

MINUTES OF MEETING  
VIERA EAST  
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Viera East Community Development District was held on Wednesday, October 9, 2019 at 2:00 p.m. at the Faith Lutheran Church in the Multi-Purpose Room, 5550 Faith Drive, Viera, Florida.

Present and constituting a quorum were:

Paul McCarthy	Chairman
David Bedwell	Vice Chairman
Jo Walsh	Treasurer
Melinda Thomsen	Assistant Secretary

Also present were:

Jason Showe	District Manager
Tim Melloh	General Manager
Brett Renton	Shutts & Bowen
Jack McElroy	Shutts & Bowen
Jim McSeveney	Resident

**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. McCarthy called the meeting to order at 2:00 p.m. All Supervisors were present with the exception of Mr. Oakley.

**SECOND ORDER OF BUSINESS**

**Public Comment Period**

Mr. McCarthy: Jim, would you like to speak?

Jim McSeveney, Heron's Landing: You are not going to burn anymore, around the scrub jay habitat. Is that correct? That is what you said last time.

Mr. Melloh: Right. The plan right now is to do the mechanical chopping.

Mr. McSeveney: When you do that, do you plan on telling residents that back up to that that they are doing it at that time?

Mr. Melloh: I'm not positive.

Mr. McSeveney: I'm not asking this because I live in Heron's Landing and I'm on the Association, but because I'm getting all of the questions about what they are doing. We don't get notified that they are doing something.

Mr. Melloh: There are two different things. There is the fire line. I'm not sure that we are doing the fire line, but I don't think that the acreage we have to treat is near any homes. I will make sure that if we are going to be near homes or right behind homes, we send out a letter. Would it better to have you post something on the website?

Mr. McSeveney: The website is there, and we use it, but most residents don't use it. We tried all different ways to communicate to residents.

Mr. Melloh: We will make every effort to let residents know.

Mr. McSeveney: I did try to put out information about what a CDD is, which was nice, but I would say that probably 80% still don't understand what a CDD is. I was asked a question yesterday from a resident back in the preserve about getting some stuff trimmed off of the Pine trees back there. I referred them to you.

Mr. Melloh: Okay.

Mr. McCarthy: Thank you for your comments, Jim. At this time, I need a motion to recess the Board of Supervisor's meeting to convene the Attorney-Client Session.

On MOTION by Ms. Walsh seconded by Ms. Thomsen with all in favor recessing the Board of Supervisors meeting to hold the Attorney-Client Session was approved.

### **Attorney-Client Session**

#### **A. Roll Call**

Mr. McCarthy called the Attorney-Client Session to order at 2:05 p.m. All Supervisors were present with the exception of Mr. Oakley.

#### **B. Attorney-Client Session**

Mr. McCarthy: The discussion of the litigation is titled, "Robert Dale and All, versus the Viera East CDD, Case #2019CA041770." It is estimated that the Attorney-Client Session will last 45 minutes. The Attorney-Client Session shall be attended by Paul McCarthy, David Bedwell, Jo Walsh, Melinda Thomsen, Jason Showe, Brad Ratton, Jack McElroy and a court

reporter. Pursuant to Section 286.0011 of the Florida Statutes, all others shall be excluded. Upon completion of the Attorney-Client Session, we shall open the public meeting and I shall announce the termination of the Attorney-Client Session.

**C. Adjournment**

Mr. McCarthy: I now announce the termination of the Attorney-Client Session.

**FOURTH ORDER OF BUSINESS**

**Reconvene Board of Supervisors Meeting**

Mr. McCarthy reconvened the Board of Supervisors meeting.

**FIFTH ORDER OF BUSINESS**

**Consideration of Resolution 2020-01  
Declaring Benefit Special Assessments**

Mr. Showe: We are going to redo the entire assessment process. The start of that is Resolution 2020-01, which is as follows:

*"A RESOLUTION OF THE BOARD OF SUPERVISORS DECLARING BENEFIT SPECIAL ASSESSMENTS, INDICATING THE LOCATION, NATURE AND ESTIMATED COSTS OF THE IMPROVEMENTS, PROVIDING FOR A PORTION OF THE ESTIMATED COSTS OF THE IMPROVEMENTS TO BE DEFRAYED BY THE BENEFIT SPECIAL ASSESSMENTS, PROVIDING THE MANNER IN WHICH SUCH BENEFIT WILL BE MADE, PROVIDING WHEN SUCH BENEFIT SHALL BE PAID, DESIGNATING THE LAND UPON WHICH THOSE ASSESSMENTS WOULD BE LEVIED, ADOPTING A PRELIMINARY ASSESSMENT CHART AND PROVIDING FOR THE PUBLICATION OF THIS RESOLUTION"*

Mr. Showe: Included in the resolution is Exhibit A, the Engineer's Report, Exhibit B, the Methodology and Exhibit C, the Preliminary Assessment Chart. Those exhibits have been emailed out to the Board and I provided them today. I can run through some of the changes from the original one. In your Engineer's Report, the Engineer re-evaluated his narrative to describe the benefits that each of the properties in the District will receive from these recreational improvements in a little more detail. That is actually the only substantive change. In addition, PFM Financial Advisors prepared a Master Assessment Methodology. His evaluation ties back to the four units per acre of commercial. Table 1 shows the property value for properties within Viera East. He also ties it to the same methodology that was used before, just in a different manner. We also included Exhibit C, the Preliminary Assessment Chart, detailing how those

assessments will be levied on properties within the District. So these three items will be attached to that resolution. This resolution allows us to advertise and move forward with the first part of the hearing process.

Mr. McCarthy: Does anyone have any questions for Jason regarding this?

Mr. Bedwell: Is there any change in the Assessment Chart?

Mr. Showe: No. We talked to the bond folks to make sure there weren't any changes. They are comfortable with the original presentation of the sources and uses as part of their earlier hearing process. I think that will also help because there won't be any changes to explain to residents, because it's essentially the same process.

Mr. McCarthy: We need a motion to adopt Resolution 2020-01.

On MOTION by Ms. Walsh seconded by Ms. Thomsen with all in favor Resolution 2020-01 Declaring Benefit Special Assessments was adopted.

## **SIXTH ORDER OF BUSINESS**

### **Consideration of Resolution 2020-02 Setting a Public Hearing on Assessments**

Mr. Showe: The second part of the process sets the public hearing for November 21, 2019 at Faith Lutheran Church at 6:00 p.m. We set that hearing at that time for a couple of reasons. One, you already had a meeting scheduled that day, as part of your regular agenda. So it fit nicely to have the hearing that night. Additionally, it gives us time to send out the legally required mailed notices. Let's take action on the resolution and then we can talk about the other attachments. There is a PR campaign that we might want to look at for the second hearing.

Mr. McCarthy: We need a motion to adopt Resolution 2020-02.

On MOTION by Ms. Thomsen seconded by Ms. Walsh with Mr. McCarthy, Ms. Thomsen and Ms. Walsh in favor and Mr. Bedwell dissenting, Resolution 2020-02 Setting the Public Hearing for November 21<sup>st</sup> at 6:00 p.m. at this location for Special Assessments was adopted. (Motion Passed 3-1)

Mr. Showe: As part of that, we have to send out another mailed legally required notice, so we provided you with a draft. We added some language stating that it has the same terms and conditions as what was provided at the July meeting. It also describes why we are going through

this process again. Because of litigation, the District afforded the Board an opportunity to consider additional and supplemental information. Obviously, we ran this letter by District Counsel. I think we can make some minor changes to it, but it's kind of the way it is in large part at this stage.

Mr. Bedwell: I can't believe that a resident is going to read all of this. On the top of the second page, it says, "Please note that the estimated amount of the benefits based on the assessment to be considered at the Board Meeting, a public hearing scheduled for November 21<sup>st</sup> has not increased from those estimated amounts considered at the public meeting." Can we say, "Has not decreased?" That's all they are interested in.

Mr. Showe: I can look. Maybe we can say, "Has not changed."

Ms. Walsh: That's what I would say.

Mr. Showe: We will check on that.

Mr. McCarthy: That is a good point.

Mr. Bedwell: I just wish that paragraph was placed further up in the letter, because by the time they get there, they are lost.

Mr. Showe: I can ask about moving it, but there are some statutory requirements in terms of how the letter has to be built.

Mr. Bedwell: I don't know why some of this legal stuff could be placed in this letter. This is the letter that I understand.

Ms. Thomsen: That's a good one.

Mr. Bedwell: With this one, people get lost.

Mr. Showe: That's kind of what goes into some of the PR we are looking at with this. Our intent is that the legally required notice is required approximately 30 days in advance of the hearing. So we plan on sending this out around October 21<sup>st</sup>. Our plan is to send out a version of this letter that is one page, two weeks before the hearing. I think its simpler to understand and its clearer for folks in terms of what exactly is happening.

Mr. Bedwell: Is this one going out after this one?

Mr. Showe: That is our intent. Yes. We want to do this one approximately two weeks prior to the hearing; that way, it ties a little closer to the actual hearing date. It gives them some information that I think is a little easier to digest. When this letter is finalized, we can also place it on the website, along with all of the other documents so if anyone goes to the website, its right

there in front of them. Obviously, there is an additional cost for sending this letter out, but as long as there is no objection from the Board, I think it might be worth it to do a little more public outreach, because some of the comments that we heard from the last meeting was that they didn't really understand it, but if we supplement it with something like this, a little closer to the hearing, they might.

Mr. Bedwell: Is there no way that you can put the legalese in this letter?

Mr. Showe: Not at this stage.

Mr. Bedwell: It might be four pages long.

Mr. Showe: At this stage, I was told that they do not want to supplement what is legally required because of the statutes.

Mr. Melloh: Bond Counsel sent out the notice.

Ms. Thomsen: The original one.

Mr. McCarthy: It might be better having that letter arrive two weeks prior to the meeting. I think that's a good strategy, because it's very confusing and I don't understand it. The average person is not going to understand it.

Mr. Melloh: Most of the people that came to my office were concerned that their assessment would go up \$400 or \$500 this year. First of all, your assessment isn't going up at all. It's just how it's all being presented. So, once people came to see me face-to-face, they understood. It's an example of how when that letter went out, they completely mis-read, so I think this second letter will help to clarify that.

Mr. McCarthy: Tim and Jason, with the last letter, how many people came into your office and how many phone calls did you handle regarding that letter?

Mr. Melloh: I would say that a dozen or so came to my office. I think Jason received a lot more.

Mr. Showe: We received a total of 100 phone calls, but there were 5,000 letters.

Mr. McCarthy: So we received 120 questions out of 7,600 residents.

Mr. Melloh: There are 4,200 homes, but there are 7,600 registered voters in the District.

Mr. Showe: I think to Tim's point, if this is already on the website when they get this, anyone that goes to look at the website, will be able to see this letter before it gets mailed out.

Mr. McCarthy: Back to what I heard at the Attorney-Client Session; people don't go to the website. It would be wonderful if they did, but they don't.

Mr. Showe: I agree.

Mr. McCarthy: I'm glad it's on there, but people generally will not go to that website, unless they are encouraged to do so.

Mr. Showe: That's why this letter does that. I think the other letter does that, but they have to get all the way through it to understand. I know Tim encouraged people to go to the website. The calls we received, I encouraged them to look at the documents. I think it will be clearer than what you see here, but I agree. Sending this letter out, as long as there's no objection from the Board, I think that would be our plan.

Mr. Bedwell: That's the only one that I like.

Mr. Melloh: The people that I talked to didn't even know there was a website.

Mr. McCarthy: Exactly my point.

Mr. Melloh: They want clarity.

Mr. Bedwell: Can you see if you can move this around a little?

Ms. Thomsen: I don't care.

Mr. Showe: I will ask if we can move that third paragraph up.

Mr. McElroy: My suggestion for you is instead of putting the letter on the website, why don't you have some of the information in a flyer and make it available at the golf course?

Mr. Showe: We have a form that we were working on. In terms of mailing out something, sometimes those brochures don't provide enough information.

Mr. McElroy: I'm just talking about one piece of paper. It could be in a letter format. You could have it at the golf course immediately so folks who come in asking questions, could be provided with this piece of paper. Something with bullet points.

Mr. Showe: We can work on that. We have a form of a brochure that we were putting together. I just thought in communicating with the residents, the letter is a little more effective. As part of our presentation at the last hearing, we had a table that showed the assessments in a bar chart. That's what we gave to Tim and what we are handing out.

Mr. Melloh: That was the most helpful document we had because I handed it out to a dozen or so people that I spoke to and they were able to see that their assessments were not going up \$300, \$400 or \$500. It stayed the same. It was just that it would be over a long period of time.

Ms. Thomsen: That is the main concern, but the secondary one is that the people down at that other end don't consider a golf course resident Club or whatever we want to call it, as



something that they want to spend \$3 million on. They are having a problem with that. Maybe we could justify that, but they are still going to hate that.

Mr. McElroy: I think your Assessment Methodology, the fact that it says, "Your home for living in the CDD is worth \$15,000 more," is important to realize.

Mr. Bedwell: They pick two neighbors that are away from the golf course.

Ms. Thomsen: The other point that I made before, is if the golf course goes south, how it would impact their homes.

Mr. McElroy: Their homes will drop in value.

Mr. Melloh: At the hearing, I recall making an example of two golf courses in Brevard County; one being Suntree and the other Royal Oak Country Club. I grew up here and went to Cocoa High School. We went out in the golf industry and came back four years ago, but back when I was playing high school golf, both of those golf courses were the cream of the crop in Brevard County. Suntree through the years, has invested in themselves and they are doing it again. They have always reinvested in their property, the Clubhouse, the golf course, the irrigation systems and what have you. Royal Oaks, who at one time was the winter home of the Canadian PGA, is now gone. Before I went out on medical, I was looking at the previous value of homes sold before the golf course was closed and after the golf course was closed, on the Property Appraiser's website. I have proof that their home value decreased by \$60,000, \$70,000 and \$80,000. The home was sold for \$300,000 in 2004 and in 2015, it sold for \$220,000. That's where the rubber meets the bird, right there.

Ms. Thomsen: I think all of Viera East is behind us for probably that reason, but what we have a problem with, are the people who think they are too far away that it doesn't affect them. They just are totally convinced. I feel that from them, and I don't know how to get around that.

Mr. Melloh: Well, you have a few different issues. You have those people that live in Fawn Ridge, Hammock Trace, a couple hundred in IRCC that are saying, "We already have a golf course and are paying for two golf courses." I don't know how The Viera Company set everything up but this is how it was zoned.

Mr. Showe: They are within the boundaries.

Mr. Melloh: Unfortunately, they knew that when they bought their house. When they bought their house, they were given all of the documentation, just like when you have an HOA, saying that they were part of the CDD, they were paying these taxes and they needed to do their



due diligence. So there are some difficulties there. I talked to a lot of people in Fawn Ridge and heard the same thing. That's why when we were coming up with a project list, we thought it was a good idea to upgrade Woodside Park, which is right across the street from Hammock Trace, to a dog park with a picnic pavilion in the green space that's already there. When someone like The Viera Company now builds the development on the other side of the road, that's what they put in. They don't build golf courses anymore. So we are even trying and have made the effort to try to develop that in the District with those properties.

Ms. Thomsen: I agree.

Mr. Melloh: We have taken a global look at this and try to make sure that we help out the entire community.

Ms. Thomsen: Maybe we are getting to the majority.

Mr. Showe: To piggyback the points Tim is making, we get asked a lot of questions about why we did this in this neighborhood. We can only do stuff on property that we own, which is incredibly limited.

Ms. Thomsen: It's the common property.

Mr. Showe: But even that, most of the common area we own are lakes or conservation areas that we can't touch. So you are essentially limited to Woodside Park and the golf course.

Ms. Thomsen: Right. Those aren't cheap to take care of.

Mr. Showe: No.

Mr. Melloh: We have some biking and hiking trails that we need to take care of. We even looked at, if you recall, going through this project list again, to try to make the scrub jay habitat more accessible to residents like Cruickshank Park on Barnes Boulevard, and to be able to walk through and look at the scrub jays and what have you, but our Ecologist at the Brevard Zoo would not give us an exemption. So, we were trying to come up with another thing that we could do that was non-golf course related to help increase the scrub jays. That is a project that would've been nice to have.

Ms. Thomsen: Another enrichment.

Mr. Melloh: Everyone in the community could've done that.

Mr. Bedwell: With this public hearing, are we going to vote again?

Mr. Showe: Yes. We are re-doing the entire process.

Mr. Bedwell: For the same thing we voted on?

Mr. Showe: Yes. The Board is seeking additional commentary to supplement, but we are doing it all over again.

Mr. Bedwell: It was explained the last time that this is to put the nail in the coffin for the judge. We went and got comments and now we are getting it again. We will have another public hearing, which you said will help our case.

Mr. McElroy: It will give you additional evidence.

Mr. Bedwell: I understand that. My concern was if the letter would've caused maybe 25 people to show up at this meeting after they read the letter, instead of 250 angry people. I don't need to go through that again. They are angry. One of the comments was, "All of this negative stuff we said to you, didn't make any difference because you voted 5 to 0." Guess what is going to happen again? Angry people are going to get up there and talk, and we are going to vote 5 to 0 and they are going to be upset.

Ms. Walsh: That's how it goes.

Mr. McCarthy: It's all part of the process.

Mr. Bedwell: I'm not speaking for how these people are going to vote.

Ms. Thomsen: We understand. If we can just make them understand the process better, that's the hard part.

Mr. McElroy: So any communications that you all want to have, any emails or any letters, feel free to include these reports, anything that you want to have that you feel would be important for the residents to understand. If you can say it better to your neighbor to explain what these reports say, that's fine. The vote is on November 21<sup>st</sup>. However you vote is how that process will go. It is a full-fledged vote about what is going to happen on November 21<sup>st</sup>.

Mr. Bedwell: When is the simple letter going to be on the website?

Mr. Showe: I want to get the first letter out and make sure the Board doesn't have any additional comments to it. We also want to run that by District Counsel as well. I expect it to be up in a week, because we are going to have something to them by Monday.

Mr. Bedwell: Paul is getting ready to call people.

Mr. McCarthy: I think it's appropriate to let people know that these two documents are on the website, so they could evaluate it. Some might think it's great and others might not think it's great.

Mr. Showe: To Paul's point, the Methodology and Engineer's Report are already on the website now. We already updated those, and the new reports are there.

**SEVENTH ORDER OF BUSINESS**

**Supervisor's Requests**

Mr. McCarthy: If there is no other business, we need a motion to adjourn.

**EIGHTH ORDER OF BUSINESS**

**Adjournment**

On MOTION by Ms. Walsh seconded by Ms. Thomsen with all in favor the meeting was adjourned.
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Secretary/Assistant Secretary

  
Chairman/Vice Chairman