

**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 Monday, August 30, 2010 at 11:00 A.M. at the Gaylord Palms Resort & Convention Center, 6000 West Osceola Parkway, Kissimmee, Florida.

Present and constituting a quorum were:

Steven R. Ivins	Chairman
Owen M. Beitsch	Vice Chairman
William C. Kercher, Jr.	Assistant Secretary

Also present were:

Gary L. Moyer	Manager - Moyer Management Group
Scott Clark	District Attorney
John Florio	Engineer
Dimitri Toumazos	Xentury City Development

**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. Moyer called the meeting to order and called the roll.

**SECOND ORDER OF BUSINESS**

**Organizational Matter**

**A. Appointment of Supervisor**

Mr. Moyer stated we currently have a vacancy on this Board. At the last meeting, the Board asked me to contact Mr. Owen to determine whether or not he had an interest in continuing to serve on the Board. In response, Mr. Owen emailed a resignation to me, which is under Section 2 of your agenda package.

Dr. Beitsch stated I was surprised to see this, although the minutes were clear that we asked you to contact him.

Mr. Moyer stated this discussion took place on Page 2.

Dr. Beitsch stated I did not realize that you were going to send him a letter.

Mr. Kercher stated this is my last meeting since my term expires in November.

Mr. Moyer if you are not going to continue in your seat, we will have three open seats for the landowners meeting in November.

Mr. Toumazos stated this is an opportunity for the Chairman to seek replacements so new Board members could be sworn in before you resign.

Mr. Ivins asked does Mr. Owen's seat expire in November?

Mr. Moyer responded yes. You and Mr. Beitsch serve until 2012. The vacant seat, Mr. Owen and Mr. Kercher's seat expires in November and will be filled at the landowners election.

Mr. Toumazos asked how does this process work? Does the Board make nominations?

Mr. Moyer responded yes. We will send you a proxy for the landowners meeting. You get one vote for every acre of land you own. If you subdivided and it is less than an acre, you get a vote for that portion of an acre you own. We will call the landowners meeting to order and from those landowners present; we will elect a Chairman for the purpose of conducting the landowners meeting. This will not necessarily be a Chairman of this Board, but a Chairman for the landowners. We will then call for the number of voting unit represented, open the floor for nominations, give you the official ballot to fill out, tabulate the election results and announce the results. Immediately following the landowners meeting, we will convene the regular Board meeting. Whoever Mr. Ivins chooses to put on the Board, it would be helpful for them to attend the November meeting so we can swear them in and organize the Board by electing officers.

### **THIRD ORDER OF BUSINESS**

#### **Approval of the Minutes of the June 14, 2010 Meeting**

Mr. Moyer stated that each Board member received a copy of the minutes of the June 14, 2010 meeting and requested any additions, corrections or deletions.

Dr. Beitsch stated Page 2 says that I was in Wyoming. I was actually in South Dakota.

Mr. Moyer stated we will note this change.

On MOTION by Mr. Ivins seconded by Dr. Beitsch with all in favor, the minutes of the June 14, 2010 meeting were approved as amended.

### **FOURTH ORDER OF BUSINESS**

#### **Public Hearing for the Adoption of the Fiscal Year 2011 Budget**

##### **B. Fiscal Year 2011 Budget**

Mr. Moyer stated the purpose of this meeting is to hold a public hearing to adopt a budget, which we are required to do by Florida Law prior to October 1. We presented this budget to you several months ago, which is in exactly the same form that our budgets have been for a number of years. This is representative of an Administrative Budget during a period of

time when the District is not actively involved in any infrastructure activity. At this time, I would be happy to entertain any questions.

Mr. Ivins asked was this meeting advertised as a public hearing?

Mr. Moyer responded yes.

Mr. Ivins asked does the County ever comment on these budgets?

Mr. Moyer responded for years, I sent out hundreds of budgets all over the State and never received a comment from a County.

**B. Consideration of Resolution 2010-3 Adopting the Budget**

Mr. Moyer stated since this meeting has been advertised as a public hearing, we will open the floor to any comments from the public relative to the budget. Not hearing any, we will close the public hearing and ask the Board to consider Resolution 2010-3, which by hearing is:

*“A RESOLUTION OF THE XENTURY CITY COMMUNITY DEVELOPMENT DISTRICT RELATING TO THE ANNUAL APPROPRIATIONS OF THE DISTRICT AND ADOPTING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2010; AND ENDING SEPTEMBER 30, 2011, AND REFERENCING THE MAINTENANCE AND BENEFIT SPECIAL ASSESSMENTS TO BE LEVIED BY THE DISTRICT FOR SAID FISCAL YEAR”*

Dr. Beitsch asked is this the same budget we discussed before?

Mr. Moyer responded yes.

Dr. Beitsch stated you said it was similar, but I wondered whether there were any changes.

Mr. Moyer stated this is the same budget that was presented to you on June 14.

Mr. Ivins stated it reflected higher rates for the Attorney.

Dr. Beitsch stated I wanted to note for the record that these funds will be paid through the Developer Funding Agreement.

On MOTION by Mr. Kercher seconded by Dr. Beitsch with all in favor, Resolution 2010-3 as stated above was adopted.
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**C. Approval of Developer Funding Agreement**

Mr. Moyer stated for a government, this document is remarkably short and to the point. It provides that once this Board approves the expenditures of the District, we will request that the Developer fund those expenses. This is the way we have operated the District for many years and have not had a problem.

Mr. Clark stated this agreement is consistent with prior agreements.

On MOTION by Dr. Beitsch seconded by Mr. Kercher with all in favor the Developer Funding Agreement for fiscal year 2011 was approved.

**FIFTH ORDER OF BUSINESS**

**Manager's Report**

**A. Financial Statements**

**B. Check Register**

**C. Funding Request**

Mr. Moyer stated the financial statements, check register and funding request were included in your agenda package. We are \$5,000 under budget from what we agreed to spend last year. I would be happy to answer any questions, but these are routine items that are well within budget.

Mr. Ivins asked when does the next fiscal year begin?

Mr. Moyer responded on October 1.

Mr. Ivins stated so the landowners meeting is the next meeting.

Mr. Moyer stated correct, unless something comes up where the landowner needs a meeting.

Dr. Beitsch asked on the bank reconciliation, are the outstanding checks ones that have not been deposited?

Mr. Moyer responded your have some outstanding checks totaling \$369.40.

Mr. Clark stated this is the exact amount of two supervisor checks that were not cashed.

Dr. Beitsch stated one of them is mine, because I just found one in a drawer.

Mr. Moyer stated the checks were dated July 23. Please make sure that you deposit your Supervisor checks.

Mr. Toumazos stated in the financial statements, the last column says "*YTD Budget Versus Actual Variance Favorable (Unfavorable)*". Why is \$6,516 in parenthesis?

Mr. Moyer responded if you look at what we collected in actual revenues; we billed the Developer \$14,923 and spent \$16,533. However, we had a *Fund Balance* available to pay the difference so we deducted the \$1,610 difference from the *Beginning Fund Balance* of \$2,180. Currently in our bank account, we have \$570.

On MOTION by Mr. Ivins seconded by Mr. Kercher with all in favor the financials for July 30, 2010, check registers for the period May 1, 2010 through July 31, 2010 in the amount of \$4,533.12; Funding Request No. 45 in the amount of \$1,295.05 and Funding Request No. 46 in the amount of \$2,381.72 were approved.

Mr. Ivins asked did you actually write a check for \$1.70?

Mr. Moyer responded yes. Severn Trent is using their own time and effort to pay the dollars owed.

**D. Consideration of FY 2011 Meeting Schedule and Designation of November 2010 Landowners Meeting Date**

Mr. Moyer stated we have not published a meeting schedule so every meeting is a special meeting since we meet so infrequently. However, we need to schedule the landowners meeting for November.

Dr. Beitsch asked if Mr. Owen and Mr. Kercher's terms expire, do they need to attend to vote in their replacements? They are not landowners so they would not participate.

Mr. Clark responded we need them to attend the regular meeting immediately after the landowners meeting because we need to have a quorum.

Mr. Kercher asked will you have new Supervisors at the regular meeting?

Mr. Moyer responded yes.

Mr. Toumazos stated the question is whether you need to open the regular meeting with a quorum or open it with the new Board members.

Mr. Moyer stated we can open the meeting with new Board members.

Mr. Clark stated however, if there are no new Board members, your term technically continues until a replacement is found. If you no longer wish to serve, then you need to resign.

Mr. Kercher stated it is going to be hard to find new Board members, but we need to find them. November is the time to do this.

Mr. Clark stated this needs to be communicated to the District Manager and the landowner.

Mr. Ivins stated I will search harder.

*After further discussion, there was consensus from the Board to hold the landowners meeting on November 8, 2010 at 10:00 A.M.*

Mr. Toumazos asked are you going to hold the landowners meeting at 11:00 A.M. and the regular meeting at 11:30 A.M.?

Mr. Moyer responded both meetings will be held at the same time.

On MOTION by Mr. Kercher seconded by Dr. Beitsch with all in favor the meeting schedule for fiscal year 2011 was approved and the landowners meeting was scheduled for November 8, 2010 at 11:00 A.M.

**SIXTH ORDER OF BUSINESS**

**Attorney's Report**

There not being any, the next item followed.

**SEVENTH ORDER OF BUSINESS**

**Engineer's Report**

Mr. Florio stated for those of you following Senate Bill 360, apparently the Circuit Court ruled it unconstitutional, however there is an appeal scheduled for Friday.

Mr. Moyer stated there is some question on whether the State will appeal it.

Mr. Florio stated I know. Many Cities joined in that litigation and filed their position in the Circuit Court on Thursday or Friday afternoon. I have not read it yet.

Mr. Clark stated interestingly they ruled it unconstitutional on one or two of eight rounds before striking the entire Bill including the parts that had not anything to do with those grounds. I have some clients who are interested in the non ad-valorem tax exemption; an affordable housing group who will likely jump in and try to appeal it.

Mr. Florio asked is there anything good in this bill?

Mr. Clark responded this depends on your viewpoint.

Mr. Florio stated I believe there is something for everyone. There was a DRI rule of concurrency and extensions for permits.

Mr. Clark stated interestingly enough, the judge went through a list of issues and said there were issues of a material fact that he could not rule on. Then he killed the entire Bill.

Mr. Moyer asked what did he rule on?

Dr. Beitsch responded he said it was not unconstitutional on the grounds that the Bill was not a single purpose piece of legislation. I am not sure I understand that because hardly any Bill is a single purpose piece of legislation. It did not seem like the unfunded mandate was analyzed.

Mr. Clark stated the analysis for unfunded mandate would have applied to every piece of legislation.

Dr. Beitsch stated that is why this was surprising. The analysis was very superficial. I did not know this, but a substantial unfunded mandate is defined as anything costing the State an amount of money based on the population of the State times 10 cents. So if it costs more than \$1.8 million and there are procedural items identified for how the money can be raised, it becomes a mandate. We can laugh about this, but I suspect that the difference between this and school size is that schools have the ability to set a levy for capital projects. This seems broad to me. That is why I was blown away when I read this.

Mr. Florio stated I have many clients who are requesting two year extensions on permits and development orders under State Bill 360. Now that this Bill has been killed, does that mean I need to deny all of these approvals?

Mr. Moyer responded no. Last year State Bill 1752 was adopted, extending permits by two years. They anticipated it would probably be held unconstitutional until it was adopted.

Dr. Beitsch stated those are not Statutes so I do not know that the unfunded has anything to do with class size. I also do not know if the Constitution says that you cannot pass another unconstitutional amendment, but we do that all the time. I do not know whether or not that will hold up.

**EIGHTH ORDER OF BUSINESS****Supervisor Requests**

Mr. Kercher stated it was a pleasure to have Mr. Florio with us today.

**NINTH ORDER OF BUSINESS****Audience Comments**

There not being any, the next item followed.

**TENTH ORDER OF BUSINESS****Adjournment**

There being no further business,

On MOTION by Mr. Kercher seconded by Mr. Ivins with all in favor, the meeting was adjourned.

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Gary L. Moyer  
Secretary

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Steven R. Ivins  
Chairman