

MINUTES OF MEETING
FOUNDERS RIDGE
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Founders Ridge Community Development District was held Wednesday, May 26, 2021 at 11:30 a.m. in the Minneola City Hall, 800 N. U.S. Highway 27, Minneola, Florida.

Present and constituting a quorum were:

Aaron Blake
Joe Zagame
Darby Shields

Chairman
Vice Chairperson
Secretary

Also present were:

George Flint
Tucker Mackie
Rob Zebro
Joan Manganaro

District Manager
District Counsel *by telephone*
Cope, Zebro & Crawford

FIRST ORDER OF BUSINESS

Roll Call

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

SECOND ORDER OF BUSINESS

Public Comment Period

There being none, the next item followed.

THIRD ORDER OF BUSINESS

**Approval of the Minutes of the January 12,
2021 Meeting**

On MOTION by Mr. Blake seconded by Ms. Shields with all in favor the minutes of the January 12, 2021 meeting were approved as presented.
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FOURTH ORDER OF BUSINESS

**Consideration of Resolution 2021-07
Providing for the Removal and Appointment**

**of Treasurer and Appointment of Assistant
Treasurer**

Mr. Flint stated Ariel is no longer with GMS and we are asking that you consider appointing Jill Burns as Treasurer and Katie Costa as Assistant Treasurer. They both work in my office and Katie is the one who prepares the financial statements and Jill is a principal with GMS.

On MOTION by Mr. Blake seconded by Ms. Shields with all in favor Resolution 2021-07 appointing Jill Burns as Treasurer and Katie Costa as Assistant Treasurer was approved.

FIFTH ORDER OF BUSINESS

**Consideration of Resolution 2021-08
Approving the Proposed Budget for Fiscal
Year 2022 and Setting a Public Hearing**

Mr. Flint stated each year the Board is required to approve a proposed budget by June 15th and set the date, place and time of the public hearing. The proposed budget is not binding on the Board, you can make changes to this between now and at the public hearing in July. We are recommending July 27th at 9:00 a.m. for the public hearing. The budget continues to be primarily an administrative budget, there is no operational expenses included and you can see the budget is identical to last year. This is currently being funded through a developer funding agreement and the developer/landowner is paying 1/12 per month of the operating budget.

On MOTION by Mr. Blake seconded by Ms. Shields with all in favor Resolution 2021-08 approving the proposed Fiscal Year 2022 budget and setting the public hearing for July 27, 2021 was approved.

SIXTH ORDER OF BUSINESS

**Consideration of Settlement Agreement with
Founders Ridge Development, LLC and
Founders Ridge Development II, LLC**

Ms. Mackie stated included in the agenda is a proposed settlement agreement that has been agreed to in substantial form as between the District, its counsel myself and counsel for the landowner, Don Crawford and Rob Zebro were helpful in assisting with the preparation of this agreement. The District has had past due expenses for some number of years, the current amount of about \$154,000 and this settlement agreement provides for an understanding as to what

amounts will be paid and again, similar to the funding agreement, these amounts will be paid over time. You will see that set forth in section 1 of the agreement, of the \$154,000, \$110,000 is going to be paid to the District in installment payments of approximately \$36,000 over the course of the next few years with the last payment ending on June 30, 2023. I would be happy to answer any questions. I think this is still being reviewed by a principal of the landowner and there may be minor comments that ultimately get incorporated into the execution version. We would be looking for a motion for the Board to approve in substantial form today.

On MOTION by Mr. Blake seconded by Ms. Shields with all in favor the settlement agreement with Founders Ridge Development, LLC and Founders Ridge Development II, LLC was approved in substantial form.

SEVENTH ORDER OF BUSINESS

Discussion of E-Verify Requirements and Ratification of Staff Actions Related to the Memorandum of Understanding

Mr. Flint stated state law was changed last year requiring government agencies to comply with the E-Verify requirements. It is a federal requirement and doesn't necessarily apply to states, but the State of Florida has made it applicable and this makes sure that any employee of the District is legally authorized to work as well as any contractor and their employees. As part of that we had to register with the E-Verify System and the District had to enter into a memorandum of understanding with the Department of Homeland Security. This went into effect January 1, and doesn't apply to the District at this point, we don't have any employees. Any contracts that you enter into after January 1, would have to include a provision that obligates the contractor to comply and demonstrate that they have registered with E-Verify. We are asking the Board to ratify our actions in registering the District in the E-Verify System and entering into the memorandum of understanding.

On MOTION by Mr. Blake seconded by Ms. Shields with all in favor staff actions related to registering in the E-Verify System and execution of the memorandum of understanding were ratified.

EIGHTH ORDER OF BUSINESS

Discussion of Board Member Compensation

Mr. Flint stated under Chapter 190 Board Members are entitled to compensation of \$200 per meeting for Board attendance up to a maximum of \$4,800 per year. It is an entitlement if you choose to accept it the District is obligated to pay you and in some instances Board Members will waive compensation and other instances they will accept compensation. With the financial situation of the District previously Board compensation was not feasible, but I had that question from one of the Board Members who wanted to put it on as a discussion item to see what the Board's position is on that.

Mr. Blake stated if we leave it on there, but don't accept it we have a surplus at the end of the year.

Mr. Flint stated at this point we included \$4,000 and the funds would carry over if we don't expend it. That would be four Board meetings with five Board Members being paid.

Mr. Blake asked are we looking for a motion to do something?

Mr. Flint stated at this point I think the Board Members have individually waived compensation. If you choose to accept it I just need to know that and if you do accept it we have a I9 and W4 form that you have to fill out.

Mr. Blake stated I would like to stick with the plan we have currently, leave it in the budget and let the members do what they want.

NINTH ORDER OF BUSINESS

Appointment of Audit Committee and Chairman

Mr. Flint stated next is appointment of Audit Committee and designation of a Chair. The CDD as a governmental entity is required to have an annual independent audit performed and part of the process includes appointing an Audit Committee and in this case we recommend the Board appoint themselves as the Audit Committee. The only purpose of the Audit Committee is to approve the form of the RFP and selection criteria and when we get the responses back the Audit Committee would review and rank those and make a recommendation to the Board.

On MOTION by Mr. Blake seconded by Ms. Shields with all in favor the Board Members were appointed to serve as the Audit Committee and Mr. Blake was appointed Chair.

TENTH ORDER OF BUSINESS

Staff Reports

A. Attorney

There being none, the next item followed.

B. Engineer

There being none, the next item followed.

C. Manager

i. Balance Sheet and Income Statement

A copy of the financials was included in the agenda package.

ii. Ratification of FY21 Funding Requests 3-6

Mr. Flint stated funding requests 3 – 6 were submitted to the landowner under the current funding agreement. This is for February, March, April, and May. We have already transmitted these and they have been funded, but we put them on the agenda to have you ratify.

On MOTION by Mr. Blake seconded by Ms. Shields with all in favor FY21 funding requests 3-6 were ratified.

iii. Presentation of Number of Registered Voters - 0

A copy of the letter from the supervisor of elections indicating that there are no registered voters residing within the District was included in the agenda package.

ELEVENTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Blake asked if we wanted to issue a bond for building roadways how does that process work?

Mr. Flint stated there are underwriters that do that and there are two primary underwriters in the state you would probably want to consider. FMS Bonds and MBS Capital Markets, they probably do 95% of the CDD deals.

Ms. Tucker stated typically at the start of a project, which despite the age of the District Founders Ridge would be considered just beginning its construction and I don't believe we have an engineer's report currently or if we did it would need to be reviewed and updated to develop a capital improvement plan for the District that meets with the expectations of the development going forward. You develop that improvement plan, then engage certain professionals, one of

which is an underwriter. The District would also retain the services of bond counsel to ultimately deliver the tax-exempt opinion, but bond counsel also has a role in the preparation of all the closing documents that come with closing on the bonds, similar to the volume that typically follows closing on a mortgage. The District would adopt a bond resolution preliminarily that would approve the forms of the indenture and the offering document and we would also levy a master assessment that would tie to the capital improvement plan that would be developed by conversations with the engineer and the developer and levy that master assessment and ultimately the Board would approve two other resolutions, another supplemental bond resolution and a supplemental assessment resolution that would tie to the actual issuance itself once the bonds are marketed and priced. All together that can be a time intensive process although I suggest once the engineer's report and assessment process has begun you can close within 60 or 90 days. I suggest the first step should be engaging or having discussions with an underwriter because they can also assist in the sizing of the project itself and soon thereafter working with an engineering firm to develop the CIP itself.

Mr. Flint stated I would have to go back and look the Board may have had engaged MBS at some point early on, but you are not tied to that you can make a change. MBS is out of Winter Park, they are one of the major players. Technically, I believe you have a District Engineer unless he resigned but it was Besch, which has now been bought by somebody else. The engineer is critical to that and a lot of times the design engineer will serve as the District Engineer although that is not always the case. The design engineer tends to be most familiar with the project versus having a District Engineer that is not familiar. Getting the engineer onboard because the engineer's report is critical to the rest of the process, then an underwriter as well. The cost of bond counsel and the engineer's report and assessment methodology and all the costs related to the issuance typically are funded out of the proceeds of the bonds so there is a cost of issuance account that ends up paying those professionals. The underwriter's fee is netted out of the bonds as well. There is a bond team funding agreement that would be required early on because if for example you get down the road and you don't ultimately end up issuing bonds some of the professionals still need to be paid, others work on contingent basis. Bond counsel only gets paid if you issue, our part of it with the assessment report we only get paid if we issue but the engineer and District Counsel usually get paid either way, they are not on a contingent basis.

Mr. Zagame asked do you have an idea of what it costs to get to that point?

Mr. Flint responded the cost of issuance is usually \$175,000 but that is funded out of the cost of issuance account so it wouldn't be an out of pocket but there is out of pocket from the attorney and engineer.

Ms. Mackie stated typically the engineer's report is \$15,000 to \$20,000 and we typically get paid out of closing. If the bonds never issue that may not be the case, but we are comfortable waiting until closing to get paid.

Mr. Zagame asked ballpark what would your part be?

Ms. Mackie responded that would be related to how far down the process you go but as George indicated there is an assessment process as well. Our typical fee for a bond closing is a flat fee of \$43,000 and if we don't close on the bond we bill at our hourly rate rather than the flat fee. Our costs associated with the flat fee anticipates the delivery of an opinion on the assessments at the end of the day and that is why charge at a flat rate for any bond closing.

Mr. Zagame asked is there anything we can't issue a bond and spend money on or is it anything within the CDD, like roadways, sidewalks, trees, what can we do or not do with that money?

Ms. Mackie stated generally speaking the District is limited to funding improvements that are public in nature. While taking roadways as an example as long as those roadways are either owned by the District, the county or the city those would be deemed public and the District can fund the construction of those roadways. Conversely, if you are going to gate the community and have the HOA own the roadways the District couldn't fund their construction even though they are located within the District boundaries. Generally speaking what I typically see nearly every District fund are the utilities and the stormwater system, despite whether or not the community is gated those are public improvements with no reasonable expectation of access and offsite improvements, utility construction and stormwater are sort of the base cost for any CDD and beyond that, roadways, landscaping, irrigation improvements, amenity centers, all sort of circle around the question, is it going to be a public improvement or is it going to be retained by private ownership.

Mr. Blake stated if the answer is retained by private ownership the CDD can't be doing it. Constructing lots for a single-family residential subdivision, we can't do that.

Ms. Mackie stated that cannot be funded by the District.

Mr. Blake stated the road in front of the lots, the curbs to the road, the sewer, the water is all public not gated then it could do it.

Mr. Flint stated yes, even if it is gated you can do the water, sewer and stormwater.

Mr. Blake stated we have big hills here. To make those roads we would have to mass grade and roughly not pad ready the lots but you have to somewhat construct the lots to be able to construct the road. Is that a gray area?

Ms. Mackie stated what typically happens there is sometimes that is a nuance conversation with the District's bond counsel ultimately but what you typically see an engineer do to apportion the cost for the grading is look at ultimately what is on an acreage basis is going to be public versus private on a percentage basis and then apply the grading to those percentages. That is typically how that cost is broken down, the public aspect being funded by the District and the private aspect being funded by the developer.

Mr. Zagame stated we are going to have to find a new bond counsel.

Ms. Mackie stated George and I can get you a number of firms providing bond counsel service.

Mr. Blake stated I heard you say from the time we have the engineering report and opinions from the legal side, 60 – 90 days to closing. How long does it take before that to get the engineer's report and legal opinion?

Ms. Mackie stated it is the engineer's report and the Chapter 170 process to levy the assessments takes about 60-days once you have the engineer's report. I suggest George's team is able to prepare a methodology fairly quickly after the development of the engineer's report. The generation of the engineer's report takes some time and the sooner you can get started with that, the better. When they are able to focus the amount of time it would take to develop that is usually a 30 – 45 day process for an engineer to develop that improvement plan. If you have the design engineer of record, obviously, that expedites their ability to prepare a capital improvement plan for the District because they already have a very good understanding about what the overall development is going to entail.

Mr. Blake stated realistically it is six months to do this whole thing.

Mr. Flint stated yes, it could be.

Ms. Mackie stated that is typically what we are providing in our timeline.

Mr. Flint stated a lot depends on the engineer and how quickly they can get that report done. The underwriter also has some due diligence when they are preparing the offering memorandum there is a lot of information they need to get from the landowner and developer to be incorporated into that offering statement. Depending on how quickly you can provide that information to them that is also an item that could take time, but that is in your court. Who is the design engineer?

Mr. Zagame asked does bond financing work like traditional lending? Obviously, this project is going to be built in phases. Can you have a future advance in a bond or do you just have as many bonds as you have phases.

Mr. Flint responded probably a project this size you are going to have multiple bond issues.

Mr. Blake stated if we are going to spend \$15 million total, but we are only going to spend \$5 million for the first two years, would you do a bond fund for \$5 million and not \$15 million?

Mr. Flint stated from a tax perspective you don't want to borrow more than what you would be able spend in three or four years.

Mr. Zagame asked are you drawing from a bond?

Ms. Mackie responded no, that is the difference. You are not drawing down on the bond so past the point of capitalized interest which typically can be a year or two tops, at that point in time you will start assessing the landowners within the District, which in the early phases is going to be the developer for the assessments due for the total outstanding principal and interest. That is why if you are only talking about spending \$5 million within the first few years that is likely the first tranche of bonds you would issue to avoid paying interest on principal that is unused in the first two to three years.

Mr. Blake asked would we then have to pay the \$175,000 and do the whole process over each tranche or can you do that part one time?

Mr. Flint stated each time you would have a cost of issuance.

Ms. Mackie stated if you are developing the entirety of the CIP understanding what the phasing is going to be with the expectation that there is going to be multiple phase issuances, sometimes you will see a slight reduction in consulting fees because you don't have the initial generation of some of the documents. They can be refreshed and updated opposed to being

drafted with the second or third issuance, whatever the case may be. I wouldn't suggest moving the needle significantly.

Mr. Zagame stated this is a real disadvantage of the bond, having to pay interest on the entire amount of the bond from day one.

Mr. Flint stated there are two ways to handle it as well as far as constructing the improvements. Larger developers will have the District acquire completed improvements so the developer will construct the improvements, then when they are complete the District will acquire those completed improvements. They have to front the cost and that is one approach. Then, if that is the approach you time the issuance of the bonds with when the improvements are completed so you are not carrying the interest. The other way to do it is the District can construct the improvements. The District would actually bid and enter into construction contracts then as pay apps come in the District can fund those out of bond proceeds. One of the disadvantages of that approach is then you are subject to the public bidding process and a lot of those issues. If you do the acquisition approach administratively it is a little simpler, but again, you have to acquire completed improvements so you are carrying those costs for a period of time.

Mr. Blake asked if the CDD does it the first way, buying completed improvements from a developer do we have to follow the public bidding process?

Ms. Mackie responded no, you are entering into that contract prior to the issuance of the bond. The developer does not have to follow procurement guidelines, the District would have to follow the process in the acquisition agreement as far as what is required to acquire those facilities, but generally speaking it is not onerous and nothing the developer wouldn't already have in hand from their contractor, i.e. assigning warranties, making sure your engineer signs off that it is a cost under the CIP and it has been designed and built to the specs, etc. In that case you don't have to follow procurement guidelines. If you are doing that and acquiring completed improvements, the likelihood that then you are also at a point at which you are going to start selling lots to third party homeowners or a builder then the responsibility to pay the assessment that has been assigned to that lot moves with the landowner so the likelihood that you are reaching that absorption stage is higher when you are financing at the point in time that the infrastructure is in the ground. You can also then capitalize the interest so that you do not have an assessment payment due within the first year or possibly second year. There is not the ability

to push it off beyond two years, but you can capitalize some of the interest that would otherwise be due.

Mr. Zagame asked could there be a contract in place? The District would commit to purchasing the improvements from the developer once complete.

Mr. Blake stated correct.

Mr. Flint stated there is an acquisition agreement.

Ms. Mackie stated there is an acquisition. If we are talking about a situation where you are timing your issuance with the completion of the infrastructure, typically what is happening is on the date of the closing we are processing the initial requisitions for cost of issuance, and the second requisition to acquire the completed infrastructure. The date at which you are funded is the date those funds also go out the door to reimburse the developer for the acquired infrastructure in that scenario. If you are doing it where you are not ready to acquire the infrastructure that early on, the acquisition agreement also then binds the District to acquire completed infrastructure so long as the District receives all of the representations that it would need under the acquisition agreement, the District would be acquiring that infrastructure. Obviously, the sole purpose for those funds, the District can't use them for anything else other than the public infrastructure identified in the CIP and the Board would be making all those decisions as well.

Mr. Zagame stated then the landowner can be the developer.

Mr. Flint stated a lot of times that is the case.

Mr. Zagame stated thank you for the education. This process is new to me, but the explanation is excellent it makes a lot of sense.

Mr. Flint stated I don't mean to speak for Tucker but I would think that she and I would be available any time outside of a meeting as long as it is just one Board Member we are happy to continue these discussions with whoever we need to.

Ms. Mackie stated absolutely. We have presentations that kind of describe the District and the financing process and George and I would be happy to go through with anyone again with the limitation of the sunshine law with respect to the supervisors. Also I can provide the contact information as can George for the two underwriters he mentioned. If you want to engage in discussions with either one of those individual firms a lot of times they can drill down into some of the development related questions that may assist in choosing a path forward.

Mr. Flint stated they are going to be interested in credit issues, do you have builders contracts and they can be helpful in the conversation and the scenarios and it doesn't cost you anything because they don't get paid unless we issue bonds.

Mr. Zagame stated just to be clear on the sunshine law, could the three of us conference with you, George, or with Tucker outside of a quarterly meeting?

Mr. Flint stated we would have to advertise it. We could advertise a workshop, you run a notice in the legal section of the newspaper. You can advertise a Board meeting and have those discussions if it is a workshop and you are not voting we could do those remotely via Zoon so we wouldn't have to have an in-person meeting.

Mr. Zagame stated the three of us work together, the sunshine law unfortunately doesn't promote this kind of collaborative conference.

Mr. Flint stated a lot of times you need to take that into account when you think of your Board Members. If you have a project and two of the people are involved in that project you have to be careful about who is on the Board. You may want to appoint someone who is not directly related. There is a distinction between developer discussion and Board discussion as well. It doesn't mean you can talk about the project, it is just the CDD aspect of the project that is the issue.

TWELTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Blake seconded by Ms. Shields with all in favor the meeting adjourned at 12:11 p.m.



Secretary/Assistant Secretary

Chairman/Vice Chairman