

**MINUTES OF A BOARD OF SUPERVISORS MEETING
NORTHERN PALM BEACH COUNTY IMPROVEMENT DISTRICT 01/27/21**

Pursuant to the foregoing Notice, the Board of Supervisors of Northern Palm Beach County Improvement District met at approximately 8:01 a.m. on January 27, 2021, in the Administrative Building and Emergency Operations Center, 359 Hiatt Drive, Palm Beach Gardens, Florida.

1) ROLL CALL

There were present Board President Matthew J. Boykin and Supervisors L. Marc Cohn, Gregory Block, and Ellen T. Baker; Executive Director O'Neal Bardin, Jr.; District Engineer Robert W. Lawson of Arcadis and General Counsel Kenneth W. Edwards of Caldwell Pacetti, et al.

Also present were Deputy Director Dan Beatty; Finance Director Katie Roundtree; District Clerk Susan Scheff; Cliff Hertz of Nelson, Mullins, et al.; David Moore and Wendy Delcotto of Steeplechase (Unit 3); and Dan McCormick and Mike Palmer of Freehold Communities (Unit 53).

Supervisor Adrian M. Salee participated via conference call. Director of Operations Ken Roundtree; Programs Administrator Jared Kneiss; and Permit and Contract Specialist Mila Acosta also attended via conference call.

2) ESTABLISHMENT OF A QUORUM

Mr. Boykin announced that there was a quorum and that it was in order to consider any business to properly come before the Board.

3) ADDITIONS OR DELETIONS TO THE AGENDA

There were no additions or deletions to the agenda.

4) APPROVAL OF MINUTES

A **motion** was made by Mr. Cohn, seconded by Mr. Block and unanimously passed approving the Minutes of the December 16, 2020 Public Hearing and Regular Meeting.

5) COMMENTS FROM THE PUBLIC FOR ITEMS NOT ON THE AGENDA

Mr. Boykin called for any comments from the public for items not on the Agenda. He then acknowledged Mr. David Moore who was in attendance to speak regarding Steeplechase. Mr. Boykin asked if the Board could hold Mr. Moore's request to the end of the meeting as there is a video he would like to view related to the proposed discussion item, and Mr. Moore agreed.

6) CONSENT AGENDA

Mr. Boykin called for any comments from the public on the Consent Agenda to which there was no response.

A **motion** was made by Mr. Cohn, seconded by Mr. Block and unanimously passed approving the following Consent Agenda Items:

- a) Unit No. 2 – Frenchman's Creek
 - i) Consider Ratification of Encumbrance Modification to Crocs LLC
 - ii) Consider Ratification of Encumbrance Modification to Ferreira Construction Company
- b) Payment Requests

copies of which are contained in applicable Northern files.

7) REGULAR AGENDA

a) UNIT OF DEVELOPMENT NO. 2C – ALTON

i) Status Report

Mr. Beatty began by showing the Board the unit map and a site plan which delineated the yet to be developed Parcel D. He explained that the following Board items are related to the development of this parcel.

This item was presented for information only and no Board action was required.

ii) Consider Funding Agreement No. 16

Mr. Beatty explained that this is the mechanism that Northern has used in the past to facilitate the construction of private improvements associated with the public and private partnership that Northern has with KH Alton. He reported that the project was bid by Northern, bids were received, and based on the bids, the

amount of the Funding Agreement is \$541,363.00, which represents 125% of the cost of Private Improvements in Parcel D.

Mr. Boykin called for any comments from the public to which there was no response.

A **motion** was made by Mr. Cohn, seconded by Mr. Block and unanimously passed approving the Funding Agreement, as presented.

iii) Consider Purchase Orders to Caulfield and Wheeler (2)

Mr. Beatty stated that Caulfield and Wheeler is the project engineer for the Parcel D project, and they have provided Northern with a proposal which was reviewed by the District Engineer. He explained that their proposal was broken into two elements, reporting that the first Purchase Order is for Bidding and Construction Phase Services in the amount of \$53,700, and the second Purchase Order is for Materials Testing in the amount of \$59,000. Approval is recommended for both.

Mr. Boykin called for any comments from the public to which there was no response.

A **motion** was made by Mr. Cohn, seconded by Mr. Block and unanimously passed approving Purchase Order No. 21-187 for Bidding and Construction Phase Services in the amount of \$53,700 and Purchase Order No. 21-208 for Materials Testing in the amount of \$59,000 to Caulfield and Wheeler.

iv) Consider Award of Contract to J.W. Cheatham, LLC

Mr. Lawson stated that this project was advertised in December and bids were received on January 12, 2021. He reported that the engineer's estimate for this project was approximately \$2,700,000 and that four bids were received. He stated that the apparent low bidder is J.W. Cheatham, LLC in the amount of \$2,162,336.35, noting that Northern has an excellent working history with this contractor and approval of the award by Purchase Order No. 21-205 is recommended.

Mr. Boykin called for any comments from the public to which there was no response.

A **motion** was made by Mr. Cohn, seconded by Mr. Block and unanimously passed approving Purchase Order No. 21-205 in the amount of \$2,162,336.35 to J.W. Cheatham, LLC.

**b) UNIT OF DEVELOPMENT NO. 5A – VISTA CENTER OF PALM BEACH
Consider Second Amendment to Exchange Agreement**

Mr. Bardin explained that Northern entered into an Exchange Agreement in July and there were certain deadlines in that Agreement that cannot be met by the other party. He stated that Mr. Edwards would explain this issue further.

Mr. Edwards stated that this is related to the adult living facility to be constructed in Vista Center and the Developer's request to relocate a lake on the subject property. He explained that the Exchange Agreement required that a replat of the parcel be presented to Northern within 180 days of the effective date of the Agreement. They were not able to meet that deadline which expired on January 25, 2020, and they asked for a 90 day extension. He stated that he and Northern Staff have no objection and the Board is asked to approve the extension.

Mr. Boykin called for any comments from the public to which there was no response.

A **motion** was made by Mr. Cohn, seconded by Mr. Block and unanimously passed approving the Second Amendment to the Exchange Agreement, as presented.

**c) UNIT OF DEVELOPMENT NO. 11 – PGA NATIONAL
Discuss Request from The Island Property Owners Association, Inc.**

Mr. Bardin explained that The Island Property Owners Association, Inc. (POA) contacted Northern in a letter which stated they would like a \$60,000.00 reimbursement for the utility costs they have paid over the past 20 years for one or two aerators at various times within their community lake. He further explained that Northern owns the aerator(s) and has since transferred the power into Northern's name, but they are seeking reimbursement for the previous utility costs. Mr. Bardin stated that research has shown that under Florida's Statute of Limitations, the Board is authorized, but not required, to make a

reimbursement for up to four years and he proposed a reimbursement for that time period to the POA. He noted that some of the POA Board Members believe the proposal is a reasonable solution and some do not.

Mr. Bardin stated that Staff is proposing that the Board authorize a reimbursement of the actual aerator utility costs over the past four years, subject to the POA granting Northern an easement for the aerator power line and signing a Release.

A general discussion followed with regard to the negotiation process and the POA's options if they choose not to accept what Northern believes to be a reasonable solution to the problem.

Mr. Cohn confirmed with Mr. Bardin that Northern is now paying the utility bills.

Mr. Boykin called for any comments from the public to which there was no response.

A **motion** was made by Mr. Cohn, seconded by Mr. Block and unanimously passed approving Northern's proposed settlement of approximately \$12,000 to The Island Property Owners Association, Inc., subject to the conditions as presented.

**d) UNIT OF DEVELOPMENT NO. 15 – VILLAGES OF PALM BEACH LAKES
Consider Resolution Approving Second Amendment to Plan of Improvements (2021-01)**

Mr. Bardin stated that Plan of Improvements (POI) for this Unit was prepared in the early 1980s and there was some language that needed to be amended. He stated that Mr. Edwards would explain this issue further.

Mr. Edwards explained that Northern is considering obtaining a loan for some construction activity, which would be secured from its non-ad valorem assessments. He stated that, upon review of the POI, he discovered that the term "tax" was used instead of "non-ad valorem assessments". He explained that the terms were frequently used interchangeably when the POI was originally adopted. This proposed language will bring the POI into compliance with Florida case law that clarifies that non-ad valorem assessments and

taxes are not the same. Mr. Edwards stated that this is the short form Plan Amendment, noting that the District Engineer has issued his opinion and it is recommended that the Board approve the Resolution.

Mr. Boykin called for any comments from the public to which there was no response.

A **motion** was made by Mr. Cohn, seconded by Mr. Block and unanimously passed approving Resolution No. 2021-01.

e) UNIT OF DEVELOPMENT NO. 16 – PALM BEACH PARK OF COMMERCE

i) Consider Exchange Agreement

Mr. Lawson stated that this came about as a result of a couple of parcels within Unit 16 being combined for development. He noted that Northern has an easement over a ditch that currently runs through the property line dividing these parcels. He explained that the Developer wishes to be able to place a building where the current ditch is located, so this Agreement sets forth the conditions under which the ditch will be replaced by underground culverts in another location and sets forth the requirements for doing so. He further explained that a plat is involved in this matter which his office has already reviewed and recommended its approval and execution.

Mr. Lawson explained that the next item on the agenda will be for the acceptance of two Drainage Easements as the new facilities will travel across the Developer's property and the Commercial Association's property as well. He then proceeded to review the process and timing involved for the construction and exchange.

Mr. Edwards added that by approving the Exchange Agreement, the Board is also approving a Release of Easement to be signed along with the Exchange Agreement. The Release will then be delivered to and held by the escrow agent for the Developer. He further explained the steps to be taken by the Developer in order to proceed.

Mr. Boykin called for any comments from the public to which there was no response.

A **motion** was made by Mr. Cohn, seconded by Mr. Block and unanimously passed approving the Exchange Agreement and concurrently approving the Release of Easement, as presented.

ii) Consider Acceptance of Drainage Easements (2)

Mr. Lawson explained that the next item for Board approval is the acceptance of the two Drainage Easements he previously mentioned, one from the Developer/Landowner and one from the Commercial Association.

Mr. Boykin called for any comments from the public to which there was no response.

A **motion** was made by Mr. Cohn, seconded by Mr. Block and unanimously passed accepting the two Drainage Easements, as presented.

f) UNIT OF DEVELOPMENT NO. 53 – ARDEN

i) Status Report

Mr. Beatty stated that there has been no construction related activity since the last status report, noting that the only change involves the administrative items that follow on the agenda with respect to the amendments to the Plan of Improvements and Report of Engineer.

This item was presented for information only and no Board action was required.

ii) Consider Resolution Adopting First Amendment to the Plan of Improvements and First Amendment to the Report of Engineer (2021-02)

Mr. Bardin stated that this Resolution was prepared by Mr. Edwards and its approval is recommended as a result of the Public Hearing held prior to this meeting.

Mr. Boykin called for any comments from the public to which there was no response.

A **motion** was made by Mr. Cohn, seconded by Mr. Block and unanimously passed approving Resolution No. 2021-02, adopting the First Amendment to the Plan of Improvements and First Amendment to the Report of Engineer.

iii) Consider Resolution Amending Tax Resolution No. 2015-21 (2021-03)

Mr. Edwards explained that in conjunction with the previous Resolution approving the Amendments, the next step in the process involves an amendment to Resolution No. 2015-21. He explained that this is a minor amendment that adds an additional sentence to the original resolution allowing for the Plan of Improvements and Report of Engineer to be amended from time to time, as needed, so long as the amount of the benefits as shown in the original resolution are not decreased. Mr. Edwards stated that the Resolution was prepared by Bond Counsel and is being presented on Mr. Raymond's behalf.

Mr. Boykin called for any comments from the public to which there was no response.

A **motion** was made by Mr. Cohn, seconded by Mr. Block and unanimously passed approving Resolution No. 2021-03, as presented.

iv) Consider First Amendment to Plat Designation Agreement

Mr. Edwards stated that when this Unit was created there were four land use classifications identified in the Report of Engineer and the recently approved amendments have increased the number of zero lot line homes and townhouses. He explained that the First Amendment to Plat Designation Agreement amends its Table 1 to be consistent with the changes in the land uses approved by the Palm Beach County Development Ordinance for the Arden Development and is needed in order for Northern to properly assess the land.

Mr. Boykin called for any comments from the public to which there was no response.

A **motion** was made by Mr. Cohn, seconded by Mr. Block and unanimously passed approving the First Amendment to Plat Designation Agreement.

v) Consider Purchase Order to Michael B. Schorah & Associates, Inc.

Mr. Lawson stated that this Purchase Order is for the Project Engineer for Unit 53 and it involves the design, surveying and bidding phase services associated with all of the parcels within the Phase 3 area, which is the area subject to the recent County approved change in land uses. He stated that he has reviewed the proposal which involves ten potential phases. He further stated that the proposed fees are appropriate for this type of work and approval is recommended to Michael B. Schorah & Associates in the amount of \$206,855.00.

Mr. Boykin called for any comments from the public to which there was no response.

A **motion** was made by Mr. Cohn, seconded by Mr. Block and unanimously passed approving Purchase Order No. 21-218 in the amount of \$206,855.00 to Michael B. Schorah & Associates.

8) MISCELLANEOUS REPORTS

a) ENGINEER

Mr. Lawson had nothing to report.

b) ATTORNEY

Mr. Edwards had nothing to report.

c) EXECUTIVE DIRECTOR

Mr. Bardin stated that the Public and Community Relations Report is included in the Board materials for review.

Mr. Bardin explained that there is an issue involving Steeplechase (Unit 3) that he would like to present to the Board, noting that Mr. David Moore, the President of the Steeplechase Homeowners Association, is present and will likely want to speak on the matter as well.

Mr. Bardin reported that there is a canal tract that Northern owned at one time which is located between the Woodbine and Steeplechase communities.

Mr. Beatty displayed an aerial photo of the subject canal, and Mr. Bardin pointed out some relevant landmarks.

Mr. Bardin explained that the power lines in the photo also generally depict the jurisdictional boundaries separating the City of Palm Beach Gardens from the City of Riviera Beach, noting that Steeplechase is located in Palm Beach Gardens and Woodbine is located within the City of Riviera Beach. He reported that when Steeplechase was originally developed, Northern owned the canal tract as part of its canal system within Unit 3. He then explained the history of the canal with regard to the conveyance of the canal tract to the Steeplechase Safe Neighborhood District which was followed by approval of a Maintenance Agreement indicating that Northern would mow the west side of the canal tract.

Mr. Bardin stated that Steeplechase residents had asked that Northern's contractor mow the east side of the canal tract as well and that request appears to have been implemented. Mr. Bardin explained that when he and Mr. Beatty found out about it, the contractor was instructed to cease mowing the additional area which then created a conflict with the Steeplechase Board. Representatives of the Steeplechase Safe Neighborhood District have since asked Northern to amend the Maintenance Agreement to include the additional area on the east side of the canal.

Mr. Bardin then reviewed his understanding of an ongoing conflict between Steeplechase and Woodbine followed by a drone video filmed in last November of the area in question.

Mr. Boykin asked the distance of the area being shown, and Mr. Beatty advised that the subject canal area is about a mile long. Mr. Boykin then asked if the issue is the mowing of the grass, and Mr. Bardin advised that the initial issue was the mowing of the grass, but he explained that it would also involve the maintenance of the tree canopy as well.

Mr. Bardin stated that his response to Steeplechase has been that they need to find a resolution to their dispute with Woodbine prior to negotiating an amendment to the Maintenance Agreement with Northern, emphasizing that he did not want Northern involved in their dispute.

Mr. Boykin asked for an explanation of the dispute between Steeplechase and Woodbine. Mr. Edwards advised that there are alleged encroachments from Woodbine into the Steeplechase property, and Mr. Bardin added that Woodbine's issue is that the property is not being maintained.

A discussion followed with regard to the issues involved and a review of the boundaries.

Mr. Boykin then invited Mr. Moore to address the Board.

Mr. Moore addressed the Board and introduced himself as the Steeplechase POA President, stating that they have always enjoyed a lovely relationship with Northern and hope to continue to do so. He then referred to Mr. Bardin's report as a mischaracterization, explaining that Woodbine's issue with Steeplechase is that the property is no longer being maintained. He stated that the contract was approved in 1993 and amended in 1994. He further stated that the original intent of the contract was for Northern to perform the duties that Northern has performed for 27 ½ years, including the maintenance of the east side of the canal. He explained that he will not argue with the fact that Mr. Bardin found that the contract was miswritten, but it is his belief that it was the intent on both sides for Northern to perform those duties.

Mr. Moore reported that it only became an issue in the last few months when Steeplechase was notified by Woodbine that the property on the east side of the canal was no longer being maintained. He stated that the issue is that the contract was miswritten, and Steeplechase would like to move forward and revise the contract to include the duties that he claims Northern has been doing for all these years. He expressed his concerns that he believes Northern will require more fees to do what he states are the same duties instead of correcting the contract. He noted that they are willing to negotiate, but he finds the

antagonism and mischaracterization unnecessary. Mr. Moore reviewed what he believes to be the property lines in question and restated that Woodbine's issue is that the area is no longer being maintained.

Mr. Boykin asked when the area in question stopped being maintained, and Mr. Moore advised that it was a number of months ago and reiterated that it has previously been maintained since 1993.

Mr. Boykin asked Mr. Bardin when Northern stopped maintaining the area in question, and Mr. Bardin advised that Northern stopped maintaining it in the last three months. Mr. Boykin then asked for clarification as to why Northern stopped, and Mr. Bardin advised that it is not subject to the Maintenance Agreement and Northern does not own an interest in that property.

Mr. Edwards added that Northern is not being paid to maintain the property under the Agreement.

A discussion followed with regard to making this an agenda item for the next Board meeting and what analysis would be required as well as a recommendation.

Mr. Edwards suggested that this item be referred to one of the Committees for further discussion and recommendation, and it was determined that the Legal Committee would be the most suited for this discussion.

Mr. Boykin asked that the Board be presented with some options when the recommendation is made, and Mr. Salee commented that a checklist of some sort might be helpful when property is being transferred.

Ms. Wendy Delcotto addressed the Board as the Property Manager for Steeplechase. She stated that she has only served in that capacity for four months, so she cannot speak to the historical aspects of the maintenance, but she has done some research and there are about a dozen or so encroachments that members of the Steeplechase Board want removed. She would like to work with Northern as the maintenance negotiations take place and she will also try to work with the Woodbine Property Manager to inform the homeowners to remove the encroachments.

Mr. Moore stated that since Northern does not own the property, the matter of dealing with the encroachments is not really related to the maintenance contract discussion.

Ms. Delcotto expressed her concerns that the encroachment issue needs to be addressed if Northern is to be maintaining the east side of the canal, and it was suggested that she contact the City of Palm Beach Gardens to address that issue.

Mr. Edwards told Ms. Delcotto that she will be invited to the Legal Committee Meeting to present that issue. Mr. Edwards also stated that Northern disputes some of the representations that have been made during this meeting and this will also be addressed at the Legal Committee Meeting.

It was the consensus of the Board to refer this issue to the Legal Committee for further discussion before providing a recommendation to the Board.

9) RECEIVE AND FILE

The following items were presented to be received and filed:

- Assessment Collection Status as of January 6, 2021;
- Northern Quarterly Financial Report; and
- Proof of Publication of Meeting Notice

copies of which are contained in Northern's records.

10) COMMENTS FROM THE BOARD

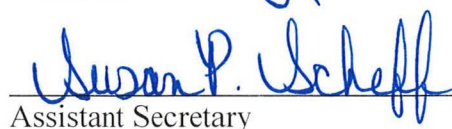
There were no comments from the Board.

11) ADJOURN

There being no further business to come before the Board, the meeting was adjourned.



President



Assistant Secretary