

# MINUTES OF MEETING

## LIVE OAK LAKE COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Live Oak Lake Community Development District was held Friday, January 27, 2017, at 11:30 a.m. at the District Office, 313 Campus Street, Celebration, FL 34747.

Present and constituting a quorum were:

Scott Stearns	Chairman
José Rios	Vice Chairman
Walter Beeman	Assistant Secretary
Kimberly Locher	Assistant Secretary

Also present were:

Gary Moyer	Manager: Moyer Management Group
Jonathan Johnson ( <i>by phone</i> )	Attorney: Hopping Green & Sams
Tucker Mackie	Attorney: Hopping Green & Sams
Nicole Stalder	Engineer: Dewberry

### FIRST ORDER OF BUSINESS

#### Call to Order

Mr. Moyer called the meeting to order at 11:35 a.m.

### SECOND ORDER OF BUSINESS

#### Roll Call

Mr. Moyer called the roll and stated a quorum was present for the meeting.

### THIRD ORDER OF BUSINESS

#### Public Comment Period

There being none, the next order of business followed.

### FOURTH ORDER OF BUSINESS

#### Administrative Matters

#### A. Appointment of Supervisor to Fill the Unexpired Term of Office for Seat 3

Mr. Moyer stated a vacancy currently exists on the Board. If any Supervisor has had the opportunity to find someone to fill that vacancy, we can entertain nominations. If not, we will continue to carry this on the agenda.

Mr. Stearns stated we do not have anyone to nominate at this time.

#### B. Oath of Office for Newly Appointed Supervisor

This item not being addressed, the next item followed.

#### C. Ratification Series 2016 Construction Requisitions for Nolte Road Landscape, Irrigation and Hardscape, and Professional Fees

Mr. Moyer stated we processed this requisition in the intervening period since our last meeting.

On MOTION by Mr. Beeman, seconded by Mr. Rios, unanimous approval was given to ratify the Series 2016 construction requisitions for Nolte Road landscape, irrigation and hardscape, and professional fees.

**FIFTH ORDER OF BUSINESS**

**Approval of the Minutes of the November 18, 2016, Audit Selection Committee Meeting and November 18, 2016, Regular Meeting**

Mr. Moyer reviewed the minutes and asked for any additions, corrections, or deletions.

On MOTION by Mr. Beeman, seconded by Mr. Stearns, unanimous approval was given to the minutes of the November 18, 2016, audit selection committee and the November 18, 2016, regular meeting, as presented.

**SIXTH ORDER OF BUSINESS**

**Audit Selection Committee Ranking**

**A. Audit Ranking Recommendation**

**B. Authorization to Enter Negotiations with the #1-Ranked Firm**

Mr. Moyer stated you are now sitting as the Board of Supervisors to accept the audit selection committee's recommendation that Grau & Associates be the #1-ranked firm and that we proceed to obtain their standard-form engagement letter.

On MOTION by Ms. Locher, seconded by Mr. Stearns, unanimous approval was given to rank Grau & Associates as the #1-ranked auditing firm and to authorize staff to negotiate an engagement letter.

**SEVENTH ORDER OF BUSINESS**

**Ratification of the Right-of-Way Utilization Agreement with Osceola County for Nolte Road**

Mr. Johnson stated the Board previously approved this agreement in substantial form, subject to our comments. The only change was the narrowing of the indemnity language in paragraph 10. The agreement has been signed, so the appropriate action would be to ratify this agreement.

On MOTION by Mr. Beeman, seconded by Mr. Rios, unanimous approval was given to ratify the right-of-way utilization agreement with Osceola County for Nolte Road.

**EIGHTH ORDER OF BUSINESS**

**Staff Reports**

**A. Attorney**

There being nothing to report, the next item followed.

**B. Engineer**

**i. Public Facilities Report Work Authorization**

Mr. Moyer stated I sent Ms. Sarah Sandy a comment that generally what we have done in the past is to use the engineer's report that was used for the capital projects report, on which we sold bonds. That report identified the work that the District would be doing. We already have that report and it would not take any additional work. I would simply send that to Osceola County and say that this is our public facilities report for this District. That means we would not have to incur the charges in the work authorization. Ms. Sandy had a bit of a concern with that because she did not know that it met all the requirements of what has to be in the public facilities report. It is a discussion item for the Board as to whether or not you want Mr. Rey Malavé to supplement that capital projects report. I did not see in Ms. Sandy's response what specifically she was pointing out that needed to be included that was not in the capital project report.

Mr. Stearns stated my concern would be that it requires an update of where we are with installation of the facilities, and we have done a lot of work. If that needs to be documented as part of that report going to the County, we would need to do that. I am not sure if that is Statutorily required or not.

Mr. Moyer stated usually what happens is, the report identifies the work that is to be done. I can supplement that by the time we complete the work by simply sending a letter saying that the work that has been contemplated in the report has been completed.

Mr. Beeman asked would you do that every time something is completed? Is this required on an annual or quarterly basis?

Mr. Moyer stated every seven years.

Mr. Johnson stated the Statute contemplates that the public facilities report addresses the existing facilities that we own and operate, any facilities that we are proposing to be built or expanded in the next seven years, anything we are proposing to replace in the next ten years, the anticipated timeframe for doing that, and any capacity or demand issues that may be of concern. If you rely on the existing engineer's report, our concern is that it may not have all that information. The downside is, it is relatively minimal in the sense that it would require the Auditor General or the County to review the report and say that we were deficient and then require some remedial action, which would be to go back and do the report.

Ms. Locher stated we could submit the existing report, and the worst-case scenario is that they say they need additional information. At that point, we can approve the work authorization and spend the money.

Mr. Stearns stated what report will essentially include is all the certificates of occupancy that we have done and certifications of completion of roads. We would put that in a report and submit it again. They have already been notified of everything that has happened.

Mr. Beeman stated they just want it in one report.

Mr. Stearns stated I think we are fine not doing it.

Mr. Moyer stated in all the years we have been providing public facilities reports, which is the capital projects reports for bond issues, I have never had a local government come back to me and say it is deficient.

Ms. Mackie stated I think what Mr. Moyer and Ms. Sandy discussed was the requirement is slightly different from the report we have already done. Some information needs to be updated and put in a different order. We would just massage the existing report with some supplemental information. We could try sending the existing report and see if they have a problem. The only concern is, if they have any issue or if something was left out, it would not meet the Statutory requirement. If they sign off on it, then you should be fine.

Mr. Beeman stated if it is not correct, they will let us know. Is there a penalty?

Mr. Johnson stated technically, if you failed entirely to post the public facilities report, there could be penalties. I did not see a penalty for failure to file a report and have the agency say it is deficient. You would have an opportunity to remediate. As long as you provide something, I think you will be fine. You just might have to pay some additional fees later.

Mr. Stearns stated I do not think we need a new report. The engineer's report was done less than six months ago, so it is very accurate with what we anticipate doing. Nothing has changed. It is very clean and clear on that.

Mr. Moyer stated the cover letter that I will send with the report can address some of the issues that we have identified: (1) the project is under construction, (2) we anticipate all the facilities identified in the engineer's report to be completed and operational within

seven years, and (3) capacities are sufficient to provide service to the District. I think we can handle it that way.

Mr. Stearns stated I agree.

On MOTION by Mr. Stearns, seconded by Ms. Locher, unanimous approval was given to submit the capital project engineer's report to Osceola County as the public facilities report, with the cover letter as described.

### **C. Manager**

#### **i. Financial Statements, December 31, 2016**

Mr. Moyer reviewed the financial statements contained in the agenda package and available for public review at the District office during normal business hours.

Mr. Moyer stated in this current fiscal year, the funding for the District's expenses is through a developer funding agreement. As we need funds, we request them from the developer. We have spent \$50,558 through December 31, 2016.

Mr. Stearns asked when will funds start flowing through the tax collector?

Mr. Moyer stated we did not put anything on the assessment roll for this year. We decided to fund this fiscal year through developer contributions. We will not put assessments on the real estate tax bills until next fiscal year's budget. That cycle starts in May when I provide a proposed budget. Those assessments will appear on the tax bill that comes out in November 2017 for fiscal year 2018.

#### **ii. Check Register and Invoices**

Mr. Moyer reviewed the check register and invoices contained in the agenda package and available for public review at the District office during normal business hours.

On MOTION by Ms. Locher, seconded by Mr. Stearns, with all in favor, unanimous approval was given to the check register and invoices.

#### **iii. Resolution 2017-04 Amending the Budget for Fiscal Year 2016**

Mr. Moyer read Resolution 2017-04 into the record by title.

Mr. Moyer stated we are amending last year's budget to reflect additional expenditures that were made for engineering, legal services, and special assessments by increasing the budget by \$121,582, bringing the total to \$236,119. Generally, these types of amendments need to be done in October or November, so the auditor may come back

and say that we should have done this earlier than now, and our response will be that they are right and we will do that in the future.

**iv. Resolution 2017-05 Amending the Budget for Fiscal Year 2017**

Mr. Moyer read Resolution 2017-05 into the record by title.

Mr. Moyer stated Resolution 2017-05 amends the current fiscal year budget. We had \$47,000 that we basically double counted and was already covered under professional services – field management. This amendment reduces contracts – lakes, where we had budgeted \$47,088 since it was already accounted for under field management.

Mr. Stearns stated it is more descriptive to what we are doing in the lakes and the management of the lakes.

Mr. Moyer stated we can take out field management and leave it in lakes.

Mr. Stearns stated you might add it in parentheses in field management to include lakes and pond maintenance. Field management sounds like we have personnel in the field.

On MOTION by Mr. Beeman, seconded by Mr. Rios, with all in favor, unanimous approval was given to Resolution 2017-04 amending the budget for fiscal year 2016 and to Resolution 2017-05 amending the budget for fiscal year 2017.

**NINTH ORDER OF BUSINESS**

**Other Business**

There being none, the next order of business followed.

**TENTH ORDER OF BUSINESS**

**Supervisor Requests**

Ms. Locher asked is requisition #6 for informational purposes?

Mr. Moyer stated yes.

Mr. Stearns stated on the continuing contract moving forward with the engineer for services, I want to be sure it is set up in Ms. Stalder’s system for the CDD portion of construction administration versus the developer’s portion of construction administration. I want to make sure that permit transfers into the CDD’s name and the bill of sale process and documentation for project close-out are done on behalf of the CDD and that you provide to Mr. Moyer all the backup he needs for filing purposes. I forwarded the permit transfers to Ms. Sandy, but I want to be sure the bills of sale and the final versions of everything that has been conveyed are documented and filed.

Ms. Stalder asked are you concerned with the filing of it or the billing?

Mr. Stearns stated both. That should be done on behalf of the CDD for filing and documentation purposes.

Ms. Stalder stated I do not know how the contract is set up so I will check with Mr. Malavé.

Mr. Stearns stated some works needs to be done on behalf of the CDD, so someone on your construction administration team needs to be aware of that to wrap it up at the end. The work has been certified, but we need to convey all that to the District's files.

**ELEVENTH ORDER OF BUSINESS**

**Adjournment**

The next meeting is scheduled for February 24, 2017, at 11:30 a.m.

On MOTION by Mr. Stearns, seconded by Ms. Locher, with all in favor, the meeting adjourned at 11:50 a.m.
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Gary L. Moyer, Secretary

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M. Scott Stearns, Chairman