



# Board of Supervisors

## Regular Agenda Item 9.5

### Executive Summary

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**To:** Board of Supervisors  
**From:** Caldwell Pacetti Edwards Schoech & Viator, LLP  
**Date:** February 17, 2021  
**SUBJECT: Consider Approval:**

- (1) **ACCEPT SATISFACTION OF TERMS OF AGREEMENT** with Santa Rosa Home-Owners Association, Inc., dated January 22, 2020, regarding Activation of a Unit of Development for Santa Rosa Groves, an Unrecorded Subdivision Located in Section 32, Township 42 S, Range 40 E, Palm Beach County, Florida; pursuant to terms of Agreement dated January 22, 2020; and
  - (2) **PROVIDE DIRECTION** Regarding Activation of Unit of Development No. 20 (Santa Rosa Groves) Pursuant to the Requirements of Chapter 298, F.S. and the District's Special Act and the Agreement of January 22, 2020.
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**BACKGROUND:** In March 2019, the Board received a petition from Santa Rosa Home-Owners Association, Inc. (the "Association"), to form a Unit of Development for Santa Rosa Groves (SRG) (see Plot Plan attached as **Exhibit "1"**). The Association proposed to transfer its property interests in and maintenance responsibilities for common area easements in SRG for road, drainage, canal, public utility and other purposes (collectively, the "Common Area Easements"). The Association's organizing document (the "Declaration") grants to its corporate Board of Directors the power to convey the Common Area Easements and transfer responsibility for their construction and maintenance to a public entity. A majority of SRG landowners agreed with the Association's request, but expressed reservations about how the transfer process would be implemented.

On September 18, 2019, the Board of Supervisors adopted Resolution 2019-013 confirming its intent to designate SRG as Unit No. 20, subject to compliance with the requirements of Chapter 298, F.S., and the District's Special Act (copy attached as **Exhibit "2"**). District Legal Counsel expressed certain concerns about SRHOA's authority to convey its interest in the community's Common Area Easements in the manner provided in the SRG Declaration. All property in SRG is subject to Common Area Easements of record. However, further action to activate Unit of Development No. 20 required clarification of the Association's authority to transfer its property rights and maintenance responsibilities to the District.

On January 22, 2020, the Board of Supervisors approved an Agreement with the Association that addressed both the issue of the Association's authority and landowner concerns (hereafter, the

“Escrow Agreement”; copy attached as **Exhibit “3”**). The Association proposed to seek a Declaratory Judgment from Circuit Court clarifying its authority. In order to expedite the court proceedings, the landowners were asked individually to consent to the Association’s action by providing newly executed easement deeds confirming their existence on their property.

District Legal Counsel served as Escrow Agent for these deeds. Upon receipt of an affirmative, non-appealable Declaratory Judgment, the District agreed to conditionally accept delivery of deeds conveying the Association’s interest in the Common Area Easements pending adoption of a Water Control Plan, to record the landowners’ deeds, and to proceed with activating the SRG Unit of Development. The Agreement further provides that the District will record the deeds of title and assume responsibility for maintenance of the road and canal easements upon adoption of a Water Control Plan pursuant to Chapter 298, F.S. The SRHOA delivered deeds conveying its interest in the Common Area Easements with the Escrow Agent on June 16, 2020.

Approximately 80 of SRG’s 100 landowners ultimately consented to the Association’s action by delivering to the Escrow Agent a Easement Deeds, which are currently being held in escrow by District Legal Counsel according to the terms of the Agreement of January 22, 2020. In addition, the Association delivered a fully-executed Common Area Easement Deed (executed June 15, 2020) and a Quitclaims Deed (executed June 11, 2020), copies of which are attached as **Exhibit “4”** and **Exhibit “5”**. Both of these instruments will continue to be held in escrow pending adoption of a Water Control Plan according to the terms of the Agreement of January 22, 2020. At that time, they will be released from escrow and presented to the Board of Supervisors for acceptance and recording in the Public Records.

On January 7, 2021, Palm Beach County Circuit Court issued a Declaratory Judgment (copy attached as **Exhibit “6”**) confirming the Association’s authority to convey its interests in the road, canal and other Common Area Easements to the District. In summary, the Court concluded:

1. The Association owns and holds the Common Area Easements, which it properly acquired by conveyance from the original Developer; and
2. The Common Area Easements run with the land and every SRG property owner acquired their property subject to them and the requirements of the recorded Declaration of Restrictions; and
3. The Association has the legal authority to convey its interest in the Common Area Easements to the District in the manner provided in the Declaration.

On **February 9, 2021**, the Declaratory Judgment became final and non-appealable upon expiration of the 30-day appeal period.

**CONCLUSION.** District Legal Counsel is satisfied that the terms of the **January 22, 2020 Agreement and the Escrow have been substantially satisfied.** The District may now proceed with the next steps in activating Unit of Development No. 20 pursuant to the requirements of Chapter 298, F.S., and the District's Special Act.

**FISCAL IMPACT:**

1. **Recording Costs:** Pursuant to the Escrow Agreement, the District is responsible for recording approximately 85 Landowner easement deeds and other instruments. Total recording costs are estimated to be approximately \$1,800.
2. **Unit Formation Costs:** The customary fees and costs associated with formation of a Unit and preparation of a Water Control Plan and Report of Engineer.
3. **Public Facility Finance and Construction Costs** customarily associated with activation of new Unit of Development
4. **Administrative Costs** customarily associated with activation of a new Unit of Development.

**STAFF RECOMMENDATION:** District Legal Counsel recommends:

1. **RECEIVE AND FILE** District Legal Counsel's confirmation that the terms of the Escrow Agreement of January 22, 2020 have been substantially satisfied.
2. **ACCEPT RECEIPT** of approximately 80 executed SRG Landowner Deeds and **DIRECT** District Legal Counsel to record them in the Public Records of Palm Beach County, according to the terms of the Escrow Agreement.
3. **ACCEPT RECEIPT OF DEEDS OF CONVEYANCE** from Santa Rosa Home-Owners Association, Inc., to the District of the Association's interest in road, drainage, utility and/or other canal purposes in Santa Rosa Groves, an unrecorded subdivision located in Section 32, Township 42 S, Range 40 E, Palm Beach County, Florida, and **DIRECT** District Legal Counsel to **hold them in escrow** pending adoption of a Water Control Plan for Unit of Development No. 20 (SRG), at which time the instruments of conveyance will be recorded in the Public Records of Palm Beach County, according to the terms of the Escrow Agreement. **The District shall not accept maintenance responsibility for and the Association shall not be relieved of its duty to maintain the development's Common Area Easements until such time the Water Control Plan is adopted.**

4. **DIRECT** the District Engineer to initiate transfer of the Surface Water Management Permit for Santa Rosa Groves from the Association to the District; **PROVIDED THAT the District shall not accept maintenance responsibility for and the Association shall not be relieved of its duty to maintain the development's surface water management system until such time as SFWMD approves transfer of the SFWMD permit to the District at District's request.**
5. **DIRECT Staff and Professional Consultants** to initiate and continue the process of forming Unit of Development No. 20 (SRG) pursuant to the requirements of Chapter 298, F.S. and the District's Special Act (See outline of process attached as **Exhibit "7"**).

**ATTACHMENTS:**

1. Santa Rosa Groves Plot Plan, showing Common Area and Other Easements
2. Resolution 2019-013, dated September 18, 2019, designating Unit of Development No. 20 (SRG)
3. Escrow Agreement with Santa Rosa Home-Owners Association, Inc.
4. Warranty Deed to Common Area Easements from the Association, executed on June 15, 2020.
5. Quitclaim Deed from the Association, executed on June 11, 2020
6. Declaratory Judgment, PBC Circuit Court, Case No. 50-2020-CA-008037-XXXX-MB, dated January 7, 2021
7. Outline of Procedures to Form a Unit of Development and Approval of a Water Control Plan.