

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 15, 2020 at 12:00 p.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	Field Manager
Tricia Adams	GMS
Residents	

The following is a summary of the discussions and actions taken at the January 15, 2020 Poinciana Community Development District's Board of Supervisors Meeting.

FIRST ORDER OF BUSINESS

Roll Call

Ms. Epstein called the meeting to order and 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 were no public comments.

FOURTH ORDER OF BUSINESS

Approval of Minutes of the December 18, 2019 Meeting

Ms. Epstein presented the minutes of the December 18, 2019 meeting and asked for any changes or corrections. Mr. Reed noted on page 6 the statement regarding the suggestion to give the pressure washing contract to a resident was from Ms. Lambrides not Ms. Epstein.

On MOTION by Mr. Reed, seconded by Mr. Luddy with all in favor, the Minutes of the December 18, 2019 Meeting were approved, as amended.

FIFTH ORDER OF BUSINESS

Review and Acceptance of Draft Fiscal Year 2019 Audit Report

Ms. Epstein asked if there were any questions on the draft Fiscal Year 2019 Audit Report. There were no questions from the Board.

On MOTION by Mr. Zimbardi, seconded by Mr. Reed with all in favor, the Draft Fiscal Year 2019 Audit Report, was approved.

SIXTH ORDER OF BUSINESS

Consideration of Contract Agreement with Polk County Property Appraiser for Assessment Administration

Mr. Flint noted that the Contract Agreement with Polk County Property Appraiser for Assessment Administration was approved each year. It allows them to use the tax bill as a collection method, which is required under the Trust Indenture. The requirement of the agreement and fees are set in statute, therefore not allowing them the ability to negotiate. The proposed fee structure is the same as it was in the past.

On MOTION by Ms. Lambrides, seconded by Mr. Luddy, with all in favor, the Contract Agreement with Polk County Property Appraiser for Assessment Administration, was approved.

SEVENTH ORDER OF BUSINESS

Discussion of Request to Install Low Voltage Palm Tree Lighting on District Property

Ms. Epstein noted that the request for installation of palm tree lighting was in the agenda packets. Mr. Steve Mizel (117 Torino Lane) requested low voltage lighting to light the four palms behind his property between the pond and his house. He noted it would be at no cost to the CDD and that he would use his professional landscaper to install the lights. He stated he would be willing to remove the lights at any time in the future should the CDD decided they were no

longer wanted. He also explained how the removal would work then asked the Board for any questions.

Ms. Epstein asked that Ms. Carpenter review the legal implications of the proposal. Ms. Carpenter stated that although it sounds like this is a reasonable request and could see how homeowners would want things like this, it does pose risk and issues for the Board. The Board would be allowing private improvements on public CDD property. It would be a policy establishing how the District would accept the property, how the Board would allow it to happen, what kind of insurance is required. Ms. Carpenter also stated that under the Florida Administrative Procedures Act when there are policies adopted by a board there should be a rule making. That requires a notice and a hearing establishing a process. This is government property and there is a process where we would have to be sure that insurance covered it, if any damage was done to the property it would be covered by insurance. The Engineer would also have to look to make sure that whatever is proposed meets requirements and doesn't interfere with any CDD assets. We would have to set up an application if others wanted to do the same. This causes bigger issues if someone else comes along and wants to put something on CDD property. Ms. Carpenter answered a question regarding cost and stated the cost incurred by the CDD would be about \$4,000- \$5,000 to go through the rule making process. A question was asked if this property was CDD property, and it was confirmed by Mr. Flint that this property is CDD land.

Mr. Flint stated other developers have wanted signage on the CDD property and in those instances the Board enters into a license agreement, which are legal agreements that have to be drafted by the attorney on a case by case basis. This issue would be setting a precedent. He noted they would need to do this by rule, because another resident might ask for something. Then the Board would be obligated to allow other residents do improvements. There are other maintenance concerns around the landscape contractors being in there and if they damage the lights, if the lights are not working, and many other issues if the resident were to move, and if the new homeowner does not want to maintain those then the Board would be forced to remove them. Mr. Flint noted it is a private improvement on public property and there are issues associate with that.

Ms. Carpenter explained that the rule would be a regulation basically saying if someone wants to propose, or put any kind of asset or improvement on CDD property, this is the application, this is the explanation, this is what it would costs, etc. The Board would pay for the

Engineer to look at it, they would have to show they have insurance. Ms. Carpenter again stated this sounds simple, but it can be a problem for the Board/District.

Mr. Luddy stated it is doable by creating rules and regulations that says this is the step, this is the liability, and answering those questions as to who has to insure and who's liable. If someone trips and wants to sue, who is going to be sued. As long as it's an agreement, and ensures the Board is not getting sued.

Ms. Lambrides stated that the Board would be accepting liability if anyone in the community puts an improvement on the property they are liable for. Ms. Carpenter stated they would ask their insurance to show they could cover it, but they would always sue the District first and the Board has some liability for agreeing to let it be there.

A resident asked if a worker trips on ornamental grass, can they can sue. Ms. Carpenter stated that they get sued for sidewalk cracks and in some districts, it is every week.

Mr. Luddy asked if there is a way of doing it, so it protects the Board from any legal liability. Ms. Carpenter replied no.

Ms. Leo stated if there was a way to keep the lighting on your own property that would be a better way to go than trying to put it on CDD property. Mr. Mizel replied that putting the lighting at the base of the tree is the safest place so that it won't get affected, if it is put out in the grass there would be a problem with Floralawn. Both sides of the palm trees are protected by ornamental decorative grass, so the only person in the grass is twice a year actually cutting down the grass. That's the only extent of maintenance workers being inside the grass. He asked if anyone else was on that property, would they be trespassing.

Ms. Carpenter stated it was public property and there could be kids and they would be liable. She also stated this case may not be huge liability, but then when the next person comes who's on a pond and wants to put something in the pond that is CDD or an access then you are faced with having to differentiate between their request. Ms. Epstein stated the rule making has to be first.

Mr. Mizel asked about purchasing the low voltage lights and giving them to the CDD. Mr. Flint asked if the lights were solar. Mr. Mizel replied no, they are low voltage and the line would be buried between the four trees and at the base of the palm trees, the stakes would go straight up.

Ms. Epstein asked about long term issues if the house were sold. She then stated that the Board cannot do this without the rule process and the cost of that is \$4,000 to \$5,000. Ms. Epstein clarified that's the first decision that the Board has to make. Ms. Lambrides asked if Ms. Carpenter could research and report to the Board an estimate of what it would cost to set up this process. Ms. Carpenter replied it would be \$1,000 or so for the lawyers, Mr. Flint has already checked the cost for notice and advertising at \$1,100. Ms. Carpenter stated it would be two meetings and then they would have to get with the Engineer to ask what the cost to review the proposal would be. The least it would be is \$3,500-\$4,000 if there are no issues.

Ms. Lambrides noted that once the process is set up it would open the door for other homeowners if they wanted to do these kinds of things. The Board then continued discussion of the process, the length of the process, and the impact this rule would have and complaints that may arise from this decision. Board members agreed this is an expense for them at this point.

Another resident noted that next time a resident might want to put something on HOA property, which is another issue. Ms. Epstein asked for any other public comments.

On MOTION by Mr. Luddy, seconded by Mr. Zimbardi, with Mr. Luddy and Mr. Zimbardi in favor and Ms. Epstein, Ms. Lambrides, and Mr. Reed opposed, the Request to Install Low Voltage Palm Tree Lights on District Property, Failed 2-3.

Ms. Lambrides asked if she voted no, if that precludes the resident from bringing it back to the Board at a later date. Mr. Flint and Ms. Carpenter both stated no, the resident could bring it back to the Board.

EIGHTH ORDER OF BUSINESS

Discussion of Proposed Settlement Offer for Motion to Tax Costs

Ms. Epstein stated this is the issue that the Board went into an Executive Session about. Mr. Luddy stated that they heard from their attorney that not necessarily all the costs are legitimate, and the price of \$34,000 changed. Mr. Luddy motioned to pay the settlement cost and put this behind the Board and limit their financial obligations as they go forward. Ms. Carpenter stated in the motion they would need to add that there is a contingency that Poinciana West also settles.

On MOTION by Mr. Luddy, seconded by Mr. Reed, with Mr. Luddy, Ms. Epstein, Ms. Lambrides, and Mr. Reed in favor and Mr. Zimbardi opposed, the Proposed Settlement Offer for Motion to Tax Costs, was approved. Motion passed 4-1.

NINTH ORDER OF BUSINESS

Staff Reports

A. Attorney

Ms. Carpenter noted she had nothing further to report. The merger agreement will be emailed so the Board can look at it.

B. Engineer

Ms. Leo stated the Board had the annual pond inspection report and it was a long one. If there is no asterisk next to a pond, then there are no issues. She referred to the photos and issues with the pond conditions. Some things need to be done, but not right away. She noted that a lot of time and energy has been spent on the ponds in the past few years, so there are very few that need immediate attention. She noted that a huge cost is not expected, the majority of things are minor. She stated that Clayton has some good repair methodologies in place that are practical and cost effective. Ms. Leo stated that one of the ponds next to the softball field has a collection problem, but Clayton will work with HOA and has it under his pond checklist.

A Board member asked a question regarding a pump in the pond. Ms. Leo stated that was piping from the pond that they want to make sure is the correct piping. She stated it was not the CDD pump, and assumed it was the HOA.

Mr. Flint stated that if there is no concern about water quality then they would want it extended further into the pond because you can see the problems it's creating. Mr. Flint stated they would follow up on this item.

C. District Manager

i. Action Items List

Item 1: Mr. Flint stated the hearing assistance equipment has been purchased and it's available, but they will only set it up only if they are contacted prior to a meeting and it's requested. The cost was between \$400 and \$500 and will be split between both Districts.

Item 2: Mr. Flint stated the merger issue has been discussed already. Mr. Flint noted he would change the status to on-going.

Item 3: Mr. Flint stated they may need more Board direction on specifically what is wanted. Supervisor Reed has certain ideas about what he would like to see as far as coordination and joint meetings between the various entities. There have been different points of view on the Board about the of feasibility of some things. Mr. Flint wanted further clarification about where he needs to go.

Item 4: Ms. Leo stated the research done on requisitions back to the beginning of the CDD, the records were not found. Mr. Flint noted that the records were in archives. The last few years things were scanned and available electronically, but requisitions from back when the District was first created are boxed archives. Those would have to be pulled. Ms. Epstein requested that the District Manager further research the requisition records for the next meeting.

Item 5: Mr. Clayton Smith had two proposals for pressure washing the tunnels and would be presenting those under his report. Completion date will be put as February 19th.

Item 6: The methodology for the golf course assessments and how they are factored into the budget haven't been reviewed and it will be put on a future meeting agenda. Mr. Flint asked if any other items needed to be added to the Action Items List.

ii. Approval of Check Register

Ms. Epstein asked if there were questions on the check register.

On MOTION by Mr. Reed, seconded by Mr. Luddy, with all in favor the Check Register from December 10, 2019 through January 8, 2020 in the amount of \$970,412.21, was approved.

iii. Balance Sheet and Income Statement

Ms. Epstein asked if there were any questions. Mr. Reed asked to have a look at the engineering costs as they related to the budget. Ms. Leo explained why their costs fluctuated, due to preparing the pond report.

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

D. Field Manager

i. Field Manager's Report

Mr. Smith reported there were two pressure washing proposals, and one was supplied through a Board member. The difference in price came out to be significant. Pressure Wash This, Inc. came out at \$2,500 and the other company came out to \$6,900. At this point he asked for an approval. Mr. Flint stated the staff recommend Pressure Wash Inc. at \$2,500. Mr. Flint stated this was an apples to apples comparison.

On MOTION by Ms. Lambrides, seconded by Mr. Luddy, with all in favor, the proposal for Pressure Wash, Inc. to complete pressure washing, was approved.

Mr. Smith stated that on Pond B-16 he discovered some exposed liner. It was minor compared to last year. He noted that it appears the landscaper hit one of the panels, but it does still work. He is working to get that replaced. Mr. Reed noted that Poinciana West asked for a list of chemicals used to treat the ponds. Mr. Flint noted the list for the Poinciana ponds would be the same.

Mr. Smith summarized the fish and pond discussion that took place at the Poinciana West CDD meeting for Board members and residents in attendance that weren't aware. Ms. Epstein had several questions about the aerators and prior fish that had been put in the pond. Discussion ensued between Mr. Smith and Ms. Epstein.

Mr. Flint clarified that the discussion regarding the comparison on fish and aerators was before Mr. Smith came on. He stated that they have seen significant improvements. Ms. Epstein was concerned about spending and costs. Mr. Flint stated that the fishery did the install in Poinciana West, and the fish were picked up and staff stocked the pond themselves. The fish were \$200. It was a one-acre pond. Discussion ensued regarding removal and elimination of use of aerators in the ponds.

ii. Customer Complaint Log

Mr. Smith reviewed the customer complaint log.

TENTH ORDER OF BUSINESS

Supervisor's Requests

Ms. Epstein asked for any Supervisor's Request. Ms. Carpenter stated she had one follow-up. She noted that she had direction from the Board to work with the Counsel for a settlement agreement that includes the joint releases of the other District and a release from the others they are settling with.

ELEVENTH ORDER OF BUSINESS

Other Business

Ms. Epstein ask for any other business. The Board thanked Ms. Carpenter for the addition of the memorandum on the merger.

Ms. Lambrides asked a question regarding how to move forward when residents want improvements on CDD land. Ms. Epstein stated it was a can of worms they do not want to touch. Discussion ensued between Ms. Lambrides and Ms. Epstein regarding requests on CDD and HOA lands.

TWELTH ORDER OF BUSINESS

General Audience Comments

Ms. Epstein asked for any general audience comments.

A resident stated that they have no vested interest in what was discussed and noted as a community member they believe there should be a policy. The resident stated they think the Board is avoiding the situation and it's unfair to the rest of the community.

Ms. Epstein asked for other comments.

A resident stated he wanted to thank all Board members for agreeing to settle on the Motion for Tax Costs. He asked for clarification on the Board's preference on the settlement agreement. Ms. Carpenter noted there would be mutual releases among everyone.

THIRTEENTH ORDER OF BUSINESS

Next Meeting Date – February 19, 2020

The next meeting is scheduled to be held on February 19, 2020.

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