

TURNBULL CREEK  
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Turnbull Creek Community Development District was held Tuesday, January 27, 2015 at 6:00 p.m. at the Murabella Amenity Center, 101 Positano Avenue, St. Augustine, Florida.

Present and constituting a quorum were:

Aage G. Schroder, III	Chairman
Kathleen Venezia	Vice Chairman
Joseph Quinto	Supervisor
Brian J. Wing	Supervisor
Chuck Labanowski	Supervisor

Also Present were:

Dave deNagy	District Manager
Mike Eckert	District Counsel
Preston Doub	District Engineer
Jeff Branch	Vesta/Amenity Services Group
Dan Fagen	Vesta/Amenity Services Group
Brian Moore	Austin Outdoor
Blake Dougherty	Austin Outdoor
Sean McCarthy	Fighting Turtles
Several Residents	

*The following is a summary of the minutes and actions taken at the January 27, 2015 meeting and a copy of the proceedings can be obtained by contacting the District Manager.*

**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. deNagy called the meeting to order at 6:00 p.m.

**SECOND ORDER OF BUSINESS**

**Audience Comments**

Mr. deNagy stated I have a comment card from Mary Smith who would like the board to entertain the possibility of utilizing the social hall monthly for a scrapbooking club during the day with the same terms as the organization meeting, security deposit and rental fee. That is one of the topics later in the meeting.

**Additional Handouts**

Mr. deNagy stated Mr. Wing brought a document tonight that highlights one of the HOA covenants. You have an estimated cost of the dive block installation. You should also have two pay applications for Metric Civil Construction to finish the work in the San Marino section for the drainage, the first is application #3 and application #4 the engineer will be talking about each of those. I have also given you revised copies of the mailed notices for the 2005 refunding bond and the reconstruction bond. You should also have an updated draft of the bond methodology for the refunding of the Series 2005 Bond as well as funding of the pond bank reconstruction bond.

**THIRD ORDER OF BUSINESS**

**Staff Reports**

**A. Attorney**

Mr. Eckert stated I reached out to the people who are entitled to the deferred costs and they were not willing to negotiate any further than the \$345,000. That is a business decision for the board as to whether or not you think that is an appropriate number to accept.

I had another conversation with them because it is the same people who are entitled to the 2006 deferred costs when we refinance those bonds and they said they would be willing to do the same type of treatment when we refund the 2006 Bonds next year for the deferred costs as they are doing for the 2005A Bonds, which is good. The numbers we are dealing with in the 2006 Bonds is a lot lower but if we are consistent that means we don't have to have a big debate with them next year. When we finalize this if that is the direction of the board we will also lock in what that percentage will be for the 2006 Bonds.

**Social Media**

Mr. Eckert stated we get a lot of questions at the firm on social media issues and that is really a growing issue for boards to deal with because you want to communicate with the residents and give them information but the way the sunshine law is structured board members need to be careful because you can have a situation where a board member posts something and other board members on that same social media site can see that and that is not necessarily a problem but once you start getting responses back and forth between board members it can be problematic. I'm fairly conservative and I advise board members to be very cautious in that,

avoid making statements on behalf of the district because you are an individual board member but at the same time if somebody does post something from the board other board members should refrain from posting responses until such time as we can have a public meeting and discuss the issue and resolve it.

**B. Engineer**

Mr. Doub stated Dave passed out pay requests 3 and 4 that we received from the contractor on the San Marino project. He is making progress and we have a punch list we are working through with him and I think he is getting very close to where we would pay #3 and if he keeps moving we would also be able to approve pay request #4. In the event we need to pay him between meetings I'm asking for approval to pay those pay requests when appropriate subject to staff and chair review and approval.

On MOTION by Mr. Wing seconded by Mr. Labanowski with all in favor pay requests #3 and #4 were approved for payment upon completion of the work, subject to final review and approval by staff and the chair.

**C. Manager – FY 16 Landscape Maintenance RFP Overview**

Mr. deNagy stated we have an agenda item later in the meeting to establish a landscape RFP committee. The agreement with Austin Outdoor is in its final year and assuming the board wants to establish an RFP committee, we will put together a proposal and specifications and put it on the street for bids and have it come back to the board.

**D. Landscape Manager**

Mr. Moore gave an overview of the work accomplished during the month.

**E. Operation Manager (ASO)**

Mr. Branch highlighted the items accomplished during the month.

**F. Amenity Center Update - Report**

A copy of the amenity center report was included as part of the agenda package.

**FOURTH ORDER OF BUSINESS**

**Approval of Consent Agenda**

**A. Approval of the Minutes:**

- 1. November 12, 2014 Special Meeting**
- 2. November 25, 2014 Meeting**
- 3. December 8, 2014 Special Meeting**

**B. Balance Sheet as of December 31, 2014 and Statement of Revenues & Expenditures for the Period Ending December 31, 2014**

**C. Month-by-Month Income Statement**

**D. Assessment Receipt Schedule**

**E. Approval of Check Register**

On MOTION by Mr. Wing seconded by Mr. Quinto with all in favor the consent agenda items were approved along with the change noted in the December 8<sup>th</sup> minutes.

**FIFTH ORDER OF BUSINESS**

**Discussion/Consideration of Proposal for Dive Blocks**

Mr. deNagy stated you should have the proposal along with information provided by the Fighting Turtles.

Mr. McCarthy stated we are a member of the St. Johns County Summer Swim League, there are 10 teams and we are currently the only team that does not have dive blocks and it is a big handicap for our kids in that they don't get to practice on them but it is also a safety issue when we go to other pools and they are diving off blocks and they are not used to doing that. We represent over 80 families and 100 children in this neighborhood and I think it is important that we support and grow these activities.

Board members asked questions about the installation and expressed concerns about safety and storing district property off the property after which the following motion was made.

Mr. Wing moved to approve the proposal in the amount of \$6,310 for the installation of dive blocks with the understanding that they will be removed after each week's practice and if they prove to cause a problem they are to be removed after each practice and Mr. Labanowski seconded the motion.

Board members expressed further concerns about it benefiting only a portion of the residents, their removability and storage, the source of funds to pay for the installation and the lack of specs provided for review. Additional comments were taken from the audience after which the motion was amended as follows.

Mr. Wing amended the motion to be contingent upon receipt of the specifications and review and approval by Mr. Labanowski and Mr. Labanowski seconded the amendment.

Mr. Schroder stated I would like to see a plan for how the footing and anchor will be done, how it is capped upon removal of the blocks, how and where they are going to be stored and a plan to finance the purchase with possible contribution from the swim team. We need more information before we can approve this.

Mr. Labanowski asked would you be willing to amend the motion to take them out after every practice?

Mr. Wing stated I don't think we need to do that, it is CDD property on the CDD pool and anytime we want them to be taken out we can do that.

On voice vote with one in favor and four opposed the motion failed

**SIXTH ORDER OF BUSINESS**

**Discussion of Pond Bank Landscape Maintenance**

The board discussed having the homeowners maintain the pond banks, the district maintaining the pond banks using smaller, lighter weight equipment and planting ground cover that does not require mowing.

**SEVENTH ORDER OF BUSINESS                      Appointment of Landscape RFP Committee**

Mr. deNagy stated the recommendation is to have an odd number of members to serve on the landscape RFP committee. The committee is needed to develop RFP Package and evaluation criteria and then evaluate proposals received.

Mr. Eckert stated I suggest you have three members on the committee.

On MOTION by Mr. Wing seconded by Mr. Labanowski with all in favor Mr. Wing, Ms. Venezia and Mr. Quinto were appointed to serve as the landscape RFP committee.

**EIGHTH ORDER OF BUSINESS                      Discussion of Memo Regarding Tree Replacement on CDD Property**

Mr. deNagy stated Mr. Wing provided information on replacing trees that have been recently taken down.

Mr. Wing stated I followed up on our meeting with Greg Dunn the Regional Forester who talked about the canker on the trees and I talked to him about ways to remediate that. In his presentation he suggested seedlings as opposed to larger container trees and he said there are grants available for the seedlings that would be at no cost. The grant application would be made in the April/May timeframe and he would come back in March and walk the banks with me and representatives of Austin Outdoor and ASG and talk about the number, location and species of seedling. We also talked about having volunteers help with the installation.

Ms. Venezia voiced concern about the safety of volunteers, marking the location of irrigation lines and type of trees.

On MOTION by Mr. Schroder seconded by Mr. Labanowski with all in favor Mr. Wing and staff were authorized to work with the Regional Forester to file an application for a grant for free seedlings and mulch.

**NINTH ORDER OF BUSINESS                      Discussion of Amenity Policies**

- A. Discussion Regarding Amenity Facility Rental Rates and Community Use**
- B. Authorization to Publish Notice of Rule Development and Rulemaking**

Mr. deNagy stated you have a copy of the policy change and definitions. I received an email through Mr. Eckert from Mr. Labanowski about the deposit fee and he would like to see that at \$250 and rather than community we call it Murabella Community Residents.

Mr. Labanowski stated community use is defined as social meetings and activities that involve patrons only so I think with that clarification that is fine.

Mr. Schroder suggested definitions be added for community and private.

Mr. Eckert stated all we are doing today is trying to decide do we want to have a rate hearing 30 days from now to adjust the rates on certain types of use of the facility. We still have another 30 days to tweak the policy and get the clarifications that I'm seeing here. The policy you have before you I feel better in terms of defending how we treat people than I do under our last policy, which was more along the lines of there was a lot of discretion and anytime you have a lot of discretion you are relying on ASG to make the call because you don't meet everyday. Although the rate component of the policy you have to have a notice of but the actual text of the policy that doesn't affect the rates can be changed at any meeting you want to. Is it harder to take something away from people that they were given because they are much more angry than when they don't get it in the first place. I have worked with them on the policy and there is a rational basis for distinction between someone who wants to put on an event that is open to the entire community versus someone who wants to have a birthday party with their six closest friends. The goal of the policy is to draw that distinction. You can talk about deposits and rental fees and all that stuff but the fundamental purpose of that is accomplished in what is written there. That is what we were trying to do and I think that is what it accomplishes.

Mr. deNagy stated if you are comfortable with the form of this policy we would look for a motion authorizing staff to do the published notice of rule development and rulemaking, it is a 28 and 29 day process and we can get that done for the March 24<sup>th</sup> meeting.

On MOTION by Mr. Wing seconded by Mr. Labanowski with all in favor staff was authorized to publish a notice a rule development and rulemaking for the amenity center for the March 24, 2015 meeting.

Mr. Eckert stated there is another issue because this is just policy we are going to adopt later. I want to make sure everybody is on the same page. I don't know when your scrapbook

meeting is going to start but this policy won't go into effect if the board approves it, until sometime in March. Understand that we have a little bit of lag time while we work through the issue.

Mr. Labanowski stated in our current regulations there is an opening in there that could be waived.

## **TENTH ORDER OF BUSINESS**

### **Discussion of Pond Bank Reconstruction Documents**

Mr. deNagy stated the next two agenda items deal with the bond issue. The first one has to do with the money that is going to be borrowed for the pond bank reconstruction. The other discussion we are going to have tonight is a discussion of refunding the Series 2005 Bonds. We have two bond series, 2005 and 2006. We will start with the pond bank reconstruction documents.

#### **A. Resolution 2015-05**

Mr. Eckert stated these documents are really based on the methodologies that Dave distributed earlier. We are going to talk about these tonight but I'm not going to ask the board to approve them because there are some modifications that need to be made based on some information we received today. Before we go any further it would be appropriate for Preston to inform the board of the results of the RFP process today in terms of what was submitted and then he and I are going to talk to you about how we changed that number a little bit to account for some contingencies and other fees and then we will talk about what number we will include in the resolutions and notices when you see them again on February 2, 2015.

Mr. Doub stated we had eight contractors attend our mandatory prebid meeting but we only had one contractor who submitted a bid. Fortunately, it is a good contractor we have done a lot of work with and I have a long relationship with them and they are a good solid firm. Their proposal is for a lump sum bid of \$676,364 and they have an option for the warranty and maintenance bond of \$1,000 and I think we would take that option. We are going to evaluate that proposal.

Mr. Eckert stated from an historical perspective so the board knows when we went in to court for validation we estimated construction cost of about \$1.6 million and we did that on the high side to make sure we validated enough bonds. The actual lump sum construction proposal



is the \$676,364 but there is also a provision in the contract that says if there are additional unsuitable materials that they run across their bid for that is \$28 a cubic yard. We have to allow at least at this stage of the game some contingency for that and anything else we might run across. For purposes of providing notice to the residents of what their maximum assessment would be we believe we should put in the \$1.1 million for construction cost and hopefully we will be able to refine that a little bit before the actual assessment hearing. We don't want to sell bonds and be left with a bill for \$100,000 in unsuitable materials that we don't have the bond money to pay for. We are suggesting we use \$1.1 million in construction costs, gross that up for financing and we will send notices to everybody based on that number while we try to refine what the final assessment will be but it will be lower than what you send the people the notice for. When we calculated it based on the \$1.6 million construction cost I think the annual assessment was around \$117 per year and we are now reducing it by a third for purposes of the notice and we hope to reduce it even further from there.

You are going to actually adopt these documents on February 2, 2015. We will change the methodology based on \$1.1 million in construction costs and fill out the resolutions and prepare the notices based on that amount. If anybody has any concerns with that let me know because we are trying to get the notices mailed out within a few days after the hearing so we can keep our timeline moving along. This is totally separate and apart from refunding the 2005 Bonds, which I will talk to you about next.

The RFP committee typically has two jobs, evaluate the bids as they come in and your staff will look to make sure they have met the requirements and they are responsive and bring any issues to the board that they need to address there. We only got one bid but there are people with expertise on that committee and I feel they could provide some guidance to the board and some suggestions in reviewing that proposal. They already have a meeting scheduled for February 2<sup>nd</sup> at which point in time their evaluation will be presented to the board. This board now has the option to pull the issue away from the RFP committee and just deal with it yourselves since you only have one and they don't have a ranking or you can let them do their evaluation and bring a recommendation to the board in terms of the actual proposal they received. The latter is what I recommend because I think they do have some expertise that would be helpful but at the same time it is your decision.

Mr. Schroder stated if we have this at the next meeting they can bring the board up to speed on some of the issues we have dealt with and I think it will help us down the road in subsequent phases of this work.

Mr. deNagy stated I handed out a copy of the proposal that the RFP saw earlier today so everyone now has the information in hand.

Mr. Eckert stated that is not subject to disclosure and the public records law so you need to keep that confidential until such time as the district has made an award.

**B. Resolution 2015-06**

**C. Mailed Notice**

**D. Published Notice**

**E. Affidavit of Mailing**

**ELEVENTH ORDER OF BUSINESS                      Discussion of 2015 Refunding Bonds**

Mr. deNagy stated at the last meeting Rhonda Mossing was here and discussed refinancing these bonds at a lower interest rate, keeping the term of the bonds the same and overall there was an interest savings of about \$2 million which is about an \$89 a year reduction of the debt portion of the assessment.

At the meeting on Monday we will be looking for a motion to declare those assessments, also setting a hearing for the assessments that are outlined in the methodology that I handed out. There is also a mailed notice that I have given to you. Please review the notice and once you approve the notice, next week we will send that out and that will spell out to those 750 residents what the impact of the refinancing will be. The savings come because interest rates are very low right now. There is an increase because of the cost of issuance much like when you refinance a mortgage and there is a small increase in the overall debt per property but the annual assessments actually come down because of the interest rates.

Mr. Labanowski stated with the pond work and the reduction in the bond it will pretty much break even or maybe save a little bit.

Mr. Eckert stated we are hopeful they will save a little bit.

Mr. deNagy stated next year when we refund the 2006 bonds we are hoping the same effect will happen where it will offset the increase of the reconstruction project.

Mr. Eckert stated you see the documents we have presented to you have a lot of blanks in them, getting the construction bids was how we can figure out how to fill in the blanks on the reconstruction. Here the only blank we have left to fill in is the deferred cost settlement and that is the \$345,000 that was proposed by the people entitled to receive the deferred cost. The board instructed me to go back and say the board is willing to pay \$300,000 not \$345,000 I relayed that message and yesterday I talked to the gentleman I have been dealing with and he said we aren't going any lower than \$345,000. It is up to the board if you are going to refinance the bonds you have to deal with that issue.

Mr. Schroder stated the bottom line is the savings far exceed the \$345,000.

Mr. Eckert responded yes and you are going to be paying the \$345,000 plus more over time because they are entitled to that. The only reason this is important is when we run these numbers that \$345,000 has to come in here much like I told you before we need to plug that number in. In the documents we are going to prepare for you for February 2<sup>nd</sup> they are going to include an assumption that it is \$345,000 unless this board tells me here today that you reject that offer.

Mr. Schroder asked do we need a motion?

Mr. Eckert stated I don't want you to do that now, I don't want you to lock into that, I want to get it confirmed in terms of specifically it is the \$345,000 and a release and I also want to lock them in on the 2006's so we are not negotiating with them next year. I will get that wrapped up hopefully between now and February 2<sup>nd</sup>. We are going to assume for purposes of noticing that it is the \$345,000.

**A. Resolution 2015-07 Declaring Assessments**

**B. Resolution 2015-08 Setting Hearing on Special Assessments**

**C. Mailed Notice**

**D. Published Notice**

**E. Affidavit of Mailing**

**TWELFTH ORDER OF BUSINESS                      Progress Discussion of Pond Bank Reconstruction**

Mr. Schroder stated I have discussed with staff and I asked the manager, attorney and engineer to help us in explaining this at the public meeting. We have two separate issues that are related to the bond issues, which is going to be split into two actions.

Mr. Eckert stated I'm going to get something together and get it to the amenity center. I don't know if I will have it by the 2<sup>nd</sup> I will try but I think presenting it from the perspective of if you live in this area this is what we are doing that can have an impact on you. In the 2005 area it would say it is going up here and going down there and that affect is you are going to save a little bit. The 2006 area it is going up here but next year if interest rates are still favorable we are going to refinance those bonds and then you will hopefully have a savings.

**THIRTEENTH ORDER OF BUSINESS                      Other Business**

There being none, the next item followed.

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

Mr. Quinto stated as you know I feel bad about something that has happened to Mark, his family has a lot of problems and he has only been working a couple days a week and I think he is hurting financially. I was wondering if the CDD could take some money to give to them or do we have to do that individually?

Mr. Schroder stated I feel for him he is in a very tough situation. I don't think this is something the CDD can do I think it would be up to us individually if we want to help out in some way.

Ms. Venezia stated at some point I think it would be nice to do some type of fund raising.

Mr. Quinto stated he is not working a full week.

Mr. Branch stated no but what our company did was all the employees got together and gave him some of their sick hours. He doesn't accept my help.

Mr. deNagy stated I believe there was a website set up and Jeff can provide that information to people who are interested where you can help out with meals or funding.

Mr. Schroder stated I think everybody would like to have that website.

Mr. Labanowski stated we have some major issues at San Marino and a couple other areas where we have a lot of vandalism. You can't scrub all the graffiti off which means we are going to have to repaint these facilities and the carts. I don't know if we can do anything such as cameras to catch the kids doing it. The stucco walls by the mailboxes are going to have to be repaired.

Mr. Schroder stated it would be nice if we could increase our surveillance but that is going to cost money. I think we need to communicate to the residents that every time the kids do that it costs everybody to do the repairs and if we catch the kids they are going to have to pay for it because we will do whatever we need to do.

Mr. Eckert stated I think if you want to do an educational mailing to everybody saying there is not going to be any tolerance in terms of turning people over to the authorities if we are successful in catching the people who are committing vandalism and you want to send that out to the community that may at least prompt a conversation between some parents and kids. Whether it changes it or not I don't know but if you are going to say that then when it comes to prosecution do it.

Mr. Labanowski asked can we get a few more surveillance signs?

Mr. Branch stated I can get a couple and put them on the garbage cans. I got the go ahead to look into trail cameras.

Mr. Labanowski asked can we go back to the Turtles and say you didn't provide everything that was requested? I was very specific when I had the meeting with them yesterday that we need to know what is going in so we know what needs to be done and what the plan is as far as dimensions.

Mr. Eckert asked is there a majority of the board that would allow dive blocks if they meet the specifications and the removal requirements that you require and impose? Answer that question and then we can figure out how do we bridge the gap and work out a solution. I don't necessarily know the answer to that question.

Ms. Venezia stated if we set a precedent for one group then we may have to accommodate another group and I'm concerned about the safety of the kids. You are risking the safety of 95% of the other children in this community.

Mr. Schroder stated I don't have a problem with communicating but they have to meet our two issues, meet our requirement and then we will figure out a way to fund it but until we have the first we can't move on to the second.

Mr. Eckert stated I think they left here with the impression that you said no to dive blocks. I don't think that is what you said but it is an emotional issue and I understand it. It is their kids and they are trying to get that. It appears we have a majority of the board who would be willing if the specifications are right and the removal was correct who would support the idea of dive blocks. Funding is a different issue. However, it would probably be best to either appoint a member of the board or staff to try to work with them on a complete proposal they can present to you that they think the board would accept.

Ms. Venezia stated I think that ought to go to Jeff because he knows the pool, he knows the structure of the pool.

Mr. Eckert stated Jeff can be involved in the process but just given everything that has transpired one board member would be appropriate to do that. At least then you have one board member who is coming to you say I'm completely on board, this is what we have done to address all the concerns that we have heard from the board, do we want to do this as a policy matter.

Mr. Wing stated I will volunteer to do that.

Mr. Eckert stated then Jeff could be with him. Then you have to talk about the funding issue in terms of what contribution do you expect from them if any. Right now you don't charge them anything to use the pool. The board could purchase the dive blocks and it could charge them an annual fee until such time as you have had the dive blocks paid off over the next five or six years and charge them a license fee to be able to use the pool. They would have to gather that from their participants and because it is really a mandatory thing for the swim team to be here I'm sure they will be able to collect that money so technically the district over time would not be paying for it because you would have that annual fee that would come in. The board may say we want to pay for half. If you want to do it and you want to make it happen try to be a little creative in how you do it.

Mr. Schroder asked do we need a motion on that?

Mr. Eckert stated no I think Brian understands he is going to have to satisfy a lot of the concerns that were expressed today to get the votes to support it.

Mr. deNagy asked what is the timing and your thoughts on bringing something back to the board? Our next regular meeting is the 24<sup>th</sup>.


Mr. Wing stated it could be by then.

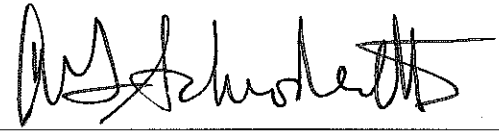
**FIFTEENTH ORDER OF BUSINESS**

**Next Scheduled Meeting – February 24, 2015  
at 2:00 p.m. at the Murabella Amenity  
Center**

Mr. deNagy stated our next board meeting is next Monday, February 2, 2015 at 6:00 p.m. at the amenity center.

On MOTION by Mr. Wing seconded by Mr. Schroder with all in favor the meeting adjourned at 8:20 p.m.

  
Secretary/Assistant Secretary

  
Chairman/Vice Chairman