

# MINUTES OF MEETING VIERA STEWARDSHIP DISTRICT

The regular meeting of the Board of Supervisors of the Viera Stewardship District was held Thursday, February 25, 2021, 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
Tiffani Bissett ( <i>via Zoom</i> )	Assistant Secretary
Christopher Wright	Assistant Secretary

Also present either in person or via communications media technology:

Gary Moyer	Manager: Moyer Management Group
Lauren Gentry	Attorney: Hopping, Green & Sams
Hassan Kamal	Engineer: BSE Consultants
Bill Lites	Environmental Professional: Zev Cohen
Paul Martell	Treasurer
Brenda Burgess	Moyer Management Group
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 9:30 a.m.

## **SECOND ORDER OF BUSINESS**

### **Roll Call**

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

## **THIRD ORDER OF BUSINESS**

### **Public Comment Period**

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

## **FOURTH ORDER OF BUSINESS**

### **Approval of the Minutes of the November 18, 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.

<p>On MOTION by Ms. Mitchell, seconded by Mr. Wright, with all in favor, unanimous approval was given to the minutes, as presented.</p>
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**FIFTH ORDER OF BUSINESS**

**Action Items**

**A. Work Authorization #2 from Tropic-Care of Florida**

Mr. Moyer reviewed work authorization #2 from Tropic-Care of Florida for quarterly mowing in the Two-Mile Canal from I-95 to Lake Andrew on both sides, in the amount of \$3,300 per cut.

Ms. Gentry stated we will be revising this authorization as well as the form of agreement with Ecor Industries to include some E-Verify language that we are beginning to include in your contracts as a result of some Statutory changes. If the Board desires to approve this, I will ask that it be subject to legal counsel making those revisions.

On MOTION by Ms. Carl, seconded by Mr. Wright, with all in favor, unanimous approval was given to work authorization #2 with Tropic-Care of Florida for quarterly mowing in the Two-Mile Canal from I-95 to Lake Andrew on both sides, in the amount of \$3,300 per cut, or \$13,200 annually, subject to legal counsel's final review and revision as described.

**B. Ninth Amendment to the Agreement with Ecor Industries**

Mr. Moyer reviewed the ninth amendment to the agreement for aquatic maintenance services with Ecor Industries for monthly maintenance of additional lakes, bi-monthly treatment of additional natural areas, and nautique dosing in the Two-Mile Canal,

On MOTION by Mr. Wright, seconded by Ms. Mitchell, with all in favor, unanimous approval was given to the ninth amendment to the agreement for aquatic maintenance services with Ecor Industries for (1) monthly maintenance of additional lakes in an additional amount of \$330, or a monthly total of \$12,030; (2) bi-monthly treatment of additional natural areas in an additional amount of \$850, or a bi-monthly total of \$980; and (3) nautique dosing in the Two-Mile Canal, in the amount of \$1,600 per dosing, or an anticipated annual total of \$11,200; subject to legal counsel's review and revision as previously described.

**C. Acquisition of Stormwater Flow Way Improvements**

Ms. Gentry stated there are a number of agreements associated with the District's proposed acquisition of stormwater flow way improvements. This Board has done acquisitions previously, and this follows the same pattern. We included our standard documents, including an engineer's certificate, a proposed bill of sale from The Viera Company ("TVC") to the District, and an associated assignment of the St. Johns River

Water Management District permit that goes along with these improvements. There is a copy of an existing easement agreement that gives us access rights to access the land where these improvements are located. We have payment affidavits and lien releases, and certifications from the contractor and the engineering professionals who worked on this project. Mr. Kamal and Mr. Wilson can provide more details, but at this point, we will follow the same format as we have for other acquisitions. I will ask the Board to approve the acquisition of these flow way improvements from TVC.

Mr. Kamal stated essentially these are drainage improvements that connect one of the neighborhoods in Village 1 to the south to the ultimate outfall, and it includes some piping and some flow way connections. It establishes the ultimate outfall down to the south and eventually into the St. Johns River basin.

On MOTION by Mr. Wright, seconded by Ms. Carl, with all in favor, unanimous approval was given to the acquisition documents as presented and to authorize the necessary signatures to finalize the documents.

**D. Ratification of the Annual Utilization Program for Fiscal Year 2021**

Mr. Lites reviewed the annual utilization program (“AUP”) for fiscal year 2021. We work with A. Duda & Sons (“Duda”) in the beginning of the year. This was done last March and finalized at the end of last year. It is for work they will be doing within the District this fiscal year. So far, it is basically land management for the Viera Wilderness Park (“VWP”) Stage 2, which is underway. We continue to manage VWP Stage 1. This is the plan we will be working on this year. We will start the next AUP review next month and try to get it done earlier than we did this one.

On MOTION by Ms. Mitchell, seconded by Mr. Wright, with all in favor, unanimous approval was given to ratify the annual utilization program for fiscal year 2021.

**E. Revised Acquisition Documents for Pineda Boulevard and Lake Andrew Drive**

Ms. Gentry stated the Board may recall that at the last meeting, we asked you to approve in substantial form an acquisition package related to certain portions of Pineda Boulevard and Lake Andrew Drive. We reviewed that package and included the items under agenda item F to include them all as one package. No action is needed under this agenda item. I will cover everything under item F.

**F. Acquisition of Pineda Boulevard Sanitary Sewer Force Main Land and Improvements**

**i. Form of Acquisition Documents**

Ms. Gentry stated this is the same form of documents the Board saw at the last meeting for an acquisition package. It is a little different than the acquisitions you have done in the past because this one contemplates that if the District issues bonds some time in the future, which we expect you will, these improvements could be paid for out of bond proceeds. Due to the timing of them being completed, in order for us to use bond funds for them, the District needs to acquire them first. That is why we are bringing you this package today. The package has been revised to not only include portions of Pineda Boulevard and Lake Andrew Drive but also to include other roadway improvements on Akarad Drive, certain stormwater improvements, sanitary sewer improvements, reuse improvements, potable water improvements, and associated work product, such as plans and permits and those kinds of soft items. The package of these documents was circulated last night. The description of those improvements is in the first Exhibit A in that acquisition package. Otherwise, the documents are in substantially the same form that you saw last time. We just added more improvements. Also circulated last night were a few other documents that go along with this acquisition. In order to access the improvements that are built, the District needs some sort of property rights. For Tracts B and C and for an easement area where some sanitary sewer and force main improvements are located, that will be in the form of a deed. You will see standard forms of deeds between TVC and the District to actually convey the title for those tracts of land to the District. For Tract A, it comes in the form of an easement where the original property owner will still own the underlying land, but the District will have those easement rights to access the improvements. I will speak more about the force main improvements under the next agenda items. I will also note that a number of these improvements – roadways and sanitary sewer force main improvements – are contemplated to be conveyed to Brevard County (“County”) for maintenance. While we are acquiring them now to allow us to fund them through bond proceeds, ultimately the maintenance for those will lie with the County. Mr. Kamal is very familiar with this, as are a number of you at the meeting. If there are no questions, we will be looking for approval of these documents in substantial form, and authorization for staff to finalize.

Mr. Wilson stated for the benefit of the Supervisors, this is the interchange area at the intersection of Lake Andrew Drive and Pineda Boulevard. It includes roadways in that area and one stormwater pond. One private road will be owned by Central Viera Community Association (“CVCA”). Some pipes go underneath the road to the District, which are subject to the easement. This is part of that area.

Ms. Mitchell asked are we just considering these acquisition documents? Or are we also including the Florida Power & Light (“FPL”) easement?

Mr. Pokrywa stated this is just the form of acquisition documents.

Ms. Gentry stated that is correct; this is for the acquisition package you received by email last night as well as the two deeds and the easement agreement from TVC to the District.

Mr. Wilson stated we will record the easement from TVC first, and then immediately after that, we will record the deed from TVC to the CVCA. The ownership by CVCA of this access road in the deed expressly says this ownership is subject to the District’s easement.

Ms. Gentry stated all the property interest documents are related to the acquisition, and we will need the Board to approve those with the acquisition documents. It is the acquisition package, the two deeds, and the easement agreement from TVC.

<p>On MOTION by Ms. Carl, seconded by Mr. Wright, with all in favor, unanimous approval was given to the acquisition package, two deeds, and the easement agreement from The Viera Company related to acquisition of sanitary sewer force main land and improvements for portions of Pineda Boulevard, Lake Andrew Drive, and Akarad Drive in substantial form, as described, subject to final review by legal counsel, staff, and the Chairman, and authorizing their execution.</p>
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**ii. Consent and Encroachment Agreement with FPL**

Ms. Gentry stated in connection with the acquisition of the force main improvements, which are improvements that lay under the ground on a certain tract of land, the land where those improvements are located is subject to an FPL easement for their above-ground improvements. In order to have the force main improvements located on that land, we need an agreement with FPL to encroach on their easement area. They have to give us that formal consent to allow us to do that. In speaking with staff and our

professionals working on both sides with TVC and the District, it is not anticipated there will ever be a conflict between these two sets of improvements, our force main or their power improvements. We still need to get this formal consent. I will note that eventually once the improvements are turned over to the County, the County will take over most of the obligations and rights under this agreement. There are certain assurances that the County and FPL want to continue in perpetuity. Because the District is a very stable, established unit of government, we have certain protections of sovereign immunity from worst-case scenarios that are not expected to happen, but in the event they do, we have sovereign immunity protection. The District will be giving ongoing indemnification assurances to FPL and the County. We will have some ongoing obligations to finance and facilitate moving the improvements in the unlikely event they needed to be moved. It is an agreement FPL requires. Mr. Wilson has done a lot of background work with them negotiating this. I will note the management company is still waiting for confirmation from the insurance provider that the insurance limits in this agreement are something we can provide. Ms. Burgess has reached out to them and is waiting for a response. I will ask the Board to approve this in substantial form, subject to staff finalizing all the details.

Ms. Mitchell stated on the insurance issue, the agreement says the District shall at all times during the period maintain \$2 million per bodily injury or death and \$2 million for property damage. In my short term on the Board, I do not think I have been involved in these insurance discussions, but they are requiring a certificate of insurance. Let us know when those questions are answered. I do not know if the District's insurance is handled by Mr. Mark Kinder and his group.

Mr. Wilson stated he is not involved. With the District being a perpetual entity, whatever the insurance provisions are, I think FPL will be fine with that because of the sovereign immunity provision. We will wait for Ms. Burgess to confirm those limits.

<p>On MOTION by Ms. Mitchell, seconded by Mr. Wright, with all in favor, unanimous approval was given to the consent and encroachment agreement with Florida Power &amp; Light, in substantial form, as discussed, subject to staff's confirmation of the District's insurance coverage and final review by legal counsel, and authorizing its execution.</p>
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**iii. Assignment and Assumption Agreement with Brevard County**

Ms. Gentry stated this goes along with the same transaction of the force main we just discussed. This document would be executed in connection with conveying those force main improvements to the County. This is the document under which the County will undertake most of the rights and obligations under the last agreement, subject to the District still having those ongoing obligations we discussed. We are recommending approval of this agreement in substantial form, authorizing it to be finalized once the timing is appropriate.

Mr. Wilson stated this form as well as the form the Board just approved and the sanitary sewer force main easement just approved reflect the comments from the County. The only input we might receive will be from FPL. I cannot imagine they will make comments on these documents, but their legal department might.

On MOTION by Ms. Carl, seconded by Ms. Mitchell, with all in favor, unanimous approval was given to the assignment and assumption agreement with Brevard County, in substantial form, subject to final review by legal counsel and staff, and authorizing its execution.
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**iv. Temporary Sewer Easement to Brevard County**

Ms. Gentry stated once the improvements are conveyed to the County, they will need some sort of right to access them. This document gives them an easement right to access that property and do anything that needs to be done with the force main improvements. This is temporary because it is my understanding that eventually things will be turned over to the County via plat.

Mr. Wilson stated that is correct; this is a temporary easement that not only the District will join regarding the encroachment area of the area being conveyed but the portions of land TVC and CVCA own. We worked on this with Mr. Kamal. The reason it is temporary is because Mr. Kamal will note this easement in favor of the County on the plat as the phases go along. As the easement is platted, this easement right terminates.

Ms. Gentry stated I recommend approval of this easement in substantial form, subject to any final revisions that might need to be made by legal counsel.

On MOTION by Mr. Wright, seconded by Ms. Mitchell, with all in favor, unanimous approval was given to the temporary sewer easement with Brevard County in substantial form, subject to any final revisions by legal counsel, and authorizing its execution.

## **SIXTH ORDER OF BUSINESS**

## **Staff Reports**

### **A. Manager**

#### **i. Financial Statements (January 2021)**

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

Mr. Moyer stated we are one-third through the fiscal year. On the balance sheet, you will note we have total assets of \$613,839 and liabilities of \$133,831, for a fund balance of \$480,007.87. On the income statement, the amounts we have collected year to date are \$426,000. The total budget is \$611,179, and the portion that we levy assessments on, as you are aware, is not due until the end of March. We are currently ahead of the proration, but we fully expect to receive what we levied that is collected by the tax collector. On the expenses, for administrative we are \$14,300 under budget, for platted lot subdivision maintenance we are \$3,559 under budget, and for environmental maintenance we are currently over budget by \$35,000. In total for the four-month period, we are \$17,172 over budget.

Mr. Wilson stated I have a question on the accounts payable item for Duda for FY2021 for \$88,500. I cannot remember if that is for the canal cleaning, which would be for a different amount. That might be for work in the VWP. Can Ms. Burgess confirm? I think Duda has been paid for canal cleaning.

Ms. Burgess stated we just paid Duda about \$28,000. Let me look into what that is.

Mr. Wilson stated Ms. Stacy Mello at Duda was coordinating that payment, and I am pretty sure the canal invoice of \$96,000 was paid. I think this is related to something they are doing for the VWP.

Ms. Burgess stated the invoice I have for Stage 2 mechanical removal of Brazilian pepper and roller chopping is \$49,000.

Mr. Lites stated it looks like Duda invoiced the District on January 5 for \$27,000.

Ms. Burgess stated yes, and I think that is the one we just paid. The check register will show what was paid, unless we paid it in February.



Mr. Wilson stated I see check #1534 for \$76,000 to Duda. I can look at this offline with Ms. Burgess. Duda asked me about a bill that is outstanding, and I thought the one shown for \$88,000 might be it.

Ms. Burgess stated that is work authorization #2 for mechanical removal of Brazilian pepper. Is that for the full year, and they invoice us quarterly? So the full \$88,000 is not really outstanding because we just paid \$27,000 and \$49,000? I can work on that with Mr. Wilson offline.

Mr. Pokrywa stated on the balance sheet as it relates to accounts receivable, those are for invoices that TVC is in the process of paying pursuant to its agreement with the District pertaining to the bond validation process. I confirmed this morning that we are processing invoices #2020-01 through #2020-05. I am curious as to why it is categorized as a capital project.

Ms. Burgess stated it is a capital project as opposed to operation and maintenance.

Mr. Moyer stated it is related to the bond issue. We have an agreement that those types of costs are, in fact, reimbursable to the District. Once we sell bonds, they will be coming back to TVC.

Mr. Pokrywa asked we call that a capital project?

Mr. Moyer stated yes. That will be capitalized into the infrastructure costs.

Ms. Burgess stated #2020-06 is the newest one on that list that I do not believe I have emailed to you yet. In December, I noticed we had not received a couple invoices from Hopping Green & Sams for general counsel or for the bond validation. That is what #2020-06 is for because I received those late.

**ii. Approval of Check Register and Invoice Summary**

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

Mr. Moyer stated I will ask Ms. Burgess to check on the item described as Osceola County property appraiser.

Ms. Burgess stated that is a typo and should reference Brevard County.

**iii. Resolution 2021-04, Amending the Budget for Fiscal Year 2020**

Mr. Moyer read Resolution 2021-04 into the record by title.

Mr. Moyer stated this amendment allocates \$665 from the website remediation category to professional fees – attorney. We are just moving funds around, not changing net dollars or the bottom line in terms of how much was spent in fiscal year 2020.

Ms. Burgess stated that relates to the two invoices I just received in December.

Mr. Pokrywa asked these are included in the next agenda item, in funding request #2020-06CP?

Ms. Burgess stated yes.

**iv. Ratification of Funding Request #2020-06CP for Bond Validation Services**

Ms. Burgess stated as briefly mentioned, these are for invoices we just received in December for bond validation services, listed for ratification.

On MOTION by Ms. Mitchell, seconded by Mr. Wright, with all in favor, unanimous approval was given to the check register and invoice summary and to Resolution 2021-04 amending the general fund budget for fiscal year 2020, and to ratify funding request #2020-06CP for bond validation services in the amount of \$12,455.50, as presented.

**B. Attorney**

Ms. Gentry stated as you may know from the *Capitol Conversations* newsletters, our firm traditionally takes a very active role in monitoring any legislative changes each year that may affect special districts. Committee weeks are ending this week, and regular session begins next week. We are monitoring a number of bills that could have impacts on special districts. It is early to tell which ones could become law, but we will keep you updated. If you ever have a question about anything you see in those newsletters, please reach out to Ms. Kilinski or me. She is taking the lead for our firm in that legislative work, so she is a great resource.

**C. Engineer**

Mr. Kamal stated with storm season coming in a few months, over the next 30 to 60 days, we will be performing our inspections of District facilities to make sure they are functioning properly and have no obstructions. If we identify anything that needs to be addressed, we will bring it to the Board and provide recommendations for the same.

Mr. Pokrywa stated at some of our past meetings, including our last Board meeting, we discussed the report Mr. Kamal is preparing in that regard as it relates to inspection

protocols and any suggestions for potential improvements the Board can consider and understand related costs for those improvements. Is that still forthcoming?

Mr. Kamal stated yes. I think we will roll it into this next inspection effort. It ties well with going into the field and looking at everything at one time, and performing both those exercises at the same time.

Mr. Pokrywa asked is it realistic to expect the next time we meeting, we might be able to see it then?

Mr. Kamal stated yes, I think so.

Mr. Wilson stated when Mr. Kamal inspects the canals, I ask that be coordinated with Mr. Chris Leffler at Duda.

Mr. Kamal stated we inspected the canals after Duda did the canal cleaning last year. After that exercise, we discussed with Mr. Leffler that as they are getting ready to do that work to notify our office so we can schedule verification of that work to make sure it coincides with when they bill the District and we can verify the work was completed.

Mr. Wilson stated we always did that inspection after the work was complete and before the invoice was submitted. Mr. Leffler is still the contact for that work.

**D. Environmental Professional**

Mr. Lites stated we are working with Duda on VWP Stage 2 management. I am going to work on the PCT management with Tropic-Care of Florida in the villages in the next priority areas, particularly N1-7 replanting we discussed for that resident.

**E. Community Association Manager**

Ms. Rey stated Mr. Pokrywa will discuss our conversation with the resident in Adelaide regarding midges. The only other request we continue to receive is lighting requests and questions. The Board has set its standard, and we continue to communicate that back to the residents. So far, those have been the only concerns expressed, other than the midges in Adelaide.

Ms. Mitchell asked these are complaints about LED lights?

Ms. Rey stated no, the last one was actually requesting to add more street lights in a particular area. The previous complaints have been the brightness of some of the lighting, but the most recent complaint requested more lighting. We get both.

**SEVENTH ORDER OF BUSINESS**

**Other Business**

There being no further business items, the next order of business followed.

**EIGHTH ORDER OF BUSINESS**

**Supervisor Requests and Comments**

Mr. Pokrywa stated as Ms. Rey mentioned, both she and I have had discussions with Mr. Mike Sullivan, who is a resident in Adelaide. He had come before the Board during public comment a few meetings ago as it related to midges in the lake in Adelaide. Since that time, Ecor Industries has introduced catfish into the lake. It takes some time for them to start to become effective. Mr. Sullivan was expressing that his concerns remain the same and that he has not seen any progress yet. He was asking me, which I wanted to forward to the manager, if we can provide Mr. Sullivan with some report or study that shows the science demonstrates the catfish approach is effective and is something that is used. I would like to be able to provide that information to Mr. Sullivan on behalf of the District if it is available. In addition, it is not in the package, but I will distribute to the Board members who are here a proposal from Ecor Industries, which Mr. Moyer also has. They are responsible for this activity and introduced the catfish in the lake in Adelaide. This proposal is to conduct sampling, which they are proposing to do in May 2021. I would recommend we proceed with this at that time. I am recommending the Board consider and approve this proposal.

Ms. Carl asked is that when the larvae would be present, and why we would do the sampling in May?

Mr. Pokrywa stated yes.

Ms. Burgess stated when I was talking with Mr. Mike Garoust at Ecor Industries, he said that activity slows down when it is colder. They need temperatures to be 70 degrees and above. He did not think it would be fruitful for us to do a sample at this time, that we really need to wait until May. This is a long-term environmental approach. We understand residents want to see action a little faster, but he did not recommend having a sampling done until at least May.

Ms. Gentry asked is this a proposal that is being provided under separate cover today? Or is this a proposal that we expect to consider at a future meeting?

Mr. Pokrywa stated it was provided under separate cover today. It is a proposal for \$1,700.

Ms. Gentry stated if the Board would like to approve it, I will ask that it be subject to legal counsel review. We will prepare a standard work authorization for it under their contract.

Mr. Wright asked is that lake 125 acres?

Mr. Pokrywa stated yes.

On MOTION by Ms. Carl, seconded by Mr. Wright, with all in favor, unanimous approval was given to the proposal from Ecor Industries to perform midge sampling in May or later, in the amount of \$1,700, subject to final review and preparation of a work authorization by legal counsel.

Mr. Pokrywa stated I will ask Ms. Burgess to send a copy of the proposal to Ms. Gentry. Will you also follow up with the study or report request so we can provide Mr. Sullivan with some information in response to the inquiry he had during his discussion with Ms. Rey and me?

Ms. Burgess stated yes, I sure will.

**NINTH ORDER OF BUSINESS**

**Adjournment**

On MOTION by Mr. Wright, seconded by Ms. Mitchell, with all in favor, the meeting was adjourned at 10:20 a.m.

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Amanda Carl, Secretary

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Todd J. Pokrywa, Chairman