

**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, October 21, 2021, 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
Tom Kleck	Assistant Secretary
Bart Bhatla	Assistant Secretary

Absent:

Martinn Winters	Assistant Secretary
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Also present were:

James P. Ward	District Manager
James Messick	District Engineer
Jessica Tolin	District Counsel
Mike Conner (ph)	

Audience:

Ed Staley
Dave Boguslawski

All resident's 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

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 Zack Stamp called the meeting to order at approximately 1:00 p.m. Roll call was conducted, and all Members of the Board were present, with the exception of Martinn Winters, constituting a quorum.

SECOND ORDER OF BUSINESS

Consideration of Minutes

September 16, 2021, Regular Meeting Minutes

Chairperson Stamp asked if there were any additions or corrections to the Minutes; hearing none, he called for a motion.

On MOTION made by Mr. Tom Kleck, seconded by Mr. Bart Bhatla, and with all in favor, the September 16, 2021, Regular Meeting Minutes were approved.

THIRD ORDER OF BUSINESS

Consideration of Amendment

Consideration of the amendment to the Professional Services Auditing Agreement between the District and Grau and Associates, dated September 5, 2019

Mr. Jim Ward: We have an agreement with Grau and Associated who handles the audit for this District. We did an agreement for five years with the company beginning with the 2019 Audit. They have requested a fee increase for the remaining term of their contract for 2021, 2022 and 2023. The price is increased basically \$1,000 dollars per year, from \$4,500 dollars to \$5,500 dollars, etc., on down the line. I am seeing these consistently in some of my CDDs this year, obviously due to the workforce problems that many firms are having, including auditing and professional firms. The firm is very good. I would recommend that we accept the amendment to the agreement and authorize the increase in their fee structure.

Mr. Ron Miller: Do not take this as me being opposed, but did I hear you say they are under contract?

Mr. Ward: Yes, sir.

Mr. Miller: If we don't approve the new rate, what happens?

Mr. Ward: They won't want to do the audits.

Mr. Miller: Yeah, but if they are under contract, don't they have to do the audits?

Mr. Ward: Yeah, I don't remember this agreement very well. I'm sure there is a termination provision by either party. I'm looking for it.

Mr. Miller: \$1,000 dollars isn't a lot of money, but I guess it does rub me a bit wrong that when you have a contract, and somebody just wants to negate it.

Mr. Ward: Under normal circumstances Ron I would say I agree with you, let's just terminate and move on, but as I said, not only auditing contracts, but other contracts, I've just seen vendor price changes due to basically workforce problems this year. As I said, their firm is a very good firm and does good work. Even if we re-bid it, I'm sure their fee would go up to the numbers they said. Trying to hold them to their fee is difficult, and we do have a termination provision by the District for any reason on 10 days' notice. They don't get the same provision in the contract, but other than that, that's the only termination provision we have.

On MOTION made by Mr. Tom Kleck, seconded by Mr. Bart Bhatla, and with all in favor, the amendment to the Professionals Services Auditing Agreement was approved.

FOURTH ORDER OF BUSINESS**Staff Items****I. District Attorney – Woods, Weidenmiller, Michetti, & Rudnick**

- a. Updates on Notice 558**
- b. Update on Litigation experts and upcoming depositions**
- c. Arbitration Hearing - January 18, 2022, at 9:30 a.m.**
- d. Proposed meeting to discuss lakes with County representative**

Ms. Jessica Tolin: So, with respect to the 558 Notice, their deadline to respond, meaning Taylor Morrison's, is November 1, 2021. We still have not received any formal response to the 558 Notice. All that really means is that we kind of checked that box as a prerequisite if we wanted to move forward with claims related to the lake construction, and so we will plan to amend the complaint accordingly, assuming that there is no response received by then. If there is, then we will circulate it and go from there.

Ms. Tolin: With the next item, litigation experts and upcoming depositions, just so you are all aware, they have requested the deposition of the corporate representative of the CDD. Zack is going to be the corporate representative. That deposition is going to be November 15. They have also requested the CDDs Engineer's deposition which, that's James Messick. His deposition will be the next day, November 16. Then they've also requested to take Jim's deposition which will be the first week of December. We also have Tim Hall's continued second day of his deposition that will be November 3. That is going forward as well. With respect to experts, as you all know Tom Conrico (ph) is currently an expert working for the CDD. We are also looking into an environmental engineering expert as well and still waiting to obtain some information on that.

Ms. Tolin: The next item, arbitration hearing, that's just so everyone is aware that's up and coming. That will be January. The last item I'll direct over to (indecipherable).

Mr. Stamp: But before you do that, what kind of update can you give us on the HOA and them joining the lawsuit or on timing?

Ms. Tolin: They are still, as far as I know, trying to get a date for their hearing on their motion that's currently pending which would have them assert cross claims against Taylor Morrison and once that's set, we will let you know. They are also looking into some of the 558 issues. We haven't seen their 558 letter go out yet, but I understand it's underway.

Mr. Kleck: Would you explain the 558 issues?

Ms. Tolin: 558 is the Chapter of the Florida Statute that pertains to construction defects. We had sent one out with respect to the lakes and the construction that was done with respect to particularly Lake 11 based on some of the surveys. So, they have that, as well as the report Calvin Giordano did related to the fence and other items.

Mr. Stamp: You sent the letter and they have so many days to either correct the defect, or deny the defect?

Ms. Tolin: Correct. Once they get the notice, they have 30 days to conduct an inspection if they would like to do that. They have 45 days from the notice to provide a response. If no response is received, we can then proceed with bringing claims related to the construction defects in the litigation. It's really a prerequisite that has to happen before you move forward with that.

Mr. Kleck: And how many days have we been on the clock?

Ms. Tolin: Their deadline will be November 1. After that we can move forward.

Chairperson Stamp: Bart, you want to talk about the meeting with the County?

Mr. Bart Bhatla: We had requested copies of the (indecipherable). We essentially requested the probation which was (indecipherable)through the handover. Their position was that Taylor Morrison complied with all the (indecipherable) that they had pointed out by the end of the year. They did not give us any documents. They said the documents were on site. They (indecipherable), so I asked Tom if he could go on the site and review the documents. We are aware that (Indecipherable) or could be prepared for Taylor Morrison by Waldrop. They did not give us any indication of there being (indecipherable).

Discussion ensued regarding the meeting with the County, much of the conversation was (indecipherable).

Mr. Bhatla: They also (indecipherable) related to (indecipherable), and they found that Taylor Morrison complied, so they basically released the bond. So, actually we left there (indecipherable) the document, then compare the deficiencies whether they were addressed by the county or not. Number two we talked about the blockage of the pipes because that would be operationally cheap, and County said that they did not pay any attention to it, but they said that if there (indecipherable) it would be a violation of the code, and the procedure is that we would have to approach the County and plead essentially that there are blockages and they would do an investigation and then issue a report. And of course, the report would go to the owner of the facility who was affected by this. It means that we have to go back to Taylor Morrison; however, the important issue here is, if we want a document to present to Taylor Morrison, that they are in violation of the code, then I think we will have to go to the County. There is a procedure that basically (indecipherable). That was essentially the conclusion.

Mr. Kleck: Is the County's report of the deficiencies that they found when they inspected? Are there documents that we are asking for?

Mr. Bhatla: As I understand, and this is previous information through the HOA that I was involved in, the County inspector had inspected and pointed out the deficiencies to the builder. The County did not have a document. They indicated to me that that was being prepared by their (indecipherable). So, we need that report, and it is kind of up in the air if there is a report or not. The County doesn't find it. (Indecipherable) the impression I had was it was going to be

(indecipherable). But the County just said (indecipherable) etc. etc.. I think we have to look for the documents.

Chairperson Stamp: These items, most of them, will have been repaired, particularly the pikes and the blockage. What recourse does the County have if they all of a sudden say gee, you're right, they didn't. They can't take back the bond if they released them.

Mr. Bhatla: The County's position is that they examine, and they send to us about any code violation, and they did not – it just got away from them – they did not look into it any further. We said to them if we present you with evidence what would be the outcome. They said we would have to go through the process and if it's a code violation; however (indecipherable), if it was so it would be a code violation. And then the owner, in this case is us, we would have to rectify it, but if we want that evidence to be presented then (indecipherable).

Chairperson Stamp: We would just have to add it to our list of what we are suing them over for damages. The County was not going to do anything.

Mr. Bhatla: No, the County is not going to do anything. In fact (indecipherable).

Chairperson Stamp: Okay, so you're going to gather the documents and then we will talk about this again.

Mr. Bhatla: Yes, I've asked Tom to pull the documents together, what the County has approved, what (indecipherable).

Mr. Ron Miller: Without asking for any of the details, has anyone made contact with the Corps of Engineers yet? Are they in the picture?

Ms. Tolin: We had sent at least two, and possibly even three, letters trying to followup with the Corps at various times and just have not received any response from them one way or the other. I'm not sure about if anyone else has followed up separately, outside of our office as of this time, but we have not gotten a response.

Chairperson Stamp: It's the whole desire that once the HOA joins the lawsuit, we can use that as an impetus to go back to them and say, okay, things have changes from the last time we contacted you and put it in front of them again. In a little bit we are going to be talking about some budgetary items that might get their attention too. We will revisit that.

II. District Engineer - Calvin, Giordano & Associates

a. Preserve Tree Removal Process

b. Stormwater System Repairs

(i) Broad Crested Weir

(ii) Sediment and Debris Removal

(iii) Update to correspond to report

Mr. James Messick: (audio dropped for 30 seconds). --pages 1 and 2 in the strategic operational plan, for item number 1, the preserve tree removal, I have Michael Conner from our office who

did the initial inspection and prepared a draft report which I have attached in the appendix of my report. He asked Mr. Conner to review the draft report.

Mr. Michael Conner: In preparation for this meeting, I have prepared a draft report which is included in your agenda packet. At the beginning of last month, I visited the site and started to examine and analyze the dead or hazardous types of trees that are around the perimeter of the preserve areas that could pose a hazard if they were to fall during a storm event or for natural reasons. What you see is identified. I inspected approximately 128 trees, and there is a map we are developing which kind of shows where those trees are located. The report describes that as well. I prioritized the risk factor if you will for each of the locations, with one start being lowest risk, primarily pedestrian nature trail where it is just the occasional person going by. A 2-star rating would be something more along the back of a house, back of a screened enclosure, close to the pickle ball courts, the public sidewalk, sidewalks within the communities, that sort of thing. A 3 star would be the highest risk and those were trees located along the golfcart path and the public sidewalk out along Immokalee. There are a few trees out there which could fall over that sidewalk as well. If you look at grouping the 2- and 3-star, highest risk trees, it comes out to approximately 30 trees, and the remaining 98 trees which were primarily around the nature trail and pedestrian trail around the project. The map kind of indicates the highest concentration of those 1-star trees are in the northeast/north section of the pedestrian trail which goes around the development and then it's more sporadic as you go around to the northwest and the west side. The next steps would be to determine what action the Board wants to take. If you want to designate, or recommend some funds to be expended, roughly about \$32,000 for all of them at once, or you could phase it and the logical first phase would be to do the 2 and 3 star rated risk level, or it could be somewhere in between. Once that's determined, we will finalize the report, we will make that a better-quality map, we will that to the South Florida Water Management District Staff for them to review and approve, and we will get prices from three local contractors that can go in and cut the trees down. Most of them would stay in place if they fell and were staged in the preserve areas. When they cut them, if they fall outside the preserve area into a maintained landscape area, of course, we would cut up the trunks and pull them out of there. We have an estimated price per tree based on previous work we have done in similar situations in developments, so that could obviously depend on the actual bid. It could be more, it could be less, but we think this is a pretty conservative number of the per tree price that we can work with.

Chairperson Stamp asked if there were any questions; there were none.

Mr. Messick: We should move forward with the highest rated trees?

Chairperson Stamp: We are going to talk about the Budget in a little bit. We may ask you to divide and prioritize the trees further. Some of those trees may be standing for –

Mr. Messick: I wanted to make sure we have some direction.

Chairperson Stamp: That's the direction we will want to take; take care of the immediate dangers, but some of those we may leave standing.

Mr. Messick: The second item two major improvements for our stormwater management system. As I mentioned in the last Board Meeting, we have taken the report that had

recommendations for improvements and immediate actions we identified as phase 1 were the broad crested weir and phase 2 sediment debris removal. We are currently constructing the broad crested weir. I visited the site this morning. Unfortunately, we got there (indcipherable) but they should really finish this week. Tomorrow (indcipherable). I have noted a percentage of completion. They are following the schedule that (indcipherable). Phase 2 is at the very tail end. They've identified the drainage structures that they've cleaned, including the outfalls and pipes. They still have four structures left to clean and they told me by the 29th, next Friday they will have a report and invoice for (indcipherable).

Chairperson Stamp: We are leaving the ones that are 25% or less alone for right now.

Mr. Messick: Correct. The last item is the operational plan. We kind of explained the process for the District and that's to provide a safe and useful (indcipherable) and it is a continuous process over time. Although I think the structure will deteriorate, (indcipherable). An example is just the phase 1 weir project. Planning a long-term strategy for infrastructure operations and maintenance cost is the first step. We prepared a (indcipherable) which will start this process for the Flow Way CDD. The work will include preparations of CDD maps, the viewing documentation share point file, (indcipherable), CDD asset inventory (indcipherable) and preparation of a CDD budget report. This shall be completed by what Engineering and Construction (indcipherable). Much of Mr. Messick's statement was (indcipherable).

Chairperson Stamp: We are going to come back to that topic shortly. It is a little bit more detailed. If anybody has any questions or comments now, we will take them. There were no questions or comments.

III. District Manager – JPWard & Associates, LLC

- a. Discussion of Future Operating Plans (Consideration of CGA Proposal)**
- b. Financial Statements for period ending September 30, 2021 (unaudited)**
- c. Financial Statements for period ending August 31, 2021 (unaudited)**

Mr. Ward: What I would like to do with the Board, to help you better understand and help the residents better understand where we are, our fiscal years are from October 1 through September 30 of the next year. We just started what we call fiscal year 2022. That will run through September 30 of next year. The year that we just ended, we had a net loss in our operations of roughly \$20,000 dollars. That was a contemplated net loss that we anticipated primarily due to the litigation we are in. We used a significant portion of our cash to anticipate the expenses coming as a result of litigation, and specifically to ensure that we did not raise our assessments in 2021. Going into 2022, the year we are currently in, we anticipate that we will reduce our cash reserve that now stands at \$345,000 dollars approximately. That will get reduced down to \$190,000 dollars going into September of next year. That is due to understanding what our litigation costs will or are anticipated to be for the current year. That entails some amount of money, roughly \$200,000 dollars that we have in our current year budget for operations. The existing operations of the CDD were anticipated to be the items that the homeowner's association is currently maintaining, our stormwater management system, the reuse system within the community and the entranceway buffer landscaping. At this point in time, already where we are in 2022, we have committed approximately \$95,000 dollars of that \$200,000 dollars for unplanned work that we did not know about when we prepared the original 2022 budget. That is the cleaning

of the stormwater pipes that Mr. Messick just mentioned to you, and the repair to the weir structure for this community. We also know that the homeowner's association has some desire for the District to take on the operations of its stormwater system and the other two assets we will be in discussion with them about. So, going into 2022, knowing that we have already spent \$95,000 dollars, knowing that we are going to have some amount of expenditures for operations, 2023 is going to be a very difficult year. One of the things I want to point out, the operating budget that we have in place for our operations was done 2 years plus ago, and it was information provided to me by the homeowner's association at the time, which was obviously Taylor Morrison. I think what we are all learning, both the existing homeowner's association and the CDD, is that information, that financial information, needs a lot of help at this moment in time. It just is not right. So, a significant part of what we need to do going into this coming year, is to take a look at all of our District's assets, the proposal that Jimmy just mentioned. We need to know what we own, how many lakes we have, where all of these pipes are, all of this landscaping; we need to create a real-life budget for all of these assets. That's what this proposal is going to do, and we need to value these assets, so we understand what our program is going to be going into 2023. The hard part, and this is where the rubber hits the road, although our budget starts October of next year, we have to back up to probably February or March to start the preparation of this budget. By law, I am required to submit a budget to you by June 15th of next year. In order to do that I need to prepare a budget at least 3 months in advance of that date. You are required to approve it no later than essentially August 31, under the law. In reality, those dates are too late in the game because we must certify our tax rolls by that date and it takes a month to get that done, plus it takes a couple of months to get through this process. The plan, what I'm suggesting to you is that we plan now by authorizing Calvin Giordano to do the work that is needing to be done for 2023 in terms of these assets. So, we will have a better understanding of our budget by March or April of next year. That will tell us how much the assessments are going to go up in 2023. Realize that they will have to go up in 2023 because we are using existing cash in order to fund the existing operation. Our cash balance will drop to a point that we will have no more available cash to use going into 2023 which then automatically drops your budget at least \$150,000 dollars for the 2023 fiscal year. That's basically where we are going into 2023 and the timelines in order to do all of this project, and the problems that I think we are seeing now in terms of preparing our budget, understanding what we have in terms of the operating requirements for the assets we own, and be able to come up with a plan necessary to understand that. It is going to be difficult going into 2023 and 2024 knowing what we are doing because it clearly is changing on a regular basis, but this will be a good start for us going into 2023.

Mr. Bhatla: Who is in charge of the spreadsheet? Itemizing all these items.

Mr. Ward: That would be my office and the professional team, but primarily me.

Mr. Bhatla: (Indecipherable).

Mr. Ward: No, because in order to do what I need to do, I need the engineer's information in order to prepare the budget, and to do his work is 2 to 3 months, probably 2 months' worth of work in order to get me a document in sufficient form, so I can do your budget for 2023. So, we are basically November 1, end of January I will get something, a month for me to get it out the door and start your process in March at the latest.

Mr. Bhatla: (Indecipherable).

Mr. Ward: Him. Only him.

Chairperson Stamp: Talk to Jim because he's got the past years' budgets and comparisons and can give you a historical look at what we've done.

Mr. Miller: I think I get the big picture Jim has presented to us, and I think we should give him our full support and do what he asks. But a couple of details, we are going to have to do the statutory requirement of informing the residents about an increase in the levy rate, so that needs to be thrown into the hopper. Having said that, I would like to kick around the thought of, even though we wouldn't need to use it all, increasing the sufficient amount that we wouldn't be going back year after year with the same requirement, and every time you do it should probably alarm at least a handful of residents who are going to be asking a lot of questions. Is there a way we can maybe do enough of this at one time so we wouldn't have to repeat the process for a few years? Is that possible?

Mr. Ward: Yes, sir, that is exactly the plan.

Mr. Miller: Paying for the maintenance of the preserves – should that be in the budget, should we pay for it? Should we advise Taylor Morrison and the Corps of Engineers that we are not paying for it? Should we put it in the budget and raise the cash just in case but not spend the money? I guess I would add to those comments to kick around, when we are talking about the preserve budget, there is in the Corps documents a requirement for mitigation up to a certain point, the 4% or whatever, and once you've reached that level, in order to obtain that approval and sign off by the Corps in South Florida, they have to be maintained 3 consecutive years. The last time we talked about this, I think there was at least part of this that had to be started over because it failed in one of those years and we were starting that process anew. When we get to thinking about whether we are going to pay for the preserves and then go after Taylor Morrison for some more money, or just say no we are not going to do it and let the chips fall where they may. We certainly can go after Taylor Morrison. We might not be successful, but we can go after them if the 3-year test fails and has to start over. If we allow or cause the 3-year period to happen, are we shooting ourselves in the foot in that regard, or if we fail the 3-year test? If we don't maintain the preserves in the year 2022, and somebody comes in and says we don't like it, you failed, so you start over in 2023 and so you go out and spend some money and start over again. Is it really a money issue in that respect? Or is it simply 3 more years that we don't care about? I just want to get these thoughts on the table because we are talking maybe a quarter of a million dollars on the preserves every year, and Martinn is not on the phone, but we kind of think alike, and we don't want to pay for it. That's where my big picture thought is.

Chairperson Stamp: Let me summarize this a little bit, some things we've got to think about, and this is going to require a lot more discussion Ron. The lawsuit is very unlikely to be approved in time to be incorporated into the 2023 budget. We are just not going to know. So, we have zero dollars coming in on that. That's going to be nothing but a mouthful of cash, so that's one. Two, the maintenance of the preserves, as you mentioned Ron, we have to seriously step back and look at two ways: one, do we want to fund them at all, or do we want to say we are going to put \$100,000 in? We are not going to put \$250,000 dollars in, and what does that do to the Corps, or what does that do to Taylor Morrison if anything? I think that's just a discussion we are going to have to have. We have asked counsel before to weigh in on it. I won't ask them to do it today, but

probably at the next meeting, what they think the ramifications of not funding the preserves, or funding the preserves at a lower level, but that's something that is going to have to be seriously put on the agenda. The canceling of the HOA contract, which we are going to do in a little bit here, as Jim indicated, it's not known out there because nobody trusts Taylor Morrison's numbers. We don't know what we don't know about what's going to break next or what we didn't anticipate. That's going to be an unknown cost which hopefully will clear up over time. The next item is fencing of the preserves. The permits say we have to fence it, but does fencing mean fence laying on the ground, do we need a couple gates up, what's that mean? That's \$180,000 dollars. It may get deferred for a long time, forever. Banks, lakes and littoral, pipes, that's another issue which goes back to Jim's plan and the overall what we still don't know is out there. I just wanted to communicate that the next budget is going to be a mess and is going to require some pretty hard decisions by this Board, and we are going to have to make them fairly soon.

Mr. Miller: Zack, I think you and I are saying the same thing in different ways.

Chairperson Stamp: In my mind we have basically three things, one, we have to protect the residents from falling trees and flooding lakes and those kinds of things, we have to protect infrastructure and we've got to do it in a way that's affordable. Not cheap, but affordable. Those would be the three things I'm going to be looking at as we move forward. Again, Ron, I think we've kind of been on opposite sides in the past about funding the preserves or not funding it, in nuanced ways, but I think (indecipherable). What are you going to do about it? But at some point, we are going to have to cross that bridge. We may say we are going to fund it fully and raise the rate. That's not out of the realm of possibility. It's certainly an option. Jim and I have been talking about this for a couple of months.

Mr. Kleck: When do we have to have these discussions? We need to have them sooner than later.

Chairperson Stamp: Jim has to present a budget to us by June 15 and I think it would be handy for him to know a couple of months in advance what we are planning on doing. But he has got to wait on the Engineering Report to –

Mr. Ward: My plan was to actually start your budget process in May of next year, but in order for me to get to that date, I need Jimmy's work which is 60 days and 30 days, so (indecipherable) but May is the drop-dead date. I have to start this process. Once you approve this budget, we have a public hearing to get to in 60 days after that, but the key to that public hearing is we have to mail notice to all residents this year on what the assessment rate is going to be for next year. That's 60 days' worth of work to get that out the door and to residents, set up a location that will house a big enough space to hold the residents and hold a public hearing to do that. It might seem like a long time, but it's a tight schedule from right now.

Chairperson Stamp: We might be having these conversations in February or March to help you get ready to do it in May.

Mr. Ward: Right.

Mr. Bhatla: (Indecipherable).

Mr. Ward: The items of uncertainty which we have which are the subject of the CGA Report, there is no way for me to actually figure out what the number really is. Everything I have in the existing budget, other than the operations, that's easy. I can do that tomorrow, but in order to get the real number, which is the big part of your budget, which is the assets, we have to go through this process to get him to prepare this report. Then I can prepare the rest of it in relatively quick order for you.

Chairperson Stamp: We know what the administrative costs are going to be, we know what the Board costs are going to be, or within a few dollars, so it's the unknowns out there –

Mr. Kleck: Do you not have a history of the maintenance schedules since Taylor Morrison took over this neighborhood?

Mr. Ward: No. I have no clue. The HOA was never required under the existing agreement and to this day, the HOA is not required to supply us with financial information on what they are spending on our component parts. I would seriously doubt they even keep that level of a number. The bigger issue is, I'm not confident in those numbers. I don't think anybody is confident in those numbers. I hear from the HOA they are not confident in those numbers. I can clearly tell you I'm not confident in numbers that were prepared 2 years ago, not by me, but by the prior HOA people. I would be much happier if we had a correct report to deal with a long term look at what we need for our operations. Not going back to this well every single year. We need this level of information.

Chairperson Stamp: Keep in mind, even if we had perfect number, if we had totals, Taylor Morrison didn't ever do any maintenance. We know what they've spent on fencing for the past 6 years is probably zero. We know what they've spent on cleaning the pipes is probably zero.

Mr. Ward: A good point is these \$95,000 dollars we just spent cleaning out drainage structures. That's a yearly ongoing program which should be done in a community of this size. It's just normal maintenance. It just wasn't done. So, even if I had them, I wouldn't trust them.

Mr. Bhatla: (Indecipherable). I'd like to be involved in that to see what's going on.

Mr. Messick: We will have inspectors and construction department members come out, walk the assets, document the assets, provide an assessment of the assets, and then that will give us a base for quantity (indecipherable).

Mr. Bhatla: (Indecipherable).

Mr. Messick: We are starting from ground zero.

Chairperson Stamp: In a minute, we will authorize him to do that.

Mr. Messick: Each month I will include in my report on what I'm doing, an update.

Mr. Ward: The only thing I need from you is a motion to approve the agreement with Calvin Giordano & Associates as Mr. Messick had identified for you.

On MOTION made by Mr. Tom Kleck, seconded by Mr. Bart Bhatla, and with all in favor, the Agreement with Calvin Giordano & Associates was approved.

FIFTH ORDER OF BUSINESS**Old Business****I. Agreement with Master Homeowner's Association and District**

Chairperson Stamp: Dave Boguslawski and I have had discussions. I think it is our agreement that the CDD will terminate that contract given the required 30 days' notice and that should give about 75 days' notice. We will terminate it effective December 31, and so there is some certainty we can start moving on our side, the CDD's side, to assume the functions. I would say, because we are a government entity subject to Florida ethics and bidding laws and requirements, we can't simply go ahead and assume their contracts. We may be able to do that, but there are going to be some hoops we have to jump through since we are a public body, so this 75 plus number, between now and December 31, that gives Jim the time to do that, to give the HOA some certainty. I would take a motion to terminate that contract.

Mr. Kleck: The list of things that we are going to take over for the HOA, do we already have this?

Mr. Ward: I have a general idea. I know the assets we need to take over. Clearly, we know that. The question will be what's the scope of services, how much is this going to cost, things like that. We are going to use the existing vendor contracts as a base with which to start with, and we will either use those existing contracts or enter into new contracts once we figure out what the real scope is over the next 60 days.

Mr. Kleck: Will the CDD be reimbursed by the HOA for these?

Mr. Ward: No, there is no intent for the CDD to be reimbursed.

Mr. Kleck: Does the HOA have a fund?

Mr. Ward: I think the HOA is –

Mr. Miller: You mean there is no intention of the CDD to reimburse the HOA?

Mr. Boguslawski: We had agreed a year ago that you were going to budget for it, we were not. For it being the cancellation of the services. So, we have nothing in our budget. I will also connect it with what Jim said earlier, which is we all have a clean slate of paper that we've got to figure out what's on it. Whether it's still right or not, because we inherited it from Taylor Morrison. Whatever they did in fact. And the records of transfer weren't clean. Boxes of paper documents, we went and picked them up, 15 or 20 boxes, and we've been having trouble, and now that Troon are managing the place they've done a good job of organizing and recategorizing them. I think the approach is in the suggesting let's start with what the property is and let's start with what the requirements are that we must do, and let's work with the appropriate people to help us with that, and then figure out if we have options and let's identify what the options are and proceed. I tell you the consideration that we had was at one point Jim was saying maybe we should just take all the services and, you

know, we take some, you take some. Tearing anything apart is hard and it's often better to say let's cancel the agreement, let's start anew, there's a bunch of (indecipherable). Those are the ones we've got to zoom in on. There are also going to be some parts that are not regulatory requirements, but they are putting plants in the right places so it's pretty. Okay? I think we will work towards another agreement at some point. The appropriate time to figure out what we've got to maintain collectively, get it going, and then before your next budget process and our next budget process, let's work towards a new agreement that's logical and complete. But right now, I am 100% with what Jim said earlier. We have sort of inherited a pretty messy, unclear, set of history, that we have got to sort out and get right first.

Mr. Kleck: With that being said David, we all (indecipherable), we knew we were going to pay fees and that number we assumed it was set up to pay for all of the overhead of the corporation and I was wondering if any of that money that you as the HOA take in, in the form of fees, should any of that be included in what we are talking about here?

Mr. Boguslawski: None. I told you, we budgeted nothing this year.

Chairperson Stamp: (Indecipherable).

Mr. Boguslawski: To be clear, there probably was some historic spending that Taylor Morrison did, or authorized to do, on the property that was related to this maintenance agreement that they put in place, but the agreement we had between us going back a ways was you would take it over. For good reason, more legal reasons than anything else, we didn't cancel it, you didn't cancel it, we are now beyond that. But we have nothing in our budget right now. Are we spending some money on some of the services? Yes, but I couldn't recite what exactly they are. We are spending money, but it is unbudgeted money, so we are probably going to take that into consideration.

Mr. Miller: Zack, did I hear you say that you and David Boguslawski have discussed this offline? And the two of you think it is best to terminate the contract on December 31?

Chairperson Stamp: Yes. The reason is that it gives us, the CDD, time to assume those contracts or replace those contracts. If it was just a simple handoff, one day they work for the HOA and the next day they work for the CDD, we wouldn't need to.

Mr. Boguslawski: And the other reason, Ron, is we are interested in knowing, is we are in the middle of a budget process right now and we will be presenting that November 3. We will have budget workshops for all the members, and we need to know whether to put anything in the budget for this or not. If you guys cancel, we won't, but if you don't cancel, we have to.

Mr. Miller: I've never been opposed to canceling the agreement and for the CDD to assume responsibility for paying for the maintenance of these things. It's never been a money issue to me because we are all one happy family. It's going to come out of the same people's pockets. I have heretofore been very hesitant on canceling the agreement because of potential legal reasons where the HOA might be in a better position than the CDD to pursue Taylor Morrison for any deficiencies because Taylor Morrison should have been doing that under the agreement. If those things are no longer a concern, the agreement itself is not terribly important to me as to the cancellation date and the CDD taking over its responsibilities. I think I have heard discussions in the past about at least one piece of what the CDD is responsible for. I think it's the landscaping exterior to the gate. I thought I

heard some people say it might be better left with the HOA forever, and that gets back to the big picture of the same people are going to pay for it. Those are my big picture thoughts. I don't have any hesitancy on the agreement per se.

Chairperson Stamp: We have discussed the legal issues, with counsel for the CDD and the HOA, David and I. I think the feeling at this point is whatever damage was done to the HOA has been done to the HOA, and so they have a cause of action, and now they are simply mitigating that. That was a concern early on, something that was unknown. It may be still as an unknown, but we think we are getting to where we know what we are doing. We didn't ignore that as a consideration.

Mr. Kleck: A question for our District Attorney, do courts that are ruling against builders favor homeowners or CDDs?

Ms. Tolin: There is really no favoring one side or the other. I would say it depends on the facts of the case. I know that's a very lawyer answer, but it just depends on the facts of the case and the claims being presented.

Mr. Bhatla: (Indecipherable).

Mr. Boguslawski: We have a budget we have to prepare for next year, and I'm looking to (indecipherable). If we don't cancel it, we will plug a bunch of money in the HOA budget (indecipherable). You guys are already going to have it in your budget too. It's always helpful to do more research. What we have done is, Jim has asked me for a name. I responded this morning. We are going to try to get a couple of people together from both sides and figure it out. I think the right thing to do long term is, anything with a regulatory overlay requirement belongs with the CDD. I think it's safer for all of us, and there are some optional things that you all don't have to do, that we could do, but it is going to take us a while to sort through that.

Mr. Bhatla: So, at least (indecipherable).

Mr. Stamp: I think we have an idea.

Mr. Ward: Bart, I am fully in agreement with the homeowner's association's idea to terminate this agreement now. This will help the District in identifying some of the items out there that we can actually go just get them done and do them. We know it's a water management system. There are lakes, littoral shelves, pipework. From my perspective, and I know Jimmy's perspective, this is easy for us. We can go out there, we can identify what we need to do, we have scopes that we know we are going to use for all of this. So, now it's just a matter of us getting the vendors to do all of this work and getting them on board to do it. The landscaping out front, same thing. That's not rocket science. We know where it is. We know how to get it done. The limits may be 2 feet this way, 2 feet that way, who cares? It's something we know how to do. And same for the reuse system in the community. You have to give us 60 days to get this done and we will know the scopes and some preliminary pricing that we will be able to move forward with, with a long-term plan of doing a better evaluation. We will have that on a more long-term basis, but this actually helps the District to get this process started now versus trying to put some plans in place and scopes in place that I think are just going to change over time anyway.

Mr. Bhatla: What is being stopped if we don't cancel it today?

Chairperson Stamp: The HOA is going to continue to have responsibility for these maintenance agreements. They are not ours; they are theirs.

Mr. Ward: I've been a proponent of this for more than a year now, but this District, we know as a matter of fact that these assets are not being maintained correctly, simply because of what happened with the stormwater pipe system and the weir structure itself. To continue to let that problem move on over the next 3 months, 6 months, whatever, is probably not the right thing to do. The HOA has enough on its plate dealing with all of the bigger issues that this District ought to be responsible for the operation of its assets. We own the system, and just because we have an agreement with them that was entered into by predecessor HOA, that should not be material. I think we need to take this responsibility on, more now than later. Yeah, we have some unknowns, but they are not huge unknowns. We will work through them over the next few months, next year, whatever it needs to be, but we should move this process forward at this point.

Mr. Bhatla: (Indecipherable).

Chairperson Stamp: (Indecipherable). As Jim indicated, when Taylor Morrison controlled both entities, the CDD and the HOA, it really didn't matter to them how they did it. So, the bookkeeping or whatever, they shifted everything to the HOA. They had the HOA managing, but when Taylor Morrison had control, they were responsible for doing all of that, and I think we paid them in theory \$10 per year to do that. Now, it's come to the time where it is not all Taylor Morrison controlled and we are going to separate them now to what their functions should have been all along by canceling that maintenance contract for the landscaping, water management, the reuse system, and taking that into control. We've discussed it several times during the (indecipherable), but you would not have benefited from that. We could sit down and put together a document, but it would be another 30 days, unless we called a special meeting, which takes 15 days' notice. It's not as simple as putting together a 2-page memorandum. I wish it was, but it's not. That's where we are at. We may want to, at the end of the day say, okay, the HOA takes this back, like the front gate. But let's cancel this, and then we can come back with another agreement, or at least that's my feeling.

Mr. Ward: I agree with you.

Chairperson Stamp: And you can sit down with us after the meeting to talk –

Mr. Ward: Let me be clear, you can sit down with us (staff), you can't sit down with them (Board Members).

Mr. Boguslawski: (Indecipherable).

Mr. Ward: I think we are all in the same boat that you are. It's a learning curve.

Chairperson Stamp called for a motion. A motion was discussed; no motion was made. (Indecipherable).

Mr. Ward: We are going to do our best to get that done. I am going to push for it very hard.

Mr. Kleck: (Indecipherable).

Mr. Ward: I am confident we can get it by January 1st. I was not sure we could do it sooner. I would like to get it done sooner than that, but we are going to have two major holidays soon. We have clearly, Jimmy's firm, and I, know vendors who can do all of this work. We just need to get with the HOA, understand where all of this stuff is located, and transition it. We will be able to do it. The drainage system, landscaping, an entranceway and a reuse system. I'm not going to tell you we are making mountains here. This is a really small hill. We can fix this problem quickly.

Mr. Miller: My reticence for the last year, which maybe put me in a minority, I was concerned about us, as a community, having the strongest position against Taylor Morrison. I think I heard Zack say, maybe in context with Dave Boguslawski saying that the lawyers have now looked at this and the lawyers don't think that cancellation in the end of December would weaken our position. If I have got that correct –

Ms. Tolin: That is correct.

Mr. Miller: Then I'm okay with the Board today giving Jim the go ahead to do the cancellation sending a letter to the HOA canceling effective December 31.

Mr. Ward: Is that your motion?

Mr. Miller: Yes.

Mr. Bhatla asked if the Board could have an update in a month.

Mr. Ward: Of course.

Chairperson Stamp: Of course, we have a meeting in a month. Feel free to pick up the phone and call Mr. Ward and ask him questions. Just don't call us because of the Sunshine law.

<p>On MOTION made by Mr. Ron Miller, seconded by Mr. Tom Kleck, and with all in favor, authorizing Mr. Ward to send a letter to the HOA canceling the Agreement effective December 31.</p>

II. Future Funding of Preserve Mitigation and Maintenance

Chairperson Stamp: I don't think this needs to be discussed. If anyone wants to revisit this, we can.

SIXTH ORDER OF BUSINESS

Audience Comments

Audience 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. Boguslawski: anything we can do to help you with communicating about that work to residents before it starts, just let us know.

SEVENTH ORDER OF BUSINESS

Announcement of Next Meeting

Quorum Call for November 18, 2021

Chairperson Stamp: The next meeting will be November 18, back in this room. Do you have anything else Jim?

Mr. Ward: For quorum purposes –

It was determined at least four Board Members would be present in person at the next meeting.

EIGHTH ORDER OF BUSINESS

Adjournment

Chairperson Stamp adjourned the meeting at approximately 2:40 p.m.

On MOTION made by Mr. Tom Kleck, seconded by Mr. Bart Bhatla, and with all in favor, the Meeting was adjourned.

ATTEST:



James P. Ward, Secretary



Zack Stamp, Chairperson