

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, January 16, 2019 at 11:00 a.m. in the Starlight 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
Jan Carpenter	District Counsel
Andrew d'Adesky	LSEB
Kathy Leo	District Engineer
Alan Scheerer	Field Manager
Clayton Smith	Assistant Field Manager
Residents	

The following is a summary of the discussions and actions taken at the January 16, 2019 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

Norm Gundel, 419 Fountain Valley Lane, noted he is the Corporate Director of the Save Solivita Amenities Funding. He spoke to agenda item 6 on the agenda. He stated two residents prevailed in the bond validation lawsuits and asked the court to order the CDD to pay their out of

pocket expenses of approximately \$54,000. He noted it includes \$29,000 for an actual appraisal and the appraiser's testimony and deposition in the trial. It also includes approximately \$9,000 in court recorder fees and \$17,000 in other out of pocket expenses. The amount is reasonable and less than 5% of the 1.2 million in legal fees authorized by the CDD. He noted that the rules are very specific of about what expenses prevailing parties can recover. Mr. Gundel questioned whether the residents can recover their out of pocket expenses for both lawsuits. He pointed out that there is no on point precedent and there is no earlier decision where the supreme court connected two lawsuits by saying the issues appealed from the first lawsuit could only be decided on appeal from the second lawsuit. He mentioned a court ordered payment, that is paid by Poinciana CDD, will be lawsuit expenses covered by the funding agreement between Poinciana and Avatar. The residents expenses arose before the October 29 termination date of the funding agreement. But other legal fees the CDD would incur now would arise after that termination date. Of Course, Poinciana West is not a party to the funding agreement. The resident noted if Poinciana pays and is reimbursed under the funding agreement West may incur no expense. Poinciana has the benefit of the funding agreement, West does not. Let Poinciana take the lead. He stated the CDD should not incur legal expenses not covered by the funding agreement.

Michael Zahn, 118 Cupola Loop, stated his endorsement for Mr. Gundel's comments and supported his position that the residents should be paid back their expenses.

Larry Ebbers, 537 Tapatio Lane, opposed the payment of the legal fee and the item regarding the building of the theater. He stated that the because of the residents' lawsuit fees, they did not have enough money to build. Ms. Epstein stated that he was not providing factual information.

FOURTH ORDER OF BUSINESS

Approval of Minutes of the December 19, 2019 Meeting

Ms. Epstein presented the minutes of the December 19, 2018 meeting. Mr. Zimbardi noted that he questioned the financing on Page 3, not Mr. Luddy. Mr. Reed stated that Mr. Luddy asked "if this was justified to paying the District so much" on Page 6, not Mr. Reed. Ms. Lambrides asked for "and preferred ARS" to be taken out of the minutes" on page 4 line 6. Mr. Reed noted that Mr. Luddy asked how bad the sound was on Page 9, not himself. He also corrected Page 10 that Mr. Luddy noted "residents had two and four door golf carts," not

himself. Mr. Flint noted that the transcriptionist had made a few errors because of the new Board Members' voices.

On MOTION by Mr. Reed seconded by Mr. Luddy with all in favor the minutes of the December 19, 2018 meeting were approved, as amended.

FIFTH ORDER OF BUSINESS

Ratification of Engagement Letter from Latham, Shuker, Eden & Beaudine, LLP to Provide Legal Services

Ms. Epstein stated she did sign this letter and it just needed to be ratified.

On MOTION by Ms. Lambrides seconded by Mr. Luddy with all in favor the Engagement Letter from Latham, Shuker, Eden & Beaudine, LLP to Provide Legal Services, was ratified.

SIXTH ORDER OF BUSINESS

Ratification of Motion for Substitution of Counsel for Plaintiff Poinciana CDD; Direction to Counsel for Proceeding in Litigation

Ms. Carpenter explained the ratification to the Board. She noted that the District needs to be represented so they filed a motion substituting LSEB as Counsel. It had to be filed already so this is a ratification.

On MOTION by Ms. Lambrides seconded by Mr. Luddy with all in favor Ratification of Motion for Substitution of Counsel for Plaintiff Poinciana CDD; Direction to Counsel for Proceeding in Litigation was approved.

Ms. Carpenter explained to the Board that a motion to tax costs was issued in the last meeting. She stated that the key issue is that there is a 30-day deadline for filing a motion after a case is dismissed under Rule 1.420. She also mentioned that legally there was no basis for the \$54,000 fee, and she believed the other Board also acknowledged that and there appears to be about \$2,000 that is payable to the residents.

Mr. Luddy asked if the Board does nothing, it is probable that a judge will rule that they have to pay the \$54,000 fee. Ms. Carpenter answered yes. The Board decided it would be in their favor to discuss the litigation with the other District to determine how to break the costs out.

Ms. Carpenter explained that it would be preferable to come to an agreement with them rather than file something and have the court make judgement, because there would be a lot of legal costs that would come with it. Of the \$54,000, about \$52,000 of those costs were incurred in the first litigation case. When the judgement came down and denied validation, they had thirty days under civil procedure to file a motion for costs, and they did not do that. Legally, the District has a strong objection that those fees should not be paid. She stated that part two of the litigation is that there are about \$2,000 of costs attributable to the second case. They did file that motion within thirty days of the dismissal of the second case. She noted it might be less of an expense to pay the costs to make that part of the case go away.

Mr. Flint explained that based on the information he received from Hopping Green & Sams, it did not appear that the Board was going to exceed the 1.8 cap but it is all contingent on resolution of the validation case.

Discussion ensued between Ms. Epstein and Ms. Carpenter regarding whether the expenses came out of residents pockets or if they were legal fees that had not been paid yet. Ms. Carpenter noted as a steward of public funds they have a duty to make sure they're not agreeing to pay something they aren't legally obligated to pay.

Ms. Carpenter clarified the motion is to authorize settlement of up to \$2,000 on the first portion and to file objection on the second portion of the first if the settlement fails, keeping in mind they need to keep legal fees as low as possible, and also to proceed with Taylor Morrison.

On MOTION by Mr. Luddy seconded by Mr. Zimbardi with all in favor Authorization of Settlement up to \$2,000 on the First Portion and File an Objection on the Second Portion if the Settlement Fails.

SEVENTH ORDER OF BUSINESS

**Consideration of Resolution 2019-05
Establishing a Theater Advisory
Committee**

Ms. Epstein stated that she had a meeting with Brian Brunhofer, President of the Taylor Morrison in Central Florida, along with two other individuals. They explained to Ms. Epstein they may not be capable of making land available. The Board is to get a response in the next two months whether the land will be available and they encouraged the Board to go forward with the committee. In order for the Board to participate in the theater, they would need to have it pass under the Sunshine Law.

Ms. Carpenter explained the Sunshine Law stating that any matter that may come before the Board as business cannot be discussed outside of a public meeting. So, if the CDD may end up funding or participating in this or taking advice from this committee then yes it needs to be done in the Sunshine as an advisory committee. Discussion ensued between Board Members and Ms. Carpenter regarding the rules of creating a committee.

The Board decided to put the resolution on hold until there is a commitment from Taylor Morrison. However, there is not control over the residents and they can do what they want as long as a Board Member is not involved.

EIGHTH ORDER OF BUSINESS

Consideration of Resolution 2019-06 Relating to the Acceptance of Dedications of the Plat for Solivita Phase 5H-Unit 1

Ms. Carpenter stated this is a typical resolution, when the developer comes forward if there is any land that the CDD owns or usually may own to be dedicated. The CDD does not have any permitting authority, so they may not make any comments on the number or design of the lots.

Ms. Leo added that the County requires a resolution from the CDD as part of their permitting process. Ms. Carpenter explained the developer has already gone through a preliminary plat, engineering drawings, and now this is the last piece of it. They have already complied with all State and local codes likely to be able to get those construction drawings in place.

Discussion ensued regarding the future of the ponds and whether or not aerators will be needed. Ms. Leo stated she would communicate that the Board had concerns with the design. Ms. Carpenter stated she could get involved if it comes to legal but recommended handling it from the engineering side for now. Ms. Lambrides stated she thinks the Taylor Morrison sales office should know that these lots are going to create unhappy residents in the future if there is a midge problem.

Mr. Flint clarified that the resolution would authorize the Chair to execute the plat. The execution of the plat would be subject to Kathy, Jan, and District Management signing off on the form of the plat because there are still some comments that need to be incorporated.

Ms. Lambrides asked what recommendation could be made on the fingerlings. Ms. Leo noted they have plenty of fingerlings that don't have problems. In her opinion, she does not think there is any design flaw with the pond. On the other side of things is these fingerlings are great

amenities, they are beautiful when you look at how they shape and are created within the community. In her opinion, she does not think there is any design direction or change she would give to them as long as they are complying with all state and local codes.

The Board collectively noted that they want Ms. Leo to request electric infrastructure to be put in. Ms. Leo will put a letter together to Taylor Morrison that requests, that as part of the infrastructure design, there is electric provided.

On MOTION by Ms. Lambrides seconded by Mr. Luddy with all in favor Resolution 2019-06 Relating to the Acceptance of dedications of the Plat for Solivita Phase 5H-Unit 1 was approved.

NINTH ORDER OF BUSINESS

Staff Reports

A. Attorney

Ms. Epstein stated she will work on the resolution for the theater committee.

B. Engineer

Ms. Leo noted there was nothing else from a field perspective. She will continue to work with the maintenance team. There have been a couple of other plats come through and she doesn't think any of them are ready to go to the Board yet. She is starting to see some activity and she will continue to bring resolutions to the Board on platting.

Ms. Lambrides asked if this is what is holding up construction. Ms. Leo stated she didn't know but it is part of the requirement to get the construction permit.

C. District Manager

i. Approval of Check Register

Mr. Flint presented the Check Register from December 12th through January 8th in the amount of \$1,059,356.83. The detailed register shows that over \$1,000,000 of the expenses was a transfer of Debt Service Assessment revenue from the General Fund to the Trustee. Mr. Flint made a note that they will circulate the legal and engineering to the Chair and to Mr. Reed before they are processed. Ms. Epstein noted going forward especially on the billings by the hour, they should seek at least one Supervisor that will take responsibility for looking at the bills prior to payment.

On MOTION by Ms. Lambrides seconded by Mr. Luddy with all in favor the Check Register totaling \$1,059,356.83, was approved.

ii. Balance Sheet and Income Statement

Mr. Flint asked for any questions on the balance sheet and income statement.

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

D. Field Manager

i. Field Manager's Report

Mr. Smith presented a brief report. He explained that the sound proofing kit was ordered and there was routine maintenance on the aerators. He noted that he and Mr. Scheerer were the only two that had keys to the compressors.

Mr. Flint briefly updated the new Board Members regarding last year, the District Engineer did an inspection of all the ponds and identified a list of repairs that need to be made to the storm water system. Those repairs were prioritized. The Board approved phase 1 of doing that work which is being carried out at this point. Now the next phase is being looked at and bidding it out together with work that was identified in Poinciana West with the hope that there may be some economies of scale. He stated proposals will be brought back in the future for some additional repairs.

ii. Customer Complaint Log

Mr. Flint noted there had only been three complaints logged since the last meeting: two algae complaints and one complaint about littoral plants. He pointed out there were no complaints about midges. Mr. Smith spoke with a homeowner who had a concern that the CDD would be fined for removal of the littoral plants that were not on CDD property. He told her it should not be an issue. Mr. Smith noted he would be more descriptive in his complaints and resolutions.

TENTH ORDER OF BUSINESS Supervisor's Requests

Ms. Epstein presented the request that although Board decided not to go forward with the Theater Committee, she would like to continue working with them. The Board decided to set up a workshop after Board meetings so Ms. Epstein can give interested parties a report on what the Theater Committee is doing. Ms. Carpenter clarified Ms. Lambrides could send information she has gathered to the committee. They can do what they want with it. If the business plan comes before the Board, the Board would discuss it.

ELEVENTH ORDER OF BUSINESS

Other Business

There being none, the next item followed.

TWELTH ORDER OF BUSINESS

General Audience Comments

There being none, the next item followed.

THIRTEENTH ORDER OF BUSINESS

Next Meeting Date – February 20, 2019

There is no business for the next meeting. Ms. Carpenter suggested keeping it open until the week before and then George puts out the proposed agenda, if there is nothing then the Board can cancel it then.

FOURTEENTH ORDER OF BUSINESS

Adjournment

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


Secretary/Assistant Secretary


Chairman/Vice Chairman