

MINUTES OF MEETING
INDIGO COMMUNITY DEVELOPMENT DISTRICT

The continued April 22, 2009 meeting of Board of Supervisors of the Indigo Community Development District was reconvened Wednesday, April 29, 2009 at 12:00 p.m. at the Daytona State College, Building 100, Room 402-L, 1200 West International Speedway Boulevard, Daytona Beach, Florida.

Present and constituting a quorum were:

Kurt von der Osten	Chairman (by telephone)
Robert E. Welsh	Vice Chairman
John McCarthy	Supervisor
John Zemball	Supervisor
Thomas G. Leek	Supervisor

Also present were:

James A. Perry	District Manager
Jamie Fowler	Hopping Green & Sams (by telephone)
Bruce Teeters	Consolidated Tomoka

FIRST ORDER OF BUSINESS

Roll Call

Mr. Perry called the meeting to order at 12:00 p.m. and stated item two is in regard to the delinquent assessments for MSKP Properties. I would like to just hold that item for a few minutes until counsel joins us on the phone.

THIRD ORDER OF BUSINESS

Other Business

Mr. McCarthy stated I brought up the signs over by Champions and Tournament the signs that show where the different neighborhoods are and the golf course amenities and club. I would like to see a consolidation of those two signs and the sign moved up the road probably about 1,000 feet on the other side where the retention and the open field is but get it away from that intersection.

Mr. Leek stated I almost got hit there this morning.

Mr. Perry asked Kurt are you familiar with the location of those and what is being proposed?

Mr. von der Osten stated I am so I will ask the question that sounds like an item you would like me to investigate and solicit a proposal on eliminating one sign or basically consolidating the two into one and relocating the remaining one.

Mr. McCarthy stated yes, please.

Mr. von der Osten stated so you would like me to pull together some information that I can present to the board on that. I understand what is being asked, yes.

SECOND ORDER OF BUSINESS **Delinquent Assessments for MSKP Properties**

Ms. Fowler joined the meeting by telephone at this time.

Mr. Perry stated we are going to go back to the item on the delinquent assessments for the MSKP Properties.

As you are all aware from discussions we have had at previous meetings GMAC is in the process of obtaining the lands back from MSKP Properties. They have the mortgage on most of the properties that MSKP owns in the district. GMAC has provided to the district late yesterday a proposal of a payment plan in regards to payment of the debt assessments and the O&M assessments. I will tell you that it was received late yesterday. I have gone through it I know counsel has probably gone through it preliminarily. We have not had a chance to discuss the proposal with bond counsel and/or the bondholders at this point in time. The basics of the proposal would be a structured payment plan starting in May and with the final payment being in November. Again, it is on an installment basis. That is their proposal. Personally I think there needs to be some adjustments to that proposal in regards to the district and making sure O&M is funded adequately. But, that is their first proposal so there is room for negotiations. What we would ask the board to consider is possibly designating one of the supervisors to work with the district manager, counsel and staff to come up with a structured agreement and a payment plan. The reason we would like to do it in that manner is instead of having the board come back in two or three weeks I believe we can structure something that would work to the benefit of all parties including the district, the bondholders and hopefully, GMAC.

Ms. Fowler stated we are trying to set up a call tomorrow with the bondholders to have that preliminary discussion based on the plan that was submitted by GMAC. If the board is so inclined, I would recommend it authorize one of the supervisors to have the authority to approve that agreement. That authorization could be with a couple of parameters, such as subject to the

district being released of liability by the bondholders for the payment plan and subject to adequate funding of O&M.

Mr. Welsh asked is this so much money on the dollar is that what we are looking at?

Mr. Perry responded no, not from our perspective. It was full payment over time. I think the only thing quite frankly is just the timing of some of the payments that they proposed and the amounts.

Mr. Zemball stated Kurt had mentioned that it had been assessed to maintain a cash positive stance for the district. Is that what your suggestion is that that needs to be looked at a little closer?

Mr. Perry responded yes.

Mr. Zemball asked would we recommend somebody?

Mr. McCarthy stated Thomas.

Mr. Leek asked what do we think the time requirements are going to be, just tomorrow?

Mr. Perry responded I think the time requirements for you would be, we would not come to you until we felt that we had something that was workable. Once we had something we would review it with you.

Mr. Leek stated the reason I'm asking is I'm basically out of touch starting May 9 until whatever the following Monday would be it is 9 or 10 days. I would be almost unavailable, maybe just a little bit of time in the morning. If you think it is going to extend beyond then I'm probably not the guy because I am committed.

Mr. Zemball asked is Kurt still the chair?

Mr. Perry responded he is still the chair.

Ms. Fowler stated it can be any board member that would be able to be designated to authorize this.

Mr. von der Osten asked when you say authorize Jamie, you are talking final approval on behalf of the board?

Ms. Fowler responded yes.

Mr. von der Osten asked it wouldn't need to come back to the board?

Ms. Fowler responded we would bring it back to the board to inform them, but this would be the final approval to go forward with the agreement.

Mr. Perry stated staff also has to agree.

Ms. Fowler stated of course, district counsel and district management. We wouldn't even bring something to the designee without feeling that it was a workable solution in the best interest of the district.

Mr. von der Osten stated I have not seen what was proposed last night. You are saying it is full payment over time and potentially I think timing issues are with the O&M portion of the budget. I just want to make sure we are not dipping into reserves at any point.

Ms. Fowler stated that is one of the main issues.

Mr. Zemball stated Kurt is pretty familiar with the operating budget as far as a supervisor is concerned. Would we nominate somebody or does somebody want to nominate themselves?

Ms. Fowler stated either.

Mr. von der Osten stated I am okay doing it just let me know if there is any type of conflict.

Mr. Welsh stated I would think that there would be.

Mr. McCarthy stated I would be happy to work with Tom for the first 10 days.

Mr. Perry asked could we structure it to designate supervisor Leek up until the 9th?

Mr. Zemball asked could it be a team, the two of them?

Ms. Fowler stated they can't get together. It would be unusual but we could have him be the authorized representative until the 9th and then Mr. McCarthy or Mr. Welsh after that or Mr. Zemball whoever wants to do it.

Mr. Leek asked what is your feel for how long these negotiations are going to go on? It seems a little inefficient to me to designate me if someone else has to pick it up a week from now. This doesn't sound to me like something that is going to be resolved in the next 10 days.

Ms. Fowler stated unless the designee has questions or other things they want to investigate I don't think there will be a whole lot of back and forth at least in the beginning because back and forth initially will be with the bondholders and GMAC to try to come to that solution before we bring you in on it because we won't have a final deal proposed. The deal as proposed right now, I don't think we are comfortable with. I can't give you a timeframe; I don't know. It took them longer than we thought it would to get back with us with their first offer. I see the point on the inefficiencies. If someone else would like to be designated from the beginning that is fine.

Mr. Leek stated that is probably what I am going to suggest we do because I see something critical happening in the middle of the week that I am unavailable.

Mr. McCarthy stated I will volunteer but I will be approaching you for advice occasionally.

Mr. Perry stated you can't do that. We would look for a motion to designate supervisor McCarthy with the authority to enter into a final agreement with GMAC in regards to the delinquent assessments attributable to MSKP Properties for those lands that GMAC has interests in subject to the parameters. Jamie do you want to state those?

Ms. Fowler stated yes, first that bondholders release the district from any liability arising from the agreement for the payment plan, and also that it is sufficient money for operation in the meantime (before full payment), except for the debt service.

Mr. von der Osten stated I would say sufficient as defined as at no point in time do we dip into the reserve account. I think it should be fully funded prior to the last quarter of the fiscal year, the O&M account which basically means I would expect full O&M assessments paid by the end of July. That is going into the final August, September, October quarter.

Mr. Zemball asked John will be able to consult with counsel during the process, correct?

Mr. Perry responded yes.

Mr. Zemball stated I feel comfortable with that.

Ms. Fowler asked are you including Kurt's suggestion on the O&M funded prior to the end of July?

Mr. von der Osten stated we want all of the O&M before the final quarter.

Mr. Welsh asked that guarantees we don't go into the reserve right?

Mr. von der Osten stated I think that will keep us out of the reserves.

Mr. McCarthy stated then yes, Jamie.

Mr. von der Osten stated now that is not required if Mr. McCarthy looks at it and says that is cutting it too close he has the authority to be a little more aggressive and request it sooner if that is what he determines.

Ms. Fowler stated but no later.

On MOTION by Mr. Zemball seconded by Mr. Leek with all in favor John McCarthy as the designated member was authorized to enter into a final agreement with GMAC and the Trustee with regards to the delinquent assessments attributable to MSKP Properties for those lands that GMAC has interests in, subject to (i) district counsel and district management review and approval, (ii) the bondholders releasing the district from any liability arising from the agreement for the payment plan, and (iii) all operations and maintenance assessments being paid in full by July 31, 2009.

Mr. Perry stated we will be in touch with you and let you know.

Mr. Leek asked on the current proposal what kind of payment schedule are they suggesting?

Mr. Perry stated they had payments going out through I believe November of 2009 and there was a different schedule as far as percentages go for the debt versus the O&M but the O&M was not fully funded until November 2009. As Jamie said earlier staff has looked at it and we are not comfortable with that first proposal that they provided.

FOURTH ORDER OF BUSINESS

Staff Reports

A. Attorney

There not being any, the next item followed.

B. Engineer

There not being any, the next item followed.

C. Manager

There not being any, the next item followed.

D. Maintenance/Construction Manager

1. Pressure Washing Proposals

Mr. Perry stated there are two proposals in regards to the pressure washing. I think you received by email each of those. I will summarize these. Rountree's proposal was approximately \$5,100 a year and that is for a cleaning of three times a year and that is the total cost \$5,100 for those three cleanings. There was an additional proposal from Fireboy. There

was an original one that he proposed just one cleaning a year and it was over \$5,000 and he came back with another proposal that said if you are going to have multiple cleanings a year he will reduce that over \$5,000 cost to approximately \$4,800 so to do apples to apples the Fireboy proposal if you did that three times a year it would be almost \$15,000 compared to the Rountree proposal of \$5,100.

Mr. Zeball stated and Rountree offered to amortize that over 12 month fiscal year period.

Mr. von der Osten stated these should be apples to apples. The Fireboy proposal included us furnishing the water, the water onsite. We went through the discussion last meeting to make sure it was understood he could get the water onsite and apples to apples three times a year so there shouldn't be any discrepancies in the parameters they are both bidding on.

Mr. Leek stated at the top of the Fireboy proposal that I got via email it said that it included the water.

Mr. von der Osten stated it does and that is why I just mentioned what I did with regard to the water. I did have the discussion I called them to clarify that.

Mr. Zeball stated so he revised his number per your discussion but did not revise the fact that he was bringing his own water. He felt more comfortable still bringing his own water?

Mr. von der Osten responded no, he is going to get the water onsite.

On MOTION by Mr. Zeball seconded by Mr. McCarthy with al in favor the proposal from Rountree for pressure washing three times a year was approved.
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2. Plant Proposals

Mr. Perry stated under item two is plant proposals and you were provided and I have copies here from Rountree in regards to the plant replacement at the islands.

Mr. von der Osten stated I don't know if any of the board members have located those islands. We would likely need a site plan so you know which islands we are referring to.

Mr. Welsh stated yes I do. I do a circuit every month with Jamie and the last one we did in February I had with us one of the people from the public that went with us and we took a look at all of these and I know exactly where they are. I have no problem with this.

Mr. von der Osten stated they are high visibility locations.

Mr. McCarthy asked can you fill us in on the status of the IROA yet? Do we have an operational board?

Mr. von der Osten responded no, we do not. I don't have that information to report. I expect it shortly.

Mr. Welsh asked my other question that came up during our last meeting was did you get a note or anything back from the builders as far as that wall on Perfect Drive?

Mr. von der Osten stated I have received no response but Jamie sent the letter out.

Ms. Fowler stated we haven't received a response either.

Mr. Perry asked in regard to the plant proposal is there a motion to approve moving forward with this or did you want to defer it?

Mr. McCarthy stated I would like to see it deferred until the next meeting. Depending on how the IROA board comes out I would like to see a committee set up to do this. It looked pretty good. I went by there last night and there are things that need to be changed out and fixed but it will last three weeks. It is not an emergency.

There is one thing, as you are coming off LPGA on to Tournament headed towards the clubhouse the stop sign at the intersection of International Golf and Champions that stop sign is almost completely covered by the trees. There is one particular oak that has overhanging branches that you cannot see that stop sign through.

Mr. von der Osten stated I will look at it this afternoon.

FIFTH ORDER OF BUSINESS

Supervisor's Requests and Audience Comments

Mr. Bertsch stated I apologize for not attending last week's meeting I was away in Key West and stayed a little longer than I thought. As far as the lighting proposal is concerned the company I was going to propose for the LED lighting has just been bought out by Philips and right now the salesman was told not to quote or give any kind of financial information in regards to product and they are in the process of changing this one particular product that I was going to recommend and for the better because from what I understand it is going to be at a much reduced price than I was originally given quotes on. Hopefully, I will have that by the next meeting or at the worst the meeting after that.

I thought I made a note that you approved the lighting at the end of Tournament and LPGA. Was that approved?

Mr. Zemball stated it was approved at the last meeting.

Mr. Bertsch asked is there any kind of timeframe on that?

Mr. von der Osten stated they are ordering the poles.

Mr. Bertsch stated I do a little patrol every night reporting cars parked on the streets. I notice there are quite a few streetlights out in LPGA one of which is right by your house and has been out for several weeks. Who do I go to for that?

Mr. McCarthy stated Florida Power.

Mr. Bertsch asked should I go to them directly myself?

Mr. Welsh stated I can speak to that. I got two phone calls last meeting and I brought it up. You have to get the number off the pole.

Mr. Bertsch stated there are no numbers that is the problem. The one that is on Opal Hill Circle and one on the corner of Perfect Drive and Opal Hill Circle, and the reason it isn't working is because it has never been hooked up. The wires are just lying there. I had an electrician putting in lighting on our marquees, our entry signs and he was going to tap into that and it turns out power was never hooked up.

Mr. Welsh stated the homeowners association for the individual person that sees it must call Florida Power & Light and give the location. Florida Power & Light has somebody they refer you to and they give you the number that is on the pole and you call that number, they locate it and send someone out. It is up to the individual to call Florida Power & Light.

Mr. Bertsch stated okay but there is no power run to that pole.

Mr. Welsh stated you have to report that.

Mr. Bertsch stated there is no number on the pole either. Every other pole that I have looked at has numbers on it. These have no numbers at all.

Mr. McCarthy stated probably when they activate it they put the numbers on.

Mr. Bertsch asked do you want me to call?

Mr. Welsh stated you have to call. I can't call.

Mr. Bertsch stated I'm talking about all the lights on LPGA that are out.

Mr. Welsh stated you get the numbers and you call.

Mr. Bertsch stated I will do it. I wanted to make a comment I don't know if you have any control or jurisdiction but at the end of Champions in Gray Hawk they are using it as a dump.

Mr. McCarthy stated that is being worked on.

Mr. Bertsch stated I just saw someone dump a whole truck load full of stuff. They went past without me getting a license plate. One other suggestion which would possibly make life a littler easier. We installed signs in our community in Opal Hill that says no parking on paved surfaces as per City of Daytona Beach, this is what they require. I would think that you should possibly have signs like that posted at the entry to LPGA because that goes for all of LPGA it is not just Opal Hill or any other particular community. It is Daytona Beach law. The police have told me that it would be a lot easier for them to enforce the law if there were signs posted.

Mr. Leek asked did they say why it would be easier if there was a sign posted?

Mr. Bertsch responded here is the issue. People have fought the ticket and say how am I supposed to know because there is never anything posted. Technically they are wrong because you are supposed to inform yourself of the law. It does make it a lot easier for the police officers that are enforcing that to say it is posted you violated the law.

Mr. Leek asked like the no fishing signs?

Mr. Bertsch responded yes.

Mr. Leek asked like the people who are always fishing anyway?

Mr. Bertsch responded yes.

Mr. Leek stated I am not a big fan of a bunch of signs all over the street.

Mr. Bertsch stated they are not so objectionable. We put them in Opal Hill, we put them at the stop signs. The only problem is now I have another problem which I was dealing with this morning with code enforcement. We had an individual Embry Riddle college students, not one car or two but three cars parked in their backyard to circumvent the law. What they are doing is causing ruts in the lawn, they are breaking sprinkler heads.

Mr. Welsh stated the problem I have with parking is at Christmastime, holidays when people come in and park for an hour in the streets, Sheila had to call the police department and tell them they are going to park here for a few hours while they are having a party and the police are informed so they don't ticket them but that is the problem.

Mr. Zemball stated I live in Opal Hill where they have been cracking down on the parking and I had a party at my house and the whole street was lined with cars. The police came and I was out front and he said are you the owner of the house and I said yes and he said do all these people live here and I said no they are just visitors and he said have a nice day.

Mr. Bertsch stated they will let you go. Here is the problem, we are trying to get rid of all this multiple parking and we had a meeting with the police department and asked how do we get rid of these students it is devaluating our property and he said the best way to do it is make it uncomfortable for them to live there.

Mr. Leek stated maybe I see things in black and white too much but if someone has a bunch of adults living in the same house that is against a direct city ordinance the city needs to enforce that. If someone makes a complaint to code enforcement and says there are 8 adults living in this house the code enforcement people need to come out and enforce the code. It is just like parking if somebody is parking on the street where they are not supposed to and I call then the police department needs to come out and write that ticket. Not come out with suggestions of putting up signs and making it uncomfortable. Code enforcement on exceeding the single family residence ordinance is a little bit harder because you can say he is visiting but it is not impossible and they can be cited for that. If we have a law let's enforce it, let's not go through a bunch of gyrations about trying to make it happen, write the ticket, issue the citation. It is pretty simple to me. In the United States we seem to go around doing all these things to try to make something happen that already has a mechanism to make it happen. Instead of being so politically correct all the time let's just write the ticket.

Mr. Bertsch stated in Opal Hill right now I have turned over 40 homes out of 151 to code enforcement but this takes time. Last weekend I had 15 cars ticketed on Perfect Drive and they were all Embry Riddle students parked on the curb, parked on the sidewalk.

Mr. Leek stated everybody has that problem to some degree. I have it across the street from me but the other side of that is my son who lives on Champions in Gray Hawk their cleaning lady drives a Volvo station wagon and gets ticketed when she is there for two hours cleaning the house. That doesn't seem right. Should she have parked in the driveway, probably but she didn't because nobody had left for work yet when she got there so she parked in the street. I just think we have the appropriate officials write the tickets and issue the citations and that solves the problem. As soon as word gets around that code enforcement is knocking on the door and checking to see how many adults live in this house, it will stop or slow down the problem.

SIXTH ORDER OF BUSINESS

Next Scheduled Meeting – 05/27/09 at 1:00 p.m. @ Daytona State College

Mr. Perry stated our next scheduled meeting is May 27, 2009 at 1:00 p.m. I will ask the board if we can reschedule that to 2:00 p.m. the same day. I have a conflict and I'm trying to resolve it.

Mr. Welsh stated that is okay.

On MOTION by Mr. McCarthy seconded by Mr. Leek with all in favor the meeting adjourned at 12:35 p.m.


Secretary/Assistant Secretary


Chairman/Vice Chairman