

**VERANDAH WEST
COMMUNITY DEVELOPMENT
DISTRICT**

**REGULAR MEETING
AGENDA**

October 14, 2015

Verandah West Community Development District

2300 Glades Road, Suite 410W • Boca Raton, Florida 33431

Phone: (561) 571-0010 • Fax: (561) 571-0013 • Toll-free: (877) 276-0889

October 7, 2015

Board of Supervisors
Verandah West Community Development District

ATTENDEES:

Please identify yourself each time you speak to facilitate accurate transcription of meeting minutes.

Dear Board Members:

A Regular Meeting of the Verandah West Community Development District's Board of Supervisors will be held on **Wednesday, October 14, 2015 at 1:30 p.m.**, at the **Verandah Sales Office, 11571 Verandah Blvd., Ft. Myers, Florida 33905**. The agenda is as follows:

1. Call to Order/Roll Call
2. Public Comments [**3 minutes per person**]
3. Update: Settlement Negotiations with Prior Owner of 3371 Cypress Marsh Drive
4. Approval of **August 12, 2015** Public Hearing and Regular Meeting Minutes
5. Other Business
6. Staff Reports
 - A. District Counsel
 - B. District Engineer
 - C. District Manager
 - i. Approval of Unaudited Financial Statements as of August 31, 2015
 - ii. **NEXT MEETING DATE: January 13, 2016 at 6:30 P.M.**
7. Supervisors' Requests
8. Adjournment

Should you have any questions, please do not hesitate to contact me directly at (239) 464-7114.

Sincerely,



Chesley E. Adams, Jr.
District Manager

**FOR BOARD MEMBERS AND STAFF TO ATTEND
BY TELEPHONE:**

CALL IN NUMBER: 1-888-354-0094

CONFERENCE ID: 8593810

1 **MINUTES OF MEETING**
2 **VERANDAH WEST**
3 **COMMUNITY DEVELOPMENT DISTRICT**
4

5 A Public Hearing and Regular Meeting of the Verandah West Community Development
6 District's Board of Supervisors were held on **Wednesday, August 12, 2015** at **1:30 p.m.**, at the
7 **Verandah Sales Office, 11571 Verandah Blvd., Ft. Myers, Florida 33905.**
8

9 **Present and constituting a quorum were:**

10
11 Jeffrey Jordan Chair
12 Susie McIntyre Vice Chair
13 Donald Newman Assistant Secretary
14 Douglas Sinnard Assistant Secretary
15 Paul Zampiceni Assistant Secretary
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17 **Also present were:**

18
19 Chuck Adams District Manager
20 Cleo Crismond Assistant Regional Manager
21 Alyssa Cameron Hopping Green & Sams
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24 **FIRST ORDER OF BUSINESS**

Call to Order/Roll Call

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26 Mr. Adams called the meeting to order at 1:37 p.m., and noted, for the record, that all
27 Supervisors were present, in person.
28

29 **SECOND ORDER OF BUSINESS**

Public Comments [3 minutes per person]

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31 There being no public comments, the next item followed.
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33 **THIRD ORDER OF BUSINESS**

**Public Hearing to Hear Comments and
Objections on Adoption of Fiscal Year
2015/2016 Budget**

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37 **A. Proof of Publication**

38 Mr. Adams presented the proof of publication for today's Public Hearing and Regular
39 Meeting.

40 **B. Consideration of Resolution 2015-5, Relating to the Annual Appropriations and**
41 **Adopting the Budget for the Fiscal Year Beginning October 1, 2015, and Ending**
42 **September 30, 2016**

43 Mr. Adams presented Resolution 2015-5 for the Board’s consideration. He explained
44 that this resolution relates to the adoption of the annual budget for Fiscal Year 2016, which
45 begins on October 1, 2015 and ends on September 30, 2016.

46 Mr. Adams reviewed the proposed budget, which was an exhibit to the resolution, and
47 noted no changes since the initial presentation, at the May meeting. He reported slight
48 reductions in the “General” fund budget, under “Professional & admin” expenditures, resulting
49 in a reduction of approximately \$2, in the Fiscal Year 2016 assessment levels from Fiscal Year
50 2016, both on roll and off roll.

51 Mr. Adams indicated that the “Debt Service” budget is based on the “Amortization
52 Schedules”, which are part of the Supplemental Trust Indentures, dictating the amount of
53 principal and interest due each year. He explained that, as the assessments are spread over the
54 various product types, assessment levels remain stagnant; the shift is between principal and
55 interest, which, like a mortgage, is interest-heavy on the front end and then shifted towards
56 principal, in order to keep the annual payment the same year-over-year.

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58 **On MOTION by Mr. Jordan and seconded by Mr. Newman,**
59 **with all in favor, the Public Hearing was opened.**

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62 Mr. Adams noted, for the record, that no members of the public were present.

63
64 **On MOTION by Mr. Jordan and seconded by Ms. McIntyre,**
65 **with all in favor, the Public Hearing was closed.**

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68 ****Ms. McIntyre briefly left the meeting.****

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70 **On MOTION by Mr. Newman and seconded by Mr.**
71 **Zampiceni, with all in favor, Resolution 2015-5, Relating to the**
72 **Annual Appropriations and Adopting the Budget for the Fiscal**
73 **Year Beginning October 1, 2015, and Ending September 30,**
74 **2016, was adopted. (Motion passed 4-0)**

75 **FOURTH ORDER OF BUSINESS**

Consideration of Resolution 2015-6, Making a Determination of Benefit; Imposing Special Assessments, Including But Not Limited to Penalties and Interest Thereon; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll

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83 Mr. Adams presented Resolution 2015-6 for the Board’s consideration. He explained
84 that this resolution authorizes the levying of assessments on the benefitted units, consistent with
85 the assessment levels set forth in the adopted budget, based on the product types. Mr. Adams
86 indicated that this resolution also directs Staff to provide the lien roll, for the on-roll assessments,
87 to the Tax Collector’s office, for placement on the property tax bills, and authorizes direct
88 collection of off roll assessments, in a manner consistent with collection of the on roll
89 assessments and the timing of the collection, for operations and maintenance (O&M) and debt
90 service assessments.

91 ****Ms. McIntyre returned to the meeting.****

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93 **On MOTION by Mr. Jordan and seconded by Mr. Newman,**
94 **with all in favor, Resolution 2015-6, Making a Determination**
95 **of Benefit; Imposing Special Assessments, Including But Not**
96 **Limited to Penalties and Interest Thereon; Certifying an**
97 **Assessment Roll; Providing for Amendments to the Assessment**
98 **Roll, was adopted.**

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101 **FIFTH ORDER OF BUSINESS**

Update/Discussion: 3371 Cypress Marsh Drive Conservation Area Restoration and Cost Recovery Efforts

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105 Mr. Adams recalled that, earlier this year, the former owner of 3371 Cypress Marsh
106 Drive, the Mahles’, “de-vegetated” the conservation area, behind their property, to create a view
107 of the golf course. At the May meeting, he reported that the Board approved a Habitat
108 Restoration Plan (HRP), which the District Engineer’s on-staff Ecologist prepared; an impact of
109 this size required self-reporting to the Southwest Florida Water Management District
110 (SWFWMD).

111 Mr. Adams advised that the HRP was implemented last month and the Baseline
112 Monitoring Report has since been completed, which is the start of the five-year annual

113 monitoring requirements mandates by the SFWMD; a copy of the report was provided to the
114 Board. He pointed out continuing dialogue with the Mahles' and their attorney. Mr. Adams
115 recalled that, at the last meeting, the Board authorized the District Manager and Chair to work
116 with District Counsel to pursue recovery of funds from the Mahles' to offset the restoration cost;
117 there has been initial resistance however the Mahles' did make a settlement offer, earlier this
118 week.

119 Ms. Cameron advised that the monitoring and expenses associated with restoring the
120 conservation area was estimated at \$18,000; a demand letter was sent to the Mahles', with a copy
121 to their attorney, who advised that the Mahles' were willing to settle for \$500. Ms. Cameron
122 requested direction from the Board, as there was a vast difference between \$500 and \$18,000;
123 however, after further analyzing the situation, it was determined that the only method of
124 recouping the \$18,000 was to file a complaint, a form of which was provided to the Board.
125 Upon approval by the Board, Ms. Cameron will file the complaint and provide a copy to the
126 Mahles'. She pointed out the costs associated with pursuing litigation on this matter.

127 Mr. Jordan asked if the prevailing party recoups their costs, under Florida law. Mr.
128 Adams indicated that the District does not have the opportunity to recoup legal fees, if the
129 District prevailed. Ms. Cameron will verify with her litigation partners but her understanding
130 was that attorneys' fees can be requested and it was the judge's discretion whether to award fees.

131 Mr. Sinnard asked if the \$18,000 will be used solely for litigation costs or if some money
132 would remain. Ms. Cameron reiterated that it is up to the courts to decide. Mr. Sinnard
133 wondered what the bottom line would be, in terms of paying more attorneys' fees plus all of the
134 repairs; as a resident, he would incur part of those costs.

135 In response to Mr. Jordan's question, Ms. Cameron indicated that the CDD does not have
136 the ability to place a lien on the property. Mr. Adams recalled that District Counsel strongly
137 advised against imposing a lien because it could place the District in a liable position of
138 interfering with the Mahles' ability to sell the property.

139 Mr. Jordan voiced concern regarding how the District can prevent other residents from
140 clearing conservation areas, if the District cannot impose a lien and only make a demand and
141 relying on the responsible party to have the "good conscience" to pay.

142 Mr. Adams advised that these are small claims and the cost to run it through the system,
143 with no guarantee, in the hopes of recovering, typically exceeds the claims. Additionally, the

144 District runs the risk of not prevailing or partially prevailing. He pointed out that this case was
145 frustrating because the Mahles' clearly entered environmentally sensitive property that was not
146 their own.

147 Mr. Sinnard questioned the legality of the District to recoup costs from the Mahles'. Mr.
148 Adams indicated that the District incurs the cost to run through the process to force them to pay.
149 Ms. Cameron pointed out that the cost to file a lawsuit was cost prohibitive when recovering
150 legal costs.

151 Mr. Sinnard indicated that the Board's position was whether to accept \$500 versus
152 \$18,000 minus attorney's fees. Mr. Adams recommended that the Board reject the \$500 offer.

153 Ms. McIntyre recalled that, when she originally showed the house, as a real estate agent,
154 there was no view of the golf course and surmised that the Mahles' real estate agent advised
155 them to cut the vegetation. Ms. McIntyre suggested sending a letter to the Mahles' real estate
156 agent, advising them of the District's policy regarding conservation areas. Ms. Crismond
157 disagreed, as the Mahles' real estate agent could accuse the District of harassment, since their
158 involvement could not be proven.

159 Ms. McIntyre suggested imposing a lien on the new owner. Mr. Adams pointed out that
160 the new owner's Realtor contacted the District questioning the new owner's liability; they were
161 put on notice that the District was pursuing the recovery of expenses. Ms. McIntyre did not want
162 to set a precedent that clearing vegetation from a conservation area was permitted. Mr. Newman
163 voiced concern about the amount of money spent by the District to set a precedent.

164 Mr. Adams recommended countering the Mahles' offer by accepting \$10,000.

165 Mr. Jordan agreed with the \$10,000 counteroffer, as it shows that the Board is willing to
166 compromise.

167 Mr. Adams requested that the Board authorize Staff and the Chair to negotiate a counter
168 offer with the Mahles', between \$15,000 and \$5,000, and advising the Mahles' that for \$500, the
169 Board will file a complaint.

170 In response to Ms. McIntyre's question, Ms. Cameron indicated that one possibility was
171 for the Mahles' to be held responsible for paying all legal fees. Mr. Adams advised that this can
172 be included in the complaint.

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On MOTION by Mr. Zampiceni seconded by Mr. Sinnard, with all in favor, authorization for the District Manager and Chair to negotiate a counter offer between \$15,000 and \$5,000, with the former owner of 3371 Cypress Marsh Drive, for the restoration cost of the conservation area behind the property, and including this item on the next agenda for discussion, if no agreement was reached, was approved.

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SIXTH ORDER OF BUSINESS

Consideration of Resolution 2015-7, Adopting the Annual Meeting Schedule for Fiscal Year 2015/2016

187 Mr. Adams presented Resolution 2015-7 for the Board’s consideration. He noted that the
188 schedule was the same as prior years, which is the second Wednesday, at 1:30 p.m., in October,
189 2015, and in January, May and August, 2016. Mr. Adams pointed out that May is the draft
190 budget presentation and August is the final budget adoption.

191 Mr. Adams advised that meetings can be cancelled and special meetings scheduled, in
192 between meetings, at the will of the Board.

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On MOTION by Mr. Zampiceni and seconded by Ms. McIntyre, with all in favor, Resolution 2015-7, Adopting the Annual Meeting Schedule for Fiscal Year 2015/2016, and authorizing Staff to advertise, accordingly, was adopted.

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SEVENTH ORDER OF BUSINESS

Approval of May 13, 2015 Regular Meeting Minutes

200 Mr. Adams presented the May 13, 2015 Regular Meeting Minutes and asked for any
201 additions, deletions or corrections.
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On MOTION by Mr. Jordan and seconded by Mr. Newman, with all in favor, the May 13, 2015 Regular Meeting Minutes, as presented, were approved.

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EIGHTH ORDER OF BUSINESS

Other Business

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213 Mr. Adams presented a request from the owners of 13060 River Bluff Drive for the
214 Board’s consideration. He indicated that Mr. and Mrs. Edmonds are requesting permission from
215 the District to access the easement across the conservation area to construct a walkway and
216 observation tower along the Orange River.

217 Mr. Adams reported that there are three communities along the Orange River; one has 12
218 units, the second has eight units and the third has nine units. He noted that all units within these
219 communities were permitted access for a boardwalk and observation tower, with the exception of
220 the Edmonds property, which would appear to be due to a scrivener’s error. Mr. Adams pointed
221 out that Mr. and Mrs. Edmonds want the same opportunity and benefit as other adjacent property
222 owners.

223 Mr. Adams reviewed the location map and drawings from the contractor, Stokes Marine,
224 and the District Engineer, and all were in agreement that this appeared to be a simple scrivener’s
225 error. The SFWMD sent an email informally approving this request, from a materials and size
226 basis, as the 258-square-foot dock was under the 260-square-foot limitation set by Lee County.

227 Mr. Adams requested approval from the Board to correct the scrivener’s error, by
228 authorizing District Staff to work with the SFWMD, Lee County and the contractor on the
229 permitting process. He advised that the CDD’s approval was not final, as the owners must
230 secure the permit from Lee County and the SFWMD, although verbal approval was provided by
231 the SFWMD. Mr. Adams indicated that the District would execute the consent in the permit
232 application, allowing for the construction and upon receipt of the permit, an easement will be
233 prepared and recorded.

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**On MOTION by Mr. Sinnard and seconded by Mr. Jordan,
with all in favor, authorization for District Staff to work with
the Southwest Florida Water Management District, Lee
County and the contractor on the permitting of a walkway and
observation tower along Orange River, was approved.**

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NINTH ORDER OF BUSINESS

Staff Reports

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A. Attorney

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There being no report, the next item followed.

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B. Engineer

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247 There being no report, the next item followed.

248 **C. Manager**

249 **i. Approval of Unaudited Financial Statements as of June 30, 2015**

250 Mr. Adams presented the Unaudited Financial Statements as of June 30, 2015.

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252 **TENTH ORDER OF BUSINESS Supervisors' Requests**

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

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256 **ELEVENTH ORDER OF BUSINESS Adjournment**

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258 There being no further business to discuss, the meeting adjourned.

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260 **On MOTION by Mr. Jordan and seconded by Mr. Sinnard,**
261 **with all in favor, the meeting adjourned at 2:07 p.m.**

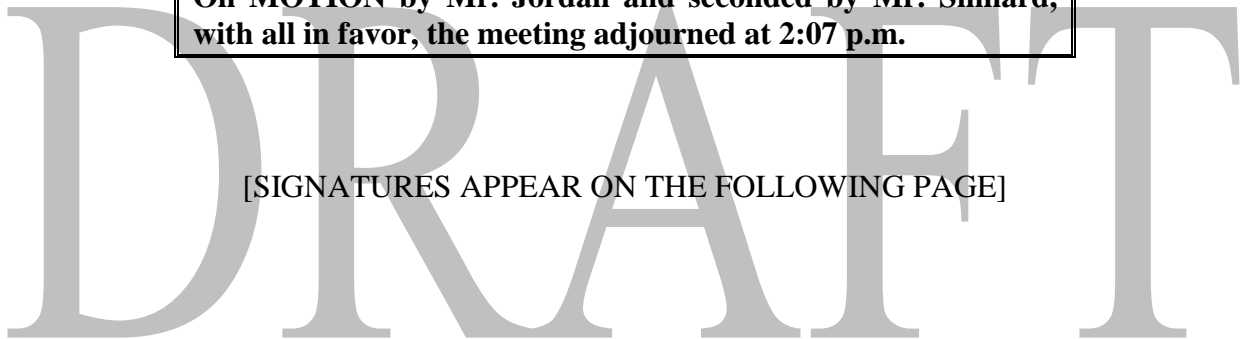
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[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



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Secretary/Assistant Secretary

Chair/Vice Chair

DRAFT

**VERANDAH WEST
COMMUNITY DEVELOPMENT DISTRICT
FINANCIAL STATEMENTS
UNAUDITED
AUGUST 31, 2015**

**VERANDAH WEST
COMMUNITY DEVELOPMENT DISTRICT
BALANCE SHEET
GOVERNMENTAL FUNDS
AUGUST 31, 2015**

	Major Funds		Total Governmental Funds
	General	Debt Service Series 2013	
<u>ASSETS</u>			
Cash (SunTrust)	\$ 28,290	\$ -	\$ 28,290
Investments			
Federated	86,760	-	86,760
Revenue account	-	291,446	291,446
Reserve account	-	448,350	448,350
Prepayment	-	3,631	3,631
Due from general fund	-	25,502	25,502
Due from other governments	1,540	-	1,540
Total assets	\$ 116,590	\$ 768,929	\$ 885,519
LIABILITIES AND FUND BALANCES			
Liabilities:			
Accounts payable	\$ 2,400	\$ -	\$ 2,400
Due to debt service fund	25,502	-	25,502
Deferred revenue	1,540	-	1,540
Due to other governments	879	-	879
Total liabilities	30,321	-	30,321
Fund balances:			
Restricted for:			
Debt service	-	768,929	768,929
Unassigned	86,269	-	86,269
Total fund balances	86,269	768,929	855,198
Total liabilities and fund balance	\$ 116,590	\$ 768,929	\$ 885,519

**VERANDAH WEST
COMMUNITY DEVELOPMENT DISTRICT
STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCES
GENERAL FUND 001
FOR THE PERIOD ENDED AUGUST 31, 2015**

	Current Month	Year to Date	Budget	% of Budget
REVENUE				
Special assessment: on-roll	\$ 1,495	\$ 152,768	\$ 162,766	94%
Special assessment: off-roll	-	32,122	36,419	88%
Interest & miscellaneous	2	113	318	36%
Total revenue	<u>1,497</u>	<u>185,003</u>	<u>199,503</u>	93%
EXPENDITURE				
Professional & administrative				
Supervisor fees	530	1,484	3,181	47%
Management and accounting	5,521	60,733	66,254	92%
Audit	-	7,568	7,582	100%
Legal	1,224	5,001	5,302	94%
Field management	935	10,286	11,221	92%
Engineering	753	4,532	2,651	171%
Trustee	-	3,561	5,302	67%
Dissemination agent	366	4,024	4,390	92%
Arbitrage	-	-	1,591	0%
Assessment roll preparation	-	12,720	12,725	100%
Telephone	34	377	411	92%
Postage	10	163	398	41%
Insurance	-	6,278	6,909	91%
Printing & binding	71	785	856	92%
Legal advertising	507	1,421	1,326	107%
Office expenses and supplies	-	-	133	0%
Website	-	-	265	0%
Contingencies	48	618	795	78%
Annual district filing fee	-	186	186	100%
Total professional & admin	<u>9,999</u>	<u>119,737</u>	<u>131,478</u>	91%
Water management				
Contractual services	4,926	60,147	60,974	99%
Aquascaping	3,134	3,865	2,651	146%
Contingencies	17	171	530	32%
Total water management	<u>8,077</u>	<u>64,183</u>	<u>64,155</u>	100%

**VERANDAH WEST
COMMUNITY DEVELOPMENT DISTRICT
STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCES
GENERAL FUND 001
FOR THE PERIOD ENDED AUGUST 31, 2015**

	<u>Current Month</u>	<u>Year to Date</u>	<u>Budget</u>	<u>% of Budget</u>
Other fees and charges				
Property appraiser	-	772	1,327	58%
Tax collector	-	1,060	2,543	42%
Total other fees & charges	-	1,832	3,870	47%
Total expenditures	<u>18,076</u>	<u>185,752</u>	<u>199,503</u>	93%
 Excess/(deficiency) of revenues over/(under) expenditures	 (16,579)	 (749)	 -	
 Fund balances - beginning	 102,848	 87,018	 82,343	
Fund balances - ending	<u>\$ 86,269</u>	<u>\$ 86,269</u>	<u>\$ 82,343</u>	

**VERANDAH WEST
COMMUNITY DEVELOPMENT DISTRICT
STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCES
DEBT SERVICE FUND 202 - SERIES 2013
FOR THE PERIOD ENDED AUGUST 31, 2015**

	Current Month	Year to Date	Budget	% of Budget
REVENUES				
Special assessment: on-roll	\$ -	\$ 832,218	\$ 815,309	102%
Special assessment: off-roll	-	433,939	435,192	100%
Interest income	3	44	-	N/A
Total revenues	<u>3</u>	<u>1,266,201</u>	<u>1,250,501</u>	101%
EXPENDITURES				
Debt service				
Principal	-	530,000	530,000	100%
Interest	-	716,900	716,900	100%
Total debt service	<u>-</u>	<u>1,246,900</u>	<u>1,246,900</u>	100%
Excess/(deficiency) of revenues over/(under) expenditures	3	19,301	3,601	
Fund balances - beginning	768,926	749,628	917,017	
Fund balances - ending	<u>\$ 768,929</u>	<u>\$ 768,929</u>	<u>\$ 920,618</u>	