

MINUTES OF MEETING
POINCIANA
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Poinciana Community Development District was held on Wednesday, November 28, 2018 at 11:00 a.m. in the Starlight Ballroom, 384 Village Drive, Poinciana, Florida.

Present and constituting a quorum were:

Lita Epstein	Chair
Michael Luddy	Vice Chairman
Tony Reed	Assistant Secretary
Elizabeth Lambrides	Assistant Secretary

Also present were:

George Flint	District Manager
Michael Eckert	District Counsel
Jan Carpenter	Special Counsel
Kathy Leo	District Engineer
Alan Scheerer	Field Manager
Clayton Smith	Assistant Field Manager
Kathy Fox	Clarke Environmental

The following is a summary of the discussions and actions taken at the November 28, 2018 Poinciana Community Development District's Board of Supervisors Meeting.

FIRST ORDER OF BUSINESS

Roll Call

Ms. Epstein called the meeting to order and called the roll.

SECOND ORDER OF BUSINESS

Pledge of Allegiance

The Pledge of Allegiance was recited.

THIRD ORDER OF BUSINESS

Public Comment Period on Agenda Items

Ms. Epstein asked if anybody had any comments.

Norm Gundel, 419 Fountain Valley Lane, started out by saying that he was referring to Item 11A on the agenda. Speaking to the Board, he asked them to help reimburse their lawyers who opposed bond validation on the residents' behalf for the legal expenses they personally paid.

He said that residents avoided \$95.5 million of amenities bond debt because of Carter Anderson and Harold Holder from Bush Ross. He added that after a four-day trial, they defeated the first bond validation and defeated repeated attempts to restrict the residents' arguments against the second bond validation, and that the second ruling caused AV Homes and TM to cancel the amenities sale two days after the ruling. Mr. Gundel stated that without Mr. Anderson and Mr. Holder, the bonds would have been sold and the \$95.5 million debt assessed against the residents would have equated to \$17,000 per home. He said that the opposition was not easy, and that Mr. Eckert's law firm did over \$1.25 million of legal work to impose the bond debt on the residents, but the residents did not have to pay that because of Mr. Anderson and Mr. Holder's defense. Mr. Glendale added that residents started a fund to help the efforts of the two, but their work has exceeded the residents' fundraiser, and they send bills for their work. He also said that Mr. Anderson and Mr. Holder occurred substantial expenses on the residents' behalf, and they have paid out of their own pocket to cover the costs. He concluded that the residents could raise enough funds to pay for those expenses, and asked that people donate by mailing a check payable to Save Solivita Amenity Inc. to Bill Mann, Box 1762, Davenport, FL, 33836, or donate online at the fund's website. He said the corporation was a non-profit organization formed in October 2016 when the CDD was going to agree to an excessive purchase price for the amenities, and that he was a corporate director along with Shawn Thornton and Bill Mann. He added that the donations are only used for the opposition to the two-bond validation lawsuit.

Ms. Epstein asked if there were any other comments.

Shawn Thornton, 165 Marabella Loop, stated that he wanted to know the difference in the agenda between Poinciana and Poinciana West. Ms. Epstein responded by saying that if it was for different things, she would have to talk to Poinciana West because she had not looked at their agenda. Mr. Thornton said that Poinciana West's agenda was missing several important items that the Poinciana CDD had in theirs. Mr. Eckert responded that the agendas for both CDD's are supposed to be very different between the two Districts. He added that Poinciana was the lead entity in doing inspection and evaluation along with hiring consultants, so therefore the agendas would be different because they are doing different things.

Mr. Thornton also asked the Board if the Asset Sale and Purchase agreement was over. Jan Carpenter answered that AV Homes and Taylor Morrison submitted a notice of termination under the agreement which terminates the agreement. Mr. Thornton also asked if someone could

get Mr. Zimbardi's resignation, and Mr. Flint answered that he was sure Mr. Zimbardi would read the minutes.

Ms. Epstein asked if there were any other comments.

FOURTH ORDER OF BUSINESS

Organizational Matters

A. Administration of Oaths of Office to the Newly Elected Board Members

Mr. Flint advised that the new Members send in their Oath form sent from the State of Florida and pay the \$10 fee. Being a Notary Public of the State of Florida, Mr. Flint administered the District Oaths of Office to Mr. Luddy, Ms. Lambrides, and Mr. Reed. Mr. Flint also noted that there were other documents attached to the Oath form, including with filing the Financial Disclosure form that is filed annually. He added that as Board Members, they were entitled to compensation of up to \$200 a meeting for a maximum of \$4,800 annually, and if they accepted it, they needed to fill out an I-9 and W-4 forms.

Mr. Flint asked Mr. Eckert to give them an overview of the Sunshine and Public Records Laws. Mr. Eckert started out by saying to the three Board Members that there are copies made of anything that was given to them by him or Mr. Flint, so there is no need to keep it unless they started marking any documents. He also said that they must maintain any of the records they receive that are related to the CDD including text messages, voicemails, emails, written correspondence, and anything of that nature between themselves, residents, and staff. He added that the District adopted a policy that Board Members retain all records in perpetuity until the District changes its records retention schedule. Mr. Eckert suggested that they not use texting for District business because it is difficult to maintain, and that with emails, they should only reply to the staff member and not do a "reply to all". He concluded with the public records law by telling the Members to keep all public records they have in a separate file for all forms of communications. As far as the Sunshine Law, Mr. Eckert explained that they cannot talk to each other at all outside of public meetings about anything that can possibly come to the Board for action, such as meeting dates or content. He then added that they do not follow Robert's Rule of Order because the people that come onto the Board usually are not familiar with those rules and have to go through formal training, and it is also a liability for the District. Mr. Eckert summarized what usually goes on at meetings pertaining to motions, seconds, votes, and other comments. He concluded that the new Members could reach out to Mr. Flint or Ms. Leo at any

time that they had a question, and also that his firm serves as Counsel for the Board and not individual Supervisors.

Mr. Luddy asked if there were any formal training classes that address the Sunshine Laws and other laws that they have to be certified to which Mr. Eckert answered that it was not required for Special Districts, only for County Commissioners and City Council Members. However, he did say that it would a good thing to do if he wanted some training. Mr. Luddy also asked for clarification on the Sunshine Law that he is not allowed to talk to Board Members, or for example, neighbors, about topics such as midge control if they were to be addressed in a meeting. Mr. Luddy also clarified that he could talk to staff members such as Mr. Flint and tell him, for example, his neighbor has an issue with the ponds and ask for him to check it out. Mr. Eckert said that was correct, and that there were four people that Mr. Luddy had restrictions on in terms of his communication. Mr. Luddy asked if they included the Poinciana West Members, to which Mr. Eckert replied that he was allowed to talk to only one Poinciana West Board Member at a time. Mr. Eckert added that the only time it would be an issue is if authority was delegated to him by the Poinciana CDD and he went and discussed Board Meeting content with Poinciana West. If he was delegated authority, he said his recommendation was to run a notice in the Lakeland Ledger newspaper saying that one or more Members of the Poinciana Board are going to have a meeting with one or more Members of the Poinciana West Board and add the time, place, and location so that it is open to the public. Mr. Luddy asked how much it cost, to which Mr. Flint answered that it varies. Mr. Eckert said that was the legal requirement. Mr. Luddy asked if he could send it in an email blast to all residents of Solivita instead, and Mr. Eckert still recommended that he put it in the newspaper to be safe.

Mr. Flint added that Mr. Zimbardi sent an email that apologized for not being at the meeting because he was on a cruise that was planned a long time ago. Mr. Zimbardi also congratulated the new Board Members on their elections and sent his compliments to the old Members leaving.

B. Election of Officers

Mr. Flint conducted the election of Chairman, Vice Chairman, Secretary, Treasurer, and Assistant Secretaries and Treasurers. He first opened the floor to nominations the Chairman, to which Mr. Luddy nominated Ms. Epstein for that seat and was seconded by Ms. Lambrides. Hearing no other nominations, Ms. Epstein was elected as Chairman. Ms. Epstein took

nominations for Vice Chairman, to which Mr. Luddy was nominated by Mr. Reed and was seconded by Ms. Epstein. Hearing no other nominations, Mr. Luddy was elected as Vice Chairman. Mr. Luddy asked what the duties and responsibilities of the Assistant Treasurer were and asked if one of the Board Members could take on that role. Mr. Flint responded that Teresa Viscarra was designated in his accounting department as an Assistant Treasurer, and her job was to sign for maintaining bank accounts, processing checks, paying invoices. He explained that each of those things had to be either signed by one of each of either a Secretary or Assistant Secretary and a Treasurer or Assistant Treasurer. Mr. Flint said that Mr. Luddy was welcome to designate one of the other Board Members for that position, and that there was not a lot of responsibilities with that position other than helping prepare financial statements and dealing with the annual independent audits and all of the regulatory requirements. Mr. Luddy responded saying that whoever was designated for that position was basically a liaison between Mr. Flint and the Board and makes sure that the checks are all done, to which Mr. Flint responded that the check register gets approved at the meetings, but concluded to answer Mr. Luddy's question that he would nominate a Board Member for the position. Mr. Eckert commented that the current Assistant Treasurer and Treasurer work for the same company and have insurance that covers what used to be called a Fidelity Bond, but now is a different type of insurance. He said that if they ended up nominating a Board Member to become an Assistant Treasurer, he would need to make sure that the Directors & Officers insurance that the Board has would cover those duties as a Treasurer and would offer the same type of insurance that they have currently. Ms. Lambrides asked if the Assistant Treasurer had any access to any financial information that the Board does not have, and Mr. Flint responded that they did not. Mr. Luddy then added that there would be no value to having a Board Member as the Assistant Treasurer. Mr. Flint agreed and said that it would probably bring on additional liability.

Mr. Luddy asked about the Secretary and the Assistant Secretary, to which Mr. Flint responded that he was currently the Secretary, and the other three previous Board Members took on the roles of Assistant Secretaries. He added that the only thing that they could do was attest the signature of the Chairman and Vice Chairman on a legal document, so it did not give the Assistant Secretary any authority or responsibility other than being able to witness or attest that the Chairman or Vice Chairman has executed a document. Mr. Luddy asked if the three new Board Members should be Assistant Secretaries, to which Mr. Flint responded it was up to the Board.

On MOTION by Mr. Luddy, seconded by Mr. Reed, with all in favor, the elections of Ms. Epstein as Chairman, Mr. Luddy as Vice Chairman, Ms. Lambrides, Mr. Reed, and Mr. Zimbardi as Assistant Secretaries, Mr. Flint as Secretary while leaving Treasurer and Assistant Treasurer as is, was approved.

C. Consideration of Resolution 2019-01 Electing Officers

On MOTION by Mr. Luddy, seconded by Mr. Reed, with all in favor, Resolution 2019-01 Electing Officers, was approved.

Mr. Flint concluded that the above names would be inserted into Resolution 2019-01.

FIFTH ORDER OF BUSINESS

Approval of Minutes of the August 15, 2018 Meeting and Approval of Minutes of the September 5, 2018 Joint Meeting

Ms. Epstein asked if there were any comments for the August meeting, and Mr. Luddy commented that the speech given by Skip Stellfox was not included and that the final statement on the minutes was wrongly characterized because it was blaming Lita and the residents for the speech. He said that the speech should have been included and left up to the Board what stays in the minutes. Ms. Epstein felt the same. Mr. Flint assured both of them that there was no ill intent with leaving that out. Mr. Luddy also commented that it should have been stated in the minutes that Mr. Stellfox comments were out of order of the business of the agenda because it was not during the Supervisor comments and it should be clear in the minutes that the residents were not given the opportunity to respond the statements made by Mr. Stellfox. Mr. Flint agreed and said that they would get it in the minutes for this meeting. Mr. Luddy clarified that Mr. Stellfox gave his speech at the end of the meeting and after general audience comments. Ms. Epstein added that when the audience tried to comment, they were not allowed to, to which Mr. Luddy added they were threatened to be arrested. He said that all of the residents deserved a right to speak. Ms. Epstein said that they needed to make sure in the future that they put Other Business above Audience Comments so that speeches like that do not happen again. Mr. Flint suggested that under Supervisor's Requests they talk about how they want the agenda reordered so that Other Business and Supervisor's Requests are combined. Mr. Flint clarified the complaint about the minutes, saying that Other Business was not detailed enough. He suggested that the Board could defer action and revisit the recording of the August meeting. He said that there might have been

an issue with the recording that prevented the transcriptionist from hearing it. Mr. Luddy responded by saying that someone could send Mr. Stellfox an email and request a copy of his written statement. Mr. Flint asked if it was the Board's decision to defer action on the minutes, to which Mr. Luddy responded absolutely. Ms. Epstein asked if there were any more comments that needed to be adjusted on the minutes. Mr. Reed commented that, having read both sets of minutes, the first set was also incomplete and that they both needed to be brought up to date, then voted on. Mr. Eckert responded that he just wanted to help George's office get clear direction because the requirements for minutes of meetings is that you notate what the decisions are that the Board made, motions, votes, and narrative in terms of what the subject matter was. He wanted to make sure that if they were telling staff that they want it to be more like a transcript, it is a whole different idea and that he advises Boards not to have it like that because there is a lot of back and forth when trying to make up their minds on issues. He said that when you have something like a transcript, they will have their statements taken out of context and blown up on a whiteboard in front a judge when there are issues that come up. He added that most local governments don't do a transcript of their meetings, but that they use the audio tape to go back and listen to it and the minutes are the official record of the actions. He concluded by saying that it is ultimately up to the Board, but that he wanted to make sure there was clarification. Ms. Lambrides said that the Board was fine with the guidelines in general, but that when there was a 4-page document that was read verbatim, the document should be included in the minutes. Mr. Eckert responded that Mr. Flint could take the Board's direction and include that specific items are word for word in terms of what is on the tape. Mr. Eckert stated he just wanted to make sure there was clarification for next meeting. Mr. Luddy said that he agreed, but that when someone goes well-beyond scope, it should be noted. Mr. Eckert said that he understood and that there was no ill intent by staff to not include that because the minutes are not verbatim.

Mr. Flint asked if there were any comments on the joint meeting minutes. Mr. Reed said that there was one typo, and he showed it to Mr. Flint. He also said he was confused if there was supposed to be a tape typed into the September 5th meeting, to which Mr. Eckert responded that there was an audio recording of the meeting taped by Mr. Flint. Mr. Reed asked if it could have been included since it was in the tape. Mr. Flint referred back to Mr. Eckert, saying that the minutes are not verbatim, but that the minutes for the September meeting were detailed. Mr. Reed said he compared the two sets of minutes, and that one was very detailed and

comprehensive, while the first set was missing information and should have been attached. He stated he wanted to point out the difference between the two.

On MOTION by Mr. Luddy, seconded by Ms. Lambrides with all in favor, the Minutes of the September 5, 2018 Joint Meeting, were approved, as amended.

SIXTH ORDER OF BUSINESS

Consideration of Agreement from Berger, Toombs, Elam, Gaines & Frank to Provide Auditing Services for the Fiscal Year 2018

Mr. Flint stated the terms of an annual independent audit and said that there was a process in the Statutes that the Board followed to selected the independent auditor, and that Berger, Toombs, Elam, Gaines & Frank was chosen to perform the audit. He said that each year, the Board enters into an engagement letter with that auditor, and the one that they were discussing covered Fiscal Year 2018, which ended on September 30th. Mr. Flint explained the total was not to exceed \$3,590 and was consistent from when the auditor bid on the services.

On MOTION by Mr. Luddy, seconded by Ms. Lambrides, with all in favor, the Agreement with Berger, Toombs, Elam, Gaines & Frank to Provide Auditing Services for the Fiscal Year 2018, was approved.

SEVENTH ORDER OF BUSINESS

Consideration of Resolution 2019-02 Amending the Fiscal Year 2018 Budget

Mr. Flint explained that if the actual expenditures exceed the total budget, the budget has to be amended within 60 days of the end of the fiscal year. He said the fiscal year ended on September 30th, so the budget had to be amended by the end of the month. He explained that, on the budget, what was listed was administrative expenses, and a number of line items that had to be increased based on actual expenses, along with a number of field services that were decreased. He also said that there were some capital outlay projects that the Board approved over the course of the year. Mr. Flint said to be able to balance the increase and expenses, they were recognizing \$71,000 of carry forward. He explained that it was truing up the budget with the actual expenses. Ms. Epstein asked if they checked carefully to make sure that the Engineering and Attorney fees were for the CDD and not the amenities issue, to which Mr. Flint responded that both he and Mr. Eckert went through everything to make sure it was correct. He said that

there have been a number of other things that have been going on throughout the year with pond ownership and maintenance issues that were not related to the acquisition. Mr. Reed said that because there were things such as 108% increase in engineering, 117% in legal fees, and a number of other things, he wanted a detailed explanation of what the charges were and why they were not foreseen. Mr. Flint said that he would provide as much detail as he wanted, including invoices, but that he did not have them with him today. Mr. Flint said the budget has to be balanced by November 30th. He said that engineering and legal fees, they were on an hourly basis and you don't know what may come up during the year when you are going through the budget process. He said for example, they changed District Managers, and therefore a significant amount of time was spent by District Counsel on the transition from Severn Trent to GMS with making sure everything was done properly.

Ms. Epstein inquired about the check register for October 2018, and if that was part of the new year. Mr. Flint stated it could be an expense from the prior year. Ms. Epstein questioned the Hopping Green & Sams amenity issues, and Mr. Flint explain that HGS had different project codes. Mr. Flint noted that anything related to the amenity acquisition gets held until the funding request is paid by AV Homes or Taylor Morrison. Mr. Eckert stated he could provide Board Members with a breakdown of the legal fees. Mr. Eckert added that the management company they have now is a very good company, and that will help bring the attorney's fees down. Mr. Luddy asked if they were \$60,000 in debt for the calendar year, and Mr. Flint explained they were not because they have a fund balance that is not appropriated. Mr. Flint clarified that financially they are not in the negative.

On MOTION by Ms. Lambrides, seconded by Mr. Luddy, with all in favor, Resolution 2019-02 Amending Fiscal Year 2018 Budget, was approved.

EIGHTH ORDER OF BUSINESS

Discussion of License Agreement with Golf Course for Use of District Pond C-1

Mr. Eckert noted that they are approaching the end of the ten-year agreement in March 2019 for the use of the District pond C-1. He stated they have the opportunity to terminate the agreement if they would like to, but he has not heard anyone recommending that. After Board discussion, they decided to take no action meaning the agreement would renew automatically.

NINTH ORDER OF BUSINESS**Ratification of Poinciana CDD
Fourteenth Amendment to the Asset Sale
and Purchase Agreement**

Ms. Carpenter noted this is a routine amendment to extend the bond validation period. Mr. Flint stated this is a ratification of an extension that the former Chairman was authorized to do, and we bring them back to the Board for approval after in the event that there is not a Board Meeting to do it at. Mr. Reed asked if they Board receives copies of the inspection results, or if the Engineers were only provided copies. Mr. Eckert replied that they can be provided to the Board.

On MOTION by Ms. Lambrides, seconded by Mr. Reed with all in favor, the Poinciana CDD Fourteenth Amendment to the Asset Sale and Purchase Agreement, was ratified.

TENTH ORDER OF BUSINESS**Ratification of Limited Engagement of
Latham, Shuker, Eden & Beaudine, LLP
Regarding the Real Estate Amenity
Transaction**

Mr. Flint stated that the Board previously directed him to solicit proposals for legal services for representation on the actual sale transaction items that Hopping Green & Sams was not able to represent them on. Mr. Reed reminded the Board that he spoke against signing the conflict of interest waiver at a prior meeting, and he requested to rescind the conflict of interest waiver that was signed by the previous Board. Ms. Epstein stated she was in agreement with Mr. Reed on rescinding the waiver, and noted she thought they need an independent attorney. Ms. Epstein stated it would be inappropriate for them to have an attorney whose firm also represented some aspects of business with Taylor Morrison.

A motion made by Mr. Reed, seconded by Ms. Epstein, to Rescind the Waiver, was withdrawn after Board discussion.

Mr. Eckert stated they would need to hire an attorney to dismiss the validation case, because they would not do it if the waiver was revoked. Ms. Epstein asked Jan Carpenter if she could handle the closing of the bond validation case, and Ms. Carpenter noted they were retained strictly on the amenity issue. Ms. Carpenter stated it would be more efficient and cost effective to have the firm handling it finish out that case. Ms. Epstein noted they would hold off on all other issues until the bond validation case was closed, they would hire a new attorney, pass the resolution involved before removing the waiver, and then end the meeting. Ms. Carpenter

suggested not taking away the conflict waiver, so Mr. Eckert could advocate for the Board and finish the process. Ms. Epstein noted they wanted to be able to close out the bond validation case, so they don't end up with additional legal costs. Mr. Eckert expressed his concern about his clients questioning his independence and loyalty to the District, and if the new Board Members and Ms. Epstein felt that way then it was not in anyone's best interest for him to continue to represent them at all. Mr. Eckert stated if they wanted to terminate HGS, he suggested a motion to terminate their contract and then get additional Counsel. He noted the Board was putting him in a precarious situation when they were questioning his loyalty, but still wanting him to do work for them. Ms. Epstein asked Mr. Eckert how this affected him closing the case, and Mr. Eckert noted he would be concerned with continuing to represent somebody who has made comments and let their intentions be known that they question their loyalty and independence. Mr. Eckert noted that no Board Members had previously expressed these concerns to him privately.

Ms. Lambrides noted that in the past, if a case does not go forward the court will automatically dismiss it. Mr. Eckert suggested having each of the Board Members say that they have no concerns or conflict with his firm filing a dismissal of the case, then they can go through with that. The Board Members all agreed Mr. Eckert could go through with closing the case.

Mr. Eckert noted they have a resolution in the agenda package that repeals the bond resolution as well as directs the dismissal of the bond validation case.

On MOTION by Mr. Luddy, seconded by Mr. Reed, with all in favor, Limited Engagement of Latham, Shuker, Eden & Beaudine, LLP Regarding the Real Estate Amenity Transaction, was ratified.

ELEVENTH ORDER OF BUSINESS

Discussion of Amenity Transaction

A. Presentation of Termination Letter of Asset Sale and Purchase Agreement

Ms. Carpenter presented the termination letter of the Asset Sale and Purchase Agreement.

B. Presentation of Termination Letter of Bond Financing Team Funding Agreement

Ms. Carpenter presented the termination letter of Bond Financing Team Funding Agreement and explained that it could be terminated at will as long as they provided funds to cover the costs through termination. Ms. Carpenter stated they have not yet provided those costs yet and the District does not have all the bills, that is an open issue. Ms. Carpenter suggested not accepting it until they receive clarification on the rest of the payment. Ms. Epstein suggested they defer the issue to the December agenda.

C. Consideration of Resolution 2019-03 Directing Termination of Bond Validation Case and Repeal of Resolution 2018-05

Ms. Epstein reviewed resolution 2019-03 and the repeal of resolution 2018-05.

On MOTION by Ms. Lambrides, seconded by Mr. Reed, with all in favor, Resolution 2019-03 Directing Termination of Bond Validation Case and Repeal of Resolution 2018-05, was approved.

D. Consideration of Resolution 2019-04 Terminating Amenity Debt Special Assessment Liens

Ms. Epstein reviewed resolution 2019-04. Mr. Eckert asked the Board if they had any concerns about his firm having a conflict on this resolution. Mr. Reed noted that business decisions usually are not made based on emotion, but conflicts of interest are serious matters. Mr. Reed stated he did not support giving away the right to react in the future, he noted that is why he did not support the waiver. Mr. Reed stated the information originally provided was insufficient to give informed consent. Mr. Luddy inquired about what resolution 2019-04 entailed, and stated that he did not see where there was any conflict of interest. Mr. Eckert wanted to ensure that Members of the Board did not have any concern over conflict of interest with his firm providing advice to the Board for the remaining items on the agenda. Ms. Epstein noted that after item H on the agenda, they start getting into items that should be discussed in a joint meeting.

Mr. Charles Case, Member of the Poinciana West CDD Board, noted that he wanted the termination to be approved as soon as possible. The resident stated he recommended not having any more joint meetings going forward, because they want to focus on what they are responsible for. The resident noted that having joint meetings cost the residents on his side, and he wants to go back to the old routine. The resident stated they should be done with this and put it behind them.

Another resident spoke about the similarity of the sales contract, which he stated was rushed through. The resident noted the attorney said they didn't negotiate a price because they weren't asked to. He suggested taking time to do this. Ms. Epstein discussed the interlocal agreement and why Taylor Morrison was closing out the deal. She stated that there should be more discussion with Taylor Morrison, and it does not make any sense to walk away totally.

Mr. Eckert asked each Board Member separately if they had any concerns about a conflict of interest with him providing advice on item D. Each Board Member answered they had

no concerns. Mr. Eckert suggest adopting the resolution, which would officially terminate the amenity debt assessment, and they would file a notice in the property records of Polk County showing those assessment liens had been terminated. Mr. Eckert stated after this resolution is adopted, there are no assessment liens and if you want to do a different deal in the future you could redo the entire process.

On MOTION by Ms. Lambrides, seconded by Mr. Luddy, with all in favor, Resolution 2019-04 Terminating Amenity Debt Special Assessment Liens, was approved.

E. Consideration of Termination of Interlocal Agreement Related to Amenity Transaction

Ms. Epstein requested this item be left open for a joint meeting, so Poinciana West could decide. She noted she did not see a reason to terminate the interlocal agreement until it was decided that they never want to consider the possibility of amenities again. This item was deferred to the next meeting.

F. Consideration of Termination of Gate Protocol Agreement

Mr. Eckert asked the Board if there was any concern about a conflict of interest with him providing advice on this item, the Board did not have any concerns. Mr. Eckert noted that the gate protocol agreement automatically terminated when the asset sale and purchase agreement terminated.

G. Consideration of Repeal of Amenity Policies, Amenity Rates and Fees, and Amenity Suspension Policy

Ms. Epstein asked Mr. Eckert asked if there was any reason to repeal. Mr. Eckert stated the reason they would want to do that is because it could create confusion in terms of what the CDD's role is. He noted they could leave it open if they choose to.

H. Consideration of Termination of Agreements for Property Valuation and Property Inspection Services, Including Delta Engineering, Environmental Financial Group, ADA Compliance Specialists, Massey Services Pest Prevention, and Vesta Property Services

Ms. Epstein asked Jan Carpenter if they terminated the contracts would there be termination fees. Ms. Carpenter noted Mr. Eckert would be able to better answer that. Mr. Eckert suggested doing a formal termination of the agreement with Delta Engineering. He noted that they paid them for most of what they had done, but it was contemplated that they would do a

reinspection. Mr. Eckert stated they should formally terminate the contract to prevent any claims that they were promised another inspection. Mr. Eckert discussed the Environmental Financial Group contract and noted it was open ended in terms of hours, his recommendation was to formally terminate the contract. Mr. Eckert noted that ADA Compliance Specialists were paid but were also going to come back for reinspection, so a formal termination would be best. Mr. Eckert noted there was Environmental Assessment Consultants which was not included in the agenda, but it is included in the backup information. They were the company hired to do the Phase 1 environmental inspection of the properties and the mold inspection. Mr. Eckert suggested sending a letter formally terminating the contract.

On MOTION by Ms. Lambrides, seconded by Mr. Reed, with all in favor, the Termination of Agreements for Property Valuation and Property Inspection Services, Including Delta Engineering, Environmental Financial Group, ADA Compliance Specialists, Massey Services Pest Prevention, Vesta Property Services, and Environmental Assessment Consultants, was approved.

I. Consideration of Termination of Agreements for Amenity Bond Financing Services, Including Greenberg Traurig (for Bond Counsel Services for Amenity Transaction Only), PRAG, and MBS Capital Markets, LLC

Mr. Luddy asked if Taylor Morrison had agreed to cover the \$1.7 million+ included in the bond financing agreement, and the Board will not be obligated to cover those expenses. Ms. Carpenter noted they agreed to pay up to a cap of \$1.8 million, and about \$73,000 of that was left for the last two funding requests. She noted GMS was looking at the funding requests to make sure they are compliant with the contracts. Mr. Luddy asked about a scenario where down the road they issue bonds, would they be obligated to reimburse the \$1.8 million. Ms. Carpenter stated if they came to another agreement, they would start over with a new funding agreement. Mr. Eckert stated MBS Capital Markets did not have a termination fee, PRAG did not have a termination fee, and Greenberg Traurig did not have a termination fee. Mr. Eckert suggested when terminating, that they only terminate Greenberg Traurig in terms of the amenity transaction because it is always good to have a bond Counsel on staff.

On MOTION by Mr. Reed, seconded by Mr. Luddy, with all in favor, the Termination of Agreements for Amenity Bond Financing Services, Including Greenberg Traurig (for Bond Counsel Services for Amenity Transaction Only), PRAG, and MBS Capital Markets, LLC, was approved.

J. Consideration of Approval and Termination of Agreement for Amenity Assessment Consulting Services with Fishkind & Associations

Mr. Eckert stated that Fishkind prepared multiple assessment methodologies and provided multiple presentations. He noted they provided their proposal to the old District Manager for \$22,500 and the District Manager never put it on the agenda. Mr. Eckert recommended approving the agreement with Fishkind subject to it being fully funded under the funding agreement as it was originally contemplated, but not incurring any liability on behalf of the residents for the agreement. Mr. Flint noted they are not taking on any liability for the District, they are approving it subject to Avatar funding the payment.

On MOTION by Mr. Luddy, seconded by Mr. Reed, with all in favor, the Approval of Agreement for Amenity Assessment Consulting Services with Fishkind & Associates Subject to being Fully Funded by the Funding Agreement, was approved.

TWELTH ORDER OF BUSINESS

Staff Reports

A. Attorney

Ms. Epstein addressed the issue of the waiver again. Ms. Epstein stated they wished to change Counsel. Mr. Eckert suggested a motion to terminate Hopping Green & Sams and tell us when that comes into effect. Mr. Flint suggested directing him to seek proposals, and he could bring them back to the next meeting. He stated if they choose to hire someone else, they would terminate the existing Counsel.

On MOTION by Ms. Lambrides, seconded by Mr. Reed, with all in favor, Directing the District Manager to bring back Proposals for District Counsel, was approved.

Ms. Epstein asked Mr. Eckert if there was anything else to report. Mr. Eckert asked the Board if the conflict waiver was still in effect and all Board Members stated yes. Mr. Eckert addressed the issue of reimbursing Bush Ross for attorney's fees, he stated that he did not believe that was appropriate or permitted under Florida Law. Mr. Eckert noted they have received several public records requests that have required staff time to respond. He stated they

received a public records request in 2016 and got a deposit, but the cost of that ran over by about \$2,000 and the requester refused to pay those legal fees. Mr. Eckert noted they received another public records request recently from the same people wanting additional records, and he stated there is a case in Florida that says the District does not have to provide additional public records until those bills are paid. Those records have not been provided.

Ms. Epstein asked if the records request were involving the bond validation case. Mr. Eckert answer the first request was related to the amenity transaction and everything that could possibly relate to that. He noted the current request is related to the funding agreement, and things related to that. Ms. Epstein suggested waiving the fee. Mr. Luddy asked how much the pending request would cost, and Mr. Eckert answered the fee estimate was \$210 for the deposit. Mr. Eckert stated if it does not take \$210 worth of time they get a refund, and if it takes more than that they would owe money.

Mr. Flint noted if the record request is sufficiently narrow, that is not a problem and there is not a cost to it. He stated when there are requests that start using terms 'any' and 'all' it requires us to go back and research minutes for multiple years. Mr. Flint noted anything that takes more than 15 minutes they are required to charge for. Mr. Flint state they are not trying to preclude anyone from getting records, we are just trying to be fair and follow your rules.

Ms. Lambrides asked if the requests are something that could be found on the website, and Mr. Flint stated it is on the website. Ms. Epstein noted the original request could not, but Mr. Flint stated they were talking about the most current request. Mr. Eckert noted part of the request could be taken from the website, but part of it would be a search of emails, agreements, trial transcripts, depositions, etc. Ms. Lambrides asked if they knew who was making the requests, and Mr. Eckert answered that it was Carter Andersen with Bush Ross. Mr. Eckert noted that initially the request came from Brenda Taylor. Mr. Eckert further explained why the estimate of \$210 was given. Mr. Eckert stated he can provide a memo detailing what was requested in 2016, what has been paid and still owed. The item was deferred to the next meeting, and Mr. Eckert would provide more detail.

B. Engineer

Ms. Leo stated the CDD owns and maintains the ponds, and also owns and maintains two tunnels. Ms. Leo noted she would provide a copy of the master plan that shows the ponds they own. Ms. Leo introduced herself to the new Members of the Board and gave a brief summary of what her work consists of. She stated there were no outstanding issues regarding engineering.

C. District Manager**i. Approval of Check Register**

Mr. Flint presented the Check Register for August 1st through November 20th, and the check numbers were #2679 through #2717. He noted there were payroll checks for the Board Member payments for the meetings attended, those two totaled to \$311,789.64. Mr. Flint noted there was a check register behind the summary that shows the individual checks with their dates, who they are made to, and the dollar amounts. Mr. Flint asked for questions on the check register.

Ms. Epstein asked if they were still working out the fee issues, specifically for Hopping Green & Sams, and Mr. Flint answered that if it was related to the amenity transaction they do not get paid until he receives money from AV.

On MOTION by Mr. Reed, seconded by Mr. Luddy, with all in favor, approval of the August 1st through November 20th Check Register, was approved.

ii. Balance Sheet and Income Statement

Mr. Flint presented the Balance Sheet and Income Statement through October 31st. Mr. Flint noted this is the first month for the Fiscal Year 2019. Mr. Flint pointed out the revenue only reflected the interest earnings because the assessment revenue does not start coming until late November or early December. Mr. Flint asked for any questions on the financial statements, the Board had no questions.

On MOTION by Ms. Lambrides, seconded by Mr. Reed, with all in favor, the Balance Sheet and Income Statement, was approved.

D. Field Manager**i. Field Manager's Report**

Mr. Smith presented a brief Field Manager's Report that reviewed items that were completed since the last meeting. Ms. Epstein asked if any feedback had been provided on the aerators and midges. Mr. Smith noted the aerators were a long term solution, and they had not received any feedback yet. Mr. Smith stated they did have fish coming that are supposed to be put in the pond within two week. He noted in April additional fish would be put in the pond. Mr. Flint stated the bass were going to put in in the spring. Mr. Luddy asked Mr. Smith about the

grate replacement, if it was stolen. Mr. Smith stated it was unclear if the grates had fallen all the way down, were washed away, or something else. Mr. Flint mentioned concerns from residents about the aerators only being behind a certain house, but there are diffusers that come off the aerator. He noted that Clayton has a very good map that shows where those are. Mr. Smith mention the smell from the pond that was there prior to the aerators was now gone, but he was not sure that was indicative of anything or not bust just an observation.

ii. Customer Complaint Log

The Customer Complaint Log was included in the agenda package.

THIRTEENTH ORDER OF BUSINESS

Supervisor's Requests

Ms. Epstein noted that she would like to see a public comment after presentation of major issues. Mr. Flint stated that statutorily, they are required to take public comment before they vote. He noted if the Board would like to take discussion on specific items, that is at the Board's discretion. Mr. Flint asked if they would like to change general audience comments to come after other business and the Board agreed they would like to do that going forward. Ms. Epstein brought up the issue of many residents/owners who were not Florida residents and they do not get to vote for representation. Ms. Epstein requested looking at opportunities to do electronic voting when there are major issues. Mr. Eckert suggested using a survey, not a binding vote. Mr. Flint stated he would be happy to look into a few different options.

Mr. Reed asked if there was any control over billable hours, if there was a process used or if people billed for whatever they felt like they needed to. Mr. Flint noted the only professionals working for the Board that bill hourly are the Engineer and Counsel. He stated if there are certain projects they will enter into a specific task order with her that will be a fixed fee or time and material with a not to exceed. Mr. Flint then explained general representation and fees concerning that. Mr. Reed questioned the budget and wanted to understand why they were 100% over in certain categories. Mr. Reed stated he has engineering background and is more than willing to oversee anything regarding engineering.

FOURTEENTH ORDER OF BUSINESS

Other Business

There being none, the next item followed.

FOURTEENTH ORDER OF BUSINESS

General Audience Comments

Bill Kilroy, 120 Amalfi Lane stated that he could not hear the committee and suggested speaking loudly. Ms. Epstein noted the microphones were not set up for an unknown reason, but she would make sure that did not happen again. Mr. Kilroy stated he lived in Bella Viana, and it was an out parcel of Solivita that was neglected. Mr. Kilroy brought up issues regarding Floralawn and stated they do not do work during the summer. Ms. Epstein noted that is an HOA issue. Mr. Kilroy stated that the residents of Bella Viana did not get the correct voting information, and Mr. Flint noted that was from the Supervisor of Elections. Ms. Epstein stated the Board was aware of the issue, but it was a Supervisor of Elections issue, not the CDD. Mr. Kilroy asked Clayton Smith and Michael Eckert what they were doing about the midge and spider problems, because residents are moving to get away from the problem. Mr. Kilroy stated the Engineers and Field Managers are not doing enough. Mr. Kilroy brought up the issue of algae in the lake, and stated he asked the CDD if they could give him the pellets to put on the algae himself and they wouldn't let him do that. Mr. Kilroy claimed the algae was so bad with pollution due to the engineering being done improperly by GMS. Ms. Epstein stated the engineering was done long before GMS was hired. Mr. Kilroy stated he wants a diffuser directly behind his home because he has the worst algae problem.

Mr. Flint noted that this CDD spends more money on midge control than any CDD he is aware of. Mr. Flint stated they use larvicide, adulticide, they are stocking the pond with fish, and they've installed aerators. Mr. Flint noted that many communities battle midges, and they are working hard to control it. Ms. Epstein stated this is a 6 to 12-month process, and Mr. Flint agreed that it is a long term approach. Another resident stated she lives very close to the water and when walks out the door it is covered in bugs.

Mr. Eckert stated that public comment period is limited to three minutes per person and noted that time was up. Ms. Epstein agreed they needed to move on and cut the comments off.

Mr. Kilroy stated he stayed for a long time listening to the Board, and Ms. Epstein stated they would look into the issue again. Mr. Flint noted he would start timing the comments.

Another resident stated he would like the Board Members and staff to speak louder, so the residents could hear them. The resident then asked if the Poinciana CDD is going to petition the court to dismiss the suit and the Poinciana CDD will revoke any resolutions regarding the amenity sale? The Board answered yes.

Bruce Perlmutter, 121 Torino Lane, congratulated the new Board Members. He brought up the issue of the pond near his home, and stated it was a disgrace. Mr. Perlmutter gave two

suggestions for staff to look into and suggested terminating Clarke’s contract because they had not solved the algae problem in 14 years.

Clarke McMaster, 181 Sorrento Road, brought up an issue with aerators, and stated they were extremely noisy. Ms. Epstein stated that they would take a look at the aerators.

Lynn Gundel, 419 Fountain Valley Lane, thanked George for his work with the Board, and thanked the Board for getting past all the amenity stuff. Ms. Gundel made a request that the Board always use microphones for the hearing impaired, and that they record the meetings and put them on YouTube. Mr. Eckert noted that Evergreen was coordinating taping the meetings, but that was not required or the responsibility of the District.

Shawn Thornton, 165 Marabella Loop, thanked the new Board Members for putting their names forward. Mr. Thornton thanked Ms. Epstein for fighting so hard for the community. Mr. Thornton suggested ending all of this and putting everything behind them. Mr. Thornton noted he had a great disagreement with the Asset Sale and Purchase Agreement that Mr. Eckert prepared, and he suggested the Board should thank Mr. Eckert for his service and allow him to move on.

SIXTEENTH ORDER OF BUSINESS

Next Meeting Date – December 19, 2018

There being no discussion, the Board moved to the next item.

SEVENTEENTH ORDER OF BUSINESS

Adjournment

The meeting was adjourned at 1:50 p.m.

On MOTION by Ms. Lambrides, seconded by Mr. Reed, with all in favor, the meeting was adjourned.



Secretary / Assistant Secretary



Chairman / Vice Chairman