

**REGULAR MEETING
BOARD OF COMMISSIONERS
HOLIDAY ISLAND SUBURBAN IMPROVEMENT DISTRICT (HISID)
MONDAY, OCTOBER 18, 2021**

The Regular Meeting was held at the District Office and via Zoom 85752284923. The meeting was called to order by **CHAIR BOB DYAR** at 9:00 a.m.

ROLL CALL: Present for roll call were **CHAIR BOB DYAR, COMMISSIONERS SUZANNE CHILDERS, DALE KELLISON, LARRY STAMPS,** and **KEN BROWN.** A quorum was declared with all commissioners present.

APPROVAL OF AGENDA: **COMMISSIONER STAMPS** moved to approve the agenda. **COMMISSIONER CHILDERS** seconded. Motion carried unanimously.

APPROVE MINUTES: A motion to approve the August 23 and September 20 minutes was made by **COMMISSIONER BROWN** and seconded by **COMMISSIONER CHILDERS.** Motion passed unanimously.

CEREMONIAL: None

CHAIR DYAR brought up a concern the Board had with **COMMISSIONER KELLISON** and his involvement with the social media website he administers. Several dates and activities were shared and the wrongful actions taken by **COMMISSIONER KELLISON.** Each of the commissioners shared their concerns regarding personal phone calls and inappropriate action by **COMMISSIONER KELLISON** according to FOIA laws and Holiday Island regulations regarding commissioner activities. **COMMISSIONER KELLISON** rebuked each of the allegations. Due to his refusal to abide by these rules, on behalf of the Board, **CHAIR DYAR** moved, and **COMMISSIONER STAMPS** seconded, a motion to proceed with the removal for cause of **COMMISSIONER KELLISON** from the Board of Commissioners. A roll-call vote approved the motion. Mr. Kellison also voted yes to his removal and left the meeting.

ANNOUNCEMENTS: None

PUBLIC COMMENTS: 1) Linda Graves, 29 Table Rock Drive: The Suburban Improvement District Board does not have the authority to take it upon themselves to remove someone from the Board. It is different from the Municipal Improvement District that has that authority. 2) Brian Tagliaferro, 35 Burkimo Lane: Called for the immediate dissolution of HISID. Forced to pay an assessment and my roads have not been repaired. Carl has been awesome during this process.

REPORTS: None

BUSINESS:

A. OLD BUSINESS:

1. Rec Center Damage Discussion

DISTRICT MANAGER PRESLEY: The insurance agent has had two inspectors out here to inspect the damage but has not received a report from them. It might be repairable without destroying the building. With possible unseen damage, there could be additional costs. He will inform the Board as soon as he receives any additional information. He thanked Janice Murphy for her continued service for the Rec Center operations. **COMMISSIONER BROWN** asked about other buildings that may have been built in the same way. **COMMISSIONER STAMPS** indicated the Rec Center was built in the early '70s and the Clubhouse was built in the '80s. He gave a history of the building practices at those times.

B. NEW BUSINESS:

1. Contract with Attorney Tim Hutchinson

DISTRICT MANAGER PRESLEY: After consulting and considerable discussion with Mr. Hutchinson, he sent a proposal for the District to retain his services for one-to-six months or one-to-twelve months to make sure we have our house in order and the decisions we're making are in accordance with the law and the State of Arkansas statutes. **COMMISSIONER BROWN** moved, and **COMMISSIONER CHILDERS** seconded to accept the contract agreement with Attorney Tim Hutchinson. **COMMISSIONER BROWN** asked if one of his other partners could assist us? **COMMISSIONER STAMPS** asked if it wasn't a direct conflict of interest as Tim Hutchinson was the attorney who represented the past lawsuit against HISID. **DISTRICT MANAGER PRESLEY** said Tim Hutchinson's purpose was at that time for HISID to conduct business in compliance with the law. That is my goal today. **COMMISSIONER CHILDERS:** My concern is the public opinion of those in Holiday Island that it cost HISID a lot of money and now to pay him now to represent us, and I invite the public to come to the Board with your questions and concerns. **COMMISSIONER BROWN** read Tim Hutchinson's understanding of those who question his conflict of interest and therefore reduced his fee from \$350.00 per hour to \$250.00 per hour. If an attorney does not have an ongoing relationship with the previous client, I have no problem with hiring him. We have so many questions concerning our future decisions, we need the best attorney we can with the expertise of Suburban Improvement Districts. **Public Comment**, Linda Graves, 29 Table Rock Drive: expressed her concern and disapproval. Barb Kuhn, 62 Holiday Island Drive, when seeing this item on the agenda, said she does not trust Hutchinson and expressed her disapproval of hiring him and her reasons for her opinion. A roll-call vote registered **COMMISSIONERS DYAR, CHILDERS** and **BROWN** approved the motion. **COMMISSIONER STAMPS** abstained. Motion carried.

Mayor Kees informed the Board that the interlocal agreement with the Fire Department has been approved by the State Attorney General.

2. Assessment of Benefit (AOB) Payoff Discussion/Consideration

DISTRICT MANAGER PRESLEY: We are accountable to the people and my understanding is a debt that is owed as a property owner, you must allow someone to pay off their AOB. In a discussion with the Attorney, HISID cannot force someone to stay in debt. Further clarification from Mr. Hutchinson will be coming. **Public comment:** Linda Graves, I don't think he has the best interest of the property owners of Holiday Island at heart. I have always felt that the property owners should be able to pay it off and I support the fact that the law has said you have to pay annual installments. A copy of her letter

in full is attached. How to pay off the assessments and the resulting consequences are also included in her letter. Further discussion ensued. **COMMISSIONER STAMPS** gave a history of how the Holiday Island Assessment was set up stating it is an equation of equity on how to pay the district's operations. **COMMISSIONER CHILDERS** is against paying off assessments. **Mayor Kees**: As long as the district has responsibilities, the assessment cannot be diminished. **CHAIR DYAR**: More study and additional conversations are needed with the attorney. This discussion will be tabled for now.

PUBLIC COMMENTS: Brian Tagliaferro, 35 Burkimo Lane: asked about Mr. Kellison's role on the Board and the vacancies to be filled. Commissioner Kellison was an appointment till the end of the year and Commissioner Stamps is filling in for a vacated position.

COMMISSIONER COMMENTS: None

COMMISSIONER AGENDA SCHEDULING:

Monday, November 15, 2021

Regular Meeting

9:00 a.m.

ADJOURN: **COMMISSIONER STAMPS** moved to adjourn. **COMMISSIONER BROWN** seconded. Motion carried unanimously. The meeting closed at 10:45 a.m.

A workshop was held following the Regular meeting at 11:15 with the BOC members present and the various managers of each of the discussed departments. The subjects discussed were the Rec Center (Janice Murphy), Golf Course Maintenance and Operations (Loren Bernstein and Jon Prange), Campground (Danny Albright), and Marina (Kolin Paulk). This was the last workshop before putting together the 2022 budget.

Respectfully submitted,



Kenneth R. Brown, Secretary, Holiday Island Board of Commissioners

October 18, 2021

Bob Dyer
Ken Brown
Suzanne Childers
Dale Kellison
Larry Stamps
Cc: Danny Presley

Re: Pre-Payment in Full of AOB

Dear Commissioners:

I come to you today to request you to not allow pre-payment of district assessments (i.e, the Remaining Assessment of Benefit [AOB] Amount) by property owners. I believe this action, if implemented, would place an unfair burden on those property owners who are paying their assessments annually, since the annual assessment includes a 6% interest charge, from which the owners pre-paying would be exempt.

In terms of the 2021 assessment, that 6% interest amounts to \$598.94 per R1/Improved/Paved property. This annual interest payment is especially critical for Holiday Island so that the District does not lose its ability to collect assessments in support of ongoing maintenance and operations. We should feel obligated to insure that Holiday Island, whether the District or the City, has the ability to operate and maintain all of our infrastructure far into the future to the benefit of our citizens and the property values of the property owners.

There are two ways the Board could consider handling pre-payments of a property's AOB:

- The current "Remaining Assessment of Benefit Amount" for an R1/Improved/Paved property is \$9820.90 (after the 2021 Assessment payment is applied). Assuming you put that money into a reserve bank account, you could possibly get 1-2% return at best (and that is only if current bank account interest rates increase), yielding about \$100-200/year. You could then take this interest income and apply it toward paying for the property owners' portion of District expenses—street maintenance, mowing/ditch cleaning, fire dept. calls, facility maintenance, snow removal, maintenance of recreational amenities, etc. In this option, the 'Paid-Off' properties would be contributing \$100-200/yr. to operating and maintaining District services vs. all other improved properties paying roughly \$700-1000/yr.
- If you instead deducted, from the "Paid-Off Assessment Money in the Bank", a 'pseudo' assessment payment for the coming years, given that inflation will ultimately require the assessment amounts to increase, you would be lucky to get 10-12 years assessment payments from the \$9820.90 you started with. After that 10-12 years, these properties are contributing nothing to the upkeep of Holiday Island, and the burden is fully on all the rest of the property owners.

In my mind, neither of these approaches is fair to the other property owners.

Also note that when that 6% interest rate was set by the Bischoff lawsuit settlement in 2013, there were no stipulations in that settlement agreement regarding early payoff of the assessment property owners are obligated to pay the District each year. Also the prevailing law, from AR statute, 14-92-228, states: (1) there shall be assessed on the real property of the district a tax sufficient to pay the estimated cost of the improvement...", and (2) the tax is to be paid by the real property in the district in proportion to the amount of the assessment of benefits thereon and is to be paid in annual installments, not to exceed ten percent (10%) for any one year...". There are no "ifs, ands, or buts" in the statute. It is very clear the legislature intended for annual payments to be made.

Also, after researching the other Arkansas statutes pertaining to other Improvement districts, of which there are several types (Municipal Improvement Districts, Property Owner Improvement Districts, Improvement Districts for Rivers, and Water and Soil [Drainage] Improvement Districts), only the Water and Soil/Drainage Districts specifically allowed for early payoff of their Assessment of Benefits, and the statute stipulated that it had be paid off within 30 days under one circumstance and 60 days under another circumstance of the AOB being finalized after equalization. Otherwise it also must be paid in annual installments. It is also interesting to note that in the case of this type district, they were also able to levy an additional annual tax on landowners for operation/maintenance of the improvements.

All the other Improvement Districts, including Suburban Improvement Districts, contain language specifying "annual installments". This strongly suggests to me that the legislature did not just inadvertently omit the possibility of letting property owners pay off their property's Assessment of Benefits in full whenever they pleased, but actually intended that "annual" payments be enforced, to insure that annual interest could be collected and applied to the AOB. Since the same language is often used throughout all the Improvement District statutes, it is pretty obvious this was the intent.

In addition to penalizing the vast majority of property owners if pre-payments are allowed, the District will be required to change its whole IT system of accounting for assessment payments. You will need to have a database by property, where you record and maintain each and every assessment payment made, by year, and maintain a separate Assessment Remaining Balance on each property, even transferring that balance to new property owners as property is bought and sold. This will also likely involve recreating an historical record going back at least to 2014, when the Bischoff settlement was implemented, or perhaps even to 1970, when the first Assessment of Benefits (AOB) was done for District properties. It would need to allow for periodic Reassessment of Benefits as well. If you are presenting a unique bill with unique amount as to what they owe to each property owner, you will need to be able to prove everything was calculated properly if and when they question the amount. Based on my career background in application systems development, I would imagine this will require having such a system 'custom programmed', and require an investment of time and manpower for design, development, testing and implementation. When considering the hours this will take, and the costs for custom development such as this, it will not be a small investment. District staff will also need to have a thorough understanding of the calculation process.

If I were still on the Board of Commissioners, I would be strongly opposed to accepting pre-payment in full of the AOB, and urge you to vote 'NO' on this proposal. I believe the District would be on solid legal grounds for denying such requests. Some may be suggesting that since prepayment of a property's AOB was made allowable as part of the recent Cherokee Village lawsuit settlement, Holiday Island must allow it. I would remind the Board that just because it was in the CV settlement, does NOT make it Arkansas

law. Cherokee Village must adhere to the settlement, but Holiday Island is not obligated to that settlement. No judge or jury ever ruled on anything in the CV settlement. It was merely an agreement between the two parties. Holiday Island is not obligated to follow anything in it.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Linda Graves". The signature is written in black ink and is positioned above the printed name.

Linda Graves

Holiday Island Suburban Improvement District #1 provides you the following additional information pertaining to your 2021 Annual Assessment Bill in accordance with the settlement agreement reached in the David Bischoff v. Holiday Island Suburban Improvement District No. 1 (Carroll County Circuit Court Case No. CV2012-69WD):

Property Classification:	R1/Vacant/ Paved	R1/Vacant/ Gravel	R1/Improved/ Paved	R1/Improved/ Gravel	R2/Vacant	R2/Improved	R3/Vacant	R3/Improved	C1/C2/Vacant	C1/C2/Improved	Timeshare
Current Assessed Benefits for this Property Classification:	\$8000.00	\$7000.00	\$13000.00	\$12000.00	\$8000.00	\$13000.00	\$12000.00	\$17000.00	\$9000.00	\$14000.00	\$13000.00
Starting Assessment of Benefit Amount for 2021:	8272.77	7239.30	9982.37	8948.70	8272.77	9982.37	12407.75	17576.11	9306.36	14474.21	9982.37
Annual Assessment Payment Due In 2021:	468.00	409.50	760.41	702.00	468.00	760.41	702.00	994.41	526.47	818.91	760.41
Calculated Interest:	496.37	434.36	598.94	536.92	496.37	598.94	744.46	1054.57	558.38	868.45	598.94
Portion of Payment Applied to Interest:	468.00	409.50	598.94	536.92	468.00	598.94	702.00	994.41	526.47	818.91	598.94
Change to Principal on Assessment of Benefit:	28.37	24.86	-161.47	-165.08	28.37	-161.47	42.46	60.16	31.91	49.54	-161.47
Remaining Assessment of Benefit Amount:	\$8301.14	\$7264.16	\$9820.90	\$8783.62	\$8301.14	\$9820.90	\$12450.21	\$17636.27	\$9338.27	\$14523.75	\$9820.90

*Note: Annual Assessment Payment Due in 2021 does not include any Previous Balance that may be due for Assessments prior to current year, which may be listed on your Assessment Bill above your name.