

MINUTES OF MEETING

ENTERPRISE COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Enterprise Community Development District was held Tuesday, August 9, 2011, at 4:00 p.m. at the Celebration Community Center, 851 Celebration Avenue, Celebration, FL 34747.

Present and constituting a quorum were:

Jim Durham	Chairman
Russell Stokes	Vice Chairman
Kimberly Locher	Supervisor

Also present were:

Gary L. Moyer	Manager: Moyer Management Group
Cheryl Stuart	Attorney: Hopping Green & Sams
Brenda Burgess (<i>by phone</i>)	Moyer Management Group
Roger Mitchell	Severn Trent Services, Operations Division
Jim Parker	The Celebration Company
Brian Smith	Severn Trent Services, Management Division
Residents and members of the public	

FIRST ORDER OF BUSINESS

Roll Call

Mr. Moyer called the meeting to order at 4:00 p.m.

Mr. Moyer called the roll and stated a quorum was present for the meeting.

SECOND ORDER OF BUSINESS

Pledge of Allegiance

Mr. Durham led the *Pledge of Allegiance*.

THIRD ORDER OF BUSINESS

Public Comment Period

There being none, the next order of business followed.

FOURTH ORDER OF BUSINESS

Administrative Matters – Oath of Office for Newly Appointed Supervisor

Mr. Moyer stated I will administer the oath of office to Ms. Youngs at the next meeting since she advised us that she was not able to attend today's meeting.

FIFTH ORDER OF BUSINESS

Consent Agenda

A. Approval of the Minutes of the June 24, 2011, Audit Committee Meeting and Regular Meeting

B. Approval of check register and invoices

Mr. Moyer reviewed the items on the Consent Agenda and requested any additions, deletions or corrections to the minutes.

On MOTION by Mr. Stokes, seconded by Mr. Durham, with all in favor, unanimous approval was given to the minutes of the June 24, 2011, audit committee meeting and regular meeting.

On MOTION by Ms. Locher, seconded by Mr. Stokes, with all in favor, unanimous approval was given to the check register and invoices.

SIXTH ORDER OF BUSINESS

Public Hearing to Adopt the Fiscal Year 2012 Budgets

A. Fiscal Year 2012 Budgets

Mr. Moyer stated the budgets were distributed to the Board a couple months ago, and the Board discussed the various budgets, including the enterprise fund for the utility system. PRMG also reviewed the enterprise fund budget and indicated that the coverage was well in excess of the 110% that we are required to have. On the general fund budget, there are a variety of revenue sources, but the primary revenue source that operates the District is special assessments. There are two categories: one is collected by the tax collector and the other is collected by the CDD. We are at the point now where legal counsel and I will both recommend that we levy all the assessments on the tax roll, so the District will not be collecting any revenue off roll; it will appear on the real estate tax bills.

Ms. Locher asked is there anything negative to putting them on the tax bills?

Ms. Stuart stated the reason we took them off is there were some bankruptcy issues and a delay in paying the non-ad valorem assessments. That has all been resolved, so those properties are just like the other properties and have their own folio numbers. It would be appropriate to treat them the same way we treat the other properties in the district, and I think it is appropriate to put them back on the tax roll.

Mr. Moyer stated there are several major categories for expenses: administrative, physical environment, flood control and stormwater management, field, off-site maintenance, and road and street facilities. The projected expenses for all categories are very similar to what we anticipate spending in fiscal year 2011.

Ms. Stuart stated the non-ad valorem assessments for fiscal year 2012 are anticipated to be the same as they were for fiscal year 2011 with no increase in assessments.

Mr. Moyer stated there is really no discretion this Board has over the debt service budgets.

Ms. Stuart stated the Board cannot budget for prepayments; if you receive them, then they are accounted for. Sometimes the budget numbers are different because of that, but these figures are dictated to us pursuant to the debt service schedule.

Mr. Moyer stated for the enterprise fund budget, we anticipate revenues of \$5,133,000, and those revenues closely track what was in the rate study. For the expenses, we extrapolate a lot of the projected annual budget each year based upon the current operating history that we have. The only wild card is the bulk use agreement that we have with Toho Water Authority. When you look at all of the expenses that we project, we are budgeting \$3,392,000 for expenses and in 2009, the rate consultant projected \$3,372,000 for this fiscal year. In the back of the budget is an analysis showing how the accountant arrived at these numbers, which are the actual pages from the rate study. Our anticipated coverage will be about 140%.

Ms. Stuart stated this does not assume any change in our commodity rates or base facility charges.

Mr. Moyer stated it does assume the pass-through adjustments from Toho Water Authority.

Ms. Stuart stated the Board may recall we instituted that pass-through in our rate schedule, whereby if Toho Water Authority increases or decreases their costs to us, we pass it through to the customers. But on the District's side, there are no proposed changes.

Mr. Moyer stated that is correct. The enterprise fund budget also has an associated debt service budget that is shown as an operating expense in the enterprise fund budget.

Mr. Moyer stated this meeting has been advertised as a public hearing, so I will open the hearing for any public comments. Hearing none, I will close the public hearing.

B. Consideration of Resolution 2011-06 Adopting the Budgets for Fiscal Year 2012

Mr. Moyer read Resolution 2011-06 into the record by title.

Mr. Moyer stated we will fill in the blanks in the Resolution with the appropriate numbers.

On MOTION by Mr. Stokes, seconded by Ms. Locher, with all in favor, unanimous approval was given to Resolution 2011-06 adopting the budgets for fiscal year 2012.

On MOTION by Mr. Stokes, seconded by Mr. Durham, with all in favor, unanimous approval was given to accept the audited financial statements for fiscal year 2010, subject to final review by the District manager and legal counsel, and to authorize its filing with the appropriate State agencies.

ii. Financial Statements

Mr. Moyer reviewed the financial statements, included in the agenda package, which are available for public review in the District Office during normal business hours.

Mr. Moyer stated we have collected all of our non-ad valorem assessments that support the general fund. Related to operations and maintenance, we are under budget, so we anticipate that we will add to fund balance at the end of the year. For the enterprise fund budget for the utility operations, we are in very good shape primarily because connection fees exceeded the budget by almost \$350,000.

iii. Arbitrage Rebate Report for the Series 1994 and 1999 Bonds from Berger Toombs et al

Mr. Moyer stated the calculations were performed for the Series 1994 special assessment bonds and the 1999 water and sewer revenue bonds. These firms who do these calculations are charging about \$600 per bond issue, which is different than several years ago when these firms were charging between \$1,500 and \$2,000 per bond issue. I request that the Board approve these engagement letters for them to perform the arbitrage rebate calculations at \$600 per annual calculation.

Ms. Locher asked have you used them previously?

Mr. Moyer stated yes.

Ms. Stuart stated I think they have performed them for this CDD. They will begin these calculations as soon as possible since they will be for fiscal year 2011. The IRS is underway with arbitrage audits for special Districts. Three of my clients are currently being audited. The IRS is looking at the reports and the calculations and asking questions, so these are important.

On MOTION by Ms. Locher, seconded by Mr. Stokes, with all in favor, unanimous approval was given to accept the engagement letter from Berger Toombs et al. to perform the arbitrage rebate calculations in the amount of \$600 per annual calculation.

iv. Consideration of the Fiscal Year 2012 Meeting Schedule

Mr. Moyer stated we are required to advertise our meeting schedule at least once annually. We are proposing the third Wednesday of every other month, the even months, at 4:00 p.m. in this location. The Board may want to consider moving the December meeting to December 14.

Ms. Stuart stated there are not 60 days between the June and August meetings for the budget hearing.

Mr. Moyer stated I would prefer to have the preliminary budget presentation in April with the hearing in August, so the Board can review the budget at the June meeting. Even if we bifurcate the budget, which we have done in the past, and consider the enterprise fund budget separately, we have until September 30 to adopt that budget. We will need to adopt the general fund and debt service fund budgets before September 1 in order to certify the roll to the property appraiser, which is why we generally hold the budget hearings in August.

On MOTION by Mr. Stokes, seconded by Mr. Durham, with all in favor, unanimous approval was given to the meeting schedule for fiscal year 2012, as amended to move the December meeting to be December 14, 2011.

B. Field Operations

i. Field Highlight Report

Mr. Smith reviewed the field highlight report, included in the agenda package, which is available for public review in the District Office during normal business hours.

Mr. Durham asked have there been any issues with reuse pressure or coverage?

Mr. Smith stated this year was better than the last years. It seems to be getting better because of exercising the valves and cycling different areas to be online. Even though we had a fairly severe drought this year, we did not really see any major complaints.

Mr. Durham asked are the residents getting used to the irrigation schedule?

Mr. Smith stated yes.

Mr. Durham asked is that contributing to the lack of complaints because people now know what to expect?

Mr. Smith stated yes, we do not receive very many complaints. We receive one occasionally when there is construction or when someone has to do a repair over the weekend and their irrigation zone is not turned on. Most people have adapted to it.

Mr. Stokes asked have there been any complaints about potable water pressure?

Mr. Smith stated no.

Ms. Locher stated I notice that as people's first line of defense, instead of automatically calling the District office, they are looking at their irrigation system for problems. If they are not getting any water, they check their system, and some have found that they are trying to water on the wrong days. If it still does not work on their correct days, they will still look at their irrigation system instead of contacting the District. I think you sometimes have to force people to do that.

Mr. Smith stated I think the website also helps tremendously.

Ms. Locher stated it does.

Mr. Smith stated they can just go to the website and find their irrigation schedule. If there is a problem where the reuse system is down, we post that information on the website.

Ms. Locher stated I am finding that more people know their watering days. Even a year ago, no one could tell you when their watering days were, including myself. I definitely think the education has been a good component, and it is reiterated again and again through the other media in Celebration. I think it has made a difference.

ii. Utility Report

Mr. Smith reviewed the utility report, included in the agenda package, which is available for public review in the District Office during normal business hours.

C. Attorney

i. Administrative Rules of Procedure

Ms. Stuart stated I distributed proposed revisions to our rules of procedure as well as a summary of the changes. This is a new version of rules since the District has not adopted updated rules in some time. I am asking for a motion to approve the rules for the purpose of setting a public hearing for September 21, 2011. The advertising notices are ready to be published for that date. These revised rules reflect some lessons learned but primarily changes in the Statute. These rules pertain to how you run meetings, what the bidding thresholds are, options for bidding, rulemaking proceedings, what the duties of the officers are, and other administrative matters. Most of it is driven by Statute. It is helpful to have rules of procedure to rely on when issues come up, and it is helpful for buyers who are doing their due diligence. When we tell them the District's charter is the Florida Statutes, they do not really understand that, so we refer them to the appropriate

Statutes and these rules of procedure so that they understand there is a governmental Board that functions on behalf of the District. These rules are a helpful tool. The changes are not dramatic but it is a restructuring of the existing rules.

Mr. Durham asked what is the notification that is required for these rules?

Ms. Stuart stated there are two notices: notice of rule development and then a notice of rule intent. They are usually published one day apart about 30 days prior to the hearing. There is plenty of time for us to accomplish these advertising requirements.

On MOTION by Ms. Locher, seconded by Mr. Stokes, with all in favor, unanimous approval was given to set a public hearing to consider the administrative rules of procedure for Wednesday, September 21, 2011, at 4:30 p.m.
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ii. Discussion Regarding Revisions of the District's Potable Water, Domestic Wastewater and Reuse Water Operating Policies and Procedures

Ms. Stuart stated over the past months, we have discussed the need to update the operating policies and procedures (OPP) as they relate to the utility system, which have never been updated since they were first adopted in 1995. We looked at a variety of other utilities in the area to see what they were doing, primarily on issues like security deposits, terminations, applications for service, and other issues. The utility industry has changed a great deal over time, and we think this is an appropriate time to consider some changes to those policies, and the Board agreed last month and authorized us to move forward with these changes. We discussed these conceptually last month and the Board provided some feedback on the direction you wanted to go. I will ask you to hold a hearing to consider these policies, simply because it is a big enough issue that we ought to allow the public to comment. We will advertise for a hearing, but given that this is not affecting the actual rates that customers are paying, there may not be a lot of public comment on these. In addition, some of these policies relate to rates, fees and charges, which have to be adopted by rule. We have a rate schedule that the Board adopted a couple years ago when you adopted the pass-through adjustment from Toho Water Authority. The things in these policies that are related to rates, fees and charges will be advertised for a rulemaking hearing. The policy changes are included in the longer document and the rates to be included in the administrative rules are included on the shorter document. I provided a draft of the advertising notice showing the sections that we are proposing to change on the rate schedule. One is Section E where we are changing the words from Standby

Charges to Delinquent Connection Charges because that is what the existing language applies to. I added a section that will be renumbered Section I that is language included in the OPP that we are now including in the rate schedule. Section J for Security Deposits is proposed to be changed in its entirety, as shown by the new language, which is also explained in the OPP. We are proposing to change the amount of the security deposit required (1) to be more consistent with what is happening in the industry and (2) to better match the deposit amount with the delinquent amounts on utility accounts so at the point where we have to discontinue service, we have a sufficient deposit collected to offset a lot of those costs on their utility bill. There are utilities that pull a credit report each time you apply for service, you have to pay to have your credit report pulled, there is a matrix of where your credit score falls and the associated deposit amount, and other methods used to determine security deposits. We chose not to do that because of the administrative hassle and cost of that, as well as perhaps greater utility fees to cover those costs. The proposed deposit will be three times the average monthly charge for that address based on one year of service. If it is a brand new location with no billing history, we will look at the same product type in that neighborhood and use that deposit amount for the new location. There are many ways you can do this, but we have proposed this one. If someone is disconnected, then they will pay an additional deposit. We currently implement an additional deposit in another section of the OPP, but this proposal is to increase that amount. If you have already had service disconnected, we need a larger deposit to help offset those charges. In talking with staff, I learned we do not assess an application fee for new service, and most utilities charge for new service. I am proposing a non-refundable application fee to cover the time and costs associated with setting up a new account. When someone comes in and applies for service, they will pay a fee plus their deposit. I am proposing \$25 for residential, and I am open to suggestions for other amounts. Application fees vary greatly among other utilities.

Ms. Locher stated when I started new phone service recently, they charged me a \$30 fee to move from one line to another. I think \$25 seems reasonable. You are correct that we have to cover the costs of doing that work.

Ms. Stuart stated if someone applies for service and they are later disconnected, there are other costs associated with that account that we never recover, either. It will not be a huge revenue source going forward, and this will not affect anyone who currently has

service or an account. The proposed deposit will not affect anyone who currently has an account unless you are disconnected; then you will have to pay the higher additional deposit. These rate changes are not changes to an average customer's bill. The average customer will not notice any of these changes. If they move to a new home, they will pay the application fee for the new service address. The policies include this rate information, as well as all the policies for the utility system. These were originally drafted when there was no construction and the system had no history. I left some of the original language related to capacity and reserving capacity, although it may not be as timely or current but it is still possible and usable for new construction. I asked Mr. Smith to review these to see if there is anything he would like to change prior to the Board taking final action on these in September.

Mr. Smith stated all these revisions work as far as field operations because you did not make many changes to those activities. The current version of the OPP is working well as it relates to field operations. Most of the changes are on the administrative process.

Mr. Durham asked if there are changes beyond this draft, will you highlight those changes so that we have a recap of those changes relative to this version.

Ms. Stuart stated yes, if staff has more changes, we will provide a summary of those changes prior to the hearing so you will know what those changes are. Everything the Board has discussed previously has been incorporated into this version. There are a couple customers who have comments on how we deal with disconnection of service and outstanding bills and then new owners purchase the property, so we have to determine who is responsible for the outstanding balance, particularly the base facility charges since those run with the property. Our OPP requires certain things to be paid by customers, and this draft will change that policy. It will increase the deposit so it will protect the District going forward. It authorizes us to file a lien on that property that is recorded with the County. I believe it is a lien by operation of the application and the agreement, but to perfect it in terms of recording it, the new draft gives us the option to do that. Candidly if you have a \$50 delinquent bill and service is disconnected, I do not know that we would go through the trouble of recording a \$50 lien that will cost \$30 to record. I think filing a lien is appropriate to do, but we want the option of being able to do that if the amount warrants filing a lien. We are hopeful that the additional deposits, on a going-forward

basis, will greatly reduce some of the problems we are having and have had in the past with outstanding bills. There are some minor changes in the process for customers to contest their bills, in trying to deal with the practicalities of that. The hearing for these rules will also be September 21, 2011, when the Board will take final action on these policies and procedures. I would ask the Board to approve the revisions to the OPP for purposes of holding a hearing on September 21, 2011, at 4:30 p.m., to direct staff to continue to identify any issues with respect to implementation of those revisions, and to bring those issues to the Board at the public hearing in September, to approve the proposed revisions to the rates and authorize a notice of rulemaking hearing for September 21, 2011, at 4:30 p.m., and to direct the rate consultant to review both documents and provide comments on any financial issues we might need to be aware of, to be considered at the hearing.

On MOTION by Ms. Locher, seconded by Mr. Stokes, with all in favor, unanimous approval was given to (1) approve the revisions to the OPP for purposes of holding a hearing on September 21, 2011, at 4:30 p.m., (2) to direct staff to continue to identify any issues with respect to implementation of those revisions and to bring those issues to the Board at the public hearing in September, (3) to approve the proposed revisions to the rates and authorize a notice of rulemaking hearing for September 21, 2011, at 4:30 p.m., and (4) to direct the rate consultant to review both documents and provide comments on any financial issues the District might need to be aware of, to be considered at the hearing.

Ms. Stuart stated we have some outstanding issues that we have been addressing. To the extent we can move forward and resolve those issues consistent with these proposed policies and procedures, I would ask the Board to authorize staff to resolve them. If we cannot resolve them, then we will bring them to the Board to address further.

On MOTION by Mr. Stokes, seconded by Ms. Locher, with all in favor, unanimous approval was given to authorize staff to negotiate ongoing billing disputes consistent with the proposed new operating policies and procedures. To the degree that staff is unable to resolve these issues for whatever reason, those disputes will then go through the normal process of resolution according to the operating policies and procedures.

iii. Legislative Update

Ms. Stuart stated the Legislature will return mid-September and will start with committee meetings. They will be in Session for two weeks in October, two weeks in November, and the new Session will begin in January 2012 because they are redistricting. The Constitution requires them to return at that time. There are some issues coming, and the one we are most concerned with is a proposed cap on revenues, a Constitutional Amendment to cap all our revenues.

Mr. Moyer stated currently, CDDs are not a part of that cap.

Ms. Stuart stated that is correct. Currently, the Florida Constitution has a cap on State revenues. There will be a proposed revision that registered voters will see on the November 2012 ballot to lower the amount of revenues that the State can collect. The issue of capping revenues by local governments—Cities, Counties, special Districts of all sorts—the formula was proposed last Session in the House and not pursued. It has been said publicly that there is an ongoing study, and the House is going to come back with a proposal to do something to cap revenues of local governments. That is going to happen with the House, but I do not know if the Senate will have a companion bill. If you think about revenue sources for Cities and Counties, they have multiple revenue sources. If you think about revenue sources for library Districts, or other entities that do not have other options, or entities like the CDD where we have assessments but we also have an enterprise fund for the utilities, all of that applies to this proposed cap.

D. Engineer

There being nothing to report, the next item followed.

E. District Representative

Mr. Parker stated Atkins provided the legal descriptions for our use related to the Lynx bus shelters, which we appreciate. Lynx executed the license agreement today, and I will review it to be sure it is all in order before I submit it to Mr. Moyer to be executed by the Enterprise CDD.

NINTH ORDER OF BUSINESS

Other Business and Supervisor Requests

Mr. Moyer stated although we had Audience Comments earlier on the agenda, some members of the public have joined our meeting in progress, and I would ask the Board expand this agenda item to include any public comments.

Ms. Jo Thacker stated I appreciate the District going through the task of looking at your policies and procedures. I appreciate your legal counsel being so open to ideas and to make sure that everyone is in agreement. Ms. Stuart has been wonderful to work with. I appreciate you letting staff look at some of these specific cases administratively. It helps with some clients that I am representing.

TENTH ORDER OF BUSINESS

Adjournment

The next meeting is scheduled for Wednesday, September 21, 2011, at 4:30 p.m.

On MOTION by Ms. Locher, seconded by Mr. Stokes, with all in favor, the meeting adjourned at 4:55 p.m.
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Gary L. Moyer, Secretary

Jim Durham, Chairman