

**MINUTES OF MEETING  
BOYNTON VILLAGE  
COMMUNITY DEVELOPMENT DISTRICT**

Public Hearings and a Regular Meeting of the Boynton Village Community Development District's Board of Supervisors were held on **Tuesday, September 13, 2016 at 10:15 a.m.**, at **2300 Glades Road, Suite 202E, Boca Raton, Florida 33431**. The agenda is as follows:

**Present and constituting a quorum were:**

Adam Freedman	Chair
Jim Giolda	Vice Chair
Gary Einfalt	Assistant Secretary
Mike Oliveri	Assistant Secretary
Michael Smith ( <i>via telephone</i> )	Assistant Secretary

**Also present were:**

Craig Wrathell	District Manager
Cindy Cerbone	Wrathell, Hunt and Associates, LLC
Jeff Schnars	District Engineer
Dennis Lyles	District Counsel
John Markey	Developer
Ed Bulleit ( <i>via telephone</i> )	MBS Capital Markets
Bill Horowitz	Morguard
Richard Carlson	Morguard Counsel

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Ms. Cerbone called the meeting to order at 10:40 a.m., and noted, for the record, that Supervisors Freedman, Giolda, Oliveri and Einfalt were present, in person. Supervisor Smith was attending via telephone.

**SECOND ORDER OF BUSINESS**

**Public Comments**

There being no public comments, the next item followed.

▪ **Continued Discussion: Bond Refinancing**

**\*\*\*This item was an addition to the agenda.\*\*\***

Mr. Bulleit stated that the bond refinancing was proceeding as planned. discussed MBS is proceeding as planned. The entire credit package was out to the banks and at least three banks

would be bidding for the bond refinancing. Typically, with a bank deal, the bank will provide a Term Sheet outlining the rates and terms, in advance, which is presented to the Board for consideration. If approved the District would countersign the Term Sheet. Interest rates could begin trending up. MBS was closer to locking in a rate with a bank, than going through an underwriting, putting an offering statement together and offering it “on the street”. The \$3 million, plus, commercial component would be with the bank and the other piece would be a nonrated underwriting, which would be subject to changes in rates. MBS had all of the necessary information and was proceeding with the transactions.

Mr. Schnars was asked, by MBS Capital, to provide information but may need Management’s assistance regarding past issues.

***\*\*\*Mr. Bulleit left the meeting at approximately \*\*\****

**THIRD ORDER OF BUSINESS**

**Affidavit of Publication**

Ms. Cerbone presented the affidavit of publication for today’s Public Hearings.

**FOURTH ORDER OF BUSINESS**

**Public Hearing to Hear Comments and Objections on Adoption of Fiscal Year 2016/2017 Budget**

Ms. Cerbone reviewed the proposed Fiscal Year 2017 budget. There were no changes to the assessments, since the proposed budget was originally presented. Mr. Wrathell stated that there was a slight difference compared to Fiscal Year 2016. The residential that is being developed is in the process of being replatted and the Property Appraiser had not reflected those changes but, because of the timing, the assessments must be on the tax bill. It was determined that the most prudent approach would be for those assessments to be off-roll because, since there was an old development plan and product mix, which showed up as platted, if the CDD put them on the tax bill, based on an old plan, the unit counts would have been inaccurate, in relation to the parcels. That was the reason for the significant change in the number of off-roll versus on-roll units, compared to Fiscal Year 2016. The plan for Fiscal Year 2018 was for those units to go on the tax roll.

Ms. Cerbone stated that, on Page 1, “Supervisors” fees increased from \$5,000 to \$8,000; the expense was over budget for Fiscal Year 2016, due to many meetings but the Board did not

anticipate holding as many meetings in Fiscal Year 2017. The line item was increased to match the anticipated number of meetings. "Legal" increased from \$9,000 to \$15,000 and "Legal advertising" increased from \$1,000 to \$4,000. The "Stormwater pond modification", "Audace Avenue acquisition" and "Information system services" line items, for \$50,000, \$150,000 and \$2,030, respectively, were added to the Fiscal Year 2017 budget. The "Special Revenue Fund Budget (Greenway)", on Page 4, for maintenance of the Greenway, was an addition to the Fiscal Year 2017 budget; assessments would be off-roll. Mr. Wrathell stated that those assessments would be applicable to the residential properties previously discussed. Because the Greenway was primarily a benefit to the residential properties, those property owners would pay those expenses. Page 6 reflected using some of the fund balance but, when the bonds are refinanced and close, the debt service would be lower, for the first year, so, technically, after the bonds are issued, the Fiscal Year 2017 budget could be amended to reflect the actual bond numbers and new amortization schedule. Originally, during the Public Hearings, lowering the debt assessments for Fiscal Year 2017, by using cash-on-hand, was anticipated but, instead, the bonds would be refinanced, close on the bonds prior to November 1 call date and the cash-on-hand would be used to lower the principal and the Cost of Issuance.

**On MOTION by Mr. Giolda and seconded by Mr. Freedman,  
with all in favor, the Public Hearing was opened.**

Mr. Richard Carlson, Morguard Attorney, representing the commercial interest, with the exception of Target, received Supplemental Engineer's Report, last night, and asked to delay consideration of adoption of the budget, as there was not an adequate opportunity to review it. Upon cursory review, there was concern about the stormwater modification and Audace Avenue improvements passing through the "General" fund, as opposed to being part of the Phase 2 or the expansion portion, as contemplated in November or December, 2015. The concern was with the change of plan of how those were being apportioned. In plan of the CDD another entrance road, which functions similarly to Audace Avenue, was the responsibility of only the commercial portions; therefore, the residential portion of Audace Avenue, being Phase 2 of the expansion area portion of Audace Avenue, should be the responsibility of the residential component, as was originally anticipated in November or December, 2015.

Mr. Wrathell stated that the tax rolls are due by September 15. The only reason the budget Public Hearing was scheduled this close to September 15 was because, in Palm Beach County, assessments must be on Truth in Millage (TRIM) Notice, which provides additional notification to the property owners. If today's meeting was continued, it must reconvene within the next two days. Mr. Lyles stated the meeting could not be on the same day as a scheduled County Commission, School Board, City, etc., meeting; the CDD was probably out of legal options, as it was as late in the process as it could be to address these issues. The CDD is now allowed to have its Public Hearing on the same day as one of the larger general purpose governments. The Fiscal Year 2017 budget could be adopted, as is, setting the limits on the assessments and allowing the roll to be submitted but it does not mean that the issues could not be explored and the budget modified during the fiscal year. The budget could be modified but assessments could not be increased.

Mr. Carlson questioned if there would be an increased assessment if the stormwater modification and the Audace Avenue projects were moved into the residential component, which would result is a reduction on the commercial side but increase the residential side and asked if that would be possible. Mr. Wrathell stated that, in the Supplemental Engineer's Report, the stormwater pond modifications would be to an existing CDDs stormwater pond and that pond is part of the integrated system of improvements. Audace Avenue would be part of the District's integrated roadway system; the District would own the physical road and the drainage component, related to that road, and have an operation maintenance easement, or some equivalent, on that improvement; anything the CDD funds must be owned by the CDD.

**On MOTION by Mr. Giolda and seconded by Mr. Einfalt, with all in favor, the Public Hearing recessed at 10:56 a.m.**

***\*\*\*Mr. Freedman and Mr. Markey left the meeting at 10:56 a.m.\*\*\****

**FIFTH ORDER OF BUSINESS**

**Public Hearing to Hear Comments and Objections on the Imposition of Special Assessments to Fund the Budget for Fiscal Year 2016/2017, Pursuant to Florida Law**

- A. Mailed Notice to Property Owners**
- B. Consideration of Resolution 2016-9, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2016/2017; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date**

These items were presented following the Eighteenth Order of Business.

**SIXTH ORDER OF BUSINESS**

**Consideration of Resolution 2016-10, Adopting the Annual Meeting Schedule for Fiscal Year 2016/2017**

Ms. Cerbone presented Resolution 2016-10 for the Board’s consideration.

**On MOTION by Mr. Giolda and seconded by Mr. Oliveri, with all in favor, Resolution 2016-10, Adopting the Annual Meeting Schedule for Fiscal Year 2016/2017, was adopted.**

**SEVENTH ORDER OF BUSINESS**

**Presentation of Audited Basic Financial Statements for Fiscal Year Ended September 30, 2015, Prepared by Keefe, McCullough & Co., LLP**

Ms. Cerbone presented the Audited Basic Financial Statements. Everything was in order, there were no prior or current year findings; it was an unmodified opinion. The District complied with all audit requirements. The “Independent Auditor’s Report on Internal Control Over Financial Reporting and on Compliance and Other Matters, on Pages 23 and 24, revealed that there were no deficiencies in internal controls, considered to be a material weakness or noteworthy for recommendations for the current year. There were no instances of noncompliance or other matters required to be reported. The “Independent Auditor’s Report to District Management”, on Page 25 confirmed that there were no prior audit findings and, therefore, no recommendations, and there were no findings in the current year. The “Independent Auditor’s Report on Compliance with Section 218.415, Florida Statutes”, on Page 27, reflected that the District complied, in all material respects.

**EIGHTH ORDER OF BUSINESS**

**Consideration of Resolution 2016-11, Accepting the Audited Basic Financial Statements for the Fiscal Year Ended September 30, 2015**

Ms. Cerbone presented Resolution 2016-11 for the Board’s consideration.

**On MOTION by Mr. Giolda and seconded by Mr. Einfalt, with all in favor, Resolution 2016-11, Accepting the Audited Basic Financial Statements for the Fiscal Year Ended September 30, 2015, was adopted.**

**NINTH ORDER OF BUSINESS**

**Consideration of Addenda to Wrathell, Hunt and Associates, LLC, Agreement for Management Services**

- A. Addendum #1: *Preparation of Supplemental Methodology for 2007A-2 Bonds Related to Change in Development Plan and Expansion of District Boundaries and Administrative Tasks Associated with 170, 197 & 190 Public Hearings* [completed]**
- B. Addendum #2: *Preparation of Supplemental Methodology for O & M* [completed]**
- C. Addendum #3: *Preparation of Supplemental Methodology for 2007 A-1, A-2 Bonds Refunding***

Mr. Wrathell presented the Addendums for the Board’s consideration. Addendums #1 and #2 were for preparation of Supplemental Methodology reports, which were previously completed. Addendum #3 was for preparation of the Supplemental Methodology Report related to the bond refinancing. The fees would only be paid if the bonds are successfully refinanced and would be funded from the bond proceeds.

**On MOTION by Mr. Giolda and seconded by Mr. Oliveri, with all in favor, Addendums #1, #2 and #3, to the Wrathell, Hunt and Associates, LLC, Agreement for Management Services, were approved.**

**\*\*\*Mr. Wrathell left the meeting.\*\*\***

**TENTH ORDER OF BUSINESS**

**Consideration of Developer’s Funding Agreement – Greenway Maintenance**

This item was presented following the Fourteenth Order of Business.

**ELEVENTH ORDER OF BUSINESS**

**Consideration of BR Cortina Acquisition  
LLC Quit Claim Deed (OB-4)**

Ms. Cerbone presented the Consideration of the Quit Claim Deed of BR Cortina Acquisition LLC. Mr. Lyles indicated that it was a routine act of acceptance; under Florida Law, whenever property is deeded or conveyed to the District, there must be an act of acceptance. This accepts the Quit Claim Deed for property that would be used in association with the District’s infrastructure project. This was related to a small piece of property near the canal.

**On MOTION by Mr. Giolda and seconded by Mr. Einfalt, with all in favor, the BR Cortina Acquisition LLC Quit Claim Deed (OB-4), was approved.**

**TWELFTH ORDER OF BUSINESS**

**Consideration of Supplemental  
Engineer's Report**

This item was presented following the Eighteenth Order of Business.

**THIRTEENTH ORDER OF BUSINESS**

**Approval of Unaudited Financial  
Statements as of July 31, 2016**

Ms. Cerbone presented the Unaudited Financial Statements as of July 31, 2016.

Mr. Horowitz asked for a detailed breakout of the \$47,541 in the “Due from developer” line item under the “Capital Projects Resident” column, on Page 1.

**On MOTION by Mr. Giolda and seconded by Mr. Oliveri, with all in favor, Unaudited Financial Statements as of July 31, 2016, was approved.**

**FOURTEENTH ORDER OF BUSINESS**

**Approval of Minutes**

- A. July 12, 2016 Regular Meeting**
- B. July 26, 2016 Regular Meeting**

Ms. Cerbone presented the July 12 and July 26, 2016 Regular Meeting Minutes for the Board’s consideration.

**On MOTION by Mr. Einfalt and seconded by Mr. Oliveri, with all in favor, the July 12 and July 26, 2016 Regular Meeting Minutes, as presented, were approved.**

▪ **Consideration of Developer’s Funding Agreement – Greenway Maintenance**

*\*\*\*This item, previously the Tenth Order of Business, was presented out of order.\*\*\**

Mr. Lyles stated that preparation of the Agreement was previously authorized. The Agreement was for maintenance of the Greenway, for the six-month period of July 15, 2016 through January 15, 2017. The effective date of the Agreement was July 15, 2016. Mr. Giolda stated that the Agreement related only to the three residential parcels.

**On MOTION by Mr. Giolda and seconded by Mr. Einfalt, with all in favor, the Developer’s Funding Agreement – Greenway Maintenance, was approved.**

**FIFTEENTH ORDER OF BUSINESS**

**Other Business**

There being no other business, the next item followed.

**SIXTEENTH ORDER OF BUSINESS**

**Staff Reports**

**A. District Counsel**

There being no report, the next item followed.

**B. District Engineer**

There being no report, the next item followed.

**C. District Manager**

**i. NEXT MEETING DATE: September 27, 2016 at 10:15 A.M.**

The next meeting will be held on September 27, 2016 at 10:15 a.m., at this location.

**SEVENTENTH ORDER OF BUSINESS**

**Other Business**



This item was a duplicate of the Fifteenth Order of Business.

**EIGHTEENTH ORDER OF BUSINESS****Supervisor's Requests**

There being no Supervisors' requests, the next item followed.

- **Consideration of Supplemental Engineer's Report**

*\*\*\*This item, previously the Twelfth Order of Business, was presented out of order.\*\*\**

Mr. Schnars presented the Supplemental Engineer's Report. The Report was prepared for the additional public facility expansion of Audace Avenue and the modification to the main lake within the District. Mr. Schnars discussed the work completed, related costs, benefits to the District, improvements intended to be turned over, etc. Regarding Audace Avenue, the CDD did not own the fee simple title to the property on which the road and the improvements were constructed; however, the CDD would be the owners of the easement that allows the public infrastructure improvements, including, but not limited to, the water management, water and sewer and the roadway to be installed and maintained, in the future, in perpetuity. Discussion ensued regarding whether the December 2015 Supplemental Engineer's report addressed the existing conditions. The Report specified that the systems were completed, certified and were turned over to the governmental entities. The sanitary sewer, water distribution system and the surface water system were constructed, completed and went fully operational with no excess capacity available. In response to whether the December 2015 Supplemental Engineer's Report specified that any reconfiguration of the expansion parcel, which was the residential component, had the developer paying all the costs for the water distribution system, the sanitary sewer system and the changes to the water management system, along with Audace Avenue in the 2015 report, Mr. Schnars clarified the expansion area was five acres, located at the southeast corner of the District. There would not necessarily have been any expansion to the water management system because that area was already included in the water management permit.

Mr. Carlson stated that the December 2015 Engineer's Report states, "The existing Public Water Management System serving the District will only need relatively small enhancements to serve the new proposed development plan and the expansion parcel.", which is the residential component and the new parking. "At this time the cost of such additional public surface water management is estimated to be \$32,000 and all additional improvements will be funded by the developer/builder of the expansion parcel and public improvements will be deeded over for

ownership and maintenance by the Community Development District upon completion". This was throughout all of the modifications to the surface water management system, water distribution system, sanitary collection and transmission system and the roadways, which stated that the developer/builder would fund those public improvements. Mr. Schnars stated that was intended to mean those improvements within those five acres, so there was water, sewer, and drainage that needed to be extended within that area. Regarding the roadways, at this time the cost of such additional public roadway improvements was estimated to be \$136,195. All additional improvements would be funded by the developer/builder of the expansion parcel and public improvements would be deeded over to the District, for ownership and maintenance, upon completion.

Regarding questions posed by Mr. Carlson, Mr. Lyles noted, for the record, that the District Engineer, who had a copy of the draft Supplemental Engineer's Report, was without the benefit of the document from which Mr. Carlson was quoting. If the intention was to cross-examine the District Engineer, it would be fair to provide him with a copy so that he could refer to the same document that Mr. Carlson was referencing. If Mr. Carlson's intention was to continue reviewing his report, line-by-line, a copy should be provided to Mr. Schnars. Mr. Carlson stated that some of these costs that were necessary to reconfigure the new configuration for the residential area, both the expansion parcel and the entirety of the residential component, were driven not by needs for the commercial component but driven by the redevelopment and reconfiguration of the residential portion and, at that time, when that Engineer's Report was prepared, it was fairly clear that the costs were to be carried by the residential component, alone, consistent with the Phase 2 description in the earlier Report. Mr. Carlson was voicing objections to the Engineer's Report. The issue was the \$150,000 that goes into the Audace Avenue improvements, being shouldered by the District, and the water management, which was budgeted at \$50,000. Mr. Lyles stated that Mr. Carlson had the right to make observations but, the use of terms, such as driven and characterizations of what occurred, in terms of development plan, were beyond the scope of what the District Engineer was asked to do. The District Engineer was not in a position to give opinions about what development issues drive what source of expenditures. The Engineer's Report deals in terms special benefit and must state that improvements, which are part of the infrastructure plan, provide a special benefit to the properties within a District but not necessarily a benefit to every property receiving the same level. Mr. Carlson's questions

were beyond the scope of what the District Engineer was asked to do. It was confirmed that the reconfiguration of the residential or the expansion parcel did not drive the reconfiguration of the improvements discussed today. The lake reconfiguration was driven by the fact that the lake was not big enough for the entire CDD. The CDD did not include the expansion parcel but the Water Management permit included the five acres, which was originally supposed to be a City park. Mr. Carlson asked if the impervious area increased with the new plan of development. Mr. Schnars replied no. Mr. Carlson asked if the original SFWMD permit was defective in that it did not accommodate the stormwater requirements. Mr. Schnars stated the permit was not defective; something happened that caused the lake not to be the size that it was supposed to be, in the original calculations and assumptions; it was not because of an increase in the number of residential units, as the number of units was the same as was always in the plan, it was just reconfigured and there was no additional impervious area. There was an opportunity, because the residential was being reconfigured, to accommodate the additional lake area. Audace Avenue, in that location and configuration, was always part of the Master Plan; it was not part of the original plat, it was not a platted separate parcel but the original site plan of WR1, had Audace Avenue in that same location, so it could align with a traffic signal onto Congress Avenue, which is the logical location for it.

A member of the public, with specific historical knowledge of what transpired, stated that it was important to understand that, during the replat and site plan process amendment, it was discovered that the lake was undersized by an entire half acre, for the existing development. There is one SFWMD permit for the entire property. The issue of being undersized by an entire half-acre was brought to the attention of the Board. The Board decided to terminate the old District Engineer, which is when Mr. Schnars became the new District Engineer. This modification was only to the west bank of the lake allowed the extra drainage capacity for the amount that was always needed, in terms of drainage, which is an obvious benefit to the entire District under the SFWMD permit. The commercial properties were draining into that lake since inception. Mr. Carlson asked for the calculations that went into the modification. Mr. Schnars would provide the letter that was submitted to the SFWMD, which summarized what was being done. Calculations were not prepared; the plans demonstrated consistency with the original permit in expanding the lake to meet the required lake area and show that pervious and

impervious were consistent with the original permit. Mr. Carlson asked for the information about the history of Audace Avenue tract, including the before and after plans.

**On MOTION by Mr. Giolda and seconded by Mr. Einfalt, with all in favor, the Supplemental Engineer's Report, was approved.**

**\*\*\*Mr. Freedman and Mr. Markey returned to the meeting at approximately 11:41 a.m.\*\*\***

- **Public Hearing to Hear Comments and Objections on Adoption of Fiscal Year 2016/2017 Budget**

**\*\*\*This item, previously Fourth Order of Business, resumed.\*\*\***

**On MOTION by Mr. Giolda and seconded by Mr. Oliveri, with all in favor, the Public Hearing reconvened at approximately 11:41 a.m.**

Mr. Carlson was concerned with the information in the Engineer's Report, dated December 4, 2015, addressing the allocation and cost for different infrastructure improvements, as compared to the information in the Supplemental Engineer's Report just adopted, and related to the budgeted lake improvements, the Audace Avenue improvements being paid by the District. Mr. Carlson asked about the ability to shift the budget, after adoption. Mr. Lyles stated that, logistically, it was essentially impossible to postpone the Public Hearing, due to conflicts with other government entities and their budget public hearings. The Board recognized the limitations on the assessment levels that would be imposed during the budget process, today; however, during the fiscal year, line items could be revisited, readdressed or moved, if deemed appropriate by the Board. Regarding the question of if, by adoption of the budget, with the line items set forth, Mr. Lyles stated that the Board has not prohibited revising it, provided it remained within the overall budget.

**On MOTION by Mr. Oliveri and seconded by Mr. Einfalt, with all in favor, the Public Hearing was closed.**

**A. Consideration of Resolution 2016-8, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2016 and Ending September 30, 2017**

Ms. Cerbone presented Resolution 2016-8 for the Board's consideration.

Mr. Freedman provided Ms. Cerbone with a revision to reduce the Special Revenue Fund Expenditures. Ms. Cerbone read the following changes:

- Special Revenue Fund Budget for the Greenway: Landscape Maintenance: Change \$100,000 to \$85,000
- Property Maintenance: Change \$17,500 to \$10,000
- Electric: Change \$7,500 to \$5,000.

The three changes should bring the new total expenditure amount to approximately \$107,500. The off-roll assessment would be modified to be \$107,500.

**On MOTION by Mr. Giolda and seconded by Mr. Oliveri, with all in favor, Resolution 2016-8, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2016 and Ending September 30, 2017, as modified, was adopted.**

- **Public Hearing to Hear Comments and Objections on the Imposition of Special Assessments to Fund the Budget for Fiscal Year 2016/2017, Pursuant to Florida Law**

*\*\*\*This item, previously the Fifth Order of Business, was presented out of order.\*\*\**

**A. Mailed Notice to Property Owners**

Ms. Cerbone presented the Mailed Notice sent to all property owners.

**On MOTION by Mr. Oliveri and seconded by Mr. Einfalt, with all in favor, the Public Hearing was opened.**

Mr. Carlson reiterated the concerns and objections previously expressed during consideration of the Supplemental Engineer's Report and Fiscal Year 2017 budget.

**On MOTION by Mr. Freedman and seconded by Mr. Giolda, with all in favor, the Public Hearing was closed.**

- B. Consideration of Resolution 2016-9, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2016/2017; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date**

Ms. Cerbone presented Resolution 2016-9 for the Board's consideration.

**On MOTION by Mr. Freedman and seconded by Mr. Oliveri, with all in favor, Resolution 2016-9, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2016/2017; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date, was adopted.**

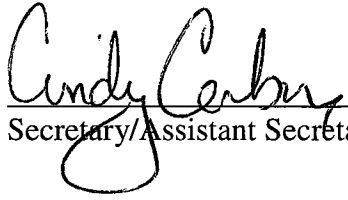
**NINETEENTH ORDER OF BUSINESS**

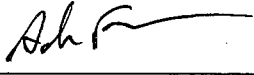
**Adjournment**

There being nothing further to discuss, the meeting adjourned.

**On MOTION by Mr. Einfalt and seconded by Mr. Oliveri, with all in favor, the meeting adjourned at 11:49 a.m.**

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

  
Secretary/Assistant Secretary

  
Chair/Vice Chair