

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, March 20, 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
Kathy Leo	District Engineer
Clayton Smith	Assistant Field Manager
Amy Solis	Clarke Environmental
Residents	

*The following is a summary of the discussions and actions taken at the March 20, 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 6A. He asked for reconsideration of the

resident's motion for payment of the full \$54,000 of out of pocket expenses. He requested it be compromised and settled by paying \$38,178.81. Mr. Gundel gave a short presentation to support his request that the prevailing residents be reimbursed.

**FOURTH ORDER OF BUSINESS****Approval of Minutes of the January 16, 2019 Meeting**

Ms. Epstein presented the minutes of the January 16, 2019 Meeting. There were no changes from the Board.

On MOTION by Mr. Reed seconded by Mr. Luddy with all in favor the minutes of the January 16, 2019 meeting were approved, as amended.

**FIFTH ORDER OF BUSINESS****Consideration of Assessment Administration Services**

Mr. Flint stated public comments were received from residents whose Debt Service assessments were higher than their neighbors. In 2014 the Board went through a process and reviewed, with their financial advisor Fishkind and AV Homes, the remaining undeveloped property. AV Homes came forward with a revised development plan that had fewer units on the remaining undeveloped property. As a result, Fishkind prepared an Assessment Methodology reallocating the remaining debt to the remaining acres. This increased the per unit amount.

Mr. Flint noted that recently Taylor Morrison provided a revised development plan, since most has been platted. It appears the revised development plan is more in line with the original. The number of units to be developed is higher than what was used in 2014 when they were adjusted. If you go back through the analysis process again it is likely the per unit debt assessment will go back down close to where the other debt assessments are. The recommendation is to have another analysis prepared. It is believed going back through the process this November those residents will be able to see some relief on their tax bill. Mr. Flint noted that Fishkind, who had been the District's financial advisor, proposed \$12,500 to prepare the revised methodology. He also stated that GMS, being the General Manager, is capable of preparing the analysis. The contract methodology states it would be in conjunction with a bond issue. It is a fee of \$15,000. Since it is not in conjunction with a bond issue GMS is fine with doing it at the same price Fishkind proposed of \$12,500.

Ms. Carpenter confirmed it is customary for the District Manager to be doing the Assessment Methodologies/analysis.

Mr. Zimbardi asked if the developer could pay for this and stated the developer could change their plans as many times as they want. Mr. Flint stated that doing the adjustment prior to the development being mature is a little unusual. Mr. Flint stated they are trying to correct that so that those residents get a Debt Service assessment in line with where they should be. He stated there is normally a True Up Agreement. If the total number of units is lower than the planned number of units when bonds were issued the developer sometimes has to make what is called a True Up payment to pay down the principal.

Ms. Carpenter clarified that it wasn't an error and it doesn't appear to have been done inappropriately. It was the development plan at the time. A new developer came in and said yes, we are going to increase the density. Now the District would like to update the plan so that the assessments can be reduced on the lots. It was correct when it was put in because that was all the lots that AV Homes was going to build. Those people who bought those homes knew what the amounts were going to be when they purchased.

Ms. Epstein noted the development plan went into effect in April of 2018.

Mr. Zimbardi objected to paying the money out again to update the Assessment Methodology. He doesn't think it should be the responsibility of the District to pay. He wants the developer to pay.

Ms. Epstein and Ms. Carpenter stated if you ask the developer to pay, the developer will say they will wait until True Up. Then the residents will continue to pay the higher amount. GMS was voted as the company to provide the assessment administration services. Ms. Carpenter stated an addendum would be made to the GMS contract and it would be ratified at the next meeting.

On MOTION by Mr. Zimbardi seconded by Mr. Reed with all in favor selecting GMS-CF, LLC to Provide Assessment Administration Services for \$12,000, was approved.
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## **SIXTH ORDER OF BUSINESS**

### **Staff Reports**

#### **A. Attorney**

Ms. Carpenter presented a quick report on the Motion to Tax costs. \$2,000 was offered to cover the costs that were clearly attributable to the first validation case. Two calls were made to

the Counsel for the residents and they didn't return any calls. It is assumed they rejected. She suggested filing a minimum number of pleadings but to preserve the rights of the District. Poinciana West's Counsel said they were going to file pleadings against the motion and they are taking a strong position.

Ms. Carpenter stated that per comments of some of the residents earlier and the residents being represented by Counsel, the individual resident can't be addressed by her ethically. If they are represented by Counsel, then Counsel should be talked with. Ms. Carpenter preferred not to give legal advice with the residents present. Ms. Epstein stated \$4,500 has already been spent on this tax cost and asked how much more is going to need to be spent.

Ms. Carpenter stated she couldn't answer that, but hoped to get a conversation going with the Counsel for the residents to find out what they are seeking. Some of what they are seeking are legal defenses, and the District can't agree to pay things that it isn't legally obligated to pay as that would be inappropriate use of government funds. Ms. Carpenter stated they would do as little as work as possible to keep costs down, but that a pleading must be filed to avoid getting a judgment. She reiterated that a litigator from her office has called their Counsel once and called a 2<sup>nd</sup> time leaving a detailed message and there has been no response.

Mr. Luddy stated he is personally against paying out the \$38,000 but if this is taken to court additional attorney fees could be generated with more costs. If it goes to court and West fails, there is going to be another court order for this amount. Ms. Carpenter stated if the case is lost there would be a court order against both Districts. She noted West would not file without Poinciana CDD filing as well and that there will be legal fees, but the residents would also have legal fees.

Ms. Carpenter noted that Taylor Morrison came back with agreeing to pay certain costs, basically a settlement. They would pay through a certain date but not the balance. She stated that once a proposal is received each Board Member will be talked to individually.

Ms. Epstein asked for an explanation of why the funding agreement is not going to fully cover the District. Ms. Carpenter explained the funding agreement states it would be terminated upon the written notice from the developer. The written notice was received in November and their initial position is that they will pay through that date. Once they sent the notice, they no longer have an obligation to pay. This motion was filed afterwards so they are arguing they don't have any requirement to pay.

Mr. Luddy stated he prefers to pay the \$38,000 instead of running up another \$20,000 in attorney's fees on top of it and take the risk of going to court of losing again and having to pay anyway. Ms. Carpenter noted again that she will not go into details with the residents present in the room.

The Board agreed to schedule an executive closed session to discuss litigation to be done in conjunction with the next meeting. It will be noticed, and a court reporter will be present. The session will be at 10:00 a.m. on April 17<sup>th</sup> before the next meeting.

## **B. Engineer**

Ms. Leo noted most of their work has been in support of the operations team. There haven't been any new plats and there isn't a schedule of when there will be more.

Ms. Lambrides was concerned that after the True Up another funding assessment would have to be done. Mr. Flint replied, no. They are going to redo the methodology based on the latest development plan which matches closer to the original development plans.

Mr. Reed noted he had asked Mr. Flint to provide the latest drawings on the ponds in Solivita. He stated he wasn't aware if there are any dry ponds in the Poinciana District. Ms. Leo stated there are no dry ponds in Poinciana, but Poinciana West has several.

Mr. Reed addressed one of the line items Anthony billed for appeared to be Poinciana West for dry ponds. Mr. Luddy challenged it and Mr. Flint indicated it was an oversight and it has been fixed but the dollar amount still applies to Poinciana. Ms. Leo explained it was a 1-hour meeting and half the time was split. 30 minutes was charged to Poinciana and 30 minutes was charged to Poinciana West and the note was incorrectly carried over. It has since been revised, initialed and corrected. She noted the stormwater report that was done last year may be a good guide as it has findings and great notations.

## **C. District Manager**

### **i. Approval of Check Register**

Mr. Flint presented the Check Register from January 8, 2019 through March 12, 2019 for the General Fund and payroll in the amount of \$201,353.39. The detailed register is behind the summary. He noted that anywhere you see Poinciana CDD - US Bank, that is moving the Debt Service Assessment Revenue to the Trustee. It is not an expense it is just moving the funds. He noted that New Age Tutors (in the amount of \$2,500) is actually VGlobalTech, the company that

made website ADA compliant, it's a DBA name. Mr. Flint explained that they recreated the website by writing it in a program language that is compatible with third party readers. Now it is accessible for people who are sight impaired.

Mr. Zimbardi asked about the \$300 to Floralawn. He thought removal of any trees or anything had to be approved by the Board first.

Mr. Smith stated the bottlebrush was dead, and he wasn't aware that he had to bring all plant replacements before the Board but that he could in the future. He confirmed the \$300 is for removal and replacement.

A consensus was made that in the future all plant replacements will be brought before the Board for approval. Some residents might not want them replaced. Mr. Zimbardi asked that the last line on the check register be explained, he questioned what "outdoor" meant. Mr. Flint stated he would research that, but it's probably just a poor description. Mr. Smith noted that was the name of the company, and the cost was for the sound proofing kit.

On MOTION by Mr. Zimbardi seconded by Mr. Reed with all in favor the check register totaling \$201,353.39, was approved.

## **ii. Balance Sheet and Income Statement**

Ms. Epstein asked for any questions on the balance sheet and income statement. Mr. Reed stated he would like to see George provide an assessment each month when he presents the financials of how things are going compared to the budget. At the end of last year when 6 or 7 line items were exceeding budget by over 100% it appeared that area had been neglected. Ms. Epstein mentioned that on the General Fund page there is a column called variance and it shows where the variance is to the prorated budget. Mr. Flint stated that he doesn't mind giving a thumbnail description.

Mr. Flint noted that in the General Fund on the revenue side about \$413,000 has been collected of the \$466,000 in assessment revenue that was certified to the Tax Collector. He stated residents have until March 31<sup>st</sup> to pay their tax bill so it's not 100% collected yet. He noted Administrative and Field expenses overall is \$24,000 under. Legal fees are over based on some of the bills that are still in discussion and they are slightly over on aquatic control. Mr. Flint stated he will go back and check up on that one, as it is about \$1,300 over. Overall everything is in pretty good shape.

Mr. Reed questioned the attorney invoices. He asked Mr. Flint if he would take over more responsibility for managing the operations rather than deferring to the attorney. Mr. Zimbardi noted that some of the issues that were on the bills were ones that he felt like the managing director could handle. He would like to see Mr. Flint have more responsibility and use the legal resources as needed or for more difficult issues. Mr. Flint stated him and Jan work well together, and that situation wouldn't happen as much going forward. Ms. Carpenter noted she wouldn't do anything that she thought GMS could do.

On MOTION by Mr. Luddy seconded by Mr. Reed with all in favor, the Balance Sheet and Income Statement, was accepted.

**D. Field Manager**

**i. Field Manager's Report**

Mr. Smith presented a brief report. He explained the sound proofing kit was installed on the test unit. The decibel rating did decrease about 5 decibels, which is not super significant. He found the most noise seems to come from rattling or loose parts. On the main unit that had complaints, the loudest noise was fixed. You couldn't stand next to it but once it was tightened down there was a drastic difference. He recommended buying insulation if they wanted to do something but didn't find the sound proofing kit to be beneficial.

Mr. Reed asked the question that while Mr. Smith is going through the equipment if he is documenting any re-occurring problems of the parts loosening up that can be prevented. For example "double nutting" or anything similar to help reduce work. Mr. Smith stated he is not a person to doing things over and over again with the same results. He hasn't been taking physical notes on paper but knows the units very well and knows what has been fixed. If he comes to a bolt that has been tightened before he will use thread sealer or other means that will not allow the bolt to loosen. Mr. Smith stated that if they wanted him to take paper notes he would definitely do that.

Mr. Luddy agreed with Mr. Reed that Clayton should make a policy of keeping a log of notes of repairs or history log. Just in case he has to be replaced, the new employee would have a history. Mr. Reed noted documentation should also be provided for preventative maintenance. If any has been performed, what the result was, or that needs to be performed, etc.



Ms. Epstein asked if a pump has been lost already. Mr. Smith stated that the failure rate is pretty low, considering how many are in service. The one pump that did have a problem was found to have a circuit board problem. He attempted to repair it without success so it was replaced under warranty. He stated there were no issues with any others and to replace one would not be a tremendous cost.

Mr. Smith presented the Engineer's Report and a list of action items for Poinciana. Mr. Smith looked at opportunities to save money and getting projects done when it is convenient, such as when the water levels are lower. One of the bigger items is the weir repair on pond B-4. It is going to cost about \$32,000 and that includes full removal and replacing of the weir. There is another contractor coming out with some other ideas, and they are hoping to come up with a cheaper option and keeping the weir that is in place.

Mr. Flint explained they have received quotes and they are trying to find the most cost-effective and long-term repair. Ms. Leo stated she has been onsite providing reports for the contractors and has been very involved. Ms. Leo mentioned one of the challenges is that the contractors are really busy and to get someone to come in and do heavy repair work with a lower dollar value is hard. They are trying hard to find the right people. It's more complex than just putting it in and replacing it. It's more engineering on the spot, determining what else can be done to be efficient and not cost \$30,000.

Mr. Smith noted that B-3 is another pond that needs repairs. He stated he is meeting the contractor there because the contractor had trouble finding the pond on his own. Ms. Leo stated there is nothing on the action items list that is going to create a failure of any system. It is general maintenance problems. It revolves around weather, water levels, availability of construction crews, etc.

Mr. Smith stated he can continue to make smaller repairs and fix landscaping without the Board's approval. Proposals will be brought before the Board for the larger projects.

## **ii. Customer Complaint Log**

Mr. Smith stated there have only been minimal complaints logged since the last meeting. Mostly algae complaints and one midge complaint. He reported that Pond D-11 was sprayed last week for minimal grasses and there is nothing to be done about the water level. The water level is based on rain, elevation, environmental factors.



A resident stated A-20 had a midge issue. Mr. Flint noted on the log, a resident on A-20 also complained of a midge issue.

**SEVENTH ORDER OF BUSINESS****Supervisor's Requests**

Mr. Reed noted he is interested in long range planning. He asked if a long-range plan was in place and Mr. Flint answered no. Mr. Reed stated he would like to propose that the Board consider having a 5, 10, and 20 year plan and at least have a discussion or vision about what the future holds and if there is any financial impact. If so, it should be included in the plan.

Ms. Epstein asked if Mr. Flint had other Districts that do long range planning. Mr. Flint answered yes but that this District was different. He noted that primarily what this CDD owns is ponds, pipes, and mitered end sections. There are no buildings with roofs, carpet or furniture. Planning on things like ponds, theoretically they have a long-life span and the maintenance is typically based on annual inspections. Mr. Flint noted you can't predict bank erosion or a structure getting undermined. He suggested a 5-year CIP rather than a long range plan. He stated even a 5-year CIP might be difficult with the types of things that are owned and maintained by the CDD.

**EIGHTH ORDER OF BUSINESS****Other Business**

Amy Solis reported that she has been given another opportunity and she would be leaving Clarke. She has worked with Poinciana for 15 years. She was recognized for her service. She thanked everyone and wished them well.

**NINTH ORDER OF BUSINESS****General Audience Comments**

A resident from Solivita West stated they just had a meeting about midges and pond control. He strongly encouraged if there is a complaint to be sure that it is investigated. He went out and looked at a midge issue about a month ago and it was horrendous. He stated it's not appreciated what these people are going through when they have these kinds of issues. He stated it was also noted in their meeting they have 22 ponds and only 3 ponds were being treated for midges which is very surprising. He again encouraged the CDD to have an active role and understand what people are going through and to follow through. He stated the lady having the midge problem stated she's had it for 5 years in a row. She had reported it for 5 years and nothing had been done.

Shaun Thornton, 165 Marabella Loop, asked that item 5 be clarified. The purchase of AV Homes by Taylor Morrison was a stock purchase, which means they took on liabilities and obligations. He wasn't sure if the Board was thinking that AV Homes is the same company. The name on the door has changed, many things might have changed but their obligations are exactly the same. He also voiced his support for the payment of the attorney fees. He felt the attorneys represented the residents well. He noted \$38,000 was a drop in the bucket compared to \$250,000.

Don Paul, 1357 Del Mar, stated it is not the resident's decision to decide if you want 5,000, 6,000 or 7,000 homes. It is Taylor Morrison's. They can be jacking it into the price and now they want to charge the residents again. He doesn't feel that is right and he thinks it should be the builder's problem not the residents.

Greg Umbaugh, 453 Mayfair Drive, noted he has been trying to get a copy of the CDD documents and he doesn't know where to get that. Mr. Flint stated all the pertinent records are on the CDD's website. Mr. Flint stated he would get with the resident after the meeting. The resident had a question about his CDD fees. Mr. Flint stated the Debt issued is a 30-year bond. The adopted budget on the website has the amortization schedule. The principal can always be prepaid to avoid interest on the remaining 15 years or however many are left.

#### **TENTH ORDER OF BUSINESS**


#### **Next Meeting Date – April 17, 2019**

Mr. Flint stated an executive session will be held at 10:00 a.m. and the public meeting will follow at 11:00 a.m. on April 17, 2019. Once a meeting room is secured everyone will be notified.

**ELEVENTH ORDER OF BUSINESS**

**Adjournment**

On MOTION by Mr. Zimbardi seconded by Mr. Reed with all in favor the meeting was adjourned.

  
Secretary / Assistant Secretary

  
Chairman / Vice Chairman