



## Greater Boca Raton Beach & Park District

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### Board of Commissioners

Craig F. Ehrnst  
Steven M. Engel  
Robert K. Rollins, Jr.  
Susan Vogelgesang  
Erin A. Wright

### REGULAR MEETING of the BOARD OF COMMISSIONERS

June 19, 2017 ~ 5:15 P.M.

### AGENDA

#### ROLL CALL:

#### CHANGES TO AGENDA:

#### PUBLIC REQUESTS:

#### APPROVAL OF MINUTES OF PREVIOUS BOARD MEETINGS:

<i>Regular Board meeting held on May 22, 2017</i>	1
<i>Regular Board meeting held on May 30, 2017</i>	7

#### REGULAR BUSINESS:

1. Approval of 2016/2017 Budget Amendment	12
2. Ocean Breeze – Approval to Engage Golf Course Consultant	
3. Ocean Breeze – Approval of Surveys and Soil Testing	
4. Swim & Racquet Center Update	

#### APPROVAL OF INVOICES: 13

#### REPORTS AND DISCUSSION ITEMS:

Executive Director  
District Counsel  
Commissioners

#### FUTURE AGENDA ITEMS:

#### ADJOURNMENT:

NOTICE: Anyone wanting to appeal an official decision made on any subject at the meeting must have a verbatim record of the meeting, and the appeal must include the testimony and evidence on which the appeal is based.

**GREATER BOCA RATON BEACH & PARK DISTRICT**  
**MINUTES OF A REGULAR MEETING OF THE BOARD OF COMMISSIONERS**  
**SUGAR SAND PARK - 300 SOUTH MILITARY TRAIL, BOCA RATON**  
**May 22, 2017**

The MEETING was called to order by CHAIRMAN Robert K. Rollins, Jr. at approximately 5:15 p.m.

**COMMISSIONERS PRESENT:** Craig F. Ehrnst  
Steven M. Engel  
Robert K. Rollins, Jr.  
Susan Vogelgesang  
Erin A. Wright

**CHANGES TO AGENDA:** None

**PUBLIC REQUESTS:**

Robert DuKate - 5351 NW 3<sup>rd</sup> Terrace, Boca Raton

Mr. DuKate commented on the excellent Ocean Breeze presentation given by Mr. Koski at the joint City/District meeting on May 8. He thanked him for the opportunity to allow residents to have input in the project

Tom Thayer - 4821 N. Dixie Highway, Boca Raton

Mr. Thayer made several suggestions for Board consideration: 1) Board meetings should be held in an open public forum format; 2) the Board should pattern its new offices similar to those of the Lake Worth Drainage District building in Delray Beach; and 3) the District should hire a "tech guru" to keep its website current. Referencing the May 8<sup>th</sup> joint City/District meeting, he felt that the appraisals were not disclosed to the public. In his opinion, the District should deal directly with Wells Fargo, otherwise it appears that Lennar is making a \$7 million profit from the sale.

Chairman Rollins advised that Ocean Breeze appraisals have been discussed at District Board meetings over the past several months; it is not a secret. There is complete transparency and disclosure on the part of the District. The price has been established by the seller, Lennar, on a "take it or leave basis".

Harold Chaffee - 6200 NW 2<sup>nd</sup> Avenue, Boca Raton

Mr. Chaffee commended the Board for all of the great things they do in the community; the credit usually goes to the City. He stated that Lennar has control over the Ocean Breeze property and Wells Fargo will not negotiate; they have a non-disclosure. Lennar could easily purchase the property and do nothing with it for a long period time, or they could buy 50% of the resident vote which would allow them to develop the property. Although one thousand Boca Teeca residents voted not to lift the deed restrictions, there are still approximately 600-800 residents who did not sign anything. If not for the deed restriction, the property would be worth over \$100 million.

**APPROVAL OF MINUTES OF PREVIOUS BOARD MEETINGS:**

**MOTION** was made by Commissioner Engel and seconded by Commissioner Vogelgesang to approve the minutes of the regular meeting held on May 1, 2017, and the joint City/District meeting held on May 8, 2017.

**MOTION UNANIMOUSLY APPROVED**

**REGULAR BUSINESS:**

**1. Ocean Breeze**

**(a) Contract Execution**

Mr. Arthur C. Koski, District Executive Director furnished an Agreement for the Purchase and Sale of the Ocean Breeze Property. He proceeded to explain the entirety of the agreement. The property will be sold to the District by Redus (a subsidiary of Wells Fargo). Redus will issue the deed to the District. Further negotiations with Lennar gives the District an option for three, thirty day extensions from October 27, 2017 to close [conceivably the closing could be extended to January 27, 2018]. The District is not obligated to close on the transaction unless the following conditions precedent are satisfied:

1. The District must receive written consent from the City to purchase the property.
2. There is an executed interlocal agreement between the City and the District whereby the City will provide closing funds to the District with a method of repayment by the District over a period of time. The interlocal agreement will be subject to the mutual agreement and consent of each party.
3. The agreement requires the District to make a deposit of \$2,400,000 to be held in escrow by the title company. If the District does not receive the funding from the City, the deposit being held in escrow will be returned in full to the District.

Mr. Koski assured the Board that the District is fully protected in case an agreement cannot be reached with the City of Boca Raton. He advised that the District has forty days from the execution of the agreement by the seller to review the title to determine if it is acceptable. Within the first two months, the District is required to perform due diligence on the condition of the property. Conversations focused on financing and legal issues:

*Revenue Bonds:* At the present time, the Boca Raton City Manager is contemplating a revenue bond issue. If the hotel site is determined to be a private activity, the bonds may become taxable. The District may have the ability to overcome that issue by acquiring the hotel site outright for cash, and just use the bond proceeds for the acquisition of the golf course which is a public activity.

*Property Renovations:* At the present time, funding for property renovations is not intended to be included in the bond issue. Mr. Koski stated that in discussions with the City Manager, it was made known, that as a partner, the City would make additional funds available should they be needed for the restoration of the golf course.

*Millage Rate:* The District's millage rate will remain the same [0.9147]. Mr. Koski informed that the Palm Beach County Property Appraiser indicates that there will be a 5% to 7% increase in

overall property valuation. Mr. Timberlake used a 5% valuation in his analysis to project next year's budget [the same percentage the City is using for their upcoming budget]. By utilizing the projected increase in valuation and the millage rate remaining the same, the District will have the reserves to satisfy all of the debt on the Ocean Breeze property.

*Litigation:* At the May 8<sup>th</sup> joint meeting an individual spoke about a lawsuit with regard to the condition of the Ocean Breeze golf course. Mr. Koski stated that it is a difficult type of litigation and would become a title issue. The District would have the option to either be in for the duration of the lawsuit, or be out.

*Deed Restriction:* Further research would be required to determine if the deed restriction would be lifted if a public entity purchased the golf course. It is a debatable issue as to whether the deed restriction is lifted through an eminent domain proceeding or an outright purchase.

Commissioner Vogelgesang questioned whether the individuals objecting to the purchase truly have the interest of the City at heart. Although the price is high, she supports moving forward with the purchase as she believes it is the best thing that the District can do for the community.

Commissioner Rollins remarked that the valuation of the Ocean Breeze property cannot be appraised to what it is worth to the community and our legacy. "If we pass this opportunity up, it will never come up again".

**MOTION** was made by Commissioner Vogelgesang and seconded by Commissioner Engel to execute the contract for the acquisition of the Ocean Breeze property as presented in the Agreement for the Purchase and Sale of Real Property.

*Discussion:*

Commissioner Rollins asked for cost comparisons between Sugar Sand Park and Ocean Breeze.

Mr. Koski responded accordingly: Sugar Sand Park [132 acres} purchased in 1988 at \$18 million; Ocean Breeze [214 acres] priced at \$24 million; approximately \$100,000 per acre.

**MOTION UNANIMOUSLY APPROVED**

**(b) Request for RFP for Golf Course Architect**

Mr. Koski sought permission from the Board to craft an RFP for the engagement of a golf course architect for the Ocean Breeze site.

**MOTION** was made by Commissioner Wright and seconded by Commissioner Vogelgesang to authorize Mr. Koski to prepare an RFP for the engagement of a golf course architect for the Ocean Breeze site.

**MOTION UNANIMOUSLY APPROVED**

**2. Status of Patch Reef Park Athletic Fields**

Mr. Koski advised that Calvin Giordano (the architect of records) has done a survey of the property. Timeframe: a period of four months is envisioned to complete the design; project ready

to bid in January 2018; commence construction by April 1, 2018. Mr. Gomez, City of Boca Raton Recreation Services Director approves of the timetable as it will result in a minimal impact to the users of the facilities.

### **3. Status of Swim & Racquet Center Demolition & Construction Bid**

Mr. Koski reported that he is awaiting the technical specifications from Mummaw & Associates. Upon receipt, he will conduct a final review. The front-end documents on the specifications and construction documents have been done. It has yet to be determined whether to do a separate demolition of the building under a separate contract, or to leave it as the first item on a general contractor's overall bid for the contract.

### **4. Science Playground Change Order**

Mr. Mike Fichera, District Construction Consultant, stated that he has reviewed and verified all of the change orders, and has examined all of the back-up receipts. The amount due NuJak Construction in Pay Application No. 14 is \$503,667.23. He explained that half of the change order is for labor [\$250,000]. In the last three weeks of the project, the architect and the engineer directed the contractor to add a lot of structural enhancements [more than 600 bolts; extra bracing and screening]. A huge electrical service box was discovered and had to be relocated. A special inspector, engaged by the District, had the authority to make the structural and safety enhancements. In addition, to meet the advertised opening date (March 25, 2017), the contractor incurred substantial overtime costs.

Assistant Director Briann Harms advised that the first month the playground was open, it had 54,256 visitors.

Mr. Koski commented that the playground originally was a community built project and was not permitted; hence, the unforeseen conditions and safety issues.

Commissioner Ehrnst requested a copy of all of the back-up information to support the change order. He noted that the total cost of the project is \$3.2 million. He would like the three project principles [Contractor, Architect and Special Inspector] to attend the next meeting to explain the change order in greater detail. In addition, he wants to make sure that there is no conflict of interest between either one of the parties.

The invoice for NuJak Construction in the amount of \$503,667.23 was deferred.

### **5. Sugar Sand Park Phase II Lighting Improvements Proposal**

Assistant Director Briann Harms provided a proposal from Grainger to have LightSource Unlimited purchase and install light fixtures at the subject park in the amount of \$210,909.07. The project is anticipated to be completed in August 2017.

**MOTION** was made by Commissioner Vogelgesang and seconded by Commissioner Engel to approve the contract with Grainger in the amount of \$210,909.07 for lighting improvements at Sugar Sand Park.

#### *Discussion:*

Ms. Harms answered Board inquiries regarding the installation of additional lighting to address safety concerns at DeHoernle Park. She asked Mr. Gomez about using Grainger to do lighting

enhancements at DeHoernle, but was advised that the property is owned by the City and that they will manage the project themselves. Further, at the present time, the City is inundated with projects; however, Municipal Services will address the project at a later date. The Board requested Ms. Harms to furnish a project timeline from the City. Mr. Koski and Ms. Harms will discuss this matter with Mr. Woika at their next scheduled meeting.

**MOTION UNANIMOUSLY APPROVED**

**APPROVAL OF INVOICES:**

**MOTION** was made by Commissioner Vogelgesang and seconded by Commissioner Engel to approve the invoices as presented totaling \$53,936.02.

**MOTION UNANIMOUSLY APPROVED**

**REPORTS AND DISCUSSION ITEMS:**

**Executive Director-** None

**District Counsel-**None

**Commissioners**

*Change in Meeting Date*

At the request of Commissioner Ehrnst, it was the consensus of the Board to reschedule the June 5, 2017 Board meeting to May 30, at 5:30 p.m.

*Sugar Sand Park Science Playground*

Commissioner Vogelgesang inquired about the status of installing a gate and shade canopies at the playground. Ms. Harms advised that the tasks will be undertaken once NuJak completes its work. She also advised that another Chickee Hut was donated, and will be installed at the playground.

*City Website*

Commissioner Ehrnst noted that the City recently renovated its website. He suggested that the District be included in the City's website. Ms. Harms advised that the District has six different websites and is looking to use the same service as the City.

**FUTURE AGENDA ITEM -**

May 30, 2017 – The Board will meet at 5:30 p.m. on May 30<sup>th</sup>.  
Sugar Sand Park Science Playground NuJak Pay Application No. 14

**ADJOURNMENT:**

**MOTION** was made by Commissioner Engel and seconded by Commissioner Vogelgesang to adjourn the meeting at 7:30 p.m.

**MOTION UNANIMOUSLY APPROVED**

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Robert K. Rollins, Jr.

Chairman

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Susan Vogelgesang

Secretary-Treasurer

Non-Approved Minutes

**GREATER BOCA RATON BEACH & PARK DISTRICT**  
**MINUTES OF A REGULAR MEETING OF THE BOARD OF COMMISSIONERS**  
**SUGAR SAND PARK - 300 SOUTH MILITARY TRAIL, BOCA RATON**  
**May 30, 2017**

The MEETING was called to order by CHAIRMAN Robert K. Rollins, Jr. at approximately 5:30 p.m.

**COMMISSIONERS PRESENT:** Craig F. Ehrnst  
Steven M. Engel  
Robert K. Rollins, Jr.  
Susan Vogelgesang  
Erin A. Wright

**CHANGES TO AGENDA:** None

**PUBLIC REQUESTS:**

Tom Thayer

4821 N. Dixie Highway, Boca Raton

Mr. Thayer complimented District staff on the detailed and timely posting of the Board meeting minutes on the website. Referencing Ocean Breeze, he stated that Lennar has an option with Redus (a subsidiary of Wells Fargo) as long as the deed restrictions are valid. Lennar, being a residential developer, has no value in their option unless an entity like the District “bails them out”. In his opinion, a better deal should have been negotiated as it appears Lennar is making a \$7 million profit. He cautioned that Ocean Breeze is a complicated condo and homeowner association development. He extended an invitation to the Boca Raton Federation of Homeowners meeting on Tuesday, June 6, at 8:30 a.m. Ms. Dorothy Jacks, PBC Property Appraiser will be in attendance as well as a legislator to summarize the recent legislative session.

From a historical perspective, Chairman Rollins offered that the District paid the following amounts to acquire large expanses of open space: Sugar Sand Park (132 acres) a little over \$15 million; Red Reef Park (67 acres) \$20 million; Ocean Strand (15 acres) \$18 million; in comparison to Ocean Breeze (214 acres) \$24 million.

Commissioner Engel stated that the District had to take into consideration the possibility of Lennar increasing the original MCZ offer of \$1,000 per unit to the 1,600 Boca Teeca residents if they would vote to lift the deed restriction. Even if Lennar tripled the MCZ offer, and paid Wells Fargo \$18 million for the property, it would still be profitable for them. Lennar is financially able to hold onto the property for a long period of time until they get the deed restriction lifted. He noted that the Ocean Breeze property is larger than the City’s Municipal Golf Course property which the City is auctioning off at \$73 million and for which there is no appraisal.

Regina Eklund

5201 NW 2<sup>nd</sup> Avenue, Boca Raton



Ms. Eklund, a Boca Teeca resident, expounded on Commissioner Engel's comments regarding MCZ's offer by stating that her condominium never received any money from MCZ. She raised several questions which were responded to by Chairman Rollins (*in Italics*). If the Ocean Breeze Agreement for Sale & Purchase had been signed and if the deposit was submitted (*Yes*); if the District would maintain the property until the closing (*No, only after the closing*); if the three questions raised by Mayor Haynie at the May 8<sup>th</sup> joint meeting were answered (*No, the questions will be answered prior to the July 24<sup>th</sup> joint meeting*); if the District had any indication as to when the City will enter into a contract for the sale of the Municipal Golf Course (*No*); if the District would commit to the property remaining as a 27-hole golf course and that the deed restrictions will be honored (*Further discussion is required; however, it is not the intention of the District to purchase the property and use it for anything other than a golf course*).

## **REGULAR BUSINESS:**

### **1. Sugar Sand Park Playground Certificate of Payment, Application No. 14**

At the May 30<sup>th</sup> Board meeting, District Construction Consultant Mike Fichera reviewed the items in the change order contained in the subject pay application. He previously examined all of the back-up receipts, and verified the fact that all of the work was ordered for the contractor to complete. Pay Application No. 14 indicates a payment due of \$503,000; the change order amount is \$539,000; the difference is the portion held by the District for retainage (2 ½%). The contractor, Clifford Moore of NuJak Construction; Daniel Brewer of Brewer & Barretta Architects and Claudio Liapilli, Structural Engineer/Special Inspector were in attendance to explain the reasons for the substantial increase in costs incurred over the final months of the project.

Mr. Fichera described the process of communication in the initiation of the change order: both the Special Inspector and the Architect would contact the Contractor directly. The changes were based on safety and structural integrity issues.

Commissioner Engel remarked that the project is six months behind and 50% over budget. He questioned "how did this come to pass?"

Mr. Fichera and the three principals cited the following reasons for the \$500,000 overrun: the accelerated schedule to open the park [additional labor was hired to complete the project]; rotted creosote posts had to be replaced [one by one as the project progressed]; the addition of substantial structural enhancements [large quantities of bolts/screws/screening were required]; a lack of plans/permits for the original structure [it was a community built project]; the addition of a third story with ramps and overlooks [added to the existing playground structure]; the desire to preserve as much as possible of the original structure; unforeseen conditions [a huge electrical box was discovered and had to be relocated]; and the project was bid twice [added 120 days].

Mr. Moore detailed the scope of the project and acknowledged that the project became more of a time and material contract due to the many unknown variables that came about.

Commissioner Ehrnst asked Mr. Moore if he, his family or anyone else he knows has a conflict of interest relative to the playground project; if the independent vendors are due any additional payments and that no double billing of time sheets occurred. Mr. Moore replied "No Sir".

Mr. Brewer stated that his company prepared the drawings; they did not participate in estimating the cost. His firm was not involved in the administration of the contract.

Mr. Liapilli commented that a lot of changes were unanticipated and could not be avoided. The existing posts would not line up and connections had to be customized. It was a difficult project to inspect.

**MOTION** was made by Commissioner Vogelgesang and seconded by Commissioner Engel to approve NuJak Construction Pay Application No. 14.

*Discussion:*

Commissioner Ehrnst stated he would vote “no” due to the lack of a proper audit and project oversight.

**MOTION PASSES 4-1**

**2. Swim & Racquet Center Update**

The District is now in possession of a complete Project Manual and completed drawings; the project is ready to be bid. Mr. Koski proceeded to review the bid process, and sought approval to advertise the project. The project will be phased to permit the tennis and swimming facilities to remain in operation for the most time possible during the course of construction.

**MOTION** was made by Commissioner Vogelgesang and seconded by Commissioner Engel to authorize Mr. Koski to advertise the Notice to Bid for the Swim & Racquet Center Project.

**MOTION UNANIMOUSLY APPROVED**

**3. Update on the City/District Interlocal Agreement for Ocean Breeze**

The City Attorney is in the process of preparing an interlocal agreement for the financing of Ocean Breeze. A joint City/District meeting will be held in July at which time the interlocal agreement will be discussed.

Mr. Koski informed that he received the executed copy of the Ocean Breeze Sale & Purchase Agreement from Lennar and will transmit copies to the Board.

**4. Update on the Master City/District Interlocal Agreement**

Mr. Koski and Assistant Director Briann Harms met with City Assistant Manager Mike Woika last week to discuss the subject agreement which was furnished to the District on May 2, 2017. The District is concerned about two major items: 1) to insure that the independence of the District remained. The District should have full and complete control on the scope and quality of operation and maintenance services provided by the City on District owned and funded facilities; and 2) how the District pays for operation and maintenance. In addition, the inclusion of the District under the jurisdiction of the Palm Beach County Ethics Commission will be omitted from the agreement

*Board Commentary:*

Commissioner Engel remarked that the District is not a City agency, but a state agency governed by a different set of rules. In addition, not all District constituents are City residents; some live outside the City limits. He felt that it was the obligation of the District to have final say with regard to purchase and replacement decisions for capital items.

Commissioner Rollins stated he did not see the need for a “master” interlocal agreement as the one in force for 22 years works well. He felt that the master interlocal agreement takes away the District’s ability to provide input and make decisions on how its facilities are utilized and maintained. Other key issues of concern are: the structure of user fees; the disbursement of funds generated when equipment is sold; provisions regarding “other properties” and if it addresses the Ocean Breeze property: the commencement of DeHoernle Park Phase II; how residents in annexed areas will pay for use of the parks; and the definition of a “non-resident”.

Commissioner Ehrnst commented that the user fee structure, and having input regarding the completion of DeHoernle Park Phase II, are issues that should be included in the interlocal agreement.

Mr. Koski will incorporate some of the Board comments received into the master interlocal and will provide red-lined copies at the June 19<sup>th</sup> meeting for discussion.

**APPROVAL OF INVOICES:**

**MOTION** was made by Commissioner Vogelgesang and seconded by Commissioner Engel to approve the invoices as presented totaling \$1,596,615.32.

**MOTION UNANIMOUSLY APPROVED**

**REPORTS AND DISCUSSION ITEMS:**

**Executive Director**

*Ocean Breeze*

Mr. Koski has received and will review the title insurance for the subject property. The District has a 40 day due diligence period. He will provide costs for preliminary soil tests and a certified survey of the entirety of the property being acquired as well as a topographic survey.

*Patch Reef Park*

The consulting engineer has surveyed the property and will be undertaking geo-technical soil borings to determine the level of drainage structure that may be necessary.

**District Counsel-None**

**Commissioners-None**

**FUTURE AGENDA ITEM**

**June 19 Board Meeting:**

- Ocean Breeze – Approval of engagement of architect to assist in the planning and developing process.
- Ocean Breeze - Approval of Surveys and Soil Testing
- Review and discuss Master Interlocal Agreement

**ADJOURNMENT:**

**MOTION** was made by Commissioner Engel and seconded by Commissioner Wright to adjourn the meeting at 7:25 p.m.

**MOTION UNANIMOUSLY APPROVED**

Robert K. Rollins, Jr.

Chairman

Susan Vogelgesang

Secretary-Treasurer

Non-Approved Minutes

To: Art Koski, Executive Director Boca Raton Beach and Park District

From: Merv Timberlake, Financial Consultant

Date: June 13, 2017

Subject: **Amendment #1 to the 2016-17 District Budget**

The Greater Boca Raton Beach and Park District (District) approved the contract to purchase the Ocean Breeze Golf Course. A deposit of \$2,400,000 was authorized by the Board of Commissioners. The District needs to move this budget appropriation to the Capital Projects Golf Course Acquisition line item for the year ending September 30, 2017 Budget.

With the completion of the Sugar Sand Science Playground Capital Project, the District needs to transfer funds in the amount of \$1,954,000 from reserves to the Capital Projects Sugar Sand Science Playground Project for the expenditures in the current fiscal year.

Funds are available in the District Capital Reserve.

<u>Uses of Funds</u>	<u>Budget Adopted</u>	<u>Budget Amended</u>	<u>Budget Amendment</u>
District Capital Projects:			
Golf Course Acquisition		\$2,400,000	\$2,400,000
Science Playground Park		\$1,954,000	<u>\$1,954,000</u>
Total Uses of Funds			<u>\$4,354,000</u>

<u>Sources of Funds</u>	<u>Budget Adopted</u>	<u>Budget Amended</u>	<u>Budget Amendment</u>
Capital Reserves	\$4,497,500	\$143,500	<u>\$4,354,000</u>
Total Sources of Funds			<u>\$4,354,000</u>