

MINUTES OF MEETING
INDIGO
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Indigo Community Development District was held Wednesday, June 22, 2022 at 1:00 p.m. in the Fairfield by Marriott Daytona Beach, 1820 Checkered Flag Boulevard, Daytona Beach, Florida.

Present and constituting a quorum were:

John McCarthy	Chairman
Kevin Kilian	Assistant Secretary
Ron Brown	Assistant Secretary

Also Present were:

James Perry	District Manager
Wes Haber	District Counsel by telephone
Kurt von der Osten	Field Operations Manager
Jamie Rountree	Team Rountree
Ken Artin	Bryant Miller Olive
Several Residents	

FIRST ORDER OF BUSINESS

Roll Call

Mr. McCarthy called the meeting to order, and Mr. Perry called the roll and stated just prior to the meeting I administered the oath of office to Supervisor Brown.

Mr. Perry reviewed the documents for new supervisors including the form 1 statement of financial interests, W-2, Q&A on CDDs and Chapter 190, F.S.

SECOND ORDER OF BUSINESS

Public Comments

Several residents from Jubilee complained about the stormwater lakes in the subdivision and presented a timeline of issues along with some pictures.

The board direction to staff was to determine ownership of the lake along with the responsibility concerning dredging.

THIRD ORDER OF BUSINESS

Minutes

A. Approval of the Minutes of the May 18, 2022 Board of Supervisors Meeting

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On MOTION by Mr. Kilian seconded by Mr. Brown with all in favor the minutes of the May 18, 2022 meeting were approved as presented.

B. Acceptance of the Minutes of the May 18, 2022 Audit Committee Meeting

On MOTION by Mr. Brown seconded by Mr. Kilian with all in favor the minutes of the May 18, 2022 audit committee meeting minutes were accepted.

FOURTH ORDER OF BUSINESS

Consideration of Settlement Offer Regarding Parcel UTC-3

Mr. Artin stated 1 & 2 want to purchase it from the current owner but they can't do it with the pending foreclosure. They have asked me to put together this offer, which is very similar to the prior settlement offer; they are paying off the debt assessment, UTC-3 is assessed 36 ½ single-family units, they are paying that off in full along with all accrued interest so there is no negotiating with bondholders, they are getting everything they are due. As has been the case in the prior settlement it is the accrued penalties that have built up over the last ten or so years that are crushing the market values and they are asking for the waiver of those penalties, they will pay the debt assessment. There is a very old 2011 O&M assessment of \$7,200 from the prior owners. They would appreciate if that was also included in the waiver and if that is acceptable, they are ready to purchase and start paying principal, interest and O&M assessments currently and they are in a very good position to get UTC 1, 2, 3 under development. One of the good things about all these settlement offers is these landowners have come forward and many of these properties are under development. This is the potential purchaser of that site, not the current landowner that is putting this forth. If there are any questions, I would be happy to discuss it.

Mr. Perry stated this structure is pretty much what we have done with all of these.

Mr. McCarthy asked is the purchaser someone local?

Mr. Artin stated it is JMJ, John Finch and Malcom Jones and two years ago they purchased a lot of the land on the northern edge that was in default. They own other land in the district, and they are current with their assessments. It is my understanding they have a purchase agreement

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signed with Hayman Woods and if you agree to this settlement they will close and make the payments.

On MOTION by Mr. McCarthy seconded by Mr. Brown with all in favor the settlement offer on UTC-3 was approved.

Mr. Artin stated thank you very much and I think this is it, everybody else in the foreclosure are walking away from their properties and the foreclosure should go smoothly. There are only a few minor parcels left and those will be sold as part of the foreclosure process.

FIFTH ORDER OF BUSINESS

**Consideration of Resolution 2022-04
Designating Officers**

Mr. Perry stated the current slate of officers is Mr. McCarthy as Chairman, Mr. McCommon as Vice Chairman, myself as secretary and treasurer, Patti Powers of GMS is assistant treasurer, Jim Oliver of GMS is assistant treasurer and assistant secretary and Mr. Kilian, Mr. Workowski and Mr. Brown would all be assistant secretaries. That is consistent with what we have done in the past.

On MOTION by Mr. Kilian seconded by Mr. Brown with all in favor Resolution 2022-04 was approved reflecting the officers as listed above.

SIXTH ORDER OF BUSINESS

**Consideration of Addendum to Landscape
Maintenance Services Agreement with
Rountree**

Mr. Perry stated we talked about this briefly at the last meeting and Jamie has provided in your package a recap of his contract and the proposed 5% increase.

On MOTION by Mr. Brown seconded by Mr. Kilian with all in favor the addendum to the agreement with Rountree for landscape maintenance services was approved.

SEVENTH ORDER OF BUSINESS

Discussion of the Fiscal Year 2023 Budget

Mr. Perry stated item seven is a placeholder, we did the budget last month, nothing has changed at this point in time. We will update it to take into consideration the change in Rountree.

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EIGHTH ORDER OF BUSINESS

Acceptance of Engagement Letter with Berger Toombs Elam Gaines & Frank for Audit Services or Fiscal Years 2022-2026

Mr. Perry stated Berger Toombs was selected at the last meeting and their contract is an annual contract, but it will run through 2026.

On MOTION by Mr. McCarthy seconded by Mr. Brown with all in favor the engagement letter with Berger Toombs was accepted.

NINTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

Mr. McCarthy stated one of the questions I had is since there is such a variety of ownership of the ponds, is there any liability associated with the CDD and Homeowners Association in regard to the ponds. If someone is fishing and falls into a pond, are we liable for any of that and if that is the case does putting up signage negate our liability?

Mr. Haber stated generally speaking to the extent the CDD has any involvement with the ponds, and it sounds like they are owned by one entity, but the CDD has some maintenance involvement, there is going to be liability. Putting up signs does not necessarily negate the liability but if there is a lawsuit a lawyer is going to name every possible person and entity to try to maximize the recovery. If the CDD doesn't own the pond and the HOA does and the CDD is maintaining any aspect of the pond, the CDD will be named as well. There is no fishing in the ponds and having a sign will be beneficial it would not hurt to be able to explain that the CDD sought to notify and that wasn't followed. That being said, I do not think it fully negates liability. There are always mitigating factors that come up that one can't predict.

B. District Engineer- Acceptance of the Stormwater Needs Analysis Report

Mr. Perry stated included in your agenda package is the stormwater 20-year needs analysis, which is a new requirement by the Florida Legislature. This report is a high-level report and it does mention that most of the ponds are HOA owned and future stormwater would typically be done by the developer and HOA, not the district. It also indicates that we do have funding for maintenance of the water quality and so forth and that has been consistent for each year. We ask that the board accept the report, we do need to file it with the state.

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On MOTION by Mr. Kilian seconded by Mr. Brown with all in favor the stormwater needs analysis report was accepted.

C. District Manager

Mr. Perry stated with regard to the ponds I'm somewhat familiar with the other districts we have and personally in my community the water level is down probably 4-feet on the pond, it looks terrible. I know Kurt and Rountree have been struggling with it and doing the best they can and always keep in mind there are limitation on how much product you can put into these things. Unfortunately, that has also had a major impact with the community.

Mr. McCarthy stated the Lionspaw Community Owners Association has one lake. What are the responsibilities of the HOA? Do we own that lake and are we responsible for maintaining that lake?

Mr. von der Osten stated the CDD will spray it for algae but if the lake banks erode, if a structure gets damaged if it gets filled in, it is going to be all on the HOA.

Mr. McCarthy asked why is the CDD spraying the lakes?

Mr. Rountree stated the reason for it was because all the lakes are connected. If we get duckweed in Lionspaw pond it can very easily get into the CDD ponds or the other HOA ponds, because all of that is connected underground in the stormwater system. That is why 24 years ago they made the decision that the CDD will simply spray; the maintenance of the ponds, embankment failure, stormwater outfall failure that would all be the owner of the pond, but the treatment was done by one entity that way everything was consistent.

Mr. McCarthy stated that treatment over the 24 years to maintain the pond to a point they started filling in with this algae and stuff.

Mr. Rountree stated no, it is just natural. Think of it like mowing a lawn, you mow the lawns the clippings fall, that becomes thatch and what Mr. Fitzpatrick was saying was not actually correct. He said the application is not being made correctly, that is an inaccurate statement; what is happening is natural, especially on those ponds. Those are probably three of the oldest ponds in the development so it is natural that they would have a problem first. They are also some of the shallowest. If the water is 8-feet deep the sunlight effectively gets 3-feet down; when the water is 4-feet down now the sunlight is getting to the bottom and that is why you get excessive blooms when we get drought conditions.

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Mr. McCarthy stated the CDD spraying over the years has actually prolonged the life of the lakes.

Mr. Rountree stated correct. It is just normal maintenance.

Mr. McCarthy asked and we have reached the point now where normal maintenance is at work?

Mr. Rountree stated correct. If you have a 25-year roof, eventually you have to replace the roof, 5-year paint eventually you have to repaint.

Mr. von der Osten stated that is why in this report there are a lot of questions about maintenance plans and reserves and funds for major stormwater maintenance down the road and we don't really have a reserve fund for stormwater systems because we own so little stormwater that our operation budget is enough to handle anything that comes our way unless we start physically repairing all the lakes that the HOAs own, then you are not going to have enough.

Mr. Brown asked have there been any studies to say what would be a good solution for this, not that I have one, but someone may have a solution we don't know about somewhere else.

Mr. Rountree stated it was mentioned earlier. Again, I go back to a 25-year roof that eventually you have to replace the roof. These ponds once they get enough age on them or get shallow enough because over the years all that organic material building up basically in essence makes that pond shallower because it raises the level of the bottom. Eventually you are going to have to go in there and clean these things out; that falls in my opinion on the owner of the property. If it happened to the six CDD ponds the CDD would be responsible for going in and dredging these things out or pumping them out.

Mr. Brown asked has there been another alternative way, rather than dredging them out, has someone found a way to do that?

Mr. Rountree stated Pelican Bay is a great example in our local area that fought this and if you have been there, there is a little boat out there with a paddle on it and they scoop this stuff up putting it on a big flatbed; that is one way. The other way is they go in and actually pump it where the solids stay, and the water goes back in. There are a couple different ways to do it. As far as studies go, that is probably a better question for our engineer than for me.

Mr. von der Osten stated typically the water management permits are obtained by the developer, they construct it and it says in the permit who is responsible for perpetual maintenance; typically, it is the HOA.

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Mr. Perry stated or the CDD.

D. Field Operational Manager

Mr. von der Osten stated we are still waiting on the report from the LPGA study, they told me they expect something in July. When we get that we can discuss the entryways more, the pavers, the roads, the whole nine yards.

We have development going on that you see every day. I haven't had any new issues.

Mr. Rountree stated the two front fountains should be up and going next week. Those fountains are about eight feet deep.

Mr. McCarthy asked in the new developments are all those roads and common areas going to be the CDD's responsibility?

Mr. von der Osten stated I may be hearing back when they are ready to turn over things.

Mr. Perry stated the roads are going to be the city's. The district doesn't have roads.

Mr. von der Osten stated we do have some stormwater in their lakes and the entryway. I would say in the next six weeks we should know more.

TENTH ORDER OF BUSINESS

Supervisors Requests and Public Comments

There being none, the next item followed.

ELEVENTH ORDER OF BUSINESS

Approval of Check Register

On MOTION by Mr. McCarthy seconded by Mr. Kilian with all in favor the check register was approved.

TWELFTH ORDER OF BUSINESS

Financial Statements as of May 31, 2022

A copy of the financials was included in the agenda package.

THIRTEENTH ORDER OF BUSINESS

Next Scheduled Meeting – August 24, 2022 at 1:00 p.m. at the Fairfield by Marriott Daytona Beach, 1820 Checkered Flag Boulevard, Daytona Beach, Florida

Mr. Perry stated the next scheduled meeting is going to be August 24, 2022 at 1:00 p.m. in the same location. We don't have a July meeting scheduled. We had three supervisors that were

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up for election this year, Mr. McCarthy, Mr. Welsh, which is now Mr. Brown's seat and Mr. McCommon. Nobody qualified for the election so those seats are going to be open and the two supervisors can appoint whoever they want to those seats.

On MOTION by Mr. McCarthy seconded by Mr. Brown with all in favor the meeting adjourned.

DocuSigned by:
Jim Perry
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Secretary/Assistant Secretary

DocuSigned by:
John McCarthy
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Chairman/Vice Chairman