

MINUTES OF MEETING
HERITAGE PARK COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Heritage Park Community Development District was held on Thursday, July 21, 2016 at 1:00 p.m. at the Heritage Park Amenities Center, 225 Hefferon Drive, St. Augustine, Florida 32084.

Present and constituting a quorum were:

Ken Kinnecom	Chairman
Mark Masley	Vice Chairman
Joanne Wharton	Supervisor
Ralph Pennington	Supervisor
Rodney Philbrick	Supervisor

Also present were:

Jim Oliver	District Manager
Mike Eckert	District Counsel
Jenny Urcan	District Engineer
Louis Cowling	GMS Operations

FIRST ORDER OF BUSINESS

Roll Call

Mr. Oliver called the meeting to order at 1:00 p.m.

SECOND ORDER OF BUSINESS

Public Comment

There were no public comments.

THIRD ORDER OF BUSINESS

Affidavit of Publication

Mr. Oliver stated we will have a Public Hearing today to adopt the budget. We noticed that meeting in the *St. Augustine Record* on June 23 and June 30. A copy of the affidavit is in the agenda package.

FOURTH ORDER OF BUSINESS

Approval of the Minutes of the May 19, 2016 Meeting

On MOTION by Mr. Kinnecom seconded by Mr. Pennington with all in favor the Minutes of the May 19, 2016 Meeting were approved.

FIFTH ORDER OF BUSINESS

Public Hearing to Adopt the Budget for Fiscal Year 2017

Mr. Oliver stated I would like to give an overview of the budget, we will have board discussion, and then we will have a motion to open the Public Hearing and take comments from the public. Once we have the Public Hearing, we will consider the resolution located in the agenda package.

Mr. Oliver continued and stated the budget in the agenda package is much like the budget we have had for this District for the last several years. There is no change in assessment levels. On the General Fund budget, the top line shows the revenues that are taken in from the assessments, which are included on the property tax bills that go out in November. That remains the same. The Administration section is relatively stable. It is going from \$114,000 to \$115,000. O&M expenditures take a drop, and that is largely because there is less money put aside for Capital Reserves this year. You have very healthy Capital Reserves. On the next page you will see what the assessments are per unit. For the single family units, in accordance with the assessment methodology, there is an allocation based on the front footage of those units. The last two columns show what the assessments were for FY16, and you will see those are the same assessments for FY17. The next several pages are line item descriptions that support the General Fund budget. Page 8 shows the Capital Reserve Fund, and they are very strong for this District. You have a balance now of \$132,000. They are strong especially when you keep in mind that the District doesn't own and operate the amenities. Projected for 2017 are reserves coming in at \$21,000. That may go down depending on what you use from that fund during FY17. Page 9 is the Debt Service Fund. You refunded the bond and refinanced at a lower rate in 2013. This shows a debt service that you are assessing. If you look under Expenditures, it shows that you have two payments a year for interest, and you also have a principal payment on May 1. If there are excess funds sitting in the revenue account, the Trustee will make a call on those funds to further reduce the balance. For FY16, there was a special call of \$10,000. The assessments for the debt service are in a table at the bottom of Page 9. These were determined when you had the

Assessment Hearing back in 2013 when you refunded the bonds. Page 10 shows the amortization schedule to support that debt service budget. These bonds expire in May 2035.

There were no questions from the board.

On MOTION by Mr. Kinnecom seconded by Mr. Masley with all in favor the Public Hearing on the budget and assessments is Open.

There were no comments from the audience on the budget.

On MOTION by Mr. Pennington seconded by Mr. Philbrick with all in favor the Public Hearing on the budget and assessments is Closed.

A. Consideration of Resolution 2016-04, Relating to the Annual Appropriations and Adopting the Budget for Fiscal year 2017

Mr. Eckert stated Resolution 2016-04 is your annual appropriation resolution. What that does is approve your budget, and then you are saying we are going to raise this much money for Debt Service and this much money for the General Fund, and here is the total amount we anticipate raising over the next year. This is the formal process to get the budget in place. It is important to keep in mind that when we adopt the budget, although it is broken down by line item, the way we look at it from an accounting standpoint is that you are not spending more than you are actually taking in on a total basis. Throughout the year, if there is a need to adjust line items, Jim will bring that to your attention, and we have the flexibility to do that.

On MOTION by Mr. Kinnecom seconded by Mr. Pennington with all in favor to adopt Resolution 2016-04 relating to the Annual Appropriations and adopting the budget for FY2017 was approved.

B. Consideration of Resolution 2016-05, Imposing Special Assessments and Certifying an Assessment Roll for Fiscal Year 2017

Mr. Eckert stated Resolution 2016-05 does two things. It certifies for collection your debt assessments and your O&M assessments and also provides the method of collection, which is in Section 3 and basically we will be collecting on the tax roll like we normally do. It also is a

resolution that fixes the amount of the O&M assessments. It is in substantial form of what you have seen before. Our collections are very good because we are on the tax roll, and people have to pay either the full amount of their taxes or actually institute litigation if they are only going to pay part of it. Typically we are over 100% collected.

On MOTION by Mr. Pennington seconded by Mr. Masley with all in favor to adopt Resolution 2016-05 imposing special assessments and certifying an assessment roll for FY2017 was approved.

SIXTH ORDER OF BUSINESS

Update on Trespass Litigation

Mr. Eckert stated we are in active litigation, so I am not going to have a lot to say. If you have questions, please call. I passed out a Motion to Dismiss that was filed by the party that we filed suit against for trespass. I have looked at it, and I think it is somewhat of a delay tactic, but we will deal with that in due course. The defendant in that case did communicate a settlement proposal to one of my colleagues in my firm. Essentially it was "I will stop taking water and stop being on your land if you guys go ahead and pay to install a well for me to irrigate my property." Of course that was not something that struck as a reasonable approach, but I have a duty as your attorney to communicate settlement offers that we receive. I don't think it would be an appropriate use other people's special assessments that they have paid to the District to improve one particular piece of private property by installing a well or irrigation system. My recommendation is that is not something that is legal or feasible. I don't need a formal motion unless somebody wants to accept that settlement. Otherwise we will communicate back that that is not something that we will entertain.

Ms. Wharton asked are we looking at any time frame for closure on this?

Mr. Philbrick asked how long has it been since the beginning?

Mr. Eckert responded we probably filed a case about 3 or 4 months ago. It could last a while. My guess is there are easy things an attorney can do to slow down the process, and he is an attorney.

Mr. Masley asked have you ever dealt with a situation like this?

Mr. Eckert responded yes, but typically when we send a copy of the complaint and say we are going to be filing this, it is usually taken care of. We have not had a person take these

positions before where we have had to litigate. We have dealt with bigger issues like buildings being put on District property, but something like this is somewhat of an unreasonable position that we have to deal with. We have made the request that he cease and desist. We are in court now asking the court to declare that there has been a trespass and to reimburse us and pay for the cost of restoring that area as well as getting an order saying you can't put this pipe on property that you don't own. October 3 is when the hearing on his Motion to Dismiss will be held. That will be our first opportunity to actually talk to a judge about the case. We have filed the pleading, so the judge has that. Getting in front of the judge is one of the most important parts of the case.

Ms. Wharton asked is that the time when you will try to get the judge to issue that he has been trespassing?

Mr. Eckert responded no, it is one step at a time. Our hope is to try to convince the judge at that point to understand that we own the property. It is a property right that the person is infringing upon, and we will try to get the judge to acknowledge that in front of the defendant so that the defendant has some sort of a preview of what is going to happen and maybe reevaluate their course of action. That is the most we can hope for out of that hearing.

Ms. Wharton stated I know you don't want to lend any bias by us doing anything proactively, but we cannot just remove the section that is in the water? We cannot touch that?

Mr. Eckert responded can you do that and can I make a defense for that – yes I can. I am not so sure that that is the best course of action now because my guess is we will get an amended complaint when his grass dies because he doesn't want to water it any other way, and then we are going to have to deal with that again, which is going to add expense to the litigation.

Ms. Wharton stated but he can get water another way. He can use the city water.

Mr. Eckert responded I agree with you. There is nothing they have said that I agree with them on.

Mr. Kinnecom asked will this hearing be at the St. John's County courthouse?

Mr. Eckert responded it will be. We will send it out to the board members. Because it is a motion, and it is not a trial, at this point it may just be the judge inviting the two attorneys back into his office to discuss it. Everybody is welcome to come to the courthouse, but it may not be as interesting as you might think.

Mr. Philbrick asked is this event publicized as far as what this defendant has done ?

Mr. Eckert responded it is in the court records, which are public records for people to see. I am not aware that it has been in any newspaper or anything like that.

SEVENTH ORDER OF BUSINESS

Staff Reports

A. Attorney – Discussion of Memo Regarding Service Animal Legislation and Impact to District, Resolution 2016-06.

Mr. Eckert stated in your agenda package is a memorandum and a resolution dealing with service animals. We need to revise the policy that is there. In 2015 the Florida legislature clarified an existing statute, for service animals and the fact that they are allowed to be in areas of public accommodation. It clarified what you can ask. You can ask is it a service animal that is needed because of a disability, and you can ask what task or work the animal is trained to perform. You can't ask about the nature of the disability. There is no provision in the statute that says you can demand some sort of paperwork or anything like that. There are significant penalties for somebody to misrepresent that something is a service animal. I think because this District doesn't have an amenity center that it owns and operates, I think we need to change the policy a little bit. I am not aware that we as a District have a policy that prohibits pets anywhere on District property. The way this is written is pets are prohibited except for service animals. Because we don't have a prohibition, and I am not trying to institute one, I think we need to say service animals are allowed on District facilities, and they have to be under control and not a danger. I will modify that in what gets on the final resolution. I am happy to answer any questions. One thing that is clear in Florida law is that an animal that is purely providing emotional support is not a service animal. A service animal is an animal that has been trained to perform a service for somebody who cannot. If the CDD owned the pool, and somebody came in with a pet, you have a health code issue there. Even if it serves as an emotional support animal, we could still have a policy that says you can't bring that pet in here. We can do one of two things. We can hold off on adopting the resolution until we can revise the policy to more meet the needs of this District, or you can adopt the resolution with the understanding that we are going to take out the prohibition and just allow for the provision of service animals, which I am fine with that if you are.

On MOTION by Mr. Kinnecom seconded by Mr. Masley with all in favor to adopt Resolution 2016-06, service animal legislation, subject to pending modifications by counsel and review/execution by Chairman was approved.

Mr. Eckert stated the next item is that we have seen in the last two months a flood of public records requests coming from entities and people who I don't think have any desire to actually get the public records. They are just trying to figure out which party they can get to make a mistake and then file suit against them because in Florida, if there is a violation of public records law, whether it is unintentional or something that happened in good faith where the local government is trying to respond correctly but doesn't for some reason, the law is that the person who sues the local government shall be awarded attorney's fees. The judges have very little if no discretion in terms of whether to award attorney's fees. There have been folks who have figured that out. One example is going to the public jail and saying I want to see the visitor log, and the person working at the jail says I need to ask my supervisor if I am allowed to let you see that or not. I will give you a call in the morning. By the time morning comes around, they have filed a suit saying you refused to show me the public record, which was readily available. Then they get attorney's fees. We have seen a flood of those. We have been working with Jim's office and other people who have received them to try to help provide guidance generally. It hasn't been on a District-by-District basis, which makes it way more affordable. We say we have this set of requests, and this is how we recommend you respond. If you start seeing things or hearing Jim and I talking about public records, that is what is going on. It is nothing that is targeted. So far, with all of these we have been getting, when we follow the process and say okay, it is going to be \$150 for all these copies you want, let us know, and send us a check for \$150, we will go ahead and make the copies. Nobody ever sends us a check, and we don't ever have to make the copies. They are looking for somebody to screw up before they are out of pocket any money. If you don't respond promptly or if you don't respond with a reasonable estimate of costs, you can get in trouble.

B. Engineer

Ms. Urcan stated last month I submitted the Engineer's Report, which is due every year for the CDD. I just reviewed records and confirmed everything is operating as it should and has

been maintained in good condition. We also reviewed the budget, and we believe it is sufficient to cover the same items for the next year to continue the maintenance and operation of the CDD property. We also reviewed the insurance, and we felt that was adequate.

C. Manager – Discussion of Meeting Schedule for Fiscal Year 2017

Mr. Oliver stated in your agenda package is a proposed meeting schedule for FY17. It is the same schedule we are on now, which is bimonthly, the third Thursday, 1:00 p.m. A special meeting can be called if needed.

On MOTION by Mr. Masley seconded by Mr. Pennington with all in favor the FY17 meeting schedule as presented was approved.

D. Operations Manager

Mr. Cowling stated the landscaping has been going well. It is a little dry now. Ponds are in great condition. There is a little bit of algae around the edges of a couple of ponds, but nothing to be worried about. We had three fountains that were on and off operational. Two were capacitors, and those have been repaired. A timer has been replaced. Currently everything is operational. We have painted some signs, and there is a sign that will be installed tomorrow. Everything is going well.

Ms. Wharton stated it looks like somebody has removed one of the No Fishing signs.

Mr. Cowling responded that was me.

EIGHTH ORDER OF BUSINESS

Audience Comments

There being none, the next item followed.

NINTH ORDER OF BUSINESS

Supervisors Requests

Mr. Kinnecom stated I got a phone call from Angelo Raul, who is the traffic consultant for the traffic calming study. He wanted to let us know the proposal is certainly active. It is with the Engineering Department. There is a little more work to do in finalizing design. It has to be accurate and specific. It will then be presented to the Board of County Commissioners seeking approval. It is felt 99% that it will be adopted. The thing in the way right now is funding. We may not see any appropriation until we get into the next fiscal year, which starts in October. Someone from staff in Engineering made the comment they did have some funds in reserve for

the project, meaning the medians, elevations, and crosswalks, but not enough to do the work. As he hears things, he will let us know.

Mr. Philbrick asked the office manager how are we doing with complaints as far as lawns, grass, and things like that.

The manager responded I think we have only had one or two with yards. We have a lot of complaints about fishing in the ponds, so what I have been told is to call law enforcement and have them come out and kick them out because it is not our property, it is the CDD. There is not much we can do except ask them to leave.

TENTH ORDER OF BUSINESS

Financial Reports

A. Balance Sheet and Statement of Revenues & Expenditures

Mr. Oliver stated the unaudited financials in the agenda package are through June 30, 2016. No unusual variances in the financials.

B. Approval of Check Register

Mr. Oliver stated included in your agenda package is a check register.

On MOTION by Mr. Kinnecom seconded by Mr. Masley with all in favor the Check Register was approved.

C. Assessment Receipts Schedule

Mr. Oliver stated assessment collections are strong; you are at 100% collected.

ELEVENTH ORDER OF BUSINESS

Next Scheduled Meeting

Mr. Oliver stated the next scheduled meeting is September 15, 2016 at 1:00 p.m.

TWELFTH ORDER OF BUSINESS

Adjournment

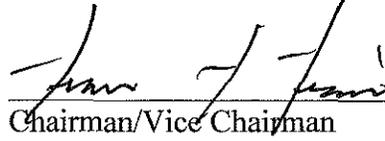
On MOTION by Mr. Pennington seconded by Mr. Masley with all in favor the meeting was adjourned.

July 21, 2016

Heritage Park CDD



Secretary/Assistant Secretary



Chairman/Vice Chairman