

INDIGO  
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Indigo Community Development District was held Wednesday, March 23, 2016 at 1:00 p.m. in the Holiday Inn Daytona Beach LPGA Boulevard, Ballroom, 137 Automall Circle, Daytona Beach, Florida.

Present and constituting a quorum were:

Robert E. Welsh	Chairman by telephone
Thomas G. Leek	Vice Chairman
John McCarthy	Assistant Secretary
Donald Parks	Assistant Secretary
Mark McCommon	Assistant secretary

Also Present were:

James Perry	District Manager
Katie Buchanan	District Counsel by telephone
Kurt von der Osten	Field Operations Manager
Jamie Rountree	Team Rountree
Lydia Picarillo	Resident
Kevin Kilian	Resident

**FIRST ORDER OF BUSINESS**

**Roll Call**

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

**SECOND ORDER OF BUSINESS**

**Audience Comments**

There being none, the next item followed.

**THIRD ORDER OF BUSINESS**

**Approval of the Minutes of the January 27,  
2016 Meeting**

Mr. Perry stated the next item is approval of the minutes of the January 27, 2016 meeting. I have one correction on page 8 and that blank should be filled in with Greathouse. Are there any other additions or corrections to the minutes?

There being none,

On MOTION by Mr. Parks seconded by Mr. Leek with all in favor the minutes of the January 27, 2016 meeting were approved as amended.

Mr. von der Osten joined the meeting at this time.

**FOURTH ORDER OF BUSINESS                      Ratification of Revised Commercial Lease Agreement**

Mr. Perry stated item four is ratification of revised commercial lease agreement and this is for the office space the district utilizes.

On MOTION by Mr. Leek seconded by Mr. Parks with all in favor the revised commercial lease agreement was ratified.

**FIFTH ORDER OF BUSINESS                      Selection of Audit Committee**

Mr. Perry stated item five is selection of an audit committee. Our audit proposals go out for three years typically and this is the third year of our audit so we are going to need to engage for this fiscal year, which ends September 30<sup>th</sup>, a new audit firm. As part of that process it is spelled out in the statute as to how you do that. The board will need to appoint an audit committee and we typically ask that the board sit as the audit committee and the audit committee will meet just prior to our next meeting and at that time they will approve the audit criteria for review of the proposals. There are four criteria required by statute and a fifth, which is price and if you approve that criteria and the weighting then we will do an RFP, run the ad and once we get the proposals back the audit committee will review and rank them and that ranking will be presented to the board.

On MOTION by Mr. Parks seconded by Mr. McCarthy with all in favor the board members were selected to serve as the audit committee.

**SIXTH ORDER OF BUSINESS                      Staff Reports**

**A. Attorney**

Ms. Buchanan stated one thing that has just changed relates to the departure of Julio Aponte from Greenberg Traurig. Julio is the attorney we worked with most frequently in

connection to trying to resolve our assessment issue over the last couple of years. He is also the point of contact we had and I have spoken with his replacement, her name is Camille Evans and she is a shareholder at Greenberg Traurig but we did want to let you know that changed.

Mr. Perry stated if you will recall at our public meeting a couple years ago he spoke in regards to the restructuring of the bonds and the reallocation of assessments.

Mr. Parks asked what activity do we have on those things, foreclosure potential and all of that?

Ms. Buchanan responded things are holding steady. We need to sit down and talk to Camille about Indigo so she is up to speed with things. The one thing I want to make sure that we work on is that Jim and I were never privy to those conversations that Julio had with the bondholders. I want to make sure that Camille has come up to speed on the conversations that Julio had with them and that they are still in the same position. I don't expect a change but I need her to acknowledge that she is on the same page.

Mr. Perry stated unfortunately this district has a lot of history and he was involved for several years so the institutional knowledge is gone in regards to the firm itself. We just thought you ought to be aware of that.

**B. Engineer**

There being none, the next item followed.

**C. Manager – Update on I-95 Interchange Operations Funding – City of Daytona Beach**

Mr. Perry stated I spoke with Commissioner Gilliland a couple of times at length one time. The bottom line in regards to probably pursuing the city of entering into some type of agreement for funding is not feasible. He also pointed out that there are other areas in the City of Daytona Beach that there are HOAs that fund upgraded landscaping and so forth. If they were to open that door in regards to the interchange, which is a little different but still they would have that issue. He pointed out one of the bigger ones is the Pelican Bay Community they do the median maintenance.

Mr. McCarthy stated even though they have a contract that says they are going to do that work they are saying we are not going to.

Mr. Perry stated what I was proposing to him was more of a cost sharing arrangement such as what we had with Consolidated so that they would sit in Consolidated's shoes or we could enter into some type of agreement that would allow subsidy if you want to call it that or whatever. His position was that was not feasible at this time.

Mr. Parks asked did you discuss level of service?

Mr. Perry responded I did. One of his suggestions was you could always go to the minimum requirements of FDOT and maybe that would create some interest by other parties but he didn't see from a city perspective that they would go anywhere at this time. He cited some other issues with the city and things of that nature. He also expressed frustration with Consolidated on some other issues they have had with them because I asked if he could pursue perhaps getting the list of contributors and dollar amounts he said he would try but he hasn't had any luck on that the last time I talked with him. I don't want to speak for him but that was the gist of it. On the flip of that I have spoken to Kevin, he is here today and what I propose to the board is they have offered to help coordinate hopefully with some of the new property owners out at the outlet mall and potentially be able to get other parties involved in order to do some type of cost sharing arrangement. The board had approved the chairman working with me and whoever at the last meeting but obviously Bob is going to be out of town quite a bit over the next couple of months so I would ask the board to consider appointing someone else to help me.

Mr. Parks stated I would be interested.

Mr. Leek stated I probably wouldn't be interested in doing that right now. I think Kevin is a good guy to try to coordinate on that. I will reach out to Consolidated personally on a personal level and see if I can get that list. I don't know if that will happen but we'll see.

Mr. Kilian stated for point of clarification I do not represent the Automall, I work for one of the principals and have volunteered to be a liaison between the Automall folks and the CDD, which I'm happy to do.

Mr. Perry stated he and Mr. Parks will set up a meeting schedule and hopefully within the next couple of weeks we can get started on this.

The only other thing I had and it ties into our next meeting is going to be May 25<sup>th</sup>, we don't have a meeting scheduled for April but May 25<sup>th</sup> will be the kickoff of our budget process. The way I'm looking at the budget for this next fiscal year is to have it at a level budget that we have this year, no increase in assessments but during the period between approval of the budget

in May and formal adoption in September we will look at it because as you well know we did have a decrease in assessments this last year on the O&M and possibly we can do that again this next year. We can always lower it we can't increase it. If we keep it at the same level going in we can always lower it at the public hearing when we formally adopt the budget.

Mr. McCarthy asked will we have our audit committee meeting before the May 25<sup>th</sup> meeting?

Mr. Perry stated right before it and it will take all of two minutes. Also in regards to the audit the draft audit is almost complete and I could have presented it today but we had a couple issues we are still working on so the audit is basically done. We will also have that at our May meeting so you will know that you have an audit that is done for the last fiscal year before you approve the budget. There are no issues on the audit itself.

Ms. Buchanan asked do we want this board to understand that the JLAC letter just so they know it is out there in case they get a question about it?

Mr. Perry stated sure, I don't have it in front of me.

Ms. Buchanan stated basically it says that the conversation we had about Julio Aponte there is a finding that says it in our audit so over the past several years they connect to the district's financial position and it relates specifically to the bond side of things. It does explain that the district is very secure in its O&M it's general fund obligation but because of this agreement that we have with the bondholders to defer foreclosure on the GC Land then we are simply not collecting assessments for several years back. We are on the roll now they are paying but there are two or three years that they didn't pay. This letter being, Joint Legislative Audit Committee, a committee that follows government audits said they request that we provide an update because it has been more than one audit. Our response is that we have this agreement to defer collection and that we are in a very good position financially on every other aspect of the district. We are required to submit that response that should they have any questions they would follow-up with the district.

Mr. Perry stated as a point of clarification for the record the bond debt is secured by the land, individual landowners and the lands we are talking about are undeveloped lands for the most part that are owned by a few entities and the default on that debt related to those lands do not impact you personally for your lot and home. That means that even though there is debt associated with these undeveloped lands it doesn't attach to your home, it doesn't impact you but

it does impact the district because we are in default of those bonds related to the non-payment of assessments.

Mr. McCommon stated I know we talked about this in the past but I wasn't on the board or even educated enough to know when this first occurred on the default. What was the restructuring? What was the agreement that was made for those?

Mr. Perry responded let's back up. A lot of undeveloped lands were in default and we looked at the assessments that had been placed on those lands and reallocated those assessments and debt. When you looked at it there were certain parcels that were five acres for example and there were 200 units that were going to be built on it. Obviously, you can't build 200 units on five acres. We went through and looked at all the undeveloped lands and we reallocated all the debt to that and that was one step of the process. Then subsequent to that there are two specific parcels that were worked out where there is a formal deferment arrangement in regards to those, NW 28 and SW 21 and those specific parcels not looking at all the others, those specific parcels have that arrangement and spells out when certain things happen, upon the sale of one parcel it triggers certain repayments.

Mr. McCommon asked if they were to catch up their three years or whatever the default are we caught up as well? Will that be enough money to bring it out of default?

Mr. Perry responded no.

Mr. McCommon asked where does the rest of the default lie?

Mr. Perry responded it lies on all the other undeveloped lands. This is only two parcels we are talking about. There are other lands that are in default that have not been paid.

Mr. McCommon stated but no sizable entity like GC that we are pursuing any arrangement with.

Ms. Buchanan stated all the defaulted properties are owned by either GC Land or Consolidated.

Mr. Perry stated Consolidated is current on most of theirs I believe if not all of them. GC Land those lands are sitting there and our option is to foreclose on them and when we foreclose on them then the district will get title and/or a special entity that we create will get title to those lands. To undertake that process district counsel has already done a lot of the work in regards to title. We have not pursued going forward because it is somewhat costly and this is an issue for the bondholders and the trustee and we wouldn't recommend that the district go ahead and

foreclose on them and incur hundreds of thousands of dollars of costs so we are in a holding pattern.

Mr. McCommon stated it remains to be seen because we have made this agreement with GC Land to pay this minimal amount that until those properties are sold or if those properties are sold we are in this period and we have been going on that arrangement long before I got on the board. I know there were discussions going back a year or more.

Mr. Perry stated keep in mind the dollars involved in those two parcels are for past due O&M and subsequent to that we have started putting all of the O&M on the assessment roll collected by the tax collector. We are being made whole now.

Mr. McCommon stated we are being made whole but we are still delinquent because of those three prior years.

Mr. Perry stated there are those three prior years that is correct.

Mr. McCommon asked in your best estimation if just those two parcels were to be current I think we are \$1 million in default on one of the bonds and \$1.3 million on the other, how close is that going to bring us?

Mr. Perry stated not very close at all.

Mr. McCommon asked what are we going to do about that? Are there not penalties for being in default on the bonds?

Mr. Perry responded there are penalties that accrue on top of that but they accrue to the specific parcels of land not your parcel.

Mr. McCommon stated I'm not talking about me I'm talking about the CDD as a whole.

Mr. Perry stated the only real penalty to the district itself if you look at the big picture is because we are in default we do not have the opportunity to refinance our bonds. It is just not feasible at this time. You have too much undeveloped land, you have lands in default and the interest rate right now on some of those bonds is right at 7% and current bonds that are being refinanced are in the 3 ½% to 4% range so it would be great but there is absolutely no way until we get out of that predicament of getting more lands developed because there is a lot of raw land to begin with but also to get out of default. That is the real penalty to the district right now you can't refinance the bonds.

Ms. Buchanan stated we have to explain it to the auditor once a year it is disclosed in the audit.

Mr. McCommon stated I'm not an expert on bonds and financing but in the mortgage market for example there are ways to handle defaults and refinancing and so forth so obviously, there is structuring that can be done. When I did some research Florida and California are the two that have these land based tax exempt bonds and there are more than a couple of them that are in default here in Florida but none of them have been refinanced.

Mr. Perry stated I wouldn't say none of them have been it depends on the circumstances surrounding it. You could be in default but you have a number of lands that have been developed and just not sold they are not just raw land. There could be all sorts of circumstances where you can refinance those bonds. We can have MBS Capital, our investment banker, come to a meeting and talk to the board about the current market and the issues with this. We have talked with them and I see them monthly on different districts.

Mr. McCommon stated everyone here has been here longer than I have and maybe enough discussion has taken place I just wanted to better understand why it couldn't be done because it would seem beneficial for it to happen.

Mr. Perry stated I can't argue with that, it would be wonderful if we could. We have looked at it and I wish we could because it would reduce the debt service carry for the individuals that are current.

**D. Field Operational Manager**

Mr. von der Osten stated I have a request for some sod along some of the rights of ways on Champions and that is about \$1,900.

We are still in process in clearing that common area in Jubilee. There are some comments from a sub-association that their vegetation has been damaged by our pond maintenance vendor but there is no definitive proof. If you remember Jubilee planted some wetland plants in your lake that are now expired and I have been there and talked with the homeowners association about who is responsible for those plants not surviving.

**SEVENTH ORDER OF BUSINESS**

**Supervisors Requests and Audience Comments**

Ms. Picarillo stated at the last meeting there was a discussion about the medians and reflectors on the curbs.

Mr. von der Osten stated I don't have an update on that.

**EIGHTH ORDER OF BUSINESS**

**Approval of Check Register**

Mr. Perry stated the next item is approval of the check register for a total of \$196,405.71 and is for the month of January through mid-March and the detail is behind the summary.

On MOTION by Mr. Leek seconded by Mr. McCommon with all in favor the check register was approved.

**NINTH ORDER OF BUSINESS**

**Financial Statements as of February 29, 2015**

Mr. Perry stated item nine is the financial statements starting with the balance sheet of the district, the general fund, debt service funds, capital projects and the fixed asset and long term debt accounts.

We also have under the general fund a statement of revenues and expenditures. You will see the actuals and proration and almost all the categories were favorable to budget and overall we are about \$70,000 favorable at this point in time. We also have some of those that will turn around with the spring coming up and so forth.

After that are the debt service funds for the 1999A Bond issue along with the 1999C and 2005 Series.

Also the capital projects month-by-month analysis of the revenues and expenditures of the district.

Also we have the tax collections and you will see we are about 56% collected on the roll. If you will recall we do have a lot of tax certificate sales that occur related to those properties primarily that do not make those payments on so we do get those collections in for the O&M and those will be in the May/June/July timeframe.

One thing I did want to mention in regards to the bonds themselves and don't take this negatively but sometimes it is hard to get the trustee and the bondholders to focus on a district like this because in the relative scheme of things even though we have \$15 million worth of bonds outstanding it is almost immaterial to them. It is very frustrating at time to try to get them to react. It is not an excuse I just want you to be aware of that.

**TENTH ORDER OF BUSINESS**

**Other Business**

There being none, the next item followed.

**ELEVENTH ORDER OF BUSINESS**

**Next Scheduled Meeting – May 25, 2016 at  
1:00 p.m. @ Holiday Inn**

Mr. Perry stated our next meeting is going to be May 25, 2016 at this location and we will have the budget at that time. We will also have the audit committee meeting just prior to the regular meeting.

On MOTION by Mr. Leek seconded by Mr. McCommon with all in favor the meeting adjourned at 1:33 p.m.



Secretary/Assistant Secretary



Chairman/Vice Chairman