

BOGGY CREEK IMPROVEMENT DISTRICT **BOARD OF SUPERVISORS' MEETING MINUTES**

FIRST ORDER OF BUSINESS

Roll Call to Confirm a Quorum

The Board of Supervisors' Meeting for the Boggy Creek Improvement District was called to order on Tuesday, November 16, 2021, at 3:00 p.m. at Courtyard Orlando Lake Nona, 6955 Tavistock Lakes Blvd, Orlando, FL 32827.

Present:

Richard Levey	Chairperson
Damon Ventura	Vice Chairperson
Thad Czapka	Assistant Secretary
Chad Tinetti	Assistant Secretary

Also attending:

Jennifer Walden	PFM	
Lynne Mullins	PFM	(via phone)
Tucker Mackie	Kutak Rock	(via phone)
Jeff Newton	Donald W. McIntosh Associates, Inc.	
Larry Kaufmann	Construction Supervisor & Construction Committee Member	
		(via phone)
Scott Thacker	District Landscape Supervisor	(joined at 3:20 p.m.)
Chris Wilson	Construction Committee Member	
Matt McDermott	Construction Committee Member	

SECOND ORDER OF BUSINESS

Public Comment Period

Dr. Levey asked for any public comments. There were no comments at this time.

THIRD ORDER OF BUSINESS

Consideration of the Minutes of the October 19, 2021, Board of Supervisors' Meeting

Board Members reviewed the minutes from the October 19, 2021, Board of Supervisors' meeting.

On Motion by Mr. Czapka, second by Mr. Tinetti, with all in favor, the Board of Supervisors for the Boggy Creek Improvement District approved the Minutes of the October 19, 2021, Board of Supervisors' Meeting.

FOURTH ORDER OF BUSINESS

Consideration of the Minutes of the October 27, 2021, RFP Meeting to Open Responses for Landscaping and Irrigation Maintenance Services

Board Members reviewed the minutes from the October 27, 2021, RFP meeting to open responses for Landscaping and Irrigation Maintenance Services. Discussion ensued regarding the process with the RFP Meeting.

On Motion by Mr. Ventura, second by Mr. Czapka, with all in favor, the Board of Supervisors for the Boggy Creek Improvement District approved the Minutes of the October 27, 2021, Meeting to Open Responses for Landscaping and Irrigation Maintenance Services.

FIFTH ORDER OF BUSINESS

Consideration of Award of Landscape and Irrigation Maintenance Services – State Road 417 (Central Florida Greenway) & Lake Nona Boulevard Interchange a) Construction Committee Recommendation

Mr. Kaufmann explained in the agenda package is a recap of the evaluation criteria and ratings that the Construction Committee discussed for the two qualified bidders for the Landscape and Irrigation Maintenance Services for State Road 417 & Lake Nona Boulevard Interchange. The two bidders were Yellowstone and Cepra. After review of their proposals, the Construction Committee awarded 99.59 points to Cepra and 98.5 points for Yellowstone. The Construction Committee recommended awarding the Landscape and Irrigation Maintenance Services – State Road 417 & Lake Nona Boulevard Interchange to Cepra.

Mr. Ventura asked if Cepra is the current Contractor. Mr. McDermott replied they are the current contractor for the Boggy Creek ID. Mr. Ventura asked if District staff is satisfied with their work. Mr. McDermott responded yes. Mr. Tinetti stated the scoring is close but the pricing is a \$40,000.00-\$50,000.00 difference. Ms. Walden stated the pricing is over three years and it is a formula to figure out the points awarded for the price. Ms. Mackie stated it is closer than it would appear in the minutes because Cepra's term had to adjust for the fact that it was a ten month term because the District is already two months into the Fiscal Year. Dr. Levey stated in the future if this is relevant information it should be in the agenda item for the decision.

On Motion by Mr. Ventura, second by Mr. Tinnetti, with all in favor, the Board of Supervisors for the Boggy Creek Improvement District adopted the rankings of the Construction Committee and accepted the Construction Committee's Recommendation to Award the Landscape and Irrigation Maintenance Services for the State Road 417 & Lake Nona Boulevard Interchange Contract to Cepra.

SIXTH ORDER OF BUSINESS

Consideration of Resolution 2022-01, Adopting an Amended Budget for Fiscal Year 2021

Ms. Walden explained there were a few line items that exceeded the budget by more than the allowable threshold and the auditor requests the budget be amended. She stated that there were some line items like Trustee Services and District Counsel which exceeded the budget, and there are some line items that were under the budgeted amount, but the overall budget is the same. Ms. Mackie stated the District is only required to adopt an amended budget if there is an excess of \$10,000.00 or 10% increase to a line item. The overall budget did not change as a result of these line item changes.

Dr. Levey asked if the books are closed for Fiscal Year 2021. Ms. Walden replied invoices can still come in through the end of November, but she does not know of any invoices that are outstanding.

On Motion by Mr. Ventura, second by Mr. Czapka, with all in favor, the Board of Supervisors for the Boggy Creek Improvement District approved Resolution 2022-01, Adopting an Amended Budget for Fiscal Year 2021.

SEVENTH ORDER OF BUSINESS

Consideration of Kutak Rock Fee Agreement

Ms. Mackie explained at the prior meeting the Board reviewed and approved a transition letter that authorized the transition from Hopping Green & Sams to Kutak Rock. Included within the agenda package today is the proposed Fee Agreement, which largely mirrors the existing Fee Agreement that the District had with Hopping Green & Sams. The Transition Letter allowed District Counsel to port over all of the District's files in advance of their start at Kutak Rock, which was this past Monday. The Fee Agreement will set forth the terms of representation going forward.

Mr. Ventura asked why the District transitioned from Hopping Green & Sams to Kutak Rock. Ms. Mackie explained several months ago at Hopping Green & Sams there were several departures that caused various practice groups to look at the platform they operate from, with the expectation that possibly Hopping Green & Sams would no longer be practicing law. Ms. Mackie's practice group and all their staff, in reviewing their options, chose to join the law firm of Kutak Rock, which has a national presence and are well known in the field of Public Finance. Ms. Mackie and her practice group are excited about their future with Kutak Rock, and the proposed Fee Agreement that Boggy Creek ID has, along with other Lake Nona Districts, will largely remain unchanged.

Dr. Levey asked what Ms. Mackie meant when she said the proposed Fee Agreement will largely remain unchanged. Ms. Mackie clarified she made some updates to the client file section to make it very explicit when the files will transition at the end of a storage period. Also, Section 7, the conflict section, was updated to represent that Kutak Rock represents a number of Trustees and Bondholders, but there is no apparent conflict with that representation and District Counsel's representation of the Boggy Creek Improvement District. Dr. Levey stated that the Board should have the right to waive any conflict. Ms. Mackie stated they do, but this letter is stating that there is no conflict, and the execution of the Kutak Rock Fee Agreement would result in a waiver of that conflict. If there is an actual conflict, that would be brought before the attention of the Board, but there are not any actual conflicts as a result of transitioning over to Kutak Rock. Dr. Levey stated the last sentence in Section 7 he finds troubling in that it states by signing the Fee Agreement the District is waiving any and all potential conflicts. Ms. Mackie stated there are no existing conflicts today between the District's representation and Kutak Rock's representation of any of the other Developers, builders, or entities in Florida. This was standard language in Hopping Green & Sams Fee Agreement as well. Discussion ensued.

Dr. Levey requested language to be added which clarifies it is limited to general representation and not a waiver of any specific potential conflict going forward. Ms. Mackie noted she will add language to the extent any actual or adverse relation to a conflict would arise in the future and that would be brought back to the Board. She noted that her ethical obligation would require her to do that regardless.

On Motion by Mr. Ventura, second by Mr. Czapka, with all in favor, the Board of Supervisors for the Boggy Creek Improvement District approved the Kutak Rock Fee Agreement, as amended subject to clarification of Conflict Language in Section 7.

EIGHTH ORDER OF BUSINESS

Discussion of Memo for Wastewater and Stormwater Needs Analysis

Ms. Mackie explained the Florida Legislature adopted legislation that requires local governments, including special districts, to do a Stormwater and Wastewater Needs Analysis. For most of the Districts in Lake

Nona, they do not maintain wastewater or stormwater improvements, with the exception of the Boggy Creek Improvement District which maintains certain Interchange ponds. The District will need to prepare a Stormwater Needs Analysis, but it is not due until June 2022. The requirements contained on Page 2 of the memorandum mirror those that the District is otherwise required to provide in the form of a Public Facilities Report, which is prepared and updated every 7 years. District Counsel will work with the District Engineer to provide the needs analysis and be able to comply with the new legislation as of June 2022, which requires the District to submit the needs analysis to DEO to be compiled in a larger document that outlines the needs analysis for all Special Districts and local governments within one document in the jurisdiction.

Mr. Thacker joined the meeting in progress at 3:20 p.m.

Dr. Levey asked if the District would see a scope and a fee associated with the Stormwater Needs Analysis before it is conducted. Ms. Mackie stated Mr. Newton is still reviewing the memorandum and he will bring back a scope and a fee by way of a Work Authorization once he determines the work to be done. There is no action required by the Board today.

NINTH ORDER OF BUSINESS

Ratification of Amendment #1 to Master Agreement with Beep, Inc.

Ms. Walden stated at the last meeting the Board gave approval for District staff to move forward with this amendment, giving authority to the Chair to sign it outside a meeting. The Chair has signed the Amendment #1 to Master Agreement with Beep, Inc and it is back before the Board for ratification.

On Motion by Mr. Tinnetti, second by Mr. Ventura, with all in favor, the Board of Supervisors for the Boggy Creek Improvement District ratified Amendment #1 to Master Agreement with Beep, Inc.

TENTH ORDER OF BUSINESS

Consideration of Resolution 2022-02, Adopting an Amended Assessment Resolution

Ms. Mackie presented the Amended Assessment Resolution. Boggy Creek Improvement District had some updated development that would have revised the Assessment Roll the District approved at the August meeting. The District now has sent out the direct bills for the Debt Service and Operations and Maintenance Assessments based on the revised Assessment Roll, which is attached as Exhibit A to this Resolution. It allocates certain ERUs to now developed properties and reflects updated ownership information as property transfers.

Dr. Levey asked if the Board gets to see what was changed about the Assessment Resolution from the last time they reviewed this Resolution. Ms. Mackie stated the adjustments are reflected in the right hand column of the document showing the increase and decrease.

On Motion by Mr. Ventura, second by Mr. Tinetti, with all in favor, the Board of Supervisors for the Boggy Creek Improvement District approved Resolution 2022-02, Adopting an Amended Assessment Resolution.

ELEVENTH ORDER OF BUSINESS

Ratification of Operation and Maintenance Expenditures Paid in October 2021 in an amount totaling \$128,539.55

The Board reviewed Operation and Maintenance Expenditures Paid in October 2021 in an amount totaling \$128,539.55. Dr. Levey noted these have been approved and just need to be ratified by the Board.

On Motion by Mr. Ventura, second by Mr. Tinetti, with all in favor, the Board of Supervisors for the Boggy Creek Improvement District approved the Operation and Maintenance Expenditures Paid in October 2021 in an amount totaling \$128,539.55.

TWELFTH ORDER OF BUSINESS

Ratification of Requisition Nos. 2018-209 – 2018-212 in October 2021 in an amount totaling \$125,936.61

The Board reviewed Requisition Nos. 2018-209 – 2018-212 in October 2021 in an amount totaling \$125,936.61. Ms. Walden noted these have been approved and just need to be ratified by the Board.

On Motion by Mr. Ventura, second by Mr. Czapka, with all in favor, the Board of Supervisors for the Boggy Creek Improvement District ratified Requisition Nos. 2018-209 – 2018-212 in October 2021 in an amount totaling \$125,936.61.

THIRTEENTH ORDER OF BUSINESS

Recommendation of Work Authorizations/Proposed Services

Ms. Walden explained the District has two proposals from Berman Construction. The first one is for \$400.00 for installing and removing holiday décor at Lake Nona Blvd. and Boggy Creek Road. The second proposal is for \$4,000.00 for installing and removing holiday décor for the Interchange. Ms. Walden noted previously there was a different company providing this service but they went out of business. The total of these two proposals is \$4,400.00 and the District budgeted \$6,000.00.

On Motion by Mr. Ventura, second by Mr. Czapka, with all in favor, the Board of Supervisors for the Boggy Creek Improvement District approved the two proposals for Berman Construction in the amount of \$400.00 for installation and removal of holiday décor at Lake Nona Blvd. and Boggy Creek Road and \$4,000.00 for installation and removal of holiday décor for the Interchange.

FOURTEENTH ORDER OF BUSINESS

Review of District's Financial Position and Budget to Actual YTD

The Board reviewed the District's Financial Statements updated through October 31, 2021. Ms. Walden stated the District is well under budget. No action is required by the Board.

Dr. Levey asked if the District already spent 30% of the Landscape budget. Ms. Walden stated that is for landscape improvements not landscape maintenance.

FIFTEENTH ORDER OF BUSINESS

Staff Reports

District Counsel – No Report

District Manager – Ms. Walden noted the December meeting is moved up one week and is scheduled for Tuesday, December 14, 2021, due to the holiday.

District Engineer – No Report

Construction Supervisor – No Report

District Landscape Supervisor – No Report

Irrigation Supervisor – No Report

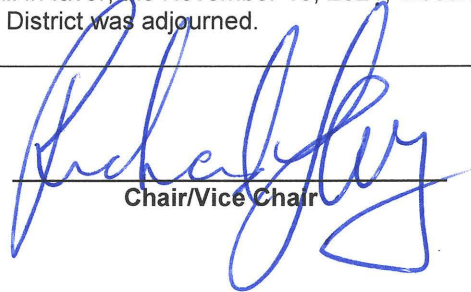
SIXTEENTH ORDER OF BUSINESS

Supervisor Requests and Adjournment

As there were no Supervisor requests, Dr. Levey requested a motion to adjourn the meeting.

On Motion by Mr. Czapka, second by Mr. Tinnetti, with all in favor, the November 16, 2021, Meeting of the Board of Supervisors for the Boggy Creek Improvement District was adjourned.


Secretary/Assistant Secretary


Chair/Vice Chair