lake maintenance vendor that sprays for the weeds and algae. Aquatic Systems took over the lakes one year ago in November and the contract is now up for renewal. It is for the same price as the previous year. Residents have indicated that the lakes are in much better condition than they were a year ago. There are the typical flare ups during the drought or the heat but in my opinion they have always performed when called. Their policy is to be out within 24 hours of the call and they have

always been out within 24 hours. They always call me when they are out here. Most of the calls that have come in were complaints about golf course lakes.

Mr. Welsh asked did we get that report back as to who is responsible for what lakes within our community yet?

Mr. von der Osten responded that is on today's agenda.

Mr. Welsh asked would that increase their coverage?

Mr. von der Osten responded no. Right now, they take all the lakes at the current price.

On MOTION by Mr. Bertsch seconded by Mr. McCarthy with all in favor the Contract Renewal with Aquatic Systems was approved.

SIXTH ORDER OF BUSINESS **Acceptance of the Audit for Fiscal Year 2009**

Mr. Perry stated included in your agenda package is the audit report for Fiscal Year 2009. On the first page of the report, which is titled independent auditor's report, the third paragraph down is what is referred as a clean opinion. That is what you want to see in any type of audit report. On Page 21, note number 10 is something that we have not had in previous audits. That is a subsequent event related to disclosure about delinquent assessments from CoastOak Group. Then on Page 23 is the report on internal control. The last sentence states that they did not identify any deficiencies. On Page 25 in the management letter you will see a number of items in regards to compliance with the rules of the Auditor General of the State of Florida. There is nothing in there indicating that the District has any problems.

On MOTION by Mr. McCarthy seconded by Mr. Leek with all in favor the Audit Report for Fiscal Year 2009 was accepted.

SEVENTH ORDER OF BUSINESS **Consideration of Proposals for Field Management Services**

Mr. Perry stated the RFP committee met today at 12:00 p.m. to go through and rank the three proposals that had been submitted in regards to field management services. The overall rankings were, Solaris as number one with a total of 99 points out of 100, Sierra Management Group number two with a total of 94 points out of 100 and Southern States number three with a

total of 86 points out of 100 points. The number one ranked firm is slightly less than what we have budgeted for Fiscal year 2011.

On MOTION by Mr. Welsh seconded by Mr. Bertsch the Rankings of the Committee was accepted & Staff was authorized to Enter into Negotiations with the Number One Ranked Firm.

Mr. Zemball asked do we need to make mention of additional services?

Mr. Perry responded based upon the discussion of the committee, staff will make sure that is included in there. Also, the number one ranked firm is the current firm but in order to make sure we don't lose any time if negotiations are not successful we are going to notify them that starting today starts the 60 days notice of termination.

EIGHTH ORDER OF BUSINESS Other Business

There being none, the next item followed.

NINTH ORDER OF BUSINESS Staff Reports

A. Attorney

1. Update on Sidewalk Repairs and Discussions with City of Daytona Beach

Ms. Small stated we had a meeting scheduled with the City of Daytona for this morning but it has been rescheduled due to their budget meeting that occurred. It has been rescheduled for the morning of October 27th.

2. Update on Repair of Retaining Wall in Opal Hill, Unit II

Ms. Small stated the memo that CH2M Hill has prepared outlining the permits is very helpful. I have spoken with DR Horton and they are actually ready to enter into an agreement with us to repair the retaining wall. They also received a letter dated August 24th from the City of Daytona Beach notifying them that they are in violation of the retaining wall and they have 30 days to cure that. Rennar has been hesitant but I'm trying to open up discussions with them again since we now know the permit status to transfer it to Indigo CDD .

3. Interlocal Agreement with City of Daytona Beach Regarding

Ms. Small stated we are still looking at the grants received from FDOT relating to the I-95 Interchange maintenance level of services. The city attorney and I are working together to

determine what level of service is required and that will be ongoing, as well. I hope next month to have an update for you.

Mr. Welsh asked will we have an answer on the retaining wall by September 24th?

Ms. Small responded DR Horton and the District are ready to sign the agreement but Rennar is not ready to sign the agreement. They are concerned about the cost that it will take for them to transfer the permits to us. This is an ongoing process; however, the city has notified DR Horton, who built the retaining wall, that they are in violation of that permit and they have 30 days to cure it. The District hopes this may spur them.

B. Engineer – 1999 Bond Lake Permit Status

Mr. Perry stated the board has been provided a memorandum from CH2M Hill.

Mr. von der Osten stated this is a very insightful and short report on the status of the lakes. All the lakes discussed here are not owned by the CDD nor are they on CDD property. Most of the lakes are HOA or Developer owned. The District engineer notes that in no case is the current permittee the current property owner, and since these are all in the operational phase by default, not because they were certified and improperly handed to a homeowner association or a CDD. If somebody wants to turn these lakes over to the CDD then they have some clean up work to do. None of the lakes are in condition to be handed over or transferred to a CDD.

Mr. Zemball stated from a process standpoint it is going to take participation from the current permittee. Typically, the permittee when it moves into the operational phase is quick to transfer the permit into the entity that will take care of it. I did just call permit data services and there is one that says there is no asbuilts received for Opal Hill unit one and Opal Hill unit one asbuilts have been received for that community. Rennar would have to sign an application to transfer the maintenance and that would constitute an inspection by St. Johns to upgrade the system to design standards.

Mr. Welsh asked and they would have to do that not us?

Mr. Zemball responded they would have to do that prior to transferring to the entity?

Mr. Welsh asked what happens if they don't?

Mr. Zemball responded they are responsible for the maintenance.

Mr. von der Osten stated I guess this is provided to Rennar, who has requested we accept the lakes.

Ms. Small stated if it hasn't been presented to them I will make sure Rennar and their counsel get it.

C. Manager – Discussion of Meeting Location for Fiscal Year 2011

Mr. Perry stated if you recall we had set the meeting schedule for this location and the question was raised at our last meeting about parking issues. We looked at trying to hold the meetings at the new police station and that facility just won't work. We have also been able to discuss having the meetings at the Holiday Inn at the Automall and they will provide us a board room, which will hold about 10 to 15 people at a cost of \$75. If we sign up for 12 meetings they will provide us two meetings free. They also have a ballroom, which can hold up to 45 people if we need it at a cost of \$250. It might be easier for this board to meet there and to provide easier access for residents. We do have a conflict with the October meeting because the room is booked, so we would meet here one more time in October.

Mr. Leek asked what is the cost of this room??

Mr. Perry responded this room is free.

Mr. Leek stated I'm not sure we have the need. I know that one resident complained at the last meeting, who is also a student or employee here that it was creating a problem but our normal attendance is what we see here.

Mr. Perry stated the community college has been very receptive over the years to hold our meetings here. The only thing I will say is we try to get this room but there are sometimes conflicts and we have to move to a smaller room. I know we have a few of those coming up.

Mr. Zemball stated I don't think as a board we would like to incur those charges.

D. Maintenance / Construction Manager

Mr. von der Osten stated I just distributed the maintenance and construction item list. Currently, I do not have any open proposals for landscape services. The ornamentals are looking a little weathered but I'm told they are going to recover at the entrances. We expect to keep those in until the end of October. In a previous board meeting the board approved the replacement of some dead turf and that has been installed. At a previous meeting at the master architectural review committee signage come up at the lakes. The master association doesn't own lakes themselves but the District does oversee some lakes on the property. Are you

interested in some type of replacement of that signage and if we are going to put it on a couple lakes then put it on all the lakes?

Mr. Welsh asked do we have any liability if someone should get hurt because I notice that people are fishing on those lakes?

Ms. Small responded there are a number of factors you look at when you look at negligence. Obviously, if the CDD owns a lake and someone gets injured on it then we are probably going to be sued regardless of what happens and whether we are liable or not. It is always possible that we are going to be involved in some sort of suit regarding injury within the District.

Mr. Welsh asked wouldn't it be better for us to post a sign at these lakes that we are responsible for?

Mr. Zemball responded yes. One sign per lake.

Ms. Small stated I don't think that is a bad idea but I think there are a bunch of factors that weigh in.

Mr. von der Osten stated we need to check with the City since these lakes are on City property, so are we as the District allowed to post 'No Fishing' signs.

Mr. Zemball asked is there fishing allowed?

Mr. von der Osten responded my concern is since its not private property if we can say that.

Mr. Leek stated there are signs posted already.

Mr. von der Osten stated there were some incidences over the last month where residents were fishing in ponds and were confronted by other residents that they weren't allowed to fish there and it turned out to be a less than pleasant confrontation.

Mr. Leek stated I am not interested in legislating something that is going to prevent neighbors from arguing about whether they can fish or not. We don't own the lakes anyways yet, do we?

Mr. von der Osten responded no.

Mr. Leek stated we might want to consider that when we get ownership or responsibility of the lakes.

Ms. Small stated that may be something we look into. It is up to the board whether they want to authorize District staff to look into this issue or wait until the permit issue and the ownership of the lakes is a clear item.

Mr. Welsh stated yes, maybe we should wait until we see how that works out.

Mr. von der Osten stated in researching these lakes I came across an interlocal agreement with the City of Daytona Beach and it was misfiled electronically. It says on certain lakes out here that the City will cost share on the maintenance of those lakes. There might be some opportunity to receive some reimbursement from them. If you notice DOT has maintained the ditches on I-95. The palm trees received their biannual trimming. The City will be invoiced at the end of this fiscal year for mowing at the interchange. I do have a request from Rountree for jasmine replacement on the embankments of the interchange. The proposal is for \$2,875, which comes out of the plant replacement budget. That line item is almost \$1,800 under budget for the year. The \$2,875 would fall under the cost share agreement with Indigo Development.

Mr. McCarthy asked is it required through the interlocal agreement?

Mr. von der Osten responded that jasmine is part of the original landscaping design for the interchange. It is also ground covering to help control erosion because of the embankment.

On MOTION by Mr. McCarthy seconded by Mr. Leek with all in favor the Proposal from Rountree to Replace the Jasmine on the Embankments at a not to exceed amount of \$2,875 was approved.

Mr. von der Osten stated we have a weir structure on lake number one that is behind Jubilee and the erosion around the structure is causing the lake to drop and drain around the structure instead of over the top. Since it drains into the wetland it definitely needs to be repaired. I have discussed it with Jamie. The concern is if it is filled with dirt it will just wash right out again. I thought we should ask Parker Mynchenberg & Associates, Inc. to take a quick look at this item and the next item. The next item is the concrete embankment at lake number three. It is showing signs of erosion underneath because of the cracking in the concrete. I'm not sure this item is repairable. I would ask a civil engineer to take a look at that item to see if it could be repaired. I repair lake number one and do our best that it won't wash out again or I could table this and the board could go take a look at these items.

Mr. Leek stated I would rather you have a professional look at it.

erosion is quite severe. I wonder if this lake's issue that you are now looking at is somehow connected with his situation?

Mr. von der Osten responded that lake was common area to the Jubilee HOA, so the board in discussion with counsel determined it is not something the CDD can act on. In fact it wasn't even sure where the property line was.

Ms. Maryke Guild stated I was told that lake belonged to St. Johns.

Mr. von der Osten stated no. I checked the ownership and the property line that the homeowner owns abuts the Jubilee common area.

Ms. Maryke Guild asked so you are absolutely certain that area belongs to the HOA and the repair of that would be an HOA issue?

Mr. von der Osten responded that would be up to your association attorney and what is written in your documents. I think there are some cases where the property line might actually go out into the water too. It needs to be surveyed.

Ms. Maryke Guild stated at Tournament and Champions there has been this ongoing sign removal thing going on and the hole is becoming quite deep and there is a lot of concrete out there, so we need to have that resolved.

Mr. von der Osten stated of course the first sign removal went effortlessly, so we thought we could do it twice but when the second sign was lifted it was sitting on a concrete foundation that was poured around electrical conduit. The sign was removed and the concrete remained. Another vendor went out with a chipping hammer to break the concrete apart and remove the concrete that was encasing the electrical conduit and of course there were damaged wires in there, so we left it open. There are a lot of wires there. An underground splice kit for it has been ordered and I was hoping it would be completed by today. The reason you see one bank of lights out along Champions is because of the damage to the wires there in that hole.

Ms. Terese Money stated we were never notified that we were no longer with Leland Management. We had a couple concerns. One is the landscaper came thru and really cut our trees way to high.

Mr. von der Osten stated that is an HOA issue. I had spoken to the landscape contractor about that.

Ms. Terese Money asked how did the assessment rate go up so high?

Mr. Perry responded not only included on your trim but there was individual mailed notice letters to everyone. Last month the board had a public hearing in regards to the budget. The expenses for the District last year were cut approximately \$90,000; however, there was one major landowner that did not pay $\frac{3}{4}$ of their assessments and as a result of that the District has to have cash flow in order to pay the contractors necessary for the District, so we have included their nonpayment, which has been spread all over everyone else. Your assessments went up from approximately \$330 to over \$427. The increase was about \$80 a year to each homeowner. Your property tax assessments are on your property tax bill, so the bill you get from Volusia County will have a line item on there that says Indigo Community Development District and that is included in your taxes.

A resident stated I would like to thank you for working on the wall.

ELEVENTH ORDER OF BUSINESS Approval of Check Register

Mr. Perry stated included in your agenda package is the check register. Those checks are from August 19th thru September 10th. They total \$103,433.53. They are normal and customary expenditures of the District.

Mr. McCarthy asked what is \$2,500 invoice for the public hearing?

Mr. Perry responded whenever we do a budget hearing we have to include a map of the District, so the costs are very expensive for that.

Mr. Bertsch stated I have a question in regards to the monthly lighting charge from Florida Power & Light. It is listed in there three times. Is this a typical monthly bill? It comes to a total of over \$7,000.

Mr. Perry responded we can get you the detail for that but a large portion of that is related to the agreement in the south section for the street lighting.

Mr. von der Osten stated the number includes the electricity and the repairs on those lights. FP&L does not bill consistently.

Mr. Bertsch asked so this \$6,095 is the bill for the north?

Mr. Perry responded I don't recall off hand. We will get you the detail.

Mr. von der Osten stated there are two months of FP&L bills in here. The \$4,781 would be community. The \$1,314 would be for I-95. The total of \$6,095 is comprised of \$4,781 is community and \$1,314 is I-95.

Mr. Bertsch asked so the \$4,781 is the up-lights on Champions?

Mr. von der Osten responded yes. It is for the fountains at the entrances and the up-lights and there are some pole mounted street lights. Currently, those pole mounted street lights are on all night.

Mr. Leek asked on the next page there are two bills from Rountree that are described as Jubilee hedgerow maintenance?

Mr. von der Osten responded that is where he picked up the section that belonged to the CDD from where the oleanders are down and across the bank.

Mr. Leek asked so it is not actually Jubilee?

Mr. von der Osten responded no. It is City property that is landscaped by the CDD. The portion that is Jubilee we are not touching.

Mr. Jamie Rountree stated we will change that next month.

On MOTION by Mr. Welsh seconded by Mr. Leek with all in favor the Check Register was approved.

TWELFTH ORDER OF BUSINESS Financial Statements of August 31, 2010

Mr. Perry stated included in your agenda package are the financial statements as of August 31, 2 010.

THIRTEENTH ORDER OF BUSINESS Next Scheduled Meeting – 10/27/10 at 1:00 p.m. @ To Be Determined Meeting

Mr. Perry stated the next scheduled meeting is on October 27, 2010 at 1:00 p.m. at Daytona State College.

Mr. Leek stated I will be out of the country for that meeting.

FOURTH ORDER OF BUSINESS Adjournment

On MOTION by Mr. Welsh seconded by Mr. Welsh with all in favor the meeting was adjourned.


Secretary/Assistant Secretary


Chairperson/Vice Chairman