

**MINUTES OF MEETING
PALM BAY
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the Palm Bay Community Development District held a Regular Meeting on April 8, 2021, at 9:00 a.m., at the Courtyard by Marriott Tampa/Oldsmar, 4014 Tampa Road, Oldsmar, Florida 34677.

Present were:

Rob Bergman	Chair
Joe Aschenbrenner	Vice Chair
Win Williamson	Assistant Secretary
Speros Margetis	Assistant Secretary

Also present, were:

Chuck Adams	District Manager
Benjamin Whited (via telephone)	Resident
Jay Shari	Resident
Michael Raymondo	Resident
Randy McLaughlin (via telephone)	Resident
Jay Timberlake (via telephone)	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 9:04 a.m. Supervisors Bergman, Aschenbrenner, Williamson and Margetis were present in person. Supervisor Richards was not present.

SECOND ORDER OF BUSINESS

Public Comments: Agenda Items

Resident Benjamin Whited followed up on his previous request to purchase the property next to his home. Mr. Adams discussed the following:

- Local governments must first determine the fair and reasonable market value of surplus real property, which requires an appraisal.

- The appraiser must be IAI-certified and it would cost \$1,000 to \$2,000 for an appraisal for the size of the property in question.
- The property is a fragment to a larger tract and probably should have been a part of Mr. Whited's property from the start but it was not.
- The property became encompassed in the marina tract and is owned by the District.
- The District could enter into a consent-to-use (CTU) agreement with Mr. Whited that would allow him to utilize the property as his own but he would not own it. Language would be included in the agreement that states that if, for some reason, the CDD needed to utilize the property, it has the right to remove improvements on the property, such as a pool deck extension or new landscaping and no liability would be attached to the removal.
- The property has remained unused for 30 years and the likelihood that the CDD would need to remove improvements is little to none but the cost of going through that, even though no title ownership is transferred, is far less costly and accomplishes the same thing.

A Board Member stated the CDD would keep a 4' ramp section that was closest to the ramp and keep the sidewalk and the wall. Asked if he would submit plans and remove trees from the property, Mr. Whited replied affirmatively and stated he would give the CDD 3' to 3½' to connect to the sidewalk before it reaches the ramp, leave plenty of turnaround space for residents to pull their boats in and out and add the sidewalk for esthetics and use. He asked if there were any utility lines buried underneath the property and stated he would have to decide if it was best to accept the CTU agreement or purchase the property from the CDD. Mr. Bergman stated there were no electrical boxes or utility lines under the property and the CTU Agreement would be transferred if Mr. Whited ever sold the house. Asked who would pay for the appraisal, Mr. Adams stated, although the appraisal would be ordered by the CDD, Mr. Whited would have to agree to pay for the appraisal and it was unclear how much it would cost.

Discussion ensued regarding Mr. Whited's plans for the property and the need for the HOA's approval of the proposed improvements. Mr. Whited stated he was willing to pay for the appraisal and other up-front costs and asked for more time to make a decision. Mr. Bergman stated Mr. Whited could have more time but, before the appraisal is ordered, the CDD and the HOA would need to review the plans to make sure that everything is acceptable. Mr. Whited

stated he would contact his contractors, submit the drawings, make a decision and communicate with Mr. Bergman. Mr. Bergman asked if it was necessary to wait for the next meeting to proceed. Mr. Adams stated no, the Board could ratify whatever action is taken between meetings at the next meeting. Asked if the property that Mr. Whited is considering purchasing is included in the most recent survey, Mr. Adams replied no; the order was to survey along the seawall and inward only so a new survey must be ordered for Mr. Whited.

THIRD ORDER OF BUSINESS

Consideration of Resolution 2021-03, Approving a Proposed Budget for Fiscal Year 2021/2022 and Setting a Public Hearing Thereon Pursuant to Florida Law; Addressing Transmittal, Posting and Publication Requirements; Addressing Severability; and Providing an Effective Date

This item was presented following the Sixth Order of Business.

FOURTH ORDER OF BUSINESS

Discussion/Consideration: Kayak Dock for Beach Park

Mr. Adams stated Mr. Richards previously emailed a \$9,257.22 proposal from EZ Docks. He suggested deferring the purchase of the floating kayak launch until after October 1, 2021, when Fiscal Year 2022 commences. Referencing the financials, Mr. Adams stated the District's expenditures were at 82%, at five months into Fiscal Year 2021. For the Fiscal Year 2022 budget, he budgeted a projected transfer of \$40,000 of surplus funds out of the Enterprise fund, which is the water-sewer fund, into the General Fund to offset some of the expenditures. He recommended that the District pull back on its expenditures.

A Board Member reported receiving comments from several residents who are eager for the kayak dock and asked if there is any way that the purchase could be budgeted. Discussion ensued regarding the cost of the kayak dock, a 10% discount, available funds in the operations account and agreeing on a not-to-exceed amount of approximately \$8,500. The Board consensus was to proceed with the purchase of the kayak launch.

FIFTH ORDER OF BUSINESS

**Update: Marina Survey and Legal Notices
for Marina Homeowners**

Mr. Adams stated, per the Board's authorization at the previous meeting, notices were mailed to Marina homeowners, along with CTU agreements, and, unsurprisingly, no responses were received. Mr. Bergman stated that a Zoom call was organized to communicate with everyone and discuss the marina survey and the seawall that is currently on CDD property, anywhere from 6" to 2' behind the seawall, where everyone's property lines were. It was discovered that three easement agreements were found and reported to the County.

Resident Jay Shari stated that her property must be one of the three because it is grandfathered and the easement agreements were solely for homeowners that built docks. She and her husband have been owners since 1994 and they paid \$43,000 for marina access whereas everyone else paid \$19,000 or less and owners of properties on the water are allowed to install docks and boat ramps. She complained that some residents use the marina without paying for access, which is why she put up a dock for access to the river. She stated that she follows the guidelines in the blue book that was given to her after purchasing her property.

Resident Michael Raymondo stated that the blue book is the original document that original homeowners received from the Developer, concerning CDD and the HOA, including the Declaration of Restrictions and Protected Covenants and Easements for Palm Bay. He received it at his closing, which is recorded with the County. A section in the book contains certain rules and regulations. He read from Section 2, Item C: User Restrictions, as follows:

"No owner except those of the unit having as one of its boundaries a waterway or lake as shown in the plat of Palm Bay may install a boat lift nor shall dry storage of vessels be permitted by any other means whatsoever."

Mr. Raymondo stated, basically, only the homeowner can install a structure in the water behind their house and, in the original literature, they showed virtually every home around the lake area having a dock, so it was fairly clear it was assumed that homeowners would install docks. Mr. Bergman stated the Board has no arguments with that and feels that everyone is entitled to have a dock and to have all the rights associated with their docks. The Board is simply trying to tie up any loose ends on the lien. Mr. Bergman stated the word easement equals a CTU Agreement and there are three homes around the marina that have a CTU. The

Board would like for everyone to have that. Mr. Raymondo stated that was one option and, in his opinion, another option would be to deed over that property, with a reciprocating cost to the homeowner, as the homeowner would then be responsible for the seawall. He felt that, in most cases, the seawall is clearly on the lake and it is not on the owner's property, per the survey, so a reasonable option would be to transfer the title at a cost to the homeowner. He stated that he had no issue paying all fees to transfer the property to him and, in exchange, he would agree to be responsible for the section of the seawall behind his house.

Discussion ensued regarding the marina, seawall, appraisal, Declarations for Palm Bay and the easement.

Resident Randy McLaughlin stated that he did not understand the second introduction of an easement document even though his property has an additional easement that he has never seen, and felt that the real concern is the CDD asking marina owners to accept and take responsibility for the maintenance and ownership of the seawall even though they will not actually own the seawall and, for that reason, he would not sign the easement. Mr. Bergman stated the reason this issue was being raised was because some of the docks are deteriorating and unsafe and the seawall has been surveyed, along with every pole in the marina, and there is no rot and no worm damage. The seawall is in good shape but the docks are not, for the most part, and some homeowners do not want to make the repairs because they feel that the CDD is responsible since the docks are in a common area. Over the years, residents and realtors inquired about dock ownership because it was not specified on the CDD survey. Mr. Adams stated this was why the CDD facilitated a survey and paid to have a title search done, and the blue book that was previously mentioned does not come up on the title search; it has nothing to do with ownership. A resident stated that the blue book is recorded in the closing documents, is stamped by the Clerk of Courts and should be in the County records. Mr. Adams stated he would research the document on the Court website and asked for the instrument number. Regarding ownership of the seawall, Mr. Adams stated the survey showed that the seawall is within the CDD lake tract but it also showed that several boat docks in the CDD lake tract are not owned by the CDD.

Discussion ensued regarding the rights of residents to install docks and boat lifts, maintenance responsibility for the seawall, the marina tract, seawall inspection results, transfer

of ownership to property owners, the Boat Club, uniformity, increased home values and liability.

Asked how an easement agreement impacts liability, Mr. Adams stated part of the agreement contains a Harmless Indemnification Provision, which removes any liability on the CDD. Regarding the property transfer process, Mr. Adams stated residents would agree to pay for the expense of the appraisal and drafting of transfer documents, such as a quit-claim deed, and would essentially be purchasing what they are already using. The Board and Staff are trying to solidify the legal rights of the homeowners who utilize the docks and the seawall and, since they are deemed as public assets, residents must pay fair market value to purchase them.

Mr. McLaughlin stated he hoped the Board and Staff would research the Palm Bay Declaration document and his agreement to the transfer of property would depend on the value in the Declarations because, with the property comes the responsibility for the seawall and the seawall could easily cost property owners \$20,000 to \$25,000, which would contradict any value; he would have to understand what those values are and what the fees involve. Mr. Adams stated he would meet with an appraiser regarding the anticipated value and contact Board Members with an estimated amount, prior to commencing the appraisal process.

SIXTH ORDER OF BUSINESS

Update: Boat Club Dock

Mr. Margetis reported the following:

- Scheduling a dock inspection was challenging. Six construction companies were contacted and the company with the most reasonable price was MB Marine, which was subsequently engaged by the Boat Club (BC).
- He previously joined the BC leadership to get the whole process moving.
- The CDD is responsible for construction of the dock on the parcel that belongs to the CDD and the BC is responsible for construction on the parcel that belongs to the BC.
- The BC discussed keeping the existing poles, for a cost-savings of \$5,000.
- The BC agreed to redo the fingers and have new poles installed; each owner would be able to choose what they want to do with the fingers at their own cost.
- The CDD would not pay for the individual fingers or the electricity to the individual fingers.

- The only items pending were the electrical and plumbing, which would likely cost \$20,000.
- With MB Marine, the CDD portion of the dock would be \$83,500 and the BC cost would be \$30,000 for the fingers. All MB Marine estimates would be emailed to Mr. Adams for dissemination.

Discussion ensued regarding construction costs, challenge of finding an affordable electrician, permitting, CDD gangway, wait times for utilizing the marina and updating rules for marina use. Mr. Bergman urged residents to report trespassers by emailing all incidents to marina@palmbaycdd.net.

- Mr. Margetis wanted to finalize everything within the next week or two; it was just a matter of engaging an electrician.

Mr. Adams asked if the BC would raise funds for its portion and suggested including the BC's portion into the CDD's note and the BC could repay the CDD at any time. He discussed securing bank financing, per unit assessment increase, removing \$10,000 in capital outlay, the amortization schedule, mailed notices to property owners and items for the July meeting.

- **Consideration of Resolution 2021-03, Approving a Proposed Budget for Fiscal Year 2021/2022 and Setting a Public Hearing Thereon Pursuant to Florida Law; Addressing Transmittal, Posting and Publication Requirements; Addressing Severability; and Providing an Effective Date**

This item, previously the Third Order of Business, was presented out of order.

Mr. Adams presented Resolution 2021-03. The following change was made to Resolution 2021-03:

DATE: Change "July 8, 2021" to "September 9, 2021"

On MOTION by Mr. Bergman and seconded by Mr. Aschenbrenner, with all in favor, 2021-03, as amended, Approving a Proposed Budget for Fiscal Year 2021/2022 and Setting a Public Hearing Thereon Pursuant to Florida Law for September 9, 2021 at 9:00 a.m., at the Courtyard by Marriott Tampa/Oldsmar, 4014 Tampa Road, Oldsmar, Florida 34677; Addressing Transmittal, Posting and Publication Requirements; Addressing Severability; and Providing an Effective Date, was adopted.

SEVENTH ORDER OF BUSINESS

Update: Beach Planning Topics; Design, Lighting, Electric, Envera

This item was addressed following the Ninth Order of Business.

EIGHTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of February, 28 2021

Mr. Adams presented the Unaudited Financial Statements as of February, 28 2021. Because the District is \$40,000 over budget, Management transferred \$40,000 from the Enterprise fund to the General fund to bolster the General fund.

On MOTION by Mr. Aschenbrenner and seconded by Mr. Williamson, with all in favor, the Unaudited Financial Statements as of February, 28 2021, were accepted.

NINTH ORDER OF BUSINESS

Approval of January 14, 2021 Regular Meeting Minutes

Mr. Adams presented the January 14, 2021 Regular Meeting Minutes. The following change was made:

Line 119: Change "Mr. Aschenbrenner" to "Mr. Bergman"

On MOTION by Mr. Williamson and seconded by Mr. Margetis, with all in favor, the January 14, 2021 Regular Meeting Minutes, as amended, were approved.

- **Update: Beach Planning Topics; Design, Lighting, Electric, Envera**

This item, previously the Seventh Order of Business, was presented out of order.

Mr. Bergman voiced his concerns about upgrading the dock and not having sufficient security to capture trespassers, etc. A Board Member commented that, in learning about the marina and Envera, it was discovered that there is a redundant cellular, electricity should be extended to the dock and lighting should be added to the gazebo. \$100,000 would be budgeted to upgrade the lighting on the beach and to bolster electricity and security. Mr. Adams stated

the additional improvements would increase assessments 19%. Discussion ensued regarding electrical sources, underground lines, nonresident use of the dock, cameras and costs.

TENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: *Straley Robin Vericker*

There was no report.

B. District Engineer: *Landmark Engineering & Surveying Corp.*

There was no report.

C. District Manager: *Wrathell, Hunt and Associates, LLC*

- **NEXT MEETING DATE: July 8, 2021 at 9:00 a.m.**

- **QUORUM CHECK**

The next meeting would be held on July 8, 2021 at 9:00 a.m.

ELEVENTH ORDER OF BUSINESS

Public Comments: Non-Agenda Items

There being no public comments, the next item followed.

TWELFTH ORDER OF BUSINESS

Supervisors' Requests

There were no Supervisors' requests.

THIRTEENTH ORDER OF BUSINESS

Adjournment

There being nothing further to discuss, the meeting adjourned.

On MOTION by Mr. Aschenbrenner and seconded by Mr. Margetis, with all in favor, the meeting adjourned at 10:55 a.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/~~Assistant Secretary~~


Chair/Vice Chair