

**MINUTES OF MEETING  
BROOKS OF BONITA SPRINGS & BROOKS OF BONITA SPRINGS II  
COMMUNITY DEVELOPMENT DISTRICTS**

The Boards of Supervisors of the Brooks of Bonita Springs & Brooks of Bonita Springs II Community Development Districts held a Joint Special Meeting on October 4, 2023 at 1:00 p.m., at The Commons Club at The Brooks Enrichment Center, 9930 Coconut Road, Bonita Springs, Florida 34135.

**Present for Brooks CDD:**

James Merritt	Chair
Sandra Varnum	Vice Chair
David Garner	Assistant Secretary
John Woolsey	Assistant Secretary

**Present for Brooks II CDD:**

Joseph Bartoletti	Chair
Ken D. Gould	Vice Chair
Thomas Bertucci	Assistant Secretary
Mary O'Connor	Assistant Secretary
Lynn Bunting	Assistant Secretary

**Also present:**

Chuck Adams	District Manager
Dan H. Cox	District Counsel
Stephen Blount	Facilitator
Bob Lienesch	Resident
Dean Cohagan	Resident
Other Resident(s)	

**Residents attending via telephone:**

Tom Schrader	Lea Scodrix	Mary & Rod O'Connor
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**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Adams called the meeting to order at 1:07 p.m. For Brooks of Bonita Springs, Supervisors Merritt, Varnum, Woolsey and Garner were present. Supervisor Stoehr was not present. For Brooks of Bonita Springs II, all Supervisors were present.

Mr. Bartoletti read the following statement that he prepared:

“I am not against the sale of the property as long as the price represents a fair return of the money invested by the Brooks property owners.

My ethical responsibility is to the Brooks property owners to ensure that their investments since 2010 in CDD Park assets are properly assessed in price, terms, and conditions of sale by me to ensure a return of their invested money.

In addition, I believe it’s my ethical responsibility to state that I have not had any dialogue with members of the Commons Club Board regarding their recent offer to buy the CDD park. Had I been approached I would have declined as I believe it would be ethically wrong as a member of this CDD Board.

As Supervisors we need to represent the Brooks property owners and focus on our responsibility to the Brooks property owners.

I ask that the rest of the Supervisors consider doing the same.”

Mr. Cox listed the protocols for public comments, stated today’s discussion is strictly to determine acceptable terms and conditions to negotiate with The Commons Club (TCC), related to the purchase of CDD property. He stated that the Board Members should try to be objective, instead of subjective. He introduced Mr. Stephen Blount, who was present to facilitate the discussion.

**SECOND ORDER OF BUSINESS**

**Public Comments [3 minutes per person]**

Mr. Blount stated he has been a local attorney for almost 30 years, represented numerous parties and Boards in various disputes, many involving pickleball, and currently works as a full-time mediator and arbitrator. He explained that his presence today is because Mr. Cox contacted him and asked him to facilitate a discussion to exercise the subjective versus objective analysis that he just mentioned. He hoped that his appearance today will help point the discussion in an objective manner. Ultimately, he will offer his opinion because he has been privy to similar disputes in his litigation career and has seen the opportunities and potential drawbacks or threats that pickleball can present. After doing a walk-through of The Brooks community earlier today, he feels that the Boards do not have a problem but, rather, an opportunity. It is all a matter of how the Board Members choose to approach it.

Asked if comments will be accepted from residents attending via telephone, Mr. Adams stated yes, after hearing comments from those attending in person.

Resident Bob Lienesch used sports analogies to urge the Boards to do what he thinks is the right thing and carefully consider TCC's offer to purchase the property. He discussed his beliefs about the value of the property and how such a transaction would affect all the members of TCC who are also CDD taxpayers.

Mr. Bartoletti asked those commenting via telephone to clearly identify themselves and their home address.

Resident Lea Scodrix outlined her interpretation of how the Boards went from being in favor of a pickleball court expansion project to being against it a few months later to now considering selling the remaining Brooks properties, including the park and basketball and pickleball courts to TCC. She feels that today's significantly important Special Meeting was called before an insignificant representation of seasonal owners and, as a seasonal resident, she lamented that she cannot serve on a Board. In her opinion, CDD Board Members who are members of TCC have a conflict of interest as they have a vested interest in selling the land to TCC to improve their memberships, while taking away significant access from Brooks residents who do not belong to TCC. She urged the CDDs not to sell the land to TCC and ensure that the space remains accessible to all Brooks residents instead of just a select few who belong to TCC.

Resident Tom Schrader referenced an email he recently sent to the CDD Supervisors regarding the Pickleball Club and read excerpts from a prepared statement as follows:

"Your fiduciary duty in this case is complicated, more complicated than getting the highest price possible through the paper for the property, as you will address today, it requires the valuation of both what Brooks residents value and the financial numbers. First, what do the Brooks residents value? The fundamental question is what is in the best interest of the Brooks. For me, this is having a high-quality recreation and entertainment opportunity that my family and I can enjoy and that will enhance the value of my property.

First, the starting point is the property is an extensive cost burden to the CDDs or whoever owns them, far more than the recurring annual maintenance expense, the primary cost of owning the property at this point is capital cost for repairing and refurbishing the listed amenities and the cost for further improvement to the park, with pickleball parking, landscaping and bringing the property up to the standards of the Brooks communities. For the

CDDs and TCC, this is a classic zero-sum game. Second, an important consideration is who pays and who benefits. Having a high-quality Commons Club and a high-quality park are of interest to all Brooks residents. However, if the CDDs continue to own the property, it will be an open, general public use, so the Brooks residents will be paying for improvements that will be used and benefitted by non-Brooks residents.

It is vitally important for a decision to be made promptly. A prompt decision will enable TCC to start short and long-term planning for the property and provide pickleball players and others with greater assurance that the amenities they value will be built sooner rather than later.”

**THIRD ORDER OF BUSINESS**

**Discussion with Facilitator to Develop an Offer for Sale of the CDD Park, Including Terms and Conditions**

Mr. Cox addressed what Florida Statutes state with regard to the question of whether members of the CDD Boards that are also members of TCC have a conflict of interest. When the CDDs purchased the property from TCC, there were similar discussions and the CDDs received an opinion from the Commission on Ethics stating that, as long as CDD Board Members do not receive any different degree or kind of benefit than every other member of a class, it is not a conflict of interest.

Mr. Bartoletti stated it is an ethical issue for him and it is not a matter of law; it is a matter of ethics and how Board Members conduct themselves.

Mr. Blount stated, normally, when he works as a mediator, there are two sides and sometimes there are three or four sides. Opening statements are given and everybody listens to one another’s points of view, etc. Since he will be serving as a facilitator today, a good way to guide the discussion is first to see if there is a consensus on what the primary concerns are. He read summaries about the matter at hand and believes there seems to be a theme. The three primary issues that he has gathered are:

1. Accessibility of the properties.
2. Control, including can the CDDs control the pickleball facilities in any way or at least have access to them.
3. Value and investment, which is more than a monetary analysis.

He polled the Boards and asked the Board Members how important is accessibility by all Brooks residents in the future as opposed to just TCC members. He asked whether other Brooks residents continue to have access should be a primary consideration in this discussion or if that is a lower priority to the Boards.

A Board Member stated that she is both a CDD resident and a member of TCC. She feels that she has been very careful about how she makes comments, in both roles, and does not feel that she has acted unethically in anyway. She discussed a conversation she had with the General Manager Commons Club regarding whether the CDDs can allow public access if TCC purchases the property, if the pickleball courts are further developed and if there could there be separate ownership, etc. She noted the reality is that the insurer would not insure TCC because of the liability issue.

Mr. Merritt stated it is a high priority for him. He thinks TCC has the ability to create a membership and has an obligation to the CDD property owners who invested over \$1 million in this property and maintain it so it is available for the use of Brooks residents. He feels that accommodations/conditions of sale should be incorporated to provide for use by all property owners/residents in the Brooks.

Mr. Bertucci stated TCC provides entry to its new facility to anybody in the Brooks that joins TCC, so everybody in the Brooks will have the right to join and play and use the park. In his opinion, it is important, as long as TCC offers Brooks residents and property owners a membership fee that is very fair.

Discussion ensued regarding public access, control, a right of reverter, deed restrictions, who can join TCC, TCC membership fees, the four Master Associations and one private association, the Village of Estero's plans to allow the build of additional housing in the area, the park, the pickleball expansion plans and the cost benefits associated with selling the property to TCC versus the cost benefits associated with keeping it within the CDDs.

Resident Mary O'Connor asked if it would be possible to grandfather in some of the residents who have been Brooks residents for ten years or more so individuals who do not want to play pickleball can enjoy the park. She thinks the Boards should authorize that the property can only be used for certain uses.

Resident Rod O'Connor voiced his opinion that there is significant advantage to putting restrictions to the park in place. Currently, it is open to the public and he believes that the

demographics of those using the playground, water feature and basketball courts are of individuals who do not live within the Brooks. In his opinion, if the park is transferred to TCC it would be private, which would benefit all Brooks residents.

Discussion ensued regarding TCC offering membership discounts to Brooks residents, whether TCC would eliminate the playground and the water feature due to insurance and liability issues, reasonable terms of negotiation regarding accessibility and control, the permanency of deed restrictions, benefits of a land lease approach, length of a lease, a triple-net lease set up in the original purchase transaction, a public-private partnership provision, whether to solicit multiple offers or just consider TCC's offer and publicizing and holding a public hearing to hear comments and objections to the potential sale of the property.

Mr. Blount stated he feels that there is a consensus that, if the CDDs were to sell the property to TCC, most of the Board Members would prefer not to sell all of the rights and to restrict it in some way and hold back a right of reverter. That the CDDs would give TCC the right of possession and obligations that go along with maintaining the property. He noted that the Boards do not have to have a consensus to sell it, they just have to have a majority. He stated, if there is no majority consensus, the property will not be sold and the next question is whether the CDDs will continue to expand the pickleball facility and, if there is no majority consensus on that, then the action is to do nothing. He recommended forming a negotiation committee to discuss the commonalities and threats to the neighborhood and agree on a reasonable price.

Mr. Merritt stated, in summary, the focus should be what is in the best interest of the Brooks property owners and residents and not the CDDs and TCC. He asked if the Boards can establish the vehicle to develop a dialogue with TCC about what is in the best interest of the Brooks, be it a lease or sale, and if benchmarks can be put in place.

Mr. Cox stated, if both entities agree to meet, recognizing the commonalities of the Brooks, those benchmarks are going to work themselves into the negotiations.

A Board Member suggested that Mr. David Garner and Mr. Kenneth Gould be appointed as the negotiators, since they both have legal backgrounds.

Discussion ensued regarding the value of the property, paying off the bonds, negotiation strategies, what the CDDs already spent to buy the property, construction costs to improve the facilities, a 2022 appraisal amount of \$1.8 million for the property on a restricted sale basis, the

original purchase price of \$970,000, the dock and appointing a neutral third party to assist in the negotiations.

**On MOTION for Brooks of Bonita Springs by Ms. Varnum and seconded by Mr. Merritt, with all in favor, appointing Mr. Garner and Mr. Gould and a third-party mediator to negotiate the terms of a lease or sale of the park property with representatives of The Commons Club, was approved.**

**On MOTION for Brooks of Bonita Springs II by Ms. Bunting and seconded by Mr. Bertucci, with all in favor, appointing Mr. Garner and Mr. Gould and a third-party mediator to negotiate the terms of a lease or sale of the park property with representatives of The Commons Club, was approved.**

**FOURTH ORDER OF BUSINESS**

**NEXT MEETING DATE: October 25, 2023 at  
1:00 PM**

The next meeting will be held on October 25, 2023.

**FIFTH ORDER OF BUSINESS**

**Supervisors' Requests**

There were no Supervisors' requests.

**SIXTH ORDER OF BUSINESS**

**Public Comments: Non-agenda items only  
[3 minutes per person]**

Resident Dean Cohagen asked how the original appraisal of the property was developed. Mr. Bartoletti stated the money spent for the property was based on an appraisal and a negotiation in 2010 by the CDD Boards at that time. He used a standard inflation calculator to bring it to its current value of \$1.742 million.

**SEVENTH ORDER OF BUSINESS**

**Adjournment**

**On MOTION for Brooks of Bonita Springs by Ms. Varnum and seconded by Mr. Merritt, with all in favor, the meeting adjourned at 4:04 p.m.**

**On MOTION for Brooks of Bonita Springs II by Mr. Bartoletti and seconded by Mr. Bertucci, with all in favor, the meeting adjourned at 4:04 p.m.**

**BROOKS OF BONITA SPRINGS &  
BROOKS OF BONITA SPRINGS II CDDS  
FOR BROOKS OF BONITA SPRINGS:**

**October 4, 2023**

  
Secretary/Assistant Secretary

  
Chair/Vice Chair

**FOR BROOKS OF BONITA SPRINGS II:**

  
Secretary/Assistant Secretary

  
Chair/Vice Chair