

MINUTES OF MEETING
GARDENS AT HAMMOCK BEACH
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Gardens at Hammock Beach Community Development District was held on Tuesday, June 25, 2019 at 9:00 a.m. at City Centre at Palm Coast Town Center, 145 City Place, Suite 300, Palm Coast, Florida.

Present and constituting a quorum were:

Clint Smith	Chairman
David Lusby	Vice Chairman
William Livingston	Assistant Secretary

Also present was:

George Flint	District Manager
Ken Belshe	Palm Coast Intercoastal, LLC

FIRST ORDER OF BUSINESS

Roll Call

Mr. Flint called the meeting to order at 9:00 a.m. A quorum was present.

SECOND ORDER OF BUSINESS

Public Comment Period

Mr. Flint: Are there any public comments?

Mr. Belshe: I think you guys are doing an awesome job.

THIRD ORDER OF BUSINESS

Approval of Minutes of the April 16, 2019 Meeting

Mr. Flint: Does the Board have any additions, deletions, or corrections to the minutes?

On MOTION by Mr. Livingston seconded by Mr. Lusby with all in favor approval of the minutes of the April 16, 2019 meeting were approved, as presented.
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FOURTH ORDER OF BUSINESS

Public Hearing

A. Consideration of Resolution 2019-04 Adopting the Fiscal Year 2020 Budget and Relating to the Annual Appropriations

Mr. Flint: Fiscal Year 2020 starts on October 1, 2019. You previously approved a Proposed Budget and set today as the date, place and time of the public hearing for its final consideration. The budget is attached to the resolution as Exhibit A and is identical to the Fiscal Year 2019 budget. It contemplates a Developer Funding Agreement as the funding source so we won't be imposing any assessments to fund the annual budget. If expenses are incurred, then the developer would be obligated to pay for those through a funding request. If they are not incurred, then the developer is not obligated. Are there any questions on the resolution or the budget?

Mr. Lusby: No.

On MOTION by Mr. Lusby seconded by Mr. Livingston with all in favor Resolution 2019-04 adopting the Fiscal Year 2020 budget and the annual appropriations, was approved.

Mr. Flint: This was a public hearing. No members of the public were present to provide comment. At this time, we will close the public hearing.

FIFTH ORDER OF BUSINESS

Consideration of Fiscal Year 2020 Funding Agreement

Mr. Flint: This is identical to the Funding Agreement that was presented in the past. The budget is an exhibit to this agreement. If there are any questions, we can discuss those. If not, I would ask for a motion.

Mr. Livingston: What are the legal advertising costs?

Mr. Flint: The meetings have to be advertised.

Mr. Livingston: I know, but everything was under budget. Advertising costs were extremely high. I was just curious about whether the advertisers are charging more or if it's a timing issue.

Mr. Flint: I would have to go back and look.

Mr. Livingston: I was just wondering why it increased.

Mr. Flint: It looks like our actual is almost twice as much as our budget. It may have been that we initially advertised an annual meeting schedule and then changed the meeting dates and had to re-advertise.

Mr. Livingston: So it's legal advertising. That's what I was getting at.

Mr. Flint: I don't know if the cost increased.

Mr. Livingston: From your experience, it's not doubled or tripled?

Mr. Flint: No, but it does vary from newspaper to newspaper. The problem is there are not a lot of options.

Mr. Livingston: It must be a general publication.

Mr. Flint: Right. It has to be published in a newspaper of general circulation and I don't know if we have a lot of options here.

Mr. Livingston: I don't think so.

Mr. Flint: Are there any questions on the Funding Agreement? If not, we need a motion to accept it.

On MOTION by Mr. Livingston seconded by Mr. Smith with all in favor the Funding Agreement between the District and Palm Coast Intracostal LLC. for Fiscal Year 2020, was approved.

SIXTH ORDER OF BUSINESS

Consideration of Proposal with VGlobalTech Regarding ADA Website Compliance

Mr. Flint: If you are on any other Boards, you are probably aware of this issue, but within the last 12 to 18 months, there was a plaintiff and an attorney that filed lawsuits against 18 CDDs primarily in the South Florida area, claiming that their websites were not ADA compliant. It's not just for Special Districts, but cities, counties and even private entities.

Mr. Lusby: I think Volusia County got sued.

Mr. Flint: Yes. A number of cities and counties were also sued. There's a famous case with Winn Dixie as well. So, it not only applies to Government entities, but private entities as well. The primary insurer for CDDs in Florida is called the Florida Insurance Alliance. They insure over 300 to 400 of the 600 CDDs, including the 18 in the initial lawsuit. They ended up negotiating a settlement on those. I think each District paid \$2,500 to settle it.

Mr. Lusby: 18 of 400 CDDs?

Mr. Flint: Yes. As part of that settlement, there was a requirement that all 18 Districts be compliant within 24 months or something like that, but that does not preclude anyone else from filing a lawsuit. They are not protected under the settlement. Since then, there have been other lawsuits. Now some attorneys and plaintiffs are just sending demand letters with Settlement Agreements attached. They are not even filing motions. So, it's not just the Florida Insurance Alliance or these 18 that were not compliant. I would venture to say that not one of the 600 were ADA compliant as well as many cities, counties, school boards, etc. It was not something that was on anyone's radar.

Mr. Livingston: What do you have to do to be compliant?

Mr. Flint: The website has to be re-written in a certain format and language that can interface with people with disabilities.

Mr. Livingston: Like a blind person.

Mr. Flint: Yes. If you had an audio, it would have to be compliant for people that were deaf. So, we have the statutes that say you must have a website and they actually specify what you need to have on there, which is a pretty long list. Then you have the ADA saying, "You have to take these other steps to make it compliant." The State's requirement is driving up the cost of the ADA compliance. We manage 150 or so Districts, so we met with three or four companies that provide these services. VGlobalTech was by far the most cost effective and we entered into a volume agreement with them. They have a tiered structure based on the complexity of the website. In this case, the website is very basic. It's what we call a compliance website where can find any of the documents that you are statutorily required to have, but not a flashy marketing piece. So that's the least expensive tier as far as VGlobalTech, but it's still \$2,375. The downside of not doing it is we are susceptible to a lawsuit and having our insurance cancelled.

Mr. Livingston: You were going to ask Ken if he would spring for the \$2,300.

Mr. Flint: Maybe you can approve it subject to me getting with the developer and discussing whether they want to fund it or not. There are probably some other factors that will go into that decision.

Mr. Livingston: There was annual maintenance of around \$1,500.

Mr. Flint: I suggest you approve the initial set up. Right now, you are not even carrying insurance so that could be an issue if you are sued.

Mr. Livingston: What happens then? We don't have any assets.

Mr. Flint: I think the developer would be responsible for the legal fees to defend the District or we would end up dissolving the District.

Mr. Livingston: We could bankrupt the District. Is the issue with the website?

Mr. Flint: Yes. The issue is ADA compliance with the District's website. The statutes require the District to have a website. There have been recent lawsuits that claimed the websites were not in compliance with ADA requirements.

Mr. Livingston: How does a website become compliant with the ADA requirements?

Mr. Flint: There's special language that it has to be included that allows it to interface with third-party software readers where people can move a mouse over something and it actually reads out what it says. All PDF documents must be converted to a different format so they can also interface.

Mr. Livingston: What do they do for deaf people? Is someone signing?

Mr. Flint: For example, if you have a video clip with audio on your website, you either have to have close captioned or someone signing in the corner. That's why on a lot of the websites, we don't include any of that. We are only including what is required by the Florida Statutes to be on there. To give the District flexibility, one thing you could do is approve the first year of this agreement, subject to the developer agreeing to fund the cost of it. If the developer is not interested, then we won't execute the agreement. That way, we won't have to wait for another meeting.

Mr. Livingston: That's a good idea.

Mr. Lusby: Does it cost \$2,375?

Mr. Livingston: Yes.

Mr. Flint: Going forward, we are evaluating the best approach to keep the websites maintained as ADA compliant. So, we are not recommending at this point that the Districts approve that next year. Let's deal with the first year. Maybe the President will come down on the Department of Justice or they change the ADA requirements. Something could happen, but we don't recommend approving anything beyond that first year.

On MOTION by Mr. Livingston seconded by Mr. Lusby with all in favor the VGlobalTech Proposal for ADA website compliance Services in the amount of \$2,375 subject to the developer agreeing to fund the costs, was approved.

SEVENTH ORDER OF BUSINESS Staff Reports

A. District Manager’s Report

i. Balance Sheet and Income Statement

Mr. Flint: We have the unaudited Financial Statements through May 31, 2019. If there are any questions, we can discuss those. You are not required to take any action.

Mr. Smith: How much do we owe?

Mr. Flint: \$1,050. It was just submitted on June 17th.

Mr. Livingston: They are slow.

Mr. Flint: It’s actually not a problem. He has been very timely on his funding.

ii. Ratification of Fiscal Year 2019 Funding Request #4

iii. Consideration of Fiscal Year 2019 Funding Request #5

Mr. Flint: Funding Requests #4 and #5 were included in your agenda package. Funding Request #4 is for advertising and Fedex and Funding Request #5 is for management fees.

On MOTION by Mr. Lusby seconded by Mr. Livingston with all in favor Funding Request #4 was ratified and Funding Request #5 was approved.

iv. Approval of Fiscal Year 2020 Meeting Schedule

Mr. Flint: In the past, the Board advertised an annual notice indicating that you are meeting on an as needed basis. When you meet, we will comply with any advertising requirements. If you want to continue to do that, then a motion to approve the notice that was in your agenda package would be in order.

On MOTION by Mr. Smith seconded by Mr. Livingston with all in favor the Fiscal Year 2020 meeting schedule to meet on an as needed basis, was approved.

v. Designation of Public Records Location - ADDED

Mr. Flint: We added an additional item to designate a public records location. The statutes require that you keep a record of proceedings of the District in the County the District is

located in. Previously it was housed at Hammock Beach. It's just a couple of three ring binders containing the agendas, minutes of the meeting and any resolutions. They need to be in the county. If anyone asks to inspect them, they would have to be provided access, but we have everything electronically. In the last 14 or 15 years, I have not had one person say that they wanted to inspect the record of proceedings.

Mr. Belshe: I'm happy to have them here.

Mr. Flint: The most logical solution would be to house them here to meet that requirement. So, if you are okay with that, then I recommend the Board designate this location, City Centr  at Palm Coast Town Center, 145 City Place, Suite 300, Palm Coast, Florida as the local records office.

On MOTION by Mr. Lusby seconded by Mr. Livingston with all in favor designating City Centr  at Palm Coast Town Center, 145 City Place, Suite 300, Palm Coast, Florida as the public records location, was approved.

vi. Presentation of Number of Registered Voters – 0

Mr. Flint: We are required each year to announce the number of registered voters within the District as of April 15th each year. You can see there are zero registered voters.

vii. Statement of Financial Disclosure Filing Reminder

Mr. Flint: On or around June 1st, you should've received a Form 1, Financial Disclosure from the Supervisor of Elections. It looks like Clint was the only one that didn't file. Its due by July 1, but they give you a grace period.

Mr. Clint: I filled it out, but the state sent it back because I didn't answer every question. You have to put "N/A" for questions that didn't pertain to me, but they did report to the state that I filed it.

Mr. Flint: They can fine you \$25 a day up to \$1,500 if you don't file it.

Mr. Smith: I thought we did it one time and that was it.

Mr. Flint: No. They send you a renewal every year.

Mr. Lusby: I didn't know that if we filed one, we could list multiple ones. I always filed separate ones for Palm Coast Park, Town Center and even this one.

Mr. Flint: I just say, "See attached" and never had any problems.

EIGHTH ORDER OF BUSINESS

Other Business

Mr. Flint: That's all we had. Was there any other business that the Board wanted to discuss that was not on the agenda? Hearing none,

NINTH ORDER OF BUSINESS

Supervisor's Request

Mr. Flint: If there's nothing else that we need to discuss, we need a motion to adjourn the meeting.

TENTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Livingston seconded by Mr. Lusby with all in favor the meeting was adjourned.


Secretary / Assistant Secretary


Chairman / Vice Chairman