

MINUTES OF MEETING
INDIGO COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Indigo Community Development District was held Wednesday, October 22, 2008 at 1:20 p.m. at the Daytona State College, Building 100, Room 400, 1200 West International Speedway Boulevard, Daytona Beach, Florida.

Present and constituting a quorum were:

Kurt von der Osten	Chairman
Robert E. Welsh	Vice Chairman
John McCarthy	Supervisor
Randy Smith	Supervisor
George Speer, III	Supervisor (by telephone)

Also present were:

James A. Perry	District Manager
Jonathan Johnson	District Counsel (by telephone)
Jamie Fowler	Hopping Green & Sams

FIRST ORDER OF BUSINESS

Roll Call

Mr. Perry called the meeting to order at 1:20 p.m.

SECOND ORDER OF BUSINESS

Affidavits of Publication

Mr. Perry stated item two is affidavits of publication and those are copies for the board. There is no action that needs to be taken but those are the ads that were run in the Daytona Beach News Journal.

THIRD ORDER OF BUSINESS

Approval of the Minutes of the September 24, 2008 Meeting

Mr. Perry stated item three is approval of the minutes of the September 24, 2008 meeting and those are included in your agenda package. Are there any additions, corrections or changes to the minutes as presented?

There not being any,

On MOTION by Mr. Welsh seconded by Mr. McCarthy with all in favor the minutes of the September 24, 2008 meeting were approved as submitted.

FOURTH ORDER OF BUSINESS

Acceptance of the Minutes of the September 23, 2008 Landscape Committee Meeting

Mr. Perry stated item four is acceptance of the minutes of the September 23, 2008 landscape committee meeting. Those are included in your agenda package. Are there any additions, edits or changes to the minutes?

There not being any,

On MOTION by Mr. Smith seconded by Mr. McCarthy with all in favor the minutes of the September 23, 2008 landscape committee meeting were accepted as submitted.

FIFTH ORDER OF BUSINESS

Consideration of Audit Engagement Letter from Carr Riggs & Ingram to Perform the Audit for Fiscal Year 2008

Mr. Perry stated item five is the audit engagement letter from Carr Riggs & Ingram to perform the audit for fiscal year 2008. That is included in your agenda package. The budget for the year is \$8,000 their proposed fee is \$7,500 and it is consistent with their proposal. I ask for a motion to approve the engagement letter with Carr Riggs & Ingram.

On MOTION by Mr. McCarthy seconded by Mr. Smith with all in favor the engagement letter with Carr Riggs & Ingram to perform the audit for fiscal year 2008 was approved.

SIXTH ORDER OF BUSINESS

Consideration of Proposals for Landscape Services

Mr. Perry stated item six is consideration of proposals for landscape services.

Ms. Fowler stated in your package behind tab 6 is a summary of the evaluation of your landscape review committee. The committee consisted of two board members, Randy Smith and Bob Welsh. They met twice, first on September 23, 2008 as noticed in the newspaper ad that is in the front of your package, and they continued that meeting to last week on October 16, 2008. At that time they met to review the proposals and came to the recommendations included on that sheet.

Mr. Smith stated first of all starting at the bottom of the page we wanted to recommend to the board that we consider Servello's proposal as non-responsive due to incomplete proposals. They gave us a one year proposal and we had specifically asked in the RFP package for three years but we did continue to score their RFP package. You are looking at the spreadsheet and you can see my scoring and Bob's scoring and then in the third grouping you have the total scoring which came out to Austin with 83.5 points, Pro Scape with 88 points, Rountree with 90.5 points, Servillo with 85.5 points and Valley Crest with 87 points giving you a scoring of Rountree in first place, Pro Scape in second place, Valley Crest in third place, Servello in fourth place and Austin in fifth place. The three year average price for Rountree is \$512,802 per year for three years. That is the average price but it is also the same price for each year.

Mr. Perry stated just for clarification because you mentioned Servello being non-responsive they really shouldn't be ranked. Is that the case?

Ms. Fowler stated we had the committee rank them just in case the board did not choose to accept the committee's recommendation, but it is counsel's recommendation as well as your committee's recommendation to consider that proposal non-responsive and reject it. By not including those extra two years they were in violation of the requirements of the RFP package and the committee was unable to accurately compare their information with that of the other proposers due to an inability to compare price effectively. Some of the other packages may not have included other documents or information that was missing but the committee did not deem any of that to be material and recommend to the board that that the board waive the other irregularities. .

Mr. Smith stated it was the committee's recommendation that we award the contract to Rountree which is the number one ranked firm.

Ms. Fowler stated the board today can either accept the committee's recommendation and rank the proposals in order and notice its intent to award the contract to Rountree. It can change the scoring in some way; it has the ability to rescore if it so chooses, or if the board is not ready to make a decision today, you can put that off to the next meeting or to a continued meeting. It is at the board's discretion as to how to move forward.

Mr. von der Osten asked the contract is in form or just whoever we select we enter into contract negotiations?

Ms. Fowler stated the contract is set and it is a one year contract and the district has the sole option to renew for the additional two years.

Mr. von der Osten stated it is a one year contract with options for two years.

Ms. Fowler stated at the district's discretion and at the price provided by the proposal and the contract.

Mr. von der Osten stated so the contract is uniform for whomever was selected. As far as if somebody wants to split ways if you want to fire somebody is that a 60 day notice?

Ms. Fowler responded the contractor can terminate the agreement with cause with 30 days notice. The district may terminate this agreement immediately with cause and without cause with 30 days notice.

Mr. Smith stated it would be the committee's recommendation to award the contract to Rountree the number one ranked firm.

Mr. Perry stated we would ask that the board based upon the committee's recommendation by motion rank the same ranking you have provided for you on the sheets and award the contract to Rountree.

Ms. Fowler stated also rejecting Servello's proposal as non responsive and waiving any irregularities in the remaining proposals.

On MOTION by Mr. von der Osten seconded by Mr. McCarthy with all in favor the ranking recommended by the committee was accepted and the contract was awarded to Rountree was ranked first, Servellos's proposal was rejected as being non-responsive, and any irregularities in the remaining proposals were waived.

Ms. Fowler stated we will work with district management to prepare letters in accordance with the rules of procedure notifying the proposers of our intent to award that contract to Rountree and setting forth protest rights.

SEVENTH ORDER OF BUSINESS

Development Status Update

Mr. Perry stated item seven is development status update.

Mr. von der Osten stated development status remains the same as last month. The developer still plans to develop all properties in accordance with the engineer's reports that

accompany the 1999 and 2005 series bonds. With the market slow sometimes the development timeline gets extended but all plans remain unchanged.

EIGHTH ORDER OF BUSINESS

Other Business

There not being any, the next item followed.

NINTH ORDER OF BUSINESS

Staff Reports

A. Attorney

There not being any, the next item followed.

B. Engineer

There not being any, the next item followed.

C. Manager – Builder Lots under Bankruptcy

Mr. Perry stated the only thing I want to bring to the board's attention and we have been working with district counsel, there have been some bankruptcy filings with two large lot owners in this district, one is with TOUSA that has 118 lots in the south area and the other is Woodside Homes and they have 115 lots in the north area. In those bankruptcy filings there were documents prepared by district management, staff, and provided to counsel and they filed documents with the bankruptcy court in regards to the debt associated with those lots.

Ms. Fowler stated we have a proof of claim in the TOUSA bankruptcy; it is further along than Woodside. The TOUSA bankruptcy has been in effect for ten months now and we filed a proof of claim for the par debt that is remaining on those lots. It is our understanding that they are up to date on their assessment payments. We went ahead and filed that in an abundance of caution to preserve any rights the district may have. Woodside is not there yet. They are also up to date. It is not time to file claims yet, because they haven't even filed their schedule, so we don't know what they scheduled our claim as. It is our understanding that they intend to continue to pay. There is a hearing tomorrow in that bankruptcy case where Woodside has moved to be able to pay these payments. We think they can already do that but in an abundance of caution they filed a motion to be allowed to by the bankruptcy court. That hearing will be held tomorrow.

Mr. von der Osten asked they will have until March to pay before being late or in default the same as the county? They are being billed through the county.

Mr. Perry stated they are being billed through the county tax collector. They have until March 31. The indication from both of those is that they will make their payments timely so I would imagine they will take their discounts if they can.

Mr. von der Osten stated none of these are direct billed.

Mr. Perry responded they are not direct billed.

Mr. Johnson stated I think you are likely to see that to the extent that assessments are on the tax roll those are more likely to be paid even if the court were for some reason to construe the assessments in some way other than being payable out of the ordinary course of business. Taxes generally are payable and these are on the tax bill and they are going to be treated the same way so I think we are fairly well positioned.

Mr. von der Osten asked and we are placed ahead of the other creditors, the bank, right?

Mr. Johnson responded correct we have a first lien.

Mr. von der Osten asked so come March they haven't paid the district option would be what?

Mr. Johnson responded at that point it is handled by the tax collector who would sell a tax certificate and ultimately a deed.

Ms. Fowler stated if they are still in bankruptcy they would not be able to sell that tax certificate but they would sell it once the bankruptcy is completed.

Mr. Welsh asked would they sell all 115 lots or parcel that off?

Ms. Fowler responded they would try to sell all of them but whether they would sell or not is another story.

Mr. Welsh asked with the tax certificates they would try to sell individually?

Ms. Fowler responded it would be individually.

Mr. Perry stated make no mistake while they are in bankruptcy those certificates can't be sold.

D. Construction Manager

Mr. Smith stated I have nothing as construction manager but I have a request that we add another line in here for possibly maintenance management or something like that. It always feels like I'm adding those types of items under construction manager and they don't really fit.

Mr. Perry stated okay.

Mr. Smith stated I don't have anything to present to the board this month but I do have an issue with one of our contracts with the aquatic management company. If the board will remember last year we accepted the proposal for the contract for the new lake maintenance company at about 50% of the previous year's contract with some hesitation but also with some hope that it could get done for that price. Well, we are having problems. I have had numerous meetings with the managers and with the owner of the company and we are at a point now where we need to renew that contract. He is having some difficulty and thinks he is really not going to be able to meet the earlier price so he is going to come back to us here in the next couple of weeks with some proposals and I should have those available for the next board meeting.

Mr. von der Osten stated so our really low bid didn't work out.

Mr. Perry asked are you suggesting we are going to get proposals from other parties or just from him?

Mr. Smith responded I think I will wait to see what he comes back with. They are doing a good job. They had some issues with some manpower and we had some weather issues and I think the combination of the two really put them behind the 8 ball with the maintenance level that we expect. They have made some changes to their manpower and we have seen some major improvement in the past three weeks but that is going to come at a cost. That is what we need to find out. I will make recommendations next month as to which way the board would like to proceed. I would ask that we be allowed to maintain their current pay level for the next month or so until we come to an agreement or decide to go out for bid.

Mr. Perry stated I think you have that under the contract. Are you saying the term needs to be extended?

Mr. Smith stated I defer to Jamie if the board needs to approve that or we just continue.

Ms. Fowler stated I think you just continue to pay as we have been paying and next month we will know if we want to enter into a year long agreement with that company or with another company.

TENTH ORDER OF BUSINESS

Supervisor's Requests and Audience Comments

Ms. Boyle stated my question was about the ones that have gone bankrupt. Would it have any impact on the homeowners and I think you more or less said it wasn't.

Mr. Perry stated at this point in time all indications are that they will be making the payments.

Ms. Boyle stated you already have liens and everything and basically what they are paying is the taxes. We are not liable for their taxes.

Mr. Perry stated no we are not.

Mr. von der Osten stated I guess the question is does the district have reserves or can it function as it is currently functioning if we don't collect that 233 lot assessments?

Mr. Perry responded a lot of that is related to the bonds so that goes through a whole other phase because we have debt service reserve funds and things of that nature. More importantly is the O&M portion and luckily this district has enough cash on hand plus reserves that you can absorb that issue for a year or two without any impact to the district. The district is in a good financial position in that regard. Of course, the other issue too is as you stated more than likely some other builder or developer will pick up those lots and they will come in and step into the shoes of TOUSA or Woodside if they decide they want to exit this district.

Mr. von der Osten asked the TOUSA lots does that include lots in Masters Glen on NW 27th? I think GMAC owns those lots.

Mr. Welsh stated I think there are two.

Mr. von der Osten asked are they paying?

Mr. Welsh stated I think there are two in foreclosure in Masters Glen.

Mr. Perry stated I am not positive on GMAC. I know we had some issues on other districts but they paid recently. I think we are okay here.

Ms. Fowler stated when these lots are sold at foreclosure they are required to pay the taxes and since the district collects its assessment on the tax roll they pay that as well as the property taxes, the ad valorem taxes.

ELEVENTH ORDER OF BUSINESS

Approval of Check Register

Mr. Perry stated item eleven is approval of the check register and that is included in your agenda package. The check register is for \$64,217.10 and is comprised of normal and customary

expenses of the district including Rountree's payments, also some transfers of the bond funds from the general fund which was about \$37,000. All the assessments come into the general fund and we have to transfer them out. Out of the \$64,000 there was approximately \$27,000 related to expenditures of the district.

On MOTION by Mr. Welsh seconded by Mr. von der Osten with all in favor the check register was approved.

TWELFTH ORDER OF BUSINESS

Financial Statements as of September 30, 2008

Mr. Perry stated under section twelve is the financial statements for the district as of September 30, 2008 and these are unaudited but are pretty close to what we will end up with at year end. They are set up as you are familiar with the general fund, debt service, capital projects and the account groups. In the general fund we are projecting approximately \$784,000 worth or assets of which approximately \$750,000 of that is cash that can be utilized by the district for funding operating expenditures in the future. Page 2 is the general fund statement of revenues and expenditures and again nothing unusual for the year. In most budget categories we were below budget and you can see the variances in the right hand column. We also have the debt service fund for the series 1999A bonds, 1999C bonds and the 2005 series bonds. Again, nothing unusual to note other than our interest income probably for this next year is going to be off significantly from what we had in past years. Also you have the capital projects fund which shows the dollars still available with each of the bond issues and the bulk of that is the 2005 series with about \$6.7 million. Then you have a spreadsheet on a month to month basis of revenues and expenditures. The financials stand on their own and don't require board approval. If you have questions on anything just get with me.

THIRTEENTH ORDER OF BUSINESS

Next Scheduled Meeting – 11/19/08 at 1:00 p.m. @ Daytona State College

Mr. Perry stated our next scheduled meeting is November 19, 2008 at this location at 1:00 p.m.

On MOTION by Mr. Welsh seconded by Mr. McCarthy with all in favor the meeting adjourned at 1:45 p.m.



Secretary/Assistant Secretary



Chairman/Vice Chairman