

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, September 25, 2013 at 1:05 p.m. at the Holiday Inn Daytona Beach LPGA Blvd., Boardroom, 137 Automall Circle, Daytona Beach, Florida 32124.

Present and constituting a quorum were:

Robert Welsh	Chairman
Don Parks	Supervisor
John McCarthy	Supervisor

Also present were:

Dave deNagy	District Manager
Katie Buchanan	District Counsel
Kurt von der Osten	Field Operations Manager
Jamie Rountree	Team Rountree
Adam Krug	Hayman Woods
Stephen Greyhouse	Consolidated Tomoka
Andrew Norgart	Norgart Land Venures

FIRST ORDER OF BUSINESS

Introduction

Mr. deNagy called the meeting to order at 1:05 p.m.

SECOND ORDER OF BUSINESS

Approval of Minutes:

- A. **May 22, 2013**
- B. **June 26, 2013**
- C. **August 28, 2013**

Mr. deNagy stated included in your agenda package are minutes from May 22, 2013, June 26, 2013 and August 28, 2013.

On MOTION by Mr. Parks seconded by Mr. Welsh with all in favor the Minutes of the May 22, 2013 Meeting, June 26, 2013 Meeting and the August 28, 2013 Meeting were approved.
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THIRD ORDER OF BUSINESS**Consideration of Renewal Agreement with Aquatic Systems, Inc.**

Mr. von der Osten stated this is the aquatic management agreement. It carries over with the same amount. From the management standpoint I am very happy with Aquatic Systems. They call me every time they are onsite. You do see some algae out there now because blooms pop up but they are quick to jump on them. We did bid this out competitively two years ago.

On MOTION by Mr. Parks seconded by Mr. McCarthy with all in favor the Renewal Agreement with Aquatic Systems, Inc. was approved.

FOURTH ORDER OF BUSINESS**Consideration of Resolution 2013-05, Opportunity to Be Heard Memo & Resolution**

Mr. deNagy stated included in your agenda package is Resolution 2013-05. There is a copy of the memo from Hopping Green & Sams in your agenda package.

Ms. Buchanan stated this is something we have talked about over the summer during our legislative updates. As you recall, the legislature has decided that it is appropriate to allow the public an opportunity to comment before the board takes any action on any item. What this would do is alter our agenda structure, so that we do provide a comment period at the beginning of your agenda. They can take a look at the agenda that we have printed out and they will have the opportunity before you vote on it to talk about it. We would like to adopt a resolution that provides guidelines regarding the amount of time individuals have to speak. The procedures will govern how they actually get before the board, as well as designate a specific time on the agenda, which we just discussed. The memo summarizes what I just went over. What we propose is an initial comment period at the start of the meeting. We propose that they are only allowed to address any agenda items or non agenda items of personal concern. We would suggest you limit public comment to three minutes a piece and we would also include in the resolution that no one can assign their three minutes to someone else. We would retain the ability to extend or reduce the time, so long as we can manage an orderly and efficient meeting.

Mr. Welsh asked so we will delete the later public comment section on our agenda?

Ms. Buchanan responded yes.

On MOTION by Mr. Welsh seconded by Mr. Parks with all in favor Resolution 2013-05 Opportunity to Be Heard was approved.

FIFTH ORDER OF BUSINESS**Update on Resort Parcel**

Ms. Buchanan stated I think at the last meeting I mentioned that they were likely in the position to gear up with the litigation if there was no quicker movement from the trustee on this matter. There has not been much movement. ETM was hired by the trustee to do a development analysis of the property. Their report is scheduled to be completed on Friday. It has not been done yet. The trustee has requested about a week to review it internally before they release it to us or KB Homes. We have been working with KB Homes to try to avoid them jump starting this litigation again. We have come up with a tentative schedule that would allow us to modify assessments if necessary and be completed with the process by the end of the year. We have been very clear that we still remain caught in the middle of this. We are not driving the train. KB Homes has done some discovery requests. The court chastised them and said if you don't pursue your litigation, we are going to kick you out, so their response was to serve a couple of pages of discovery requests for production of documents. You may be getting emails to verify that you don't have any emails relating to certain items that they requested. This is a strategy to keep their case active and hold our feet to the fire. We have 30 days, so the board doesn't have to authorize that response but note if you do get an email relating to it then please do look at it.

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

Mr. von der Osten stated it is that time of year, where we get periodic algae blooms in certain lakes. You are hearing about that in various ponds. It is always the same ponds because they are shallow. They get hotter than the deeper ponds and then the algae blooms take off in a day or two. We are continuing to discuss the pocket parks throughout the community. I do have

an email here from a resident of Bayberry, who was instrumental in that park. He is also an Assistant State Attorney. Statutes don't define a park. He said it is much better to go with playground, so that way you put one to two pieces of equipment out there and some signage. It can be one piece of equipment out there. It is a neighborhood that you access by walking, so it eliminates parking lot requirements. I have reached out to Renar Golf Communities. They have a piece of common area that lends itself well. There are some other entities and Developers who own land that would work well for these types of playgrounds that would satisfy City ordinance and could take care of our needs. If it is a piece of common area that is currently owned by a homeowners association then could the CDD engage in the physical improvement of that through some type of agreement between the CDD and HOA or would it be better for the HOA to convey the land to the CDD?

Ms. Buchanan responded if I were an HOA I would tell you I am happy to give you the land because I don't want the liability.

Mr. von der Osten stated now that we know we can get away with minor pieces of equipment then maybe I can come to you with anticipated costs with different types of equipment. I have my information here on the lighting for the interchange but we are holding off until October to really move forward on that.

Mr. Welsh asked do you remember those no solicitation signs we put up that are at the entrances of _____?

Mr. von der Osten responded yes.

Mr. Welsh stated evidentially they are not working because Massey came through and put all of these things on doors. When people are away that stays on the door and since we have had three break-ins in the last two or three months that signifies there is no one at that property. The guy that did its name is John Schumaker. I called Massey and talked to the General Manager and said I appreciate that you are coming in for business and you may stop and talk to people if they are outside but I do not want anything posted on the lots or any doorknobs. Massey was the first person I called. I noticed there are other people coming through doing the same thing. Is that a problem the police needs to take care of that? What do we do to solve that problem?

Ms. Buchanan responded we have dealt with this in other Districts. Frankly, your crime is littering.

Mr. deNagy stated we had one recently where a builder was leaving door hangers and Hopping Green had sent a letter to the builder asking them to stop. It really wasn't a CDD issue per se but part of the land, where they were leaving the flyers was CDD property.

Mr. Welsh asked is it the homeowners responsibility to call or is it the CDD to make that complaint?

Ms. Buchanan responded I think any of them would be fine.

Mr. von der Osten stated the City has an ordinance on solicitation and we have complied with that by posting no solicitation at all of the entrances. You can put that in letter and send it to Massey.

SEVENTH ORDER OF BUSINESS Supervisor's Request and Audience Comments

There being none, the next item followed.

EIGHTH ORDER OF BUSINESS Approval of Check Register

Mr. deNagy stated included in your agenda package is a copy of the check register totaling \$45,715.40.

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

NINTH ORDER OF BUSINESS Financial Statements as of August 31, 2013

Mr. deNagy stated included in your agenda package are the financial statements as of August 31, 2013.

TENTH ORDER OF BUSINESS Other Business – Presentation by Krug Interest, LLC Regarding the Resort Parcel

Mr. Adam Krug stated I am here on behalf of Hayman Woods. It is a pleasure to be here and speak with you today regarding the way forward for LPGA and our specific assets within the community. I hope it is beneficial to give a little history for everyone's benefit of our involvement with the community and what has transpired since we invested in the project and our perspective on where we are now and how we move going forward. Hayman Woods invested in the acquisition of the remaining land assets in January of 2010. At the time, we

acquired them from a lender, who had done a deed in lieu of foreclosure with the prior Developer of the community. That entity was a joint venture between Morgan Stanley and Kitson Partners. The fact is that entity defaulted on their very large mortgage with the lender. That lender took possession of the property to satisfy that mortgage and then we acquired the property from them in January of 2010. As you may recall that was a fairly dark time economically in our country and it certainly remained that way for a fairly significant period of time thereafter. We knew when we bought the property that we were buying assets that had a tremendous amount of hair on them. We very much viewed the acquisition as a workout from a resolution standpoint. Over the last three and a half years, we have taken certain actions and not taken other actions intentionally with the goal of restarting development activity in the community. The specific things that I wanted to point to with respect to our history and how we have gotten to this point is in the summer of 2011, we sold developed lots for the first time to homebuilders. The primary homebuilder involved in that transaction was KB Homes. KB Homes has built out the majority of those developed lots in southwest 29. We sold those developed lots for very, very cheap. The reason we sold those lots for very cheap is they were the only builder that was interested in acquiring them and given the level of distress that exists in the whole market in the summer of 2011, we made the strategic decision to sell those lots at a loss, even from our investment basis in an effort to restart activity in the community because there was really no home building activity going on at the time. From our perspective, we had to start somewhere. We sold improved developed finished lots with all of the infrastructure in the ground for much less than it cost to put that infrastructure in the ground. It is important that everyone understands that. Working forward from there, there has been an increase in activity down there. Finished lots that we don't own that we didn't acquire in the transaction have also been sold to other homebuilders. Today, there is a fair amount of new home building activity and new residents moving into the community in that part of LPGA. Only recently has the level of interest in the community gotten to a point from a feasibility perspective that there are potential interested buyers in raw land. That is important for everyone because it means that there is actually the potential for value being attributed to the raw land. If people are able to buy improved land for less than it costs to improve it then there is obviously no residual value for the land. Fortunately market conditions have improved enough to this point but they haven't improved enough, where new development is starting to be feasible. It is good for us. It is good for the community and it is good for the

District. At the same time when you look at where things stand today in the community and with the District, we have two series of bonds that are in default. You have a very significant past due balance uncollected operation and maintenance assessments and you have an outstanding lawsuit with a homebuilder. It is important for the board to understand from our perspective that all of those things are related. They are related because the assessment methodology and debt allocations that burden of undeveloped land, which we own, are flawed. As a result of that flaw, we haven't made our payments on a number of parcels that we own. I have heard the question asked a number of times of why hasn't the Developer paid their assessments. The answer is the assessments are flawed in our opinion. Today and from a historical perspective it is important that everyone understands until market conditions improved to a place, where development was actually economically feasible then trying to resolve the debt and past due sins of the past was impractical. From our perspective, the time is now for us to address those issues. I would like to engage the District and the board in a conversation about how we move forward together to both fix the debt problem that exists today to fix the O&M deficiencies that exist both from a past due perspective and an ongoing basis to serve the community. In my opinion the effort to do that will also resolve the outstanding lawsuit, although, we are not a party to that lawsuit. In our opinion the status quo is unacceptable and it is not going to fix itself. We are interested in finding a fix that we believe is a win-win-win situation, which we think is possible. I am hopeful that we can explore that and come up with that resolution sooner rather than later.

Mr. Welsh stated we have tried to get things done a number of times through the bondholders. Every time they write a review, we don't get it. We don't see it. We don't have any idea which direction you are going. We have been in a status quo for two years.

Ms. Buchanan stated over a year.

Mr. Welsh stated so until that thing is settled, we don't have any direction to go.

Mr. Adam Krug stated I will respectfully disagree. The reason I will disagree is because I think the bondholders have to be part of the solution. I have direct dial with the majority owner of the 2005 bonds. They are in default and they are interested in a resolution. The nine months that this study has been ongoing is an embarrassment. It is a professional negligence in my opinion. The fact is that methodology study that they are doing is not the bible. All it is going to do is give you their findings of opinion as to what developable land it is. It is not a market opinion of value. It is not going to fix anything. It might give the bondholders a perspective but

it is not going to fix anything. In fact, the hard work will really start when this magical study appears and everyone tries to negotiate what that means for my property. KB Homes is going to have an opinion on that and you can bet we are going to have an opinion on that. Every other property owner in here, to the extent their assessments get modified, should have an opinion on it. My hope is that we can engage in a constructive dialogue with everyone. As you said you can't get a response from the bondholders. I don't think there has been an active engagement from any of your advisors to do that. The reality is that I am here to try to coordinate that and to try and bring a resolution to the debt and to bring a resolution to the O&M problem that exists today and to bring a resolution to the assessment methodology that is a problem for all property owners in the District. It is a complicated mess but it is time to show some leadership to do that.

Ms. Buchanan stated the District is represented by counsel and then we enter into a contract with the trustee to manage the bond funds for the bondholders. We really don't have direct access to the bondholders; however, we have direct access to the trustee. I kid you not when I say I speak with their attorneys on a weekly basis. The trustee is the one who commissioned the development study. The trustee will be the one that receives the first copy and they have the right to that before they give it to us. We can't really do anything sitting at this table other than have me hound them on a weekly basis and we do. Once we get the development study, I agree it is the first step to a solution because all it does it allocate developable rights between what ETM believes will be appropriate. It is not necessarily perfect, nor will it necessarily be where we end up but that is the first tool we need to go back and take a look at the assessments to determine how to allocate the assessment based on the developable rights within these parcels.

Mr. Adam Krug stated I understand very well what your role is. My comment about the professional negligence has to do with the firm that is providing the study and the direction of that. My point is that study isn't going to fix the problem. That study may be one piece but it is not going to engage the bondholders to fix the outstanding defaulted debt series. Someone has to do that. It is not the District's role to engage the bondholders on doing that. I am trying to engage the District to have a discussion about the bonds and the O&M.

Mr. Welsh asked and you want to renegotiate the O&M, correct?

Mr. Adam Krug responded yes. I want to talk about all of the past due amounts, debt and O&M.

Mr. Welsh asked and why do you think we would renegotiate that?

Mr. Adam Krug responded because I think it is in the best interest of the community going forward.

Mr. Welsh stated I don't think we are going to renegotiate the O&M.

Mr. Adam Krug asked so there is not going to be constructive dialogue about how we move forward?

Mr. Welsh responded positively not. That is the position that I take as the Chairman.

Mr. Adam Krug asked so you are going to stick your head in the sand and pretend this problem doesn't exist?

Mr. Welsh responded it doesn't cost us anything to stick our head in the sand.

Mr. Adam Krug stated it does cost us something. It costs you what it is costing your right now.

Mr. Welsh asked what is it costing us? It is not costing us a cent.

Mr. Adam Krug asked it is not costing you a cent when all of your constituents are whining about their assessments and you are not able to repair things in the community that are your obligation because you have no money?

Mr. Welsh responded that is not true. If you can see our income has started to increase and we are now back to almost where we were before. There wouldn't be any reason for us to renegotiate the O&M at this point. That is my viewpoint.

Ms. Buchanan asked why don't we focus on debt?

Mr. Welsh responded yes. That is what I think is the most important.

Mr. Adam Krug stated they are related.

Ms. Buchanan stated they are related but the process I was describing earlier is proposed by KB Homes and would provide the reallocation of assessments of the debt by the end of the year. That doesn't address past due payment but it does address the debt going forward. There are two issues; one is the past due and the second is going forward. Once you get that development report, GMS will prepare an assessment analysis and we will have drafts available to distribute. That is going to be your point of entry to go in and look and see what proposed changes we will have and the impact that we will have on your particular property.

Mr. Welsh stated then we might move in a direction.

Ms. Buchanan stated we are pushing. It is a feasible process that you are going to want to participate in as a landowner.

Mr. Adam Krug stated we very much care about the assessments. How do you intend the District to fix the bond default?

Ms. Buchanan asked do you mean do we think the bondholders are going to forgive the debt that has not been paid?

Mr. Adam Krug responded no. The District is in default under two series of bonds. How is that going to get resolved?

Ms. Buchanan responded that is going to be part of this workout. We can't fix it going forward without addressing the problems in the past.

Mr. Adam Krug stated right. They are all related.

Ms. Buchanan stated the trustee will put together a term sheet and circulate it to the bondholder and have the bondholder approve it. It may involve the forgiveness of debt. It may involve the reduction of debt. We don't know yet because at this point there is still approximately \$6,800,000 in the acquisition or construction account. We don't know what direction they want to use those funds for. There are a lot of moving pieces. I think KB Homes is frustrated with it. Hopefully Friday the report will come out.

Mr. Parks asked what do you think you should pay for O&M, 50% of it or 75% of it?

Mr. Adam Krug responded I think it should be a negotiation. I think that the past due amount is ridiculous. I think that the O&M assessments that have been made on wetland parcels is ridiculous. We are sitting here and I am trying to engage the board in a constructive dialogue to pay a significant amount of money as part of a global resolution for the O&M of the past and set the properties that we own and everyone else owns going forward on a sustainable path and that doesn't exist today. Do you think there is a quick resolution with the bondholders once this magic study appears?

Mr. Welsh responded I don't know.

Mr. Adam Krug stated I can promise you there isn't. You have an institutional mutual fund holder sitting in New York, who is not interested in a constructive workout. What I am trying to do is bring those pieces together. We are prepared to buy the bonds and get rid of them as a party but it has to be part of a global resolution. Those bonds that exist today, widely over lever the property. The majority holder of the 2005 bonds, Oppenheimer, is not interested in a

constructive workout here. That is not what they do. They do not fix land problems. That is what we are trying to do. That is what our plan was from the beginning. Now the market conditions have recovered enough for that discussion to make sense for all of the parties. I am here to tell you that I believe we can fix the bond problem.

Mr. Welsh stated so let's say you make a settlement with the bondholders and you get the bonds. The next point we would have to address would be the \$6.5M in the construction fund.

Mr. Adam Krug stated in our opinion it should go to pay off the bonds.

Mr. Welsh stated then the third thing that would have to take place would be to renegotiate the O&M.

Mr. Adam Krug stated yes, all of the past due O&M. The fourth and very critical piece is fixing the assessments going forward.

Ms. Buchanan stated that money was going to be used for a project that I guess will no longer be completed, so keep that in mind, as well. There have been instances in the past, where someone comes and purchases the bonds. They are able to write off the outstanding balance that the District owes to them and you can move forward.

Mr. Adam Krug stated I have gone through a very complicated workout in Tampa and have acquired bonds and have worked with the District on a resolution that has the community and the District back in stable footing.

Ms. Buchanan stated and the bonds aren't really our issue. We are worried about project, our people and our operation and maintenance.

Mr. Adam Krug stated fair enough but you are the borrower and you owe the money and you are in default.

Ms. Buchanan stated no. What I mean is if you wanted to buy them and you wanted to write off the outstanding debt the District owes then I don't know that anyone here would care.

Mr. Adam Krug stated they should care because it affects the bill that shows up on the property.

Ms. Buchanan stated I think what I was trying to say is they would support that.

Mr. Adam Krug stated I would hope so. There is very real potential benefits to all property owners in the community for a global resolution. What I was hoping today was to start the dialogue with the hopes that everyone can have an open mind towards how we fix this for the long term benefit of the community and the District.

Mr. Welsh stated the initial resort parcel was going to be 50x125 but then Mr. Albright said it was going to be 60x125 with a minimum starting house at \$314,000. Which is correct?

Mr. Adam Krug responded we are land sellers, we are selling this land. We are under contract to sell this land to a group who wants to improve it and sell lots to a homebuilder. That is the plan with which they are working on right now. It hasn't been approved by anyone but that is the plan, which the homebuilder and the Developer who we are trying to sell land to, are working together on. They have agreed on that plan between them. That plan shows 148 lots of a minimum of a 60 foot front width. The builder has said they expect homes in that section to start at \$300,000. I have no control over that nor does the Developer who sells them the lots but that is their expectation.

Mr. Welsh asked so there will be no homes at 50x125 foot then?

Mr. Adam Krug responded that plan, which they have agreed on but no one else has approved, contemplates 60 foot lots. That plan has to go through zoning approval with the City, so only at that time will such a potential plat move forward.

Mr. Welsh stated I like your idea. I think it is feasible. I would certainly work towards trying to solve this problem if we can get some movement from their counsel with our counsel.

Ms. Buchanan stated our next board meeting is mid October, so we should have a pretty good idea of what is going to happen, as far as the engineers report. I suggest you come back. These guys keep learning new information every month. They really do value what the best solution is for the community. I don't think they are going to exclude any option.

ELEVENTH ORDER OF BUSINESS

Next Scheduled Meeting – 10/23/13 at 1:00 p.m. @ Holiday Inn

Mr. deNagy stated the next regular scheduled meeting is October 23rd at 1:00 p.m. at this location.

TWELFTH ORDER OF BUSINESS

Adjournment

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


Secretary / Assistant Secretary


Chairman / Vice Chairman