

MINUTES OF MEETING
INDIGO COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Indigo Community Development District was held Wednesday, October 27, 2010 at 1:00 p.m. at the Daytona State College, Building 100, Room 413, 1200 West International Speedway Boulevard, Daytona Beach, Florida.

Present and constituting a quorum were:

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

Also present were:

Jim Perry	District Manager
Lynn Small	District Counsel
Jonathan Johnson	Hopping Green & Sams (by phone)
Kurt von der Osten	Solaris Management

FIRST ORDER OF BUSINESS

Roll Call

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

SECOND ORDER OF BUSINESS

Approval of the Minutes of the September 22, 2010 Meeting

Mr. Perry stated included in your agenda package is a copy of the minutes of the September 22, 2010 meeting. This is a change to the spelling of Renar on package five and six. Are there any additions, correction or deletions?

Mr. McCarthy responded on page nine in the 10th order of business in the second line down the word should be "resend."

On MOTION by Mr. Bertsch seconded by Mr. McCarthy with all in favor the Minutes of the September 22, 2010 Meeting were approved as revised.

THIRD ORDER OF BUSINESS

Acceptance of the Minutes of the September 22, 2010 RFP Committee Meeting

Mr. Perry stated included in your agenda package is a copy of the minutes of the September 22, 2010 RFP committee meeting. There are some changes on page four in the third paragraph it shows Ms. Buchanan and it should be Ms. Small. Are there any other additions, corrections or deletions?

On MOTION by Mr. McCarthy seconded by Mr. Bertsch with all in favor the Minutes of the September 22, 2010 RFP Committee Meeting were approved as revised.

FOURTH ORDER OF BUSINESS

Consideration of Engineering Proposals from Parker Mynchenberg & Associates, Inc. for Lake Repairs

Mr. Perry stated the next item is engineering proposals from Parker Mynchenberg & Associates for lake repairs.

Mr. Zemball joined the meeting.

Mr. Perry stated we are going to ask Mr. Zemball not to vote on that item. The first one is for weir repair design in regards to lake number one and it totals \$2,290. There is also a detailed scope of work in regards to what would be done there. The second proposal that they have is related to lakes three and 19. It is for bank demolition, stabilization and repair design. Their scope of work is detailed on the services to be provided. There are some pictures of some of the issues related to those lakes. This has been before the board before and discussed.

Mr. von der Osten stated I believe these lakes will qualify for cost sharing with the City of Daytona Beach under the agreement at the last meeting. We did have a meeting scheduled with the City today but it has been cancelled. I will be asking the City to participate in cost sharing for this engineering service. The City does have an agreement with Parker Mynchenberg's office.

Mr. Welsh asked this includes everything?

Mr. Perry responded it doesn't include the actual cost of the remediation. It includes some of the design elements and I think survey was excluded on the one. I don't know if there was a survey needed on the other one. There will be some costs associated with that but they will be signed and sealed after their remediation has been done.

On MOTION by Mr. McCarthy seconded by Mr. Bertsch with Mr. Welch voting aye & Mr. Zemball abstaining from vote on the Engineering Proposals from Parker Mychenberg & Associates, Inc. for Lake Repairs were approved.

FIFTH ORDER OF BUSINESS

Consideration of Fiscal Year 2011 Payment Plan for CoastOak Group

Mr. Perry stated included in your agenda package was a proposal from CoastOak Group in regards to payment schedule. If you recall, last year we had a payment schedule for bulk landowners, which not only comprised of CoastOak Group but included also a Consolidated Tomoka subsidiary. This year we have invoiced for bulk lands for the Consolidated Tomoka Subsidiary. The invoice provides for a payment plan, which is reflective as if they were on the tax roll, which means you have a 4% discount if you pay in November, 3% in December, 2% in January and 1% in February. We plan to provide that same payment plan in regards to CoastOak Group on their current properties. We had originally invoiced all the lands with the November 1st due date. We believe we should bill the bulk landowners, just like any other resident. I would ask you to consider putting CoastOak Group lands on the same payment program as any other bulk land provider, except for the delinquent lands noted SW30 where there was a partial payment. Those lands are exempt from this and all of the debt associated with that has been accelerated. The bondholders are dealing with that one parcel and there are other parcels that they did not make payment on.

Mr. McCarthy asked has this schedule been aired as the same as all the other?

Mr. Perry responded no.

Mr. McCarthy asked does this included 2010 O&M assessments?

Mr. Perry responded no. It does not. Those are delinquent and those lands will be in the foreclosure process, unless they are worked out with the bondholders.

Mr. McCarthy asked all the other major landowners would have theirs totally paid by?

Mr. Perry responded March 31st.

Mr. Welsh asked what are the legal ramifications if we reject this payment schedule?

Ms. Small responded I think the board has the ability to accept or deny this payment schedule.

Mr. Zemball asked so O&M will be satisfied by what day?

Ms. Small stated I think Mr. Leek plans to move forward with this as soon as he returns to the country. If I had to guess I think it will happen within a month.

Mr. Fitzpatrick stated I can't guarantee anything at that point though. It was all worked out and I thought it was done.

Mr. Perry stated the board could approve this in concept what is provided here in this email, with an agreement being drafted, subject to the final review.

Mr. Welsh stated I would not like to act on this because Mr. Leek is not here. I would recommend that the board wait until Mr. Leek is back.

Mr. Fitzpatrick stated the cost that I have come up with as of today and the original bid that was submitted had 50 plants. I walked it today with a landscaping artist and we would be putting in 100 plants. The total cost would be \$2,503.75 that is installed and done, which would make your board susceptible to \$1,878 and the Jubilee Association \$625 and that is considerably less than the first agreement we worked out. It is an agreement that is a benefit to everybody. I hate to see this get delayed and then who knows what might happen next month. The 100 plants came to play because I believe 50 was considered to just fill in spots and there are numerous places where you have a little spot and then one bush and a little spot and one bush. This bid included eliminating all the bushes and make it one large space and then maybe one large clump of wax myrtle.

Mr. Perry stated in regards to what Mr. Leek has drafted here you could make a motion to accept under the perimeters here, subject to final approval by District Counsel and Supervisor Leek. Then that agreement would come back before the board to be ratified.

Ms. Small stated I think by Mr. Leek's email he was expecting a draft review next week when he returns to the country. I think we can move forward. If the board wants to make the motion then we can move forward and get something together.

Mr. Fitzpatrick stated the original agreement that the board had signed it can be torn up.

On MOTION by Mr. Welsh seconded by Mr. McCarthy with all in favor the Jubilee HOA Landscaping Agreement was approved, subject to final approval by District Counsel & Supervisor Leek.

SEVENTH ORDER OF BUSINESS

Consideration of Agreement with Solaris Management Services for Field Management Services

Mr. Perry stated this agreement should be in final form. There were some changes made at the last meeting. This is an agreement in regards to field management services with Solaris Management. The terms of this agreement are for a one year period with additional renewals, basically an automatic renewal feature. The board does have the ability at any time to cancel the agreement with 30 days notice. The dollars that are in the agreement are reflective of the proposal, in fact the proposal will be attached to this. Also, the agreement provides that the District will provide field service space.

Ms. Small stated under section two in the last paragraph I know the RFP committee that met they wanted to make sure the proposed amount included all the services and any work performed beyond the scope of that requires prior District approval. The field manager would need to come before the board to ask if that work could be done and paid for before it actually occurs.

On MOTION by Mr. Zemball seconded by Mr. Bertsch with all in favor the Agreement with Solaris Management Services for Field Management Services was approved.

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 the meeting that was originally scheduled for this meeting was cancelled. Apparently, the City Commission meets on Wednesday's too. I have proposed to them another date, instead of waiting until a month from now I will be in town at the beginning of November and hopefully I will be able to meet with them then. I have contacted them but I have not heard back from them yet but we are pushing forward.

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

Ms. Small stated I contacted Renar's counsel earlier this week and they have not responded at all to my request to sign the agreement. DR Horton is ready to sign it. I am working with Jonathan Johnson to figure out what steps the CDD can take, whether we can go to the water management district or maybe we can try to work with DR Horton to see if we can just

get it repaired in the interim and then work out the permitting issues afterwards. It makes it difficult because Renar is the permit holder and it would seem like no one could perform any work on that retaining wall unless Renar is consenting to it.

Mr. Welsh asked what does their attorney say?

Ms. Small responded I have talked to Renar's counsel once via email. He wanted a couple of changes made to the agreement, which I made and resent to him and I have heard nothing since. I will keep trying to contact him. I have been in contact with DR Horton's counsel numerous times and they are ready to sign the agreement and repair the wall. The Daytona Beach Code Enforcement Board wrote a letter to DR Horton. The problem with that is that the retaining wall is actually on property owned by the HOA and the DEP permit that controls that retaining wall is in the name of Renar, so DR Horton's hands are kind of tied with actually doing work to that area. The control is in everyone else's name, so the City of Daytona Beach should have probably sent that letter to Renar or to the HOA but they sent it to DR Horton probably because DR Horton constructed that way. It is a complicated issue.

Mr. von der Osten stated if you go to the County Property Appraiser's website that common area is still in DR Horton's name.

Ms. Small stated right and I think DR Horton's counsel had stated that that lake was conveyed via plat, which the HOA never signed off on, so the conveyance is invalid.

Mr. von der Osten asked so it is still DR Horton's property?

Mr. Welsh responded yes.

Mr. Zemball stated but in the eyes of the County the property is owned by DR Horton.

Ms. Small stated but according to DR Horton it is owned by the HOA because they conveyed it via plat.

Mr. Zemball asked but the permit is in Renar's name?

Ms. Small responded yes.

Mr. von der Osten stated the retaining wall is not part of that permit but the weir is.

Mr. Welsh asked who approved it to begin with?

Mr. von der Osten responded it was approved originally without the retaining wall and then when DR Horton was constructing the home the slope of the side yard was such that they needed to put a retaining wall up and have a side yard.

Mr. Zemball stated it is outside of the property line.

Mr. von der Osten stated it is not part of the permit but it ties into the weir.

Mr. Welsh asked how much are we talking about?

Mr. Bertsch responded it was about \$2,800 originally but now more of it has deteriorated. I met with the contractor that we had called to repair it. We met with them on the site and I said in your estimation why did this wall fail and he said because he didn't put it in properly. He said he put it in based upon the way DR Horton wanted me to put it in. The engineer had a report on it that there was supposed to be a 90 degree turn on it and it never would have happened if that was done but DR Horton didn't want to spend the extra money obviously. I have spoke to Jeff Motrin from Renar on several occasions and he wants nothing to do with that wall.

Mr. Zemball asked DR Horton has agreed to pay for it?

Ms. Small responded to repair it.

Mr. Welsh stated when I got information on that, they only want to repair it as it exists, not repair it as it was proposed with the 90 degree turn. My understanding is that if they repair it you are going to have the same problem down the line.

Mr. Bertsch stated there was an engineering report on how that wall should have been put in and it wasn't followed, so the City is at fault for it. It should have been inspected by the City.

Mr. Welsh stated what we should really find out is who inspected it from the City.

Ms. Small stated my only concern with that is if we go back and determine who should have inspected it and who is to blame for it I think you are going to find that one of the parties we are already talking about is to blame and we are still with the situation where no one is willing to cooperate with us. Another option is we could negotiate with the HOA and DR Horton and get this conveyed to the CDD but I don't think that they are willing to repair it, unless the permit issues are out there. If the permit issues are not out there then maybe we can go to the water management district. If there is a permit glitch here maybe we can get around that. Maybe we can have someone convey it to us and if we are willing to make the repairs then I can go that route to.

Mr. Welsh stated but we want the repairs done according to the original installation of that wall and not to just repair the wall as it is now.

Mr. Zemball stated I say we let counsel continue to take the path of least resistance and I think that with DR Horton's cooperation that is a big step in the right direction.

Mr. McCarthy asked you indicated that there is a possibility that we could get a site work only permit, so could we add to the monies to repair the wall to finish out the angle part of it?

Mr. Zemball asked would that be a capital improvement?

Mr. von der Osten responded I don't know. I was told that this District could not repair the wall.

Mr. Welsh stated I think you are right.

Ms. Small stated I think the problem is, is that we don't own or have an easement on that property but if according to the County records if DR Horton owns it then potentially they would be willing to convey it to the CDD or convey it to the HOA and then we could get an easement to do site work on it that way. We just need to make sure we have some sort of legal control over that retaining wall, which we don't have right now.

Mr. von der Osten stated DR Horton has said that they do not want ongoing responsibility for that wall.

Mr. Welsh stated the HOA is only going to take it if it is done with the original engineering plan.

Mr. Zemball asked would you guys want a wall committee supervisor?

Ms. Small responded that would be helpful.

Mr. von der Osten stated we also have the City hearing coming up.

Mr. Perry stated we don't really want to designate a committee because then you would have to advertise. You could dedicate a supervisor.

Mr. Zemball stated I would be willing to volunteer.

3. Interlocal Agreement with City of Daytona Beach Regarding Landscape Maintenance Obligations of I-95 Interchange

I did receive the DOT grants from the City Attorney, so we will be moving forward with the interlocal agreement regarding the landscape maintenance obligations of the I-95 interchange. The sidewalk repairs and the I-95 interchange are still items that are waiting on that meeting to occur.

B. Engineer

- 1. Consideration of Requisition No. 143 for Series 1999A Bond**
- 2. Consideration of Requisition No. 153 for Series 1999C Bond**

Mr. Perry stated included in your agenda package is requisition number 143 for the 1999 bonds. Those are related to the annual infrastructure inspections by the engineer. They are split between the 1999A bond series and the 1999C bond series.

On MOTION by Mr. McCarthy seconded by Mr. Bertsch with all in favor Requisition Nos. 143 & 153 were approved.

3. Consideration of Requisition No. 160 for Series 2005A Bond

Mr. Perry stated included in your agenda package is requisition number 190 in regards to the 2005A bond. There wasn't any detail attached to it.

Mr. von der Osten stated this is an ongoing authorization for a not to exceed amount for monthly services of either attending or calling in to the monthly meetings.

Mr. Perry stated at this time I would like to pull this one because I do not have the details on it.

C. Manager – Consideration of Changing Meeting Room Location to Holiday Inn @ LPGA

Mr. Perry stated in further discussions with the Holiday Inn they have offered to provide their room at no charge to the District. They think that would be a benefit to them to help get community involvement. We don't know if it will be for just a year or longer. I do not have the exact room. I know there are two rooms there.

On MOTION by Bertsch seconded by Mr. McCarthy with all in favor Changing Meeting Room Location to Holiday Inn at LPGA was approved.

Mr. Welsh asked if we give this up from the Daytona State College and something happens could we get it back?

Mr. Perry responded more than likely we could. I have provided for you a copy of the landscape agreement with Rountree. If you recall, back in 2008 this board went thru a solicitation process for proposals and Rountree was awarded the contract. It provided for an

extension of the contract for two additional one year terms. Right now, I am asking the board to consider extending it for the last one year term, which would go thru October 31, 2011. The reason why we had these extensions was because to go out for the RFP it is somewhat costly. We probably spent with advertising and everything else \$8,000 to \$10,000.

On MOTION by Mr. McCarthy seconded by Mr. Bertsch with all in favor the Contract Extension with Rountree was approved.

D. Field Operations Manager – Update on Interchange Landscaping

Mr. von der Osten stated ornamentals have been replaced at the entrances. We are evaluating signage at the lakes as far as fishing. Some of the signs are in need of replacement and there was request for additional signage at other lakes. Right now, the idea is to have the same signage on a CDD lake as an HOA would have on their lakes.

Mr. McCarthy stated there is one lake that is owned by the CDD down in the south and all the other lakes are owned by the City or the HOA's. I am assuming that the lakes that are owned by the City have a cost sharing agreement.

Mr. von der Osten responded yes.

Mr. McCarthy asked are the golf course lakes included as City lakes?

Mr. von der Osten responded no. We do not touch the golf course lakes.

Mr. McCarthy asked when you say maintenance for the lakes, what do you mean?

Mr. von der Osten responded water quality and sub aquatic vegetation but not lake bank mowing or anything outside the water line.

Mr. McCarthy asked and those items are the responsibility of the Developer or the HOA's?

Mr. von der Osten responded yes.

Mr. McCarthy asked and that does not include the interchange?

Mr. von der Osten responded we also treat the lakes at the interchange.

Mr. McCarthy asked do we have cost sharing with the City on that?

Mr. von der Osten responded no. It is only with Indigo Development that we have cost sharing.

Mr. McCarthy stated this is the first time I have heard of a cost sharing agreement with the City as far as the lake maintenance.

Ms. Small stated the amount of the special assessment lien is the amount of special assessments that are owed on the property. If the District forecloses on that property it will be the amount of debt that is actually owed on that property.

Mr. Welsh stated on other matters, I gave Kurt a letter we received. I did research on it and I found out that they conveyed some land over to us on a quit claim deed. It was done on the very last minute before the property was turned over. Back in 2004 Indigo Development had their board and they also had their members on the CDD board. It happens now that this land that they conveyed now they want to us to maintain it. I couldn't find the records and pages 71, 72 and 73 are missing, which would identify the land that has to be maintained. We don't know whether it is a large piece of land but I thought it was a little sneaky the way they did this. We are currently trying to find out why this occurred and why they laid it dormant for six years before they brought it back up.

Mr. Perry stated we will send a copy of the letter to each of the supervisors.

Mr. von der Osten stated it is not the District's permit. It is Indigo's permit. Would it be in the minutes of the District?

Mr. Perry responded if the District accepts property or purchase property you are under no requirement to publish something in the newspaper in regards to that.

Mr. Welsh asked can counsel look into this for us?

Ms. Small responded yes.

ELEVENTH ORDER OF BUSINESS

Approval of Check Register

Mr. Perry stated included in your agenda package is a check register. The total amount is \$110,318.10.

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

TWELFTH ORDER OF BUSINESS

Financial Statements as of September 30, 2010

Mr. Perry stated included in your agenda package are the financial statements as of September 30, 2010.

THIRTEENTH ORDER OF BUSINESS Next Scheduled Meeting – 11/17/10 at 1:00 p.m. @ Holiday Inn

Mr. Perry stated the next scheduled meeting is on November 17th at 1:00 p.m. at the Holiday Inn.

FOURTEENTH ORDER OF BUSINESS Adjournment

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


Secretary/Assistant Secretary


Chairperson/Vice Chairman