# MINUTES OF MEETING WINDWARD COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Windward Community Development District was held Wednesday, **January 18, 2023** at 2:00 p.m. at 7813 Four Seasons Boulevard, Kissimmee, Florida.

# Present and constituting a quorum were:

Jimmy Clark Chairman

Susan Moss Vice Chairperson
Marvin Morris Assistant Secretary
Gretta Akellino Assistant Secretary
Carmen Renaud Assistant Secretary

Also Present were:

Jason Showe District Manager
Kristen Trucco District Counsel
David Kelly District Engineer
Andy Hatton Field Manager
Rey Owen Juniper

## FIRST ORDER OF BUSINESS Roll Call

Mr. Showe called the meeting to order and called the roll.

### SECOND ORDER OF BUSINESS Public Comment

Ms. King stated I want to thank Andy for adjusting the lights at the front gate. What is happening with the dip at Flora Pass and Four Seasons?

Mr. Clark stated the engineer is looking at that.

### THIRD ORDER OF BUSINESS

### **Organizational Matters**

### A. Acceptance of Tom Franklin's Resignation

On MOTION by Mr. Clark seconded by Mr. Morris with all in favor Tom Franklin's resignation was accepted.

# B. Consideration of Appointment of Individual to Fill the Vacancy

On MOTION by Mr. Clark seconded by Ms. Akellino with all in favor Carmen Renaud was appointed to fill the unexpired term of office.

### C. Administration of Oath of Office

This item was tabled.

## D. Consideration of Resolution 2023-01 Electing Officers

Mr. Showe stated Resolution 2023-01 is electing officers with Mr. Clark as Chairman, Ms. Moss as Vice Chair, George Flint as Secretary, Mr. Morris, Ms. Renaud, Ms. Akellino and Jason Showe as Assistant Secretaries, Jason Showe as Treasurer, and Katie Costa as Assistant Treasurer.

On MOTION by Mr. Morris seconded by Mr. Clark with all in favor Resolution 2023-01 was approved as read into the record.

### FOURTH ORDER OF BUSINESS

Approval of the Minutes of the November 16, 2022 Meeting

On MOTION by Ms. Moss seconded by Mr. Clark with all in favor the minutes of the November 16, 2022 meeting were approved as presented.

### FIFTH ORDER OF BUSINESS Presentation of Arbitrage Rebate Report

Mr. Showe stated the next item is statutorily required and is an arbitrage rebate calculation report for your series 2018 bonds. Every year as part of the bonds we are required to calculate and make sure we are not making more interest than is legally allowed on the bonds. On page 4 of

their report there is no rebate liability so there is nothing the board needs to do. It shows we are in compliance with our bonds. It is just a presentation, there is nothing the board needs to approve.

# SIXTH ORDER OF BUSINESS Discussion of Landscape Contract Increase Request

Mr. Showe stated we received a letter from Juniper about the contract increase. This contract has a 3% price increase, it was contemplated as part of your budget so there are funds available.

On MOTION by Mr. Clark seconded by Ms. Akellino with all in favor the 3% increase in the landscape maintenance contract with Juniper was approved.

# SEVENTH ORDER OF BUSINESS Consideration of FY 2023 Data Sharing and Usage Agreement with Osceola County

Mr. Showe stated the Osceola County property appraiser would like us to enter into the data sharing and usage agreement annually. It is more of a district manager issue than a board issue, but it means if there are parcels out here listed as confidential, we can't share those with anybody. It is a commitment from the board that you won't share those.

On MOTION by Mr. Clark seconded by Ms. Akellino with all in favor the agreement with Osceola County for data sharing and usage was approved.

# EIGHTH ORDER OF BUSINESS Review of Proposed Rule Regarding Maintenance of Parkway Areas

Mr. Showe stated this is a follow-up to a conversation at the last meeting, which is the parkway areas between the CDD and the HOA.

Ms. Trucco stated this is a proposed rule and we have to go through the rule hearing process, that requires published notice in a newspaper and an opportunity for members of the public to come to a public hearing before the rule would be formally adopted by the board.

I have provided this analysis and a preliminary copy of the proposed rule. The HOA's attorney is also reviewing this and hasn't provided comments yet but they are looking at this. Last meeting there were several comments about wanting clarity as to who is to maintain the parkway

areas within the CDD. The parkway areas, the strip of land between the public right of way and individual lots, there is usually a tree in that strip of land. It is our understanding that historically the HOA has been responsible for maintaining that parkway area. They put the CDD on notice that they are no longer willing to maintain that parkway area. We had to look through the legal documents to confirm that we do own the parkway area. It is definitely in our interests that we develop some type of rule and clarity with regard to who is responsible for maintaining our area. We spoke with the HOA counsel and it sounds like they are willing to be responsible for maintaining the landscaping in the parkway area except for the trees, which we will provide tree trimming services for as the CDD. This is not uncommon for CDDs to run into this issue with HOAs and declarations and plats and conflicting language in each of those. What has worked in the past for CDDs is adopting a rule like the one I provided for you today, which states that the CDD will be giving individual lot owners and/or the HOA the responsibility of maintaining the landscaping in the parkway areas but that the CDD will retain the right to maintain the landscaping if that parkway area ever becomes a threat to public safety. The CDD would retain the right to maintain the landscaping if we so choose, but we would be putting the responsibility onto the individual homeowners and/or the association. We would also have the ability to fine individuals \$1,000 for failing to comply with this rule. It seems the HOA counsel is agreeable with this arrangement they would be responsible for maintaining all landscaping except for the trees. We have also written in here that the CDD would not be responsible for replacing a tree. If there is an issue with a tree the CDD wouldn't necessarily be obligated to replace that but individual lot owners who would like a tree there they can approach the CDD and we can enter into some kind of agreement for them to replace it, etc.

This is a proposed solution to this issue which is that the HOA is no longer willing to maintain the parkway area. Our role is that we make sure that is a safe area and that will provide clarity for the residents with regard to who is responsible for maintaining now. My understanding is that in communities roadways that are owned by the city it is customary that the individual lot owners will maintain that parkway area.

I'm looking for direction for Jason to move forward with the rule hearing process and you would still have opportunities to make revisions and tweak this rule.

Mr. Morris asked who owns the sidewalks?

Mr. Showe stated the CDD maintains the sidewalks for safety and if there is a trip hazard that is for us to maintain. We typically won't do much for aesthetics especially in front of a home, that falls to the homeowner to pressure wash the sidewalks.

On MOTION by Mr. Morris seconded by Ms. Moss with all in favor authority was delegated to the chair to approve the date for the rulemaking hearing once the language is approved by the HOA counsel.

#### NINTH ORDER OF BUSINESS

### **Staff Reports**

### A. Attorney

There being none, the next item followed.

## B. Engineer

Mr. Kelly stated we will monitor the asphalt that is lifting around the palm trees. The second lift of asphalt will be a finer grade and more flexible and that might take care of the problem.

### D. Manager

# i. Approval of Check Register

On MOTION by Mr. Morris seconded by Mr. Clark with all in favor the check register was approved.

### ii. Balance Sheet and Income Statement

A copy of the balance sheet and income statement were included in the agenda package.

### iii. Field Operations

Mr. Hatton gave an overview of the proposal from All Terrain for curb repair and sod replacement due to damage caused by trucks.

On MOTION by Ms. Akellino seconded by Ms. Moss with all in favor the proposal from All Terrain Tractor Service, Inc. in the amount of \$6,506.50 for curb repair and sod replacement was approved.

# TENTH ORDER OF BUSINESS

**Other Business** 

There being none, the next item followed.

**ELEVENTH ORDER OF BUSINESS** 

**Supervisor's Requests** 

There being none, the next item followed.

TWELFTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Morris seconded by Mr. Clark with all in favor the meeting adjourned at 2:28 p.m.

Secretary/Assistant Secretary

Chairman/Vice Chairman