

MINUTES OF MEETING
POINCIANA WEST
COMMUNITY DEVELOPMENT DISTRICT

A Special Meeting of the Board of Supervisors of the Poinciana West Community Development District was held on Tuesday, January 7, 2020 at 9:30 a.m. at the Rivera Spa and Fitness Center, 2nd Floor, 394 Village Drive, Poinciana, Florida.

Present and constituting a quorum were:

Peggy Gregory	Chairman
Roy LaRue	Vice Chairman
Charles W. Case	Assistant Secretary
Maneck Master	Supervisor Elect
Joseph Clark	Supervisor Elect

Also present were:

George Flint	District Manager
Tricia Adams	GMS
Michael Eckert	District Counsel by phone
Michelle Reiss	Appleton Reiss
Scott Clark	Clark & Albaugh
Jan Carpenter	Latham, Luna, Eden & Beaudine
David Jackson	Persson, Cohen & Mooney
Mark Straley	Straley Robin Vericker
Viveck Babbar	Straley Robin Vericker
Residents	

The following is a summary of the discussions and actions taken at the January 7, 2020 Poinciana West Community Development District's Board of Supervisors Meeting.

FIRST ORDER OF BUSINESS

Roll Call

Ms. Gregory called the meeting to order and called the roll. All Supervisors were present.

SECOND ORDER OF BUSINESS

Pledge of Allegiance

The Pledge of Allegiance was recited.

THIRD ORDER OF BUSINESS**Public Comment Period on Agenda Items**

Ms. Allison Ast (180 Palazzo Lane) asked who to call to pay off their portion of the CDD debt, what has been paid to date by Taylor Morrison and what they paid to date. Mr. Flint would provide his contact information for her to receive this information.

FOURTH ORDER OF BUSINESS**Consideration of Proposals for Legal Services**

Mr. Case stated he was not in favor of replacing District Counsel and having the special meeting, which would cost residents over \$1,000, when there was another meeting in eight days. Hopping Green has been outstanding for the past six years. Mr. Case believed Mr. LaRue and Ms. Gregory wanted to change attorneys as a result of their unhappiness with Hopping Green's negotiations with AV Homes and questioned the opinion of the new Board Members. Dr. Master stated he was in favor of a change in Counsel, due to Mr. Eckert's conflict of interest with the merger. Mr. Joseph Clark stated he was unhappy with the performance of Hopping Green.

A. Appleton Reiss

Ms. Michelle Reiss of Appleton Reiss presented her qualifications. She stated they primarily represent community associations, but represented CDDs for six or seven years. She would serve as the lead attorney. The Board questioned the following:

- *Does your firm represent a District merger process from start to finish?* Ms. Reiss replied no. They did not exclusively represent CDDs.
- *Is there a conflict of interest with AV Homes or Taylor Morrison?* Ms. Reiss stated conflicts of interest could arise at any point in time and was not aware of any conflicts with her existing firm and representing the CDD. A general conflict of interest form was included in their engagement letter for potential conflicts.
- *Is there a charge for travel since your office is 76 miles away?* Ms. Reiss charges on an hourly basis, but accommodations could be made for travel through either a reduced or capped rate. Dr. Master asked if they ever waived the travel time. Ms. Reiss replied no.

- *Would the merger be an extortionary fee under fees and expenses?* Ms. Reiss explained this provision generally relates to contingent fee matters presenting an elevated risk for the firm and would be discussed prior to being charged.
- *How many CDDs do you represent?* Ms. Reiss currently represented three CDDs.
- *How do you feel about calling into the meeting?* Ms. Reiss preferred attending in person, since it was difficult to communicate by conference call, but it depends on the frequency of meetings.
- *Would it cost \$300 per hour to get up to speed with another attorney with ongoing litigation?* Ms. Reiss would not charge to get up to speed.
- *Are you familiar with HOAs turnover from the developer?* Ms. Reiss worked with Water's Edge and Sky View Condominium Association on turnovers, but never handled a merge between an HOA and CDD.
- *Is there an annual cap on the rate or would it increase?* Ms. Reiss would not increase rates on an annual basis.

Ms. Reiss left the meeting room.

B. Clark & Albaugh, LLP

Mr. Scott Clark of Clark & Albaugh presented his firm's qualifications. He preferred long-term relationships, was a problem solver and tried to find ways to do things that would be good to the community. His firm represents the Remington CDD. Along with Mr. Flint, he established the first street parking rule for CDDs in Florida.

The Board questioned the following:

- *Are you amenable to a short-term relationship, due to the upcoming merger with a larger CDD that has their own attorney?* Mr. Scott Clark replied affirmatively.
- *Do you charge hourly or by mileage?* Mr. Scott Clark charged hourly, but was amenable to attending by phone versus traveling to meetings. If he traveled, he would negotiate a fee with the Board.
- *How many mergers have you completed with CDDs?* Mr. Scott Clark has not participated in any mergers.

- *How many HOA turnovers have you have completed?* Mr. Scott Clark handled mostly CDDs, especially Board transitions and the impact they would have on a CDD. Many were painful and contentious.

Ms. Gregory appreciated the thorough report. She liked their rate, their 25 years of history and proximity to the District.

Mr. Scott Clark left the meeting room.

C. Latham, Luna, Eden & Beaudine, LLP

Ms. Jan Carpenter of Latham, Luna, Eden & Beaudine presented her firm's qualifications. She has been practicing law for 20 years in public financing, represented Poinciana and Poinciana West in a limited capacity on the AV Homes agreement and currently represents the Poinciana CDD. She updated the memo prepared by Hopping Green & Sams on the merger and strives to provide the lowest cost by using paralegals. If the District selected her firm, the Board must sign a Conflict of Interest Waiver because Ms. Carpenter would be representing two Districts. Her office was in Orlando, which was one hour away, but was available by cellphone. Ms. Carpenter worked with GMS and Mr. Flint.

The Board questioned the following:

- *Do you charge for travel?* Ms. Carpenter charges an hourly rate.
- *Could you elaborate on the conflict of interest?* Ms. Carpenter explained the two Boards negotiated a merger agreement in the past. There was a memorandum and a merger agreement. If the business terms were the same and the Boards wanted to merge, with three Supervisors from one District and two from the other, the business issues were somewhat limited. Since the Boards were currently separate, there was no conflict of interest. Ms. Gregory noted there was a current document. Ms. Carpenter recalled the Board's options were to keep the current attorney to negotiate any issues or have another firm in place.
- *How many mergers have you completed with CDDs?* Ms. Carpenter handled one merger with the County, but this one would go to the State. *When they worked with the State on the expansion of a District, it took almost one year. Going to the State versus the County, was based on the size of the District.*

- *Was the cost estimate of \$100,000 for the merger a ballpark figure?* Ms. Carpenter confirmed it was the ballpark amount to work with two different attorneys, but the cost would be less with one attorney.
- *Are you aware of the current litigation?* Ms. Carpenter explained an offer was made to the Poinciana CDD, which she hoped to resolve as quickly as possible.
- *Did you do any depositions representing the Poinciana CDD?* Ms. Carpenter replied no. Poinciana CDD asked for discovery, not depositions.
- *The previous attorney capped legal fees at \$10,000; are you willing to do the same?* Ms. Carpenter stated it depends on where they were, but by merging, costs could remain low as possible to get through the hearing, which was upcoming.

Ms. Carpenter left the meeting room.

D. Persson, Cohen & Mooney, P.A.

Mr. David Jackson of Persson, Cohen & Mooney presented his firm's qualifications. He would serve as District Counsel. He has been with Persson, Cohen & Mooney for 6½ years, focusing on government law, which represent over 25 CDDs. He specializes in contracts and procurement issues and they take a team approach. Their current rate is \$285 per hour.

The Board questioned the following:

- *How long did it take you to get here?* Mr. Jackson indicated the drive was two hours.
- *Do you charge for travel at your regular hourly rate of \$570 and limit it to one hour in each direction?* Mr. Jackson replied affirmatively. Ms. Gregory acknowledged this was one of current disagreements with District Counsel.
- *Have you ever completed any CDD mergers?* Mr. Jackson stated his firm handled a merger for Lakewood Ranch CDD.
- *How many CDDs do you personally manage.* Mr. Jackson represents two CDDs.

Mr. Jackson left the meeting room.

E. Straley Robin Vericker

Mr. Mark Straley of Straley Robin Vericker presented his firm's qualifications. They represent more than 100 CDDs in Central Florida; many of which have amenity centers. Mr. Straley has 30 years' experience with CDDs. Mr. Viveck Babbar introduced himself. He would

serve as lead counsel and joined the firm in 2014. They are a one size fits all firm and perform some merger work.

The Board questioned the following:

- *From start to finish have you completed a CDD merger of two Districts into one?* Mr. Babbar replied several times.
- *How much are you going to charge for travel since your office is in Tampa?* Mr. Straley stated generally, they charge hourly; however this could be negotiated to one hour there and one hour back.
- *Is your rate \$375 per hour?* Mr. Straley replied affirmatively; however, there could be reduction in the budget from \$50,000 to \$30,000 this year.
- *Do your HOAs turn over the amenities to the residents?* Mr. Straley stated they handled deals where the HOA transferred ownership to the CDD.
- *Who will represent the District during the merger?* Mr. Straley would serve as District Counsel. He participated in two mergers, one for New River CDD and one for Stoneybrook South CDD. His firm prepared an analysis for mergers. Ms. Gregory was surprised how long the merger process was. Mr. Straley indicated most mergers were completed within a year.
- *What is your experience with the transition to resident control from the developer?* Mr. Straley indicated some Boards were in transition and some Boards completed the transition. It depends on the relationship between the developer and residents.

Mr. Straley and Mr. Babbar left the meeting room.

FIFTH ORDER OF BUSINESS

Approval of Agreement with Selected Firm to Provide District Legal Services

Mr. Flint noted no special criteria or prescribed process for selecting the attorney. Mr. Joseph Clark preferred having separate legal counsel, but not Ms. Carpenter since she was representing the Poinciana CDD. Dr. Master agreed. Mr. LaRue preferred Straley Robin Vericker and Persson, Cohen & Mooney. Ms. Gregory felt they did not need a \$375 per hour attorney, based on meeting every other month, unless they were negotiating the Floralawn contract. Mr. Joseph Clark recommended Clark & Albaugh, based on experience and location. Discussion ensued.

On MOTION by Mr. LaRue seconded by Dr. Master with Ms. Gregory, Mr. Joseph Clark, Mr. LaRue and Dr. Master in favor and Mr. Case dissenting, selecting Clark & Albaugh, LLP as District Counsel was approved. (Motion Passed 4-1).

Mr. Flint would have staff enter into an engagement letter with Clark & Arbaugh, LLP. Dr. Master would like to negotiate travel at the minimum amount of one hour and asked Mr. Scott Clark to return to the meeting, so he could ask Mr. Scott Clark if his hourly charge for travel each way was one hour. Mr. Scott Clark agreed to a flat fee of \$500 for travel, but could call in if necessary. Mr. Flint would include a provision in the engagement letter.

The meeting was recessed at 10:45 a.m.

The meeting was reconvened at 11:00 a.m.

SIXTH ORDER OF BUSINESS

Termination of Agreement with Hopping Green & Sams for Legal Services

On MOTION by Mr. Joseph Clark seconded by Mr. LaRue with Ms. Gregory, Dr. Master, Mr. Joseph Clark and Mr. LaRue in favor and Mr. Case dissenting, terminating Hopping Green & Sams as District Counsel was approved. (Motion Passed 4-1).

Mr. Eckert asked if the termination would be effective immediately. Ms. Gregory replied affirmatively.

SEVENTH ORDER OF BUSINESS

Authorization of Chair or Vice Chair to Execute Consent to Substitution of Counsel

Mr. Clark suggested Mr. Eckert's involvement, if he was already prepared. Mr. Flint explained next week both Boards would consider the proposed settlement. Each District would have a meeting and then there would be a joint meeting to discuss the merger. After further discussion, Mr. Scott Clark would work with Mr. Eckert to represent the Board in the settlement.

On MOTION by Mr. Joseph Clark seconded by LaRue with all in favor authorization for Clark & Arbaugh, LLP to substitute for District Counsel was approved.

EIGHTH ORDER OF BUSINESS

Next Meeting Date – January 15, 2020

It was announced that the regular Board Meeting would be at 9:00 a.m. in the ballroom and the joint meeting at 11:00 a.m. on January 15, 2020. The Poinciana CDD was meeting at Noon. Mr. LaRue requested that District Counsel provide a list of pros and cons, the impact of an election and a timeframe. Mr. Flint would provide a memorandum to Mr. Scott Clark with the estimated cost, timeframe and potential savings. Mr. Eckert worked with Mr. Scott Clark and would be happy to provide him information about the merger process.

Dr. Masters asked if sending an email to another Board Member with the time and location of the next meeting, violated the Sunshine Law. Mr. Flint stated there was a gray area on what was administrative and what was not and suggested Dr. Masters forward further requests to him.

NINTH ORDER OF BUSINESS**Adjournment**

On MOTION by Mr. Joseph Clark seconded by Mr. LaRue with all in favor the meeting was adjourned.



Secretary/Assistant Secretary

Chairman/Vice Chairman