

**MINUTES OF MEETING
EAST PARK COMMUNITY DEVELOPMENT DISTRICT**

The regular meeting of the East Park Community Development District was held at 5:00 P.M. on Monday, December 12, 2011 at the YMCA, 9055 Northlake Parkway, Orlando, Florida 32801.

Present and constituting a quorum were:

Angel Colon	Chairman
Donn Rinehart	Vice Chairman
Gracila Von Blon	Assistant Secretary
Joshua Alexander	Assistant Secretary
Kelly Johnson	Assistant Secretary

Also present were:

Gary Moyer	Manager: Moyer Management Group
Roy Van Wyk	Attorney: Hopping Green & Sams
Richard Dunn	Engineer
Chris Anderson	Leland Management & HOA Manager
Brian Smith	Severn Trent Services

The following is a summary of the minutes and actions taken at the December 12, 2011 East Park Board of Supervisors meeting.

FIRST ORDER OF BUSINESS

Roll Call

Mr. Moyer called the meeting to order at 5:00 P.M. and stated that all Supervisors were in attendance with one vacant seat.

SECOND ORDER OF BUSINESS

Organizational Matters

A. Appointment of Supervisor to Fill Vacancy in Seat 2

Mr. Moyer addressed the following:

- There is a vacancy in Seat 2, which was previously held by Mr. Tom Hagood who resigned.
- Pursuant to Chapter 190 of the Florida Statutes, when a vacancy occurs, the remaining Board members fill the remainder of the term of office by appointment.
- Information was provided to the Board on Mr. Kelly Johnson who expressed interest in serving on the Board.

- Mr. Van Wyk questioned whether Mr. Johnson resided in the District and was registered to vote. Mr. Alexander Johnson responded yes to both questions and submitted his Driver's License as proof of residency.
- Mr. Colon nominated Mr. Kelly Johnson.

Hearing no further nominations,

Mr. Colon nominated Mr. Kelly Johnson to fill the vacancy in Seat 2 and Mr. Rinehart seconded the nomination. With no further nominations, with all in favor, Mr. Johnson was appointed to Seat 2.

B. Oath of Office

- Mr. Moyer being a Notary Public of the State of Florida, administered the oath of office to Mr. Johnson and a copy of the signed oath will be made a part of the public record.
- Mr. Moyer congratulated Mr. Johnson and welcomed him to the Board. He explained that the District was governed under the Florida Sunshine Law and the Florida Commission on Ethics. The following documents were provided to Mr. Johnson:
 - *Form 1 – Statement of Financial Interests*, which is the financial disclosure form asking for a source of income. This form needs to be sent to the Supervisor of Elections in Orange County within 30 days. It is for the 2010 tax year.
 - *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees.*
- Mr. Moyer requested Mr. Johnson address any questions to the District Attorney, Mr. Van Wyk.
- Mr. Moyer explained to Mr. Johnson since he was now a government official, he was required to follow the *Sunshine Law*, where no two elected officials serving on the same Board could meet outside of a noticed meeting to discuss District business matters of the Board. He was also required to follow the *Public Records Law*, whereby materials such as email, written correspondence and the agenda packages

were considered a public record and could be requested at any time by any member of the public. It was suggested these materials be filed separately.

- Mr. Van Wyk added the following:
 - Any emails should be retained as a public record. Copies should be forwarded to Mr. Moyer.
 - Form 1 should be filed within 30 days with the Supervisor of Elections in Orange County. The Commission on Ethics will send reminders to fill out new ones each year. When a Supervisor leaves the Board, they are required to file Form 1F. The fine is \$1,500 for not completing these forms.

B. Election of Officers – Resolution 2012-01

- Mr. Moyer addressed the following:
 - Any time a new Board member is appointed to the Board; there was an opportunity to reconstitute the officer structure.
 - Mr. Colon currently serves as Chairman, Mr. Rinehart serves as Vice Chairman, Mr. Moyer serves as Secretary, Mr. Bob Koncar and Mr. Stephen Bloom from STS serve as Treasurer and Assistant Treasurer in order to execute checks and warrants. Traditionally, the remaining Board members serve as Assistant Secretaries.

Mr. Alexander nominated Mr. Johnson as Assistant Secretary and Ms. Von Blon seconded the nomination. There being no further nominations, with all in favor, Mr. Johnson was elected Assistant Secretary. The remaining officer structure will remain the same as evidenced by Resolution 2012-01.

THIRD ORDER OF BUSINESS

Approval of the Minutes of the September 26, 2011 Meeting

- Mr. Moyer stated that each Board member received a copy of the minutes of the September 26, 2011 meeting and requested any corrections, additions or deletions.
- There not being any corrections,

On MOTION by Mr. Colon seconded by Mr. Rinehart with all in favor, the minutes of the September 26, 2011 meeting were approved.

FOURTH ORDER OF BUSINESS

Action Items

- There not being any, the next item followed.

FIFTH ORDER OF BUSINESS

District Managers Report

A. Financial Statements

- Mr. Moyer reviewed the financial statements through October 31, 2011, which were included in the agenda package and noted the following:
 - There was not much activity through October 31, as the District will not start collecting revenues from the Tax Collector until December.
 - The Balance Sheet shows the amount of money the District has in the bank.
 - The District was well under budget for administrative and field operation expenditures for the month of October.
 - October 1 was the start of the 2012 fiscal year. A typical fiscal year runs from October 1 to September 30.

B. Check Register

- Mr. Moyer reviewed the check register from October 1, 2011 to October 31, 2011, which was included in the agenda package and will be made a part of the minutes of this meeting.
- There being no questions or comments,

On MOTION by Mr. Colon seconded by Mr. Alexander with all in favor the October financial statements and check registers for the period October 1, 2011 to October 31, 2011 in the amount of \$47,337.15 were approved.

C. Acceptance of Audit for the Fiscal Year Ended September 30, 2010

- Mr. Moyer provided a copy of the Audit prepared by Grau & Associates and addressed the following:
 - In the Independent Auditor's Report, the Auditor states in the third paragraph, *"In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, each major fund and the remaining non-major funds of the District as of September 30, 2010"*. This was referred to as a clean audit opinion,

meaning the records staff provided to the Auditor fairly represented the District's financial position.

- In the Report on Internal Control over Financial Reporting on Page 23, the Auditor pointed out "*We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above*". This addresses whether the Accountant established sufficient checks and balances so there was a low probability of misappropriation of funds.
- Under Compliance and Other Matters, the Auditor stated "*The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards*". However, they noted a matter as referenced in the Management Letter.
- In the Management Letter, under *Current Year Findings and Recommendations*, the Auditor noted a reserve deficiency as a result of the bank and developer failing to pay assessments on the Series 2008 bonds for the Village Center II project. To correct this action, the Board authorized foreclosure proceedings and utilized monies from the debt service reserve. However, this caused a deficit.
- In the remaining report, the Auditor found the District had not met one or more of the financial emergency conditions described under Section 218.503(1) and as of September 30, 2010, the District was not in a state of financial emergency.
 - Mr. Colon questioned whether the notation on Page 2 where the liabilities of the District exceeded its assets at the close of the most recent fiscal year, resulting in a deficit of \$833,669 pertained to the reserve deficiency.
 - Mr. Moyer indicated part of this notation pertained to the reserve deficiency, but the majority did not. The District borrowed money to build roads and then turned the roads over to the City. The roads transferred from the District's books as an asset over to the City, but the District still has the responsibility to pay for the roads. It was not

unusual for Districts to build roads and then turn them over to a general purpose government.

- Mr. Rinehart questioned whether this would go away next year.
- Mr. Moyer confirmed it will get worse next year because the infrastructure the District retained will depreciate.
- Mr. Van Wyk pointed out this was not a negative for the District, as the importance was the cashflow.
- Mr. Moyer agreed as last year they were able to put \$93,000 into the Fund Balance because the CDD was under budget.

On MOTION by Mr. Rinehart seconded by Mr. Colon with all in favor, the Audit for the Fiscal Year Ended September 30, 2010 as prepared by Grau & Associates was accepted and staff was authorized to file the same with the appropriate State agencies.

SXITH ORDER OF BUSINESS

Staff Reports

A. Attorney

- Mr. Van Wyk reported the following regarding the foreclosure:
 - The foreclosure was for the commercial property on 417 and Moss Park Road.
 - The developer originally owned the entire parcel and the CDD issued bonds to build the infrastructure and roadway improvements. Two series of bonds were issued, 2008A [long term] and 2008B [short term].
 - The developer was unable to pay their assessments and as a result M&I Bank foreclosed on their mortgage.
 - As a result, the Board authorized the Attorney to commence foreclosure proceedings consistent with Florida Law and the Trust Indenture. This matter has been ongoing for more than a year.
 - The 2008B bonds were requested by the developer because they were short-term bonds and allowed the developer to develop the front parcels and use the cash from the sale of those parcels to develop the back parcels. However, when the market turned, the developer could not pay off the bonds.

- In order to preserve the trust estate, the Board decided to spread the Series 2008B debt over all of the parcels. However, in the summary judgement, the two parcels were split so there could be separate accounts.
- The District won in their summary judgement hearing and the motion for summary judgement was approved for the front parcels only.
- The bank was currently in negotiations with the bondholders to see if they can agree to a number to allow the bank to pay off the bonds, take the property and sell to a third party. If not, the Trustee will pay off the bonds and sell the parcels.
- The District was moving forward with the foreclosure on all of the lots and he expected to file the judgement tomorrow or the next day. If there is no agreement between the bank and the bondholders, they will get a sale date to sell the property. There is a possibility they may appeal, but he did not think so, given the amount of money they spent thus far.
- All of this land will most likely be placed into a special purpose entity held by this District, because the District commenced the foreclosure proceedings and they will work with a realtor to market the lots. Once the lots are sold, the proceeds will go straight to the bondholders.
- In regards to what Mr. Moyer eluded to earlier, one year's worth of payments on the bonds will be placed into an escrow, which will then become the debt service reserve. Even if the District does not collect assessments, the debt service reserve will be used to pay the bondholders. The District then has an obligation under the Trust Indenture to replenish the funds.
- There is \$1,000,000 in the Construction Fund to complete this project and \$30,000 in escrow for the final lift of asphalt.
- The District has been paying the foreclosure costs out of the General Fund and submitted a requisition to the Trustee to take these funds from the reserve account or construction account to replenish the General Fund.

B. Engineer

- The following was addressed:
 - Mr. Dunn reported he did some research regarding the Tract L Lake and discovered the lake was being maintained by the CDD.
 - Mr. Van Wyk explained this matter was in regards to a question posed at the last meeting about erosion along the Tract L lake and whether the CDD was responsible. The District actually owns Tract N, which abuts the lake.
 - Mr. Dunn pointed out the majority of the erosion was taking place along the back of the lake. According to the plat the lake was dedicated to the City, but the CDD was still responsible for maintenance.
 - Mr. Smith pointed out they can bring equipment back there, but it will be difficult due to the proximity of the homes.
 - Mr. Colon expressed concern about the equipment damaging homeowners' property.
 - Mr. Smith indicated normally the lot goes to the crest of the slope, which the CDD does not maintain.
 - Mr. Moyer pointed out the reason the CDD does not maintain it was because the deed restrictions for the community require the homeowners to maintain it.
 - Ms. Von Blon believed Girard was mowing behind the houses.
 - Mr. Smith indicated the CDD still has responsibility to maintain the lake edge. To remediate the situation, they paid \$8 per linear foot to place dirt and sod along the lake edge. Adding aquatic plants would increase the cost to \$15 to \$20 per linear foot for 6,000 linear feet of repair. He will find out the total cost for this work, but in the meantime, suggested the erosion behind the homes be repaired.
 - Mr. Van Wyk questioned whether it was beneficial for the Board to come up with a plan before committing to any repairs.
 - Mr. Smith pointed out he has not seen where the erosion was affecting an owner's yard, although there were some large erosion holes.

- Mr. Van Wyk recommended Mr. Dunn do the following:
 - Determine where the CDD property was in relation to the end of the lots.
 - Determine where the top of the berm was located.
 - Determine how much area they have to work with.
 - Divide the work into segments and mark down which were a priority.
 - Bring estimates back to the Board at the next meeting for further discussion.

C. Field Operations

i. Field Maintenance Report

- Mr. Smith presented the Monthly Highlight Report, which was included in the agenda package and available for public review in the District Office during normal business hours. He reported the following:
 - The parcel by Dowden Road was graded and the catch basins were cleaned.
 - A new post for the NO OUTLET sign was ordered to match the other posts.
 - The brick pillar along Dowden Road was straightened.
 - Mr. Alexander indicated he drove by the wall and it was still lopsided.
 - Mr. Smith will check on this.
 - The irrigation pipes along the edge of the pond were moved. They still need to move several more.
 - The Christmas lights were installed at the entrance. He will look at them tonight.
 - The drinking fountain was repaired.
 - The lights in the bathrooms were repaired.

ii. Landscaping Report

- They are having some turf issues. Mr. Smith requested additional fertilization and weed control, particularly by the basketball and tennis courts.
 - Mr. Van Wyk questioned whether they were being impacted by the replacement of sod down Narcoossee. They were removing the St. Augustine sod and replacing with Bahia.

- Mr. Smith acknowledged he did not see any issues and was glad to see them doing this.

iii. Aquatic Weed Control Report

- The lake maintenance company remediated the algae problem and hydrilla issues.
 - Mr. Colon commented he went by the lake yesterday and it looked much better.

SEVENTH ORDER OF BUSINESS

Other Business – Discussion of Future Meeting Regarding Easterfield Drive

- Mr. Colon addressed the following regarding Easterfield Drive:
 - They have had negotiations with the City regarding the Easterfield Drive connection and their offer to pay \$50,000 to support this project. The cost of the entire project was \$160,000.
 - The City was not willing to pay more than \$50,000.
 - At the last meeting, the Board decided to rescind their offer of \$50,000.
 - He met with a District 1 Commissioner, another Commissioner and some residents a month and a half ago to discuss this matter. He found out the Board of County Commissioners has some funds available for these types of projects.
 - After the meeting, he contacted Commissioner Phil Diamond to see if this was a viable option as this was never offered to the CDD Board. Mr. Diamond has not committed to fund any monies, but organized a meeting to be held on January 10, 2012 to discuss this matter further.
 - He suggested the Board commit to offering \$50,000 towards the project with the hopes of the Board of County Commissioners funding the balance.
 - Mr. Johnson questioned whether the CDD Board has to show their commitment to fund it in order for the City to commit more money.
 - Mr. Colon indicated the CDD Board's original offer was \$30,000 and it was not enough so the amount was increased to \$50,000.

On MOTION by Mr. Colon seconded by Mr. Rinehart with all in favor \$50,000 was approved for the Easterfield Drive Completion.

- Mr. Colon pointed out they would need to draft a letter to the Board of County Commissioners. Mr. Van Wyk will handle this.
- Mr. Dunn indicated Mr. Larry Ray from his firm will attend the January 10 meeting.
- Mr. Colon will send an email to the Board on the time and location of the January 10 meeting.
- Mr. Moyer requested he be contacted if any Supervisor wanted to attend this meeting so it could be advertised as a public meeting under the Sunshine Law.
- Mr. Colon believed it would help to have the Board attend this meeting.

EIGHTH ORDER OF BUSINESS

Supervisor's Requests and Audience Comments

- Mr. Rinehart questioned if Moss Park was owned by the CDD.
 - Mr. Alexander indicated the park was owned by the City of Orlando, but they requested the City deed over the rights to the land since the CDD has been maintaining it for the past three years.
- Mr. Rinehart questioned the height of the flagpole in Moss Park as the flags do not last more than two months.
 - Mr. Alexander indicated he was in the process of obtaining estimates, but they were waiting to see if the City would deed over the land. If not, they would ask the City to lower the height of the flagpole.
- Mr. Alexander expressed concerns about Playhouse Park due to the graffiti.
 - Mr. Smith pointed out the playhouse was starting to age and should be removed. CDD staff has been replacing wood over time since the park was owned by the CDD.
 - Mr. Colon suggested replacing the playhouse with swings or make it a tot lot.
 - Mr. Smith will bring a proposal to the next meeting.
- A resident questioned whether the rail fence after the brick wall on Dowden Road towards 417 could be replaced with a brick fence.
 - Mr. Smith pointed out removing a rail fence and replacing with brick would be fairly costly to the CDD since this was CDD property. He suggests

planting a tall hedge on their side of the fence to block the rail fence, which would provide security and act as a sound barrier.

- The resident questioned whether they had any recourse to have the developer across the street pay for this expense.
- Mr. Smith believes they may be putting up a wall on the front of their project.
- The resident requested a cost for the hedge.
- Mr. Moyer pointed out if the Board chose to obtain estimates, it may not happen in this fiscal year based on the budget. However, this could be taken into consideration for next year's budget.
- Mr. Alexander suggested looking into the cost of placing additional landscaping along the brick wall.
- Mr. Dunn will review the plat for this area to determine whether or not the wall was maintained by the CDD. He believes the wall was at the property line.
- Mr. Smith will obtain cost estimates.

NINTH ORDER OF BUSINESS

Adjournment

- There being no further business,

On MOTION by Mr. Colon seconded by Mr. Alexander with all in favor, the meeting was adjourned.

Gary L. Moyer
Secretary

Angel Colon
Chairman