

**MINUTES OF MEETING
XENTURY CITY
COMMUNITY DEVELOPMENT DISTRICT**

The regular meeting of the Board of Supervisors of the Xentury City Community Development District was held Tuesday, July 25, 2017 at 11:00 a.m. in the St. George Room 102 of the Gaylord Palms Resort & Convention Center, located at 6000 West Osceola Parkway, Kissimmee, Florida 34746.

Present and constituting a quorum were:

Owen Beitsch
Todd Persons
Timothy Baker

Vice Chairman
Assistant Secretary
Assistant Secretary

Also present were:

Gary Moyer
Scott Clark
Nick Pope
Dimitri Toumazos

District Manager
District Counsel
Xentury City Development Company (via telephone)
Xentury City Development Company

FIRST ORDER OF BUSINESS

Roll Call

Mr. Moyer called the meeting to order. The record will reflect Supervisors Beitsch, Persons and Baker are present, and a quorum of the Board was established.

SECOND ORDER OF BUSINESS

Public Comment

Hearing no comments from the public, the next order of business followed.

THIRD ORDER OF BUSINESS

Organizational Matters

A. Consideration of Resolution 2017-01 Canvassing and Certifying the Results of the Landowner's Election

Mr. Moyer stated the first item is consideration of Resolution 2017-01 Canvassing and Certifying the Results of the Landowners' Election which took place November 8, 2016. Mr. Toumazos and I met. It was properly advertised for any landowners to attend the meeting. At that meeting, there were three seats up for election. Mr. Beitsch received 350 votes and will serve a four-year term. We had two vacant seats in which the landowner was not able to elect anyone in

Seats 1 and Seat 5. Seat 5 received seven votes, and that term is determined to be four years. Seat 1 received six votes, and that term is for two years. The reason we did that is if we get to the point of appointing people to fill those vacancies, the terms of office will be determined and we can nominate people for the remaining terms of office. This Resolution is not much different than what the County Commissions do in terms of certifying election results. The purpose is simply to memorialize what happened at the landowners' election.

Mr. Beitsch stated if I might make a point of inquiry. It has been a while since I have been voted to a seat. I cannot remember if I am I allowed to move on this Resolution as a nominee.

Mr. Moyer stated yes.

There being no further discussion,

On MOTION by Mr. Beitsch seconded by Mr. Baker with all in favor, Resolution 2017-01 Canvassing and Certifying Results of the Landowners' Election of Supervisors Held Pursuant to Section 190.006(2) Florida Statutes, was adopted.

B. Acceptance of Resignation of Steven Ivins (Seat 1)

Mr. Moyer stated it seems it would be appropriate at this time to accept, with regret, Mr. Ivins' resignation.

On MOTION by Mr. Persons seconded by Mr. Beitsch with all in favor, the resignation of Mr. Steven Ivins was accepted.

Mr. Beitsch stated I have an organizational question too. When someone resigns from the Board, is it necessary to formally as a Board to accept the resignation, or is it just an administrative function we have just created a record for?

Mr. Moyer responded it is to create a record.

Mr. Beitsch stated it is not really a legal requirement.

Mr. Clark stated I do not think so. I have been asked before. It is not as if we can compel him to stay on the Board if he has resigned. What happens if you have a succession at some point and you get asked to prove the succession, this helps to do that.

Mr. Beitsch stated, okay, thank you.

C. Consideration of Resolution 2017-02 Declaring Vacancies of the Board

Mr. Moyer stated Mr. Clark has prepared a Resolution. We prepared it and he corrected it. The Resolution declares a vacancy since there is now a seat from which there was a resignation. This triggers, by definition, a vacancy. By declaring that, the Board is in a position to appoint someone to fill the unexpired term of office when the Board is in a position to do so. This is Resolution 2017-02, a Resolution of the Board of Supervisors of the Xentury City Community Development District declaring a vacancy of certain seats on the Board of Supervisors, pursuant to Section 190.006(3)(b), Florida Statutes and providing an effective date.

Mr. Clark stated the Resolution Mr. Moyer is presenting substitutes the word *landowner* for the words *qualified electors* since we are not a qualified elector District yet; or ever perhaps.

There being no further discussion,

On MOTION by Mr. Beitsch seconded by Mr. Baker with all in favor, Resolution 2017-02, Declaring Vacancies in Certain Seats on the Board of Supervisors Pursuant to Section 190.006(3)(b), Florida Statutes, and Providing an Effective Date, was adopted.

D. Appointment of Supervisors to Fill the Unexpected Terms of Office Seat 1 (11/2018) and Seat 5 (11/2020)

Mr. Moyer stated as I mentioned, we have two seats that are vacant. Do we have any nominations for someone to fill those seats?

Mr. Toumazos stated Mr. Pope and I have spoken and by the next meeting we may have someone possibly. Do you agree?

Mr. Pope responded yes. I know you have someone in mind who is fine with me and I have a couple of ideas as well. We will talk about it to see if there is a concurrence if we cannot fill our Board.

Mr. Toumazos stated we have two vacancies. I might add Gaylord has the option to fill one of those, but have never exercised that option. I believe protocol is the proper way to approach this to see if we can fill it. If Gaylord so likes them, then we can terminate that person. How would that work?

Mr. Clark responded you can ask that person to resign.

Mr. Moyer stated as a strategy, you may want to consider if you fill that seat, one of them is going to be the 2018 seat. If Gaylord wants to participate, even if you do not remove someone, that seat comes up for election in November 2018. If there are no nominations, the rest of that

section under organization is not necessary, with the exception, I would ask the Board to consider electing one of you three Board members as Chairman. Mr. Ivins was our Chairman as you are aware. We do not have a Chairman anymore. I do think we need a Chairman. Any volunteers gentlemen?

Mr. Persons nominated Mr. Owen Beitsch to serve as Chairman. There being no further nominations, with all in favor, Mr. Owen Beitsch was appointed to serve as Chairman.

E. Oath of Office for Newly Selected Supervisors

F. Designation of Officers – Resolution 2017-03

These items shall be tabled to the next meeting.

FOURTH ORDER OF BUSINESS

Minutes

A. Approval of the Minutes of the August 2, 2016 Meeting

B. Acceptance of the Minutes of the November 8, 2016 Landowners' Meeting

Mr. Moyer stated each Board member received a copy of the minutes of the August 2, 2016 meeting, and for acceptance, the minutes of the November 8, 2016 Landowners' meeting and requested any additions, corrections or deletions.

Mr. Beitsch stated you might find it funny, I had forgotten how long ago that I was elected to the board.

There being no further discussion,

On MOTION by Mr. Beitsch seconded by Mr. Persons with all in favor, the minutes of the August 18, 2016 meeting were approved and the minutes of the November 8, 2016 Landowners' Meeting were accepted.

FIFTH ORDER OF BUSINESS

Presentation of Fiscal Year 2018 Budget

A. Fiscal Year 2018 Budget

B. Consideration of Resolution 2017-04 Approving the Budget and Setting a Public Hearing

Mr. Moyer stated you gentlemen have been through this with me, any number of times. For the District to adopt a Budget, it is a two-step process. At our meeting today, I will ask the Board to consider the proposed Budget that management has prepared for our Fiscal Year which starts on October 1, 2017 and will conclude September 30, 2018. There is not much to discuss

with this budget because it is the same as the budget we have been operating under for several years. As you are aware, a budget is not an authorization to spend. It is just a guideline of the cost, in our case, based upon the previous history. We then will set a Public Hearing when we are done discussing this budget for some time in late September. This gives us the opportunity to provide the budget to Osceola County 60 days before we adopt it. All of this is tracking Chapter 190 of the Florida Statutes. At this point gentlemen, do you have any questions or comments on the budget? I think the only number that changed was insurance, and likely, that number will not increase, but for this budget we did increase it slightly.

Mr. Persons asked is the web hosting new as well?

Mr. Moyer responded yes, web hosting is new. We are required to have a website. For many years, we had that website. I hosted the website and I never charged you for it because it was only \$5 or \$10 a year to me. This last Fiscal Year, because of all the cyber-attacks, on websites, we did get hit and had to pay to protect our website from malware, etcetera. We are now paying for that type of coverage and thus the line item for that expense. This is the first time we have really had to do it.

Mr. Persons asked can we get hit with a cyber-attack?

Mr. Moyer responded yes. It shut the system down and we did not have access to it. We had to ask the webhosting company we use to clear it up. It is part of what they do, part of their service.

Mr. Beitsch asked with all due apologies in my new role as Chairman, what are the legal requirements for hosting a site? Is there specific information which needs to be posted that I need to uphold?

Mr. Moyer responded there is. Probably you need to look at Chapter 189 of the Florida Statutes, which is applicable to all special Districts in this state. I think it was amended a year or two ago.

Mr. Clark stated the requirement to have a website is a little older, but what they have done almost every year incrementally, is require more things to be posted. Our budget and other basic public documents need to be posted. We now, as of last year, are required to post the meeting agenda at least seven days beforehand. Every government must do this to stay in compliance.

Mr. Beitsch stated in terms of today's agenda, it is posted.

Mr. Moyer stated again I think we are targeting late September for that meeting. Probably the last week in September. Do you all have plans? Are you all available?

Mr. Persons asked do we have a meeting planned for August 22nd? I had one on my calendar.

Mr. Moyer stated if we do, it was based upon our expectation of when we would have the July meeting which we had to push back to get a quorum. Now it needs to be 60 days out from this meeting.

Mr. Persons stated it was originally August 22nd at 11 a.m. Sixty days from today is not then. It was originally August 22, but If you go on that same path, you are at September 26th. It would be two months, maybe 60 days out.

Mr. Moyer stated correct.

Mr. Beitsch stated that works for me.

Mr. Persons stated I am out the 26th, 27th and 28th.

Mr. Moyer asked what about the 25th which is a Monday?

There being no further discussion,

<p>On MOTION by Mr. Persons seconded by Mr. Baker with all in favor, Resolution 2017-04 of the Board of Supervisors of the Xentury City Community District Development Approving the Budget for Fiscal Year 2018 and Setting a Public Hearing Thereon Pursuant to Florida law to be held Monday September 25, 2017 at 11:00 a.m. in the Gaylord Palms Resort & Convention Center, located at 6000 West Osceola Parkway, Kissimmee, Florida 34746, was adopted.</p>
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SIXTH ORDER OF BUSINESS

Manager's Report

A. Financial Statements, Funding Requests and Check Register

Mr. Moyer stated I have two items for you. One is the financial statements, which is under tab six. Our pro-rated budget, based upon what we adopted last year, is \$18,283. We spent \$12,780, or we billed that and we are at \$5,503 under what we anticipated for revenues, and expenditures were \$5,468 under our pro rata expenditure budget. We are well under budget for this time of year. Again, we probably do not expect many more expenses for the rest of the Fiscal Year.

B. Report on Number of Registered Voters (0)

Mr. Moyer stated Chapter 190 has a conversion process. The legislature, when they adopted Chapter 190, back in 1980 felt that at some point in the history of the District, we needed to transition from a landowners' election to a qualified elector election being registered voters and residents of the District. The way we do that is we ask the Supervisor of Elections each year how many registered voters we have. The conversion does not start until after the sixth year and when we have 250 registered voters. In our case, since the District is older than six years, the trigger will be the 250 registered voters. Every year we get this information. I enter it into the public record, so the public can track where we are in that process. We currently have zero registered voters.

SEVENTH ORDER OF BUSINESS**Attorney's Report**

Mr. Beitsch stated I would like to use this opportunity as a way to get information. The lawsuit, appears to be in Poinciana about landowners versus the landlords. Do you have any thoughts about that? Do you know what I am asking about?

Mr. Moyer stated to give a quick overview so you can understand what the issue is, Poinciana, which is Solivita, has two Districts; Poinciana and Poinciana West CDDs. In both cases, they transitioned from landowner to qualified elector elections. All the Supervisors are elected by the residents in Solivita. The issue there is the developer, Avatar or A.V. Homes, made an offer to the two CDDs to acquire the recreational amenities in Solivita. I do not know if you have been out there. They have a beautiful ballroom, a restaurant, and a variety of neighborhood pools, softball, and exercise areas. It is really the amenities system for the entire community. They offered the CDDs to acquire it at a value determined to be based upon the revenues from the club plan. As we go through this you are going to say this sounds familiar to me. It sounds a whole lot like the Villages. The difference is the Villages did not have a club plan. Instead, it had a deed restriction that said you would pay so much for recreational facilities provided by the developer. In Solivita it is under a club plan which they appended to the deed restrictions. The effect is ultimately the same. There are legal nuances, but the effect is people agreed to pay a certain amount to have access to the recreational facilities. The proposal from Avatar was the club plan provides we can increase the club plan fees \$1 per month every year meaning, \$12 per year. If these are bought according to the revenue or income approach to valuation, we will cap that at what you are paying now. You will not be subject to a plan increase again. The District would

then acquire these through a special assessment to the residents, but the fee would be capped at about \$85 per month. They stated they were aware the facilities needed to be brought up to 2017 standards. As part of the proceeds of the Bond, the District will keep \$11.2 Million to create a new performing arts center, a new recreation center, or anything else the District wants to do, that you have community support to do. If you do this, the residents control the future in terms of what is provided, the programming and everything else. The Board agreed to the deal seeing a lot of positives which we will pursue by hiring a valuation expert to determine what the number would be. The \$85 per month was capitalized by 5,500 units, and you know the math. You can probably do this in your head and come out with a number that is close to reality. There was a group of residents who felt the Board should approach this as any other real estate deal. You do not agree on a price or methodology. Buy the facilities for as cheaply as you can. We had a valuation expert, but we did not have an appraiser. They were told they should have had an appraiser. The second issue is taking exception to the valuation of the assets. Based on the District's valuation, it was \$73,700,000 and based on the residents' appraisal it was \$19,000,000. They think AV homes should sell these assets for what is on the Property Appraiser's website. The District filed suit for validation. We just got done with that last Friday. The judge has not ruled on the validation yet. The property owners who took exception to it then filed a class action lawsuit against Avatar. Their basis of this is the club plan is part of the deed restrictions. You are governed by the deed restrictions which requires Avatar/A.V. Homes turn over to the HOA whatever is in the HOA. The HOA claims all the recreational amenities because the club plan is now in the HOA. There is a class action lawsuit pending against the developer and a very contested Bond validation.

Mr. Beitsch stated I asked to learn, but I also asked to make sure there are no implications for our organization and I try to stay current on these things. Is there a set of footnotes we need to subscribe to here?

Mr. Moyer responded the implication for this District is more related to the Villages than it is to Avatar or Solivita. The issue with the IRS and the Villages was if you have a commercial District with no reasonable expectation of ever getting to 250 registered voters, the developer will perpetually elect the Board of Supervisors. This disqualifies the District from being a political subdivision. They threatened to adopt rules, the IRS did. This has not happened. It looks like it may never happen, at least not in the immediate future. The IRS has backed away from it. There

is a different administration in Washington than when the Villages went through all that. If we get to the point where we are going to issue bonds, we need to be sensitive to this.

Mr. Pope stated if I read the agenda package correctly, the developer refinanced all the Bonds to be taxable, removing the issue about the tax-exempt interest.

Mr. Moyer stated Mr. Pope, this is exactly right. The IRS, interestingly enough, continued to pursue the examination well after those bonds were refinanced. It got to a point where they just decided in the closing letter they sent to us, almost a quote is, we do not believe it is sound tax policy to continue with this examination. The back story is when the Villages did their refinancing, the taxable rates were well under what the tax-exempt rates were on the Bonds to be refinanced. We refinanced and saved the residents of the Villages \$26 Million by refinancing. This did take the IRS out of the game altogether. If we were not successful in having the IRS drop the examination the risk was the IRS can come back anytime and say we do not like the way you are running the recreational items. We think anyone who shows up at your doorstep, who wants to pay you \$10 to use the facilities, we would have to comply or the tax-exempt bonds will be taxable. We don't have that exposure by taking the IRS out of the equation altogether, and we saved \$26 Million. It was the best thing they ever did.

Mr. Pope stated I guess when I first read about the lawsuit, I thought the biggest risk was the bondholders would sue the developer if the IRS determined the interest on the bonds they held had always been taxable. There was a big tax bill due. I do not know why they still could not do it. Perhaps they decided it is just not worth the trouble. The map I did is about \$5,500,00 a year of income. What does it cost them to maintain those facilities?

Mr. Moyer responded interestingly enough, under the club plan, it is broken down into two components. One is \$85 per month which gives you nothing more than the right to use the facilities. They then assess whatever is necessary to operate and maintain the facilities. All we were pledging is the \$85 per month which has virtually no expenses against it.

Mr. Pope asked it is pure profit?

Mr. Moyer responded yes.

Mr. Pope stated you capitalize at \$5,500,000 per year and that would give you the value of the facilities.

Mr. Moyer stated, yes, that is exactly right. Again, the number ended up to be \$92 Million or \$93 Million. You subtract the \$11,200,000, cost of issuance, and you know the formula.

Mr. Beitsch stated I think it was important to say the cap rate was too high. This is almost like buying a bond. It should have been free. This is a \$100 Million deal.

Mr. Florio asked did they have a reserve or a sinking fund? That gets factored in here.

Mr. Moyer stated this gets factored in here. The net ended up being \$73,700,000.

Mr. Florio asked who is representing the owner group?

Mr. Pope responded I turned down the opportunity to represent Avatar in the mid eighties.

Mr. Florio stated I was just curious at who they are. It only takes seven to get a class action lawsuit and make it tough on developers.

Mr. Pope stated your old friend Mr. Reggie Tisdale is involved with a fellow named Parker for whom Parker Highway was named and who was the money behind Avatar and Poinciana originally.

Mr. Baker stated I am familiar with that originally.

EIGHTH ORDER OF BUSINESS

Engineer's Report

There being no report, the next order of business followed.

NINTH ORDER OF BUSINESS

Supervisor Requests

There being no comments from Supervisors, the next order of business followed.

TENTH ORDER OF BUSINESS

Audience Comments


There being no comments from the audience, the next order of business followed.


ELEVENTH ORDER OF BUSINESS

Adjournment

There being no further business, the meeting was adjourned.

On MOTION by Mr. Beitsch seconded by Mr. Baker with all in favor, the meeting was adjourned.
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Gary L. Moyer
Secretary


Owen Beitsch
Chairman