

**MINUTES OF MEETING
OSPREY OAKS
COMMUNITY DEVELOPMENT DISTRICT**

A Regular Meeting of the Osprey Oaks Community Development District's Board of Supervisors was held on **Wednesday, December 14, 2016 at 4:00 p.m.**, at the **Clubhouse of Osprey Oaks, located at 7054 Muscovy Court, Lake Worth, Florida 33463.**

Present and constituting a quorum were:

Meredith Naim	Chair
Jim Gielda	Vice Chair
Steve Ratkowski	Assistant Secretary
John Flaherty	Assistant Secretary
Michael Smith	Assistant Secretary

Also present were:

Cindy Cerbone	Wrathell, Hunt and Associates, LLC
Ginger Wald	District Counsel
Jeff Schnars	District Engineer
Robert Harding	Resident (HOA Board Member)

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Ms. Cerbone called the meeting to order at 4:01 p.m., and noted, for the record, that Supervisors Gielda, Flaherty, Ratkowski, Smith and Naim were present, in person.

SECOND ORDER OF BUSINESS

Public Comments

In response to questions from Mr. Robert Harding, a resident and HOA Board Member, Ms. Cerbone stated that the CDD was responsible for infrastructure that bond funds paid for; the CDD did not have responsibilities typical of an HOA or POA. If something arises, involving the HOA, Management's first step is to present it to the CDD Board. There were some maintenance issues with the pavers in the community and the CDD had a contract with the HOA to perform maintenance. A certified letter was sent to the HOA but the HOA had not responded, which was why pavers were included on the agenda.

Mr. Schnars clarified that it was for the infrastructure paid through the CDD, some of which was paid for by the bond funds and some of which was paid for by the Developer.

THIRD ORDER OF BUSINESS

**Consideration of Resolution 2017-2,
Canvassing and Certifying the Results of
the Landowners' Election**

Ms. Cerbone presented Resolution 2017-2 for the Board's consideration. Mr. Ratkowski was elected to a four-year term and would occupy Seat 2.

On MOTION by Mr. Giolda and seconded by Ms. Naim, with all in favor, Resolution 2017-2, Canvassing and Certifying the Results of the Landowners' Election, was adopted.

FOURTH ORDER OF BUSINESS

**Consideration of Resolution 2017-3,
Electing Officers of the District**

Ms. Cerbone presented Resolution 2017-3 for the Board's consideration. Mr. Wrathell should serve as Secretary and Treasurer and Ms. Cerbone as an Assistant Secretary. In response to Ms. Naim's question regarding the definitions of the Chair, Vice Chair, and Assistant Secretary positions, Ms. Wald stated that each Supervisor had exactly the same duties, obligations and powers as any other Supervisor. The Chair or District Manager could preside over meetings. The Chair also had the power and authority to execute official documents, on behalf of the CDD. The Vice Chair had the authority to sign off on documents if the Chair was not present. The Chair, Vice Chair or Assistant Secretaries could not act unilaterally; the Board must act as a collective body, in a public meeting, with a quorum of at least three Board Members present, in person. Ms. Wald discussed who could execute documents and authorizing others to execute documents, etc.

Ms. Cerbone asked for nominations.

Mr. Flaherty nominated Ms. Naim as Chair.

No other nominations were made.

On MOTION by Mr. Flaherty and seconded by Mr. Ratkowski, with all in favor, the nomination of Ms. Naim as Chair, was approved.

Ms. Naim nominated Mr. Gielda as Vice Chair. No other nominations were made.

On MOTION by Ms. Naim and seconded by Mr. Ratkowski, with all in favor, the nomination of Mr. Gielda as Vice Chair, was approved.

Mr. Wrathell was nominated as Secretary and Treasurer. No other nominations were made.

On MOTION by Mr. Ratkowski and seconded by Ms. Naim, with all in favor, the nomination of Mr. Wrathell as Secretary and Treasurer, was approved.

Ms. Cerbone stated that she and the remaining Board Members would serve as Assistant Secretaries.

The slate of officers was as follows:

Chair	<u>Meredith Naim</u>
Vice Chair	<u>James Gielda</u>
Secretary	<u>Craig Wrathell</u>
Treasurer	<u>Craig Wrathell</u>
Assistant Secretary	<u>Michael Smith</u>
Assistant Secretary	<u>John Flaherty</u>
Assistant Secretary	<u>Steve Ratkowski</u>
Assistant Secretary	<u>Cindy Cerbone</u>

On MOTION by Ms. Naim and seconded by Mr. Ratkowski, with all in favor, Resolution 2017-3, Electing Officers of the District, as nominated, was adopted.

In response to Mr. Gielda’s question about whether the Chair could make motions, Ms. Wald stated that most CDDs, as a default, abided by a loosely-held version of Robert’s Rules of Order, which is a guide for conducting meetings and making decisions, as a group. Under Robert’s Rules of Order, a Chair cannot make a motion unless the Chair passes the gavel to the Vice Chair. Typically, the Vice Chair or Assistant Secretary could make motions and the Chair could second motions. The only motion that the Chair could make would be for adjournment.

FIFTH ORDER OF BUSINESS

Discussion: Meeting Schedule for Remainder of Fiscal Year 2016/2017

- **Consideration of Resolution 2017-4, Adopting the Revised Meeting Schedule for Remainder of Fiscal year 2016/2017**

Ms. Cerbone presented Resolution 2017-4 for the Board’s consideration.

Meetings would be held on January 9, February 6, March 6, April 3, May 1, June 5, July 10, August 7 and September 25, 2017 at 6:15 p.m., at this location.

On MOTION by Mr. Flaherty and seconded by Mr. Smith, with all in favor, Resolution 2017-4, Adopting the Revised Meeting Schedule for Remainder of Fiscal Year 2016/2017, was adopted.

SIXTH ORDER OF BUSINESS

Update: Pavers

As Mr. Ratkowski was a CDD Board Member and the HOA President, Ms. Cerbone asked how that influenced discussion of the paver issue between the CDD and HOA.

Ms. Wald stated that it was beneficial that the subject of the pavers was up for discussion at a District Meeting instead of an HOA Meeting because the CDD Meeting was advertised and there would be no violations of the Sunshine Law. CDD Board Members could violate the Sunshine Law if discussion of items that might come before the CDD Board were discussed at an

HOA meeting, unless that HOA meeting were properly advertised as a CDD meeting, as well. CDD Board Members that also serve on the HOA Board or participate in HOA meetings should be cautious during HOA meetings.

Mr. Ratkowski stated that the pavers were duly noted in the Deficiency Turnover Audit. A new HOA attorney was recently hired and the Developer would receive the Turnover Audit, along with the lack of financial audit shortly. The HOA would not replace the pavers; the HOA would pursue the Developer for the deficiencies. The HOA would provide an Engineer's Report.

A Board Member stated that, as a Supervisor and a Developer representative, they could file a lawsuit and be sued, at the same time, and asked, in what context, the CDD could pursue breaches of contracts, shoddy workmanship, etc., if deficiencies were created by the Developer. Ms. Wald stated that it would be based upon any type of agreement that the HOA had with the Developer or any type of responsibilities that the Developer may have had towards the HOA or any other homeowners; there was a difference between the Developer and the Builder. As to the CDD, it depended on what type of agreements and responsibilities existed between the District and the Developer. The pavers were not District property so they were not the CCD's responsibility.

Mr. Schnars stated that the roadways were District improvements on HOA property and an easement is located over the roadway tracts to the District. The roadways were District improvements and the pavers, as part of the roadways, would be a District responsibility. There was an agreement between the District and the HOA for the HOA to provide the maintenance. If the HOA did not provide maintenance, the CDD could take action against the HOA.

In response to a question, Ms. Wald stated that, who was liable to the CDD for the deficiencies that the District funded depended on whether the work was on a District roadway and if it was completed, certified and closed out. In response to a question, Ms. Wald confirmed that the Developer's responsibility was satisfied to the District at the completion and the turnover of the Bill of Sale from the Developer to the CDD. The paver issues did not exist at the time the Developer conveyed those improvements to the CDD.

Mr. Ratkowski disagreed and recalled three meetings, before a resident-controlled Board was installed, where Mr. Adam Freedman, a former Supervisor, twice assured that the pavers would be handled prior to turnover, which was never done, along with other accusations that were made publicly that never came true, along with the gates and security.

Ms. Wald stated that there was the Completion Agreement and the Bill of Sale, where the Developer or the property owner would to turn over to the District those properties that were agreed upon, the functions and the infrastructure that the District would become the owner of and responsible for. At that time, inspections occur to ensure everything was completed, correctly. If there was an inherent issue, such as a manufacturer’s defect, then sometimes, along with those agreements, some warranties pass through but it would depend on the issue. District Counsel would then have to go and back and confer with the District Engineer to obtain that information.

In response to a question regarding when the CDD accepted the turnover, Ms. Cerbone would review the District’s records and provide the information. Board Members should not discuss the findings, outside of a Board meeting, as that would be in violation of the Sunshine Law. Board Members could individually contact her and District Staff. Pavers would be included on the next agenda.

SEVENTH ORDER OF BUSINESS

Discussion: Distribution of Agenda Packages

- A. Electronic (*one week before meeting*)**
- B. Hardcopy (*at meeting, FedEx Delivery or USPS*)**

The Board preferred to receive the agenda, electronically, one week before the meeting, receive hardcopies at the meeting.

EIGHTH ORDER OF BUSINESS

Approval of Unaudited Financial Statements as of October 31, 2016

Ms. Cerbone presented the Unaudited Financial Statements as of October 31, 2016. The Board is entitled to a compensation of \$200 for attending a meeting in person or via telephone. Ms. Wald stated that, statutorily, each Supervisor could decide whether to be compensated. If the Board received compensation, funds must be budgeted and could not exceed \$4,800, per Board Member, or two meetings per month.

In response to a question from Mr. Flaherty regarding why “legal costs” were not listed on the financial statements, Ms. Cerbone stated that no invoices were received during October and invoices received, in November, would be reflected on the November financial statements.

Ms. Wald stated that billing was one month in arrears. Mr. Flaherty noted that legal fees were \$21,000, two months prior, and requested a breakdown of that bill and the hourly rate charged. Ms. Cerbone would provide the information.

Mr. Flaherty asked why the HOA had to hire the District Engineer to update the water usage information, why that was not completed prior to the new Board taking over, why it was half-completed and why the HOA was billed \$3,000. Mr. Schnars stated that the original water use permit, obtained by the Developer, only covered a certain amount of the landscaped area and the original assumption was that the irrigation system would not cover everybody's lot; however, that was not the way the system was installed. The system that was installed served everything and went to every pervious surface within the community, including the individual lots. The District Engineer facilitated the original water use permit. The water use permits were prepared very early in the permitting process, before the plan of how the system would operate.

In response to Mr. Flaherty's question, Mr. Schnars stated that his firm was District Engineer since 2010. Ms. Wald stated that the Notice of Establishment was in 2008 and both District Counsel and District Management were involved since then. The legal hourly rates had not changed since 2010 but Ms. Wald would check to make sure that those hourly rates remained unchanged.

Regarding the "Audit" line item, Ms. Cerbone stated that an external audit occurs each year and, typically, the Board had no involvement. District Management usually presented the Audit but the auditor could attend meetings or call in to present the Audit. Ms. Wald stated that external auditors were required, pursuant to Florida Statutes, and every public entity, including CDDs, must be audited, annually.

In response to Mr. Flaherty's request for clarification of the recently-released bonds related to littorals, Ms. Cerbone stated that these were performance bonds as opposed to the CDD's debt service bonds. The performance bonds were released. Mr. Schnars stated that the CDD was not involved with the performance bonds. The littoral shelf and planting and maintenance were by the original owner of the property, when it was developed, and a performance bond was put up, which was just released back to the issuer, which was a bonding company. In response to Mr. Flaherty's question of who certified the littorals, embankment, grading and when, Mr. Schnars replied that it was Waltman Group International (WGI), and the as-built was by Dennis Levy and Associates; the certification was completed before the issues

with the lake. Mr. Flaherty stated that an independent survey was recently completed and the engineering company reported deficiencies in the grading before turnover. Mr. Schnars stated that more information could be retrieved from Palm Beach County Environmental Resources Management (ERM), who had all of the data on the as-build and the certification.

In response to Mr. Flaherty’s question about the CDD’s insurance, Ms. Cerbone stated that it covered CDD infrastructure, as well as Directors and Officers coverage.

On MOTION by Mr. Flaherty and seconded by Ms. Naim, with all in favor, the Unaudited Financial Statements as of October 31, 2016, were approved.

NINTH ORDER OF BUSINESS

Approval of November 8, 2016 Regular Meeting Minutes

Ms. Cerbone presented the November 8, 2016 Regular Meeting Minutes and asked for any additions, deletions or corrections. The following change was made:

Line 25: Change “Kim Naim” to “Ken Naim”

On MOTION by Mr. Giolda and seconded by Ms. Naim, with all in favor, the November 8, 2016 Regular Meeting Minutes, as amended, were approved.

TENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

There being no report, the next item followed.

B. District Engineer

Mr. Schnars had nothing to report regarding the water use permit, related to the HOA. With regard to the CDD and the littoral shelf, Mr. Schnars was aware that a survey company was hired and asked to see the findings, upon completion.

C. District Manager

Mr. Cerbone would provide the Board with answers to the questions posed during the meeting.

ELEVENTH ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors'

In response to a question from Mr. Harding, Mr. Schnars stated that the pavers were originally a CDD improvement but the roadway tract with the pavers, was owned by the HOA. The CDD has an easement over that land for these CDD improvements. Ultimately, the pavers are a CDD responsibility but a maintenance agreement exists between the CDD and the HOA, for the HOA to maintain the CDD's improvement.

Mr. Flaherty asked for a copy of the Maintenance Agreement, as it was not presented at turnover and a copy of the District Management agreement with Wrathell, Hunt and Associates. Mr. Flaherty wanted to discontinue the call-in process for meetings. Ms. Wald stated that may not be possible because the legislature previously granted Board Members and members of the public the opportunity to attend public meetings by electronic means such as Skype, Face Time, Go-to-meeting or the telephone. Specifically on disallowing a Supervisor to call in, there were many different opinions on this issue and she would provide Mr. Flaherty with those legal opinions and State Statutes.

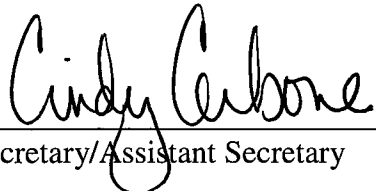
TWELFTH ORDER OF BUSINESS

Adjournment

There being nothing further to discuss, the meeting adjourned.

**On MOTION by Ms. Naim and seconded by Mr. Ratkowski,
with all in favor, the meeting adjourned at 5:24 p.m.**

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair