

TURNBULL CREEK  
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Turnbull Creek Community Development District was held Tuesday, March 9, 2021 at 6:30 p.m. at the Murabella Amenity Center, 101 Positano Avenue, St. Augustine, Florida.

Present and constituting a quorum were:

Chris DelBene	Chairman
Diana Jordan-Burks	Vice Chairperson (by telephone)
Brian J. Wing	Supervisor
Chuck Labanowski	Supervisor
Jeremy Vencil	Supervisor

Also Present were:

Ernesto Torres	District Manager
Mike Eckert	District Counsel
Jason Evert	District Engineer (by telephone)
Steve Collins	JMT (by telephone)
Jerry Lambert	Operations Manager
Erick Hutchinson	Amenity Manager

The following is a summary of the actions taken at the March 9, 2021 meeting. An audio 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**

Mr. Prince stated all the trees east of the mailbox on Positano are in terrible condition. I asked Jerry to go to the agricultural center and they said they were the wrong trees and will never get any better. You may want to put in small trees to get them started.

**THIRD ORDER OF BUSINESS**

**Staff Reports**

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

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Mr. Lambert read into the record the maintenance items completed by Duval since the last meeting.

Mr. Vencil asked are ant hills only addressed when someone complains?

Mr. Lambert stated ant hills come to the surface when we get a lot of rain.

Mr. Vencil stated I walked all the parks in the last few days and there are ant hills on and underneath the play equipment.

Mr. Lambert stated I will address that.

**B. Engineer (Presenter: JMT)**

**1. Consideration of Topographic Survey**

Mr. Evert stated we were asked to obtain survey bids to help with the two areas, one of them started with a bid of \$16,800 for the two areas, one between the pond and the south part of the amenity center including the field area and the other one was the mailbox area near the San Giacomo Road by S.R. 16. One was for \$10,580 from Clarson & Associates and another was \$12,500 from Geomatics Corp. We would like to get permission from the board to proceed with whichever one you are comfortable with. They are both good professional companies we have worked with before.

Mr. Wing stated my preference would be to do the park because that is where the walking trails and things are. Along 16 where the mail kiosk is no one lives there and the sidewalk is a lot better based on what the county did. To me that is not a high priority at this point.

Mr. Evert stated I should probably clarify that we asked the surveyors to do both areas. The bids cover both areas. If we are no longer interested in the mail kiosk area we can go back and ask them to decrease the amount. So that we can keep things moving can we get a not to exceed amount unless you want to survey both areas for the amounts indicated.

Mr. Wing moved to approve an amount not to exceed \$8,500 to survey the park area and there being no second the motion died for lack of a second.

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On MOTION by Mr. Vencil seconded by Mr. Labanowski with all in favor a not to exceed amount of \$7,000 was approved for a topographic survey of the park area, however, if cost exceeds \$7,000 the Clarson & Associates proposal of \$10,580 for the park area and San Giacomo entrance was approved with Supervisor Vencil designated to review proposals with staff.

## 2. Discussion 1921 Amalfi Court

Mr. Evert stated we did respond to a homeowner complaint at 1921 Amalfi Court last week and looked behind the house along with several other houses on that side of the pond and found that there was an erosion issue where there were some gully formations from the top of the yard heading down to the pond. It didn't seem that the erosion was caused by the pond but runoff from the backyards or between backyards forming gullies underneath fences and worrying away the sod in some places to various extents. I could look across the pond and saw other locations on the other side of the pond that seemed to be having the same issue. I took photos and locations of where that was occurring and brought it back to the shop to discuss what could be causing that. I wanted to make sure it was okay for us to continue pursuing that issue.

Mr. Collins stated there are several repair options for these, the cheapest of which is just to replace it with dirt and sod, but that probably won't last. Also, if there is an erosion problem in the person's backyard we can't address that, we can only address the erosion problem of the common area. The better option is to use geoweb or fleximat, which is slightly more expensive. We need your direction as to whether we should be addressing the single complaint or do an assessment and try to prioritize and provide you the overall cost to address all of these.

Mr. Evert stated I don't know how extensive this issue is on other ponds. It seems like there are a number of locations around this pond or between the pond and the backyards of these residences. I don't know if this is something occurring throughout the entire property or not.

Mr. DelBene asked where was this pond on the priority list?

Mr. Torres stated we have identified areas on Amalfi at 1913, 1917, 1925, 1929, 1933, 1937 and 1916. The two I mentioned last were on the lower priority and the others are high priority.

Mr. Labanowski asked if we notice a spot that is starting to erode, how do we address that?

Mr. Collins stated we would get a survey and we have engineering details we have used in the past. There are different costs associated with each one and depending on the site we would

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recommend some sort of confinement, geoweb, to help secure that. It depends on the linear foot what the plan ends up being, it usually ranges around \$2,000 to \$3,000 per location for using geoweb and maybe \$5,000 per location using fleximat.

Mr. Evert stated these are in various degrees of erosion. Fill and sod is usually \$50 per linear foot and geoweb is about 25% more than that. I wouldn't recommend that if there is a problem there now, filling and sodding it, the problem will reappear, whereas if you stabilize it so the problem does not reappear.

Mr. Torres stated we have made provisions in the capital reserve to contribute yearly to these types of issues. This year is \$15,913 for lake embankment stabilization and for the expenditure of the same year \$58,349.

Mr. DelBene asked how much is it going to cost to investigate the length to find the overall cause and repairs?

Mr. Evert stated one of the things we need to do is go from pond to pond and do a pond assessment and rank the conditions then we can help you prioritize a maintenance schedule. This would allow you to be able to budget for these types of repairs in the future, but it sounds like you have already identified the problems around this lake. Is this correct?

Mr. Wing stated we have all the lakes done and there is a list of priorities. Stick with this one for now.

Mr. DelBene asked are we good with having them look at the lake and coming up with a solution then see where we go from there?

Mr. Labanowski asked can Jerry go out and find the worse ones because it is not just this lake, there are other areas that are real bad.

Mr. DelBene stated I understand but we already have a list of priorities. If they can go off the priority list and create an assessment of what they believe to be the appropriate fix we can do that.

Mr. Wing stated I want to do a walk through on the others and I will go with Jerry and take pictures.

Mr. DelBene stated JMT, let's do an assessment on this pond and after they share the actual priority list if there are any other ponds you want with Jerry and a supervisor, let us know and we can develop a plan from that.

Mr. Evert and Mr. Collins left the telephone conference at this time.

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**FOURTH ORDER OF BUSINESS****Discussion and Direction on Renewal of Duval Landscape Contract**

Mr. Torres stated we have had a lot of discussions about Duval's contract that is coming due at the end of the fiscal year. As we get ready to introduce the fiscal year 2022 draft budget if there is going to be a change to a major contract such as this one, it is better to know earlier than later. Staff can update the documents we use for the RFP and bid that contract so you will have accurate numbers for the budget. If we are going to amend Duval's contract and extend it then we need to know that.

Mr. Wing asked what is the competition now for landscape maintenance providers?

Mr. Torres responded each time we do an RFP we get a fair amount of response. It is not going to be a problem to get 3 to 5 companies to respond. Understand that every situation I find myself in considering RFP's I have never found a situation where you are going to get a lower cost for the services you are currently getting.

Mr. Wing stated even if we stay with Duval it could possibly go up.

It was the consensus of the board to develop and issue the RFP for landscape services to coincide with the fiscal year 2022 budget considerations.

**FIFTH ORDER OF BUSINESS****Update: County Traffic Light Project (Presenter: Mike Eckert)**

Mr. Eckert stated on the reimbursement side we are still waiting on that from the county. Jennifer talked to them last week and we don't anticipate it will be a problem, but we haven't received it yet. The other thing that got put into the amended agenda package is an engineer's certificate that was prepared by Mike Yuro saying this project was completed and it is final and we would be asking the board to accept that engineer's certificate. We will keep working on the reimbursement.

Mr. DelBene asked do you know what the total reimbursement is expected to be?

Mr. Eckert responded I don't, but I can send that to the board.

Mr. Torres stated it is between \$10,000 and \$11,000. When this project started we asked for about \$4,000, but because of other problems it exceeded that initial amount. We sent them an invoice a couple days ago and are waiting to get reimbursed.

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On MOTION by Mr. Labanowski seconded by Mr. DelBene with all in favor the engineer's certificate of completion for the traffic light project was accepted.

## SIXTH ORDER OF BUSINESS

### **Consideration of Murabella HOA/POA Meeting Room Use Agreement (Presenters: Mike Eckert/Ernesto Torres)**

Mr. Torres stated the document in front of you is a standard agreement that we use to rent this space. We ask that anyone who uses this space to adhere to certain things. The HOA uses this room on a frequent basis and at this point it is a gentleman's agreement. We are asking that we use the same form that we use with all rentals with the understanding that they are not paying, but we ask them to adhere to the same standards we use with any other rental. Such as, cleaning the room, setting up the room, putting the room back in the same order it was received and any other code or restriction requirements that we may have. This is no different than anyone else who rents this space.

Mr. Eckert stated the only other thing that Jennifer mentioned that would allow a reservation for 12 months, that would be another modification for consistency and make sure that it was available.

Mr. DelBene asked have there been issues with setting up and breaking down of the room?

Mr. Torres stated that falls on your CDD staff and we are extending the use of this space at no charge. The CDD accommodates the HOA.

Mr. Hutchinson stated their meetings happen on Mondays and per the contract when Vesta was here you don't pay us to be here on Mondays, but we do it.

Mr. Wing moved to approve the meeting room use agreement with the Murabella HOA/POA and Mr. DelBene seconded the motion.

Mr. Labanowski asked do we do this for all the groups, card groups, craft groups, we break down and clean up as well?

Mr. Torres stated this is specific for anyone that rents the space and we treat it as a rental. If there is a group that meets while staff is here such as club I don't think there is a problem.

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Mr. Hutchinson stated I have only had one club come since the pandemic and that is the book club that just started recently and they use that table over there and they are here for a couple hours and then they clean that table off.

Mr. Labanowski stated we had a card group in here as well. This is all homeowners so we are going to treat this totally different than the other groups meeting here?

Mr. Wing stated the groups meeting here are homeowners as well.

Mr. Labanowski stated we are going to treat the HOA totally separate than any other homeowner.

Mr. DelBene asked if we have a group that meets here on Tuesday, who sets up and who breaks down?

Mr. Hutchinson stated we never set up; the only thing we have ever set up for is HOA and CDD. If you want to rent this space, I just say we have tables and chairs available, let us know if you would like them we would make sure they are available for you. We don't ever do any type of set up and I always ask that they take out any trash to the trashcan. We wipe everything down and vacuum, I don't expect people to bring their vacuum.

Mr. DelBene stated it doesn't sound like it is any different.

Mr. Eckert stated I remember we did a community use policy when I was here for groups that were open to the whole neighborhood where they could come in and use the room for what was called community use. Unless you have rescinded that, that is still available for those types of club type situations. There is a maximum number of times they can use it in a year. They need to reserve.

Mr. Hutchinson stated that is correct and that was in place before we were here. They have to agree to the terms and it also has a \$150 deposit and then I have the dates.

Mr. Wing stated I don't think they are being treated differently.

On voice vote with four in favor and Mr. Labanowski opposed the motion passed.
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**SEVENTH ORDER OF BUSINESS**

**Presentation of Sunshine Law, Public Records Law and Public Officers Information (Presenter: Mike Eckert)**

Mr. Eckert stated I passed out to you, two PowerPoint presentations that our firm provided to 30 or 40 board of supervisors in Tampa earlier this year. We thought it would be good to go

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over the first part of that presentation. The second part of the presentation is tips for board members in terms of being successful and being a board member and avoiding some pitfalls.

Mr. Eckert gave an overview of the sunshine law amendment, the public's right to speak, reasonable notice and stated meetings must be open and minutes must be taken. Two board members can meet and talk about district business if those requirements are met. You could notice a meeting where two board members would come in and talk but the public has to be there and minutes have to be taken. Very few boards do that but that can be done. Typically, we provide seven-days notice and that is also the time we have to have the agenda ahead of the meeting. Board members are required to vote absent a conflict, board members not physically present may vote but they cannot constitute a quorum. You have to have three people physically there. Roll call votes are not required and secret ballots violate the sunshine law. Sunshine law applies to all forms of communication, emails, verbal conversations, phone conversations, texts, social media posts that are responsive to another board member's social media post. We have penalties, criminal penalties, civil penalties, removal from office, civil lawsuits and the issue that action taken by a board in violation of sunshine law could be considered invalid but there are some cure provisions. We talk about committees from time to time and if it is a factfinding committee solely you can have a committee and they are not subject to the sunshine law. I will tell you that in all my years of doing this I have never found a committee that could restrict themselves to factfinding they always want to provide a ranking or recommendation or they want to weed out bad options and once they start doing that it is no longer factfinding. I encourage you to not engage in creating committees.

There are exceptions to the sunshine law in dealing with litigation that is pending, security systems, and a few other ones. You can talk to another board member outside this meeting as long as it isn't about something that is going to come before this board for action or discussion. Social media is one of the areas where board members are continuing to probably not listen to our advice and that is a statewide phenomenon. We believe that social media is good for getting the word out for announcements, for things that are purely factual, but what we see is board members from time to time trying to sway the community towards a particular position by using social media. We found at the end of the day at least in our opinion it is not really effective and the one thing I would say about social media, emails, all that a one-way communication between board members technically is not a violation of the sunshine law, but if I'm a board member I look at it as a tennis



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match, I hit that ball across the net I don't know what's going to happen, if it gets hit back then both board members have a problem. I strongly encourage you not to hit the ball over the net in the first place in terms of communicating with other supervisors even though that is something that is not prohibited by law if it is a one-way communication. Any other social media post is still subject to the public records law so if you have text messages, social media posts, all of those you have to figure out a way to preserve that because if we do get a public records request for a social media post by a board member about CDD business we would have to figure out a way to produce that.

There is more in this presentation about pitfalls and best practices. The second part is maximizing board member success and those are just defining the roles of the board members, defining the roles of the chairman and giving some suggestions on how board members that we have seen are most successful in how they address things and one of the things that they do is tackle issues and not personal. When they focus on the issues we find that we have pretty efficient board meetings. When I was here before this board was doing really well and I'm happy to be back and happy to answer any questions. The other thing that is probably coming this year and it has already been filed is a requirement that all board members have four hours of ethics training each year. That may get changed to each term but it is already a requirement for city council members and county commissioners. This year it is proposed to be special district board members as well.

## **EIGHTH ORDER OF BUSINESS**

### **Discussion of Traffic Calming Study (Presenter: Ernesto Torres)**

Mr. Torres stated Supervisor Vencil asked that this item be added to the agenda and I will open the floor for discussion. In research of St. Johns County traffic calming procedures, it is lengthy. We haven't had that kind of discussion with this board. These are county owned roads and there is a process that the county outlines for any traffic calming devices.

Mr. Vencil stated the reason I asked to put this on the agenda is we see some constant themes with communication within the neighborhood. One thing that comes up is people driving too fast, not stopping at stop signs, not paying attention, concerns about safety. This is something the county offers and it is not an immediate fix but why not look into it and if we can quantify the problem have the county help us with determining how we can alleviate the problem.

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Mr. DelBene stated the county doesn't help us, they tell us. When that study is underway the solution is not negotiable.

Mr. Vencil stated the solution goes to a vote and that vote requires 75% of the people who return their votes to approve it. If the community is not in favor of it, it doesn't happen.

Mr. DelBene stated the turnout for that is going to be incredibly small and I know this for a fact because in another community they did the same study and they found the speed limit was illegally posted by the builder and that increased the speed limit from 20 mph to 25 mph but people were complaining about speeding.

Mr. Vencil stated I'm okay with whatever the findings are. I don't have a huge problem with the traffic and I live on a very high traffic road at the Pescara entrance and people come in there very fast. Let's initiate the process and see what the county comes back with. They do single spot studies and neighborhood wide studies. I'm more interested in a neighborhood wide study, because it is not a specific area that we get complaints from, it throughout the neighborhood.

Mr. Vencil moved to authorize staff to initiate the process of a traffic calming study with the county and Mr. Labanowski seconded the motion.

Mr. Torres stated there might be a cost associated with this. It is going to require a 100% mail out to anyone who lives within the boundaries and I'm sure the county is not going to pay for that. Once I get to a point where I have more information as to how much it is going to cost and the process, I will bring it back to the board.

On voice vote with all in favor the motion passed.

## **NINTH ORDER OF BUSINESS**

### **Consideration of Resident Suspension Letter**

Mr. Eckert stated this is related to Chuck Labanowski, the date of the incident was January 26, 2021, the hearing date is today, March 9<sup>th</sup>. The board has previously been provided with copies of the suspension letter and the amenity facility policies that were revised in July 2019 and he has previously been provided with the letter of suspension via email dated February 1, 2021. Under the suspension and termination of privileges 3C, exhibits unsatisfactory behavior and 3F treats the district's supervisors, staff, general amenity management contractors or other representatives or

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other residents or guests in an unreasonable or abusive manner. The policy is applicable to swimming pool, fitness center, it talks about if there is a disregard or a violation of the district's policies that a suspension is appropriate. The place it occurred was at the amenity center and at this point in time I ask Jerry to briefly describe what happened.

Mr. Lambert stated I had a statement and I don't want to add to it or take away from it. Chuck came to the parking lot on January 26<sup>th</sup> inquiring about why we were putting the bocce ball court where it was. He mentioned a week earlier to stop work on there and I contacted the district manager and we went through the proceedings at the last meeting and it was okay for me to proceed. I proceeded with it and at that point Chuck came up there to talk about it and he was not happy that we were continuing with it, that it was approved in the other area by the soccer field and I explained that it was not approved there. We went through the tapes and that is when we proceeded to go over there and at that point he was upset and you can see the anger in him about it. I was staying calm I felt that I needed to. When he finally left I came in the building to document this because I felt threatened. What I put in the statement was truthful. I emailed the district manager and I wasn't going to tolerate this in the future because this is how things escalate and get bad.

Mr. Eckert stated thank you Jerry. I think we have that witness statement.

Mr. Lambert stated I want to add one more thing to that. Another thing that came up again is the tabby stones and I explained to him that I did not spy on him; this was last year and he insisted I did it again so it came up again. This is when I knew he still holds a grudge.

Mr. Eckert stated I ask that the following documents be attached to the files for the suspension record; the policies regarding the district amenity facilities dated September 2019, the policy violation report and witness statement, which is what Jerry referenced and the minutes from this meeting and on page 21 of the policies, the first offense is a verbal warning, second offense is an automatic suspension for up to 30 days and third offense is suspension of amenity privileges for up to one year. At this point I would just ask what the staff recommendation is and then at that point we would ask Mr. Labanowski to say whatever he would like to say about the incident. It is his opportunity to talk to the board.

Mr. Torres stated we discussed it during our agenda call with staff and based on when this occurred and not having a meeting last month and having to wait until March to present this to the board, we feel comfortable with the time served from when it occurred until today and move on.

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Mr. Labanowski stated I want to apologize to Jerry, Erick and Lou because you were out there. I was upset, there was a lost communication about the location and approval of the location because it was not brought up as approved to change that location. I was very upset that things were happening and a couple instances I wasn't told the truth about the scenario. I want to apologize to you. Ernesto, I also want to apologize to you personally for getting you involved with this especially with a new board member. I want to apologize to the chairman that he had to get involved with this.

Mr. Wing stated this is not the first or second time, this is the fourth incident in less than two years about very similar behavior. It is certainly a pattern. The first homeowner who came to talk about abusive behavior even in their statement they said they called the police to deescalate the situation and according to the homeowner when the police officer came back he said don't worry, you are not the first one, this person is a repeat offender, we get multiple calls about this person. It seems to be a pattern. The one-month suspension and it was a second offense I would say fine. In my mind this is the fourth and I recommend a year's suspension.

Mr. Eckert stated I don't have four incidents that were documented in the district's records as disciplinary, written warnings.

Mr. Wing stated Ernesto can attest to that. They are in the minutes, by Jennifer and Ernesto was twice.

Mr. Torres stated we had incidents and they are documented in the minutes. There has never been a suspension issued for those incidents.

Mr. Eckert stated if you are talking about your first suspension out of the gate is a year, that would be a little irregular based on what I have seen. I have seen a first suspension for a year but that was for an assault and battery. You make the business decision it is not my decision. I'm just telling you I do have a concern if there is no suspension then it is a year for a verbal altercation.

Mr. DelBene stated we all signed an agreement to not act outside our scope. I appreciate your apology to the people who are affected. I have attended meetings before I was on this board and this board has always had a question about how it will impact our insurance, our liability so we signed an agreement to not act outside our scope and accosting staff members is outside our scope. It doesn't matter if it is something material in relation to a board meeting, there is no way we would allow a resident to treat a staff member that way let alone a supervisor. I agree with Mike, I don't think the first suspension even with previously documented actionable items should

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be a year; this board never took those steps. If there were previous suspensions we could act on a year's suspension. Jeremy, you are new and if we act outside the scope we won't be represented by counsel it will be entirely on you. I want to throw that reminder out to all board members that if an issue arises you call GMS and they will handle the issue.

Mr. Vencil stated this is my first meeting. I take being on this board very seriously and I feel as though we should be held to a higher standard than other members of the community. This entire thing troubles me quite a bit. At the same time I would take into account that the amenity staff and manager have decided the amount of time he has been suspended already is sufficient and they are the ones that were harmed in this particular situation. I would be likely to support them in their recommendation because they were the ones who had the offense done to them. I am on the board and if someone has multiple offenses as a community member I would not feel trust in leadership if that person continued on the board. At the moment I feel comfortable going with the recommendation but if there were more documented offenses in the future, I would be hesitant to be lenient in any way.

Mr. Torres stated Supervisor Burks is on the line and she can hear us but is unable to speak to us and she concurs with Jeremy.

Mr. Eckert stated you will need a motion and second to either lift the suspension or extend the suspension.

On MOTION by Mr. DelBene seconded by Mr. Vencil with three in favor, Mr. Labanowski abstaining from the vote due to a conflict of interest and Mr. Wing opposed the resident suspension was lifted.

## **TENTH ORDER OF BUSINESS**

### **Staff Reports (Part 2)**

#### **A. Attorney - (Presenter: Mike Eckert)**

##### **1. E-Verify and Memorandum of Understanding**

Mr. Eckert stated this is one of the bills that was passed by the Florida Legislature last year that requires all local governments who have employees or all local governments who engage in contracts has to now register for E-Verify, which is to confirm the employment availability status for someone applying for a job. I don't think you have any employees you have all independent contractors and you still have to register and if you believe that a contractor that you have a contract with is not complying with E-Verify you have a duty to terminate that contract. They also have

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duties, not to use subcontractors who are not complying with E-Verify as well. If you should learn that there is a subcontractor who is not using E-Verify correctly you would notify the contractor and the contractor has responsibility to deal with that subcontractor. It is necessary that the board enter into the memorandum of understanding with the Social Security Administration and Department of Homeland Security that allows you to participate in the E-Verify program. It says in there that you can withdraw from the program whenever you want, however, that is not what the Florida Legislature says.

On MOTION by Mr. DelBene seconded by Mr. Wing with all in favor execution of the E-Verify Memorandum of Understanding was approved.

**B. Manager – Electronic Devices (Presenter: Ernesto Torres)**

Mr. Torres stated I will be bringing the electronic devices to the meetings. This board was already receiving electronic copies of the agenda packets, but for your convenience you don't have to bring your own device to the meetings, you can use ours.

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

**1. Memorandum**

Mr. Lambert gave an overview of the site manager's report, copy of which was included in the agenda package.

**2. Field Operations Manager Picture Report**

Mr. Hutchinson gave an overview of the amenity manager's report.

**3. Duval Audit Reports**

Mr. Lambert stated I'm still doing a daily auditing with Duval Landscaping with a weekly report.

**4. Consideration of Spare Pool Pump Proposal**

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Mr. Lambert stated the main pool pump went out and I repaired that for \$35 or it would have cost \$2,800 to have the pool company come in. I have proposals to purchase a spare pool pump so that we never have to shut down the pool if it should go bad.

On MOTION by Mr. DelBene seconded by Mr. Vencil with all in favor staff was authorized to purchase the spare pool pump from Pool Supply in the amount of \$5,628.47 and use the funding from the reserve for the mushroom water feature.

## **5. Playground Mulch Proposal**

This item tabled.

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

#### **1. Discussion of COVID Protocol in Fitness Room**

Mr. Hutchinson stated I want clarification as to what exactly you want to hear from me about COVID protocol in the fitness room.

Mr. DelBene asked is there any county protocol that requires masks in public facilities anymore?

Mr. Eckert stated the state rule was that the counties couldn't; that doesn't mean that people are adopting them countywide. Then there are private businesses and we have the right to control our facilities how we want it as well. Whether or not St. Johns County has one right now I am not aware of, but I can find out and let you know.

Mr. Wing asked what is going on in some of the other communities that you manage?

Mr. Torres stated for facilities, fitness centers and such, no masks. When it comes to the meeting room at this point the majority still limited rentals with limited capacity so they are still exercising social distancing as best they can in these kinds of facilities.

Mr. Wing asked are they requiring masks in this type of room?

Mr. Torres stated yes, the meetings I attend we have to wear a mask.

Mr. Wing stated I'm in and out of the fitness center a couple times a day and I never see more than three or four people in there at a time. I can see dropping the mask requirement there. If you want to wear a mask no one is going to stop you, but I don't know that we should require them.

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Mr. Hutchinson stated I will abide with whatever you decide. It is hard to manage, for the most part people are trying to comply and there will always be a couple people who will do whatever they want. The difference between this room and the gym is you go in the gym at your own risk, nobody is forcing you to work out. Clearly you are going in there because you are comfortable whether you are next to someone that could potentially have COVID or not, that is the risk. The difference being in here is it is a requirement for us to be here, but you are elected officials, we are staff and there is a requirement that we are supposed to be present. If we choose not to have them, that is fine, I can go either way, but I want to differentiate the difference between this room and the gym.

Mr. DelBene asked do you want to talk about the air purifier before we make a decision on this?

Mr. Hutchinson stated yes. Next to you on the table is literature on an air purifier. Stacy Faulk a resident here in Murabella sells those units and she might be on the line. I don't know much about the unit; I can tell you the cost and what it supposedly does. It is a portable unit, runs about \$1,300 which is a discount from the normal retail price. It says it kills 99.93% of airborne, SARS, COVID, virus in three minutes in a 3,000 square foot room. It is NASA approved.

Mr. Lambert stated it doesn't clean the air it filters air through it. It blows out ionized particles that attack everything that is bad.

Mr. Vencil asked what kind of filters are on the air conditioning units? I know you can upgrade to a MERV 13 or higher and it will do the same thing.

Mr. Hutchinson stated currently we have basic air filters that we switch out.

On MOTION by Mr. Vencil seconded by Mr. DelBene with all in favor face masks will be optional for all residents and guests visiting the amenity facilities.
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## **2. Consideration of Proposal from the Joy of Tennis Academy**

Mr. Hutchinson stated the last item is the Joy of Tennis. Herald Hardy wants to bring tennis to Murabella, he has about 50-years experience. He has taught at King & Bear and Heritage for the past two years and has been a tennis vendor for several other states. He specializes in teaching kids 3 to 15 and he also teaches adults who want to stay in shape. He is trying to bring two different things to Murabella, one would be a summer camp to start June 14<sup>th</sup> and ends July



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23<sup>rd</sup> for two different age groups, 5-7 and 8-12, the first would be from 9:00 a.m. to 10:30 a.m. and the second one from 10:30 a.m. to 12:00 p.m. Monday through Thursday. He also wants to provide tennis lessons for residents, he would have a couple different groups, tots 2 – 5 for \$40 for ½ hour, private \$55 for an hour, semi-private \$65 per hour and clinics \$25 per hour. He will give back 10% of whatever he makes to the community. He is insured and will comply with anything we ask of him.

Mr. Wing stated I would not like to see four days a week a full half day taken up.

Mr. Vencil stated it is only for three weeks. We have people who use the courts pretty heavily.

Mr. Eckert stated we would need an agreement with him and it really is a recreational offering of the district to the community and that is what it would be, because typically you don't make your facilities available to a franchisee of Subway to come sell sandwiches out here.

On MOTION by Mr. Labanowski seconded by Mr. Vencil with all in favor the proposal from Joy of Tennis Academy was approved subject to it being limited to one court, 10% shared revenue and district counsel was authorized to prepare the agreement.

### **3. Consideration of Air Purifier**

This item discussed earlier in the meeting, but no action was taken.

## **ELEVENTH ORDER OF BUSINESS                      Supervisor's Requests and Audience Comments**

Mr. Wing stated I was contacted by a homeowner who lives adjacent to Pescara Park concerned about one of the oak tree's roots going under the fence and she has a pool and is worried about the roots being a problem. I didn't go inside the fence, but I looked at it from the outside and there are some pretty big roots heading her way. I stopped at the forestry office and asked him if we cut the roots as far away from the tree as we can but before it gets to private property would that likely kill the tree and he said probably not. Those are more stabilizer roots opposed to feeding roots. My suggestion would be to cut the two big roots right before it hits her fence.

Mr. Lambert stated I talked to Mike about how he would do it and they would dig them, cut them and put something on the end of the root. Those trees are getting so big that all the trees

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along that fence are going to have to eventually come out because they are all impeding on that property. It is going to be an ongoing problem going forward.

Mr. Eckert stated you have the discretion to do that and trim the roots, just understand that Florida Law treats roots the same as the tree's branches and if the root or branch crosses into my property as a homeowner, it is my obligation to prevent damage to my property and cut the root or cut the branch at my property line.

Mr. Wing stated then maybe that is what we do. The bocce courts are done, they are starting to get some use. I want to see if the board would have any objection to putting a notice out that if anybody is interested in league play and if we got interest to schedule a couple times a week, maybe one during the day one on the weekend for a 2-hour period where they would be reserved for leagues to play.

Mr. Hutchinson asked who would you like to manage that, myself or would you like me to include in the email for someone to contact them about league play?

Mr. Wing stated I would volunteer to get the league going, I'm not doing this into perpetuity hopefully I can find someone else who would help too. Is there any objection to working with Erick to reserve that for league play and for him to put it out and use me for a contact?

Mr. Hutchinson stated I will be happy to put out an email blast.

There were no objections to staff putting out a blast email for league play.

Mr. Vencil stated at the pool gate there is a button on the inside where you can exit you don't need your card but that is not the case with the amenity field gate. You can't get out of the gate unless you have the key. Residents are just not letting the gate close. Any time there are three or four people out there, that gate is not secured in any way. Why do we not have a release on that gate as we do on the pool gate?

Mr. Hutchinson stated I wasn't here at the time and I don't remember who told me this, but my understanding is because there were neighboring communities using the fields for illegal purposes. To prevent that from going any further it was intentionally not placed there to limit the access.

Mr. Vencil stated that is to get out not to get in. I would like to see what it would take to get a button posted on a post four or five feet away from the gate so you can't just reach in and tap yourself in but you can see this is how you get out of the park. If we could get some numbers on that I would appreciate that.

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There is a little bit of graffiti on the play equipment at San Marino and we need to get that sanded off. I know you keep on top of it as best you can, I just happened to notice it the other day.

I want some feedback on meeting frequency. We don't meet as frequently as some of the other neighborhoods that are a similar size to ours. I would appreciate the ability to address things more timely as some of the other communities do. I have seen monthly meetings some have ten meeting a year and I don't know why we are not.

Mr. Wing stated we had monthly meetings but stopped that as a cost cutting measure because every meeting there are costs associated with it, including the attorney's time, engineer's time, supervisors' fees.

Mr. Hutchinson stated this was before you came but anything that needed attention prior to a meeting we have had executive sessions in the past.

Mr. Torres stated Jeremy just so you know things like the graffiti you mentioned you can reach out to staff.

Mr. Vencil stated I'm talking more about issues where we needed to discuss things such as should we lift Chuck's suspension. That happened right after the last meeting and it is just hanging out there and that is not something I would like to have hanging out there if I were Chuck or as a member of the board.

Ms. Burks asked don't we have special meetings we can hold for example that situation could we have not held a special meeting for that?

Mr. Torres stated we could. Between meetings I take a lot of direction from the chair in consultation not only with my comments and opinion but also with district counsel. Sometimes we try to save special meetings that are not discussed in the public forum we save those for emergency type items, life, death or safety of the public and that nature. That item did not meet the threshold for me to recommend a special meeting for that. Special meetings have to be advertised, that is an expense and we would have to pay four supervisors \$200 to attend and that would have been an expenditure of over \$1,000 plus Jennifer's time which is \$1,500 per meeting. There are a lot of things that come up between meetings.

Ms. Burks stated if we set monthly meetings we are going to be paying a great fee to do that.

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Mr. Torres stated right, you have to consider all those expenditures. A lot of your professional services that have been budgeted are budgeted based on the schedule that is approved at the beginning of the year.

Mr. Vencil stated I'm not saying to schedule it for the rest of this calendar year, I would like to think about this as we are proposing a budget for next year, whether or not we are meeting frequently enough to handle things expeditiously in the community. When budget discussions come up I would love to discuss extending our meeting schedule to the meeting schedule in comparable neighborhoods in our county.

Mr. Torres stated we have many districts that meet during the day if you want to compare us to other Districts. Beginning in May we can adjust our budget lines to accommodate more meetings if that is what the board decides to do you can look at that and consider it.

Mr. Vencil stated are some parks have more doggie stations than other parks. I don't know if this has been adjusted recently. Is there a reason why they were put in specific places? Can you email the board and let us know where all the dog stations are currently located?

Mr. Lambert stated I can do whatever you want.

Mr. Lambert stated keep in mind that you spend about \$300 a month in dog bags so if you want to add more it will cost more.

Mr. Labanowski stated there is a map of the doggie stations somewhere because I was looking at it yesterday.

Mr. Lambert stated send it to me if you find it.

Mr. Labanowski stated we have all the entrances covered with bulletin boards. What does it cost us for one bulletin board?

Mr. Lambert responded \$2,000.

Mr. Hutchinson stated the posts were already in place so that would be an additional cost.

Mr. Taylor stated I thank you for all the work that you do. I served as a supervisor of the CDD at Fleming Island Plantation 15 years ago, you have a thankless job. My wife and I want to put a pool in the backyard. I talked to the county engineer and he said you have an 8-foot easement, the county engineer said there was 35-feet between the property line and the waterline and 200-yards of access to the pond, which I have given you an overhead picture of. It won't impact anything and he sent me the information to have the release of easement done and according to the county it is recorded that the easement belongs to the HOA. My wife and I already lost \$10,000

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on this and I will tell you why. We went to the county and got everything together and did our HOA request, met with Chuck and he was kind enough to say you have an 8-foot easement and I had it taken care of because I already talked to the county. We did the request to the HOA, submitted everything to the HOA, got the contractor in line and were ready to go and the HOA said, we are sorry but we don't have the authority to grant you the easement, it doesn't belong to us we deeded it to the CDD. The county doesn't even have that recorded properly in the engineer's office. We tried to get it on your agenda with Ernesto and Jennifer and we were just unfortunate. We are asking that you will consider our request because it will be another two months before you meet again and once you review the request and make a determination then we have to go back to the HOA. The lender funded \$110,000 for our pool project, they sent us the money in 72 hours, we had the HOA meeting the next day, we thought it would be okay and got the roadblock then I had to go back to the lender and say we have to wait, I signed the contract with you I can't spend the money on anything but the pool. I wired the money back to the lender today, it was a \$7,500 penalty. I can't wait two more months to hope you will review our request and wait another month to get on the HOA agenda again just to try to build a pool in the backyard. We have 25-feet from the back of our property to the end of the property line, 8 feet are easement. We have a wrought iron fence and there is 40-feet from the property line down to the water line and 200-yards of access to the pond. Our request is that you will consider giving us the easement, if you give us the full easement we would be elated because we could push the pool back farther on the property. If you will give us half the easement we will still walk away happy.

Mr. Eckert stated this issue comes up from time to time in different communities and some communities take the position that they are not going to give up any of the easement and some communities are willing to give up portions of that easement but only after their engineer has looked at it and said that easement is excessive and therefore you can give up a few feet. That is an engineering determination whether or not we need that (1) for access and (2) the issue of rebuilding the pond bank if that ever needed to be done and running equipment all along the pond bank. That is an engineering question not something that I can answer. I don't have any communities that give up the easement without an engineer saying this is extra I don't think you are going to need this. Once you give up that easement if you have to redo that pond bank, now you have to pay the property owner for taking out their pool and paying them the value because you no longer have that easement right. It is usually based on an engineering determination that

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there is no harm in giving up that easement right. I did a search on our document management to see if there were any release of easements we have done here and I couldn't find one but I also saw the pictures that the homeowner provided.

Mr. Taylor asked if the CDD engineer says that it won't impact the CDD adversely and Mr. Paulson is the engineer with the county who has said he is happy to talk to the CDD engineer and share his thoughts that there is no issue with our request, would the board consider approving our request provisionally based on the engineer's review with either the 4-foot or 8-foot release of easement? That way we will not have to wait two months to come back and ask you this again.

Mr. Eckert stated if you do consider a motion today, this wasn't on the agenda so you didn't have a period where neighbors who would have some input have that ability, but the law requires you to take public input from anybody who is on the phone or in the room before you take a vote.

Mr. DelBene asked if we take any action on this are we good or not?

Mr. Eckert stated you are good as long as you ask anybody in the room or on the phone if they have any comments; you can address it in that way from a legal standpoint.

Mr. Labanowski asked from a legal standpoint we already turned down two homeowners and had one remove the edge of their pool and entire decking out of the easement area. Is that going to hold us liable for a possible lawsuit down the road?

Mr. Eckert stated anybody can sue anybody I don't know when that was and I'm sure that was an engineering based decision. This is the protocol we go through with every district, we look to the engineer and say is there an engineering reason to be concerned about releasing this easement. If they say yes it is a concern or if they say you shouldn't release more than four-feet then usually board will work with that. Some boards don't want to get into this and say we are not going to release anything. That is a business policy decision for you to make.

Mr. Wing stated even if we decided to have the engineer, that is going to incur a cost for us.

Mr. Taylor asked how much will it cost for the engineer to look at it?

Mr. Eckert stated it is usually a few hundred dollars for the engineer to look at it, then a recording fee, then a surveyor who is going to have to prepare a metes and bounds legal description of the release area and to pay your attorney to prepare a release of the easement, which is the document that gets recorded or reimburse the district for the cost if we prepare it.

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Mr. Taylor stated the surveyor's fee is nothing of consequence given what I have already lost. The county has given me a "go by" and I gave you exactly what the county engineer gave me for the recording for the release of the partial or full easement and they told me that they weren't concerned about the metes and bounds because my survey already exists and shows, it is just a release of 4-feet of the 8-foot easement or the full release of the easement because my survey already plats out what my property line is. I'm not asking for your property I'm asking to use my property that you have an easement on.

Mr. Eckert stated you don't have a true north/south boundary.

Mr. DelBene stated that is why you need a survey.

Mr. Taylor stated I will pay for the engineer, the recording and if it requires a surveyor then if we proceed with your approval I will pay for the surveyor. I will not proceed with anything without me paying for it after you approve and the engineer approves. There will be zero cost to the district.

Mr. DelBene moved to approve the release of 4-feet of the easement at 452 Porta Rosa Circle subject to final review and approval by the engineer with all costs to be paid by the homeowner.

Mr. Labanowski stated I don't want to approve anything in advance without something in writing documented as far as they are going to pay for this and they are going to pay for that and we are responsible for this.

Mr. Wing stated I'm not comfortable approving something that goes into an easement after we made people take stuff out.

Mr. DelBene asked are there any public comments regarding this issue?

A resident stated when I built my pool my pool was going to be within 5-feet of the property line and the county approved it and the HOA wasn't in existence then, it was the CDD run by the builder and he allowed me to put my pool there even though a planter was going to be about 6" – 8" up to the property line, within that 5-feet. It was over the property line it was within the 5-foot they didn't want me to build on.

Mr. Taylor stated obviously I am not going to spend any money until I get an approval from you that the engineer said it is okay. You won't be paying for anything. I will use for whatever document you want me to use and I will pay for the lawyer's time to prepare it.

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Mr. Eckert stated the engineer is going to look at it and say, this is extra easement you don't need it for your pond bank, therefore, I'm okay with releasing it or he is going to say no, you really need this easement or there is a consideration if you release this it is going to cost more money when we have to repair that pond bank because you can't use the easement there. If he says anything like that you will be hearing about it in May. I will work with them.

Mr. Torres to clarify the Board's intent is if the Engineer does not give his approval or leaves questions for the Board to further discuss the release is denied? Board gave consensus.

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

**TWELFTH ORDER OF BUSINESS**

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

- A. Approval of Minutes of the January 12, 2021 Meeting**
- B. Balance Sheet as of January 31, 2021 and Statement of Revenues & Expenditures for the Period Ending January 31, 2021; Month-to-Month Income Statement; Assessment Receipt Schedule**
- C. Approval of Check Register**
- D. Consideration of Proposal from Fighting Turtles Swim Team**

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

**THIRTEENTH ORDER OF BUSINESS**

**Next Scheduled Meeting – May 11, 2021 at 6:30 p.m.**

Mr. Torres stated the next scheduled meeting is May 11, 2021 at 6:30 p.m.

On MOTION by Mr. Wing seconded by Mr. Vencil with all in favor the meeting adjourned at 9:42 p.m.



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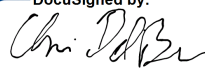
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Chairman/Vice Chairman