

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, December 19, 2018 at 11:00 a.m. in the Starlite Ballroom, 384 Village Drive, Poinciana, Florida.

Present and constituting a quorum were:

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

Also present were:

George Flint	District Manager
Michael Eckert	District Counsel
Jan Carpenter	Special Counsel
Michelle Reiss	Appleton, Reiss & Skorewicz
Andrew d'Adesky	Latham, Shuker, Eden & Beaudine, LLP
Alan Scheerer	Field Manager
Clayton Smith	Assistant Field Manager
Charles W. Case, III	Poinciana West CDD Chairman
Residents	

The following is a summary of the discussions and actions taken at the December 19, 2018 Poinciana Community Development District's Board of Supervisors Meeting.

FIRST ORDER OF BUSINESS

Roll Call

Ms. Epstein called the meeting to order and all Board Members identified themselves. A quorum was established.

SECOND ORDER OF BUSINESS

Pledge of Allegiance

The Pledge of Allegiance was recited.

THIRD ORDER OF BUSINESS

Public Comment Period on Agenda Items

There being none, the next item followed.

FOURTH ORDER OF BUSINESS**Approval of Minutes of the November 28, 2018 Meeting and the Amended Minutes of the August 15, 2018 Meeting**

Ms. Epstein presented the minutes of the November 28, 2018 meeting. Revised minutes were distributed via email by the District Manager. Mr. Reed noted on Page 12, in Section D, his statement. *"The information originally provided was sufficient to give informed consent"* should be *"It was insufficient information for informed consent."*

On MOTION by Mr. Zimbardi seconded by Mr. Luddy with all in favor the minutes of the November 28, 2018 meeting were approved, as amended.

Ms. Epstein presented the amended minutes of the August 15, 2018 meeting, which were amended to include further detail in the discussion of what occurred after audience comments. There were no further corrections.

On MOTION by Ms. Lambrides seconded by Mr. Luddy with all in favor the amended minutes of the August 15, 2018 meeting were approved, as presented.

FIFTH ORDER OF BUSINESS**Presentations by Law Firms Regarding District Counsel Services**

This item was tabled until later in the meeting.

SIXTH ORDER OF BUSINESS**Discussion of Solivita Theater**

Last week, Ms. Epstein met with the Solivita Theater Exploratory Committee to discuss alternatives, such as having the theater as a Poinciana CDD project or joint project, if Poinciana West CDD wanted to participate, by issuing bonds or some other financing. Residents Terry Roderick and Dick LaCapria of the Theater Committee proposed establishing a Solivita Theater Exploratory Committee to discuss the following problems with the existing theater:

- Poor seating, poor sight lines and poor acoustics.
- Lack of rest rooms and dressing rooms in the bathrooms behind the stage.
- Limitations on the current ballroom, particularly for larger groups. It could be used as a dining room or catering hall, but not a theater.
- Inadequate lighting on and around the stage.

Mr. Roderick proposed obtaining a proposal to build a new theater that enhanced the lifestyle for all residents, was self-supporting and increased property values. Resident Dick LaCapria stated he wanted the Board to be aware of the benefits to residents and the developer to help improve the community's image, increase morale and sell homes easier. According to a survey, 88.23% were interested in the theater; 67.39% said the theater was important to them and 20.84% said it was somewhat important. Mr. LaCapria requested consensus from the Board to establish the committee, breaking the project into stages and speaking with the developer, Taylor Morrison about making the land available. The design of the theater would not be discussed at this time.

Ms. Epstein requested further comments from the audience. Hearing no comments, she questioned how many members of the audience supported the establishment of a Solivita Theater Exploratory Committee. There was an overwhelming response in favor. Ms. Epstein proposed establishing the a Solivita Theater Exploratory Committee to meet after the CDD meetings and having the committee create a business and marketing plan to present to Taylor Morrison. A resident recommended confirming that the ballroom was available for the committee meetings, based on the length of the CDD meetings.

Mr. Luddy supported building a new theater using CDD funds, since the money belonged to all residents and should be used for the benefit of all residents. Ms. Lambrides agreed as she was a realtor and the theater would attract buyers and was looking forward to everyone working together. Mr. Reed fully supported this project and volunteered to serve on the committee and suggested getting Taylor Morrison involved from the beginning. Mr. Zimbardi questioned the financing. Ms. Epstein indicated the financing could not be discussed until Taylor Morrison agreed to make the land available, but there were many ways to finance, such as charging an administrative fee on every ticket. The preliminary cost for building a theater was \$7 million, but this was for a basic theater.

Mr. Eckert advised if the Board wanted to appoint a committee that was an official CDD committee, the Board must designate the members, advertise so they could meet according to the Sunshine Law and District Counsel would explain the Sunshine and Public Records Laws to each member, individually. Mr. Flint suggested the Board adopt a resolution establishing the committee with a clear scope of the committee's goals, list of members and duration. Discussion ensued. Mr. Eckert agreed. Ms. Epstein proposed sending an e-blast to residents to invite them

to serve on the committee. Mr. Flint suggested each Board Member appoint one person to the committee and designate a Board liaison.

Mr. Zimbardi proposed Poinciana West be included. Ms. Epstein recalled a representative of Poinciana West stating at the last meeting that they never wanted to meet with the Poinciana Board again, but this did not preclude the CDD from proceeding with the theater. Mr. Case, Chairman of the Poinciana West CDD, confirmed his Board supported the theater, but since there were funding issues, they wanted a funding agreement saying residents would be held harmless for any additional fees. Mr. Case was willing to discuss how it could be funded, but wanted to survey the entire community and include the HOA. Ms. Epstein asked if Mr. Case was interested in having a presentation from the Theater Committee at the next Poinciana West CDD meeting. Mr. Case replied affirmatively.

After further discussion, there was Board consensus to direct staff to prepare a resolution, including the scope of the committee, designating the initial members based on Board Member appointments and the duration and authorizing Ms. Lambrides to work with the Theater Committee, with the District Manager on the business plan and with District Counsel on the resolution.

- **Presentations by Law Firms Regarding District Counsel Services (Fifth Order of Business)**

Mr. Flint stated Letters of Interest were submitted by Appleton, Reiss & Skorewicz (ARS) and Latham, Shuker, Eden & Beaudine, LLP (LSEB). Ms. Reiss presented the qualifications of ARS, a copy of which was included in the agenda package.

A question and answer session ensued. The Board questioned the retention of documents and supplemental fees over and above hourly rates. Ms. Reiss stated ARS retained documents until the end of their representation. Supplemental fees would be an extraordinary circumstance, such as litigation where they would take a percentage of what the CDD was awarded and travel fees would be negotiated. Discussion ensued regarding potential conflicts with Bush, Ross who represented homeowners. Ms. Reiss was with Bush, Ross for 11 years and resigned after Labor Day to form ARS. Mr. Zimbardi noted the short time Ms. Reiss separated from Bush, Ross and the ongoing litigation and questioned the amount of CDDs that ARS represented. Ms. Reiss represented two CDDs, but the bulk of their clients were HOAs.

Ms. Reiss left the room.

Ms. Carpenter and Mr. d'Adesky presented the qualifications of LSEB, a copy of which was in the agenda package.

The Board asked about conflicts of interest and hourly rates. Ms. Carpenter stated they were constrained by the rules of ethics and if there was an ethical concern, they would withdraw. LSEB had no conflict with Taylor Morrison and the current litigation. They charge an hourly rate, try to limit their travel to an hour and charge for one attorney, even if she and Mr. d'Adesky attended the meeting.

Ms. Carpenter and Mr. d'Adesky left the room.

Discussion ensued and the Board addressed the following:

- Ms. Lambrides questioned Ms. Carpenter's current role in advising the Board. *Ms. Epstein stated Ms. Carpenter was Special Counsel on the Taylor Morrison acquisition advising on the sales contract and negotiations.*

Regarding the status of the acquisition, yesterday Mr. Flint participated in a conference call with Taylor Morrison regarding outstanding funding requests. He was cautiously optimistic that all issues would be finalized. Ms. Lambrides asked if Ms. Carpenter would serve as CDD District Counsel once the litigation was completed. Mr. Flint stated it was up to the Board. If Ms. Carpenter was hired, she would serve as Special Counsel until the litigation was complete and then serve as District Counsel. If ARS was hired, there would be two attorneys for a period of time.

- Mr. Zimbardi felt this was not the right time to replace District Counsel as two different counsels would generate additional costs for the community and no one had history of what transpired in the community.

Mr. Eckert stated if the Board was negotiating with Taylor Morrison, Ms. Carpenter needed to be involved. Mr. Zimbardi suggested waiting a few months to see what transpired. Ms. Lambrides disagreed. She wanted a fresh approach; however, having two different attorneys would incur additional costs.

- Mr. Luddy asked if the District would be charged for an issue occurring in the past. *Mr. Eckert stated there must be an ongoing attorney/client relationship for him to charge the District; however, if the District hired new counsel and he was contacted by the District Manager or new counsel about a previous matter, he would do the research or answer the question at no charges.*
- Ms. Lambrides understood Ms. Reiss was familiar with the litigation, but was not an active participant. *Ms. Epstein confirmed Ms. Reiss was not involved.*

Ms. Epstein preferred Ms. Carpenter's firm due to their stronger background in CDDs than Ms. Reiss and their familiarity with Polk County. Mr. Luddy asked if this justified the District paying Ms. Carpenter \$375 per month versus paying ARS \$225 per month. Ms. Epstein based her decision on the qualifications. Ms. Lambrides supported startups. Mr. Zimbardi disagreed as the statutes related to CDDs was too confusing and he wanted a firm with that experience. Ms. Epstein, Mr. Reed and Mr. Luddy agreed.

On MOTION by Mr. Reed seconded by Mr. Luddy with all in favor retaining Latham, Shuker, Eden & Beaudine, LLP to provide District Counsel Services was approved.

Ms. Reiss, Ms. Carpenter and Mr. d'Adesky were called back into the room and informed about the Board's decision.

Ms. Reiss thanked the Board for their time. Ms. Epstein wished Ms. Reiss good luck with her startup. Ms. Carpenter thanked the Board for their consideration and would send Mr. Flint their standard engagement letter. Mr. Flint advised against terminating Hopping, Green & Sams before the engagement letter with LSEB was signed as the District would be without representation. Ms. Carpenter suggested having the resignation effective when the engagement letter was signed.

On MOTION by Mr. Luddy seconded by Mr. Zimbardi with all in favor terminating Hopping, Green & Sams as District Counsel effective upon execution of the engagement letter with Latham, Shuker, Eden & Beaudine, LLP was approved.

Mr. Eckert reported the dismissal of the bond validation case was filed on December 3, 2018 as requested by the Board and asked the Board to approve the consent for substitution or withdrawal of their legal representation in the pending litigation. Ms. Carpenter stated she would file the substitution of Counsel. Discussion ensued.

On MOTION by Ms. Lambrides seconded by Mr. Luddy with all in favor the consent for Hopping, Green & Sams to withdraw from the pending litigation and substituting with Latham, Shuker, Eden & Beaudine, LLP was approved.

SEVENTH ORDER OF BUSINESS**Consideration of Non-Ad Valorem
Assessment Administration Agreement
with the Polk County Property Appraiser**

Mr. Flint stated Chapter 197 of the Florida Statutes required the District to enter into agreements with the County tax collector and property appraiser to use the tax bill as the collection method for their assessments. They were allowed to charge up to 2% of the amount levied, but the agreement called for 1%. Ms. Carpenter requested the Board approve the agreement subject to her review.

On MOTION by Ms. Lambrides seconded by Mr. Luddy with all in favor approving the Non-Ad Valorem Assessment Administration Agreement with the Polk County Property Appraiser, subject to District Counsel review was approved.

EIGHTH ORDER OF BUSINESS**Staff Reports****A. Attorney****i. Memorandum Regarding Budget Amendment**

Ms. Epstein presented a memorandum from Mr. Eckert regarding tasks performed in Fiscal Year 2018.

In response to Board questions, Mr. Eckert stated his role in the aerator purchase and implementation was to assist the District Manager in dealing with location issues, construction contracts and providing legal advice. For the golf course issue, he assisted the District Manager with drafting golf cart policies for the use of golf carts on pond banks and tunnels and educating the community. Mr. Luddy asked if there were restrictions to using EVs in the tunnels. Mr. Eckert stated he would review the policy. Mr. Zimbardi appreciated the detail so the Board could understand the budget and going forward, stay within the budget.

ii. Discussion of Issues Related to Public Records Requests

This item was tabled until the next meeting.

B. Engineer

There being none, the next item followed.

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

Mr. Flint presented the Check Register from November 20 through December 12, 2018 in the amount of \$277,896.94. There was a transfer of funds to the Trustee for assessment revenue collected by Polk County.

On MOTION by Mr. Reed seconded by Mr. Luddy with all in favor the Check Register was approved.

ii. Balance Sheet and Income Statement

Mr. Flint presented the Unaudited Financial Statements through November 30, 2018. Ms. Epstein questioned the special call on the Series 2012 bonds. Mr. Flint stated monies from residents who prepaid their debt assessment were remitted to the Trustee and either on November 1st or May 1st, a special call was made to pay down the principal.

On MOTION by Mr. Luddy seconded by Mr. Reed with all in favor the Financial Statements were accepted.

D. Field Manager**i. Field Manager's Report****ii. Customer Complaint Log**

Mr. Smith reviewed the Field Manager's Report, a copy of which was included in the agenda package. A checklist of completed items with the cost was included. Most items were completed in the last fiscal year and the remaining items, particularly ponds under water during the wet season that could not be accessed, which would be completed before the end of the dry season. Urgent items would be completed after prices were obtained. Mr. Flint noted no action from the Board was necessary. Phase I repairs were completed last fiscal year and staff would come back to the Board with the second phase. Mr. Smith noted the idea was to complete each phase until all repairs were made and the District Engineer certified them as complete. Some items were minor and did not need to be addressed at this time.

Ms. Epstein requested Ms. Leo attend the next meeting to present the proposals. Mr. Flint stated Ms. Leo could review the proposals in advance and attend the next meeting by phone to save money or the Engineer's Report could be moved to the beginning of the meeting. Mr. Smith would obtain individual prices, as many items were more expensive than others, such as a

damaged weir on Pond D-4; however, the water was still too high to make repairs. Mr. Flint pointed out it was common for weirs to get undermined and the pond could be dewatered to repair it.

Mr. Smith obtained options for soundproofing the aerators. Mr. Luddy asked how bad the sound was. Mr. Smith stated depending on the location, some rattled more than others, but there were easy ways to reduce the noise of the air compressor, such adding vinyl panels inside of the box. Ms. Lambrides noted Amalfi Lane was complaining the most because units were installed behind homes. Mr. Smith received a complaint from a homeowner on Sorrento Road, across the golf course and after some adjustments there was a drastic decrease in the sound. Mr. Flint suggested sound suppression for this unit. *There was Board consensus for Mr. Smith to purchase a sound suppression kit for \$199.*

Mr. Flint received a complaint from Mr. Mizel regarding the condition of Pond B-1, but District Staff and Clarke noted no significant issues, so Mr. Mizel requested a fountain for the pond to help the quality of the water and make it aesthetically pleasing. Ms. Epstein voiced concern about setting a precedent if the fountain was installed, since no other ponds had a fountain. Mr. Flint stated the District could enter into a license agreement allowing the HOA to install, maintain and pay for the electricity for the fountain. Mr. Reed agreed the fountain would be aesthetically pleasing, but questioned the cost. After Mr. Flint estimated the fountain costing between \$25,000 and \$50,000, the Board declined with installing the fountain.

Mr. Smith reported Pond E-3 was stocked with 5,500 bluegills and 1,800 catfish. Mr. Flint stated in the spring the pond would be stocked with bass and two ponds in Poinciana West were also stocked with fish. Ms. Epstein recalled the Board wanted one pond with aerators and one without to see if there was a difference. Ms. Lambrides asked if there was a concern about people fishing in the ponds and removing the fish. Mr. Flint indicated the fishing was catch and release only.

Mr. Reed questioned the number of years GMS had field experience. Mr. Flint noted Mr. Scheerer, the lead Field Manager had over 30 years' experience and although Clayton Smith was new, his father Brian Smith was in the industry for a long time. Mr. Reed requested the District Engineer receive information from field staff on what was wrong with the ponds and if there were design issues. Mr. Flint stated GMS did not design the pond. Mr. Reed pointed out the District paid for the ponds. Mr. Eckert stated some ponds were acquired at the beginning and

some were dedicated to the District. Ms. Epstein asked if Mr. Reed wanted the District to receive money for the issues. Mr. Reed replied affirmatively.

Mr. Flint explained all ponds were conveyed by the developer to the CDD for ownership and maintenance, but were permitted by the Water Management District. The District Engineer evaluated each pond before they were turned over to the CDD to ensure they were built in accordance with accepted standards and complied with all necessary permits. Mr. Reed asked if the CDD Board was involved in the original construction of the ponds. Mr. Eckert recalled the CDD Board did not have any input into the design of the ponds. Mr. Reed wanted to ensure this issue did not occur in future ponds by having the ponds designed efficiently so residents were not responsible for future costs. Mr. Flint suggested asking the District Engineer.

Ms. Carpenter advised the Water Management District had authority under the statute to approve the design plan and, technically, the CDD did not have authority to tell the builder how to build the pond. Mr. Smith indicated when he performs pond inspections, if something was not working properly, he would bring it to the attention of the District Engineer. Mr. Reed noted Mr. Smith's experience was valuable, and a pond may appear to be correct, but there could be a problem in the long-term that residents were responsible for. Mr. Reed hoped their experience could be shared so it did not affect future ponds.

NINTH ORDER OF BUSINESS

Supervisor's Requests

There being none, the next item followed.

TENTH ORDER OF BUSINESS

Other Business

Mr. Eckert stated he researched, at the Board's request, golf cart vehicles in the tunnels and according to District policy all vehicles were prohibited within the tunnels, except for motor vehicles licensed for use on public roadways and manufactured to be utilized by the public roadways. Motor vehicles with hinged doors, three wheeled vehicles and two wheeled vehicles such as mopeds and motorcycles were prohibited. A golf cart was defined as, *"A motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes, which was not capable of exceeding speeds of 20 miles-per-hour (mph) and does not exceed 78 inches in height. A golf cart also includes neighborhood electric vehicles and low speed vehicles, which were not capable of speeds exceeding 25 mph and which did not exceed 78 inches in height."* Mr. Reed noted many residents had two and four door electrical vehicles. Ms. Lambrides requested a copy of the policy.

Mr. Reed asked if a Taylor Morrison representative was invited to CDD meetings and were attending. Mr. Flint stated Taylor Morrison received copies of agendas and meeting reminders, but surmised they did not attend meetings because of the transition. Typically, representatives of Evergreen and Taylor Morrison or AV Homes attended meetings and would invite them. Mr. Reed stated he wanted to speak to Taylor Morrison about funding the entire theater.

ELEVENTH ORDER OF BUSINESS**General Audience Comments**

There being none, the next item followed.

TWELFTH ORDER OF BUSINESS**Next Meeting Date – January 16, 2019**

The next meeting was on January 16, 2019 at 11:00 a.m.

THIRTEENTH ORDER OF BUSINESS**Adjournment**

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



Secretary/Assistant Secretary

Chair/Vice Chair