

MINUTES OF MEETING  
INDIGO COMMUNITY DEVELOPMENT DISTRICT

A regular meeting of the Board of Supervisors of the Indigo Community Development District was held on Wednesday, October 26, 2011 at 1:00 p.m. at the Holiday Inn Daytona Beach LPGA Blvd., Boardroom, 137 Automall Circle, Daytona Beach, Florida 32124.

Present and constituting a quorum were:

Robert Welsh	Chairman
Ed Bertsch	Vice Chairman
John McCarthy	Supervisor
Tom Leek	Supervisor
John Zemball	Supervisor (by phone)

Also present were:

Jim Perry	District Manager
Lynn Scruggs	District Counsel
Cheryl Stuart	Hopping Green & Sams (by phone)
Kurt von der Osten	Field Operations Manager
Adam Krug	Hayman Woods (by phone)
Jamie Rountree	Team Rountree

**FIRST ORDER OF BUSINESS**

**Introduction**

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

**SECOND ORDER OF BUSINESS**

**Approval of Minutes:**

**A. August 24, 2011 Meeting**

Mr. Perry stated included in your agenda package is a copy of the minutes of the August 24, 2011 meeting. Are there any additions, corrections or deletions?

On MOTION by Mr. Welsh seconded by Mr. McCarthy with all in favor the Minutes of the August 24, 2011 Meeting were approved.
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**B. September 9, 2011 Continued Meeting**

Mr. Perry stated included in your agenda package is a copy of the minutes of the September 9, 2011 continued meeting. Are there any additions, corrections or deletions?

On MOTION by Mr. Welsh seconded by Mr. McCarthy with all in favor the Minutes of the September 9, 2011 Continued Meeting were approved.

**THIRD ORDER OF BUSINESS**

**Acceptance of the Minutes of the August 11, 2011 Landscape RFP and the August 16, 2011 Budget Workshop**

Mr. Perry stated included in your agenda package is a copy of the minutes of the August 11, 2011 landscape RFP meeting and also the August 16, 2011 budget workshop. Are there any additions, corrections or deletions?

On MOTION by Mr. Welsh seconded by Mr. Bertsch with all in favor the Minutes of the August 11, 2011 Landscape RFP Meeting & the August 16, 2011 Budget Workshop were accepted.

**FOURTH ORDER OF BUSINESS**

**Update on Landscaping Contract**

Ms. Scruggs stated as some of you may know following the board meeting that awarded the landscape contract to Rountree we did receive a notice of formal protest from ProScape. I am happy to report that ProScape has withdrawn their formal protest and we can move forward with executing the contract with Rountree. For your consideration today is a form of a landscape agreement. There are some minor changes that need to be made, so I would just request a motion approving the landscape maintenance agreement with Rountree in substantial form, subject to any minor changes that District Counsel may have and authorizing the Chairman to execute it in final form.

On MOTION by Mr. McCarthy seconded by Mr. Bertsch with all in favor the Landscape Maintenance Agreement with Rountree was approved in substantial form, subject to any minor changes by District Counsel & Authorizing the Chairman to execute it in final form.

**FIFTH ORDER OF BUSINESS**

**Foreclosure Update**

Ms. Scruggs stated we have received title work for the four parcels within the north area of the District that you had previously authorized to move and proceed with foreclosure proceedings on. That title work essentially came back pretty clear. There were no glaring issues

that would prevent us from foreclosing on those parcels. The NW 21 resort parcel is noticed for a tax deed sale on November 1<sup>st</sup>, so we anticipate assuming that tax deed sale goes through that there will be a new landowner of that resort parcel. That doesn't change the fact that there are delinquent assessments. It doesn't impact our lien. It still remains on the land. It just means there is a different landowner to deal with. There are some considerations given that who may purchase that land may be willing to do something to bring the assessments current. I don't think it would hurt to wait a little bit longer to see who purchases the property. With respect to the other CoastOak delinquencies what I can tell you and what the gentlemen from Hayman Woods may be able to elaborate on is that CoastOak is no longer involved in this project and Hayman Woods from what I have heard is now involved.

Mr. Adam Krug stated Hayman Woods is acquiring CoastOak's interest in our partnership. Our partnership owns a variety of parcels in the community. We are taking over the management responsibility of the partnership. With respect to any of the individual parcels or the delinquent assessments, I don't have any comments. What specifically is the amount of the delinquent assessments on the resort parcel that you mentioned?

Ms. Scruggs responded we are just calculating that amount of delinquent assessments right now. We have it per year, which is \$227,281 but that is just for one fiscal year.

Ms. Stuart asked doesn't that include the 2012 amount?

Ms. Scruggs responded it does.

Ms. Stuart stated I think we ought to calculate it and give you that number by tomorrow morning when everyone has their records in front of them.

Mr. Adam Krug stated that will be great.

Ms. Scruggs stated we will get your contact information from Kurt and we will send you something in the morning that discusses the NW 21 resort parcel. The update though is that there is a new entity involved that is taking over the ownership interest in the parcels in the south and north that CoastOak had previously been managing. This is not to say that we are going to take a slower or wait and see approach. Cheryl and I had a conversation with Trustee's counsel and they are going to be reaching out to Hayman Woods to see whether or not there is a potential deed in lieu that could be reached, which could obviously save the District and the Bondholder's litigation costs to foreclose the O&M and the debt liens. The Bondholders do concur that there is at least two parcels within the north that are very valuable that are potentially worth foreclosing

on, so that sounds promising, as well. I didn't bring the newspaper article but there is a newspaper article regarding their participation in Connerton, which is a CDD in Pasco County. Hayman Woods is becoming involved in there to and trying to reinvigorate or replace CoastOak from where they went wrong, as well. That is not to say that they will do the same thing at Indigo. It is our hope that they will but it is also our hope that if they don't that they will be willing to do a restructuring or a deed in lieu that will put us in the forward moving direction.

Mr. Welsh asked could there be a cancellation or anything like that prior to November 5<sup>th</sup>?

Ms. Scruggs responded no. I think whoever purchased that tax certificate sales are going to take ownership of this property on the 1<sup>st</sup>.

Mr. Leek asked do you know who purchased the tax certificates?

Ms. Scruggs responded no.

Ms. Stuart stated we haven't made an inquiry into that.

Ms. Scruggs stated I will update you.

## **SIXTH ORDER OF BUSINESS**

### **Update Quit Claim Deed of Lakes**

Mr. Perry stated I sent Jeff Mottram a letter and copied the District stating that the conveyances were not accepted by the Board as a quit claim deed that was done. We just wouldn't accept those type of conveyances at all. Because they have been recorded as being conveyed, I think District Counsel would like the Board to authorize us to record some type of notice in regards to the board has not accepted those lakes at this time.

Ms. Scruggs stated as the Board knows there is a process at which the District would accept land. We would prefer more than a quit claim deed. Obviously Renar and Mr. Mottram need to come to the Board to formally request that we accept these lands. The process in which this has happened hasn't been a proper process. There is a proper process in place that the board knows about that I just mentioned, so we have sent him a letter asking him to come to a board meeting or formally request it in writing and also to provide bills of sale and also to fund the work that is going to be involved because if the board does approve accepting these lands then Renar would be asked to fund because it has been a long time since this issue has come up. We are still looking into this issue and we will bring something to you at the next scheduled meeting.

On MOTION by Mr. McCarthy seconded by Mr. Leek with all in favor Authorize Staff to Prepare & Record a Notice in the Volusia County Public Records that Says these Quit Claim Deeds are not accepted by the District & we are not the owners of record & we are not subject to liability that may happen was approved.

**SEVENTH ORDER OF BUSINESS                      Other Business**

Mr. Welsh asked didn't we modify the meeting in November because of the holidays?

Mr. Perry responded we have a meeting scheduled on November 16<sup>th</sup>, which is the third Wednesday and the December meeting we have cancelled.

Mr. Welsh asked and going into the next year?

Mr. Perry responded February and April meetings were cancelled.

**EIGHTH ORDER OF BUSINESS                      Staff Reports**

**A. Attorney**

There being none, the next item followed.

**B. Engineer**

There being none, the next item followed.

**C. Manager**

Mr. Perry stated we did certify the assessment roll to Volusia County. We also had a few direct bills that we mailed out.

**D. Field Operations Manager – Landscaping Construction – South Area**

Mr. von der Osten stated street EE-1 in the south assessment area is basic landscaping. It was never landscaped out since it was in the middle of empty lots. The neighborhood around it want it constructed. The HOA and the builder have come to the District and have asked if we could finish the landscaping. There are three other cul-de-sacs that the HOA and the Developer are landscaping and those are neighborhood streets. This is a CDD street. I did receive three proposals for this. There was one from Team Rountree, United Landscaping and another local company. I have two sets of numbers. One is as per the landscape plans and another is an alternative. The original roundabout that was installed by the District down there by MSKP, the

landscape on the plans didn't work out too well. There was a lot of jasmine that didn't survive the heat of the asphalt and the curb in the median there, so the jasmine was pulled out and was replaced with vibertims, some sod and some hardy plant material. The alternative is \$5,000, so I would recommend the alternative. Team Rountree bid \$20,600. United Landscaping bid \$23,714 and Sikorski Landscaping bid \$25,529. Team Rountree would be the low bidder, which would include irrigation, plant material and timers.

Mr. Welsh stated I recommend we go with the low bidder.

Mr. Perry stated these will be paid out of the 2005 bonds. They will not hit your O&M because they are capital construction.

Ms. Scruggs stated the bidding threshold that would require the board to publicly bid these is well above what has been in these proposals. The board is not under an obligation to publicly bid these proposals. Mr. Leek is going to verify a conflict and not vote and will file the proper form with the County following this meeting, given that he has a relative that works for Mr. Rountree.

On MOTION by Mr. McCarthy seconded by Mr. Bertsch with Mr. Zemball & Mr. Welch voting aye & Mr. Leek abstained from voting per voting conflict the EE-1 Roundabout Contract with Team Rountree for an amount not to exceed \$20,600 was approved.

Mr. von der Osten stated fountain number three is the fountain right in front of the LPGA Headquarters and that motor is being replaced today. It wasn't repairable.

Mr. Welsh asked do we get warranties with those fountains?

Mr. von der Osten responded yes. There was a one year warranty on those two pumps and they are approaching two years now. One was replaced under warranty. The one going in I believe has a two year warranty. The estimate is \$1,150. I have a proposal from Team Rountree to refresh the decorative white stone at the interchange on the LPGA logo and that proposal is for \$2,125. I have another proposal here for landscape replacement at the entrance to the Grand Champion entrance off of ISB and it is for \$3,950.

Mr. Perry asked do you want to replace landscaping at that time of year or do you want to wait until the spring?

Mr. Rountree responded the plant material that we have chosen to go in is evergreen. The original plant material that was installed at the creation was not and every winter we have lost plant material to frost damage to where there is virtually nothing left. The rock has not been replaced, since the original rock has gone in.

Mr. von der Osten asked if the board wants to approve it we will just hold off on proceeding with the work until the cash comes in?

Mr. Welsh responded that is fine.

Mr. Rountree stated if we can do it in the December of January timeframe then that is better for us.

On MOTION by Mr. Welsh seconded by Mr. Bertsch with all in favor Proposal from Team Rountree to Refresh Decorative White Stone on LPGA Logo for \$2,125 & Proposal from Team Rountree to Replace Landscaping at the Entrance to Grand Champion for \$3,950 was approved, subject to funding coming in.

Mr. von der Osten stated the fishing signs are in. We have one installed. I was waiting for a quote on the post, so as soon as I get the quote I will get the posts made. We will replace the existing ones. We had the sign custom printed in bulk, so it was \$14.65. The post will probably be about the same.

Mr. Bertsch asked and you are going to get paid back by the HOA?

Mr. von der Osten responded right. Actually the HOA purchased the 50 signs and they would just invoice the District for 10. I had a request from Renar Golf Communities asking for sidewalks to be pressure washed and repaired. At this time repairs are up in the air with the City. The District has pressure washed in the past. We didn't really budget for it this coming year. I told them we just didn't have anything on the schedule right now for pressure washing and that we are in negotiations with the City on the repairs.

Mr. Bertsch asked and this is on Tournament and Champions?

Mr. von der Osten responded yes but mainly on Champions from the mold and mildew. Next week many of the LPGA logos are scheduled to be replaced. They faded out from the sun and some of the directional decals are cracked and faded. Those are scheduled to be replaced next week also.

Mr. Welsh asked who does the flags?

Mr. von der Osten responded we do the flags. We ordered a year supply in the box that goes to Team Rountree. Once a year we order those. Jamie is holding onto the flags.

Mr. Leek asked did we recover any money on repairing the light and the tree that was hit a few weeks ago?

Mr. von der Osten responded not yet. I have the police report.

Mr. Leek stated she hit is so hard that it flipped her van completely sideways in the middle of the street.

Mr. McCarthy asked what about the up-lighting power problem on Champions?

Mr. von der Osten responded I didn't receive an update before this meeting. We have changed out breakers and we have tried all of the easy approaches. There is a short somewhere underground. I have directed Corto to start tracing it from junction box to junction box to find the short. This has been going on for a couple of months. I have held off because of the labor intensive part of tracking this down but all of the easy fixes have not panned out. He is in the process of tracing that short.

Mr. Bertsch asked is this off of one particular meter?

Mr. von der Osten responded there is actually two problems out there. One is over on Promenade on the up-lights and that is off of one meter and then there is another problem at the main entrance also. You can reset it and it will work for awhile but then it is tripping.

**NINTH ORDER OF BUSINESS**

**Supervisor's Request and Audience Comments**

Mr. McCarthy asked what about the \$40,000 report from the bondholders?

Mr. Perry responded I have not received any additional information from them. If you recall at the last meeting I had asked them to provide more of an invoice, rather than just a total of what was done, who did it and how many hours and I have not received anything from them at this time. I think District Counsel also mentioned it to them and we have not received anything.

Ms. Scruggs stated we have not received specific invoices, so we are just waiting for that.

Mr. Perry stated until we receive that I won't bring it back to the board.

**TENTH ORDER OF BUSINESS**

**Approval of Check Register**

Mr. Perry stated included in your agenda package is a check register. The check register totals \$209,979.58. I believe there was a payment for our annual insurance included in this one



and the assessment roll work that GMS and also the final installment of the audit fees. Other than that, the rest were normal fees.

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

**ELEVENTH ORDER OF BUSINESS                      Financial Statements as of September 30, 2011**

Mr. Perry stated included in your agenda package are the financial statements as of September 30, 2011. We might have some additional expenditures that would come in but overall, I think everything is in for the year. We finished up the year about \$20,000 unfavorable to budget but out of that \$20,000 there was approximately \$10,000 of those expenditures related to I95 that we get reimbursed, so really we were about \$10,000 unfavorable. A lot of the \$10,000 was tied up in foreclosure activities and some other legal areas. For all the additional work that we incurred for the year, we really kept our expenses right there at budget in total. In regards to the debt service funds for the 1998 and 1999A bonds we do have enough funds in the revenue account to make that payment without any issues. In regards to the 1999C bonds, which are bonds that are District wide our payment is going to be about \$254,000 on November 1<sup>st</sup> and we need to tap the reserve for almost \$229,000 to make that interest payment and all of that is related to Coastoak properties. For the 2005 bonds, our payment on November 1<sup>st</sup> is about \$399,000. We only have about \$134,000 in our revenue account and we will tap the reserves for them of approximately \$265,000. We have approximately \$7,161,000 in the capital projects funds. Today, you authorized expenditures out of the 2005 bonds for about \$21,000, so we will be decreasing those funds in that 2005 series for that capital project. In regards to tax collection receipts, we are in good shape. On that roll this year we included a number of those Coastoak properties to help us with our cash flow.

**TWELFTH ORDER OF BUSINESS                      Next Scheduled Meeting – 11/16/11 at 1:00 p.m. @ Holiday Inn**

Mr. Perry stated the next scheduled meeting is November 16, 2011 at 1:00 p.m. at the Holiday Inn.

**THIRTEENTH ORDER OF BUSINESS    Adjournment**

On MOTION by Mr. Leek seconded by Mr. Bertsch with all in favor the Meeting was adjourned.

  
Secretary / Assistant Secretary

  
Chairman / Vice Chairman