

TURNBULL CREEK  
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Turnbull Creek Community Development District was held Tuesday, May 14, 2019 at 6:00 p.m. at the Murabella Amenity Center, 101 Positano Avenue, St. Augustine, Florida.

Present and constituting a quorum were:

Lee Clabots	Chairman
Wil Simmons	Vice Chairman
Brian J. Wing	Supervisor
Chuck Labanowski	Supervisor
Chris DelBene	Supervisor

Also Present were:

Ernesto Torres	District Manager
Jennifer Kilinski	District Counsel
Mike Yuro	District Engineer
Mark Insel	Vesta/Amenity Services Group
Roy Deary	Vesta/Amenity Services Group
Dan Fagen	Vesta/Amenity Services Group
Lourens Erasmus	Vesta/Amenity Services Group
Jay King	Vesta/Amenity Services Group
Michael Johnson	Duval Landscape Maintenance

The following is a summary of the actions taken at the May 14, 2019 meeting. A copy of the proceedings can be obtained by contacting the District Manager.

**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. Clabots called the meeting to order at 6:00 p.m. and called the roll.

Mr. Torres stated we are making some changes to the agenda. Item 8 will be moved to item 3 and we will flip items four and five

**SECOND ORDER OF BUSINESS**

**Audience Comments**

There being none, the next item followed.

The next item taken out of order.

**EIGHTH ORDER OF BUSINESS                      Discussion of 2249 Cascadia Court Encroachment**

Mr. Wing stated there was already a dog fence constructed up onto the berm when the present owner bought the house and they didn't realize it was on CDD property. Lourens and I went out and looked at it and it doesn't cause any kind of hazard, the only possible problem might be if the landscapers were back there and cut the fence and the owner said she would be responsible for it and at that point would move it back down onto her property.

Mr. Erasmus stated it has been there for quite a while and the landscape maintenance people have not cut it but if we have to repair a main line or any irrigation back there if we cut her fence we do not want to be responsible for that.

Mr. Clabots asked would we have the owner sign some sort of waiver?

Ms. Kilinski stated ideally we would have some form of encroachment easement that represents some of the agreement terms you just discussed, that we are not responsible for it, we recognize it is there, we can move it at any time, she recognizes it is on CDD property and that sort of thing.

On MOTION by Mr. Labanowski seconded by Mr. Wing with all in favor staff was authorized to prepare an encroachment agreement for the fence encroachment at 2249 Cascadia Court outlining the responsibility of the owner should the fence be damaged.

**THIRD ORDER OF BUSINESS                      Staff Reports (Part 1)**

**A. Landscape Manager (Presenter: Duval Landscape)**

Mr. Johnson gave an overview of the work performed since the last meeting.

**B. Engineer (Presenter: Mike Yuro)**

Mr. Yuro stated at the last meeting I was to follow-up on the lot drainage at 3531 Garibaldi Way. The berm area and common area is designed to drain towards the lots, there is supposed to be Type A drainage, which is a swale in the backyard to direct water around the property, down the side and to the front. I inspected the property and from a visual inspection I didn't see any obvious swale to indicate the Type A drainage for the lot. I did observe what appeared to be a low

spot at the rear lot line. It appears the common area is draining towards the lot, the lot draining away creating a low spot and nowhere for the water to go. Without getting a survey to verify the elevations it is impossible for me to say is the lot too high, is the common area too low. The overall area is not graded as designed.

Mr. Clabots asked have you shared your findings with the homeowners?

Mr. Yuro responded no, I wanted to present it to the board and let you decide on how you want to proceed.

Mr. Wing stated share the information with the lot owners and see what their reaction is. If there is still an outstanding issue report that back to Ernesto so he can get it out to us.

Mr. Yuro stated an item that came up between meetings, the conservation area and ditch behind North Portofino Road it is my understanding that a homeowner brought this to the attention of a board members because water was backed up into their yard. I went out there with Chuck and, between lots, 240, 241 and 243 the area is conservation easement and also labeled as a wetland with a note on the plat that talks about no construction, filling, removal of earth, cutting of trees shall take place in the conservation easement, the wetlands. Essentially those conservation easements are not to be disturbed. The contour lines on the survey show an existing ditch that bordered along the back of the properties. There was a ditch on the plans and plat and the notes say, existing ditch to remain. Currently behind the houses the ditch is not there it has been filled in and that would make sense why a homeowner is experiencing backup if water is coming down the ditch and the ditch stops the water is going to backup. Additionally, it appears there has been some improvements made into the conservation easement, it appears some of the area is being maintained, even cutting vegetation is not supposed to happen. It is as if the backyards have been extended. The ditch that was supposed to remain has been filled in and smoothed out and it appears that residents' backyards are encroaching into the easement area.

Mr. Clabots asked since it is a conservation area and it is not supposed to be tampered with, who enforces that?

Mr. Yuro responded the water management district would typically be the one to enforce it. The way I have seen these things happen in the past, the water management district could certainly issue a violation that could include a fine and that would come to the CDD because the CDD is the permittee and then it would be up to the CDD to go after the homeowners. Even if the

water management district knows an individual homeowner did something my experience has been that they typically go after the other agency and let that agency go after the individual homeowner.

Ms. Kilinski stated we are talking about a conservation easement and forgetting the ditch for the moment, I think the right answer is to self-report. Unfortunately, this happens from time to time, the agencies are much more willing to work with you on fines and options for rehabbing the area if you self-report. They will probably give you two options, a fine option or they will give you a replacement and repair option. Depending on what kind of landscape has been impacted here, Mike can work with the water management district to understand what the price difference is. As an example one that occurred in Tampa last month the fine was \$6,000, the repair cost was \$40,000 so we ended up going the fine route and having a separate mitigation area. If there is a wetland that has been impacted it may be an additional cost. From there understanding what that cost quantified is, I think it is a multi-faceted approach and we need to try to determine when the impacts were made so you can identify with some degree of certainty what homeowners are actually impacting the conservation area and we need to get very active on an information campaign to the residents and make sure they understand where the conservation areas are, they have already been put on notice by the plat, but we want to make sure that they know exactly where that line is and for all of you who are residents if somebody impacts that and the district is fined even if you don't live on that conservation area ultimately you are paying for that impairment. We need to make sure people know that is the case and there is self-policing going on. The first step is to self-report and determine what if anything St. Johns is going to make us do.

Mr. Clabots stated let's move forward and report it to St. Johns River Water Management District.

Mr. Yuro stated I have a contact I work with on a regular basis and they are generally pretty good to work with especially if we are coming to them with an issue.

Mr. Wing asked should we also notify the homeowners?

Ms. Kilinski stated yes, I will send cease and desist to those that we know for sure are having impact so I will work with Mike in identifying which lots clearly have gone into the conservation areas and send them hand written, cease and desist letters, that a fine may be forthcoming and they may be held responsible. I also think we will want to do an email blast to all the residents to make sure they know.

Mr. Clabots stated I walked a pond bank with Ernesto where small repairs have been made behind one house where they have done it three times and paid for it once. As I looked at those repairs the area repaired looked fine, it is like the water has moved around that area causing bank erosion. We have people come through and do repairs, are we doing the cheapest repair that doesn't really fix the problem or are there different types of things we might need to do?

Mr. Yuro stated I have observed the same and probably on future repairs we should extend the limits. You concentrate the repairs where it is necessary where you have the washout but maybe we need to go 20 feet on either side to make sure that as the water is coming down there is more area that has been repaired for it to come over. The pond banks have extremely poor soils and when the repairs are made and they are fortifying under the ground to keep the good soils in place, water finds the path of least resistance. Try to learn lessons from what we have done in the past and apply them in the future so we can make it better moving forward.

The next item taken out of order.

**SIXTH ORDER OF BUSINESS**

**Consideration of Resolution 2019-06  
Accepting the Certification of the District  
Engineer that the Series 2015B Project is  
Complete**

Ms. Kilinski stated this is something required by the indenture once projects are complete. When you have issued bonds the indenture provides upon completion of the project the board would pass a resolution. You will see the findings in this resolution set forth, the historical documentation of where we went with the original engineer's report, the resolution authorizing \$2 million in bonds, the engineer's report was largely for the pond bank remediation and then you get into the meat and potatoes of the resolution on page 3. We have received from Mike a certificate of the district engineer for completion of the construction project, there is \$102.95 left in the construction account, which would be liquidated but this will finalize and equalize the assessments based on the total project cost, which Mike has provided the engineering report tonight for that amount. There are no deferred costs.

On MOTION by Mr. Wing seconded by Mr. Simmons with all in favor Resolution 2019-06 was approved.

Mr. Labanowski stated the \$102 can be used to fix a pond bank, correct.

Mr. Kilinski stated it can be used as long as it is within the project. If a project is deemed complete and there are no more qualified projects under that engineer's report it goes to redeem bonds, it is \$102 so the impact to your assessments I'm not even sure it would be a penny.

Mr. Labanowski stated I'm looking at a problem on North Trapani that needs to be filled in with dirt and minor work and that might be around the ballpark.

Ms. Kilinski stated it doesn't prevent us from doing this, it would be a matter of one small requisition to liquidate that account.

Mr. Labanowski moved to use the balance of \$102.95 towards the repair of the pond bank on North Trapani with the guidance from Duval and Mr. Simmons seconded the motion.

Mr. Wing stated this has come up several times before it is one house and when the repairs were made the sod was put down everybody accepted it and this is one house where the grass isn't growing. I don't think this is a problem with the contractor I think it is a problem with the homeowner. The same sod was put on the whole bank. I walk that stretch every day and I have never seen irrigation on that area.

Mr. Labanowski stated he says he irrigates it. If we do that repair we need to hold the homeowner responsible for it.

Mr. Wing stated he is responsible for it now, we replaced it once.

Mr. Simmons asked are there other areas we can apply this money towards?

Mr. Wing stated yes.

Mr. Simmons so if we don't do that I don't want to see the money just sit there. I would like to see it applied somewhere.

Mr. Wing stated I agree except Chuck's motion was specifically to that one pond bank.

Mr. Labanowski stated I'm concerned that in a storm it will go by the wayside and it looks like turtles have been up there.

On voice vote with three in favor and Mr. Wing and Mr. DelBene opposed the motion passed.

Mr. Yuro left the meeting at this time.

**FIFTH ORDER OF BUSINESS**

**Consideration of Amenity and Operations RFP**

Mr. Torres stated the RFP was sent out a month ago and the closing date was April 29<sup>th</sup>. You received a copy of those proposals and they are all here tonight.

Mr. Clabots stated we will have three-minute presentations and questions from the board.

Representatives of the following providers made short presentations: Evergreen, Riverside Management Company and Vesta; there was a question and answer period, input from the residents and after discussion of each proposal the board took the following action.

On MOTION by Mr. Wing seconded by Mr. Clabots with four in favor and Mr. Labanowski opposed the contract for amenity and operations services was awarded to RMS for Option 1 and a board member will be appointed to negotiate the final contract to be approved by the board at a future meeting.

Mr. Clabots asked how do we go about having discussions about the budget?

Ms. Kilinski stated there are a couple options. Because the motion was for RMS Option 1, you set your maximum contract level. You could appoint a board member to say, let's negotiate the contract and bring it back at your June meeting with whatever could be negotiated the next month for the board to approve that. You also have Vesta's contract if you want that to stop September 30<sup>th</sup>, start October 1<sup>st</sup> with the new provider that is one option. There is a 90 day termination in that contract as well so if you wanted something sooner or some overlap you can also pursue that option. Because you have a June meeting there is an opportunity for the full board to approve the contract at the June meeting.

Mr. Clabots asked does anybody want to negotiate with RMS on the contents of the budget?

Mr. DelBene was appointed to be the board member to negotiate the contract with RMS and to bring back a proposed contract to the June board meeting.

Ms. Kilinski stated we put a proposed contract in the RFP package so it is just a matter of updating names and numbers. I assume you want this contract to start October 1 with your new budget year and I will provide notice to Vesta.

**FOURTH ORDER OF BUSINESS**

**Consideration of Resolution 2019-05  
Approving the Proposed Budget for Fiscal  
Year 2020 and Setting a Public Hearing Date  
for Adoption (Presenter: Ernesto Torres)**

Mr. Torres stated there is a 5% increase in the budget and equates to \$56,744. Last year we used \$34,240 in carry forward surplus and this year we have put zero in that area at this point. Based on our expenditures it is too early to see exactly what that carry forward is going to look like. The other issue under interest and miscellaneous we had a contribution from the HOA to make up the difference in the events director line. We discussed asking the HOA for a contribution and I have not sought any type of contribution from the HOA. The other increases are, trustee went from \$12,666 to \$13,500 and total amenity there are some slight increases. We left all the management contracts at the same rate and there is an increase in lake maintenance that we approved a few meetings ago.

The board discussed pool chemicals, capital reserves, carry forward, discounts and collections, increase landscape contingency by \$15,000, insurance, office supplies, supervisor fees and FICA and HOA contribution then took the following action.

On MOTION by Mr. Clabots seconded by Mr. Labanowski with four in favor and Mr. Simmons opposed Resolution 2019-05 approving the proposed fiscal year 2020 budget in the amount of \$1,195,922 and setting the public hearing for August 13, 2019 was approved as amended.

The next item taken out of order.

**NINTH ORDER OF BUSINESS**

**Consideration of Amendment to License  
Agreement with Fighting Turtles Swim Team**

Mr. Torres outlined the amendments to the Fighting Turtles Swim Team agreement, copy of which was provided in the agenda package.

On MOTION by Mr. Labanowski seconded by Mr. Wing with all in favor the amendments to the license agreement with the Fighting Turtles Swim Team was approved.

**SEVENTH ORDER OF BUSINESS**

**Discussion of ADA Accessibility & Fire Lanes**

Mr. Clabots stated there are two issues, parking on the sidewalk is an ADA violation and at one time the Sheriff's department would not ticket anybody on private property, the sidewalks are owned by the county as well as the streets. There is other correspondence from St. Johns Fire & Rescue that they demonstrated on a number of our streets parking vehicles on both sides of the street would not allow emergency vehicles to pass and had asked that the HOA enforce parking on one side of the street. Neither the HOA or CDD have the authority to regulate traffic, hand out tickets on the streets. St. Johns Fire & Rescue said if you don't do it the alternative is the county will come in and post the fire lanes and assess the community. Since they own the streets there is nothing to assess the community, that is a county expense. I would like to pursue these two issues with the county, George Jacobs, president of the HOA and I have discussed this and with both organizations pursuing this we might get some action.

Mr. Labanowski suggested that it be pursued through the roads department.

Mr. Clabots stated I won't pursue it further.

**TENTH ORDER OF BUSINESS**

**Staff Reports (Part 2)**

**A. Attorney (Presenter: Jennifer Kilinski)**

There being none, the next item followed.

**B. Manager – Report on Number of Registered Voters (2,084) (Presenter: Ernesto Torres)**

A copy of the letter from the supervisor of elections indicating there are 2,084 registered voters residing within the district was included in the agenda package.

**C. Operations Manager – Report (ASG) (Presenter: Lourens Erasmus)**

Mr. Erasmus presented a proposal for repair of the walkway by Pescara and stated both vendors will cut out the roots, put in more sand and replace the pavers. He then presented a proposal for a fence between Pescara and Murabella to deter people from walking onto CDD property and the board took the following action.

On MOTION by Mr. Simmons seconded by Mr. Wing with all in favor the proposal from St. Augustine Fence for paver walkway repair in the amount of \$3,200 to be taken out of repair and replacement was approved.

Mr. Wing stated at the last meeting we talked about the engineer’s report for lights by the pool.

Mr. Erasmus stated I reached out the engineer and Mike Yuro and I gave him everything and he became unresponsive. I went to an electrical company and asked for a proposal and they will come out Thursday and put together a proposal.

I obtained a price to do aeration in the two San Marino ponds and it came in at \$7,127 and the power to the aeration will be \$8,000. The other ponds we looked at there is no power and they will have to bore under people’s driveways to get to certain areas so we can install an aerator.

**D. Amenity Center Update – Report (Presenter: Mark Insel)**

Mr. Clabots stated a resident commented that we are not enforcing the pool regulations and rules enough. There are lots of kids doing lots of things that are not necessarily safe.

Mr. Labanowski stated there are beer bottles in the pool area and that is not kids. We had a couple of activities over the past month or so, how did they go?

Mr. Insel stated there were 25 to 30 residents for the movie and went fairly well to begin with and when the part ended for the kids, the crowd went away. The pot luck we had 35 spaces and 27 residents RSVP’d to bring a dish but not one showed up.

**ELEVENTH ORDER OF BUSINESS**

**Approval of Consent Agenda (Presenter: Ernesto Torres)**

- A. Approval of Minutes of the March 12, 2019 Meeting**
- B. Balance Sheet as of March 31, 2019 and Statement of Revenues & Expenditures for the Period Ending March 31, 2019; Month-to-Month Income Statement; Assessment Receipt Schedule**
- C. Approval of Check Register**

On MOTION by Mr. Clabots seconded by Mr. Labanowski with all in favor the consent agenda items were approved to include amendments to the minutes.

**TWELFTH ORDER OF BUSINESS**

**Other Business**

There being none, the next item followed.

**THIRTEENH ORDER OF BUSINESS      Supervisor's      Requests      and      Audience  
Comments**

Mr. Clabots stated today I got an email from Joe Fertsch in Murabella that said that a neighbor in Murabella has a 2-year old daughter who is dealing with a form of eye cancer and I thought this might be a good time to create the Murabella Kids Triathlon for the benefit of this Murabella family. The kids races are popular and have been in many other Vesta properties. The area is well-suited for races, kids can leave the pool and go to the field without having to deal with street traffic. We will need to use the pool lanes for about 45 minutes. They would have a maximum 100 kids, \$35 and they would swim the pool, get on their bikes and go running. The date he is looking at is August 3, 2019 at 9:00 a.m.

On MOTION Labanowski seconded by Mr. Simmons with all in favor the request to hold the kids triathlon on August 3, 2019 at 9:00 a.m. was approved.

Ms. Kilinski asked are you limiting it to residents only and do you want to have any sort of a U.S.A. triathlon approved form waiver? They can buy insurance for USA Triathlon for \$5 for a whole year then you are covered as a facility and I recommend that, but it is up to you. I want to clarify in our license agreement what the parameters are.

Mr. Labanowski stated we can pay that fee.

Ms. Kilinski stated it is \$5 per registrant.

Mr. Clabots stated I will send Joe a note and ask him to work with Ernesto for any agreements and Mark on scheduling.

Mr. DelBene asked should Joe be going through Ernesto because in the past I think he went through Vesta's event planner and that I don't think is the right way to go about it. Every place he goes to he has the same forms every time and he just needs to be able to shoot Ernesto an email and confirm the dates are good. It shouldn't have to wait for a board meeting to approve that type of event. Is it okay going forward if we have forms for his events and he can just go to Ernesto to get approval?

Mr. Clabots stated if Ernesto has a problem he can bring it to the board.

Mr. Torres stated I would send it to Jennifer for an agreement and we can ratify it at the next meeting.

Ms. Kilinski stated we have a form that you have approved for the running events already.

The board was in agreement with the resident going to Ernesto and Ernesto bringing that item to the board for ratification.

Mr. Clabots asked where do we stand with the gym?

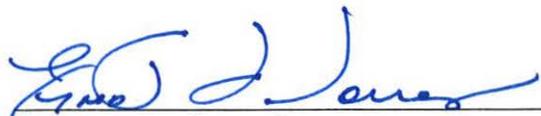
Mr. Torres stated I have been working with Wil and the agreement was signed and delivered to Life Fitness on April 17<sup>th</sup> and we have followed up with them, they sent it to their legal department and I followed several times and we followed up again today and received a signed agreement from Life Fitness, however they put red marks on it. I sent it to Jennifer this afternoon and she was already at the meeting. Once she has a chance to look at it the district can accept the recommended changes and proceed but at this point we are on hold pending legal review.

Mr. Labanowski stated we are having issues with the mail kiosk right now. I propose at the next meeting that we look at purchasing some new boxes to go in on the backside of the current boxes, you can put in three pedestals and they are roughly \$1,500 each. We can mount them ourselves. I would like to add that to the next agenda to come out of the capital reserve.

**FOURTEENTH ORDER OF BUSINESS      Next Scheduled Meeting – June 11, 2019 at 6:00 p.m.**

Mr. Clabots stated the next meeting is scheduled for Jun 11, 2019 at 6:00 p.m. in the same location.

On MOTION by Mr. Clabots seconded by Mr. Simmons with all in favor the meeting adjourned at 9:05 p.m.

  
Secretary/Assistant Secretary

  
Chairman/Vice Chairman