

Minutes of Meeting
Canopy
Community Development District

The regular meeting of the Board of Supervisors of the Canopy Community Development District was held Tuesday, September 1, 2020 at 11:00 a.m. via Zoom.

Present and constituting a quorum were:

Tom Asbury	Chairman
Gregg Patterson	Vice Chairman
John "Al" Russell	Assistant Secretary
Colleen Castille	Assistant Secretary
David Brady	Assistant Secretary

Also present were:

Darrin Mossing	District Manager
Jennifer Kilinski	District Counsel
Lauren Gentry	Hopping Green & Sams
Tim Stackhouse	District Engineer
Darrin Mossing, Jr.	GMS
Jason Greenwood	GMS
Susan Dawson	Attorney for Blueprint
Gene Nelson	Resident

FIRST ORDER OF BUSINESS

Roll Call

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

SECOND ORDER OF BUSINESS

Public Comment Period

Ms. Dawson stated I am the Blueprint attorney and there are a couple issues I believe the board will be addressing today that concern Blueprint Intergovernmental Agency and that is the reason for my participation today.

Mr. Nelson stated I am a Canopy resident and a member of the ad hoc committee that has been formed at Canopy to coordinate with Mr. Ghazvini. I will read what Ronnie Alston texted to me and the others, paragraph 2 of the minutes Tom Asbury quoted a current cost figure of \$344 per year per residents in CDD fees, he expects that number to go up to \$700± per year once the

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amenities are completed. The residents have been paying \$750 per year all along we should ask what has been done with the excess funds. Are those funds being held in a separate interest-bearing account and available for unexpected expenses such as storm damage?

Mr. Mossing stated the \$344 that Tom referenced in the minutes is the current operating and maintenance assessment that in the future is likely to increase to the \$700 level, but no residents have paid that \$700 at this time. The \$344 is the operating and maintenance assessment then there is a debt service assessment that varies based upon lot size and I believe it is \$750, \$850 and \$950 depending on your lot size.

Mr. Nelson asked is that built into the property taxes?

Mr. Mossing responded yes, that is on your property tax bill. Your November 1, property tax bill from 2019 should be the same for the CDD for November 1, 2020 for the CDD.

Mr. Nelson stated then there hasn't been a \$750 per month assessment on top of that.

Mr. Mossing responded no, as a matter of fact the developer is going to have to deficit fund the operating fund for this year.

Mr. Asbury stated it is definitely not a month it is per year.

Mr. Mossing stated I want to clarify the \$344 will go to \$750; it is not an additional \$750.

Mr. Asbury stated that is because once the pool and clubhouse and more of the trails get in, which we are anticipating a lot of that getting done in the next six months that will be used to maintain all of that.

Mr. Nelson stated that will be built into everybody's property tax bill as well so the average bill may go up \$400 a year.

Mr. Asbury stated that is correct.

Mr. Mossing stated our budgets are adopted in the summer and our assessments are levied at that time. When that does increase, each homeowner in the district will receive individual mailed notice informing them of the public hearing where that increase will be considered so they will be aware of it and have time to voice their opinion about that increase.

THIRD ORDER OF BUSINESS

Approval of the Minutes of the August 4, 2020 Meeting

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On MOTION by Mr. Patterson seconded by Ms. Castille with all in favor the minutes of the August 4, 2020 meeting were approved as presented.

FOURTH ORDER OF BUSINESS**Ratification of Contract Amendments and Change Orders for Unit 4/5 Infrastructure Contract with Sandco**

Mr. Mossing stated next is ratification of contract amendments and change orders for unit 4/5 infrastructure contract. Basically, that is a summary or the original contract that was awarded on October 18, 2019 for basically \$10 million to Sandco. Since that time there have been numerous, significant changes to that contract and those changes are summarized in change orders 1 – 5. As an example, you see Consolidated Piping listed on that summary and that is one of the major changes because we are exempt from sales tax, we pulled the purchase of supplies out of that contract and we are purchasing them directly from Consolidated Piping. The project was significantly changed and at the point now the adjusted contract is \$6,872,349.88. The next page has the payments made to Sandco under that original contract and now being paid under the amended contract and we paid them \$2,156,161.60 to date through requisition no. 19 leaving a balance of \$4,716,188.28 to complete that amended contract and that reconciles with all the records of the district. We are presenting this to the board because those various change orders had not been presented for your consideration in the past. This is summarizing everything that has occurred and asking the board to ratify these change orders and answer any questions you may have about the contract and the change in the project.

Ms. Kilinski stated one of the reasons this ratification is the original contract amount the board approved was \$9,998,384, which included both units 4 & 5 because unit 4 access that has been somewhat impeded with the Welaunee Boulevard slowdown, more work is being done in unit 5 than in unit 4. Based on the same schedule of values your new contract amount is significantly lower at \$6,872,349 for a reduction of about \$3.1 million. Based on the change order and the amount of work that has been done in the field this is a ratification of that contract amendment as Darrin previously described. It is a significant reduction because unit 4 can't be developed in the same way we thought at the time that contract was bid, but unit 5 can be, which is what primarily this work is for now.

Ms. Castille stated the savings we are incurring now but ultimately as unit 4 is being worked on there will be additional costs.

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Ms. Kilinski stated that is right, it is not being developed at this time.

Mr. Patterson asked what is the delay on Unit 4?

Ms. Kilinski stated my understanding is that the delay is in part due to the position of unit 4 related to access points where Welaunee Boulevard was supposed to be built in 2018. Unit 5 can be developed fully and there is also the PUD that was going through at the time so in terms of what unit amounts were going to be, that was subject to change.

Mr. Asbury stated we decided to also redesign some of it because we brought a commercial component into it next to Welaunee Boulevard so it caused a redesign of some of it and some of it the design we had wouldn't work. We aren't building it right now, but we are working on it.

On MOTION by Ms. Castille seconded by Mr. Patterson with all in favor the contract amendments and change orders for Unit 4/5 infrastructure contract with Sandco were ratified.

FIFTH ORDER OF BUSINESS

Consideration of Proposals for Welaunee Boulevard, Segment 3B Construction Project

Consideration of Resolution 2020-15 Award of Construction Contract for Welaunee Boulevard, Segment 3B Construction Project

Mr. Mossing stated copies of the proposals that the district received were emailed to all the board members and hopefully you have had time to review those proposals.

Ms. Kilinski stated I will give the board an update on our review of legal sufficiency and remind you of the process. As you are aware the district approved going out for a request for proposal process for Welaunee Segment 3B. We received three bids and as has been done in the past you can approach this in a number of ways. The evaluation has to be based on the evaluation criteria that was set forth in the request for proposal documents, but you can discuss them individually with individual categories and you can each adopt your own evaluation score for each or work together to adopt one essential evaluation of those bids as you agree to them by category.

We did review them for legal sufficiency. Talcon's bid had several what we consider material deviations and I will review those briefly with you. I still recommend you evaluate them and give them scoring, but I also recommend you consider when you are doing your scoring that they were missing several components of the required remittance. For example, one of the non-waivable material deficiencies is they did not send in a proposal bond; that means they didn't submit a cashier's check or bond to hold their proposal pricing for 120 days. There is case law on

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that as being non-waivable material deficiency. They reached out to Tim after the bid deadline realizing that they forgot to submit their bid tabulation form, which has their schedule of values, etc. so we did receive that after the bid opening, but from an evaluation standpoint that is considered a non-waivable deficiency. They also didn't fill out certificate of corporate principal, they didn't provide financial capability information that was requested in the bid and there are a couple forms that weren't submitted on time or at all. They didn't provide a required list of projects completed in the past two years, nor did they provide contact information for references. There are several deficiencies that were noted in that one.

C. W. Roberts had a fully responsive bid with the exception of they didn't provide a detailed schedule; they did provide a holistic schedule, but they didn't provide detail that demonstrates their ability to meet the deadlines as requested in the bid. That is not necessarily material because they did provide a schedule as requested.

Sandco provided a responsive bid, the exception that we noted is they didn't have all their MWSBE forms filled out, but they provided a narrative where they described their meeting of all the MWSBE requirements, it was the same discussion we had with the 3A bid. I don't think it is a material deviation. We did reach out to Blueprint to get confirmation on that just as we did the last bid.

Ms. Gentry stated to clarify, Talcon did provide a list of projects completed in the last two years, but they did not provide that list of references.

Ms. Kilinski stated that is not considered material, however, that is something we could waive, but the bid bond and schedule of values being late are major considerations.

I wanted to give you that preface as you go through the evaluation criteria. You should have a blank form in front of you. When we get to the scoring of the pricing and schedule and the MWSBE criteria we will jump in a little bit because that was formulaic and I will give you a recommendation on how to rank those, but the rest of the categories are up to the board on how you want to approach this.

Mr. Asbury stated I will pick up on the evaluation criteria. I have done the first three and I will have Jennifer get involved in the last three.

Under personnel, which is 10 points, for CW Roberts I gave them 10, I gave Sandco 10 and Talcon I gave 8. I tried to figure out exactly what they have personnel-wise and that is where I ended up.

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For experience and availability of equipment, the experience meaning being on the job and having been to this job before, there was a possible 15 and I gave CW Roberts 20, I gave Sandco 25 because they have been on the job and I gave Talcon 15.

Understanding scope of work, with a possible 13 points, I gave CW Roberts 13 points, Sandco 13 points and because Talcon did not have their bid bond and as Jennifer talked about, some of the things they left out I gave them 3.

Ms. Castille stated I sort of think that Talcon not having the bid bond is a significant failure or hole in their response and it is up to the rest of the board, but wouldn't we typically deem them as non-responsive?

Mr. Asbury responded yes, I agree, but Jennifer suggested we go ahead and evaluate them anyway.

Ms. Kilinski stated you can deem them non-responsive; we have done that with previous bidders. The bid bond and schedule of values were absolute requirements, it is fine to declare them non-responsive and we can amend our resolution to declare them non-responsive. The recommendation was to go ahead and evaluate them in an abundance of caution seeing where they shook out, but you can rank them third or non-responsive, it is going to have the same outcome.

Mr. Brady asked did they try to submit that late or they did not?

Ms. Kilinski stated they did; they reached out to Tim about 15 minutes or so past the bid deadline, not the bid bond but the schedule of values.

Mr. Asbury stated they didn't a price.

Ms. Kilinski stated they had their price; but we require the schedule of values so that as an example there is a change order we have pricing for individual line items so we don't get significant hits and also we weight the reasonableness of their bid based on their categorization of various pricing units. They did not submit that in their original bid but did request it be accepted after the bid deadline.

Ms. Gentry stated they did provide their overall lump sum price on different forms within the proposal, but they didn't provide that itemized list.

Mr. Russell stated I concur with the grading scale that Tom went through, I agree with the categories and numbers, I think it is appropriate. I'm okay with what Tom has rated if we are doing it as a group.

Mr. Brady stated you can't move forward without a bid bond even if you wanted to.

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Mr. Asbury stated that is correct.

Ms. Kilinski stated if at the end of the evaluation you want to declare that company non-responsive and indicate that in our notice of award letters, I'm perfectly comfortable from a legal position, taking that position with that bid.

Mr. Asbury stated let's move on with the rest of it then we will have the total evaluation and make a decision.

Ms. Kilinski stated the MWSBE category as was the case with segment 3A there is a formula for that calculation. They were able to earn up to 12 points total: up to 10 points for MSWBE participation plan and they could receive 2 extra points for participation in joint venture partnership and association, mentor, protégé or apprenticeship relationships. In evaluating the proposals and responses each of those companies should be awarded 10 points based on the target thresholds that were provided by Blueprint, but none of them are providing the optional programs, so they are not entitled to the additional 2 points. I think it is appropriate to give each of those companies 10 points out of 12.

On schedule we had 15 points for the fastest schedule and 5 for ability to meet that schedule. All of them had the exact same timeline from start date to final completion. One way to evaluate that is to say they all get the full 15 points. Another way to evaluate it and there is flexibility in the way we wrote the evaluation criteria is to say who is the fastest from the fastest start date. We talked about the necessary requirements for expediency on this project in our RFP documents. You will note that CW Roberts says it can start November 1st and then with completion would be 196 days from award. Sandco can start September 1st so it is 135 days and Talcon can't start until January 1, 2021 so that would be 157 days. I do think there is some flexibility based on the way we structured this to either award them all 15 because they had the same number of days from start date to final completion or to have a scaled score based on the time for final completion based on our project award, which would be Sandco 15, CW Roberts 10 and Talcon 8. That category is 15 points for that then 5 points for their ability to complete the schedule. CW Roberts didn't provide any sort of backup for how they were going to approach their schedule where the other two parties did.

Ms. Castille stated I concur with that rating.

Mr. Asbury asked did you award each of them 5?

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Ms. Kilinski stated that is somewhat subjective noting that CW Roberts didn't have any backup for how they were going to complete it you may want to think about doing 3 out of 5 or 4 out of 5 based on no backup material to determine that 5 point category. In wanting to make sure from the board's perspective when you say I'm good with that point categorization, is it 15 for all or 15, 10 and 8?

Mr. Asbury stated you are saying CW Roberts would be 10, Sandco 15 and Talcon would be 8. Then put CW Roberts at 4, Sandco at 5 and Talcon at 5. A total for CW Roberts of 14, Sandco 20 and 13 for Talcon in that category. I'm good with that.

Ms. Castille stated that is what I concurred with.

Ms. Kilinski stated price is similarly structured. We have 20 points total, 15 points for the lowest cost proposal with a calculation for the rest of the folks and 5 points for reasonableness of the unit prices and the balance of the bid.

The straight calculation for pricing, Sandco is the lowest bid so they get 15 out of 15, CW Roberts and Talcon had a statistically insignificant difference in their bids when you take the percentage of the total bid so they should each get 13 out of 15. When you talk about the unit pricing Tim did a take-off evaluation based on his engineer's estimate as compared to the bid price estimates, and that gave back three categories for whether the prices were reasonable. I want to rely on Tim's confirmation on this. Based on that evaluation, Talcon didn't provide a schedule of values so we can't evaluate the reasonableness of their bid and they provided it after the fact so I would rank them with 0 out of 5. CW Roberts had a fairly significant number that were out of line they had 6 or 7 in the red and Sandco had 2 or 3. I would think of CW Roberts and Sandco of both having either 4 or 5 out of 5 in terms of their reasonableness of their unit pricing. Tim did you have any other take on your evaluation of the bids, the reasonableness of unit pricing?

Mr. Stackhouse responded you covered it pretty well. I think this one it looks like Sandco had a little bit of an advantage in mobilization so there is an advantage there, but our engineer's estimate came right between these two bids; one's a bit higher one's a bit lower.

Ms. Castille asked we would do zero for Talcon because they didn't submit until afterward?

Ms. Kilinski stated I would do 13 out of 15 for their top pricing as just a straight calculation, and 0 out of 5 for reasonableness, so 13 out of 20 total for Talcon.

Ms. Castille stated I concur with that.

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Mr. Asbury stated I added them up and get CW Roberts at 84, Sandco at 98 and Talcon at 62. Where do we go from here?

Ms. Kilinski stated we have the resolution in the agenda package, Resolution 2020-15. Like segment 3A you will notice this resolution awards based on the point criteria you just adopted contingent on the District successfully identifying a funding source for the construction of 3B. We continue to work on that piece of the puzzle. We will update the resolution. What I'm hearing from the board prior to ranking all these is that the board wants to deem, and I'm supportive of that from a legal perspective, declaring Talcon Group LLC's bid as non-responsive. We would update the resolution awarding 84 points to CW Roberts, 98 points to Sandco and identifying Talcon Group as a non-responsive bid. This authorizes staff to award the construction project to Sandco contingent on financing, and send notice of award letters out probably later today.

Ms. Castille stated I would like to make sure in the future that when we get bid submissions that they are nice and clean and meet all the requirements so that we can't be accused of being too strict on somebody when we weren't very strict on this one.

Ms. Asbury asked is there even an option to approve them without having a bond?

Ms. Kilinski stated we have had instances where we have only gotten one bid back and they didn't provide a bid bond and the question was do we have to throw them out and go back. In that case you have flexibility to pursue that bid, supplement the record potentially and move forward particularly in instances where you don't have the time or funding mechanism to rebid it. When I think about worst case scenarios of a bid protest it is nice to at least have gone through the ranking, obviously they have been ranked third anyway so their ability to protest is limited by being ranked third. There is a lot of good reasons to have ranked them third as well. My recommendation from the start is to deem them non-responsive because they do have multiple non-waivable material deficiencies.

Mr. Asbury asked then your recommendation is we do find them non-responsive, and you don't feel that puts us in a sort of position if we get one bid at some point and we have to make someone non-responsive again for the same thing?

Ms. Kilinski stated you have rules of procedures and we have had a couple public bids that we have only gotten one bid back on and we talked about our options at the board level in that instance, and the rules of procedure provide that if you get one bid whether it is non-responsive or not back the District has flexibility to go to contract in certain instances. As long as we are

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following your rules of procedure we are not putting ourselves in any worse position by deeming them non-responsive here. I think you are putting yourself in a better position to Colleen's point, you are treating everybody exactly the same and it is the recommendation that we would have given anyway.

On MOTION by Ms. Castille seconded by Mr. Brady with all in favor Resolution 2020-15 was approved with amendments as stated on the record.

SIXTH ORDER OF BUSINESS

Consideration of Amendment to Interlocal Agreement with City of Tallahassee and Blueprint

Ms. Kilinski stated we previously discussed the District is not in a position to fund the construction of Welaunee 3A and 3B and the board previously approved an interlocal agreement between the District, the city and Blueprint for the way that construction would happen, the way the reimbursement would happen, the scope of service and what requirements would be on the district in order to make sure that we are reimbursed. We have been in discussion with the city and Blueprint and Mrs. Dawson is also on from Blueprint, she and I have worked together on a revised interlocal agreement along with Lou Norvell from the city. The only substantial changes to this interlocal agreement is to recognize an overall price cap instead of having financial limitations on each segment; before we had an exhibit that said essentially so long as segment 3A doesn't exceed a certain amount and segment 3B doesn't exceed a certain amount and there is a small portion that was a part of segment 2 the turn lanes doesn't exceed a certain amount then the city and Blueprint will agree to reimburse the district. What this amended interlocal does is it says the cap is the cap, so the \$5.8 million that was in the previous interlocal agreement is not going up, it is not going down, it just says so long as the whole construction of that roadway doesn't exceed \$5.8 million none of the parties necessarily care how much any one segment costs. We needed to do that in part because segment 3A came out fairly significantly higher than our estimates and segment 3B has come out lower than our estimates. Based on where we sit today, segment 3A and segment 3B combined are still over the cap, however, my understanding is the parties from the developer's side, the engineer and city and Blueprint staff are working on value engineering segment 3A and segment 3B to get us very close to that cap. If for some reason we exceed that cap based on the interlocal language the District would have to secure an alternative

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funding arrangement. Let's say the value engineering hypothetically speaking comes out and the total is \$5.9 million, the District would still not award those contracts until we had a construction funding agreement with the developer or somebody else to fund the difference between that \$5.8 million and whatever ultimately those segments cost. The resolution you previously adopted for segment 3A and segment 3B says that the District can't award a contract for which it doesn't have funding but we recognize that \$5.8 million should be reimbursed subject to all the requirements of the interlocal agreement by the city and Blueprint and any amount that would be over that amount would be required to be funded by somebody else. This interlocal amendment is being considered by this board first, the city meeting is September 9th and the Blueprint meeting is September 17th. We wouldn't sign this interlocal agreement, yet and I would approve it in substantial form just in case there are a few nits remaining. If there are any substantial changes to it, I would bring it back to the board for your reconsideration.

Ms. Castille asked who would be a third party over and above if the price came back over the cap?

Ms. Kilinski stated the most likely party is the developer. If the developer tells the District that we got it close enough and they are willing to fund the additional then the District would have a construction funding agreement specifically with the developer for the remaining amount. I can't imagine another party that has that kind of interest aside from the developer, the city and Blueprint and the District but I would bring that back to you.

Mr. Asbury stated otherwise it just wouldn't get built.

Mr. Patterson asked would Blueprint take any percentage of that funding as far as shared costs?

Ms. Kilinski stated no, this would be the cap unless they were agreeable to it because of some unknown reason, but as it sits right now Blueprint and the city are agreeable as far as I know to the \$5.8 million cap that was in place before; somebody else would be paying the overage.

On MOTION by Ms. Castille seconded by Mr. Patterson with all in favor the amendment to the interlocal agreement with the City of Tallahassee and Blueprint was approved in substantial form.
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SEVENTH ORDER OF BUSINESS**Consideration of CEI Services for Welaunee Boulevard**

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Ms. Kilinski stated we have for our major construction projects always had construction administration or construction engineering inspection services for our various construction projects. In the event we don't have a board meeting before we start construction, you as the board have previously prequalified four engineering firms that we have under continuing services contracts. We have rates for the work to be performed by each of those engineering companies. In the event we can start construction we would like to give direction to the chair to negotiate a work authorization not to exceed \$75,000 for construction of segments 3A for CEI services. We are already under contract it would just be a work authorization based on unit pricing.

We can bring that back to you in October, or if we have not started construction we will bring back a work authorization to consider.

On MOTION by Mr. Russell seconded by Mr. Asbury with all in favor the chairman was authorized to negotiate a work authorization for CEI services for Welaunee Boulevard segment 3A with one of the four qualified engineering firms in an amount not to exceed \$75,000.

EIGHTH ORDER OF BUSINESS

Staff Reports

A. Attorney

Ms. Kilinski stated we are still working on the boundary amendment petition and will keep the board apprised on the progress of that.

B. Engineer

There being none, the next item followed.

C. Manager

i. Approval of Check Register Summary and Requisition Summary

On MOTION by Ms. Castille seconded by Mr. Asbury with all in favor the check run summary in the amount of \$14,281.54 and requisitions 10 & 18 in the amount of \$142,482.84 for a combined total of \$156,764.38 were approved.

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ii. Balance Sheet and Income Statement

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

NINTH ORDER OF BUSINESS

Other Business

There being none, the next item followed.

TENTH ORDER OF BUSINESS

Supervisors Requests

There being none,

On MOTION by Ms. Castille seconded by Mr. Brady with all in favor the meeting adjourned at 11:56 a.m.

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Darrin Mossing Jr
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Secretary/Assistant Secretary

Chairman/Vice Chairman