

MINUTES OF MEETING
POINCIANA WEST
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Poinciana West Community Development District was held on Wednesday, March 21, 2018 at 11:30 a.m. in the Starlite Ballroom, 384 Village Drive, Poinciana, Florida.

Present and constituting a quorum were:

Charles W. Case	Chairman
Leonard Vento	Vice Chairman
Bill Brown	Assistant Secretary
Shirley Bzdewka	Assistant Secretary

Also present were:

George Flint	District Manager
Michael Eckert	District Counsel
Tony Call	District Engineer - GAI
Michael Dell'Isola	District Engineer – Atkins
Brian Smith	Field Manager
Residents	

The following is a summary of the discussions and actions taken at the March 21, 2018 Poinciana West Community Development District's Board of Supervisors Meeting.

FIRST ORDER OF BUSINESS

Roll Call

Board Members introduced themselves 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

There being none, the next item followed.

FOURTH ORDER OF BUSINESS

Organizational Matters - Added

A. Acceptance of Resignation of Sidney Rosenberg

On behalf of the Board, Mr. Case thanked Mr. Rosenberg for his service to the Board.

On MOTION by Mr. Brown, seconded by Ms. Bzdewka, with all in favor, Sidney Rosenberg’s resignation, effective March 18, 2018, was accepted.

B. Discussion of Process to Fulfill Board Vacancy

Mr. Case proposed requesting resumes and forwarding them to the District Manager for review, prior to the next meeting. Mr. Flint stated that the deadline to provide resumes would be a week before the meeting, for inclusion in the agenda package. Ms. Bzdewka stated that an e-blast would be sent. It was noted that a Board Member submitted a letter of intent to forfeit their seat if Poinciana and Poinciana West merged. Mr. Case requested that the letter of intent be rescinded as there was no immediate plan to merge.

FIFTH ORDER OF BUSINESS

Approval of Minutes of the January 17, 2018 Board of Supervisors Meeting, December 13, 2017 Joint Board of Supervisors Meeting and Acceptance of Minutes of the January 17, 2018 Audit Committee Meeting

Mr. Case presented the minutes of the January 17, 2018 Board of Supervisors, December 13, 2017 Joint Board of Supervisors and January 17, 2018 Audit Committee meetings. There were no corrections.

Mr. Vento stated that on Page 5 of the January minutes, under the Tenth Order of Business, a resident reported that Floralawn was throwing grass into their lanai and plant beds. After the last meeting, the resident confirmed that it was not the lake bank mowers, but the actual home lawn mowers. He asked if the minutes should be amended. Mr. Eckert advised that the minutes should reflect the actual discussion, but it was clarified in the minutes of this meeting.

Mr. Vento noted on the same page, Mr. Eckert was supposed to meet with the developer and District Engineer to discuss future changes in the pond. Mr. Eckert stated he would discuss this item later in the meeting.

On MOTION by Ms. Bzdewka, seconded by Mr. Vento, with all in favor, the Minutes of the January 17, 2018 Board of Supervisors, December 13, 2017 Joint Board of Supervisors meetings were approved and the Minutes of the January 17, 2018 Audit Committee meeting were accepted, as presented.

SIXTH ORDER OF BUSINESS

Ratification of Agreement with Berger, Toombs, Elam, Gaines & Frank to Provide Auditing Services for the Fiscal Year 2017

Mr. Flint presented the Agreement with Berger, Toombs, Elam, Gaines & Frank for Fiscal Year 2017 auditing services. He stated that the agreement was previously executed, so the audit could commence, due to the statutory timeframe to complete the audit and that the fees were consistent with their proposal.

On MOTION by Mr. Vento, seconded by Mr. Brown, with all in favor, the agreement with Berger, Toombs, Elam, Gaines & Frank to Provide Auditing Services for the Fiscal Year 2017 was ratified.

SEVENTH ORDER OF BUSINESS

Consideration of Engineering Services Agreement with GAI Consultants, Inc.

Mr. Eckert presented the GAI Consultants, Inc. Engineering Services Agreement. At a prior meeting, the Board ranked GAI as the number one qualified engineer and directed staff to negotiate the contract. He stated that they agreed to the form of the contract, which was approved by District Counsel. Mr. Eckert appreciated GAI using their 2017 rates, since the process was started at the end of 2017 but not completed until 2018.

On MOTION by Mr. Vento, seconded by Mr. Brown, with all in favor, the GAI Consultants, Inc. Professional Engineering Services Agreement was approved.

EIGHTH ORDER OF BUSINESS

Staff Reports

A. Attorney

- **Pond Conveyances and Maintenance Update** *(Added to the Agenda)*

Mr. Eckert stated that he met with the District Engineer and AV Homes on the remaining pond conveyances and that there were cleanup items to ensure that the boundaries matched the plat. He stated that Quit Claim Deeds were needed for eight or nine ponds that would be provided at the April meeting and that Ponds #19A and #19B must be conveyed to the District. He stated the developer was compiling the as-builts, title work and preparing the deeds for the Board to consider. He stated that previously, the Board agreed to accept the ponds by resolution in 2015 and that the current maintenance contracts were consistent with the CDD ownership.

Mr. Case asked if the ponds were inspected prior to acceptance. Mr. Dell'Isola inspected ponds that the developer wanted to transfer two months ago; however, it may be in the best interest to have GAI perform the final inspection, as GAI must issue the formal letter. Ms. Bzdewka asked if the new ponds had fish and plants, so there were no midge problems. Mr. Dell'Isola believed that there were carp stocked in some ponds. Mr. Case noted that Drew Malcavek, a resident, emailed the Board regarding midges on Pond H. Mr. Dell'Isola stated that an Entomologist from the University of Florida noted 1,500 different species of midges. Mr. Vento recalled that two meetings ago the Entomologist was supposed to attend a meeting. Mr. Dell'Isola stated that the Entomologist was out of the country and May was the opportune time to attend the meeting.

After further discussion, Mr. Flint would provide a proposal for fish stocking and Clarke using a biological treatment at the April meeting.

- **Authority to Extend Amenity Inspection Period** *(Added to the Agenda)*

Mr. Case reported that the Poinciana CDD Board approved a 30-day extension of the District's inspection period under the Asset Sale and Purchase Agreement, which would have expired on April 6th.

- **Status of Inframark Reconciliation** *(Added to the Agenda)*

Mr. Eckert sent an email to the Board addressing the Inframark adjustments. He stated that the District did not pay the January invoice, and based on the calculations, and negotiated credits, Inframark expected a payment of \$1,624.26, taking into account various credits. Mr. Eckert stated would submit the invoice in April and recommended it was not worth spending additional legal fees.

- i. **Litigation Update**

Mr. Eckert reported that the class action is still pending which prevents the District from selling bonds, but the plaintiffs in the class action have not prevailed on many of the issues that they used to criticize this Board in prior meetings. Specifically, the plaintiffs argued that the amenities were common areas that the developer had to give to the HOA for free. The Court rejected that argument. The plaintiffs argued that the developer was prohibited by law from operating for-profit amenities in a community with an HOA. That too was rejected by the trial court. The plaintiffs also argued that the amenities were not “commercial property” because the law is clear that commercial property is not subject to the HOA law. This too was rejected by the trial court. The class action is still pending, but many of the arguments appear to have been disproven.

Mr. Brown asked what would happen if the court ruled in the CDD’s favor and there was no second appeal. Mr. Eckert noted that there would be no second appeal and the District could go to the bond market, provided that the bonds could be marketed with the remnants of the Class Action Lawsuit.

B. Engineer

Mr. Dell’Isola announced that this was his last meeting and that Atkins would serve until the end of the month and transfer documents electronically to GAI. He stated that Atkins would work with GAI if additional information was necessary and that the transition was scheduled to be completed by the end of the month.

i. Presentation of Annual Stormwater Management System

Mr. Dell’Isola presented the Stormwater Management System Annual Inspection Report. He stated that there were a few new issues, which GMS was working on and preparing a plan. The following issues were noted:

- *Eroded mitered end sections.* Poinciana CDD had the same issue. Staff was working on practical solutions.
- *Unsteady or broken skimmers.* A skimmer and mitered end section on Pond 20, must be repaired in the next few months.
- *Fences.* Fences installed on the downstream side of the overflow device and on the top of a weir on Pond 18 should be removed. They serve no purpose and could block the flow of water.
- *Dry ponds.* Soggier this year, versus last year.

Mr. Dell’Isola recommended that the Field Manager observe the dry ponds after a sizable rain event, to observe the time it takes for it to get back down to a soggy bottom because if it did not occur in the appropriate amount of time, there was a bigger issue. He stated that a few homeowners informed the inspector that their dry pond was soggy and there were issues.

Mr. Brown asked why the bleed down device could not be located in Pond 1. Mr. Dell’Isola explained that devices could not be found in ponds below the water level, but it appeared to be connected. Mr. Brown voiced concern that minor issues could become major if they were not addressed. Mr. Dell’Isola explained that many items were not repaired from the last report. He stated that Mr. Smith and Ms. Leo had a priority list for both CDDs and that he noted no high-risk items. Mr. Brown expressed wanted the Board to be accountable for completing all items.

C. District Manager

i. Approval of Check Register

Mr. Flint presented the Check Register from December 22, 2017 through February 28, 2018, for the General Fund and payroll, in the amount of \$1,054,890.31. There was a check for \$1 million to move debt service assessment revenue to the Trustee and additional advertising costs. The detail was behind the Check Register.

On MOTION by Mr. Vento, seconded by Ms. Bzdewka, with all in favor, the Check Register for December 22, 2017 through February 28, 2018 was approved.

ii. Balance Sheet and Income Statement

Mr. Flint presented the Unaudited Financial Statements through February 28, 2018.

On MOTION by Ms. Bzdewka, seconded by Mr. Brown, with all in favor, the February Financial Statements were approved.

D. Field Manager

i. Field Manager’s Report

Mr. Smith presented the Field Manager’s Report. He stated there were minor issues and that solutions for keeping the dry ponds aesthetically pleasing would be provided. He stated that

more mulch must be placed around tree rings. He stated that the aquatic contractor was performing well and that there was some suspended algae which is common.

Mr. Vento asked on Page 6, if the pond treatments were for one month or varied based on what was being treated. Mr. Smith indicated that it varied on the amount of activity. He stated a pond with heavy algae growth would be treated once a month and that Clarke and American Ecosystems were onsite once a month. Mr. Vento asked if it was possible to indicate in the report how many times the pond was treated for a specific item. Mr. Smith stated he would include it.

Mr. Vento stated that Dick Rogers, a resident, 228 San Vicente Lane, complained about people accessing his property to get to Pond #8. Mr. Eckert suggested looking at the plat to find the access easement for the pond. Mr. Flint stated he would handle.

ii. Priority Stormwater System Repairs

Mr. Smith noted minor repairs, such as repairing the skimmers and removing debris from the top of the grates and a couple of mitered end sections. He stated that as a test, Mr. Smith and Ms. Leo would remove the collar from one pipe, break up the concrete, place cloth and rip rap around the pipe to stabilize it.

Mr. Case asked if there was a priority list. Mr. Smith stated that he and Ms. Leo prepared a list of items that would be listed by priority. He stated that nine ponds were a priority, four were dry ponds.

Mr. Case announced that he was leaving the meeting, due to a prior commitment and Mr. Vento continued running the meeting.

Mr. Case left the meeting

Mr. Smith indicated that the cost for the priority repairs was \$4,122, and requested authorization to spend a not-to-exceed amount of \$5,000. Mr. Vento asked who would provide the labor and supplies and Mr. Smith stated that GMS would provide the labor and the District would purchase the supplies and materials. Mr. Vento asked if Floralawn could take responsibility for damage from lawn mowers. Mr. Eckert stated that a vendor should be contacted any time there was damage to District property. Mr. Flint pointed out that many skimmers were damaged a year ago and unless it was documented in the last three reports, it was hard to prove, but if staff was aware of it, it would be addressed. Mr. Vento wanted to address

damage by mowers. Mr. Smith stated that it was hard to tell if damage was caused by a lawn mower.

On MOTION by Mr. Brown, seconded by Ms. Bzdewka, with all in favor, authorizing a not-to-exceed amount of \$5,000 for completing repairs that were a priority, was approved.

iii. Customer Complaint Log

Mr. Smith presented the Customer Complaint Log.

iv. Clarke Environmental Aquatic Treatment Report

Mr. Smith presented the Clarke Environmental Aquatic Treatment Report.

v. Clarke Environmental Midge Treatment Report

Mr. Smith presented the Clarke Environmental Midge Treatment Report.

NINTH ORDER OF BUSINESS

Supervisor’s Request

There being none, the next item followed.

TENTH ORDER OF BUSINESS

Audience Comments

Mr. Benninghoff, a resident, 831 Bella Viana Road, asked what items were still pending in the class action suit. Mr. Eckert stated that some of the claims with the developer were still pending and that it was unclear what causes of actions were dismissed. He stated that the District was not a party to the class action suit, but it was an impediment to the District’s issuance of bonds. Mr. Benninghoff asked if the interest rate was a benefit to residents. Mr. Eckert stated that the interest rate makes a difference on whether or not the deal goes through at all. Mr. Brown believed that it impacted the amount of money AV Homes received from the District. Mr. Benninghoff asked if Berger Toombs was a CPA firm that provided audited statements. Mr. Flint stated that Berger Toombs submitted audited statements each year.

ELEVENTH ORDER OF BUSINESS

Other Business

There being none, the next item followed.

TWELFTH ORDER OF BUSINESS

Next Meeting Date – April 18, 2018

Mr. Vento announced that the next meeting was April 18, 2018 at 11:00 a.m. The Poinciana West CDD meeting would be held first, followed by the Poinciana CDD meeting. Mr. Flint would schedule more time in between meetings.

THIRTEENTH ORDER OF BUSINESS Adjournment

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



Secretary / Assistant Secretary



Chairman / Vice Chairman