

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, July 27, 2011 at 1:00 p.m. at the Holiday Inn Daytona Beach LPGA Blvd., Board Room, 137 Automall Circle, Daytona Beach, Florida 32124.

Present and constituting a quorum were:

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

Also present were:

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| Jim Perry | District Manager |
| Lynn Scruggs | District Counsel |
| Cheryl Stuart | Hopping Green & Sams (by phone) |
| Kurt von der Osten | Field Operations Manager |

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 June 6, 2011 Continued Meeting and the June 22, 2011 Meeting

This item was deferred.

THIRD ORDER OF BUSINESS

Consideration of Proposal for Forestry Management of the Conservation Easement Along Tomoka River for the Gopher Tortoise Issue

Mr. von der Osten stated the first controlled burning is not considered a viable option by most consultants, especially in the north by most residences. The different methods include mowing and roller chopping. You would have to roller chop the majority of the area and you could mow other areas. After the initial roller chop, we could get on a bush hog schedule. I

provided pricing on different options going forward with just roller chopping and then taking it all the way down to mowing it.

Mr. Welsh asked and that \$4,100 was a total?

Mr. Perry responded I believe that is just for the study.

Mr. von der Osten stated that is the professional fee for the forest manager's fee. The spreadsheet shows the most inexpensive option, which would be the roller chopping. It would total \$18,865. The most expensive would be mowing and that is \$45,000 for everything. The third option would be to mow the north and roller chop the south and that would cost \$27,946. There are some professional fees on top of that. There is the legacy forestry services that shows \$4,500 here. In case we need to do a tortoise survey an environmental consultant would be estimated at \$2,500. We will need to have a surveyor come out and flag some areas for the mowing and roller chopping. The total professional fees are estimated at \$9,000. Then it would be the board's decision on how to proceed on mowing and roller chopping.

Mr. Welsh asked once we do the mowing, should we keep that mowed?

Mr. von der Osten responded just bush hogged.

Mr. Welsh asked once a year?

Mr. von der Osten responded yes.

Ms. Scruggs asked the site prep administration is \$4,100, so where is that?

Mr. von der Osten responded that is the \$4,500 down here. I rounded it up.

Mr. Leek asked if the roller chopping is done, which is the least expensive technique, then how is that maintained in future years?

Mr. von der Osten responded you roller chop now, which leaves it rough and then you can come back in a year or two and you could mow it at that time. The mowing price would be less because you could go faster. Right now the mower requires two passes to go thru because it is so thick and slow.

Mr. McCarthy asked so if we went all the way this time, which you said was about \$45,000 then that would get it down to where we would just mow once a year?

Mr. von der Osten responded the most expensive approach would be the mowing and that is \$45,000 plus the \$9,000 for professional fees, so you are talking about closer to \$55,000 total. Right now the mowing rate is \$350 per acre because of the growth. They might even have to go in and deforest it before they can mow it in the south.

Mr. McCarthy asked but the \$45,000 will take care of north to south all the way down to ground and then next year it would be some percentage of the \$350 per acre?

Mr. Rountree responded it is generally about \$75 per acre. If it is vacant lot mowing then it is going to be a lot less. When it is thicker then you are looking at around \$100 per acre. It all depends on how rough it is.

Mr. McCarthy asked if we went with the \$18,000 then we would have to come back and have to do \$18,000 next year?

Mr. von der Osten responded you could possibly mow it next year but my guess is there would be just as much to roller chop next year.

Mr. Leek asked but if you roller chop this year and mow the following year then after that, we would be able to mow for less per acre?

Mr. von der Osten responded right.

Mr. Leek stated right now, because of cash flow I would go the cheapest route and then next year try to get it down to something that costs a lot less to maintain.

Mr. von der Osten stated I think the hybrid approach, which you are mowing the north, which is in decent shape and then you roller chop the south. I don't see that you need to mow the south until you actually develop some of those parcels.

Mr. Leek asked where in the north are we talking about?

Mr. von der Osten responded on Champions across from Festiva. There is about a 20 foot buffer of pine trees. It is clear behind there but it has grown up some. It was cleared at one time. Then down by the power lines there is some acreage that needs mowed.

Mr. McCarthy asked how much is this hybrid price?

Mr. von der Osten responded it is \$27,946. We would have the surveyor confirm this acreage. This should be the maximum acreage.

Mr. Welsh asked when does this have to be done?

Mr. von der Osten responded we haven't been given a deadline. We are behind on this maintenance. The agencies are so overwhelmed and short staffed that they are not checking it very close. They could come out and say we are not in compliance.

Mr. Welsh asked so we could delay this until spring?

Mr. von der Osten responded when I met with one gentlemen they said as long as there is a plan being discussed and you are taking action then they would discuss it with us.

Mr. Perry stated the board might want to consider having the consultant do the preliminary work and then just defer the actual work itself.

Ms. Scruggs stated I would request a revision to this engagement letter with Legastry Forestry Services to include contact with the agencies to confirm that there is no permit implications with this. I assume because we are paying for an environmental consultant that they plan to contact the agency but I want that written in the letter.

On MOTION by Mr. Leek seconded by Mr. Welsh with all in favor the Proposal for Forestry Management of the Conservation Easement along Tomoka River for the Gopher Tortoise Issue was approved subject to revision to engagement letter with Legastry Forestry Services to include contact with the agencies to confirm there is no permit implications with this.

FOURTH ORDER OF BUSINESS

Questions and Comments on Proposed Budget for Fiscal Year 2012

Mr. Perry stated right after this meeting we will have a budget workshop, where we will go into more detail. There has been discussions with bondholders and trustee's counsel in regards to foreclosure process and possibly supplementing O&M assessments. At this time they have indicated no position on which way they would go on any of that.

Ms. Scruggs stated that is correct.

Mr. Perry stated they have also asked for some specific information on specific parcels and my staff is pulling together that information. When I say specific parcels I mean parcels that Coastoak owns. We are pulling that information together. Some of that information goes back to 2004 and 2005.

Ms. Scruggs stated in prior meetings we have said that it has been silent but this was different in respect that counsel informed them that the board was very interested in moving forward with foreclosure of the O&M lien and their response was we don't have a position yet but we do have questions about particular parcels that we need more feedback on and more documentation on. The response from them wasn't we just don't have a position. The question was we don't have a position because there looks to be discrepancies and we need to figure that out. I just want the board to know that was a different response than prior times when they have just ignored the board.

Mr. Leek asked what are the kind of discrepancies they are talking about?

Ms. Scruggs responded we are still looking into that. They have identified some parcels that they had questions on, so we are pulling all of that data from year's back to get an analysis over those parcels.

Mr. Perry stated one example, is they had one UTC parcel that was 100 acres and then they subdivided that into five other parcels, so there are questions as to when it was subdivided for that parcel and what was allocated out. There are other parcels that in 2004 or 2005 that might have been 50 acres and it wasn't subdivided but it was adjusted, so some of the land on that parcel went to another parcel. The questions are where did that land go and what adjustments were made at that time. In fact, it appears there were more adjustments made this year to certain parcels.

Mr. Leek asked so is the research to answer those questions long and drawn out?

Mr. Perry responded it is probably a week of time. We have started on some of it this last week. It is not on every parcel that Coastoak owns.

Mr. Leek asked do we have a feel for how long the bondholders will need to review the information once we have it?

Ms. Scruggs responded no. I wouldn't want to speculate that but we have another thing to discuss that is potentially a different direction for the board to go into.

Mr. Perry stated the other issue that was brought up at the last meeting in regards to foreclosure and potential foreclosure costs. I believe District Counsel has gone through and estimated a range anywhere from \$60,000 for a non contested foreclosure process.

Ms. Scruggs stated I would say between \$85,000 up to \$150,000 to foreclose and that includes expenses. Even the ones where we didn't have much contest it was still upwards of \$85,000 to \$87,000.

Mr. McCarthy asked how long would that be, even if we decided to go that route?

Ms. Scruggs responded more than a year at this point. The \$87,000 number that we had pulled from our files I did complaint to summary judgment in four months and that doesn't happen anymore because the dockets are so full that you can't get on the judges calendar that soon anymore. In front of you is a preliminary draft chart that my office worked on yesterday for you. It is a list of the Coastoak parcels. We also used a roll that was from fiscal year 2011, so there maybe some changes with respect to what the property appraiser's roll reflects for fiscal year 2012 versus fiscal year 2011. You can see that the property taxes that have been levied on

the particular Coastoak parcels in question that tax certificates have sold for the majority of these parcels. Jim, Cheryl and I have been discussing possibly having the board certify these parcels to be collected on the tax collector roll for the coming fiscal year and potentially receiving some funds due to the tax certificate sales. Obviously, this is not 100%. We can't say that the tax certificates will sell next year. We can give you a historic look at what has happened this year and the majority of them have sold. In this tax year we could see some monies come from those tax certificate sales, so we could see some O&M. Given that is a one year gamble for the board it would take more than a year at this point to foreclose and we are looking at about \$100,000 to foreclose. This is an option that is practical and the board could see money.

Mr. Welsh asked right now if we don't go this route we will have to assess the homeowners a certain amount of money, correct?

Mr. Perry responded based upon the budget you have already approved.

Ms. Scruggs stated keep in mind, if the board is amenable to putting some or all of these parcels on the roll then it will change all the numbers, so we will need to bring back new numbers for the board at that public hearing.

Mr. Leek asked so doing this would prevent us from exercising any of the other options we have, like foreclosure options?

Ms. Scruggs responded if we certify these on the roll then we will not be able to foreclose this year.

Ms. Stuart stated the existing lien for outstanding O&M remains, as does the lien of the debt service assessments on those parcels.

Mr. Leek asked so we could start foreclosure based on their failure to pay last year?

Mr. Perry responded yes and the year before.

Ms. Stuart stated you haven't given up that right for those past due ones.

Mr. McCarthy asked all the certificates have been sold?

Ms. Scruggs responded yes.

Mr. McCarthy asked so they really don't own the property, they just own the certificates?

Ms. Scruggs responded right but there are a couple of parcels, where the tax deed has been applied for due to the purchase of a certain number of certificates.

Mr. McCarthy asked are we going to recoup one year's worth of revenue from these tax deeds?

Mr. Perry responded no.

Ms. Scruggs stated we did not have these on the roll this year. No monies are going to come from the sale of the certificate. We are just showing you that this year these are the certificates that sold, so potentially if we certify our assessments on the roll next year it is possible that the certificates will sell again and those monies we will see a flow of O&M expenses for the coming fiscal year.

Mr. McCarthy asked so just because these tax certificates have been issued doesn't mean that we will collect past due monies?

Ms. Scruggs responded no. The sale of the tax certificate doesn't impact our O&M because we haven't certified these on the roll.

Mr. McCarthy asked so basically we are still at square one?

Ms. Scruggs responded yes.

Mr. Leek asked but if you see the resort property actually sells then we should collect all of our past due assessments, right? If it is deeded over to someone different, don't they have to pay the past taxes, including our assessments?

Ms. Scruggs responded the person that applied for that tax deed has paid those back taxes by way of purchasing a certificate. Our O&M assessment lien and the debt assessment lien is still on those properties. I think we would need to approach them and say this is a lien on those properties, so pay us and if they don't then we have to foreclose. Is that right, Cheryl?

Ms. Stuart responded yes. Our lien is not wiped out.

Mr. Leek asked so they would not get clear title until they cleared our lien?

Ms. Stuart responded that is correct. They will have a deed. They will be like the owner is today with a lien sitting on it.

Mr. Leek stated so nothing has changed, except maybe we have someone we can collect from.

Mr. McCarthy asked so the tax certificate for the resort property has not been bought?

Ms. Scruggs responded a tax deed has been applied for, for that parcel. Someone is trying to get a deed to that property. It is possible that we will open the August meeting and hold our public hearing and potentially continue that meeting if we need a little more time.

Mr. Leek asked is there any down side on proceeding with adding our assessments to the tax roll for next year?

Ms. Scruggs responded and if the tax certificates sell then obviously, that O&M assessment lien and that debt assessment lien for that particular year is satisfied.

Mr. Leek stated so I am not hearing any downside to this.

Ms. Scruggs stated staff is giving you this option. We understand the board is frustrated and given the cost that it would take to foreclose and given that foreclosure may not yield the exact result we want anyways and given the historical way these tax certificates have been selling on these properties that was a way for the board to see some O&M assessments for this coming fiscal year.

Mr. McCarthy stated I am leaning on waiting until the budget meeting.

Mr. Welsh asked can the contractor come in and say I am going to take all of this and I know you have three years of back assessments, so I'll take the property but I'll negotiate only paying one year?

Ms. Scruggs responded he would have to come to the board for the board to approve the O&M assessment lien. With respect to the debt assessment, which is accelerated, he would have to approach the bondholders for that.

Mr. Welsh asked so we have the option to say no to any negotiations for the back assessments?

Mr. Perry responded on O&M. If a builder buys one of these parcels and wants to negotiate with the bondholders that won't happen. If he came in and said I want to buy all of the lands then there would be discussions. There might be some reapportionments also when we do our notice to certain parcels that will change from what we originally thought they would be. We would ask the board to consider allowing staff the ability to reapportion certain parcels if needed and then bring those back to you for ratification at your August meeting.

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| <p>On MOTION by Mr. McCarthy seconded by Mr. Bertsch with all in favor Allowing Staff the Ability to Reapportion Certain Parcels if needed & bring those back for ratification at the August meeting was approved.</p> |
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Mr. Perry stated I want the board to think about in the future the possibility of potentially cutting back on the number of meetings. It will transcribe into lower costs for the District in regards to advertising, District Counsel's time and your own compensation. What we have done

in other Districts is we have asked them to give the Chairman the ability to cancel meetings. Usually December is a typical month that is cancelled because people have plans and it is a slow month for Districts. There might be another meeting during the year that may get cancelled. It might help in the range of \$4,000 or \$5,000 savings. Next month we will set the meeting schedule for fiscal year 2012.

Mr. Welsh stated I will talk to you about that and maybe cancel three meetings.

FIFTH ORDER OF BUSINESS **Other Business**

There being none, the next item followed.

SIXTH 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
There being none, the next item followed.

D. Field Operations Manager
1. Discussion of Landscape RFP

Mr. von der Osten stated the landscape RFP has been advertised and distributed. We conducted the mandatory pre-bid meeting this morning. We have five eligible bidders. The bids are due August 3rd. The scope of work matches the current scope that we have. There are also two alternates. Each alternate reduces the scope and level of service. You will see some variety or some range of pricing based upon the level of service that the board desires.

Mr. Perry stated I will be there to help you open the bids.

Mr. von der Osten stated there were four of the same bidders from last year and one new one.

2. Discussion of Jubilee Hedge Request

Mr. von der Osten stated there is a letter in here for your information about the Jubilee hedges.

Mr. Leek asked when is the next association meeting?

Mr. von der Osten responded there is not one scheduled.

Mr. Rountree asked so from the crown of the road is the measurement?

Mr. von der Osten responded yes.

Mr. Rountree stated they just installed 270 more seven gallon vibertims.

Mr. Leek stated they look really good. If they are allowed to grow to the proper height they will do exactly what they need to.

Mr. Rountree stated we are waiting for more budget money to come in to do the next phase. We are doing it in phases.

Mr. von der Osten stated at the interchange we have some palm trees that were struck by lightening. We have about three dead palm trees at the overpass. The proposal for replacement is for \$3,225 from Rountree. The plant replacement budget is under budget on the interchange. Assuming there aren't anymore large plant replacement expenditures at the interchange this year, we will still fall within the budget.

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| On MOTION by Mr. Bertsch seconded by Mr. McCarthy with all in favor the Proposal from Rountree to Replace 3 Dead Palm Trees at a cost of \$3,225 was approved. |
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Mr. von der Osten stated there is another plant replacement proposal here at the interchange if we are interested in enhancing the jasmine on the slopes. There are a few bare spots. This is for 3,000 jasmine plants at approximately \$3.00 a piece, which is \$9,000..

Mr. Perry asked is this consistent with the plan for the interchange or the requirements?

Mr. von der Osten responded the jasmine are in the original plan out there. It really becomes a matter of how much time you want to give them to grow in, so we could plant them staggered at a little more distance and let them grow in.

Mr. Perry asked is this a replacement?

Mr. von der Osten responded yes. What are chances of bringing back what we have there?

Mr. Rountree responded in the larger areas I would say slim. It is going to need some replacement. One thing I did look at was the possibility of getting those plants in three gallons, which means they have several more years of growth on them, so they would already be considerably larger. Three gallon plants cost more but you are going to use less.

Mr. von der Osten stated the entire plant replacement budget out there is \$10,000 for the year. I think we should look at some alternatives before approving anything. I don't believe at the last meeting I had the final numbers on the repairs on I95 with the irrigation break that we had. The total number came out at \$3,650. The underground utility contractor was \$2,683. Courto Electric was \$767 and Rountree was \$200 to stabilize the lake bank. The \$3,650 is in the financials for this month and right now it looks like it is not going to throw the repairs line item over budget for the year. It all seems to be working fine. This is a paint proposal for the entry monuments to the community at all four entrances. This includes the blue background and the paint. It is \$1,100 to do the Tournament Drive entrance. I could go forward and do only that one out of this year's budget. It seems to be the one in the worst shape.

Mr. McCarthy asked what is the total for all four?

Mr. von der Osten responded it is \$8,700 for all four entrances.

Mr. McCarthy stated I think we should touch up right now.

Mr. von der Osten stated at the Tournament entrance it needs the entire monument painted. The other two probably don't need anything this year.

Mr. Bertsch asked why don't we do that one and touch up the rest of them?

Mr. McCarthy responded yes.

Mr. von der Osten stated I will go ahead with the Tournament Drive entrance.

SEVENTH ORDER OF BUSINESS

Supervisor's Request and Audience Comments

Mr. Bertsch stated I was the Jubilee HOA meeting last night and it was a little disturbing about the misconceptions about what goes on. One of their ex members made a statement that he feels all the repairs that have to be done on the ponds are on us. He swore up and down he saw them being done in Eagle's Marsh and other places. Has Renar been bringing all their ponds up to snuff before they get signed over to us?

Ms. Scruggs responded that is an issue that we are still looking into.

Mr. Bertsch asked so there is nothing concrete about turnover?

Ms. Scruggs responded there are a lot of lakes in the District and there were some that were intended to be maintained by the District and there were some to be maintained by the City. We are still working through getting all that settled. I'm not going to say that it is all cleared up yet. We are still looking at maps and we are trying to get an indication of what needs to be

maintained by the District. It is possible that there are some lakes that we should be maintaining and it is possible that we don't need to maintain them. We are looking into that issue.

Mr. von der Osten stated right now, Renar is maintaining a portion of 21 lakes. I believe they are paying around \$1,900 per cut.

Mr. Leek asked who is proposing that we take over all of them?

Ms. Scruggs responded no one is proposing that. A resident has contacted the District. He believes there are some lakes that should have been maintained by the District. If that is the case that should have taken place a very long time ago, so we are having to go back through documents to confirm whether his beliefs are correct.

Mr. Bertsch stated he said last night that we better get on the bandwagon and make sure we get on the list of getting our lakes repaired.

Ms. Scruggs stated staff really wants to put this issue to rest because we don't like to receive calls about lakes, so we are going to look at all the lakes within the District and figure out what the District should be maintaining and what we are not obligated to maintain.

Mr. von der Osten stated the District did not perform any repairs on those lakes and really we haven't been obligated to maintain those lakes because they are deeded to homeowner associations, builders and development companies.

EIGHTH ORDER OF BUSINESS

Approval of Check Register

Mr. Perry stated included in your agenda package is a check register. It totals \$100,353.92. I am going to defer the check register at this time.

NINTH ORDER OF BUSINESS

Financial Statements as of June 30, 2011

Mr. Perry stated included in your agenda package are the financial statements as of June 30, 2011. We will be able to make the November 1st payment on the 1999A bonds, so we will not have to tap the debt service reserve. In regards to the 1999C bonds, the November 1st payment we will have to tap the reserve for about \$200,000 and then after that there will be a balance of about \$200,000 in the reserves. Even with what is anticipated to come in for collections next year, we still won't have enough dollars to make the May 1, 2012 payment, which means that bond will be in default. Once that goes into default then the bondholders have other actions they can take in regards to the funds that are in the construction accounts, etc.

Ms. Scruggs stated assuming that what happened last year happens again this coming year.

Mr. Leek asked what actions can they take with the reserves?

Mr. Perry responded if there are funds in the construction account they could take those funds to redeem bonds. They could utilize those funds to continue to monitor and commission studies and do certain things they deem appropriate to collect the bonds themselves. Since you are in default, they have more options to what they can do. Right now, they don't have those options.

Ms. Scruggs stated because the District is not in default.

Mr. Welsh asked could they take those construction funds and pay the O&M?

Mr. Perry responded they could do that now and they could do it then also.

Mr. Welsh asked but they would have to run that by us, right?

Mr. Perry responded not to pay the O&M. They are under no obligation to pay O&M. In regards to the 2005 bonds, those are related to the south parcels and we will not be able to make the November 1st payment. The reserve will be tapped for about \$260,000 and then the balance in the reserve after that will be about \$300,000, so even with the collections we still won't make the May 1, 2012 payment. On the 2005 bonds, there is almost \$7M in the construction account associated with those bonds. The collections on the tax roll for this year exceeded what we had anticipated by \$33,000 and that is because not everyone took advantage of the 4% discount for early payment.

TENTH ORDER OF BUSINESS

**Next Scheduled Meeting – 8/24/11 at 1:00
p.m. @ Holiday Inn**

Mr. Perry stated the next scheduled meeting is August 24, 2011 at 1:00 p.m. at this location.

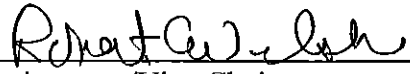
ELEVENTH ORDER OF BUSINESS

Adjournment

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



Secretary/Assistant Secretary



Chairperson/Vice Chairman