

MINUTES OF MEETING  
GARDENS AT HAMMOCK BEACH  
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Gardens at Hammock Beach Community Development District was held on Tuesday, April 16, 2019 at 9:00 a.m. at City Centré at Palm Coast Town Center, 145 City Place, Suite 300, Palm Coast, Florida.

Present and constituting a quorum were:

Clint Smith	Chairman
David Lusby	Vice Chairman
William Livingston	Assistant Secretary

Also present was:

George Flint	District Manager
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**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. Flint called the meeting to order at 9:00 a.m. A quorum was present.

**SECOND ORDER OF BUSINESS**

**Public Comment Period**

Mr. Flint: No members of the public are present.

**THIRD ORDER OF BUSINESS**

**Organizational Matters**

**A. Administration of Oaths of Office to Newly Elected Board Member**

Mr. Flint: I administered the Oath of Office to Mr. Smith prior to the meeting so we don't need to have it on the record.

**B. Consideration of Resolution 2019-01 Canvassing and Certifying the Results of the Landowner's Election**

Mr. Flint: You have Resolution 2019-01 in your agenda package. The Landowners' Election was held on November 26, 2018. The proxy holder for the Landowner attended and three seats were available. They only nominated one person, Clint Smith and cast 800 votes. So, Mr. Smith would serve a four-year term. We would ask the Board to adopt Resolution 2019-01.

On MOTION by Mr. Livingston seconded by Mr. Lusby with all in favor Resolution 2019-01 Canvassing and Certifying the Results of the Landowners' Election was adopted.

Mr. Flint: Congratulations!

**C. Election of Officers**

**D. Consideration of Resolution 2019-02 Electing Officers**

Mr. Flint: Every time there is an election, the Board is required to elect officers. Currently, Mr. Smith is Chairman, Mr. Lusby is Vice Chairman, Mr. Livingston is Assistant Secretary, I'm Secretary and Arial Lovera, the District Accountant is Treasurer. We can handle each seat individually or if a Board Member has a slate of officers, we can have that in one motion.

On MOTION by Mr. Livingston seconded by Mr. Lusby with all in favor electing the current slate of officers as evidenced by Resolution 2019-02 was adopted.

**FOURTH ORDER OF BUSINESS**

**Approval of Minutes of the September 24, 2018 Board of Supervisors Meeting and Acceptance of the Minutes of the November 26, 2018 Landowners' Meeting**

Mr. Flint: Does the Board have any additions, deletions, or corrections to the minutes?

Mr. Baker: I didn't have anything.

Mr. Flint: We can handle the approval of both minutes in one motion.

On MOTION by Mr. Smith seconded by Mr. Livingston with all in favor approval of the minutes of the September 24, 2018 Board of Supervisors meeting and acceptance of the minutes of the November 26, 2018 Landowners' Meeting were approved.

**FIFTH ORDER OF BUSINESS**

**Consideration of Resolution 2019-03 Approving the Proposed Fiscal Year 2020 Budget and Setting a Public Hearing**

Mr. Flint: Each year, the Board is required to approve a Proposed Budget and set the date, place and time of the public hearing for its final consideration. The approval of the

Proposed Budget has to occur at least 60 days before the public hearing, which we are recommending to be held on June 25, 2019 at 9:00 a.m. at this location. The Proposed Budget is attached to the resolution as Exhibit A, which totals \$16,975 and is identical to the current year budget. It contemplates a Developer Funding Agreement as the revenue sources. Are there any questions on the resolution?

Mr. Smith: Will it be formally adopted on June 25<sup>th</sup>?

Mr. Flint: Yes. The public hearing will be on June 25<sup>th</sup>.

Mr. Lusby: Is it a preliminary adoption?

Mr. Flint: Yes. The statutes require the Board to approve a Proposed Budget at least 60 days before final adoption. It doesn't really serve as a ceiling, but if you are collecting assessments, if there's going to be an increase, you would consider it at that time because you have mailed notice and other requirements. In this case, it's a Developer Funding Agreement. So, at the public hearing, this budget could change if needed, as long as we aren't collecting assessments. There is a process we would have to through to do that, but this budget doesn't bind the Board from making changes at the public hearing. Normally, the public hearing would be in the August timeframe, but there is not a lot going on with this District.

Mr. Lusby: June 25<sup>th</sup> is fine.

Mr. Livingston: As long as it doesn't change because I'm leaving the next day.

Mr. Flint: It shouldn't change because we have to advertise for the public hearing. If the Board is okay with the date and the Proposed Budget, a motion to adopt the resolution would be in order.

On MOTION by Mr. Lusby seconded by Mr. Livingston with all in favor Resolution 2019-03 Approving the Proposed Budget for Fiscal Year 2020 and Setting a Public Hearing for June 25, 2019 at 9:00 a.m. at City Centre at Palm Coast Town Center, 145 City Place, Suite 300, Palm Coast, Florida was approved.

## SIXTH ORDER OF BUSINESS

### Consideration of Proposal with VGlobalTech Regarding ADA Website Compliance

Mr. Flint: I am going to suggest that the Board defer action on this item, but we wanted to get it on the agenda. Even though this District is inactive at this point, there are still some legal obligations that the District has. Because the statutes require the District to have a website,

we created a website, but there is a list of information that must be on that website. However, within the last year, there have been some lawsuits against local governments, even private entities like Winn Dixie. I think Target might have gotten sued as well, claiming compliance issues under the American with Disabilities Act (ADA). I think there were 18 lawsuits against CDDs. Last year it was the same complaint.

Mr. Livingston: It was the same attorney.

Mr. Flint: They are all insured by the same entity, Florida Insurance Alliance, which insures over 300 CDDs. They settled the litigation. I think they paid \$2,500 per District, but part of the settlement was that the Districts would be compliant within 24 months; however, that doesn't prevent another entity from coming forward and filing suit. In fact, there have been some more lawsuits. This was not on anyone's radar. It's not just CDDs. Its cities and counties and even private entities. So, we are trying to bring the websites into compliance. We can develop websites, but to be compliance with the ADA, it has to be in a certain language, according to Web Content Accessibility Guidelines (WCAG) standards. So, we met with four or five different companies and VGlobalTech is the most cost-effective solution to the issue. They are significantly less than some of the other ones out there. We negotiated a volume price on Districts. We are bringing this forward, but because the District is somewhat inactive, the budget is small and this would be a significant portion of the budget, I wanted to bring it up today. We have the proposal in the agenda package and we put it back on the June agenda. In the meantime, I can talk with Ken, since they are funding the operations, to explain the situation to him, but at some point, if the District continues to exist, we are going to have to do this.

Mr. Livingston: At this time, you are spending \$2,375 to set it up.

Mr. Flint: Yes.

Mr. Livingston: Then there is a maintenance cost.

Mr. Flint: We recommend you just do the first portion and if need be, come back and do the annual, which is \$1,350.

Mr. Livingston: Is the downside of not doing it, getting sued and settling it for \$2,500 or you don't know?

Mr. Flint: The downside is that Florida Insurance Alliance, which insures the majority of the Districts, are not going to cover the Districts if they are not taking steps to address it. I met with them last week and he used to serve on an Advisory Board, but I was the Chair of their

Governing Board for six years. So that's the downside. If they don't provide insurance, the other options are going to be more expensive. So ultimately, it is going to cost the District.

Mr. Livingston: It's not a lot of money relative to the budget.

Mr. Flint: This is the smallest budget out of all the Districts I manage.

Mr. Livingston: Keep your fingers crossed that nothing happens.

Mr. Flint: I suggest we put it back on the June agenda and the Board can deal with it at that time.

Mr. Livingston: In the meantime, you will talk to Ken?

Mr. Flint: Yes. I think Ken and I need to talk about the plans for the District going forward on what they want to do. If the Board is okay with that, then we will table it.

Mr. Livingston: Is Ken here?

Mr. Flint: Not yet.

Mr. Livingston: I did some work for him on the bond process. I think it's still with Gary because I haven't received any feedback. They were exploring whether they wanted to do something with the District. If they did then obviously everything would change and we would become a real District.

Mr. Flint: Interest rates are favorable right now.

Mr. Livingston: What are they doing?

Mr. Flint: Its below 5% or 4.75%, which is pretty good.

Mr. Livingston: Prime is 5.5%.

Mr. Flint: There is a municipal benchmark that they go off of, which has actually gone down 400 basis points over the last five months.

Mr. Livingston: So they are still tax free then.

Mr. Flint: Yes.

Mr. Livingston: All of that litigation worked itself out.

Mr. Flint: Yes, but you still have to be careful with Districts that are solely commercial that may never transition to resident control. That was part of the issue. So, a lot of times with Districts that are commercial, that may never trigger the 250 registered voters. You might do private taxable on that, but the interest rates are still pretty good on the taxable because you have to get a tax opinion from bond counsel and sometimes they are a little leery of commercial Districts.

**SEVENTH ORDER OF BUSINESS**

**Staff Reports**

**A. District Manager’s Report**

**i. Balance Sheet and Income Statement**

Mr. Flint: We have the unaudited Financial Statements through March 31, 2019. No action is required by the Board. We have a whopping \$1,046 in our bank account, unrestricted.

Mr. Livingston: Why don’t we invest it?

Mr. Flint: I don’t think its earning interest. On the Statement of Revenue and Expenditures, so far, we spent \$995 this fiscal year through the first six months.

**ii. Ratification of Fiscal Year 2019 Funding Requests #1 - #3**

Mr. Flint: Funding Requests #1 - #3 were submitted to the developer under the Funding Agreement. Funding Requests #1 and #3 are for Fiscal Year 2018, which totals \$539.87. It includes advertising and management costs. We bill by the meeting. Funding Request #2 is for Fiscal Year 2019, totaling \$175. It is for the annual \$175 that goes to the Department of Economic Opportunity. Are there any questions on the Financial Statements or Funding Requests? If not, we need a motion to ratify Funding Requests #1 - #3.

On MOTION by Mr. Livingston seconded by Mr. Smith with all in favor ratification of Funding Requests #1 - #3 were approved.

**EIGHTH ORDER OF BUSINESS**

**Other Business**

Mr. Flint: That is all the business I have. Was there any other business that the Board wanted to discuss that was not on the agenda?

Mr. Lusby: At the last meeting, we discussed the name and whether there was any objection from the seller. I don’t know, but I think it was you or someone else who touched based with them.

Mr. Flint: I reached out to Daniel Baker and he didn’t express any concern, so at some point if the District becomes active, the District might want to consider filing a petition with Flagler County to change the name.

Mr. Lusby: I think it was supposed to become an active CDD. If we were just doing bonds that’s one thing, but for long-term maintenance, it would be misleading.

Mr. Flint: Right. At that point, you would have District Counsel engaged. You would have an attorney representing the District and they could advise you to prepare the petition to change the name. Short of that, I didn't perceive any major concerns on their part, but I don't have anything in writing either.

Mr. Lusby: Either way. If we had a written objection it would be one thing.

Mr. Flint: Yes, I assure they would send the letter first and give an opportunity to comply if there was a concern.

Mr. Lusby: If they cover it in the mortgage because there is seller financing on it, then there is really nothing they can really do about it. They can obviously get an injunction, but they are not going to do that. As long as you are active, you would probably spend \$10,000 changing the name, which doesn't make any sense.

Mr. Flint: Right, because there's a process.

Mr. Lusby: It depends on who you hire.

**NINTH ORDER OF BUSINESS**

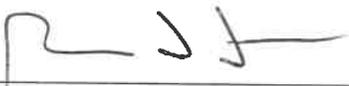
**Supervisor's Request**

Mr. Flint: Not hearing any, if there isn't anything else that we need to discuss, we need a motion to adjourn the meeting.

**TENTH ORDER OF BUSINESS**

**Adjournment**

On MOTION by Mr. Smith seconded by Mr. Lusby with all in favor the meeting was adjourned.

  
Secretary / Assistant Secretary

  
Chairman / Vice Chairman