

MINUTES OF MEETING VIERA STEWARDSHIP DISTRICT

The regular meeting of the Board of Supervisors of the Viera Stewardship District was held Wednesday, November 18, 2020, at 9:30 a.m. at the offices of The Viera Company, 7380 Murrell Road, Suite 201, Viera, Florida.

Present and constituting a quorum were:

Todd J. Pokrywa	Chairman
Amy Mitchell	Vice Chairman
Amanda Carl	Secretary
Christopher Wright	Assistant Secretary

Also present either in person or via communications media technology:

Brenda Burgess	Assistant Manager: Moyer Management Group
Jennifer Kilinski	Attorney: Hopping, Green & Sams
Hassan Kamal	Engineer: BSE Consultants
Bill Lites	Environmental Professional
Jay A. Decator, III	The Viera Company
Eva Rey	Community Manager
Ben Wilson	The Viera Company

FIRST ORDER OF BUSINESS

Call to Order

Mr. Pokrywa called the meeting to order at 9:35 a.m.

SECOND ORDER OF BUSINESS

Roll Call

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

Mr. Wright was not present at roll call.

THIRD ORDER OF BUSINESS

Public Comment Period

There being no comments or members of the public, the next order of business followed.

FOURTH ORDER OF BUSINESS

Administrative Matters

A. Oath of Office for Supervisors Elected in the November 3, 2020, General Election

Mr. Wright not being present at roll call, the next item followed.

B. Resolution 2021-01, Designating Officers

Mr. Pokrywa read Resolution 2021-01 into the record by title.

Mr. Pokrywa stated I would be comfortable appointing the same slate of officers that we have currently.

On MOTION by Ms. Carl, seconded by Ms. Mitchell, with all in favor, unanimous approval was given to Resolution 2021-01, designating officers as follows: Mr. Pokrywa as Chairman, Ms. Mitchell as Vice Chairman, Ms. Carl as Secretary, Mr. Martell as Treasurer, Ms. Tiffani Bissett and Mr. Wright as Assistant Secretaries, and Mr. Gary Moyer as Assistant Treasurer.

FIFTH ORDER OF BUSINESS

Approval of the Minutes of the August 26, 2020, Regular Meeting

Mr. Pokrywa reviewed the minutes, which are included in the agenda package and are available for public review in the District's local records office during normal business hours, and requested additions, corrections, or deletions.

On MOTION by Ms. Mitchell, seconded by Ms. Carl, with all in favor, unanimous approval was given to the minutes, as presented.

SIXTH ORDER OF BUSINESS

Action Items

A. Resolution 2021-02, Adopting an Easement Encroachment Policy

i. Residential Encroachment Requests

Mr. Pokrywa read Resolution 2021-02 into the record by title.

Ms. Kilinski stated our office has worked with Mr. Kamal to create this policy. Why this has arisen is, we have received requests for easement encroachments. We created a policy to offset staff costs for review, but also to standardize a process by which we would undertake review of these requests, to expedite the review and also get a form of variance approved by the Board and a policy approved by the Board so we are not reinventing the wheel and applicants are not having to wait between Board meetings in the event some of these may be more time sensitive than others. The Resolution adopts a policy where residents will submit a request to the manager, along with an application fee of \$300. This amount has been recommended by the engineer that would offset staff review time and make that standard. The Board can adopt a different rate. This is what staff is recommending. The engineer would review the request and make a decision to grant or deny the request. If the recommendation is to grant it, then staff will coordinate execution and recording of the standard agreement included in the agenda package. If the recommendation is to deny, then staff will notify the resident. The variance requests will generally not have to come before the Board unless there is something above and beyond that is a concern or where we denied the request and the resident is asking for some form

of appeal. The policy in Exhibit A essentially covers what I just summarized. The form of variance agreement is what would be recorded in the public record. The Resolution would adopt an interim fee. The reason we are looking at this as an interim fee is because we would have to go through ratemaking procedures set forth in Chapter 120, Florida Statutes. The idea would be to test this rate to ensure it covers the cost to the District for the review. If we need to make a modification, we can bring it to the Board before we go through ratemaking procedures, which are fairly costly for the advertisements. We also anticipate adopting revised rules of procedure in the next six to twelve months with new legislative changes. It has been a while since we did that. My intent would be to adopt those at the same time and reduce the cost to the District of the advertising.

Mr. Kamal stated Ms. Kilinski summarized this very well, and I have nothing to add.

The record will reflect Mr. Wright joined the meeting.

Mr. Pokrywa stated this is appropriate for the Board to consider. The fee will help offset the cost of processing these variance requests. I would support this policy.

Ms. Mitchell asked why are the resolutions numbered 2021?

Ms. Kilinski stated the District's fiscal year starts October 1, 2020, so we are in calendar year 2020, but fiscal year 2021.

Ms. Carl stated I see the requests in the agenda package to be considered. How frequently are we seeing these requests?

Ms. Kilinski stated we have received four requests for encroachment variances in the last five or six weeks. It may just be a strange timeline. Because we received so many at the same time, we thought it would be worth standardizing the process.

On MOTION by Ms. Carl, seconded by Ms. Mitchell, with all in favor, unanimous approval was given to Resolution 2021-02, adopting an easement encroachment policy.

ii. Ratification of Consent to Easement Encroachment (Sendero Cove Lot 1)

Ms. Kilinski stated this was the first easement encroachment the District received. Because we did not have this policy in place on a timeline associated with the request, staff was comfortable approving it prior to getting the next three requests for encroachment, which then precipitated the need for the policy the Board just approved. We are requesting ratification of this consent. The engineer reviewed it, and we were comfortable approving it prior to receiving the Board's ratification.

On MOTION by Mr. Wright, seconded by Ms. Carl, with all in favor, unanimous approval was given to ratify the consent to easement encroachment for Sendero Cove Lot 1.

B. Form of Acquisition Agreements for Pineda Boulevard Extension and Lake Andrew Drive

Ms. Kilinski stated this package is before the Board because the District's staff was notified that The Viera Company ("TVC") is anticipating beginning construction of certain roadway segments, which the District intends to acquire under the terms of the previously approved acquisition agreement, which the Board approved for certain improvements that would then be potentially refunded or reimbursed by future bond proceeds. Because we anticipate needing to move fairly quickly once the improvements are ready for acquisition, we would like to present this to the Board to approve the acquisition package in substantial form and authorize the Chairman to work with staff to finalize those at the appropriate time. Preliminary details have been provided by the engineer as well as TVC. Included are packages for the Pineda Boulevard extension segments D-1 and D-2, as well as Lake Andrew Drive segments E, F-1, H-1, and I. We will follow the same acquisition package process each time, which is provided for specifically within that acquisition agreement. We will receive a letter that sets forth the estimated costs of the improvements, which will be based on the actual costs of construction, pursuant to the construction agreement. We will have a description of the improvements and the work product associated with that, which is the engineering plan on which the construction project is based. We will have an affidavit regarding costs paid from the landowner, which represents that the costs being presented to the District are the actual costs of the work product. Then we will have an engineer's certificate which will be in substantially the form that is in the agenda package, where the District's engineer will certify to the District that the improvements conform with the plan and that the improvements are consistent with what the District was anticipated to acquire. We would also receive a contractor release, which is included in the agenda package. Essentially this is a release that the contractor recognizes the District will be acquiring the improvements for purposes of warranties or bonds to certify they have been paid in full, and the District will be able to rely on that release. We would also have a release of restriction on the District acquiring the work product and being able to rely on that work product for purposes of defect or to reproduce those documents should we need to do so.

We will have the developer bill of sale and assignments. Some of these improvements may include real property. Some of the improvements are simply improvements, and we will have a bill of sale for the improvements which will need to be produced, in certain circumstances, to Brevard County for turnover for operation and maintenance and ownership. That document is also within the package. I provided multiple packages for each of these categories of improvements. I will ask for a motion to approve the packages in substantial form with final sign-off by the Chairman in consultation with staff.

On MOTION by Ms. Mitchell, seconded by Mr. Wright, with all in favor, unanimous approval was given to form of acquisition agreements for Pineda Boulevard Extension segments D-1 and D-2, and Lake Andrew Drive segments E, F-1, H-1, and I, in substantial form and authorizing execution by the Chairman upon consultation with staff.

C. Work Authorization #2 with A. Duda & Sons for Brazilian Pepper Removal

Mr. Pokrywa stated this work authorization is consistent with our budget for this item, which is regular maintenance.

On MOTION by Ms. Carl, seconded by Mr. Wright, with all in favor, unanimous approval was given to work authorization #2 with A. Duda & Sons for Brazilian pepper and exotic species removal, in the amount of \$88,500.

D. Seventh Amendment with Ecor Industries for Biomass Removal in Lake 232

Ms. Burgess stated I have been working with Mr. Mike Garoust at Ecor Industries, and he noticed this biomass at the headwall was a problem. I included his email in the agenda package so the Board would understand what this request is about.

On MOTION by Ms. Carl, seconded by Mr. Wright, with all in favor, unanimous approval was given to the seventh amendment with Ecor Industries for biomass removal in Lake 232, in the amount of \$1,200.

E. Eighth Amendment with Ecor Industries for Maintenance of Additional Lakes

Ms. Burgess stated Mr. Garoust noticed there are some lakes he has not been maintaining but thought probably should be.

On MOTION by Mr. Wright, seconded by Ms. Carl, with all in favor, unanimous approval was given to the eight amendment with Ecor Industries for monthly maintenance of additional ponds in Tracts A, B, C, D, and R in Bridgewater Central, in the amount of \$1,700 per month.

F. Audit Engagement Letter with Berger, Toombs, Elam, Gaines & Frank to Perform the Audit for Fiscal Year 2020

Ms. Burgess stated the Board awarded a three-year engagement to Berger, Toombs, Elam, Gaines & Frank, and every year they will provide a new engagement letter, outlining the terms of performing the audit. They are the same terms each year. The amount of their engagement is included in the budget, at \$3,200 to perform the audit for fiscal year 2020.

On MOTION by Mr. Wright, seconded by Ms. Mitchell, with all in favor, unanimous approval was given to the audit engagement letter with Berger, Toombs, Elam, Gaines & Frank to perform the annual audit for fiscal year 2020, in the amount of \$3,200.

G. Ratification of Work Authorization #5 with BSE Consultants to Provide the Annual Engineering Report for the Fiscal Year 2021 Budget

Ms. Burgess stated this work authorization is for work the engineer did for the budget for fiscal year 2021, which the Board just adopted. This is a follow-up housekeeping item.

Mr. Pokrywa stated Exhibit A indicates there is a draft report that will be completed within 21 – 30 days, two weeks prior to the August 2020 Board meeting. Was that provided to staff? I do not recall receiving the report.

Ms. Burgess stated we did receive the report. It should have been in the agenda package for the budget hearing in August.

Ms. Kilinski stated the special act for the District requires an engineer's report on which to base the operation and maintenance assessments. This District is a little unique in that regard. This is for the report Mr. Kamal's office prepares annually that essentially finds the assessments to be based on what needs to be done for operation and maintenance for the District. I recall seeing the report, either in the agenda package or under separate cover. I can forward that if need be.

Mr. Pokrywa stated I recall that report. This is separate and apart from what I was thinking about. We have been discussing with the engineer the need for a report as it

relates to the stormwater system, in the event of a tropical storm or hurricane event and how that system functions, as well as an inspection protocol and suggestions for any potential improvements to the drainage system that the Board can consider and so that we can understand the costs associated with any improvements. Is that something that is still forthcoming?

Mr. Kamal stated yes, that is a separate report. It is not complete, but I will check on the status and report with an estimated completion date of the first draft.

On MOTION by Ms. Carl, seconded by Mr. Wright, with all in favor, unanimous approval was given to ratify work authorization #5 with BSE Consultants to provide the annual engineering report for the fiscal year 2021 budget, in the amount of \$1,000.

H. Ratifications of Work Authorizations #24, #25, #26, and #27 with Zev Cohen & Associates

Ms. Burgess stated we receive these work authorizations every year for the upcoming fiscal year. They are in accordance with the budgeted amounts. Mr. Lites is always very good at not going over budget when he presents these work authorizations. He provides these annually for the work items he is responsible for, according to the budget.

On MOTION by Ms. Mitchell, seconded by Mr. Wright, with all in favor, unanimous approval was given to ratify the following work authorizations with Zev Cohen & Associates: #24 for professional services in the amount of \$10,000; #25 for wetland/habitat maintenance in the Viera Wilderness Park Stages 1 and 2 (targeted spraying) in the amount of \$22,000; #26 for monitoring and maintenance of the burrowing owl preserve and bald eagle conservation easement in the amount of \$5,000; and #27 for inspections, reports, and miscellaneous work, and oversight of Villages 1 and 2 preferred cover type in the amount of \$10,000.

SEVENTH ORDER OF BUSINESS

Staff Reports

A. Manager

i. Financial Statements (*September and October 2020*)

Ms. Burgess reviewed the financial statements, which are included in the agenda package and available in the District Office or for public review during normal business hours.

Ms. Burgess stated Mr. Moyer is unavailable since he is currently participating in another meeting. We provided financial statements for the end of fiscal year 2020, as well as the first month of fiscal year 2021. I do not have much to report on the October financials. I will point out some of the accounts payables shown on the balance sheet have been issued checks since those were sent to you. Most of them will be paid prior to your next set of financial statements.

ii. Approval of Check Register and Invoice Summary

Ms. Burgess reviewed the check register and invoice summary, which are included in the agenda package and available in the District Office or for public review during normal business hours.

Ms. Burgess stated these are separated by fiscal year, so the first page is for fiscal year 2020, and the second page is for the first month of fiscal year 2021.

Mr. Pokrywa stated I have a question in check #1498 to Hopping Green & Sams for legal fees for the July bond validation. Is this consistent with the agreement between TVC and the District whereby TVC is paying for those costs associated with the bond validation?

Ms. Burgess stated yes, that is correct. That is one of the receivables shown on the financial statements. We sent the funding requests to TVC. I was just talking with Mr. Gabriel McKee in Ms. Kilinski's office this week. We have money available in the general fund, so I am going to get those bond validation invoices paid in advance of funding from TVC, which I know TVC will be funding.

Mr. Pokrywa stated I want to be sure it is following the terms of the agreement as it relates to these costs being paid by TVC.

Ms. Burgess stated yes, we send a funding request to TVC, TVC sends a check to the District, and it goes into the general fund. The books will show it is a capital project-related costs that is paid out of the general fund. I do an interfund transfer for those costs.

On MOTION by Mr. Wright, seconded by Ms. Carl, with all in favor, unanimous approval was given to the check register and invoice summary, as presented.

iii. Resolution 2021-03, Amending the Budget for Fiscal Year 2020

Mr. Pokrywa read Resolution 2021-03 into the record by title.

Ms. Burgess stated the Board will recall we had another budget amendment Resolution earlier in the fiscal year to amend the budget for aquatic weed control and

maintenance of the canals. We had a couple other items that went under and over budget. The result of the changes is a net zero increase; it is just a matter of moving some line items around so that none of the line items are over budget. This will become the adopted budget for fiscal year 2020. The auditors will receive copies of the Resolutions amending the budget. We just want our final budget numbers not to be over budget.

On MOTION by Ms. Mitchell, seconded by Mr. Wright, with all in favor, unanimous approval was given to Resolution 2021-03, amending the budget for fiscal year 2020.

B. Attorney

There being nothing to report, the next item followed.

C. Engineer

There being nothing to report, the next item followed.

D. Environmental Professional

Mr. Lites stated we worked well with A. Duda & Sons to create the mechanical exotic species removal proposal. It is much more than just Brazilian pepper. They have done well at getting started on that. They had to pause because of the rain, but it looks like they will be very successful.

E. Community Association Manager

Ms. Rey stated we have received a few complaints about the new LED street lights and the brightness coming into some of the homes. We explain the reason those lumens were adopted by the Board and the reasons for safety along the streets. Most people understand, but some have pushed back a little. The second issue is the encroachment agreements. Mr. Wilson is working on a process to streamline that because pretty much everyone who has that kind of easement on their property is requesting an encroachment. We will continue to streamline that process and make it as efficient as possible. I do not think we have had anyone who has not requested it if they were installing a fence. We will continue to work with the District on that.

Mr. Wilson stated I was able to join the meeting after it started and saw where the encroachment requests were approved. As of now, we have not received any additional encroachment requests. We will pass along the information that the \$300 fee to the District will be applicable for these requests.

EIGHTH ORDER OF BUSINESS

Other Business

Mr. Pokrywa stated Ms. Bissett and Mr. Wright were just elected in the November 2020 election and need to subscribe to the oath of office. Is someone able to administer the oath of office to Mr. Wright?

Ms. Burgess stated I am not a resident of the State of Florida and am no longer a Notary. I let Mr. Moyer know the meeting was almost over, so he was not going to call in. Is it acceptable for Mr. Moyer to administer the oath of office by Zoom Video Communications, or should it be someone there in person?

Ms. Kilinski stated electronic notarization provisions are provided for in the statute that just started fairly recently. I do not know if Mr. Moyer has gone through that process. There is training and a certificate in order to be able to do it. If he has not, then it would need to be someone in person.

Ms. Burgess stated I do not know that he has done that. Is a Notary available at TVC office? Or can he subscribe to the oath after the meeting with someone at TVC?

Ms. Kilinski stated yes, it is fine, especially since he is already on the Board. He assumes his new office once he is sworn in, but he holds over until then. It is not critical, and he can do it outside the Board meeting.

Mr. Pokrywa stated that is how we will plan to handle it for Ms. Bissett and Mr. Wright, outside the meeting.

Ms. Burgess stated I will ask that you send a copy of the oath of office to me once it has been notarized. This is separate from the one you send into the State of Florida. We always keep another copy in our records, for example, for the bond validation we just went through.

NINTH ORDER OF BUSINESS

Supervisor Requests and Comments

There being none, the next order of business followed.

TENTH ORDER OF BUSINESS

Adjournment

On MOTION by Ms. Mitchell, seconded by Mr. Wright,
with all in favor, the meeting was adjourned at 10:10 a.m.


Amanda Carl, Secretary


Todd J. Pokrywa, Chairman