

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 Thursday, December 19, 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
William 'Bill' Oakley	Secretary
Jo Walsh	Treasurer

Also present were:

Jason Showe	District Manager
Brett Renton (<i>via phone</i>)	District Counsel
Tim Melloh	General Manager
Jim McSeveney	Resident
Tony Volpe	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 Ms. Thomsen.

SECOND ORDER OF BUSINESS

Public Comment Period

Mr. McCarthy: Would anyone like to speak?

Jim McSeveney, Herons Landing: Yes.

Mr. McCarthy: We will give you three minutes and 30 seconds to speak.

Mr. McSeveney: I had the opportunity to play golf the other day and mistakenly hit a number of balls near the bulkheads. What concerned me more was the little sign that says, "*No Step.*" The people that were with me, took that to mean nothing. There should be bigger signage or some way to block this area off if there is a danger. They took it as it was no big deal. There are some places, where if you step on it, you can wind up in the water, so I'm just asking you to put more signage saying, "*Danger*" or something that blocks off those bulkheads.

Because if that's what people think and someone falls and gets hurt, it's a public safety and liability issue for the Board/CDD, so I ask you to consider it. There are balls out there and they are going to go get those balls no matter what it takes. They look at that sign and think it's nothing, so I'm just asking you to consider putting more signs out there to keep people away from the bulkheads.

Mr. Melloh: For the Board's information, the signs are every 10 feet on the bulkheads. We can't put barb wire fence around it or chicken wire. It will disrupt play. We thought by now that this bond was going through and we would be working on those things right now, meaning the bulkheads. I don't know what else we can do.

Mr. McSeveney: I understand that, but the signs are very small. There are not just steps. There are spots on the bulkhead that are missing that you can put your feet through, even if you are not going to step on it. Some people just put their foot on it. They don't consider it stepping. I would say put up bigger signage or you will be liable. I will just leave it at that. If you want to leave the sign where it is, that's up to you.

Mr. Oakley: I would like to let Jim know that there are several areas in the bulkhead area that have been repaired by our crew. I think five or six were fixed in different areas. We are trying to maintain them as well as can be expected. As soon as we find a problem, we get out there. We actually staked certain areas off in an area where there has been a problem before we fixed it. So we are cognizant of the fact that things are happening out there.

Mr. McCarthy: Thank you for your comments, Jim.

Tony Volpe, IRCC: I wanted to bring up a few things from the last meeting. A few gentlemen from outside of the community that were proponents of the bond and the tasks associated with it, came forward. I'm not saying that their statements were wrong, but to qualify those areas for their positive outcome, you need to give a more detailed comparison of the two communities; this community versus Baytree. They just made general statements. General statements don't work when you make big decisions like this. So I think it's important to note that. It was nice of them to come forward, but they had no detailed comparisons. So I don't value anything that they said other than the fact that they had good experience. I also wanted to speak about the dog park. I did some research and there are some basic park designs out there. We don't have one, but it will cost \$5,000 to \$15,000 to build a fence and then another \$5,000 depending on what would be in it, such as an apparatus for exercising, clean up bags, etc. Some

of the important points that I wanted to bring up is one rule should be applied to the park. These are things that will have to be associated with it or without it opening. How will the boggy area be cleaned up? Some people are not courteous enough to clean that area up. So, in addition, what are the operating costs associated with this after its built? What is it going to take to get a budget to take care of this? Lastly, what are the liabilities associated with that, if one dog mauls another.

Mr. McCarthy: Thirty seconds.

Mr. Volpe: So I'm willing to share this with you, but it's just a sample. This one is a nice sample because it separates big dogs from small dogs, which helped with liabilities. Anyway, I wanted to share those with the Board. You are welcome to have this, if you would like.

Mr. Melloh: With all of the projects that we have on the list, nothing has cleared the design phase. It's just a conceptual idea right now with the dog park and the picnic pavilion. We had an architect come up with conceptual designs so people could see what we were talking about. When you get down into it, one of the first things that we will talk to our insurance people about is what liabilities we have, but we can't get to that staged until we get ready to design it and get close to constructing it. So you bring up a very good point, but those are things that we will basically do, even though many people in the CDD think that these things have already been bid out. I'm not saying that you do, but a lot of people do. In this case, we just have a conceptual design. It is a conceptual design with a pretty good estimate, but we can certainly do different things once we get into the actual design.

Mr. McCarthy: Thank you for your comments, Tony. I would encourage residents to make an appointment with Tim if they want to sit down and have a lengthy conversation about anything that is going on in the CDD.

Mr. Oakley: I would just like to let you know that Tim and I probably met two or three times at the clubhouse to have general discussions on the dog park. We met yesterday and I came up with a design, gave it to him and we talked about it. So the concept and rough estimate of the price are there, but nothing has been decided.

THIRD ORDER OF BUSINESS

**Approval of Minutes of the November 21,
2019 Meeting**

Mr. Showe: We received a correction to the minutes on Page 13.

On MOTION by Mr. Oakley seconded by Ms. Walsh with all in favor the minutes of the November 19, 2019 meeting were approved, as amended.

Mr. McCarthy: At this point, we are going to deviate from the agenda.

- **Attorney (Item 4B)**

Mr. Showe: Brett is on the phone to handle two items that we have before the Board today.

i. Consideration of Engagement Letter with Shutts & Bowen, LLP Regarding Pending Litigation

Mr. Showe: It is similar in form to the first agreement and we just need formal approval. Brett, is there anything else that you need the Board to do on that?

Mr. Renton: No. You already told us in the interim to begin representation and we need the Board's approval at this meeting to just formalize it.

On MOTION by Mr. Bedwell seconded by Ms. Walsh with all in favor the Engagement Letter with Shutts & Bowen LLP to handle the OSM-1 litigation was approved.

ii. Approval of Shade Sessions

Mr. Showe: We are looking the Board to approve two shade sessions on January 8th at 3:00 p.m. We set it at 3:00 p.m., so you can have your workshop at 2:00 p.m. and the regular Board meeting at 3:00 p.m.

Mr. Renton: The Florida Statute, Section 286.011 allows the Board to meet with Counsel to consider or discuss any settlement negotiations or strategies in connection with the pending litigation. You have two cases. The first one is "*Robert Dale and All, versus the Viera East CDD, Case #2019CA041770.*" We would request a shade /attorney-client session so we can talk about that particular case. We would expect that to last about 30 minutes. The second attorney-client session is regarding this new litigation. Again, we would discuss some negotiation and strategy for "*OSM 1 LLC versus the Viera East CDD, Case #05-2019CA057538.*" We would expect that one to last approximately 45 minutes. So we are making this request at a public

meeting and the Board is able to vote and schedule that at its prerogative in the future. I believe Jason scheduled the shade session for January 8th at 3:00 p.m.

Mr. Showe: Correct.

Mr. McCarthy: Brett, what is the second shade session for?

Mr. Renton: Each shade session has to be limited to a particular litigation in a period. The Robert Dale lawsuit would be the first one and the OSM 1 LLC lawsuit would be the second one. Unfortunately, we can't talk about both, even though they are somewhat related in a particular session, so we are going to have the regular scheduled meeting and go into a shade session to talk about the lawsuit. We have our hearing of the motion for summary judgement the day before, so I have a feeling we will be talking about what happens at that hearing if the judge rules, etc. and where we go from there. So now we anticipate we will have a discussion, close that shade session and go back on the record. You can take any action that you need. Then we would go into the shade session where we would talk just about the OSM 1 LLC lawsuit, where we are at with that and what's happening. We will then close the shade session and then go back to the public record and take any action.

Mr. McCarthy: Alright, Brett, thank you. We appreciate that.

Mr. Oakley: Brett, was there any luck moving the second lawsuit?

Ms. Showe: That's probably not something we should discuss in a public meeting, but I can discuss it with you afterwards.

Mr. Oakley: Okay, good.

Mr. Renton: I'm happy to talk to you individually about that. Let's have that discussion after the meeting, unless you prefer to discuss it now.

Mr. Oakley: I'm good. Thank you.

Mr. Showe: So we need a motion to approve the shade sessions as directed by counsel.

On MOTION by Mr. Oakley seconded by Ms. Walsh with all in favor scheduling two Attorney-Client Sessions for January 8, 2020 at 3:00 p.m. at this location was approved.

Mr. McCarthy: Thank you, Brett. We appreciate it.

Mr. Renton: I just wanted to wish you a very happy holiday. If you have any questions, please reach out to either Jack or me.

Mr. Oakley: Happy Holidays.

Mr. Renton left the meeting.

FOURTH ORDER OF BUSINESS

Staff Reports

A. General Manager's Report

Mr. Melloh: I don't have a lot to discuss because we met last week, but since then, we had two fires in Woodside Park restrooms. One was last Friday, and I received a call from Jason. I met the Fire Marshals down there and they were doing an investigation. They were waiting for someone from the State. From what I understand today, they were having somebody from the FBI to come out and take a look at it, because this has been going on in the community quite a bit. They tried to burn down Suntree's restroom. There are plenty of restrooms in the area. Most of the time, they set a fire in a trash can and it burns out the paper towel dispenser. Anyway, we have that going on. You have the Rounds and Revenue Report.

Mr. McCarthy: What time do we lock the restrooms?

Mr. Melloh: They lock them about sunset.

Mr. McCarthy: Okay, so this is basically happening during the day then.

Mr. Melloh: Yes. The first one I know happened during the day.

Mr. McCarthy: That's incredibly foolish.

Mr. Melloh: But there are not a lot of people down there, so it wouldn't be hard for these guys to do whatever they do. When we finally get our bond money and we renovate that area down there, we may elect to put a camera or two down there. Of course that could be expensive because it has to be Wi-Fi that sends a signal back to the clubhouse.

Mr. McCarthy: Did the Fire Marshall give you any indication if they were children, teenagers or just someone trying to burn a building down? Was any alcohol present?

Mr. Melloh: He didn't say one way or the other who they might be. They were looking for a silver Jetta.

Mr. McCarthy: You would think if someone had a car, they would have enough common sense to go to the bathroom in McDonalds. That's hard to understand.

Ms. Walsh: I go to Woodside Park every day and I will keep an eye out to see if I can get a license tag.

Mr. Showe: The police called our Field Manager, Alan at about 6:00 p.m. on Friday and we immediately contacted Tim. I guess the police were already here and they wanted somebody to lock it up when they were done.

Mr. McCarthy: Thank you.

Mr. Melloh: I hope that doesn't happen again. Regarding our rounds and revenue for the first 18 days of December, we were closed four days due to weather. Some days were very slow because of the cold and wind. When you have 62-degree weather with the wind blowing 17 miles-per-hour (mph), it's not pleasant for folks. So anyway, we talked many times here and there's nothing we can do about the weather, but we can understand that it has an impact on our ability and our potential. So if we have the same weather as last year, we probably hit budget. Does anyone have any questions?

Mr. Bedwell: Divots had a leak in the ceiling. Is someone coming to fix that?

Mr. Melloh: It was fixed.

Mr. Bedwell: I walked in there that morning and water was all over the carpet

Mr. Melloh: When you see pictures of the roof, it's a mess.

Mr. McCarthy: Do you remember how long ago that roof was put on there?

Ms. Walsh: It has to be eight or nine years.

Mr. Showe: I was going to say 2010.

Ms. Walsh: They didn't shingle. I don't think anything was replaced at that time.

Mr. McCarthy: Okay. It's not that old. Only 10 years old.

Mr. Showe: We will look at the contract.

Mr. McCarthy: I was just curious.

Ms. Walsh: If the fascia wasn't addressed, then you have dry rot.

Mr. Bedwell: We put a lot of insulation up there. Is that all molded now?

Mr. Melloh: We blew insulation up there, but not in that particular corner.

Mr. Oakley: Terry said a lot of it fell down on them when they took the tile out.

Mr. Melloh: Hopefully we don't get any more leaks because you don't want a musty mildew building.

Mr. Bedwell: I couldn't figure out what was unique about this rain except the rain was blowing. It must have been from the right direction. We had a lot of rain.

Mr. Melloh: The thing about this rain was it was a driving rain.

Mr. Oakley: It went sideways.

Mr. Melloh: It lasted for a long time.

Ms. Walsh: You said we got 2 inches that night.

Mr. Melloh: Yes, 2 inches that night and 4 inches on Saturday. So we are already up to 8.9 inches.

Mr. Bedwell: But they think they fixed it because rain is forecasted for Saturday and Sunday.

Mr. Melloh: They said they did.

Mr. Bedwell: Okay.

Mr. Melloh: If no one has any questions, that is the end of my report.

B. Attorney

i. Consideration of Engagement Letter with Shutts & Bowen, LLP Regarding Pending Litigation

ii. Approval of Shade Sessions

These items were discussed.

FIFTH ORDER OF BUSINESS

Treasurer’s Report – Consideration of Financial Statements

A. Approval of Check Register

On MOTION by Ms. Walsh seconded by Mr. Bedwell with all in favor Checks #3780 through #3800 from the General Fund in the amount of \$1,167,160.99 were approved.

Mr. Showe: I know that sounds like a huge number, but \$1.1 million of it is for the assessment contributions that come in from your taxes.

Mr. Bedwell: Then you have to write a check.

Mr. Showe: I wanted to let everyone know that we are not writing \$1 million checks. It’s a check to ourselves, essentially.

On MOTION by Ms. Walsh seconded by Mr. Oakley with all in favor Checks #69 through #71 from the Capital Reserve Fund in the amount of \$95,923.03 were approved.

On MOTION by Ms. Walsh seconded by Mr. Bedwell with all in favor Checks #27287 through #27362 from the Golf Course Fund in the amount of \$87,189.96 were approved as amended.

B. Balance Sheet and Income Statement

No action was required by the Board.

SIXTH ORDER OF BUSINESS

Supervisor’s Requests

Mr. McCarthy: Bill?

Mr. Oakley: Yes. Jason, you were going to check with the Engineer on the bulkhead repair. He was going to get some contacts.

Mr. Showe: I’m waiting for a scope for him to do the design work.

Mr. Oakley: So that’s in process.

Mr. Showe: Yes.

Mr. Oakley: Tim, did the fan get installed in the fertilizer room?

Mr. Melloh: Yes. The fan was installed with major safety features. It cost \$3,700.

Mr. Oakley: At least we are safe now and we are not going to have a problem. The other item that you and I discussed was the entrance to the old IRCC warehouse. I know you sent certified letters and neither entity accepted them. Where are we on that?

Mr. Melloh: We talked about it. I just haven’t had time to do that yet.

Mr. Oakley: Okay, because they are actually infringing on the preserve area and have taken it over as their own. They bulldozed or tore trees back in there. Pallets are sitting along the sidewalk to offer free grass. I think we need to address it. I think you jokingly said, “*Put a chain across*” and I said to pull our truck up in front of their entrance. I just think that needs to be addressed. They have done a beautiful job, but it keeps going back further.

Mr. Melloh: It’s obvious that they did not want to receive and open certified mail.

Mr. Bedwell: That’s all I had.

Mr. McCarthy: Jo?

Ms. Walsh: I have been talking with Ed briefly. Tonight we are going to get together at the party and look at a map. I discovered that the new eagle’s nest in the scrub jay habitat is a

couple of years old and not on the Fish and Wildlife list. They handle all bald eagle nests all over the country and that nest is not represented. So we are working on that. That's all I had.

Mr. McCarthy: David?

Mr. Bedwell: We seem to be down on manpower for golf course maintenance. Are there plans to hire more people?

Mr. Melloh: Absolutely. This is not a critical time. We will get some more guys. Some people moved away.

Mr. McCarthy: Jo is having surgery tomorrow. We all wish her the best of luck with her hip replacement.


SEVENTH ORDER OF BUSINESS

Adjournment

On MOTION by Ms. Walsh seconded by Mr. Oakley with all in favor the meeting was adjourned.



Secretary/Assistant Secretary



Chairman/Vice Chairman