

UNAPPROVED MINUTES
SPECIAL COMMISSIONERS MEETING
CHEROKEE VILLAGE SUBURBAN IMPROVEMENT DISTRICT #1
CHEROKEE VILLAGE, ARKANSAS
AUGUST 26, 2021 5:00 P.M.
OMAHA CENTER REC ROOM

Agenda Item # 1 Call to Order

Chairman Jim Best called the meeting to order. Commissioners Best, Joe Waggoner, Tim Lee David Webb and attorney Matt Bishop were in attendance.

Agenda Item # 2 Approval of Agenda

Commissioner Waggoner moved to approve the agenda; Commissioner Lee seconded. The Commissioners unanimously approved the agenda.

Agenda Item # 3 Mediation – Lawsuit Discussion

Commissioner Best introduced Matt Bishop, counsel representing the District for the lawsuit.

Mr. Bishop began by giving a history of the Improvement District, how the District is allowed to levy assessments, and how we arrived where we are today with the lawsuit.

Litigation has been ongoing for the last three years. A trial is set for Monday, August 30, 2021. The judge ordered all parties to mediation sessions in order to try to come to an agreement before the trial.

A proposed settlement has been reached, and is before the Commissioners for their vote.

Mr. Bishop gave a point-by-point summary of the proposal:

- The assessment of benefits (AOB) be set at 36% of the land value of the property, with a cap of 3400 in place for all lots that are not adjacent to a lake or golf course, 7400 for improved lots adjacent to a lake or golf course and 3400 for unimproved lots adjacent to a lake or golf course. The Commissioners will set a levy against that figure.
- The District will be required to track interest on the AOB per parcel. A property owner will have the right to pay the assessment in full at any time.
- Property owners who paid assessments in 2019, 2020, 2021 will have the right to claim a refund of the difference of the assessment paid in those years and the new assessment derived under the lawsuit settlement. Claims must be made within 90 days after the approval of the settlement by the judge.
- Claims will be paid out of revenue from foreclosed lot sales (less administrative fees and attorney fees) over a 7-year period or when the claim is paid in full, whichever comes first.

- The contract with the City of Cherokee Village will be terminated, effective 12/31/21.
- Payments to the city will be reduced to 17% from September to December 31.
- The other 17% will be held in a settlement account. If the settlement is approved by the judge, the money held in the settlement account will be used to pay plaintiff's attorney. If the settlement is not approved, the 17% will go to the city, as per the original agreement.
- The contract with American Land Company will end 6/30/2022.
- Commissioners will transition to a panel of 5 commissioners, and will be elected, not appointed.
- Attorney's fees: Class counsel and plaintiff have asked for an enhancement fee totaling \$275,000. SID is responsible for \$200,000, ALC for \$75,000. Plaintiff's counsel also receives 20% the amount paid to claimants.

Matt informed the Commissioners that if all points are agreed by all parties, the judge will be notified on Monday (trial date) that an agreement has been reached. The judge will then set a hearing to approve the settlement. If it is approved, class members will have 90 days to file a claim for reimbursement.

Regarding debt owned to SID by American Land Company (ALC): ALC owes the District approximately \$170,000. In exchange for allowing the District to terminate the contract early, ALC will agree to pay SID \$75,000 over two years at 5% interest per annum, commencing 1/1/2022.

Cherokee Village SID will now be solely responsible for the amenities it owns. The City of Cherokee Village will now be solely responsible for upkeep of roads and streets, and operation of the fire departments.

After discussion, Commissioner Best called for a vote. Commissioner Waggoner made motion to approve the proposed lawsuit settlement agreement, excluding the ALC payback proposal. Commissioner Lee seconded. The Commissioners unanimously approved the proposed lawsuit settlement.

Commissioner Waggoner then made motion to accept the proposed ALC payback agreement. Commissioner Lee seconded. After brief discussion, the Commissioners unanimously approved the proposed agreement with ALC.

Agenda Item #4 Motion to Adjourn

Commissioner Waggoner made motion to adjourn. Commissioner Lee seconded. With no further discussion, the meeting was adjourned at 5:50 p.m.

APPROVED DATE: _____

COMMISSIONER: _____
Jim Best, Chairman

COMMISSIONER: _____
Joe Waggoner, Vice- Chairman

COMMISSIONER: _____
Tim Lee, Secretary