

TURNBULL CREEK
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Turnbull Creek Community Development District was held Tuesday, March 10, 2020 at 6:30 p.m. at the Murabella Amenity Center, 101 Positano Avenue, St. Augustine, Florida.

Present and constituting a quorum were:

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

Also Present were:

Ernesto Torres	District Manager
Jennifer Kilinski	District Counsel
Mike Yuro	District Engineer
Jerry Lambert	Operations Manager
Erick Hutchinson	Amenity Manager
Michael Johnson	Duval Landscape Maintenance

The following is a summary of the actions taken at the March 10, 2020 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 6:30 p.m. and called the roll.

SECOND ORDER OF BUSINESS

Audience Comments

A resident stated I would like to commend the landscaping company, they are making progress on my complaints over the last few years. What is happening in the future with the Junipers and cleaning of the branches and things in the berms?

Mr. Torres stated Mike will answer that under his report.

Ms. Randolph asked what about the shrubs at the turnabout at the sidewalk.

Mr. Torres stated I will ask Mike to respond under his report.

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THIRD ORDER OF BUSINESS**Staff Reports****A. Landscape Manager (Presenter: Duval Landscape)**

Mr. Johnson stated we are continuing to trim the grasses back throughout the community. About the Juniper, the board has a proposal for ripping out all Juniper and resodding everything, straightening the beds, making tree rings and I thank you for the comment; I appreciate that very much as we have been working very hard. Jerry and I in the last couple of weeks have gone around the whole neighborhood as we do weekly. That was one of the items we addressed and I pulled the proposal that I had given to Lorens a while back, revisited it and pulled some numbers to make it a little more enticing for the community. Maybe that is something they can decide to do at a later date.

Throughout the past month we have done the weeding of the beds, spraying all the berms and common grounds, trimming all the grasses along the sidewalks, which we will continue to do and should have them wrapped up in two weeks, edging of walking paths, treatment of ant beds weekly, weeding of the Juniper beds in the roundabout and removal of debris and trash. We did an application of liquid fertilizer in the field and common grounds and preemergent for the prevention of the warm weather turf weeds that will be popping up in the next few weeks. We will spot treat tomorrow.

1. Discussion of Pescara Park Field Conditions (Presenter: Jerry Lambert)

Mr. Johnson stated the last five years we have done a gradual application for turf weeds during the winter because the grass is dormant and we don't want to kill the turf but we had so many complaints about it we went to a different preemergent and turf weed application and there are a few weeds left we will hit tomorrow. We will go back with a heavy fertilization granules next week. It is not the same thing we have been doing all these years that seemed to work before but since we got so many complaints we changed it up a little bit.

Mr. DelBene stated those complaints are from August of last year. Why did it take so long to treat it?

Mr. Johnson stated it is a gradual treatment, if we treat too heavily we will kill what grass we have left there. The new treatment is working but we have killed off some of the Bahia in that field. It is just like in San Marino when we first took over four or five years ago there was not a

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single blade of grass in that area it was all weeds and if we had treated everything with turf weed application we would have killed all the weeds and it would be just dirt. We have to be really careful of what we use or we will just have dirt out there.

Mr. Wing stated we have done the tree planting, but we are losing some of them and that is to be expected. I'm still concerned about where the irrigation is and how often it is run. I had asked Jerry to set up a time when you can manually go around and make sure we have them in places where we have irrigation.

Mr. Johnson stated that is something I didn't put in my report about all the tree planting we did on that Saturday.

Mr. Wings stated we appreciate all your help but check that irrigation and make sure it is working.

Mr. Johnson stated we went through it before the planting and I believe afterwards but if we need to get everybody together again I will be happy to. I was told everything was operational.

Mr. Wing stated I would like to see what the actual coverage is.

FOURTH ORDER OF BUSINESS

Consideration of CDD Property Adjacent to Garribaldi Way Drain Improvements (Presenter: Mike Yuro)

Mr. Yuro stated I reached out to several contractors and received one proposal from Duval Landscape; Aquagenix promised a proposal but I probably won't have it until later this week and there are two contractors I haven't heard back from. The proposal is not far from what I estimated the job would be.

I'm looking at putting in some underdrain that will help dry out the wet area that will flow to a small sump pump and I spec'd out a total enclosed unit that has the basin and pump altogether and that will pump to the street along the property line. The homeowner agreed to provide the power for this pump and Jennifer has worked on some easement language that will give the CDD an easement over the property so we can install the system.

Mr. Labanowski asked what about the neighbor?

Mr. Yuro stated I wasn't aware that they still had issues since they created their own pond. Based on my observation this lot is the most severe but if the board wants me to look at the adjacent property as well I can do that.

Mr. Torres stated I think the pond is on his private property not CDD property.

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Mr. Labanowski stated that is on his property, but the majority is on CDD property.

Mr. Clabots stated by installing this it could possibly help the neighboring property.

Mr. Yuro stated it certainly could and further down the road if they are not getting any relief you can always tie in and add more underdrain and extend it towards the other property to dry out more of that area back there.

Ms. Kilinski stated you can approve a not to exceed and if we receive a proposal in a lesser amount we can proceed with that vendor.

On MOTION by Mr. Clabots seconded by Mr. DelBene with four in favor and Mr. Labanowski opposed the drainage improvements on the property near Garribaldi was approved in an amount not to exceed \$8,500 and the chairman was authorized to execute the easement prepared by district counsel.

FIFTH ORDER OF BUSINESS

Consideration of Drainage Issues at Positano and San Giacomo Mail Kiosk (Presenter: Mike Yuro)

Mr. Yuro stated the landscaper also gave us a proposal for the other two areas. I got some additional elevation data. The previous design for the Positano mail kiosk was to try to create a swale behind it and drain it towards the pond. With the low spot further away from it that was brought to my attention I thought it might be a better approach to go with an underdrain and yard drains and send it towards the pond. It is a similar design that I called for at the San Giacomo mail kiosk. I expect both of these to help alleviate the standing water next to the mail kiosk during the rain. Duval Landscape gave an estimate at the Positano mail kiosk of \$4,455 and \$3,940 at San Giacomo.

Mr. DelBene asked why are we doing this? Weren't we going to look into the county raising the sidewalk?

Mr. Yuro stated if they just raise the sidewalk they could just be trapping more water on the backside, that would cause more of a problem at the mail kiosk. They might get away with re-grading between the sidewalk and the road because the turf is acting like a curb holding the water. If they were to dig out some of the turf and get some of the dirt out, put back the turf at a lower elevation the water should get off that sidewalk.

Mr. Lambert stated they were going to do some of the grading to get the water away and then raise the sidewalk.

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Mr. Wing stated you might want to wait and see what they do and see if that alleviates part of the problem.

Mr. DeIBene asked if they grade it will they put the sod back?

Mr. Lambert stated no and Duval has given me a quote to do that and that was a not to exceed amount of \$1,580 for 2 ½ pallets of sod and that is what the county said they would be taking out. They are waiting for a phone call to proceed.

Mr. DeIBene stated we need more detail from them.

Mr. Lambert stated I can do that.

Ms. Kilinski stated St. Johns Golf has had a number of these issues with the county. Is that your ideal approach? If that works for you, one thing I would like to see in place is some sort of short form easement agreement with the county that says you are going to do this, this is what it is going to look like, we will be responsible for putting back the turf and get an exact proposal. I want to make sure that I'm clear from your perspective what you want on the next agenda so we are not talking about this for another month.

Mr. Labanowski asked the county is definitely going to do this work on CDD property?

Mr. Lambert stated anything off the sidewalk, yes.

Mr. Wing asked can we get Mike in touch with the county on this?

Mr. Yuro stated Jerry did send me an email on this but I was out of town and didn't have a chance, but I will make that call.

SIXTH ORDER OF BUSINESS

Consideration of Repairs to Pond Number 5 Proposal (Presenter: Mike Yuro)

Mr. Yuro stated the board had asked me to get some pricing to make the repairs around pond 5. We haven't revisited pond 5 in several years and pond 5 had the majority of the next most urgent repairs. I sent that list out to several contractors to get an apples to apples comparison and I only have one reply and that is from Aquagenix and they basically took the map I created a couple years back and added a few other areas they thought would need to be included and provided a proposal to do type 1 and type 2 repairs. Their quote was \$322,000 but that is not removing and replacing the entire bank as was done in the phase 1 work this was addressing 40 individual spots that are from 10 – 20 feet long. I reached out to another company and it is a system whereby they would fix the entire bank, puts some filter fabric down, lay it into the pond area, backfill it with turf and pull it back up but if you look at some of the pictures you can see before and after. I have

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never personally dealt with this but I thought it was worth getting a price from them and that was \$500,000 for the entire pond bank.

Mr. Wing asked do you know of any other places that have done this and any background whether there years later it is still holding?

Mr. Yuro stated no, the only thing I was able to do was look at their research and some of their testimonies and based on what I read it is a viable solution but I don't have any personal experience with it or don't know any place immediately around here that we could confirm what they are promoting.

Mr. Torres stated it is further down the agenda but at the last meeting the board had asked me to contact the professor from U.F. who gave a presentation to the board a year or so ago. I did contact and she is going to be available for our May 12th meeting and it would be at 10:00 a.m. instead of 6:30 p.m. I don't know if you want to discuss these options with her before you commit to this.

Mr. Wing stated I think that would be useful. Also, it would give us more time whether it be Jerry or anybody else if we can find some places they have done this before and talk to those folks. We also have to identify where \$500,000 is going to come from so we know we can pay for it.

Mr. Torres stated Mike and I will have a conference call with Dr. Hansen and share some photos of what Mike shared tonight and come back with something in May.

SEVENTH ORDER OF BUSINESS

**Update of Mail Kiosk Station Drainage
(Presenter: Mike Yuro)**

This item taken earlier in the meeting.

EIGHTH ORDER OF BUSINESS

**Discussion of Fishing/Lake Policies
(Presenter: Jennifer Kilinski)**

Mr. Torres stated in your agenda package is a letter that Jennifer prepared for the board along with our current fishing policies.

Ms. Kilinski stated we have talked about this several times over the last couple of years. Staff has had a couple calls and we have had a few more issues arise between your last board meeting and this board meeting as it relates to enforcement and authority and questions around the fishing policy. We wanted to outline the options and I handed out to you a representation of district

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ownership around lakes. From the handout you will notice that what is consistent throughout the community is that anywhere there is a home that abuts a lake there is no outright district property, every single home that abuts a lake it is an easement. District enforcement of trespass rights on those easements won't happen with St. Johns County Sheriff's Office; they are not going to enforce the easement. Our options are twofold. You can say there is no fishing in ponds. You own the ponds you have the right to regulate the ponds and say there is no fishing. That makes enforcement relatively easy from the standpoint if anybody is fishing they are not allowed to. If it is behind a private home they are supposed to be responsible if they wanted to trespass someone, calling somebody if it is on district property and the like. If you wanted to say there is fishing still in the ponds that we previously designated in 2007 the Pacetti pond and the San Marino Park area pond were designated for fishing. Part of this is going to be an education and awareness; we can put out a newsletter, a nicer looking map that demonstrates where authorized fishing is. I think you have available to you at least on paper if you want to open fishing to any of the areas where the district has the access and underlying fee, that is also something you have the authority to do and would be pretty easy to enforce. As example there would be no fishing behind private property lines, all the public property that the district owns could be designated for fishing. I wanted to provide this ownership map to say our options are really to allow fishing either on all district property, on a portion of district property or not at all. Once we decide that we can talk about enforcement, but whatever we decide tonight we as staff need to do a good job about making sure that people are aware of what those fishing policies are, where those designated areas are and who is going to ultimately be responsible for enforcement so that it doesn't leave enforcement in any of your five hands and frankly, even in the hands of district staff because we have had problems with portions of our amenity management company trying to approach somebody to tell them to stop fishing and it gets volatile real fast. We don't think that is a good solution.

The following issues were brought up and discussed: A homeowner does not want anyone fishing behind their house, allowing pond access to some residents but not others is not fair, people trespassing over private property to get to a pond to fish, issues with non-resident fishing, catch and release only, homeowners should not confront people fishing in their ponds, owners want to fish behind their homes, ask HOA to add no fishing to their policies so they can enforce fishing behind someone's house, most issues with non-resident fishing, call Florida Fish & Game for enforcement and establish a neighborhood watch.

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Mr. Wing moved to open all ponds to fishing for one-year period, there being no second the motion died for lack of a second.

Mr. Simmons stated I'm not in favor of all but with fishing in ponds on CDD property.

On MOTION by Mr. DelBene seconded by Mr. Clabots with three in favor and Mr. Labanowski and Mr. Wing opposed the fishing policy was amended such that fishing will be permitted on all CDD owned property except areas behind private homes; fishing will be permitted in each owner's backyard and any enforcement of trespass to be left to the sheriff's department and signage be installed indicating resident only fishing.

Ms. Kilinski stated we will generate a new informational sheet and send it to the board prior to sending it to the community.

NINTH ORDER OF BUSINESS

**Consideration of Resolution 2020-04
Amending Defense Resolution (Presenter:
Jennifer Kilinski)**

Ms. Kilinski stated in between the board meetings Ernesto and I had an opportunity to speak with each of you individually about a series of events that have taken place with regard to board actions and the question was raised about how does the district's defense resolution and district's insurance coverage work. When the district was established every district that I am aware of has a defense resolution that provides for the defense of board members and district officers. In the event that any one of you were sued individually or collectively so long as you are acting within the scope of your duties the district has D&O coverage. The situation where you would not be covered is when you have somebody acting in bad faith, outside the scope of their duties or inconsistent with the public health, safety and welfare.

In section 4 I added in addition to acting in bad faith with malicious purpose or willful disregard of human rights, safety and property is also and/or district policies, procedures and direction of the board that contravenes district board direction in a significant or consistent manner. This is meant to capture if you have an instance where a board member or member of district staff is doing something repeatedly that the board has specifically directed them not to do that may put the district in jeopardy of having a lawsuit and a lawsuit does occur, upon a vote of the unanimous

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members who are voting so if the person who was sued, they wouldn't be voting because that would be a conflict of interest. The rest of the board who is voting by a unanimous decision then rebut the presumption to get coverage. This is designed for instances of specially egregious behavior and the district then got sued instead of automatically paying out of pocket for that defense you could by unanimous vote say, we think you were acting outside your scope, we have a resolution that sets forth the findings that are consistent with this resolution and then they would go through the lawsuit having to defend themselves. The reason I was asked by a couple board members why the unanimous decision part, my recommendation from a public policy perspective is that when you as a board member take your seat we always tell you as district staff that you have D&O coverage. I have a number of districts where our supervisors have been sued in very frivolous lawsuits so you want the comfort to know that you are going to have the defense paid for. I have also seen these resolutions used as a political sword and we don't want that to happen. Unanimous decision would rebut the presumption, which means that we may be paying out of pocket. You always have the coverage that if you didn't get unanimous decision, there is a lawsuit that person lost and was adjudicated as guilty you have this defense resolution that also says those instances are required to pay the district back; if it was found they were acting out of their scope then they would be required to pay the district back.

On MOTION by Mr. Simmons seconded by Mr. DeBene with all in favor Resolution 2020-04 was approved.
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TENTH ORDER OF BUSINESS**Update Regarding RMS Performance Review
(Presenter: Wil Simmons)**

Mr. Torres stated based on our discussion at the last meeting each of the board members were sent the worksheet then provided the input. The input you provided is consolidated under the comment section. Also the scores of each of the six categories that they were rating are also consolidated and you have those numbers. The chairman met with staff and went over this and if you have any specific questions either myself or Wil can answer them

Mr. Simmons stated it was a matrix of sorts and we took every comment by the supervisors and put that in there as well so any type of comment negative or positive was shared with RMS. You will see the average grades, you will also see the narrative of any supervisor but we didn't name the specific supervisor. We sat down last week and went over each narrative and went over

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the scores and the constructive criticism and also let them know where we thought they were doing well. Look at it and if you have any questions, let me know.

ELEVENTH ORDER OF BUSINESS

**Appointment of Audit RFP Committee
(Presenter: Ernesto Torres)**

On MOTION by Mr. Wing seconded by Mr. Simmons with all in favor the board members were appointed to serve as the audit committee.

TWELFTH ORDER OF BUSINESS

**Discussion of Meeting Room Rental for
Commercial Use (Presenter: Ernesto Torres)**

Mr. Torres stated there was an email and an event scheduled in January here at the amenity center that was scheduled through a resident for a realtor to conduct what they called a state of the market analysis or briefing or presentation to members of the public. It did not give any indication that this was for residents only, it wasn't until I made contact with Amy Andersen that corrections were made on the website. I say that to let you know that your current rules do not support that type of activity and based on the discussion with the chairman, myself and another supervisor this item was placed on the agenda for discussion to see if the board wants to change the rules to accommodate this type of use.

Mr. DelBene asked if the realtor was a resident of the community could they host an event here? If everything in the package were the same except Amy Andersen lived here would that event have been okay?

Mr. Torres stated no, because it was open to the public.

Mr. DelBene stated guests are allowed in here. We are allowed to bring public guests into the amenity center.

Ms. Kilinski stated the way it is structured now is the way the facilities are being reserved is through either community use or private use. Private events are categorized as things such as birthdays, graduation parties where you can have non-residents. Community use is social meetings used only for patrons and it is not for profit, it has to be open and available to all residents only and it is free of charge to patrons attending. That is where the disconnect came, right now it is not provided for in that way. One of the questions raised before was about a networking event with all residents and that would be allowed under community use provision.

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On MOTION by Mr. Clabots seconded by Mr. Labanowski with all in favor the policy shall remain the way it is currently written.

THIRTEENTH ORDER OF BUSINESS **Consideration of Resolution 2020-05 Confirming the District’s Use of the St. Johns County Supervisor of Elections to Conduct the District’s Election of Supervisors in conjunction with the General Elections (Presenter: Ernesto Torres)**

On MOTION by Mr. Wing seconded by Mr. Clabots with all in favor Resolution 2020-05 was approved.

FOURTEENTH ORDER OF BUSINESS **Consideration of Proposal with Aquasol Commercial Chemicals, Inc. for Pool Maintenance Services (Presenter: Jerry Lambert)**

This item tabled.

FIFTEENTH ORDER OF BUSINESS **Staff Reports (Part 2)**

A. Attorney (Presenter: Jennifer Kilinski)

There being none, the next item followed.

B. Manager (Presenter: Ernesto Torres)

1. Discussion of May 12, 2020 Meeting (move to 10:00 a.m. – Presentation by Dr. Hansen from UF)

Mr. Torres stated Dr. Hansen from the University of Florida will be here May 12, but her schedule is limited and instead of meeting at 6:30 p.m. she can make a 10:00 a.m. meeting.

After discussion the May 12, 2020 meeting will be scheduled for 10:00 a.m. with an executive session to take place at 9:30 a.m. and the June 9, 2020 meeting at 6:30 p.m. will be moved to June 16, 2020 at 6:30 p.m.

2. Discussion of June Meeting Date

Mr. Torres stated we sent an email to the board about meeting on June 16th rather than June 9th.

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It was the consensus of the board to meet on June 16th rather than June 9th.

C. Operation Manager – Presenter: Jerry Lambert)

1. Report

Mr. Lambert gave an overview of the operations report, copy of which was included in the agenda package.

D. Amenity Center Update (Presenter: Erick Hutchinson

1. Discussion of Amenity Pool Schedule (Fighting Turtles, Aqua Kiddies and YMCA

Mr. Hutchinson stated I collaborated with the three companies that are trying to use our pool, which is Fighting Turtles, Aqua Kiddies and the YMCA. There is some minor overlap with Aqua Kiddies and the YMCA and the Y will be using two lap lanes they might have up to seven kids at one time, 12 years old or younger. Aqua Kiddies is basically babies, one at a time so we are talking about a total of eight kids that may overlap. The Y will have two lifeguards on duty that they will provide while they are in the pool.

Mr. Simmons stated I have a concern with the Y because of so much usage of the parking lot and the fact that our pool will be crowded in the summer and that it is 10% revenue share to the district.

Mr. Hutchinson went over the schedules of the Fighting Turtles, Aqua Kiddies and the YMCA.

On MOTION by Mr. Labanowski seconded by Mr. Clabots with all in favor Mr. Simmons was authorized to work with Mr. Hutchinson and the YMCA on the schedule and if they can come to an agreement then district counsel will draft a license agreement with the YMCA.
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2. Emails

Sent to HOA Board Member per HOA Request

3. Improvements

Made to the Amenity Center: (Shades, AED, Gym Mirror)

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4. Raise

Handcock Credit Limit from 5k to 10k

Mr. Hutchinson stated we received credit cards from Handcock and I thought the credit limit was \$5,000 each and it turns out that it is a combined total of \$5,000. I'm not trying to spend more; I'm trying to increase the limit to \$10,000.

On MOTION by Mr. Wing seconded by Mr. DelBene with all in favor the increase in the Handcock credit limit from \$5,000 to \$10,000 was approved.

5. Quotes

For Potential Projects Envera (security) Watchfire (billboards)

This item tabled.

6. Leagues

Consideration of Pool/Tennis Court/Field: Pool School, Tennis Time, SJMSAA

Mr. Hutchinson stated the first item is for a CPR class for pool safety. Next is tennis time and is a proposed tennis league and they are proposing a football league, but they do more than football and they are proposing a drop-off service.

Additional information will be provided to staff to be forwarded to the board.

SIXTEENTH ORDER OF BUSINESS

Approval of Consent Agenda (Presenter: Ernesto Torres)

- A. Approval of Minutes of the February 12, 2020 Meeting**
- B. Balance Sheet as of January 31, 2020 and Statement of Revenues & Expenditures for the Period Ending January 31, 2020; Month-to-Month Income Statement; Assessment Receipt Schedule**
- C. Approval of Check Register**

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

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SEVENTEENTH ORDER OF BUSINESS Supervisor's Requests and Audience Comments

Mr. Labanowski stated I have a map of the irrigation in the community and everything was covered at one time except for the crossovers and two others between the ponds. They are not irrigated. The entire circle was irrigated but when they put in the sidewalk, they capped off the irrigation line.

Mr. Clabots stated I need to inform the board that unless the sky falls, this will be my last board meeting. My house sold and I will be moving and no longer be a resident as of March 23rd. I will send a letter to Ernesto and I will also send a letter to the supervisor of elections. The board will need to find a replacement at your next meeting.

Mr. DelBene asked because of an issue we had, who has access to the storage shed that is on the board? Does only one board member have access?

Mr. Simmons stated I'm not aware that any of the board members have access.

Mr. DelBene stated then no one has access, thanks.

Mr. Wing stated we had that special meeting a couple weeks ago. I thought we had said that we declined to pay for that because it was a workshop opposed to a regular meeting that it turned into. I was going to return the check to Ernesto and I'm requesting that you do not send me a check for this meeting. If anyone asks me about the defense resolution I'm not sure what to say about it.

Ms. Kilinski stated from my perspective it is updating you, I don't know that if every board member voted on it for the same reason.

A resident asked when is the University of Florida supposed to do the study on the lakes?

Mr. Simmons stated they are going to meet with us in May.

Mr. Wing stated I think she will come out and give us recommendations about what we can do with different plants to stabilize the banks.

A resident stated the fishing issue, you decided to keep the two lakes and decided to keep residents only for behind their property. Can you make sure you get new signs for the ones where you allow it? Can you say catch and release, for residents only?

Mr. Simmons stated that is the intent.

A resident stated make sure the sign says it and not just the rule. It will make people more comfortable. The only other item was the YMCA, just something to think about. When you meet with them maybe propose two days; it doesn't have to be all or nothing.

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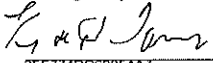
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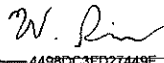
A resident stated if there was a projector of some kind then the information you see that is pertinent would be good for the public.

EIGHTEENTH ORDER OF BUSINESS

Next Scheduled Meeting – May 12, 2020 at 10:00 a.m. and an executive session to be held at 9:30 a.m.

The meeting adjourned at 8:42 p.m.

DocuSigned by:

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Secretary/Assistant Secretary

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Chairman/Vice Chairman