

INDIGO
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Indigo Community Development District was held Wednesday, May 25, 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
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	Hopping Green & Sams
Kurt von der Osten	Field Operations Manager
Jamie Rountree	Team Rountree

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 March 23, 2016 Meeting

Mr. Perry stated the next item is approval of the minutes of the March 23, 2016 meeting. Are there any additions or corrections to those minutes?

There being none,

On MOTION by Mr. Parks seconded by Mr. McCarthy with all in favor the minutes of the March 23, 2016 meeting were approved.
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FOURTH ORDER OF BUSINESS

Acceptance of Audit Committee Recommendation and Authorization to Issue Audit RFP

Mr. Perry stated the audit committee met just prior to this meeting and approved auditor selection criteria as contained in the agenda package with each of the criteria being equally weighted and we would ask that the board approve what the audit committee approved.

On MOTION by Mr. Parks seconded by Mr. Leek with all in favor the recommendation of the audit committee was accepted and staff authorized to issue an RFP for audit services.

FIFTH ORDER OF BUSINESS

Discussion of Response to Joint Legislative Auditing Committee

Mr. Perry stated included in your agenda package under section 5 is a response to the Joint Legislative Auditing Committee. We have gotten these for the past three years and it is in regard to the default on the bonds and the non-payment of the bulk landowners. Later when we discuss the audit there are a couple places I will note we have the same issue. The board is well aware of the issues we have had in regards to the non-payment of some of those bonds that are in default and this was included as information for the board.

SIXTH ORDER OF BUSINESS

Acceptance of Fiscal Year 2015 Audit Report

Mr. Perry stated item six is acceptance of the fiscal year 2015 audit report prepared by Grau & Associates that was included in your package. I will go through it briefly. Page 1 is the opinion section and whenever you see an opinion that says "except for" which this one does not have an "except for" it means the financials as presented are in accordance with generally accepted auditing standards and governmental accounting standards also. This is the same opinion we have always had for this district, we have never had an "except for". That is not to say when you get toward the back of the report on page 2, the report on internal control at the bottom of that page it also says they did not note anything that gave them concern during the audit itself. In addition I want to point out on page 22 under Note 14 is a disclosure of potential litigation in regards to NW 21 and SW 28 and it is referenced in more detail in Note 9. I wanted to point that out to you because we will be discussing that later and it is included in the audited financials. All of those things have been included year after year. Anybody who would pick up these financials will know that there are issues with regards to certain lands in the district.

On page 27 is compliance with regard to the funds the district has invested and they are all within institutions that meet the requirements of the State of Florida.

The management letter starts on page 28 and on page 29 the financial condition assessment is related to the debt service on those bonds and right below that are things have occurred in the past four years also in regard to the non-payment of funds.

On page 30 you will see no. 6 also deals with the 1999C Bonds and 2005 Bonds but everything else in regards to compliance meets all the standards of the auditor general of the State of Florida.

If we didn't have those issues with the bonds there wouldn't be anything in here that would give you any cause for alarm. I don't want to make it sound like it is cause for alarm for the individual homeowners because the debt runs with the land so you are making your assessment payments along with your tax payments and it is the lands that are not making those payments that have the issue.

On MOTION by Mr. Welsh seconded by Mr. McCommon with all in favor the 2015 audit was accepted and staff authorized to transmit the final document to the State of Florida

SEVENTH ORDER OF BUSINESS

**Consideration of Resolution 2016-01
Approving the Proposed Fiscal Year 2017
Budget and Setting a Public Hearing Date for
Adoption**

Mr. Perry stated next is Resolution 2016-01 approving the proposed fiscal year 2017 budget and setting a public hearing for adoption. Included in your agenda package is a proposed budget for next fiscal year and the board will consider approving this budget and we are proposing to have a public hearing on August 24th and at that time the board will adopt a budget. In regards to approving the budget the assessment levels that we have are the same as we had last year and you will remember we reduced assessments last year. There is a potential to possibly reduce them again this year but we are not proposing that right now to give us the flexibility to do that in August. That is the same process we did last year because hopefully some of these properties that haven't made their payments tax certificates will sell and we will still be in a good financial position. Even if some don't sell we are in good financial shape as far as operation and maintenance.

You can see where we projected the totals for the year and we are pretty much in line with budget in almost all the operational categories and for next fiscal year most of the expenditures are at the same levels. There has been some tweaking but for the most part they are at the same levels.

The only thing to note that is a little bit different is we do have on page 1 the maintenance expenses for I-95 irrigation repairs and maintenance budgeted at \$20,000 and I know our run rate has been a little bit lower than that and maybe we can tweak that number a little bit.

Page 3 shows the funds we anticipate having available at the end of the year and after that are several pages of the notes to the budget that give an explanation as to each of the line items. Then we have our debt series 1999A Bonds and those bonds are not in default, the 1999C Bonds are in default and the 2005 Bonds are related to the South Assessment Area and those are in default also. Finally, the allocation of assessments on page 17 and we left it at the same levels as we did last year.

On MOTION by Mr. Parks seconded by Mr. McCommon with all in favor Resolution 2016-01 approving the proposed fiscal year 2017 budget and setting the public hearing for August 24, 2016 at 1:00 p.m. in the same location was approved.

EIGHTH ORDER OF BUSINESS

Staff Reports

A. Attorney

Ms. Buchanan stated I want to have a discussion on the agreement for payment of operation and maintenance assessments. In front of you is a memo I prepared that we can walk through. By way of background you will recall that we entered into an agreement, which allowed GC Land to pay us \$3,000 a month with the hope that ultimately they would sell NW 21 by a date certain then pay us out of the proceeds. That date has long since passed they weren't able to sell NW 21 they have continued to make the \$3,000 a month payment with the next payment coming in tomorrow. That is significant because once our payment receipts equal \$60,000 the district agreed previously that we would issue an estoppel letter free and clear of any operation and maintenance delinquencies because those delinquencies the \$92,000 was going to shift and be secured by SW 28. As I understand it from a phone call with Leigh Fletcher late last week GC Land does not anticipate owning NW 21 any longer it is scheduled for a tax deed sale

on May 31st and at that point they no longer want to be responsible for making the \$93,000 deferred obligation payment, that is their request. I said you need to help me explain to my board why this is a good idea for them, we made a deal and why aren't you sticking with it? The bottom line is they feel like they don't want to pay for a piece of property that they don't own anymore. Going through the agreement I don't really know that it changes the terms of the agreement, we always contemplated issuing an estoppel letter once they had reached \$60,000 we always contemplated shifting that deferred obligation over to SW 28 and we always understood that our only security was SW 28 so essentially we are still there. The question I think the board needs to discuss and I sort of tried to break out for you in the table on the second page is whether or not to actually amend the agreement and write off that deferred obligation or just continue for now and wait to see if they default on it. If you recall the default was them actual missing two monthly payments, right now they are current on their monthly payments.

Mr. Welsh stated \$3,000 is due tomorrow. When do they normally pay that a week ahead of time or does it go to the last possible day?

Mr. Perry stated it typically goes to the last day. I have gotten emails from them saying the check is in the mail. About three months ago they instituted some kind of automated system so when they cut it check it sends a notice out that says you should be expecting a check. I would be surprised if we don't get it.

Mr. McCommon stated I want to understand this a little better. The agreement we made was that once we issue the estoppel letter that obligation moves over to SW 28 and they are asking us to just forgive it completely.

Ms. Buchanan stated correct.

Mr. McCommon stated I don't see the benefit to us to do that. Is there any other than making them happy?

Ms. Buchanan stated there is one thing to think about and that is that if they stop making the payment the remedy and the only remedy that we ever contemplated is that they provide us a deed to SW 28 and we would take that deed with the understanding that it does already have tax certificates out there. Now I think the value of the tax certificates is significantly lower than the value of the property but that means it comes with headaches. That also means we would be responsible for trying to find a developer for that property. Those are headaches that we need to anticipate and understand upfront.

Mr. Leek stated or we could just sell it.

Ms. Buchanan stated they have been trying to sell these things. We could sell it for much less we don't have that much to recover. In the last paragraph I go into we would have to recover our \$369,000 and assuming that we would want to also cover the \$47,000 that is delinquent we are talking about an equity of more than \$400,000.

Mr. McCommon stated they are asking us to give up \$90,000 so they can make \$400,000.

Ms. Buchanan stated I am not advocating for this one way or the other. What I do think is that this is probably going to go to tax sale on Tuesday and our ability to collect \$97,000 from the purchaser is very speculative at best or we don't do anything and the property may sell and that purchaser isn't going to be obligated to pay it under the terms of the agreement we agreed to. We have reached the \$60,000 threshold.

Mr. Welsh stated we have extended a courtesy to these people for a number of years now and they have never once committed to those agreements that would make us whole. My feeling is we sell the property and get out of this situation and whatever comes, comes. It would be nice if we had a developer but we have been down this road before and it doesn't seem that we are getting anywhere by just backing off all the time.

Mr. McCommon stated I think the board has been very patient in working out an agreement that took months and months to get them to finally sign. I don't see any benefit for us to agree to this I don't see a downside either. Either they are going to pay or not pay. If we just give them what they want we are basically writing off \$96,000 of receivable and I don't see where as an organization and to the district we represent that would be in our best interests.

Ms. Buchanan stated I completely understand I anticipated this reaction. I do want you to think about one thing and there is no urgency to this, say we don't agree to change anything today well then they are not going to pay us for two months potentially, then we get the deed, we end up taking the deed in two months. Say we don't make a decision today they are probably going to continue to pay us \$3,000 a month and hope that we agree ultimately to what they want so then we are \$6,000 richer. If we let it ride and agree to try to negotiate with them they are going to continue paying as long as it takes. The ultimate thing I want you to understand is that the \$47,000 they are willing to keep paying \$3,000 a month towards that balance. When we take the deed we will not be able to collect that either, it will have to come from the sale proceeds.

As long as everyone understands that if we take title we are bypassing a stream of revenue it is not a lot but it is all that we ever contemplated.

Mr. McCommon stated but for months we had zero it is not like this last few months that we finally got paid. I think we play hardball and there is no reason for us to do it. I can't see any business reason I don't see organizationally why we should do this.

Mr. Perry stated for the record I would probably recommend that you don't vote on it today. The agreement is out there, there is nothing to really to vote on. They have asked for a modification of it and this is for discussion.

Mr. Welsh stated I think we should send them a message that we are going to play hardball on this.

Mr. Perry stated staff can send them that message.

Mr. Parks stated I don't see any urgency to make a decision today.

Mr. Leek stated neither do I, we let it ride and see what happens and if they pay they pay and if they don't then we would foreclose and take the deed.

Ms. Buchanan stated we have the deed in escrow.

Mr. Leek stated that is the way I would go with it, just not act on it at all.

Ms. Buchanan stated I'm happy to deliver the message and I will let them know the board sees very little incentive to continue to negotiate this agreement if they would like us to reconsider something that is a little more solid they should probably call or come and present it themselves.

Mr. Parks stated it seems that NW 21 is an attractive piece of property.

Ms. Buchanan stated Jim can help me remember this but the triangle just sold.

Mr. Perry stated the platinum triangle is the parcel that is on LPGA and International Speedway.

Ms. Buchanan stated that sold via tax deed sale.

Mr. Perry stated for \$60,000.

Ms. Buchanan asked are there any questions about the methodology because SW 28 was always our security and right now it is still planned for 244 single family units, it is 117 acres, the taxes continue to grow and that is one thing that plays against delaying this too long. There has been a tax certificate that sold and it is going to be eligible for tax deed sale this time next

year so this can't go on indefinitely it will sell. At this time I think the board's direction is no action and I will take the message back.

B. Engineer

There being none, the next item followed.

C. Manager

1. Report on the Number of Registered Voters (1,432)

Mr. Perry stated by statute we are required to report the number of registered voters within the district boundaries and in your agenda package is a letter from the supervisor of elections indicating that there are 1,432 registered voters in the district.

2. Update on I-95 Interchange

Mr. Perry stated Mr. Parks and I met with Kevin Killian, Kevin hasn't gotten back to me in regard to where they might want to go. They did indicate that the Automall would participate in some funding arrangement if other entities were going to do that. I haven't heard anything else from the City of Daytona Beach and I don't expect that they are going to move at all. The indication I have from them is that they have their own issues and funding is a priority on those and you have an agreement that has been in place 20+ years and you need to deal with it. The other thing to keep in mind is there are other communities coming on, the outlet mall unfortunately when it was sold by Consolidated they created their own district so I doubt that the outlet mall would participate since we have received the message from Consolidated that they are not going to participate. I don't think there are any other funding sources and we don't have any real leverage at this time. I know the board would like a solution but there is not an equitable solution.

Mr. Parks asked what is our minimum obligation?

Mr. Perry stated there is not a lot of difference in budget.

Mr. von der Osten stated it was about half the maintenance we are doing now.

Mr. Perry stated yes but it doesn't change the electric.

Mr. von der Osten stated you are not going to like the way it looks but I think you could cut it significantly and the DOT won't be able to say a word to you.

Mr. Leek stated I think we should encourage Kevin to pursue that if the Automall is willing to participate.

Mr. Parks stated give us until the next meeting to make some contacts.

Mr. Perry stated we will still work with Kevin and see what we can do.

D. Field Operational Manager

Mr. von der Osten stated at the International Golf Drive entrance the American Flag is not lit and I had a request from a resident to install an up light at the International Golf Drive entrance. I don't have a price on it but we would tap into an existing line that is there and match the ones we have. We will need to install a fixture and I would guess it would be \$500 to \$750.

It was the consensus of the board to have a light installed.

Mr. von der Osten we did replace a motor in one of the new fountains and it was replaced under warranty.

In follow-up to the last meeting about the reflectors on the medians, I brought a couple samples for you to think about and we could mount these on top of the curb at the islands or put them on the curb itself. You have a color choice. We can do a test island and see how it looks. I don't know that they need to be at the end of every island maybe just the ones where a turn is or intersection. Jamie knows the islands that get hit the most because he has to repair them.

Mr. McCommon stated do two and let us know where they are so we can see how they look.

Mr. Rountree stated the next annual rotation will be in the third or fourth week of June.

NINTH ORDER OF BUSINESS

Supervisors Requests and Audience Comments

A resident stated I enjoyed the discussion I think you are holding up our interests. It is frustrating to hear that we are held hostage by somebody. I know Consolidated Tomoka was calling the shots but to not have a provision to share some of the costs I don't understand that. Why wasn't it part of the deal that any of those pieces of land would automatically get assessed?

Mr. McCarthy stated that's the way they wrote it.

Mr. Perry stated keep in mind they are outside the district boundaries. The district has a specific boundary of acreage and the Automall is outside the district boundaries and the other stuff they just sold is outside the district boundaries.

A resident asked is there anything we can do or anyone we can contact to put pressure on Consolidated Tomoka or the new outlet mall or the developer of the 3,500 housing unit to improve the road over 95 other than the maintenance? I understand we are obligated for that but the road itself is already lousy and all these huge trucks come in and there are more coming as they fill the store with merchandise. Is there anything that can be done to improve the road itself?

Mr. Leek stated I think there are impact fees paid to the city for all of those developments and one thing you could do is talk to Rob Gilliland and try to get the city to earmark some of those impact fees to improve that road.

Mr. Parks asked wouldn't there be two fronts, that and the Florida Legislature to earmark DOT funds like they have for the new exchange that is going to be for 92 here as well?

Mr. Leek stated you would think so.

A resident asked the speed limit is 30 mph on Champions Drive but nobody seems to adhere to that. Is it possible to put in speed bumps on Champions Drive?

Mr. Perry stated keep in mind those roads are city roads.

Mr. Welsh stated I talked to people at the city two years ago about that and the police gave a couple warning tickets and that was it. I was told they didn't have the manpower to patrol that.

Mr. McCarthy stated also they will not give out tickets unless it is 7 miles over the speed limit.

Mr. von der Osten stated everything west of 95 is a county road.

TENTH ORDER OF BUSINESS

Approval of Check Register

Mr. Perry stated there are two check registers the first is \$78,393.20 and the second is \$9,846.75.

On MOTION by Mr. Welsh seconded by Mr. McCommon with all in favor the check register was approved.
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ELEVENTH ORDER OF BUSINESS

Financial Statements as of April 30, 2016

Mr. Perry stated under section eleven are the financials as of April 30, 2016 and includes the balance sheet, statement of revenues and expenditures, debt service funds for the 1999A

Bonds, the 1999C Bonds and 2005 Bonds, capital projects fund for the 1999A Bonds, month-by-month analysis and finally you have the tax collector receipt schedule and it shows 62% collected. We will start receiving tax certificate sale proceeds shortly.

TWELFTH ORDER OF BUSINESS Other Business

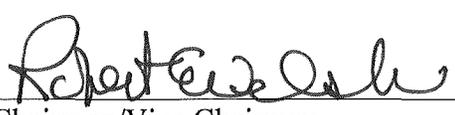
There being none, the next item followed.

THIRTEENTH ORDER OF BUSINESS Next Scheduled Meeting – 06/22/16 at 1:00 p.m. @ Holiday Inn

Mr. Perry stated the next meeting is June 22, 2016 at 1:00 p.m. and the following one will be in August, we skip July.

On MOTION by Mr. Parks seconded by Mr. McCarthy with all in favor the meeting adjourned at 1:57 p.m.


Secretary/Assistant Secretary


Chairman/Vice Chairman