

**MINUTES OF MEETING  
FLOW WAY  
COMMUNITY DEVELOPMENT DISTRICT**

The Regular Meeting of the Board of Directors of the Flow Way Community Development District was held on Thursday, January 18, 2024, at 1:00 P.M. at the Esplanade Golf and Country Club, 8910 Torre Vista Lane, Naples, FL 34119.

**Present and constituting a quorum:**

Zack Stamp	Chairperson
Ron Miller	Vice Chairperson
Bart Bhatla	Assistant Secretary
Martinn Winters	Assistant Secretary
Tom Kleck	Assistant Secretary

**Also present were:**

James P. Ward	District Manager
James Messick	District Engineer
Michael Pawelczyk	District Counsel
Ben Steets	Grau and Associates

**Audience:**

Tom Coffey	
Katherine Sharpe	HOA Board Member
Bob Quattrone	

All residents' names were not included with the minutes. If a resident did not identify themselves or the audio file did not pick up the name, the name was not recorded in these minutes.

**PORTIONS OF THIS MEETING WERE TRANSCRIBED VERBATIM. ALL VERBATIM PORTIONS WERE TRANSCRIBED IN *ITALICS*.**

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Chairperson Stamp called the meeting to order at approximately 1:04 p.m. Roll call was conducted, and all Members of the Board were present, with the exception of Tom Kleck, constituting a quorum. Supervisor Kleck arrived at approximately 1:13 p.m.

**SECOND ORDER OF BUSINESS**

**Public Comments**

**Public Comments for non-agenda items (Limited to three (3) minutes). Individuals are permitted to speak on items on the agenda during that item and will be announced by the Chairperson.**

Chairperson Stamp reviewed public comment protocols.

**THIRD ORDER OF BUSINESS**

**Consideration of Minutes**

**November 16, 2023 – Regular Meeting Minutes**

Chairperson Stamp asked if there were any additions, deletions, or corrections for the Minutes; there were none.

**On MOTION made by Ron Miller, seconded by Martinn Winters, and with all in favor, the November 16, 2023, Regular Meeting Minutes were approved.**

**FOURTH ORDER OF BUSINESS**

**Consideration of Resolution 2024-1**

**Consideration of Audited Financial Statements for Fiscal Year 2023, which covers the period of October 1, 2022, through September 30, 2023**

Mr. Ward indicated the auditor for Flow Way was Grau and Associates. He introduced Mr. Ben Steets of Grau and Associates.

Mr. Ben Steets with Grau and Associates indicated this audit was required by the State of Florida and the bond indentures. He reviewed the Audited Financial Statements indicating the first page declared the auditor’s opinion which was clean, which meant Grau and Associates believed the financial statements were fairly presented in accordance with generally accepted accounting principles (GAP). He stated next was the Management’s Discussion and Analysis which was a recap of the financial activity for the year comparing the current figures to the prior year. He stated page 4 contained the condensed statement of net position. He stated page 5 was the condensed statement of changes in net position, essentially the income statement. He indicated starting on page 7 were the Financial Statements including the statement of net position; statement of activities; balance sheet; and statement of revenues, expenditures, and changes in fund balance. He reported on page 13 began the notes to the financial statements. He indicated Page 19 showed the District’s capital assets, mostly infrastructure improvements, and page 20-22 contained information on the long term debt which totaled \$28,410,000 dollars. He indicated page 23 showed the Budget to Actuals. He noted the District’s expenditures were properly budgeted. He discussed the remainder of the Audited Financial Statements which included various reports required by the State of Florida and the Florida Auditor General. He indicated the District was in compliance, Grau issued a clean opinion, and there were no findings.

**On MOTION made by Ron Miller, seconded by Martinn Winters, and with all in favor, the Audited Financial Statements for Fiscal Year 2023 were accepted.**

**FIFTH ORDER OF BUSINESS**

**Consideration of Resolution 2024-2**

**Consideration of Resolution 2024-2, a Resolution of the Board of Supervisors of the Flow Way Community Development District amending the Fiscal Year 2024 Budget which began on October 1, 2023, and ends on September 30, 2024; providing a severability clause; providing for conflict and providing an effective date**

Mr. Ward indicated the purpose of this Amendment was to amend the District’s budget, to provide funding to begin maintenance of the external preserves. *What we are doing is moving some of the monies, now that litigation is over, out of the litigation line items which roughly total \$125,500 dollars. We are adding \$256,000 dollars into the preserve maintenance program for next year. We have also moved \$130,800 dollars out of our contingencies and what we had established as our restoration fund to help fund the \$256,000 dollars we will be spending on the internal and external preserves for this fiscal year. It does not include receipt of any monies from the Master Homeowners Association at this point, as that agreement is still in the process, which Mike will get to during his report. To the extent that is successfully negotiated, we will bring back another budget amendment to you.*

*Mr. Tom Coffey: so your moving (Indecipherable).*

*Chairperson Stamp: Mitigation and maintenance.*

*Mr. Tom Coffey: (Indecipherable) what is the \$130,800 dollars for?*

*Mr. Ward: To fund the full \$256,000 dollars, it comes from basically three parts, one is \$125,000 dollars coming from legal, \$130,000 dollars from our reserves or overall capital contingency budget.*

*Mr. Tom Coffey: how much is the amount (Indecipherable).*

*Mr. Ward: Yes, you are taking \$30,800 from the \$158,000 dollars and all of the \$100,000 dollars in contingencies going to fund the \$256,000 dollars for the preserves.*

*Mr. Tom Coffey: Basically, the \$258,000 and \$30,800 are (indecipherable).*

*Mr. Ward: Right.*

**On MOTION made by Ron Miller, seconded by Tom Kleck, and with all in favor, Resolution 2024-2 was adopted, and the Chair was authorized to sign.**

**SIXTH ORDER OF BUSINESS**

**Consideration of Resolution 2024-3**

**Consideration of Resolution 2024-3, a Resolution of the Board of Supervisors of the Flow Way Community Development District providing for the appointment of a Records Management Liaison Officer; providing the duties of the Records Management Liaison Officer; adopting a Records Retention Policy; determining the Electronic Record to be the Official Record; providing for severability; and providing for an effective date**

*Mr. Ward: A number of years ago State Law was changed to allow for records of all governmental agencies, including Community Development Districts, to provide for a record retention program and required a records retention policy. For whatever reason I did not do that back in 2013, in any event, the records retention policy pursuant to this Resolution was consistent with the law and designed to ensure that method of which records were being maintained was consistent with the law. I will tell you since I have been doing this District, I have always maintained your records this way, so we will be clear about that item, but for whatever reason I never put a records retention policy in place for this District. Mike does this in two resolutions, so it is in parts 2024-3 and 2024-4. 2024-4 basically provides for the electronic signature policy and who is the reference custodian of the District on an ongoing basis, which would be me.*

**On MOTION made by Ron Miller, seconded by Tom Kleck, and with all in favor, Resolution 2024-3 and Resolution 2024-4 were adopted respectively, and the Chair was authorized to sign.**

#### **SEVENTH ORDER OF BUSINESS**

#### **Consideration of Resolution 2024-4**

**Consideration of Resolution 2024-4, a Resolution of the Board of Supervisors of the Flow Way Community Development District establishing an Electronic Signature Policy, providing District Manager with authority and responsibility for approval of Electronic Signatures and implementation of control processes and procedures to ensure compliance, integrity, and security, in accordance with Chapter 688, Florida Statutes; and providing for severability and effective date**

Resolution 2024-4 was adopted in conjunction with Resolution 2024-3.

#### **EIGHTH ORDER OF BUSINESS**

#### **Staff Items**

- I. District General Counsel - Billing, Cochran, Lyles, Mauro & Ramsey, P.A.**
  - a. Easement Request for CDD Property**
  - b. Agreement with Master HOA for Preserve Maintenance**

*Chairperson Stamp: I cannot tell you what to say, but since we don't know how litigious this guy is, if you make any comments regarding the request for the easement, I would keep that in mind as you discuss it.*

*Mr. Michael Pawelczyk: What the Chair said holds true, and I would hold your comments for now and one of the reasons I would say that is, we discussed this briefly at the last meeting in November and I will tell you that I have not had a correspondence with either Mr. Colosi or his lawyer since then other than maybe a phone call with his lawyer. You might recall that the CDD portion easement request, that he is requesting, is really dependent on him securing easements from multiple property owners to the north of the CDD property. That being said we are waiting on this for now. I don't think there is anything for us to do. In my conversations with his counsel, and I don't know if Mr. Colosi is still represented by this lawyer, but I indicated that pursuant to our Board's discussion, that we had a number of questions: What's the property going to be used for? What's the access going to be used for? The District should receive compensation if there is an*

*easement granted because it has value. And the District's initial thought was why don't you just use the right-of-way for Collier Blvd which is undeveloped. Why don't you deal directly with the County and use the right-of-way. So, he took that back to his client, and like I said, I think he is still trying to accumulate multiple other easements. I do know that the HOA received some sort of correspondence directly from Mr. Colosi making legal arguments that Mr. Colosi had that did not appear to be from his lawyer, so I don't know what the status of this is now. Speaking with Jim and others we are waiting to see how this plays out.*

*Chairperson Stamp: Do we know what he wants to use it for?*

*Mr. Pawelczyk: No. He has not said. My understanding is he wants to secure some sort of access to that landlocked parcel so he can sell it, but that has a degree of speculation in it. I think he bought this property probably at a tax sale and did not know what he was buying and now he is trying to get rid of it, but that's a guess.*

*Mr. Tom Kleck: How many acres of land is up there, and what is it zoned?*

*Mr. Pawelczyk: I have no idea. Certainly, to develop it he is going to have to go through a lot of land use hoops. It's kind of landlocked and there is nothing but undeveloped marsh and woodland around it. I think he's just trying to flip it. We are just waiting to see what he comes back with, if anything. We have asked the question of his lawyer, how much are you going to pay us for it if the Board were going to consider it, and why don't you just use the right-of-way. Why do you even need our land or the HOA's land? Even if he had the right-of-way, he would still need easements from other landowners between the Flow Way property and his landlocked parcel.*

*Chairperson Stamp: If we were to grant him this easement, are we then obligated under Florida law to do the same for other people, or can this be a one and done deal? Because I believe there are other landlocked parcels up there.*

*Mr. Pawelczyk: I don't think we are responsible to do one thing for one party and have to do it for another. This is a unique situation, but the fact of the matter is, nobody has replied and said why don't you just use the right-of-way. He needs a very small piece of our parcel. Why don't you just use the County right-of-way? You don't need our parcel. It's not landlocked to that extent. Of course, the County may say, in order to use the right-of-way, you have to extend Collier Blvd back there. That's what's going to have to be done if any of those parcels are going to be developed back there, or to the north of us. And that right-of-way only goes so far if you look at the maps included in the backup. It goes around to the north of our community.*

*Chairperson Stamp: If we were so inclined to grant this, do we have to get South Florida Water Management District approval, do we have to get anyone else's approval?*

*Mr. Pawelczyk: Before we could grant any easement, we would need a review of the title work, which obviously they would have to do all the work, before we could grant such an easement, because that title work probably has certain restrictions on it, either with the Corps or South Florida Water Management District, and others, because I believe it's part of our preserve property. So, in that respect, we might not be able to grant an easement. It's my understanding there's kind of a path back there now, so that might give some rights to the District even to utilize that because the path is already there. We really wouldn't know without going through the title*

*work process, which if you were to grant something like that before we even started, I would say he would have to do all the legal work and pay the legal fees and any cost associated therewith, because there is no reason for us to do it. We would just review it. He should have to reimburse us for those costs. The district never told him no, we just asked for more information, and we have not heard anything since.*

*Mr. Miller: have him reimburse us then give us a lecture.*

*Mr. Pawelczyk: Exactly. It has value.*

*Mr. Martinn Winters: When I look at the tax parcel maps, I don't see how the most direct access for him would even run through the preserve property. His property is noncontiguous to the preserves. The adjoining property owners were in the direct path, so I don't see where we even have a legal standing to give him an easement. Has he provided a sketch or drawing to show what path he is contemplating that would even use our preserve property.*

*Mr. Pawelczyk: It is in the Agenda backup, but you're absolutely right. The CDD is a small portion of the easement he would need if he is not going to use the Collier Blvd right-of-way.*

*Chairperson Stamp: Okay, let's move on to the agreement with the HOA.*

*Mr. Pawelczyk: This is the cost share agreement for mitigation of maintenance where the HOA agreed in principle to fund 50% of these costs going forward so we can bring these external preserves into compliance. Jim kind of threw a cost share agreement together, I modified it, and we shared it with the HOA. The HOA's counsel came back with multiple comments which included significant oversight and decision-making ability for the HOA, which Jim and I both pushed back on. The last iteration of this cost share agreement was sent to them this morning to their counsel with the request that they get back to us by February 2, because the HOA has a meeting on January 29. HOA's counsel requested that I send him the latest version so they can discuss it at their board meeting on the 29<sup>th</sup>. I know from the manager's perspective we wanted to give them a deadline date, and if they are not going to agree to the terms we have in there, from a staff perspective, we don't want to present it to you as a Board. The oversight would include attending meetings with the District, making sure the District notified the HOA of all these meetings whether it's with the Corps or South Florida Water Management District, whoever it is, and we said we can't do that. The purpose of this agreement was a funding agreement, where they provide the funding, and we would do the work. We, meaning the CDD. Unless the Board thinks otherwise, that's the direction we have been taking and we are waiting to hear back.*

*Mr. Bart Bhatla: Is this an open ended agreement? In other words, is the principle essentially 50/50?*

*Mr. Pawelczyk: The principle is basically 50/50 based on \$256,000 dollars for Fiscal Year 2024. And then for future years, the CDD would prepare a budget and send it to the Association for approval. If the Association does not approve or reject it within 10 business days, then it would be deemed approved. It's kind of a yearly agreement, but I think the purpose is to split the funding so we can get this done faster and more efficiently without impacting either budget too much.*

*Mr. Bhatla: If we overspend with the approval of everyone, would the overages be split 50/50?*

*Mr. Pawelczyk: Any changes in the project budget would require, particularly an increase, would require the HOA's consent.*

*Mr. Ward: If it is under the \$256,000 dollars, we would split the cost.*

*Mr. Pawelczyk: If it is over \$256,000 dollars, the CDD would fund the costs and basically ask the HOA to fund half of the overage, but the HOA would not be required to fund any overage.*

*Mr. Ward: It is unlikely we could actually spend more than that in any one year to do this job. It's just going to take 3 to 5 years to get through this process.*

*Mr. Bhatla: Based on the regulatory scope, if anything came up, we would have to fund it. I thought the understanding was 50/50 and the estimate for this year was \$256,000.*

*Mr. Ward: It's 50/50, but the permit has specific criteria that need to be reached under the permit. The only thing is how much will you do, want to do, can spend in any one year.*

*Mr. Bhatla: So, if it looks like we are going to go over, we can hold back on the scope and do it in the following year?*

*Mr. Ward: Correct.*

Discussion continued regarding the mutual funding agreement with the HOA; the CDD managing the situation as it had more experience than the HOA in such work; not being upset if the HOA chose not to share the costs as the funds were basically coming from the same source.

*Mr. Tom Coffey: He stated he felt the CDD should have all of the preserve permits. He stated a committee should be formed by the HOA and the CDD to sit down and ensure its constituents were being served in the best manner possible.*

*Ms. Katherine Sharpe just a questions on the numbers, are those numbers what is expected to bring up to compliance?*

*Chairperson Stamp: It does not put us in compliance, it puts us on the path to completing this year of the plan.*

*Ms. Katherine Sharpe are those numbers projected to stay consistent to get us to compliance or will those numbers increase?*

*Chairperson Stamp: Lets assume for a moment we will spend a substantial amount of all of it. The first three or four years we will be spending that kind of dollars, and then it ought to start tapering off.*

*Ms. Katherine Sharpe: Does that preclude any projected increases for the CDD, are next year's tax assessments going to go up in order to cover this?*

*Chairperson Stamp: Well, we have not started working on next year's budget, but I do not imagine it will. It should not impact next year's assessment numbers. If the price of gas goes to \$10 dollars, or something else blows up, I cannot guarantee anything.*

*Ms. Katherine Sharpe: Is it just one are being addressed?*

*Chairperson Stamp: It's to varying degrees over the 1,100 acres.*

*Mr. Bhatla: What is the basis of the \$250,000 dollars?*

*Mr. Ward: The \$250,000 dollars is what we were originally spending per year when we stopped in 2018 or 2019. So, this budget amendment basically starts that over again.*

*Mr. Bhatla: So, basically, we are going to tailor our expenditures to meet this budget?*

*Mr. Ward: Correct. We will know this year whether that number is right.*

*Chairperson Stamp: And if we need to go up, we will go back to the HOA. Mike, anything else?*

*Mr. Pawelczyk: I know we are working on an easement with the HOA. We are trying to work in a cooperative effort to clean up some items that were, based on my unsolicited opinion, created by your developer in the way lands were conveyed to the wrong parties or for whatever reason. We are working on that global easement with them that you previously approved. We just can't get them to agree to it. In that same correspondence I sent today regarding the cost share agreement, we've asked them for a final response on this easement. The final item would be the conveyance of parcel P1 from the developer to the CDD. This is tract P1 in the Hatcher parcel, and it's in the name of Taylor Morrison, so we thought we'd have Taylor Morrison deed it over to the CDD, but it turns out the HOA has a property interest in that parcel in that the plat dedicates the land to the HOA, so we would need to get a quit claim deed or some sort of waiver from the HOA, so that parcel could be conveyed to the CDD. We've asked that of the HOA as well, and it is my understanding they are going to talk about all of these items on the 29<sup>th</sup>. So, hopefully we will have answers or at least directions from them at the end of the month.*

*Mr. Miller: The CDD Board declined to pay for infrastructure assets for the Hatcher property. We did not do that, which is different from every other piece of the development. Maybe that drove Taylor Morrison to do something they would not have otherwise done. Be careful you don't undo something that shouldn't be undone.*

*Mr. Pawelczyk: We have already reviewed the title work on that. That's really the only thing that I would say was holding it up to move forward. If the HOA wants to own it, or it's better for the community for the HOA to own the parcel, that's fine as well. I don't think it matters to us. I don't think its preserve area. I think it's just open space.*

*Chairperson Stamp: What are the ramifications if we don't have the easements. As I understand it, we can't apply for some of the permits.*

*Mr. Messick: Having the title will go a long way to what's going to be required, but certainly the permitting agents have their easements in place and preserves in place and they allow or not allow*



*different activity to be done within them. I would assume that constructing a roadway was not currently in the permit conditions.*

*Mr. Ward: The permit is in the District's name. The District is currently maintaining it, but the underlying fee title of the land is in the Taylor Morrison's name, but we are spending public funds to maintain a public facility. So, in one way, shape, or form, the deed has to get fixed and go to either to the CDD or the HOA with an easement to the CDD in order to continue to maintain it and be in compliance with the permits. There is not much choice in maintaining pursuant to the permit, it's just another mistake that was made to not turn this over to the CDD or the HOA.*

*Mr. Pawelczyk: That's all I have. If I'm not needed, I have another meeting at 2 o'clock. I can stay for this one if needed, but I really don't see anything else on the Agenda that would require my undivided attention.*

*Chairperson Stamp: You are free to go.*

*Mr. Ward: Thank you Mike.*

## **II. District Engineer – Calvin, Giordano & Associates**

### **a. Engineer's Report**

#### **1. Strategic Operational Plan**

##### **a. Current Operations**

- i. Landscape Maintenance**
- ii. Lake Maintenance**
- iii. Irrigation Pump Station**
- iv. Entrance Features**
- v. External Preserves Compliance**
- vi. Lake Treatment, New Turf**

##### **b. Capital Projects Plan**

- i. Lake Bank Restoration**
- ii. Bridge Painting**

##### **c. Future Operations Plan**

##### **d. Prior Board Inquiries**

##### **e. Pickleball Siting Review**

*Mr. Jimmy Messick: We have a lot of new sod being installed at the front along Immokalee. With the sod installation we've been killing the weeds. Installing new sod and applying weed control. Last month, December, we continued to trim the trees in the front. Obviously, weed out Bermuda to get ready to install the new sod going in behind the sidewalks and canal. Annuals were treated. With regard to the lake maintenance, we've started our sonar. We've done our third sonar treatment along the lakes noted. Sonar is a way to treat invasives within and at the bottom of the lake using sonar frequencies. It's been very effective in other neighborhoods. We are seeing the effectiveness of the treatment, which was increased, and lilies are dying off across all lakes. The canal treatments have been more effective than previous applications. We are continually doing stock treatments as the next sonar application is scheduled for February. There is still unwanted vegetation to be removed in lakes 17 through 25, 12 and 13, and we are targeting anything from torpedo grass, ragweed, pennywort, etc. Char was also treated in lakes 5b, 26 and 27, and algae was treated in lakes 4, 8 and 9. Additional dockside and shoreline*

*treatments and (indecipherable) was removed as the sonar was completed on lakes 7, 11, 12, and 5a, and the Flow Way canal. Lake 24 was treated for hydrilla, and bladderwort was seen and treated in lake 11. We are seeing a lot of invasive species, and we are treating a lot of invasive species. We are still on budget for the year. For the irrigation pump station, we have contractors diving to look at sediment that was potentially clogging filters and this is done to prevent filters from being burned out and pumps over running. We've included that in the yearly moving forward so we can proactively maintain the system.*

*Mr. Bhatla: Is there anything we can do to reengineer, so we don't have that much maintenance?*

*Mr. Messick: Sometimes there's veins you can add to help the water and sediment spots, but you don't want that because then you're including the sediment that would settle. You want the settlement to happen at the bottom and then get it once a year.*

*Mr. Bhatla: I get that that is the issue, the idea is to revisit the original design.*

*Mr. Messick: Other than digging up the well and making it deeper, that's really the best solution. But I can look at it and see. The last asset is the front main entrance. We installed flowers and Japanese blueberry trees along the bridge. We covered plant materials in the center median. In November we had additional planted materials added to replace missing dead plants there.*

*Mr. Miller: Lots of good comments on the Christmas lights and the flowers on the bridge there.*

*Mr. Messick: Good. I'm glad to hear that. The last thing was we pressure cleaned the pavement. The environmentalists have started the process of preparing the maintenance plan. He coordination with the South Florida Water Management District staff to complete the plan. The permit was modified with maintenance reporting for 4 years, from 2024 to 2027. The maintenance plan is going to be completed at the end of this month, and then we will be able to go out to bid for the contractors to start working on the maintenance of the preserves and be done by rainy season as this was the first due date for the South Florida Water Management District.*

*Mr. Kleck: Who is the landscaping contractor we use, the CDD, at the front entrance?*

*Mr. Ward: Estate.*

*Mr. Kleck: Because I'm very happy too. I'm glad for the installments there. It looks good.*

*Ms. Katherine Sharpe: The HOA just recently went to Ramirez and (indecipherable). We don't want to use Estate in the community, so Estate will still be doing the front gate.*

*Mr. Kleck: unless you are not happy with them.*

*Mr. Bob Quattrone: You have the front entranceway, which is owned by the CDD, which I don't know why you don't leave that to the HOA and let them take care of the maintenance and have the same contractors that you use for internal. My personal opinion is we should probably have*

*a maintenance crew for the HOA of 3 to 5 people who do plenty of things, and on a time and material basis charge the CDD for any maintenance they have to do to their pumps and all the other things. I think it's crazy you have all those separate deals with them. The HOA is talking about building a wall to keep people out. Our fence has been down for at least two to five months. Our fence along the Collier Blvd side of the preserves, all along there, is down.*

*Mr. Messick: Along the pedestrian path? The trail?*

*Mr. Tom Coffey: Yes. We need to get it fixed, but if we had internal maintenance people it would save us so much money. The walking path and by the guardhouse (indecipherable). I guess I'm just confused. This is another example where I think a working committee with the HOA would help because the Members have to pay for all of these different costs.*

*Chairperson Stamp: We have been talking for some time to the HOA about eventually moving – we are a government body, we can't give them the bridge, but we can certainly do a maintenance contract with them. There're ways to get where you want to go that we all agree we ought to get to, but it's just a question of working your way through – the HOA has a lot of issues. I think everybody here recognizes the problem.*

*Mr. Coffey: He discussed problems with weeds and erosion in various places throughout the community.*

*Mr. Messick: I would like to get your information and make sure we go through those details. There are certainly areas under our umbrella, and I would like to make sure they are taken care of, especially the weeds and lake bank restoration.*

*Mr. Bob Quattrone: asked a question regarding lake maintenance and if bubblers would help or not.*

*Mr. Messick: Bubblers do help with some invasives, but they also feed other invasives. There is a grey area of whether or not bubblers are helping in the long-run with controlling invasives.*

*Mr. Bob Quattrone: The reason I bring this up is, for the last year I've been working on the golf course, and they tasked me with certification issues. One of the things they brought up were the bubblers.*

*Mr. Messick: I think it would be wise if we were to sit down with the professionals and vendors and make sure they are aware.*

*Mr. Bob Quattrone: The second thing was the sediment at the pump station. I know that we have a filtration system in there and I believe that flushes every so often. What we are finding in other communities, and this may be just residual sediment in the lines, do you think it might be built up in the line?*

*Mr. Messick: The filtration system prevents sediment from the pump into the irrigation system. Now, we had to replace the filtration system when it went down, but we got to –*

*Mr. Bob Quattrone: I'm just trying to think of how I need to address that out there, because those little shells are all very small, and (indecipherable). I guess I was just looking for your insight, but we can talk after the meeting.*

*Chairperson Stamp: Yeah, that would be good.*

*Mr. Messick: We have a capital project of lake bank restoration for four different lakes. He described where the four lakes were located and the work schedule.*

*Chairperson Stamp: I've asked Jim to put a better map on the website so residents would be able to understand where lake 7 or lake 5 or whatever were located. An easy to access map for the public. I just want it to be easier for the public to find the map.*

*Mr. Martinn Winters: it was my understanding that at one time we had put on the website a writeup on the plan and progression of the plan with a map.*

*Mr. Messick: We have this year. I'm just not sure if it went onto the website or not. I gave Jim a detailed description at length.*

*Mr. Ward: It's on there. We did not give it to the HOA, but I will go ahead and do that.*

*Mr. Messick: A couple items for future. We are going to continue to do sonar treatments and treat the weeds and monitor those in the lakes. The bridge painting is on the long term because we are still waiting for the heavy rains to subside and the water levels in the canal to drop so we can get the most coverage we can along the arches.*

*Chairperson Stamp: I would wait until after Easter, until after season, because you will have a lot more traffic going over that bridge, but after Easter that will start falling off.*

*Mr. Messick: A request was made by District staff to perform a review of a proposed pickleball court. The site was estimated at 5 acres. I know that can vary depending on the developments and number of pickleball courts that they will include, but for the purposes of our review we include that 5 acre site. The preserve area E was noted as a site of interest which is adjacent to the clubhouse parking lot and clubhouse center, and preserve area E is an optimal area from a layout standpoint; however, preserves, as you know, are permanent through the permitting agencies, so following review of the proposed areas, I have determined that the permits would need to go through Collier County for a site plan, various utilities permits for associated electrical, US Army Corps and South Florida Water Management District, etc. Additionally, in addition to the permitting, you are going to realize that the mitigation cost, it was estimated just for environmental impacts, approximately, based on my research with Big Cypress Bend, the cost is approximately \$185,000 dollars per acre, and the 5 acres comes to \$925,000 dollars total, but would be determined by the developer and engineering team. That's only the mitigation cost. Not the modeling, design, and all the other costs which would go into the project. In addition to the mitigation for the environmental effects, you also have the mitigation for drainage, and the ERP through South Florida and Army Corps includes the mitigation of preserve areas and for stormwater staging. When you're looking at flood levels for 100 year storm event, the finished levels for residential areas are based on water modeling.*

Mr. Messick continued to discuss the difficulties which would be faced bringing the proposed 5 acres up to approved standards to even begin building a pickleball court. He noted a lot of land fill would need to be added to bring the land up to a developable level. He estimated two golf holes would need to be made into lakes to get enough fill to bring the 5 acres up to a developable level.

Discussion ensued regarding where preserve area E was located; preserve area E was contiguous to the parking lot, not contiguous to the existing pickleball courts.

Mr. Martinn Winters stated he wondered if it would be possible to release the permit from a portion of the preserve area to allocate the area to the HOA so, if the HOA chose to, it could add a couple more pickleball courts and some parking. He noted he asked Mr. Ward to look at this and see what would be involved in getting the permit released. He stated the costs came in higher than he thought, and it was certainly more complicated than he thought it would be, especially with the detention pond next to the pickleball courts and the drainage issues. He noted it was discovered to release the preserve land, additional preserve land would need to be purchased or existing land would need to be developed into preserve land to replace it.

*Mr. Miller: To put in two pickleball courts plus 50 parking spots that doesn't take five acres. Maybe two acres made more sense. Can we take two acres?*

*Mr. Kleck: From my understanding, two additional pickleball courts would not be sufficient for the pickleball crowd. They are looking for much more than that.*

*Mr. Bhatla: it's not our problem, the pickleball courts. We need to get an estimate on costs to secure an area.*

*Chairperson Stamp: We are just giving them an option. You can pick this, or you can pick something else, but if you pick this, this is what it's going to cost.*

*Mr. Miller: Bart, you are correct, this is an HOA matter, not a CDD matter, but in the spirit of the community, could the CDD be helpful?*

Discussion ensued regarding how many additional pickleball courts were needed; the addition of new pickleball courts being under the purview of the HOA.

Mr. Messick discussed how developing preserve area land essentially doubled the costs of development.

Discussion continued regarding developing preserve land versus developing non-preserve land and swapping areas; the CDD being as helpful as it can to the HOA.

*Chairperson Stamp: Okay, so we will put this back on the Agenda next month as an item and if we get to it next month and nobody wants to talk about it, we will just roll on through.*

### **III. District Manager – JPWard & Associates, LLC**

- a. Discussion of Refinancing for the Series 2013 Bonds**
- b. Florida law changes to Form 1 filings**

- c. **Financial Statements for the period ending November 30, 2023 (unaudited)**
- d. **Financial Statements for the period ending December 31, 2023 (unaudited)**

*Mr. Ward: As we have discussed previously, the Series 2013 Bonds are subject to refinance in December of this year. They are currently roughly \$6.2 million dollars in par debt outstanding and have an average interest rate of roughly 6.4%. With the current rate environment we are in, being able to refinance those bonds, we would drop our interest rate to a little less than half of what it is. In order to do this process, I wanted to go through with you how we have to do this. I've provided you an outline of what kind of financing this would be. It's basically what we call a negotiated sales transaction where the District retains an underwriter to prepare the general terms with which we will do the financing. There are a number of professionals which are needed in respect to handling this. Not only including myself and district counsel, but we would need to retain an underwriter, and underwriter's counsel. We have a trustee which is currently US Bank, which I would not recommend any changes to. The current underwriter who did the original financing of this deal was FMS Bonds. It is a rather large municipal underwriter of CDD bonds here in the State of Florida. I think they are the largest dealer in CDD bonds. Our bond counsel that was originally used was Bryant, Miller and Olive. Underwriter's counsel is another attorney we use which is retained by the underwriter and the trustee retains their own counsel for purposes of this financing. I think in terms of how we proceed with this, if you have some desire to change either bond counsel or underwriter's counsel we will need to go through the process and request proposals. I will tell you frankly, there are two underwriters that will provide you with proposals, they will be FMS Bonds and Sealy and Company is another very large underwriter here for CDDs. They both compete. Their fees are exactly the same for what they charge CDDs to do this kind of work. Bond counsel is a little more competitive pricing. We use Bryant, Miller and Olive. I personally use a different bond counsel for my CDDs, because the lady who does those for many of the CDDs that I work on has a more in depth experience than most of the others. Those are the general parameters with which we do this. It's not urgent at this point other than if we want to go through some process to retain some other consultants to do this job. We need to be in a position by June with the professional team in order to get to a process where we can complete this financing on time when we hit the 10 year mark which should be right at the beginning of December. I will go through the law issues. There are two operative provisions under the law in which we do bond financings, one is Chapter 170 which is basically what we call the special assessment statute, and Chapter 190 which is your enabling legislation. Read together, all of the financings that we do for special assessment bonds are 30 year financings under the statute which include any refinancing we do, so that means, no matter when you do a refinancing, you could not extend the term of the refinancing bond beyond the original termination date of 30 years for the original bond issues. Those two operative provisions of the Statute are 170.09 which indicates that capital outlay projects can be made payable in equal installments over a period not to exceed 30 years, notwithstanding any special act to the contrary, which this is not a special act. In 190.022 there is an operative provision that says notwithstanding the provisions of 170.09, District assessments may be made payable in no more than 30 years. There are other provisions in both of those statutes that indicate their refunding bonds are a defined term under the statute, just like bonds are a defined term under the current statute, but they are all read together, and in all instances, your professional team defines that term as a 30 year bond. This District, as with most districts, validates bonds in the state. That means we take the issue before the courts, and we say, will you authorize under the statute the District's ability to issue bonds pursuant to the provisions of the statute. That was done in 2013 when these bonds were issued. I do want to roll back into*

*the retention of the individuals that we need for the purpose of this because that will tell me what we need to do in terms of timing.*

*Mr. Miller: initially I think It's time, we need to do something. I have no experience with this banking, but we need to start the ball rolling with this.*

*Mr. Winters: I have three areas of question. One is the savings. If we were to do this at today's interest rates, what would the rates be roughly?*

*Mr. Ward: We are at 6 now and they will be under 3.*

*Mr. Miller: The savings will be so substantial it's almost a no brainer. I don't know the investment banker fees or the legal fees, but there are two bond issues, one was at 6.5 and one was at 6.*

*Mr. Winters: Is the lower rate because it's a tax-free municipal bond?*

*Mr. Ward: Yes. These are tax free municipal bonds. When you issue bonds initially, even though they are still tax exempt, there is no market, it's undeveloped dirt. It's all raw land, so they go out at something substantively higher than tax free rates. That's why you are in the 6 to 6.5 percent range in these bonds. The community is built out. You have had substantial real estate values here, so now, while you won't get a AAA rating on these bonds, they will still go out at a tax-free rate, so the overall interest rate is going to be under the 3% range. As for the specific bonds, whether the term is for 5, 10 or 15 years, we are still going to be in an overall position of under 3 percent.*

*Mr. Winters: (Indecipherable).*

*Mr. Ward: They are generally placed in a negotiated sale with large institutional investors because with this kind of a bond issue, individuals with high net worth can purchase them in the marketplace, but they are not marketed to Merrill Lynch who markets them to their people. That does not happen in this market.*

*Mr. Winters: How much will we pay in expert fees?*

*Mr. Ward: The cost for either underwriter is 2% of the par debt issued. The refinanced amount issued and what we call cost of issuance, which are all of the professionals who work on the job, cost between \$225,000 and \$250,000 dollars. That money comes from existing funds which are sitting within the existing bond accounts. What we have to do is make sure we don't raise the par debt over the \$6.2 million dollar number we have now. If we go over that amount, it triggers notice to the entire community. If we stay under that number, which in this instance we would, the par debt would go down as a result of the refinancing, even with the costs thrown in.*

*Mr. Winters: So, we have money in reserves to cover the costs? To get this bond underwriter and cover the costs?*

*Mr. Ward: If you are at \$6.2 million dollars, overall costs are going to be in the \$350,000 dollar range on this deal. You have a reserve account of \$539,000, so your par debt will come down to*

*slightly under \$6.1 million dollars. So, of the \$539,000 dollars, that's where we pay the 2% to the underwriter and we pay the rest of the fees to the professional team.*

*Mr. Winters: How long does it take to get to the finish line, such that we need to engage the professionals to hit a certain target date? Will we have some estimates in hand for what their fees are going to be? At the point in the time when we say go, how many days after that before we are refinanced? Is there some expectation that rates will come down?*

*Mr. Ward: I think if we had the team picked by June, getting a time schedule out that had a fee structure in it, we could do that by your July Board Meeting, and that would give us more than sufficient time to finish the financing. It won't take that long. I'm being very conservative on timing.*

*Mr. Miller: I think the reason the original bonds were issued at 6.5% was because at that point in time there was only dirt and no residents, so it was high risk bonds, but the bonds now are no longer high risk with all the residents. We are only talking about Phase 1 bonds. There are 5, maybe 6 phases, and with respect to each bond series, it is my belief, they can be called. So we are only talking about the phase 1 bonds, and as the additional phase bonds (indecipherable).*

*Mr. Ward: There is no penalty as long as you call after the call date. There is no call premium.*

Mr. Miller discussed the costs of bond debt assessments and how the assessments differed for different residents in the community due to differing phases of development and differing property/home sizes. He asked if it would be possible to refinance the bonds for a new 30 year period as opposed to the 20 year period as this would reduce the payment significantly. He asked if this was something the Board would be willing to consider.

*Chairperson Stamp: I think the Board would be willing to consider, but I think we need bond counsel to tell us who's right and who's wrong.*

Mr. Miller continued to discuss the benefits of a new 30 year refinance period. He discussed the statutes, read through a few of the statutes, and explained what he understood the statutes to mean.

Mr. Bhatla asked if the CDD had the flexibility to decide how long it wished to finance or did the CDD need to have an expert to advise the CDD regarding the statutes.

Mr. Miller noted this was what he was discussing. He continued to review the statutes and how he interpreted the statutes to mean it would be possible to refinance the remaining bond debt for 30 years.

Chairperson Stamp noted the CDD would still need bond counsel and an underwriter to confirm this. He indicated there was no sense in the CDD debating the matter today.

Mr. Miller stated his point was the CDD should not just assume it could not refinance for a 30 year period.



*Chairperson Stamp: I think the conclusion we need to come to today is that we do want to do the refinance and as we hire the people, we can develop what the conditions of the refinance are. They will tell us what our parameters are, and then we can move forward.*

*Mr. Bhatla: Are we obligated to select the bond refinancing team competitively?*

*Mr. Ward: No. The fees are generally the same across the board.*

*Mr. Bhatla: Okay, so if we have a preferred team, we should go with it, if we don't have the obligation of going competitive.*

*Mr. Ward: Correct. The problem is, I don't know any bond counsel, neither does Mike, or any underwriter, that's going to give us the opinion that we can extend this to 30 years.*

*Mr. Tom Coffey: 1:47:55: (Indecipherable).*

*Ms. Katherine Sharpe: The bond rate is the same for 20 or 30, is there a (indecipherable)?*

*Mr. Ward: Usually, they are 10 year tranches. This bond issue has two tranches, one that's at 6 and the rest of it's at 640 or 650 or whatever the number might be, so it just depends, but the blended rate for this deal is roughly 640.*

*Ms. Katherine Sharpe: My point is if we extend the bond to 30 years, even with the low interest rate, you are extending the cost.*

*Mr. Ward: Correct. There would be additional cost.*

*Chairperson Stamp: I think there is a general agreement we pursue the refinancing.*

*Mr. Ward: I agree.*

*Mr. Winters: We should pursue putting the team together with their proposed costs.*

*Chairperson Stamp: Right.*

*Mr. Winters: we should pursue getting the team together and getting their proposed costs.*

*Mr. Miller: Jim, I think the important thing is to see if there are any court cases on this.*

*Mr. Ward: There is no case law on the 30 year number versus a 20 year number, but there is not anybody that will give you the opinion that you can go to 30 years on a refinancing. That's the problem. I agree that it's good there is no case law, but there is not anybody that I know that will give you the opinion you want.*

*Chairperson Stamp: Okay, what's next?*

*Mr. Ward: I just wanted to go through the Form 1 with you. January 1<sup>st</sup> the law came into effect on the new Form 1 filings that you will do this year. I will send you the memo, but essentially when*

*you file your Form 1 this year, you will not send it to the Supervisor of elections, and it's not a manual form. You will have to go on to the Commission on Ethics website, you will have to create an account, you log into your account, and you file your file your Form 1 electronically. You will do that for the 2023 Form and then obviously you will do that going forward. When you do your 2023 form you do not have to click the little checkbox that says you have done your ethics training. It's not required for 2023, but you do have to get your ethics training this year for your 2024 form next year. So, on the State's website, they will give you how to do it. It's 4 hours of ethics training. It's segregated into four separate parts. The one big change they have made this year is that it used to be discretionary on what the Supervisor of Elections could do in terms of fining elected public officials if they didn't file the Form 1. That is no longer discretionary, so if you're 1 day late, or however many days late, the fines accrue automatically until they hit \$1,000 dollars, or \$1,500 dollars, before they stop fining you. I'm just reminding you, be careful, don't be late. If you have a problem, please call so we can help you through the process. The deadline date will be in the memo. It's in your backup, but we are going to give you the memo in Word, so you can click on the links in the memo. So, you will have all of that. I just want to remind you of that. The Form 1 and the Ethics Training are all on the same website, so you will be able to get all of that in there. It's pretty clearly laid out in the memo that my team did for you. It will be very helpful to you. We will send it to you in a separate word document so you can click on it. I will remind you again in May, and then you just have to remember you have to get this done basically before July 1.*

**NINTH ORDER OF BUSINESS****Supervisor's Requests**

*Chairperson Stamp: When will we see the 2025 budget, the first draft of that?*

*Mr. Ward: I anticipate that Jimmy and I will be ready with that by your April Board Meeting.*

*Chairperson Stamp: As I understand it, we have paid off the loan?*

*Mr. Ward: Yes, we paid off the Truist loan yesterday. So, it is out of our hands. We were at 87% collections as of 12/31, which is extraordinary, so we were able to make the payment this month, and that is now behind us. It is paid in full.*

*Mr. Bhatla: So, what is the cash balance at the moment?*

*Mr. Ward: \$1.4 million dollars.*

Discussion ensued regarding the Truist loan, why the loan was needed, when the loan was taken, and how the loan was now paid in full.

*Chairperson Stamp: We put out the five year plan on capital. We are in year 2. When are we going to see the year 6?*

*Mr. Ward: In your fiscal year 2025 budget, we will roll the capital budget forward a year into 2027 and then we reforecast 2025, 2026, 2027 and 2028. So, you will see 2029 budget this year, the capital, and we reforecast the other years, so it's a rolling 5-year strategic capital plan.*

*Mr. Bhatla: When are we going to get the estimate on bringing the preserves into compliance?*

*Mr. Ward: I think the \$256,000 number is a good number for now. As soon as our environmental consultant submits the plan to South Florida and they approve it, we have bid specs ready to go, we will drop in the technical specifications and with any luck at all we will be able to award a bid or issue a purchase order by the end of February or the end of March.*

*Mr. Winters: Is the 5 year capital budget on our website, and easy to find?*

*Mr. Ward: It's in the Fiscal Year 2024 adopted budget. But yes, the strategic plan that has the capital in it is also on the front page of the CDDs website.*

*Ms. Katherine Sharpe: (Indecipherable)?*

*Chairperson Stamp: It is resolved from our point. We've settled that.*

## **TENTH ORDER OF BUSINESS**

## **Public Comments**

**Public Comments: Public comment period is for items NOT listed on the Agenda, comments are limited to three (3) minutes per person, assignment of speaking time is not permitted, however the Presiding Officer may extend or reduce the time for the public comment period consistent with Section 286.0114, Florida Statutes**

Mr. Tom Coffey thanked the CDD for its hard work. He asked for a five year overall operating plan for residents to be able to review. Once we get through the things with Taylor Morrison and other issues that are being worked on. He said it might be good for the residents to see what was happening in the community in terms of operations.

*Chairperson Stamp: What comes with that, let's assume Katherine, and I, and Dave Boguslawski are on the Committee for the Betterment of Esplanade, once we appoint that committee, that becomes subject to the Sunshine Law, so in order for us to talk we would have to publish a notice in the newspaper a week in advance, publish an agenda, record the meeting, record the minutes and have them approved. Now, I thought I had a great idea, but it carries a lot of legal baggage that you don't really want.*

Discussion ensued regarding the difficulties with forming a formal Committee versus just talking with residents casually; the possibility of a joint CDD/HOA meeting.

*Chairperson Stamp: We could do that. They would have to come under our – it's possible to do it legally as long as we jumped through the hoops. The HOA is always invited to come to our meetings, but if two of us showed up to an HOA Meeting and got up and started talking about issues we would be violating the Sunshine Laws.*

*Mr. Winters: Does it make sense to do a joint 5 year plan?*

*Chairperson Stamp: We've got our five year plan. They can just add theirs to ours. That's all we'd have to do. Ours is out there.*

*Mr. Winters: (Indecipherable)?*

*Chairperson Stamp: As I said earlier, we're moving, and probably will move again, but the HOA has a lot of stuff on their plate toward coming up with some kind of sharing agreement on the maintenance. Before we took over, the CDD had a contract with the HOA when it was Taylor Morrison, to take care of everything, but Taylor Morrison just didn't do anything. So, we could go back to having an agreement and let the HOA take care of the bridge and lots of other things, we've just got to sit down and get it done. This is all stuff we've talked about, it's just getting it done.*

*Mr. Bhatla: What is the status of that because I think we've talked about that we are going to the HOA and signing an agreement, so we are not involved in all those common areas.*

*Chairperson Stamp: I think the answer is it has just dropped to the back of the queue.*

*Mr. Ward: I think both the CDD, and the HOA have had a lot on their plates in the last couple of years. If you remember the HOA asked us "Can you take over operations?" at the last minute and we did it, which is what caused the cash balances to go upside down. It's up to the HOA. The CDD is running along extraordinarily well I think right now in terms of how we are operating and maintaining these assets. We've done a lot of work. I don't want anybody to think that there is no interaction between us and the HOA. We talk to the HOA from this level every single day on some item we are working on. That interaction is really good at this level. I'm just saying if you want to go to a higher level on things to do, that's a different issue, but we are doing all of that. At some point, I think in another year or so, the HOA may be ready to do an agreement with us and we can do it then. We've got three on the table right now we are trying to get done, so I think we need to take it slow, do what we can, and then move into the next phase in Fiscal Year 2025 or beyond.*

*Mr. Bhatla: It seems to me that if the HOA is going to pay for everything, they need to take the initiative, they need to come up with the agreements. We should be glad to cooperate with them. Essentially the ball is in their court.*

*Mr. Ward: I think the overall concept is that it's one community, it doesn't matter whether they do it or we do it. I've taken the position operationally that we have to work together in order for the betterment of the community from our level, so we have been doing that for 2 plus years now, and we will continue to do that. I think the assets of the CDD, in terms of its operational program, has increased substantively than what it was when Taylor Morrison was doing it, and for the betterment of the community. And these assets are, in my opinion, better maintained by the CDD to a great extent. When we talk about lake restoration, the environmental preserves, pipework, the bridge; landscaping less so, but what we've done is come a long way. If we want to do an agreement, it's fine to do that, but it's not urgent. The HOA has a lot on its plate with what it's doing. We do too. So, it's operating pretty efficiently right now.*

*Mr. Bhatla: I was essentially restating that the HOA really needs to take the initiative in this. It is not us. We are operating efficiently at the moment.*

*Mr. Ward: There is great cooperation with all of the HOAs team, and my relationship with the HOA Manager, etc.*

*Mr. Bhatla: I wasn't commenting on that. I think the HOA needs to take that initiative.*

*Mr. Ward: I got it.*

**ELEVENTH ORDER OF BUSINESS**

**Announcement of Next Meeting**

**Announcement of Next Meeting – Regular Meeting February 15, 2024**

Chairperson Stamp announced the next meeting date.

**TWELVTH ORDER OF BUSINESS**

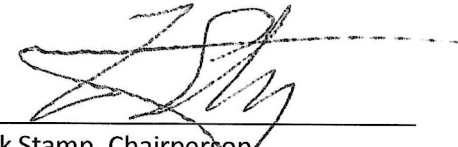
**Adjournment**

The meeting was adjourned at approximately 3:15 p.m.

**On MOTION made by Ron Miller, seconded by Tom Kleck, and with all in favor, the Meeting was adjourned.**

Flow Way Community Development District

  
\_\_\_\_\_  
James P. Ward, Secretary

  
\_\_\_\_\_  
Zack Stamp, Chairperson