

MINUTES OF MEETING
INDIGO COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Indigo Community Development District was held on Wednesday, November 28, 2012 at 1:00 p.m. at the Holiday Inn Daytona Beach LPGA Blvd., Boardroom B, 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

Also present were:

Jim Perry	District Manager
Jonathan Johnson	District Counsel
Kurt von der Osten	Field Operations Manager
Jamie Rountree	Team Rountree
Robert Gaylord	Singhofen & Associates
Brett Whitney	Singhofen & Associates
Gary Moothart	Indigo Development
1 Resident	

FIRST ORDER OF BUSINESS

Introduction

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

SECOND ORDER OF BUSINESS

Organizational Matters

A. Oath of Office for Newly Elected Supervisors

Mr. Perry administered an oath of office to Mr. Tom Leek.

B. Election of Officers, Resolution 2013-01

Mr. Perry stated included in your agenda package is Resolution 2013-01. Currently the officers are Mr. Welsh is Chair, Mr. Bertsch is the Vice Chair, I am the Secretary and Treasurer, Patti Powers is Assistant Treasurer and Ariel Lovera is an Assistant Treasurer. Mr. Leek and Mr. McCarthy are Assistant Secretaries.

On MOTION by Mr. McCarthy seconded by Mr. Welsh with all in favor Resolution 2013-01 Adding Mr. Donald Parks as an Assistant Secretary & All Other Officers Remain the Same was approved.

THIRD ORDER OF BUSINESS

Approval of Minutes of the August 22, 2012 Meeting and the August 31, 2012 Continued Meeting

Mr. Perry stated included in your agenda package is a copy of the minutes of the August 22, 2012 meeting and the minutes of the August 31, 2012 continued meeting. Are there any additions, corrections or deletions?

Mr. McCarthy responded on page eight in the first paragraph in the second sentence I think we are missing a page number there. On page nine in the first sentence it should be "Byrne." In the second paragraph in the last sentence it should say that they should be installing those at each entrance of LPGA. On page 16 in the second line the word "budge" should be "budget."

On MOTION by Mr. Welsh seconded by Mr. Leek with all in favor the Revised Minutes of the August 22, 2012 Meeting & the Minutes of the August 31, 2012 Meeting were approved.

FOURTH ORDER OF BUSINESS

Staff Reports

A. Attorney

Mr. Johnson stated we had talked about bringing amendments to your rules of procedure to you. We consciously decided not to run those ads. Ultimately as we began working through some issues, we concluded there were probably a few more things that needed to be addressed, in terms of some statutory changes. We wanted to do that all at once, so we will have it coming back to you at a coming meeting.

B. Engineer – Work Authorization No. 1 for General Services

Mr. Perry stated included in your agenda package is Work Authorization No. 1 for general services. Their hourly rates were discussed and approved by the board. The total

amount in regards to this work order is limited to \$1,000 without further authorization by the District.

On MOTION by Mr. Leek seconded by Mr. Bertsch with all in favor Work Authorization No. 1 for General Services was approved.

Mr. Robert Gaylord stated we had contacted CDM regarding the documentation that they had and it was quite extensive; however, we don't think we need all of this information. You guys probably have received all of the documents electronically. There are a couple of items that we need. We would like to get the overall CAD files in the system. I am not sure if Kurt has them or not. We need the latest engineers report, which Jim says he has a copy of that. A couple of other things they have here that we needed are the master stormwater system, the master water system, the master sewer and I am assuming you have a reuse plan and master transportation system. Those are the items that were probably originally submitted when this was setup as a DRI. Those masters are probably what was submitted to the regulatory agency for approval. Those are kind of what govern what you do in the system. I have not located them. I think CDM has them but they didn't really make a note of it in here but if not then I will have to go to the City.

Mr. Perry stated I will work with Singhofen & Associates to get those documents.

Mr. Johnson stated I suspect some of the documents they may have. I remember that their predecessor entity Gee & Jensen was brought on board in the mid 90's to do the District infrastructure work. There may have been a different firm entirely who worked for the original master Developer, who did the original submittals for the DRI. "Jim, as you work with him and if there is anything we don't have, we may still have an obligation to have it under retention guidelines." I think our contract with them probably provides the ability for us to get those documents.

Mr. Robert Gaylord stated the other item is anything we wanted, they wanted to charge for it. We only want four or five things out of that whole list.

Mr. Johnson stated we should look in the original contract with them. I would be surprised if there is an ability to charge us as the client for them.

Mr. Perry stated I will work with them to get those documents in place.

C. Manager – Lighting Matters Follow Up

Mr. Perry stated Kurt had pulled together an analysis in regards to the lighting matters. He has provided you with copies. He has worked with our accounting department to pull that together. The analysis does show the prior year cost savings. The question was in relation to the latest effort that has just taken place on what would be the impact on our electricity charges going forward. We only have one month right now. We really need a couple more months to see what the real impact was. It looked like another 20% savings, which is between \$500 and \$600 a month.

Mr. von der Osten stated if you notice to the far right column, which are the fiscal year totals, you are looking at a \$1,000 reduction between those two years. There was a big drop in 2012 between October and November and that was right after our last budget session. That was when we reset our timers.

Mr. Welsh asked have there been any calls from anyone concerning those lights?

Mr. von der Osten responded yes. There have been several calls and emails. Typically, the call starts off asking why we aren't repairing the lights. Then I let them know that the board has disabled approximately 50% of the tree lights to save on utility costs.

Mr. Welsh stated I haven't heard anything.

Mr. Leek stated I have gotten one and I forwarded it to Jim. They were complaining about the safety of it.

Mr. von der Osten stated Jubilee Homeowners Association was complaining about the lights.

Mr. Perry stated we are not looking for any action by the board. We will just update the schedule and in January we will revisit this again.

D. Field Operations Manager

1. No Solicitation Signs Status

Mr. von der Osten stated the 'No Solicitation' signs are on order. The deposit has been paid. The posts are on order and should be in shortly that will go at the entrances.

2. South Entryway Lighting Proposal

Mr. von der Osten stated we were having a lot of trouble with the entrance lights at Grand Champions. One vendor looked at them and recommended replacing all of the lights with LED lights. They said it would be cheaper than repairing what is there. I actually have a second vendor looking at those today. I am getting a proposal from him to do the repairs on these and then go from there.

Mr. Perry asked and the cost to replace them is \$3,000?

Mr. von der Osten responded it was but the more I looked at it, it was just the wall lights and not the tree lights in the median. We have median lights out also. I believe Jim updated the board on FDOT's concerns at the interchange with the irrigation system.

Mr. Perry stated that is correct.

Mr. von der Osten stated they were making some vague references that maybe our irrigation system was causing a more rapid deterioration of the asphalt. Jim and I and Jamie walked the interchange and looked at it. We provided FDOT with the information that they requested and we haven't heard anything since. They are looking at repaving it and they just do not want to repave it if they do not believe that we are maintaining our irrigation system.

Mr. Perry stated I did notice they put new patches on the east side. It is not the District's road. It is the State's road and we have the irrigation system there. There are regularly scheduled reviews of the system and then there are probably more unscheduled reviews just because they are driving back and forth all of the time. It is looked at constantly.

Mr. Leek asked that was a third party inspector from South Florida right?

Mr. Perry responded it was a contracted inspector from DOT but they operate out of Port Orange I believe.

FIFTH ORDER OF BUSINESS

Supervisor's Request and Audience Comments

Mr. Welsh stated I want to bring up the problem we have with the feral pigs in the common areas. We have talked to a number of people. The homeowners have been calling about it because of the damage they are causing. Some of the damage is to land that is owned by the CDD. In order to get those things taken care of, we have to have Jamie get a cost to repair that.

Mr. Rountree stated each of the board members have a report of the CDD feral hog project. The highlighted information on the first page lets you know that by law we have the

right to do this because we are considered private property. It is against the City ordinance to discharge a firearm inside the City limits. If we could fire a gun in this area then we could take care of this problem very quickly. The rest of the pages are just a series of pictures letting you know some of the damage that has been done thus far. We now have them down in Grand Champion, so we have them throughout the entire community. We have been relocating them. We have taken out 16 plus to date. We probably have an equal amount left to go. The biggest problem is they are doing more damage and faster than we can take them out with the methods that we have been using thus far. If Team Rountree had charged you so far for everything we have done it would be \$4,200 in man hours alone and that is not including my time. I put in there the truck repairs. It happened to be my truck that it happened to. It has already been repaired and insurance took care of it. I just wanted to give the board an idea of how costly this is.

Mr. Leek asked how did your truck get damaged?

Mr. Rountree responded as I was hog hunting, a deer hit me. If we go in and build these three traps and install them and then turn around and monitor them, you are talking about a considerably cheaper way of taking care of this issue versus the way we are doing it right now. Every time we have to put a pallet of sod in, it is \$250 a pallet plus you have the man hours of prepping that area. We are at a point now, where we need to step up our efforts.

Mr. von der Osten stated there has been extensive damage to the new cul-de-sac we just landscaped this week. Plus, two homeowners contacted me about damage to their yards. They are coming in from east and west on Grand Champions.

Mr. Welsh asked would you like the board to consider the \$9,014 that you have had in out of pocket expenses?

Mr. Rountree responded absolutely. I have not submitted any bills as of yet for this but it is going to reach a point, where I will not be able to continue without charging.

Mr. Welsh asked how do you get the pigs to go into that fence?

Mr. Rountree responded bait them with corn. It is basically a pen that is staked down with a trapped door. When they get back to the bait, it shuts the door.

Mr. Johnson asked since you said the \$3,700 on the truck repairs was paid by insurance, it would be more like \$5,300?

Mr. Rountree responded that is correct.

Mr. Perry stated you mention in here this is for three additional traps. Do you have one or two that have been built now?

Mr. Rountree responded one already.

Mr. Perry asked are they located on District grounds?

Mr. Rountree responded yes. They are in the conservation area though.

Mr. Perry asked is there any permitting that we would need to get from the State or the City related to this?

Mr. Rountree responded no.

Mr. Perry asked are you a licensed trapper?

Mr. Rountree responded you don't have to be. It is private property. And you only have to be licensed to remove them if you are transporting them. If the District wanted us to go get that, we can do it. You only have to do it if you are transporting live animals.

Mr. Perry asked so your proposal to the board is basically for the \$5,300 approximately in man hours and costs that you have already incurred and then \$1,560 related to capital for constructing of three more traps? I assume you would propose an ongoing hourly rate?

Mr. Rountree responded until they are taken care of.

Mr. Leek asked plus the monthly cost of baiting and removing the animals or is the removal the hourly?

Mr. Rountree responded we will just do that on an hourly basis.

On MOTION by Mr. Leek seconded by Mr. McCarthy with all in favor to Allow Rountree to Hunt for Hogs on District Property was approved.

Mr. Bertsch asked is there a market to sell that hog meat?

Mr. Rountree responded probably not because in order to sell meat, you are talking about USDA regulations. I know you cannot do venison unless it is farm raised and you are licensed to do it. I would assume the hog meat would be the same way.

On MOTION by Mr. Leek seconded by Mr. Welsh with all in favor to Amend Rountree Agreement to Reimburse for Expenses Already Incurred Plus the Ongoing Expenses for Removing Feral Hogs was approved.

Mr. Bertsch stated I would like to see if Kurt could get a proposal on lighting up the interchange with LED lights. They have come out with a lot of creative lights that would substitute those metal halogen lights that are there. I think those are burning 400 watts each.

Mr. von der Osten stated I know some of them are 500 watts.

Mr. Richard Hernandez stated one thing that has been troubling me and a lot of other residents is the fact that when you look in the newspaper you see Port Orange, Palm Coast and other cities along the interchanges of 95 that have a lot of development going on. In Ohio where I come from, places that try to get new development give tax abatements and certain discounts to people. Has this been addressed to the committee yet? If you talk to any residents they will tell you that when they signed their contract, they had no idea what a CDD was and now that they are forced to pay this, they are looking for ways to get some type of system going where it would be less money, which would include commercial development. Would commercial development lower the price of the CDD?

Mr. Perry responded it depends on where the commercial development occurs? If it is within the boundaries of the District, it could but the District here doesn't own the land and has no ability to do anything with zoning.

Mr. Richard Hernandez asked have any commercial people come in to ask if there was some type of discount?

Mr. Leek responded usually they come in to tell us they are not going to pay their assessments.

Mr. Richard Hernandez asked so they don't want to pay the CDD fees?

Mr. Leek responded yes.

Mr. Richard Hernandez asked so because of that, we have no commercial development?

Mr. Perry responded I wouldn't say that. I think the City of Daytona is the more appropriate place that has the ability to give tax abatements and things of that nature. The District doesn't own the land and a lot of those landowners are probably holding that land, so when economic conditions get better, so they can maximize their value.

Mr. Johnson stated what might happen if you had someone that was looking to purchase land that is currently undeveloped and perhaps in default on its assessments is it wouldn't be unusual for that purchaser to come to the District and say I would like relief from the overdue

assessments that haven't been paid and here is what I can do. The reality is this board won't be able to do anything other than convey that onto the bondholders, who under our documents have the right to say yes or no. It is not the gentlemen at this table, who could make that decision.

Mr. Richard Hernandez stated I remember years ago when I was here at one of the meetings that the committee did give an abatement to the one Developer here.

Mr. Bertsch stated he is talking about Coastoak. That wasn't commercial development though.

Mr. Perry stated the District has never given a rebate or waived any assessments.

Mr. Richard Hernandez stated it was about a couple of years ago.

Mr. Perry stated if it was a couple of years ago that is when the Coastoak Group came to this board and asked for some relief in regards to payment of those assessments. When I say relief, this board didn't waive the assessments, they gave them an extension of time to pay.

Mr. Johnson stated they even took their proposal to the bondholders and never reached a deal.

Mr. Perry stated but this board has never waived any assessments at all. They are still around. They have just chose not to pay the assessments on those properties.

Mr. Richard Hernandez asked I thought your committee would have the ability to waive assessments for the CDD?

Mr. Perry responded they could have the ability to do that for the operation and maintenance assessments. This board has not chosen to do that and I don't think staff has recommended to them to do that.

Mr. Richard Hernandez asked do you think by doing that it would cause some development in here?

Mr. Perry responded I don't think that is the issue at all.

Mr. Leek stated no. It is too small of an amount.

The District Engineer stated in working with the other CDDs in Palm Coast, the landowner is the major person for the CDD board and he has the rights to reduce the price of the land. He is not moving anything in the last three to five years either.

Mr. Richard Hernandez asked as the area develops would the CDD assess homes a little differently and the prices would start coming down for the CDD?

Mr. Perry responded for the homes in the south area that would be correct.

Mr. Richard Hernandez asked how about for this area up here?

Mr. Perry responded no. Each home is fully assessed, whether there is a house or a vacant lot on the north area. There is only consideration in the south area for land that has not been platted. There are 466 platted lots in the south area and if a house is on that lot, it has the same assessment as a raw piece of property there that is platted but doesn't have a house on it. If there is raw land that hasn't been platted then there is a different allocation. As more plats happen in the south area, your assessments will get reduced.

Mr. Gary Moothart asked is the CDD current on the assessments due? Is there any foreclosure process going on?

Mr. Johnson responded there has been no change in the status in foreclosure, nor has there been one filed.

Mr. Gary Moothart asked is the CDD current on its payments due to the bondholders?

Mr. Johnson responded no.

Mr. Perry stated they have had to tap the reserves.

Mr. Gary Moothart asked so are they technically current because they tapped the reserves? Is there nothing left in the reserves to tap going forward?

Mr. Perry responded yes. I believe the 1999A bond issue is not in default. I believe those payments have been made.

Mr. Johnson stated I think the only reserves taps were with the 1999C bonds and the 2005 bond issues.

Mr. Gary Moothart stated I also believe that landowners were questioning the CDD on its rationale for its assessments. What is going on there?

Mr. Johnson responded there is pending litigation. If you would like copies of the pleadings I would be happy to send them to you.

Mr. Gary Moothart asked is there negotiations going on?

Mr. Johnson responded I don't want to comment on pending litigation. If you want copies of trust account balance and reserve fund balances then you can get that from Jim's office as opposed to having to wait for another meeting.

Mr. Gary Moothart asked is the shade meeting in regards to the pending litigation?

Mr. Johnson responded it is.

Mr. Gary Moothart asked after the shade meeting are you going to come back and have any update for people not on the board?

Mr. Johnson responded we will have another business item but whether we have any other business to undertake may depend on the discussions that we have with the shade meeting.

Mr. Leek asked is Consolidated Tomoka a party to the lawsuit?

Mr. Johnson responded they are not. I expect the shade meeting to take no longer than an hour. It may take less.

SIXTH ORDER OF BUSINESS

Approval of Check Register

Mr. Perry stated included in your agenda package is the check register. It totals \$302,639.86.

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

SEVENTH ORDER OF BUSINESS

Financial Statements as of October 31, 2012

Mr. Perry stated included in your agenda package is a copy of the financial statements as of October 31, 2012. In regards to insurance, we had budgeted \$15,300 and the actual amount was \$16,400. Most of that is related to placement of officers and directors insurance and the increase attributable to that. The 2005 bonds still have approximately \$6.8M in cash available for construction.

Mr. Welsh asked is the \$6.8M in an escrow account?

Mr. Perry responded that \$6.8M is not an escrow account. It is with the trustee.

Mr. Welsh asked is it an interest bearing account?

Mr. Perry responded barely.

Mr. Welsh asked did the interest rate change from what it was two or three years ago?

Mr. Perry responded no. State governments are regulated in regards to what instruments they can put their dollars in. It is basically like an overnight account. The earnings on it are approximately less than a half a percent.

Mr. Welsh asked and that half a percent stays all the way through the year?

Mr. Perry responded no. It varies on a day to day basis but it is averaging right around a half a percent.

Mr. Johnson stated at this point and time, we are going to conduct an attorney/client session pursuant to Section 286.011(8) of the Florida Statutes. The attorney/client session is estimated to last no more than an hour. The only persons that are permitted by statute to attend that session are myself, the District’s Chief Administration Official, Mr. Perry and the members of the board, who are Mr. Welsh, Mr. McCarthy, Mr. Bertsch, Mr. Leek and Mr. Parks, who is absent. Anyone who is not named would have to leave the room at this point and time. We will come back on the record

EIGHTH ORDER OF BUSINESS Shade Meeting

The shade meeting was conducted.

The regular meeting reconvened.

NINTH ORDER OF BUSINESS Other Business

Mr. Johnson stated I would like to request that the board schedule a shade meeting for your next regular January meeting, which is January 23rd at 1:00 p.m. at the present location, so we can confer with the board regarding settlement strategy and litigation expenditures in the current KB Home litigation. The only persons, who would attend would be Mr. Perry, myself, perhaps Katie Buchanan, Doug Smith and the members of the board. All of those persons would be named individually in the advertisement.

Mr. Welsh asked unless something comes up between now and then, we could also have a shade meeting in advance of this one, right?

Mr. Johnson responded by law I have to request a shade meeting at a public meeting and I have to announce the date of it.

Mr. Perry stated we could have an emergency meeting to announce the shade meeting.

On MOTION by Mr. McCarthy seconded by Mr. Leek with all in favor to Hold a Shade Meeting on January 23, 2013 at 1:00 p.m. at the Holiday Inn Daytona Beach LPGA Boulevard, Boardroom, 137 Automall Circle, Daytona Beach, Florida 32124 was approved.

On MOTION by Mr. Welsh seconded by Mr. Leek with all in favor Pursuit of Settlement with Litigants was approved, subject to receiving a trust indenture amendment or other written funding commitment.

TENTH ORDER OF BUSINESS

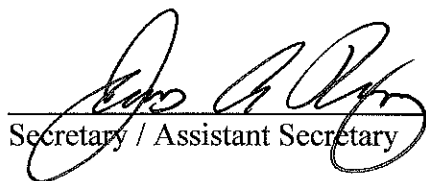
**Next Scheduled Meeting – 1/23/13 at 1:00 p.m.
@ Holiday Inn**

Mr. Perry stated the next regular meeting is January 23, 2013 at 1:00 p.m. at this location and you have also approved a shade meeting for that date.

ELEVENTH ORDER OF BUSINESS

Adjournment

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


Secretary / Assistant Secretary


Chairman / Vice Chairman