

MINUTES OF THE JOINT MEETING
OF THE POINCIANA & POINCIANA WEST
COMMUNITY DEVELOPMENT DISTRICTS

The joint meeting of the Boards of Supervisors of the Poinciana Community Development District and Poinciana West Community Development District was held on Monday, July 9, 2018 at 2:30 p.m. in the Starlite Ballroom, 384 Village Drive, Poinciana, Florida.

Present and constituting a quorum of the Poinciana CDD Board were:

Robert Zimbardi	Chairman
LeRue "Skip" Stellfox	Vice Chairman
Lita Epstein	Assistant Secretary
David Lane	Assistant Secretary
William Land	Assistant Secretary

Present and constituting a quorum of the Poinciana West CDD Board were:

Leonard Vento	Vice Chairman
Shirley Bzdewka	Assistant Secretary
Bill Brown	Assistant Secretary
Joseph Gecewicz	Assistant Secretary

Also present were:

George Flint	District Manager
Michael Eckert	District Counsel
John Weiss	Special Counsel
Anthony Iorio	Avatar Properties
Pete Deglomine	Clarke Environmental
Residents	

The following is a summary of the discussions and actions taken at the July 9, 2018 Joint Meeting of the Poinciana CDD and the Poinciana West CDD Board of Supervisors.

FIRST ORDER OF BUSINESS

Roll Call

A. Poinciana CDD

Mr. Zimbardi called the Poinciana CDD meeting to order. Board Members introduced themselves and a quorum was established.

B. Poinciana West CDD

Mr. Vento called the Poinciana West CDD meeting to order. 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 on Agenda Items

Mr. Norm Gundel, a resident of 419 Fountain Valley Lane, requested that Poinciana and Poinciana West CDDs not sign the Conflict of Interest Waiver on today's agenda due to:

- Poinciana West CDD being governed by the Funding Agreement.
- Being erroneously told that the Districts have no exposure to any transaction costs, no matter whether or not the transaction occurs.
- Poinciana CDD will have to increase resident assessments to pay its debt service, because AV Homes was reimbursing Poinciana for transaction costs. In less than three years, AV Homes could stop paying Poinciana assessments.
- The \$1.5 million that AV reimbursed under the Funding Agreement will be \$1.5 million in unpaid Poinciana assessments. The Funding Agreement gets AV out of paying Poinciana CDD assessments, but AV continues to pay the Poinciana West CDD assessments.
- Both Districts signed a Conflict of Interest Waiver in January 2016, waiving any Conflict of Interest in representing both Poinciana and Poinciana West.

Mr. Shaun Thornton, a resident of 165 Marabella Loop, addressed the Taylor-Morrison acquisition of AV Homes. If Taylor Morrison paid \$73.7 million, they would take over assets and liabilities of AV Homes. Decisions must be made now and if the residents did not make a decision, AV Homes would make the decision for the residents.

Dr. Martin Kessler, a resident of 759 Largo Pass, did not see a conflict in Hopping Green representing the Districts.

Mr. Anthony Reed, a resident of 217 Torino Lane, and a candidate for Seat 1 on the Poinciana CDD Board, requested that the Districts not sign the waiver due to:

- The Attorney having to give the client reasonable time to raise questions and concerns about the document, under Rule 4-1.7 of Professional Conduct of Florida Bar. Giving the Board less than 24 hours' notice was unreasonable. In addition, the lawyer must obtain consent from the client verbally and in writing and the document was not sufficient to allow informed consent.
- Once signed, the Conflict of Interest Waiver was a legal document, relieving the attorney of any legal responsibility for decisions that were not in the best interest of the residents of Solivita.

Mr. Gecewicz recommended signing the waiver due to:

- Mr. Eckert providing a valuable service to the Districts and any risk was no different than before the proposed AV/TM deal. If they seek new counsel now, they would have to start over, meaning additional time and money.
- The attorney, John Weiss, who had 30 years' experience in law and ethics, recommended that the Districts execute the waiver, as Mr. Eckert followed the letter and spirit of the law.
- Taylor Morrison already signing the waiver
- Under the current Funding Agreement, AV funds the Districts legal costs, even if the deal fell through.

Mr. Zimbardi agreed with Mr. Gecewicz, to not sit back and wait as suggested by Mr. Gundel, but felt that it was a delayed tactic. Mr. Gundel's suggestion to purchase the amenities sounded great, but Mr. Gundel did not say that there would be a separate payment over and above the existing club fee. The District did not own the land and would have to purchase it from AV Homes, and have bonds so that the District could build on it. Winning the Class Action Suit was like winning the lottery.

Ms. Epstein opposed signing the Client Disclosure and Consent Waiver and proceeding with the bond validation, due to:

- The Board not knowing the risks by signing the waiver.
- The District would obligate themselves to two lawyers handling the situation, by signing the waiver, which was costly.

- The contract aspects of the sale would continue at the same time as the bond validation.
- There were still issues to be decided on the Class Action and as a Governing document, the Club expenses could only be for actual operating expenses. It could not include a membership fee.
- There was still great potential that the income stream on which the price was based for these amenities was zero, if the judge rules that it was an illegal fee.

Ms. Epstein recommended waiting to see how the judge ruled on the Class Action suit and what Taylor Morrison wanted to do about the sale of the amenities, before proceeding with the \$250,000 bond validation trial. Mr. Lane asked if Ms. Epstein meant that if the bond validation proceeded, it would cost \$250,000 before they heard what Taylor Morrison wanted. Ms. Epstein stated that it depended on whether the bond validation takes place. Mr. Eckert confirmed that nothing was set on the bond validation case and believed that Fall of 2018 was the earliest that a potential bond validation trial could occur.

Discussion occurred on what functions Mr. Eckert could perform. Mr. Eckert stated that, at the last meeting, the Boards allowed him to undertake Item 1, "*Perform Legal Services Related to Agreements or Interactions Between the District and Avatar, or in the future Taylor Morrison, Not Related to the Amenities.*" Items not related to the bond validation, bond financing and assessment process and negotiations with AV on the purchase contract, were continued to today's meeting. Discussion ensued regarding Client Disclosure and Consent Waiver.

Mr. Gecewicz felt that the attorney, John Weiss, had phenomenal experience in law and ethics, noting that Items 1, 2 and 3 were not a problem for Mr. Eckert's firm to continue; however, it was Mr. Weiss' option that Item 4, asking the Boards to waive potential conflicts was proper and it would be appropriate for the Boards to approve the waiver, which made sense. Since Mr. Weiss provided an opinion, as the Board requested, Mr. Gecewicz felt that it was important for the Boards to make a decision today, as the Districts could not go without legal representation.

Mr. Land suggested finding an attorney that would represent the Districts on Item 4, as Mr. Eckert was not interested in pursuing Item 4 and would not represent the Board. Mr. Stellfox felt that Mr. Eckert was an ethical and moral lawyer and supported engaging Mr. Eckert,

signing the Client Disclosure and Consent Waiver and finding an attorney to handle Item 4. Ms. Bzdewka agreed.

On MOTION by Mr. Vento, seconded by Ms. Bzdewka, with all in favor, on behalf of the Poinciana West CDD, taking the Fifth Order of Business out of order, was approved.

On MOTION by Mr. Zimbardi, seconded by Mr. Stellfox, with all in favor, on behalf of the Poinciana CDD, taking the Fifth Order of Business out of order, was approved.

• **Consideration of Client Disclosure and Consent**

Discussion ensued regarding Item 4 of the Client Disclosure and Consent Waiver. Mr. Flint explained that Item 4 would disclose a potential conflict and allow Mr. Eckert to have limited ability to convey the documents and information to the attorney representing the District.

A. Poinciana CDD

On MOTION by Mr. Stellfox, seconded by Mr. Land, with Mr. Zimbardi, Mr. Lane, Mr. Land and Mr. Stellfox in favor and Ms. Epstein dissenting, on behalf of the Poinciana CDD, the Client Disclosure and Consent Waiver was approved for execution. (Motion Passed 4-1)

B. Poinciana West CDD

On MOTION by Ms. Bzdewka, seconded by Mr. Brown, with all in favor, on behalf of the Poinciana West CDD, the Client Disclosure and Consent Waiver was approved for execution.

Mr. Weiss left the meeting.

The Board thanked Mr. Weiss for his opinion and Board Members asked the following:

- *Clarification on Mr. Gundel’s question of the purpose of the Bond Financing Team Funding Agreement between the Poinciana CDD and AV Homes.*
 - Mr. Eckert stated that the agreement related to the cost of the bond financing and assessment process. It protected the District, because if the

District did not issue bonds, the District was forgiven from any obligation, as the monies advanced were deemed paid in lieu of taxes and assessments that the CDD could not have levied.

- *Was the District giving up their rights?*
 - Mr. Eckert stated that he had an obligation to act on the District's best interest. He was not changing his duties, and simply provided a disclosure. The District must decide whether or not they were comfortable moving forward in the limited capacity described in the waiver.
- *What was the practicality of moving forward on the bond validation matter regarding benefits to the residents?*
 - Mr. Eckert explained that bond validation case was the final judgement from the court saying that bonds could be issued in the future for this project, but did not obligate the Board to issue bonds.
- *Is it beneficial to the residents because of timing issues, no matter what happens with Taylor Morrison and AV?*
 - Mr. Eckert stated that it gave the flexibility to issue bonds for the project that was under the validation judgement, but did not obligate the District.
- *Would the costs of the bond validation be less if the opposition goes away?*
 - On the CDD side, the costs were covered under the Financing Team Funding Agreement and AV reimburses the District, but the District had an obligation when and if it issued bonds to repay AV.

Mr. Vento appreciated Mr. Eckert and his firm for their efforts, and requested that there be discussion with Mr. Weiss about what happened if Taylor Morrison built homes on the golf course. Mr. Eckert recommended including this in the agreement, but if another home was developed within the boundaries of the CDD, they must pay debt and operation and maintenance (O&M) assessments.

Mr. Lane believed that the Purchase and Sale Agreement (PSA) was not a priority to Taylor Morrison and the District could be waiting a year until Taylor Morrison decided what to do, and that the Districts needed to engage an attorney to handle Item 4.

On MOTION by Mr. Lane, seconded by Mr. Stellfox, with all in favor, on behalf of the Poinciana CDD, engaging an Attorney to handle Item 4 of the Client Disclosure and Consent Waiver, was approved.

On MOTION by Ms. Bzdewka, seconded by Mr. Brown, with all in favor, on behalf of Poinciana West CDD, engaging an Attorney to handle Item 4 of the Client Disclosure and Consent Waiver, was approved.

Mr. Flint would obtain company profiles and Letters of Interest from three attorneys and provide to the Boards in advance of the August meeting. An internal conflict check would have to be performed to ensure no conflict of interest issues. Mr. Eckert advised that the inspection period was extended until August 1; however, the Board authorized staff to keep extending the inspection period. The Board discussed Mr. Eckert’s fees to bring the new attorney up to date. Mr. Eckert would charge his time under the Funding Agreement.

FOURTH ORDER OF BUSINESS

Ratification of Poinciana CDD Eleventh & Twelfth Amendments to the Asset Sale and Purchase Agreement

On MOTION by Mr. Stellfox, seconded by Mr. Lane, with all in favor, on behalf of the Poinciana CDD, the Poinciana CDD Eleventh & Twelfth Amendments to the Asset Sale and Purchase Agreement, were approved.

On MOTION by Mr. Gecewicz, seconded by Mr. Brown, with all in favor, on behalf of the Poinciana West CDD, the Poinciana CDD Eleventh & Twelfth Amendments to the Asset Sale and Purchase Agreement, were approved.

FIFTH ORDER OF BUSINESS

Consideration of Client Disclosure and Consent

- A. Poinciana CDD**
- B. Poinciana West CDD**

This item was discussed earlier in the meeting.

SIXTH ORDER OF BUSINESS**Supervisors Requests****A. Poinciana CDD****B. Poinciana West CDD**

Mr. Vento requested an update on the ponds. Mr. Flint reported that in Poinciana West CDD, Clarke took over treating the ponds on July 1st. They were completing deferred maintenance from American Ecosystems. In the Poinciana CDD, there were midge problems on Pond E-3. Mr. Vento requested that Clarke email the Boards. Mr. Flint would forward the email he received from Clarke to the Board. Clarke recommended waiting to introduce the fish until the fall, as the fish were coming from ponds with cooler temperatures into a pond with a warmer temperature. The aerators were designed to be solar and alternatives were being discussed to retrofit the aerators with battery backup. Additional tubing that was ordered to extend the aerators, should arrive in a week. Mr. Flint was asked to post the pond updates on the website. Mr. Deglomine spoke with AV regarding golf course pond bank erosion issues on Palm Tree Drive. When they lowered water levels, it caused erosion. Mr. Flint met onsite with Jason Good regarding the erosion issue on the driving range pond, which was owned by the CDD. The water was lowered significantly during dewatering. AV agreed to re-grade the ponds at AV's cost.

A Board Member reported that Floralawn was mowing pond embankments short. The pond embankments were supposed to be the same as the grass at the top. Mr. Flint confirmed that the height should be the same, but the frequency of mowing was different and would speak to Floralawn. Mr. Vento heard from residents that the Boards were not transparent. In his opinion, residents should utilize the websites, versus others opinion. Ms. Epstein suggested having a separate folder for critical documents. Mr. Stellfox was tired of hearing the negative opinions of Board Members.

SEVENTH ORDER OF BUSINESS**General Audience Comments**

Mr. Chuck Poplar, a resident, asked if the body of water between the 10th Green on Oaks and the dog park was part of the pond system or wetlands. Mr. Deglomine stated that it was part of the wetland system.

Dr. Kessler, suggested posting a clear and concise summary of all significant events that the Board agreed to today and updating the website. Minutes should be posted immediately and

not 60 days later. Mr. Gundel noted that he would continue to be persistent with the bond validation, until the Boards agreed to a fair value to purchase the amenities. There would be no appeal, if the bonds were validated.

Due to a technical issue with the audio, the remaining audience comments were not audible.

EIGHTH ORDER OF BUSINESS

Other Business

- A. Poinciana CDD**
- B. Poinciana West CDD**

There being none, the next item followed.

NINTH ORDER OF BUSINESS

Staff Reports

- A. Attorney**

Mr. Eckert stated that the amendment process was starting, but the Boards were not putting the amendment into effect. Those who could not attend, would have another opportunity to voice their opinion. Mr. Eckert asked Mr. Flint to schedule a joint meeting for July 18, 2018 at 4:00 p.m., if it could be noticed in time, and would meet with him after the meeting.

- B. Engineer**

There being none, the next item followed.

- C. District Manager – report on funding agreements**

Mr. Flint received a check from AV Homes on Friday for \$226,990, which represents the February and May direct debt and O&M assessments. All funding requests were funded with the exception of the most recent one, which was about \$13,000.

- D. Field Manager**

There being none, the next item followed.

TENTH ORDER OF BUSINESS

Next Meeting Date

Mr. Eckert and Mr. Flint would coordinate a joint meeting for July 18, 2018 at 4:00 p.m.

ELEVENTH ORDER OF BUSINESS

Adjournment

- A. Poinciana CDD**

On MOTION by Mr. Zimbardi, seconded by Lane, with all in favor on behalf of Poinciana CDD, the meeting was adjourned.

B. Poinciana West CDD


On MOTION by Mr. Brown, seconded by Ms. Bzdewka, with all in favor on behalf of Poinciana West CDD, the meeting was adjourned.


Poinciana CDD


Secretary / Assistant Secretary


Chairman / Vice Chairman

Poinciana West CDD


Secretary / Assistant Secretary


Chairman / Vice Chairman