

TURNBULL CREEK  
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Turnbull Creek Community Development District was held Tuesday, May 12, 2020 at 10:14 a.m. via Zoom video conferencing.

Present and constituting a quorum were:

Wil Simmons	Chairman
Chris DelBene	Vice Chairman
Brian J. Wing	Supervisor
Chuck Labanowski	Supervisor
Diana Jordan-Burks	Supervisor

Also Present were:

Ernesto Torres	District Manager
Jennifer Kilinski	District Counsel
Mike Yuro	District Engineer
Jerry Lambert	Operations Manager
Erick Hutchinson	Amenity Manager
Dr. Hansen	University of Florida

The following is a summary of the actions taken at the May 12, 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 10:14 a.m.

**SECOND ORDER OF BUSINESS**

**Audience Comments**

Dr. Aguilar stated I am running for congress for the 4<sup>th</sup> district and I hope everyone is doing well and we want to thank our workers, they are putting their lives at risk. Let’s thank them for a doing a good job. Our grads, it is an unusual time and I wish them well. I wish everyone well.

Ms. Levin stated you have my email asking about the responsibilities of Duval. I was asking for an itemized list of the responsibilities on a weekly basis of what Duval Landscaping does.

May 12, 2020

Turnbull Creek CDD

Mr. Torres stated we can send that information to you.

Ms. Levin stated the common areas in 90% of Murabella are a shamble, no grass, weeds all over the place, sticks, it is disgraceful.

**THIRD ORDER OF BUSINESS**

**Organizational Matters**

**A. Acceptance of Resignation from Lee Clabots**

On MOTION by Mr. Wing seconded by Mr. Labanowski with all in favor Lee Clabots' resignation was accepted.

**B. Appointment of New Supervisor to Fill the unexpired Term of Office (11/2020)**

Mr. Torres stated we have four residents who would like to serve on the board, you can discuss each one and then we can fill the vacancy.

After discussion of each applicant, the board took the following action.

On MOTION by Mr. Wing seconded by Mr. DelBene on roll call vote with three in favor and Mr. Labanowski opposed Diana Jordan-Burks was appointed to fill the unexpired term of office.

**C. Oath of Office for Newly Appointed Supervisor**

Mr. Torres being a notary public of the State of Florida administered the oath of office to Ms. Jordan-Burks.

Ms. Kilinski gave an overview of the sunshine law, public records law and stated we will provide you with a package of information with commission on ethics code and sunshine law and public records law.

**D. Election of Officers, Resolution 2020-06**

On MOTION by Mr. Wing seconded by Mr. Simmons with all in favor Resolution 2020-06 was approved adding Ms. Jordan-Burks as an assistant secretary was approved.

**FOURTH ORDER OF BUSINESS**

**Presentation by Dr. Hansen, Associate  
Profession University of Florida**

May 12, 2020

Turnbull Creek CDD

Dr. Hansen stated the last time I was here a large part of the conversation was about issues with stormwater ponds, specifically with very steep slopes and erosion problems. We previously talked about primarily planting on the shoreline to stabilize erosion problems.

Dr. Hansen reviewed the causes of erosion and outlined vegetative erosion control methods appropriate for different types of slopes and gave an overview of bio-logs, floating islands, Bemat and Shoresox erosion control methods and stated we highly recommend a system where you can incorporate in some way vegetation into it because it will help clean your water.

You can get a list of plants from a publication I wrote a few years ago with my graduate student and it is plants for your stormwater pond shoreline and you can get this on the U.F. website. There are a lot of publications that different counties have written on how to plant your shoreline or lakefront.

Mr. Simmons stated I would like Jerry to obtain some of that information and see what vegetation would be best for us to consider. We should gather the data and then the board can look at it.

## **FIFTH ORDER OF BUSINESS**

### **Staff Reports**

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

Mr. Lambert stated I have talked to Mike about their contractual obligations and he has assured me that he has been doing the contractual stuff. Some of the stuff, the improvements and such are due to certain circumstances of weeding, and we lose a lot of the weeds and then it exposes the sod and I see a lot of thinning of the grass, which leads into the proposals on the agenda.

Mr. Wing stated if you think I can be helpful I do have the time I would be happy to sit down and go through the contract with Jerry and sit in on that meeting with Duval to review what they have been doing, how often they are doing it and make sure we get it right.

The board and staff were in favor of Mr. Wing reviewing the contract with Duval and Mr. Lambert.

Mr. Johnson joined the meeting at this time and was brought up to date on the discussion.

Mr. Johnson stated we waited on the mulch until today and the last time we did the mulch was last year. We are two months behind but it will be taken care of. The pine straw will go down directly after the mulch and we will go through this process again in October. As far as behind the berms, I need to do a better job of going behind the homes and walk the property and making sure

May 12, 2020

Turnbull Creek CDD

it gets done. I was informed that it was done and this is the first I have heard that it was not done, so I need to make sure myself and not rely on someone else. I will make sure I walk these areas to ensure it is taken care of.

Mr. Simmons stated I would like Mike coordinate with Jerry so when these things are done it is confirmed. It would be in our best interests once these things are done Jerry takes a look.

Mr. Johnson stated that is not a problem.

Ms. Jordan-Burks asked is there a tracking process we have in place that they are filling out some type of quality assurance tracking form of what they have completed and what is has been done? Are we doing contract performance where we are rating that they are doing everything that is in the contract? I wouldn't mind helping them review those contracts since that is my expertise to ensure what we are paying for we are actually getting.

Mr. Torres stated I can provide you the agreement and as far as evaluation of the contract performance, we have a clause in the agreement where we can terminate with for cause without notice. The field operations manager, Jerry, is the heavy weight the district relies on when it comes to the landscaping contract and lake maintenance. We rely on his input.

Ms. Jordan-Burks asked would he be opposed to maybe we put in place a check list for the contractor to submit monthly or whenever they are putting in the mulch so we can have that form?

Mr. Lambert stated I have no problem doing that.

Ms. Jordan-Burks stated if you need help, that is part of what I do right now.

Mr. Lambert stated I can work with you on that.

## **SIXTH ORDER OF BUSINESS**

### **Consideration of Proposals from Duval Landscape (Presenter: Jerry Lambert)**

Mr. Lambert gave an overview of each proposal listed below and stated I have a proposal from Shaw's Tree to remove a bunch of these trees that I'm getting emails on weekly and that is \$2,500 per day for whatever they can do with a full team for an 8 hour day and that includes everything including the clean-up. They submitted that yesterday.

I hear comments that they want it to look nice but some of the entrances are getting rundown but it costs money to keep them up and we have decide if we want to do that or kick the can down the road a little longer.

Mr. Wing asked do we have enough in the budget to cover this?

Mr. Lambert responded you have \$30,000 for landscape contingencies.

May 12, 2020

Turnbull Creek CDD

Mr. Torres stated since March we have spent \$1,600 from the landscape contingency, we budgeted \$30,000. The trees in preparation of hurricane season is something we do yearly so it is something we should consider approving. If you consider all these proposals you have enough in the landscape contingency to cover them.

Mr. Wing stated I suggest you pick two or three that are the highest priority, do those now and wait a couple months to see how everything is going before we commit to the rest of it. I don't know what timeframes would be. Is it better to plant an oak tree now opposed to August? Same thing for these other materials.

Mr. Johnson stated as far as the oak tree either now or the last part of the year. All these proposals except for the one for the roundabout are the same proposals that I dealt with Lourens before Jerry was here and they are a couple years old. I understand the money part of it especially since we are still in the Covid-19 pandemic and nobody wants to release a lot of funds. I would say the most important proposal on that list is the roundabout. We get the most complaints about that roundabout than any other area except for the debris and I need to make sure my guys are doing what I pay them to do. The juniper is in major decline and it has been there since the property was constructed. If you have to choose I would do the roundabout now. The 16 entrance and amenity entrance are not looking too bad, they need to be replaced but I can keep the foliage on them and keep them green.

Mr. Wing stated I talked to Jerry about the accident that happened at the roundabout that tore stuff up. Is there any chance we can recover some of the costs from the insurance company of the driver who tore it up?

Mr. Torres stated absolutely. We will have to get the police report and notify our insurance company and put in a claim against the driver's insurance.

Mr. Labanowski stated we also have \$30,000 in reserve for landscaping that can be used for the landscaping now.

Mr. Torres stated we do have reserves that can be used for that.

Mr. Wing stated given those numbers it sounds like we can safely do it all without worrying about blowing through the budget too badly. Maybe the Shaw cutting down the trees, if there are dead trees putting houses at risk we have to get those out pretty quick.

Mr. Torres stated it is routine, we do it every year.

May 12, 2020

Turnbull Creek CDD

Mr. DelBene asked rather than paying for 8 pallets of sod for \$9,000 is it possible to do a seed product and reduce our cost so we have more of a budget going further for other items such as Pescara the San Marino entrance. Is seed a possibility in that area?

Mr. Johnson stated as far as the field, I know we have done the irrigation in the longer field over at Pescara but the seeding can be completed and wheat straw put down to hold the moisture. When we get the afternoon showers in the next few months, aerating and seeing those areas would be fine. The roundabout area I would sod.

Mr. Torres stated the contribution for reserves for landscaping enhancement is \$53,000 for 2019/2020 so we haven't spent out of that. I need pictures and a written proposal with the amount to repair the damage done by the accident.

- A. Schilling Replacement – SR 16 - \$4,108.50**
- B. Schilling Replacement – Clubhouse - \$2,669.98**
- C. Roundabout Juniper Replacement - \$13,645.50 Irrigation \$1,130**
- D. Oak Tree Replacement - \$2,057.13**

On MOTION by Mr. DelBene seconded by Mr. Labanowski with all in favor the proposals A, B, C, and D from Duval Landscape in the total amount of \$23,611.11 were approved.

## **SEVENTH ORDER OF BUSINESS**

### **Update Regarding Garibaldi Way Drain Improvement (Presenter: Mike Yuro)**

Mr. Lambert stated as far as I know everything is complete.

Mr. Wing asked has anyone gone over there and verified that the work was done?

Mr. Lambert responded I have not. This type of thing will go on the check list that Diana and I are creating and in the future that will be done.

Mr. Torres stated if we need to change the process on how invoices are paid I need to know because I rely on you verifying that the work has been completed and then it is paid.

Ms. Jordan-Burks stated that is exactly correct.

May 12, 2020

Turnbull Creek CDD

**EIGHTH ORDER OF BUSINESS****Update Regarding Drainage Issues at  
Positano and San Giacomo Mail Kiosk  
(Presenter: Mike Yuro)**

Mr. Yuro stated at the last meeting we had some proposals from Duval for both projects. I think they were put on hold as far as any decisions because the county was going to do some work at one mail kiosk around the sidewalks. I talked to Justin at the county and he verified they are not matching at the sidewalk but they are going to remove the sod on the other side and regrade the area so the sod no longer forms a curb holding the water on the sidewalk and when they regrade it, it will be up to the CDD to reinstall sod there. The last I spoke to him which is almost a month ago now he said the schedule for everything was up in the air because of Corona virus but he would give a heads up to this staff within two weeks of them being out there and I haven't heard from him.

Mr. Lambert stated I haven't heard from him; I will call him.

Mr. Wing stated I don't understand why the county would be grading on the other side of the sidewalk if it is CDD property.

Mr. Yuro stated I'm not sure.

Ms. Kilinski stated I don't know enough about that specific area but it may be that it is related to the traffic light issue that we are going to discuss. There may be some records that we are missing that gives the county some right or responsibility that is not clear from the plat that staff has not received – the engineer should follow up with the County on that project.

Mr. Wing stated it is not near the traffic light.

**NINTH ORDER OF BUSINESS****Update on Mail Kiosk Station Drainage  
(Presenter: Mike Yuro)**

Mr. Yuro stated they are both similar.

Mr. Torres stated we need to figure out the county's incentive to do this, whether it is their responsibility or ours.

Mr. Labanowski asked can't we do something about the mail kiosk at the amenity center?

Mr. Yuro stated the mail kiosk at the amenity center we did get a proposal at the last meeting from Duval Landscape. That was the only one I received. I had reached out to several. It was in the order of \$4,455 to do some regrading and install some yard drain to get that water from that area towards the pond. It is totally separate from the other one so one would not impact the other.

May 12, 2020

Turnbull Creek CDD

Mr. Labanowski asked what do we need to do as far as a motion?

Mr. Torres stated I'm looking at the property appraiser's website and the mail kiosk at San Giacomo doesn't belong to us. Before we commit any repairs we need to find out who actually owns the property.

Mr. Labanowski stated we can do the repairs at the Positano mail kiosk.

Mr. Torres asked can we do some kind of search to verify the ownership of these common issues with mail kiosks before we take any further action?

Ms. Kilinski stated absolutely. The property appraiser's office is not always accurate and even with the property appraiser's office demonstrating the underlying fee belonging to the county it is possible that on our plat we dedicated some part of the improvements to the district for operation and maintenance. I will be happy to review the plat quickly and we may have done some research historically four or five years ago that we can pull from and confirm one way or the other whether we have the responsibility or not.

Mr. Torres stated I think that is the right thing to do first. We meet again in June. Do you want to approve some repairs while we wait for plats to be confirmed or wait until June to make a decision?

Mr. Labanowski stated I would like to have the repair done at the Positano mail kiosk right away. That is our property and does not require plat review.

Ms. Kilinski stated you could approve them subject to our confirmation that it is the district's responsibility or district property, whether it is one or both of them.

Mr. Torres asked how much is that repair? I don't see anything in the agenda packet.

Mr. Yuro stated in the last agenda Positano there was a proposal from Duval for \$4,455.

Mr. Torres stated I can take a motion if the board feels comfortable with proceeding.

On MOTION by Mr. Labanowski seconded by Mr. DelBene with all in favor staff was authorized to proceed with the repair to the Positano mail kiosk drainage issue in the amount of \$4,455 subject to confirmation that it is the district's responsibility.

Mr. DelBene asked what line item will that come out of?

Mr. Torres responded capital reserves.

May 12, 2020

Turnbull Creek CDD

Mr. DelBene stated I understand there is \$61,000 is rolling over from this year's budget to next year; I would like to make sure that budget isn't affected and we will reapprove the landscape budget comes out of reserves before it comes out of our current budget, so that the rollover doesn't get affected.

Mr. Torres stated I will code it to come out of capital reserves.

Mr. DelBene stated the mail kiosk as well as the landscaping we approved.

Mr. Torres stated the landscaping we just approved we can pull out of landscape contingency, which is already budgeted.

Mr. DelBene stated then it is going to affect our rollover going into the next year.

Mr. Torres stated it only affects the carryover if we exceed the budget. You have budgeted that item.

Mr. Yuro stated I pulled up the recorded plat and the area of Positano we are talking about looks to be within CDD property within Tract A and Tract B, which is the recreation amenity center and open space landscape area.

## **TENTH ORDER OF BUSINESS**

### **Discussion of Traffic Signal Installed on Tract A (Presenter: Mike Yuro)**

Mr. Yuro stated I was alerted to some drainage issues and I saw some pictures and it appeared that the new traffic signal must have caused it to drain by going into the pond. In looking at recorded plats and design plans for the area when Murabella was first developed and also the widening of Pacetti Road it appears to me that the construction of that pole was outside of county owned right of way.

Ms. Kilinski stated Mike, Ernesto and I exchanged emails. The property research that is available on the property appraiser's website shows that the traffic light appears to be outside of county right of way. That being said it would be very surprising to me if the county constructed a traffic light without having the requisite property interests. Based on available public information Mike and I both cannot find any indication that there has been some change of property ownership, but I wouldn't want to spend too much time trying to track that down, do a public records request and spending legal fees unnecessarily if the CDD said we are not really concerned about the traffic light being there, let's just negotiate some form of easement so that if there is ongoing construction or maintenance responsibilities we have that represented by the county. I would like to get feedback from the board on how far we wanted to take it.

May 12, 2020

Turnbull Creek CDD

Mr. Labanowski asked is there someone at the county who can be contacted to discuss the issue with them to see if there is something they can do with the pole itself, not necessarily taking it out, but possibly painting it a different color than the bright metal that is there right now?

Mr. Yuro stated a good approach may be to reach out to county traffic operations and have the conversation. Ask them if they have the design plans with documentation that shows where it is. They should have some survey that shows where it is located and let them know the concerns the neighborhood has about the color and maybe they will be able to provide us with documentation that says, it is on our property or we put it there but that is not a place it could have went and if it is on CDD property I think they would be much more likely to work with us on any request you may have for painting or powder coating or whatever.

Mr. Labanowski asked are they going to replace the bushes that they destroyed on our property?

Mr. Torres stated I will need an estimate on whatever shrubs were there that were destroyed and not replaced.

Mr. Lambert stated I can do that and send it to you.

Mr. DelBene asked Chuck are you saying the county took our property without giving us notice that they were doing so?

Mr. Labanowski stated exactly.

Ms. Kilinski stated that was my point. I reviewed and I can send to the board exactly what I have reviewed and the conclusion and thoughts that I suggested to Mike and Ernesto at the end of last month when we got this information. I reviewed the plat and easements, dedication language. The district obviously owns Tract A that is for sure; I have the deed from 2005. That didn't include any easements to the county or right of way provisions. The covenants and supplements thereto didn't grant or reserve any easements to the county for any purpose and I couldn't locate any separately recorded easements in the official records that granted the county to install the traffic light. It would be surprising but not completely; we have never had that happen before where a county would install a traffic pole on district property without having some easement right. My point is if the district doesn't like it there and definitely if they made impairments to district property that is costing us money, regardless, I would want to see some form of easement negotiated. We have done that in a number of districts. Ernesto can reach out to traffic engineering department or Mike can do that and find out what documentation they have.

May 12, 2020

Turnbull Creek CDD

If they don't have documentation about their rights to enter CDD property as Mike noted we are in a great position to negotiate something that is favorable to the district and would have at the outset anyway. If we don't like it there and it is infringing on our property or causing impairments to our property or to other people's houses or whatever, we have had some pre-suit settlements where you either demand that the signal pole be taken out or that they trespassed or that there is a taking, we have been down that road as well. It is certainly worth exploring. I wanted to give the board those options whether we had a problem with it being there in which case we may want to take a little bit more affirmative action or we didn't necessarily have a problem with it being there but we want to make sure that our rights are documented and that any improvements that they have impaired, get fixed, in which case it is a little bit different approach. That is the feedback we were looking for. It sounds like we need to do a little bit more digging on the property interests. Ernesto can reach out to the folks about options that we can come back with either a preliminary form of easement or further information that they already have the property rights to be there, in which case maybe we don't have as much of a say in what has happened.

**ELEVENTH OFDER OF BUSINESS****Consideration of Emergency Notification Policy for Significant Events (Presenter: Jennifer Kilinski)**

Ms. Kilinski stated this is designed in part for Covid considerations but we have also used it in other districts when we have hurricanes or floods or the police have been called and giving direction to staff on how you want staff to handle those occurrences when they happen and what sort of notification, police notification, etc the board members want to staff to pursue. It is a policy and can be changed if we need to add additional provisions or modify provisions for our circumstances, we can do that from meeting to meeting.

It does give staff some direction on how you want some of these emergency proclamations handled and the idea would be that we would bring those back to you if staff took direction from the chair or took its own direction outside of a meeting because of an emergency we would bring those back to you for ratification afterwards.

Mr. DelBene stated in section 3, I would like to see the notification cut from 72 hours to 48 hours. I can't think of any reason why an email or phone call can't be made within 2 days. Under 4.2.2 the language in the second sentence where it says, as soon as is practical, I would like

May 12, 2020

Turnbull Creek CDD

the same language added in there that is from the paragraph above, but in no event more than 48 hours. That way we have time constraints for that notification.

On MOTION by Mr. Wing seconded by Mr. DelBene with all in favor the emergency notification policy for significant events was approved as amended.

#### **TWELFTH ORDER OF BUSINESS**

#### **Discussion of Reopening Plan for Amenity Facilities (Presenter Erick Hutchinson)**

Mr. Hutchinson reviewed the proposed reopening plan for the amenity facilities. Under the plan, family pool rec swimming 25% bathing load, divided into blocks of time giving staff cleaning time, water slide will be closed, no pool furniture in Phase 1. Resident lap lane swimming to open. Tennis to open under phase 1. Playgrounds closed in Phase 1 with barriers put up. Volleyball closed, basketball court closed, trails and park areas with social distancing, food trucks with grab and to only.

Ms. Kilinski stated I will send out a memo to the board summarizing the approval.

On MOTION by Mr. Labanowski seconded by Ms. Jordan-Burks with all in favor the reopening plan for amenity facilities was approved with pools being open at 25%, lap pool swimming allowed, tennis open, water slide closed and no pool furniture and in the case of a positive Covid-19 case, close for a week and have staff sanitize the facilities.

The reopening of the pool area will take place Thursday, May 14, 2020.

#### **THIRTEENTH ORDER OF BUSINESS**

#### **Consideration of Resolution 2020-07 Approving the Proposed Budget for Fiscal Year 2021 and Setting a Public Hearing Date to Adopt (Presenter: Ernesto Torres)**

On MOTION by Mr. Wing seconded by Labanowski with all in favor the public hearing was set for August 11, 2020.

Mr. Torres stated the proposed budget for fiscal year 2021 calls for no increase in assessments. There is a surplus of \$68,824 that we are going to use as carry over and that is based

May 12, 2020

Turnbull Creek CDD

on the unassigned SBA account where there are funds available to operate the district until we receive assessments from the county. As long as that account stays healthy enough to get us through the first three months of the year then the rest of the funds that are there become carry forward surplus. We have used that method for a few years. There may be a time when that is not available.

Mr. Torres gave an overview of the budget line items and the board discussed the following items: events, website compliance, insurance, after which the board took the following action.

On MOTION by Mr. Wing seconded by Mr. Labanowski with all in favor Resolution 2020-07 approving the proposed budget and setting the public hearing for August 11, 2020 was approved.

**FOURTEENTH ORDER OF BUSINESS**

**Consideration of License Agreement for Dance Classes with Gift of Dance (Presenter: Erick Hutchinson)**

This item tabled.

**FIFTEENTH ORDER OF BUSINESS**

**Consideration of License Agreement with Launch Performing Arts Academy Regarding the use of Certain District Facilities (Presenter: Erick Hutchinson)**

This item tabled.

**SIXTEENTH ORDER OF BUSINESS**

**Discussion of RMS Invoice During Facility Closure (COVID-19) Presenter: Ernesto Torres)**

Mr. Torres stated more than one supervisor inquired about the RMS invoice during the facility closure and included in the agenda package is a memo received each month from Riverside as a true-up credit that is applied to each invoice. Based on the agreement the facility monitor and facility attendant are supposed to be onsite so many hours. When that doesn't happen a credit comes back to the district. Also since mid-March we haven't had that kind of service as well since the shutdown occurred.

As a result of discussions, we have had at other meetings, RMS is including on their invoice a timesheet, they provide as much transparency as they can.

May 12, 2020

Turnbull Creek CDD

**SEVENTEENTH ORDER OF BUSINESS      Acceptance of Audit Report for Fiscal Year 2019 (Presenter: Ernesto Torres)**

Mr. Torres stated the audit included in your agenda package was prepared by Berger Toombs, Elam, Gaines & Frank for fiscal year 2019 and is considered to be a clean audit with no findings or recommendations.

On MOTION by Mr. Wing seconded by Ms. Jordan-Burks with all in favor the fiscal year 2019 audit report was accepted.

**EIGHTEENTH ORDER OF BUSINESS      Discussion of Surplus Property (Presenter: Wil Simmons)**

Mr. Simmons stated I know we as supervisors are held to a higher standard and what came to my attention is if there is any type of surplus that the guys or RMS may have, I think we have to exercise very critical judgment and from a perception basis, we can't just help ourselves to anything that belongs to the district. It is just not a good look and it could be the wrong connotation because we are elected officials and that gets misconstrued. I implore all the supervisors including myself to refrain from anything that is surplus that you may want to help yourself to. Even ethically we really don't want those issues. We don't want those. Let's govern ourselves accordingly and let's remember that we are elected officials and we represent this community and the things we are taking belong to the community, it doesn't belong to us, it belongs to the community. Having said that, I want us to govern ourselves accordingly.

Mr. Wing stated I have a statement I want to read and request that it be included in the minutes.

Supervisor Labanowski has done many good things for this community during his tenure on this Board and I have often publicly commended him for his efforts. However, in recent months Supervisor Labanowski has demonstrated what I believe is poor judgement at best and perhaps serious ethical violations that betray the public trust. His behavior has been discussed in each of the past 4 Board meetings resulting in his being counseled by both the district attorney and the district manager. In addition, his behavior prompted this Board to pass a resolution limiting legal liability protections for a supervisor found to be acting outside the scope of their duties and responsibilities.

The first incident involved Supervisor Labanowski confronting several homeowners and their children over a violation of district policy that escalated to the point where the homeowner

May 12, 2020

Turnbull Creek CDD

called County Sheriff's Deputies to intervene. The homeowners involved attended the next board meeting in order to present and bring attention to the incident. Following a discussion with the district's counsel, it was made clear it is not appropriate for a Supervisor to act as an enforcement official in such matters.

At the following meeting, another homeowner addressed the Board citing a similar incident whereby Supervisor Labanowski had confronted him regarding district policy issues. Once again a discussion was held reiterating that policy enforcement by an individual supervisor is not within the scope of their duties.

At the next Board meeting, it was reported and confirmed that Supervisor Labanowski had removed district property for his own personal use. It was also confirmed that the property had not been declared as surplus and that no permission had been given to Supervisor Labanowski by either the Board or district staff to take this property. In a subsequent meeting with the district manager and district counsel, Supervisor Labanowski admitted to taking the property and as of this date, has neither returned the property nor even acknowledged any transgressions on his part.

In my opinion, these actions represent serious violations of the public trust and ethical behavior that should not be overlooked, nor go unaddressed. I regret that it has come to this but for the good of this community and this board I urge Supervisor Labanowski to voluntarily resign his position immediately.

Mr. Simmons asked Chuck, do you want to address this?

Mr. Torres stated he is on the line.

Mr. Simmons stated I think it is right to address that if that is what he chooses to do.

Mr. Labanowski stated I have one comment. It is a shame that it has come to this by a fellow board member, who I used to have a little bit of respect for. My issues are this was declared as debris and it was being thrown in the dumpster. Another individual took some of those stones that were being thrown in the dumpster and they took, yet nothing is being said about that individual. The concern I've got is prior to a new management. The previous management company was trying to save the district the cost of having those removed so they were putting them a little at a time in the dumpster and they were offered out to anybody that wanted to take them to get them out of there. So, I'm just going to leave it at that. It is ridiculous it has come to this. That's all I'm going to say.

May 12, 2020

Turnbull Creek CDD

**NINETEENTH 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.    Report on Number of Registered Voters**

A copy of the letter from the supervisor of elections indicating that there are 2,074 registered voters within the district was included in the agenda package.

Mr. Torres stated we do have a qualification period from June 8<sup>th</sup> through June 12<sup>th</sup> and Diana, you are in one of the seats that will have to qualify if you want to be elected and be on the November ballot. Mr. Simmons seat is also up for election. You have to visit the supervisor of elections office and register for election.

Mr. Wing asked would it be a sunshine violation if I shared with Diana the process of how that works?

Ms. Kilinski responded it is not. That is not a decision that will come before the board, so it is not a problem.

**C.    Operation Manager – (Presenter: Jerry Lambert)**

**1.    Report**

A copy of the operation manager’s report was included in the agenda package.

**2.    Proposal from Hoover Pumping Systems**

This item tabled.

**D.    Amenity Center Update (Presenter: Erick Hutchinson)**

Mr. Hutchinson stated I know graduation is coming up and someone reached out to me earlier. Would you like me to entertain the possibility of having the graduates drive around Positano and maybe write something on their windows saying I’m a graduate? There is not much I feel they can do but if that is something you would like I can put out an eblast on it.

Ms. Jordan-Burks asked is that like one of the parades they have been doing in other communities?

May 12, 2020

Turnbull Creek CDD

Mr. Hutchinson stated I don't have details because I haven't worked on specifics. My initial plan was that I could reach out to the fire department and maybe they can follow the fire truck. I tried numerous times and have left voicemails and I can't get through. I wouldn't be there to patrol it, but I could set a date and time saying if you want to participate in driving around maybe Positano from this time to that time you can write stuff on your windows if you would like. It probably wouldn't be much more involved than that just because of the pandemic parameters.

Ms. Jordan-Burks stated I think that would be a great idea as a community to support our seniors; they won't get that big moment that they would have gotten, every little bit helps.

Mr. Simmons asked can you put something on the marquee, on both the boards? Just congratulations to the Grads or something?

Mr. Hutchinson stated absolutely. When I send out an eblast I can say congratulations and I can put that on the mymurabella website as well.

Mr. Simmons stated I support the drive around too.

Mr. Labanowski asked when is the marquee going to be replaced on Positano

Mr. Hutchinson stated what I proposed before and got put to the wayside. I was hoping for an electronic board, but it would be a separate discussion at this point. I do have separate bids to put in an electronic board, it wouldn't include all the labor costs but it will give you an idea of what we can do with an electronic board. As to replacing what came down I don't have the numbers.

### **1. Discussion of Shared Revenue Report**

This item tabled.

### **2. Discussion of Fighting Turtles Swim Season**

This item tabled.

## **TWENTIETH ORDER OF BUSINESS**

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

**A. Approval of Minutes of the March 10, 2020 Meeting**

**B. Balance Sheet as of March 31, 2020 and Statement of Revenues & Expenditures for the Period Ending March 31, 2020; Month-to-Month Income Statement; Assessment Receipt Schedule**

May 12, 2020

Turnbull Creek CDD

**C. Approval of Check Register**

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

**TWENTY-FIRST ORDER OF BUSINESS      Supervisor's Requests and Audience Comments**

Ms. Venezia stated the HOA has already approved a digital board to replace the one that had fallen down by the mail kiosk on Positano. I think we have given pricing to the community. Why is that not being approved yet? Is there any particular reason why so we can get that going?

Mr. Torres stated if I have received an email on that matter I apologize because I didn't add it to the agenda or discuss it with the chair. I would think there would be some sort of agreement required if the HOA was going to provide property to the CDD and have it installed on CDD property. I will be happy to discuss it with you or whoever from the HOA and bring it to the CDD board.

Ms. Venezia stated we will have George send you an email regarding that.

Mr. DelBene asked it is a possibility to retain the use of Zoom on a going forward basis for the community?

Ms. Kilinski responded there is a possibility, I will leave it to Ernesto on what he is able to manage but from a public participation standpoint that is where that would come into use once the physical quorum waiver requirements come into play, you still have to have three members present to satisfy the quorum requirements but in terms of means of access for public participation your imagination is the limit.

Mr. DelBene stated the reason I'm asking is I know we have an issue with the public having access to our agenda at the meeting and if Ernesto was on Zoom managing the meeting like he is today he can potentially share his screen and the agenda would be available at the exact same time. A lot of people have requested a means of interacting and the Facebook videos I post are not interacting. I get ideas and comments and bring them to Ernesto afterwards. With Zoom we could potentially have a lot more interaction from the community that is unavailable to go to meetings. I don't think there are additional requirements that we need, it would be the setup while we have the meetings.

May 12, 2020

Turnbull Creek CDD

Mr. Torres stated I think it is going to be pertinent especially for the next four or five months as we get back to some sort of normalcy without all these phased reopenings. It would be logical to have a meeting with very limited capacity onsite and the alternate for that would probably be some sort of platform like this. I think it can be doable.

Mr. Simmons stated welcome Diana.

**TWENTY-SECOND ORDER OF BUSINESS    Next Scheduled Meeting – June 9, 2020 at 6:30 p.m.**

Mr. Torres stated the next meeting is June 9, 2020.

On MOTION by Mr. Wing seconded by Mr. Simmons with all in favor the meeting adjourned at 2:47 p.m.

DocuSigned by:  
*Ernesto Torres*  
3FE774DC69854A7...  
Secretary/Assistant Secretary

DocuSigned by:  
*[Signature]*  
4496DC3FD27449F...  
Chairman/Vice Chairman