

TURNBULL CREEK
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Turnbull Creek Community Development District was held Tuesday, August 14, 2018 at 6:00 p.m. at the Murabella Amenity Center, 101 Positano Avenue, St. Augustine, Florida.

Present and constituting a quorum were:

| | |
|-----------------------|---------------|
| Brian J. Wing | Chairman |
| Lee Clabots | Vice Chairman |
| Chuck Labanowski | Supervisor |
| Wil Simmons | Supervisor |
| Aage G. Schroder, III | Supervisor |

Also Present were:

| | |
|-------------------|---------------------------------|
| Ernesto Torres | District Manager |
| Dave deNagy | District Manager |
| Jennifer Kilinski | District Counsel (by telephone) |
| Mike Yuro | District Engineer |
| Mark Insel | Vesta/Amenity Services Group |
| Lourens Erasmus | Vesta/Amenity Services Group |
| Michael Johnson | Duval Landscape Maintenance |

The following is a summary of the actions taken at the August 14, 2018 meeting. A copy of the proceedings can be obtained by contacting the District Manager.

FIRST ORDER OF BUSINESS

Roll Call

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

SECOND ORDER OF BUSINESS

Audience Comments

Mr. Torres stated all the board members have written comments we received earlier in the week, most of which relate to the pond banks and they will be scanned in and made a part of the official record.

THIRD ORDER OF BUSINESS

Affidavit of Publication

A copy of the affidavit of publication of the public hearing was included in the agenda package.

FOURTH ORDER OF BUSINESS

Staff Reports

A. Landscape Manager (Presenter: Duval Landscape)

Mr. Johnson gave an overview of the maintenance activities since the last meeting.

B. Engineer (Presenter: Mike Yuro)

- 1. Pond Priority of Repair Outlined and Quote**
- 2. Engineer's Report**
- 3. Report**

Mr. Yuro stated my efforts this month was primarily to follow-up with the pond bank construction and doing follow-up inspections. We did three separate inspections after the contract was substantially complete. The first inspection we created a punch list, then we do a follow-up inspection after the punch list and there were still a couple other issues and we did a second follow-up inspection. At that time everything appeared to be substantially complete and satisfactory and I prepared pay requisition no. 63 to pay the balance of this effort. I do understand another issue came up this week with one of the pond bank areas that had been previously repaired multiple times. I spoke with the contractor today and he sent me something to indicate they have been out there as much as five times and he is not balking at repairing it, but his request is to wait until there is another event that we can take a look at it while it is raining to see what is causing the issue. It doesn't appear to be washing out from the surface, the sod isn't getting peeled back, it appears that for whatever reason the water is going underneath the sod and it appears to be washing out from underneath the sod.

4. Consideration of Requisition No. 63

| |
|---|
| On MOTION by Mr. Clabots seconded by Mr. Simmons with all in favor requisition no. 63 payable to Aquagenix in the amount of \$45,352.23 was approved. |
|---|

FIFTH ORDER OF BUSINESS

Acceptance of the Fiscal Year 2017 Audit Report (Presenter: Ernesto Torres)

Mr. Torres stated this is the annual financial report for the period ended September 30, 2017 conducted by Berger Toombs Elam Gaines and Frank.

Mr. Torres read into the record the auditor’s opinion, the report on internal control, and the letter to the board indicating that this is a clean audit. There are no issues or concerns.

On MOTION by Mr. Labanowski seconded by Mr. Clabots with all in favor the fiscal year 2017 audit was accepted.

SIXTH ORDER OF BUSINESS

Consideration/Ratification of Proposals (Presenter: Jennifer Kilinski)

- A. Ratification of Landscape & Irrigation Maintenance Services Agreement with Duval Landscape Maintenance, LLC**

On MOTION by Mr. Labanowski seconded by Mr. Simmons with all in favor the landscape & irrigation maintenance services agreement with Duval Landscape Maintenance, LLC was ratified.

- B. Ratification of First Addendum to Landscape and Irrigation Maintenance Services Agreement with Duval Landscape Maintenance, LLC**

On MOTION by Mr. Labanowski seconded by Mr. Simmons with all in favor the first addendum to the landscape and Irrigation Maintenance Services Agreement with Duval Landscape Maintenance, LLC was ratified.

- C. Ratification of First Addendum to Agreement with Vesta Property Services, Inc.**

On MOTION by Mr. Labanowski seconded by Mr. Simmons with all in favor the first addendum to the agreement with Vesta Property Services, Inc. was ratified.

SEVENTH ORDER OF BUSINESS

Consideration of Email Services Proposals (Presenter: Ernesto Torres)

- A. GMS**

B. VGlobal Tech

Mr. Torres outlined the two proposals for email services.

Mr. Wing asked if we were to continue to keep our own email records how long do you recommend we keep them?

Ms. Kilinski stated keep them forever and put them in a folder and at the end of your term you can put that on a thumb drive and give it to the district manager for retention.

Mr. Wing stated if we maintain our own records and have a computer crash that is on us. If we contract with a company to maintain the emails and they have a crash, who has the liability, the individual supervisors or the company?

Ms. Kilinski stated the contract will provide that they are required to maintain that and in the worse case scenario you lose a couple years of public records and you get sued because someone says you haven't retained it or you haven't done your due diligence, if you have a company that lost your records you would then have liability against that company. Ultimately the district may have to defend that lawsuit by bringing in the third party and saying that is what we contracted for it is your responsibility that is what we paid you for, the liability would largely rest on that company.

Mr. Schroder stated since we can't email each other all my emails go to staff, the manager, Vesta or the attorney so it seems to me if you have a separate email that is being redundant, any of my emails will also be retrievable from the subject of my emails.

Mr. Wing asked if he emails the engineer is the engineer required to keep those for a set period of time?

Ms. Kilinski stated yes, that is in the contract as well. We have backup in our office. My experience with supervisors is that you have a lot of communication with your residents. You have emails that would not be on our server. That is an example of what needs to be backed up as a public record. The other big advantage to having it on a server is if there is a public records request that is relatively massive in scale, your staff will put that together for you and respond with that documentation to that public records request without you having to go through and cull through your emails. It makes it very user friendly as well.

Mr. Wing asked am I correct that the cost from GMS is a one-time set up and \$600 a year for all of us?

Mr. Torres responded yes and the other company does not charge a setup fee.

Ms. Kilinski stated my experience is that the vast majority of the districts we represent have a separate or are moving to have separate email service rather than maintaining their own.

Mr. Clabots moved to approve the proposal from GMS and Mr. Wing seconded the motion and with two in favor and three opposed the motion failed.

EIGHTH ORDER OF BUSINESS

Public Hearing to adopt the Fiscal Year 2019 Budget (Presenter: David deNagy)

A. Consideration of Resolution 2018-06 Relating to the Annual Appropriations and Adopting the Budget for Fiscal Year 2019

On MOTION by Mr. Wing seconded by Mr. Simmons with all in favor the public hearing was opened.

Mr. deNagy stated we talked about the budget over the past couple of meetings and what is in your agenda package is the approved budget for FY19. There are two components to your CDD assessment, the debt component and operations and maintenance, which is the general fund budget, these are the expenditures to maintain all the infrastructure improvements that were built with bond proceeds.

The debt service budgets for the 2015 Bonds, which are the refunded bonds from the original series 2005, also the series 2015B Bonds, which are pond bank maintenance bonds and the series 2016 Bonds, which is the Pescara/San Marino areas, the refunded series 2006 bond. There is no change in the debt assessments.

The O&M for FY19 is unchanged the current O&M assessment is \$1,249.25 per year and that remains the same. I do want to point out in our budget that we had talked about possibly increasing our budget this year, we chose in lieu of that to fund our difference and that is in the revenue section \$45,815. I will point out that is a one-time impact to the budget, next year we will be back looking at this again and decide whether we want to draw from cash or have an O&M increase.

Mr. Labanowski read into the record comments from the residents, which will be made part of the public record.

Mr. Wing asked if we confirmed whether or not the HOA is contributing to special events?

Mr. Labonowski responded they are. We just need to invoice the HOA the first of the year.

There being no questions or comments from the public,

On MOTION by Mr. Labanowski seconded by Mr. Simmons with all in favor the public hearing was closed.

On MOTION by Mr. Clabots seconded by Mr. Labanowski with all in favor Resolution 2018-06 was approved.

B. Consideration of Resolution 2018-07 Imposing Special Assessments and Certifying an Assessment Roll for Fiscal Year 2019

Mr. Torres stated Resolution 2018-07 levies the assessments for fiscal year 2019.

On MOTION by Mr. Clabots seconded by Mr. Schroder with all in favor Resolution 2018-07 was approved.

NINTH ORDER OF BUSINESS

Consideration of Resolution 2018-08 Surplus Property (Presenter: Ernesto Torres)

Mr. Torres stated Resolution 2018-08 deals with surplus property Options A and B.

Ms. Kilinski stated this is surplus property resolution that is required per statute whenever a district disposes of property that was purchased with bond proceeds or assessment proceeds. What you have in front of you are two options for that disposal and the first one talks about you could sell the property, the property is old pool pavers and the first option is you could sell them and if you can't sell them you can donate and if you can't donate them then you can dispose of them. The second option is if you can't sell them then you can dispose of them.

On MOTION by Mr. Labanowski seconded by Mr. Simmons with all in favor Resolution 2018-08, Option A was approved.

TENTH ORDER OF BUSINESS

Staff Reports (Part 2)

A. Attorney (Presenter: Jennifer Kilinski)

Ms. Kilinski stated as you may recall I discussed that we had received a subpoena from G&C Developers versus Comcast regarding Comcast lawsuit. You may remember that I spoke

about an arbitration being held in September and we have had a couple calls with counsel for Comcast asking for representatives of the district at that arbitration. I previously shared with you that based on the questions they believe will be asked, I think your district manager is the most appropriate person for attendance at the arbitration, I don't anticipate being there. The district has not been named in a lawsuit because the subpoena was to appear at the arbitration. As we progress through that and we get more information I will circulate that to the board.

Mr. Wing asked is this the developers suing Comcast saying they should get this revenue forever or something like that?

Ms. Kilinski stated that is right.

Mr. Wing asked if the developers are successful and we have already received some funds from Comcast would we be on the hook to pay that back?

Ms. Kilinski stated I don't believe so. I wouldn't suggest we file a lawsuit against the developer or Comcast at this juncture. It is not so much that the district agreement is invalid it is that the developer still has a development agreement with Comcast, which is questionable. If indeed the court determined Comcast has a valid agreement with the developer that doesn't negate the district also having a valid agreement so I don't believe there will be an opportunity for the developer to come back and get money from the district, it would be Comcast having to repay the developer the money they have given the district because they would have had reasonable cause. That would be far-fetched.

Mr. Labanowski asked how will that affect our contract that we currently have with Comcast?

Ms. Kilinski stated that is unknown at this point. A lot of it will rest on the meeting. People can sue people for anything but the likelihood of that recovery in my view is very low because the district was unaware and if anyone would be responsible for repaying it would be Comcast it would not be the district. We didn't invalidate their agreement or otherwise infringe on a business deal. I think the likelihood of the district being sued would be very low.

Mr. Simmons stated that would mean we would lose that source of income.

Ms. Kilinski stated potentially. Our position is that the district has a valid agreement regardless of what Comcast did on the side with the developer.

B. Manager – (Presenter: Ernesto Torres)

1. Discussion of Meeting Schedule for Fiscal Year 2019

On MOTION by Mr. Clabots seconded by Mr. Labanowski with all in favor the fiscal year 2019 meeting schedule reflecting meetings at 6:00 p.m. at the Murabella Amenity Center on the following dates was approved: November 13, 2018, January 8, 2019, March 12, 2019, May 14, 2019, June 11, 2019, August 13, 2019 and September 10, 2019.

C. Operations Manager (ASG) (Presenter: Lourens Erasmus)

1. Report

A copy of the operations report was included in the agenda package.

2. Proposals

On MOTION by Mr. Wing seconded by Mr. Clabots with all in favor the contract for pressure washing and painting the entry monuments was awarded to Dilorio Services painting interior mail kiosks with super paint and the outside monuments with Loxon.

Mr. Erasmus stated we did not do the slide tower yet.

On MOTION by Mr. Wing seconded by Mr. Clabots with all in favor the proposal from Hersey’s Stucco & Concrete to remove loose stone from the kids play area (slide tower) and replace with Styrofoam and stucco in the amount of \$1,900 was approved.

D. Amenity Center Update (Presenter: Mark Insel)

1. Report

A copy of the amenity center management report was included in the agenda package.

ELEVENTH ORDER OF BUSINESS

Approval of Consent Agenda (Presenter: David deNagy)

A. Approval of Minutes of the June 12, 2018 Meeting

- B. Balance Sheet as of June 30, 2018 and Statement of Revenues & Expenditures for the Period Ending June 30, 2018; Month-to-Month Income Statement; Assessment Receipt Schedule**
- C. Approval of check Register**

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

TWELFTH ORDER OF BUSINESS Other Business

There being none, the next item followed.

THIRTEENH ORDER OF BUSINESS Supervisor's Requests and Audience Comments

Mr. Wing stated I met with Andy Howard with the Ancient City soccer, 750 kids from 5 – 18 and from what I understand it is a highly organized soccer group. They are expanding and have some kids from Murabella and World Golf Village already and they want to know if they could use part of our fields for practice Tuesday and Thursday between 5 and 7 with games on Saturday between 9 and 12. I told them there is already a soccer league here and I would like to get in touch with Dan Fagan because he is in charge of the little one we have here.

Mr. Insel stated Dan Callahan is our athletic director and I would reach out to Dan if you haven't done that yet. Ultimately teaming up with anything related to Vesta as a corporate hold and athletic division maybe start with his department.

Mr. Wing stated according to this gentleman he has been over here when our soccer has been going on and he said there is enough room for a couple more fields that they would maintain, they would bring in the nets, line it with stuff that goes away after it rains and police the area. We talked a little bit about any kind of outside groups parking is always an issue, there are people here on Saturday using the pool and the gym and playground and we have to make sure our residents have priority for that. We talked a little bit about using the backfield at Pescara and that has 18 – 20 parking spaces. He would like to bring this to the board and see how we feel about it and my thought was to get him in touch with Mr. Callahan because I don't know that we want to compete with our own team. They are looking for space and it sounds like

a quality program and he is willing to talk to the board. I wanted to feel the people out first and if nobody has any interest there is no reason to bring him to a meeting.

Mr. Schroder stated parking would be a concern and the number of participants who are from Murabella. He needs to start with Vesta.

Mr. Simmons stated if he doesn't have a problem with the field in Pescara that may work.

Mr. Labanowski stated that field in Pescara is always wet, which is why it doesn't get mowed a lot of times by the contractor.

Mr. Wing stated I will put him in touch with Mr. Callahan and if you want to hear more we can invite him to make a presentation at the next meeting and I will give him the questions about contributing costs, Pescara field, number of games.

Mr. Labanowski stated we also have an adult league on Wednesday night that we have to worry about.

Mr. Simmons asked can we put other events on the marquee besides the stuff that we know that happens?

Mr. Insel stated if we have enough letters to do so we do. Unless it is CDD business or anything related to this property and Vesta or CDD then it generally doesn't go up. Private resident parties would not go up.

Mr. Simmons stated as an example if we wanted to say, congratulations class of 2018.

Mr. Insel stated we could probably do that.

Mr. DelBene asked is it possible to change the lock position to over the gate and not on the inside?

Mr. Erasmus stated the problem is that it would be so high if there is a smaller person to get over the gate to get to it, it is going to be difficult. I looked at it when they installed it and that is the only reason I didn't have them put it on the top.

Mr. Ference asked if I were painting my house I wouldn't have enough information that you heard today to make a decision. I don't know the cost of painting the gazebos or the mailboxes but I think you need more information to make a decision, better specifications.

FOURTEENTH ORDER OF BUSINESS Next Scheduled Meeting – September 11, 2018 at 6:00 p.m.

Mr. Torres stated the next meeting is September 11, 2018.

On MOTION by Mr. Clabots seconded by Mr. Labanowski with all in favor the meeting adjourned at 7:29 p.m.


Secretary/Assistant Secretary


Chairman/Vice Chairman