

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

The Board of Supervisors of the Osprey Oaks Community Development District held Multiple Public Hearings and a Regular Meeting on Thursday, September 13, 2018 at 6:15 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 (via telephone)	Vice Chair
Steve Ratkowski	Assistant Secretary
Jeffrey Fuchs	Assistant Secretary

Also present were:

Cindy Cerbone	District Manager
Ginger Wald	District Counsel
Robert Harding	Resident and HOA President
Ted Glover	Resident
Ken Naim	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Ms. Naim called the meeting to order at 6:19 p.m. Supervisors Naim, Fuchs and Ratkowski were present, in person. Supervisor Gielda was attending via telephone. Supervisor Flaherty was not present.

SECOND ORDER OF BUSINESS

Public Comments

There were no public comments at this time.

▪ **Update: Roadway Ownership and Maintenance Agreement**

This item was an addition to the agenda.

Ms. Cerbone recalled prior discussions regarding the "Repairs and maintenance" line item, on Page 1 of the proposed Fiscal Year 2019 budget, related primarily to cleaning and maintenance of the pavers, which led to the question of who owns the pavers, asphalt, roads, etc., and what, if anything, would the District do, with regard to the Maintenance Agreement with the HOA. At the meeting, the Board directed her to ask the HOA President about reserves that the HOA has for roads or roadway maintenance and present the information today, to

facilitate further discussion of this budget line item. The HOA President advised her that the HOA did not have any reserves, at this time. At the suggestion of the HOA President, District Counsel and Ms. Laura Manning, Counsel for the HOA, discussed road ownership.

Ms. Wald stated that she spoke to Ms. Manning regarding the CDD and HOA ownership documents and the Maintenance Agreement. Per the documents already in place, for the HOA, the Warranty Deed deeds over the roads and the lakes from the previous owner and Developer; therefore, the roadways are owned by the HOA. The CDD, through a Materials Purchase Agreement and Bill of Sale from the Developer, owns the materials on top of the roads, such as pavers and asphalt. This creates the question of what to do. The CDD could obtain an easement from the HOA, which would make the roads public, or, the HOA could continue maintaining the roadways, which would allow the roads to remain private. Ms. Manning believed that the HOA's intent was to continue providing maintenance, which then led to the question of whether the Maintenance Agreement between the HOA and CDD must be amended. Ms. Wald's opinion was that it made sense to add the roadways but only as to whatever responsibility that the CDD may have, as to the materials on top of the roadways; although, it is not necessary, because of the ownership by the HOA. Including it in the Maintenance Agreement should make it clear that the HOA is maintaining everything on the roadways and alleviate any questions that arise in the future.

A Board Member asked if the water drainage portions on the east side were included. Ms. Wald stated that the District has utility easements on each side of 10' so, if those are within that easement, they are included. Ms. Cerbone stated this is a common issue, which is why Management recommends that CDDs contract with HOAs for any and all CDD infrastructure maintenance so that there is a single point of contact; there are also usually cost advantages to having all community maintenance under one entity.

A question was raised regarding whether the CDD needs an easement in order to maintain the pavers and asphalt. Ms. Wald stated that, if the CDD uses public funds for maintenance or improvement of a private roadway, it could force opening the roadways to the public.

When asked what would be the best way to handle this situation, Ms. Wald stated that the best way would be for the CDD to have the HOA provide maintenance and update the Maintenance Agreement to include it. In this situation, since the HOA maintains everything else, it makes sense for it to also maintain the roads.

In response to several questions, Ms. Wald explained that if the CDD maintains the pavers and asphalt, it could require the roads to be open to the public, since the CDD would be expending public funds for the improvement of something on the road. She discussed the various positions that the HOA could take with regard to road maintenance. The goal is to keep the community in the same position as it is in now; where it does not need to change anything and that it has the most cost-effective means to provide maintenance in the community.

A Board Member asked if, rather than pointing out the deficiencies in the current documents, there was a way to structure this so that both parties would be happy and protected and they wouldn't have to open the roads to the public. He questioned if the land could be leased to the CDD or if there could be a Maintenance Agreement tied into something else; generally, is there a way to "create" paperwork that would protect the CDD against HOA litigation, in the future, which would keep the roads private but have the CDD pay the maintenance bills. Ms. Wald stated that most likely, for the CDD to continue providing that type of improvement, it would require an easement because, without an easement, the HOA could prohibit the CDD from maintaining it; however, having an easement would make the roads public because it would be a public easement for travel over those area. She discussed possible other ways to do this.

In response to the question of whether a park funded by the CDD would open the park up to public use, Ms. Wald replied affirmatively; anything built or maintained with public funds must be open to the public.

Mr. Robert Harding, a resident and the HOA President, read information received from Ms. Manning:

"The Association not only has the deeds to the roadway but also is a responsible for maintaining the roadway as set forth in the plat. Further there is no distinction between the dirt between the road and the roads, themselves, set forth in the deed on the roads or anywhere else."

Mr. Harding stated that he specifically advised Ms. Manning that the CDD and HOA are talking about roads, pavers and asphalt and Ms. Manning stated that was exactly what she was talking about. Ms. Wald stated that both parties are saying the same thing; the argument on the HOA side is, once you have ownership, you have any improvements on the property, which would be the pavers and asphalt.

Mr. Manning stated that one suggestion was to put in the Maintenance Agreement that the HOA has maintenance of the roads; therefore, maybe the discussion about who actually owns the pavers and asphalt is the difference. If it turns out that the HOA has complete and only control over the roads, then the situation is where it should be and he did not think who actually owns what, should continue being debated, if that is the result of having language in the agreement that says that the HOA covers other things. If the solution is to change the Agreement to add the language, then it should be settled.

Ms. Cerbone stated that, when budget discussions commence, a decision must be made regarding whether to keep or remove the \$5,500 "Repairs and maintenance" line item or shift the funds elsewhere.

Ms. Wald discussed why improvements paid for with public funds must be open to the public, imposing user or membership fees for amenities, etc.

Ms. Cerbone asked if the Board wanted to direct Staff to amend the existing Maintenance Agreement to add roadway and roadway improvements and send it to the HOA for consideration. The Board Members replied affirmatively.

An update on this matter will be provided at the next meeting.

▪ **Website Update**

This item, previously Item 8Ci, was presented out of order.

Ms. Cerbone stated that the IT company thought it sent her statistics for last month but did not; she just received the statistics one or two days ago and will forward the email to the Board Members and District Counsel. She distributed a copy.

Ms. Cerbone stated that the question was how many people use the CDD's website. According to the data, from January through August, 2018, there were 294 total users, with 291 new users, 353 sessions, 1.97 pages per session. Discussion ensued regarding website usage. It was noted that only 187 of the users are in the US; the others are from other countries.

Ms. Cerbone stated that the following items must be on the website:

- Ordinance Establishing the District
- Audited Financial Reports (CDD website contains a link to the Florida Auditor General's website, which contains the CDD's audits.)
- Proposed Budget for the upcoming fiscal year
- Budget for the current fiscal year
- Annual Meeting Schedule

- Agendas for two years
- Meeting Minutes for two years

The following items used to be on the CDD's website but were removed because they are not required:

- All Resolutions, since the inception of the District (approximately 225 total pages)
- Engineer's Reports (three or four Reports)

Ms. Cerbone stated that it would cost \$2.79, per page, to convert the removed documents to an ADA-compliant format so they can be reposted. These types of documents can be requested from Management. In general, all items that are not legally required and those that have exceeded the required posting time frame were removed from the CDD's website. Ms. Naim asked if anyone could request CDD documents. Ms. Cerbone replied affirmatively. The Board concurred with Management's actions regarding items removed from the website.

THIRD ORDER OF BUSINESS

**Public Hearing to Hear Comments and
Objections on the Adoption of the
District's Final Budget for Fiscal Year
2018/2019, Pursuant to Florida Law**

A. Affidavit/Proof of Publication

The affidavit of publication was provided for informational purposes.

B. Consideration of Resolution 2018-04, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2018, and Ending September 30, 2019; Authorizing Budget Amendments; and Providing an Effective Date

Ms. Cerbone stated that there were no changes since the August meeting. She reviewed the proposed Fiscal Year 2019 budget line items and explained increases and decreases compared to the Fiscal Year 2018 budget.

Ms. Naim asked what happens to budgeted funds, if they are not incurred. Ms. Cerbone stated that they would fall to the Fund Balance. Ms. Naim asked what the Fund Balance funds could be used for. Ms. Cerbone stated that some could be used for a project, to offset an assessment increase in the next fiscal year, etc.; the Board has discretion. In response to the question of whether surplus funds could be used to pay off part of the bonds, Ms. Wald replied

affirmatively but only after the bond call date. Discussion ensued regarding property owners that already paid off their bond debt, whether there was a benefit to paying down the debt service early, etc.

Ms. Cerbone opened the Public Hearing.

Mr. Ted Glover, a resident, asked for an explanation of the tables on Page 6. He asked about the Debt Service Fund assessment and asked how it compared to the HOA. Ms. Cerbone stated that the CDD cannot comment on the HOA fees, etc. From the CDD standpoint, when the Developer decided to have a CDD, an Assessment Methodology was prepared, which determined how the Debt Service assessments would be allocated, based on various factors, including lot size, etc. Mr. Glover asked why Page 1 did not have an Amortization Schedule with it. Ms. Cerbone stated that Page 1 reflected the General Fund, which is related to operation and maintenance (O&M), which is different than the Debt Service Fund, which is related to the CDD's debt.

Mr. Ken Naim, a resident, stated that over 20% of the budget is related to what he considers "extras", such as the "Management/accounting/recording¹", "Supervisors" and "Repairs and maintenance" expenses, which he considers too large a percentage for those types of items; he would prefer those items amount to 5%, of the budget, or thereabouts. He did not know what the "extras" included, as he felt the District does not need to pay all that and, while saving funds to pay off the debt benefits the community, it does not benefit those that already paid off their bond debt and, in his opinion, it causes them to pay twice.

Ms. Cerbone closed the Public Hearing.

Ms. Cerbone presented Resolution 2018-04 and read the title.

Discussion ensued regarding General Fund expenditures. Ms. Naim favored eliminating the \$5,500 "Repairs and maintenance" and Mr. Ratkowski and Mr. Giolda favored leaving it in. Mr. Giolda felt that it is necessary in case there are unforeseen circumstances, such as a hurricane, etc. Mr. Ratkowski felt that the risk versus reward to save just a few dollars does not justify eliminating the line item. Ms. Naim asked if the District had funds set aside for storm-related expenses. Ms. Cerbone stated that it is contracted to the HOA. Discussion ensued about how unexpected expenses would be handled, if reserve/contingency funds were not sufficient.

The following change was made:

Page 1, "Repairs and maintenance": Delete entire line item

On MOTION by Ms. Naim and seconded by Mr. Fuchs, with all dissenting, Resolution 2018-04, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2018, and Ending September 30, 2019, as amended to remove the \$5,500 "Repairs and maintenance" line item; Authorizing Budget Amendments; and Providing an Effective Date, was not adopted. (Motion failed 0-4)

The following changes were made:

Page 1, "Repairs and maintenance" line item: Delete entire line item

Page 1, "Contingencies/bank charges" line item, "Proposed Budget FY 2019" column:
Change "500" to "6,000"

On MOTION by Mr. Ratkowski and seconded by Mr. Fuchs, with all in favor, Resolution 2018-04, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2018, and Ending September 30, 2019, as amended to remove the \$5,500 "Repairs and maintenance" line item and increase the "Contingencies/bank charges" line item, "Proposed Budget FY 2019" column from \$500 to \$6,000; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

FOURTH ORDER OF BUSINESS

Public Hearing to Hear Comments and Objections on the Imposition of Maintenance and Operation Assessment to Fund the Budget for Fiscal Year 2018/2019, Pursuant to Florida Law

A. Affidavit/Proof of Publication

The affidavit of publication was provided for informational purposes.

B. Consideration of Resolution 2018-05, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2018/2019; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date

Ms. Cerbone stated that this Resolution allows the District to certify the assessment roll and have the assessments placed on the tax bill.

Ms. Cerbone opened the Public Hearing.

No members of the public spoke.

Ms. Carbone closed the Public Hearing.

Ms. Carbone presented Resolution 2018-05 and read the title.

On MOTION by Ms. Naim and seconded by Mr. Ratkowski, with all in favor, Resolution 2018-05, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2018/2019; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date, was adopted.

FIFTH ORDER OF BUSINESS

**Consideration of Resolution 2018-06,
Adopting the Annual Meeting Schedule for
Fiscal Year 2018/2019**

Ms. Carbone presented Resolution 2018-06. Although a meeting will be scheduled and advertised for each month, the recommended meeting months were December 2018 and February, May, June, August and September 2019.

The following changes were made:

Date: Remove October meeting

Time: Change all meeting times from "6:15" to "6:30"

On MOTION by Mr. Ratkowski and seconded by Ms. Naim, with all in favor, Resolution 2018-06, Adopting the Annual Meeting Schedule for Fiscal Year 2018/2019, as amended, was adopted.

SIXTH ORDER OF BUSINESS

**Approval of Unaudited Financial
Statements as of July 31, 2018**

Ms. Naim presented the Unaudited Financial Statements as of July 31, 2018.

A. Check Detail

This item was provided for informational purposes.

B. Invoices

This item was provided for informational purposes.

On MOTION by Mr. Ratkowski and seconded by Mr. Fuchs, with all in favor, the Unaudited Financial Statements as of July 31, 2018, were approved.

Ms. Naim presented the August 6, 2018 Regular Meeting Minutes.

On MOTION by Ms. Naim and seconded by Mr. Ratkowski, with all in favor, August 6, 2018 Regular Meeting Minutes, as presented, were approved.

EIGHTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: *Billing, Cochran, Lyles, Mauro & Ramsey, P.A.*

There being nothing additional to report, the next item followed.

B. District Engineer: *Schnars Engineering Corporation*

There being nothing additional to report, the next item followed.

C. District Manager: *Wrathell, Hunt and Associates, LLC*

i. Website Update

In response to a Board Member question, Ms. Cerbone stated that this District's part of the settlement was completed but other Districts are pending; once the other Districts execute the Settlement Agreement, the matter will be finished. Conversion of the website documents to a format compliant with the Americans with Disabilities Act (ADA) requirements for websites was already underway.

NINTH ORDER OF BUSINESS

Public Comments

There being no public comments, the next item followed.

TENTH ORDER OF BUSINESS

Supervisors' Requests

There being no Supervisors' requests, the next item followed.

ELEVENTH 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 7:58 p.m.



Secretary/Assistant Secretary



Chair/Vice Chair