

TURNBULL CREEK
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Turnbull Creek Community Development District was held Tuesday, August 10, 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
Brian J. Wing	Supervisor
Chuck Labanowski	Supervisor
Jeremy Vencil	Supervisor

Also Present were:

Ernesto Torres	District Manager
Jennifer Kilinski	District Counsel
Steve Collins	District Engineer
Jim Schieszer	Riverside Management
Erick Hutchinson	Amenity Manager

The following is a summary of the actions taken at the August 10, 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

Public Comments

Ms. Randolph stated Jamie is passing copies of aerial views of a large hole by her home and there is no sign of irrigation between the homes, there are no downspouts in the drain. This hole is 14 feet long, 7 feet wide so contrary to what was said at the June meeting about swales behind houses, there are no swales causing this problem. Duval Landscaping has to use a weed whacker to cut it they can't go over it with a lawnmower. Jamie's problem is most definitely your problem since it has been on the books since 2017 or earlier and was not resolved. We would like to see this come to a resolution, use the money in the budget to improve the perimeter of the outer

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areas of the Murabella community. It is a safety issue as discussed at the June meeting about kids coming onto her property and falling into this hole. When can we expect it to be repaired? The pond banks were to be fixed in 2017 but it was dropped. I would like this done ASAP.

THIRD ORDER OF BUSINESS

Staff Reports

A. Landscape Manager (Presenter: Duval Landscape)

1. Inspection Checklist

Mr. ----- stated as far as the list goes the list goes the only thing I have left that I need to get taken care of are the cedars at Ragusa and I was waiting to find something the size of the ones we have now, because when they planted them they planted small ones and smaller ones will not look good. I have some being shipped to us and I will do it at one time so it is completed at the same time.

Mr. Wing stated we got a grant from the Florida Forestry Department, check with them they will probably put them in at no cost.

B. Engineer (Presenter: JMT)

1. Consideration of 2021 Consulting Engineer's Report

2. Consideration of Proposals for 2021 Pond Bank Maintenance Project

Mr. Collins stated the first thing I want to bring to your attention is that for the specific areas of the pond banks that had been brought to our attention the largest pond in the center of Murabella we sent an RFP to repair the pond banks of almost 3,000 linear feet. We sent it to nine companies, gave them two weeks to respond and we received two responses. One from Solitude Lake Management their response was not what we had asked for, they proposed another solution, which was something they call a dredge sock. We asked to have some of the fill brought in because the slopes are fairly steep and grade them back to what they were per plan, which is a four to one slope and put geoweb soil stabilization matting down and the put sod on top of that. They proposed a dredge sock where they would dredge the bottom of the pond and put this vegetative material down and they had photos on their website and it looked nice but it would probably have a smaller footprint in terms of how much of the common space would be disturbed but it is not what we asked for and it is also fairly expensive. The other response was from Boudreaux's Pro Grade and some of our construction folks have worked with this firm before and recommended them. They

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recommended importing fill up to 1,400 cubic yards that seemed reasonable, putting geogrid down and St. Augustine sod and their bid was \$126,000, which surprised me because that is less than \$50 per linear foot, which is far less than we normally see for this type of work. I recommend that the board if you are able to, contract with Boudeaux to repair that particular pond.

The other thing I want to bring to your attention is for the master trust indenture we put together that report for that purpose and everything was in good working order. I did an inspection of all the amenities and facilities, ponds and found a number of things I did not want to include in that report because there was no time for you to review or repair. Something to bring to your attention is that 11 out of 21 ponds do have some bank erosion and I think that is something that will have to be addressed eventually. It is not an issue now but in a lot of cases there is a vertical bank, some only 6" in some cases 12-18" and that is going to get worse over time. A lot of these things can be monitored but it is something that needs to be on the 10 or 15 year look ahead to do these repairs. If anything, just because it is a liability issue where the intent of the pond banks is to be four to one and that is a safety issue.

I didn't walk the perimeter of all the ponds, but if you would like me to put this into a report with some recommendations, I would be happy to do that. Apart from this singular location you recommended to me and I got the bid for, I did notice on the pond just northeast of Bellagio Drive there is about 75-feet of bank failure and the whole pond bank is falling apart and that seemed pretty severe.

I also noticed on Murabella Parkway and Positano Avenue the bank has eroded to the point that the outlet structure is completely undermined and if you don't repair the bank, the structure is going to collapse and you would have to repair the structure and it would be more expensive.

I also noticed a small sinkhole by the small pond in the middle of a common areas that seems to be caused by a broken pipe. I'm not sure if you have maintenance staff able to fix that kind of thing or if we have to put that in a repair work order with a contractor.

Mr. Wing stated I suggest we discuss at a future meeting having vegetation around the ponds that are just starting to show erosion, which seems like a better solution.

<p>On MOTION by Mr. Wing seconded by Mr. Vencil with all in favor the proposal from Boudreaux's Pro Grade, LLC in the amount of \$125,964.20 was approved with a start date of mid-November and district counsel was authorized to prepare an agreement for this work.</p>

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On MOTION by Mr. Wing seconded by Ms. Burks with all in favor the fiscal year 2021 Consulting Engineer’s Report was accepted.

FOURTH ORDER OF BUSINESS

**Acceptance of Fiscal Year 2020 Audit Report
(Presenter: Ernesto Torres)**

Mr. Torres stated it is a clean audit with no prior year or current year findings or recommendations.

On MOTION by Mr. Wing seconded by Ms. Burks with all in favor the fiscal year 2020 audit was accepted.

FIFTH ORDER OF BUSINESS

**Public Hearing Adopting the Budget for
Fiscal Year 2022 (Presenter: Ernesto Torres)**

Mr. Torres stated it has been many years since this board had an assessment increase. In FY21 the assessment was \$1,126,149, board approved \$1,277,211 for FY 22, an increase of approximately 12% from last year. There were several line items in the administrative budget to accommodate additional meetings, the other adjustments were under landscaping due to the contract we signed with Trimac. There was a marginal increase to the amenity management line items that is 3% or less. After board discussion I will look for a motion to open the public hearing.

Mr. Wing asked for supervisors offering budget amendments is this the time or after the hearing?

Mr. Torres stated I recommend you listen your constituents and see how they feel about what you are proposing.

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

There being no public comments,

On MOTION by Mr. Vencil seconded by Mr. Wing with all in favor the public hearing was closed.

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Mr. Vencil stated a lot of the administrative increase is based on a proposal I made to go to monthly meetings due the size of our district, involve more public participation, would coincide with the HOA meetings and be more productive.

Mr. Wing stated given the other needs we have I can't justify the \$28,000 for admin, which works out to roughly \$29 per household. We have seven meetings now, we have the ability to have special meetings, which probably would not cost us as much because those are covered in the GMS contract and depending on the reason for the meeting, we may not need the lawyer or engineer. I suggest taking \$10,000 out of the \$28,000 put it into landscape where we are short and the balance be used to reduce the budget and the amount of extra assessments to households.

Mr. Vencil asked should we go with the increase in capital reserve contribution? What would the extra contribution to the capital reserves gain for us?

Ms. Burks stated a lot of these ponds need work done and we need the money to do that. We need a long-term fix so that we don't kick the can down the road.

Mr. Labanowski asked can we reduce the printing and binding line item?

Mr. Torres stated we can reduce that line by half. There are things that have to be printed.

Mr. Labanowski stated I would like permission to go to the HOA to ask for \$9,000 for events.

Mr. DelBene stated yes if they can afford it.

Mr. Wing stated in order to cover the additional \$29,000 in new landscape maintenance contract, we will take the \$28,000 for the extra meetings and \$1,000 from landscape contingency.

Mr. DelBene stated I propose that we put \$50,000 in the reserve for pond repair per year every year. This year I want to drop it \$66,832.

Mr. Torres stated there are some increases under admin that I would like you to consider and that is I suspect you are going to receive additional billing from the engineering firm. During this past year we changed engineering firms and with the work being done with the pond banks and perhaps other projects I would like to have an additional \$3,000 to the budget line and go from \$13,000 to \$16,000. Also, we budget \$5,600 for payroll and we are currently at \$6,400 even though the special meetings are included in the GMS contract, the supervisors are still paid. I would like to increase that to \$6,400. That leaves \$4,000 remaining from the \$28,000 that you can add to holiday decorations or reduce the assessments.

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Mr. Wing stated I would put it in reserves. If we were to do Chris's proposal to decrease the contribution to the capital reserves by \$66,832 the assessment would go from \$167 per household to \$99 per household, but I'm not in favor of dropping the reserves.

Mr. Vencil stated I would like to hear public comments on the proposal of taking the \$28,000 from admin to have monthly meetings.

Mr. Torres stated I calculated the capital reserves at \$245,986 lowered the assessment by \$66,833, added the 6% we pay to the county to collect and it brings the total assessment to \$1,283,000 divide that by your total homes and that gives you \$1,337 and that is my guess and right now you are at \$1,416.

On MOTION by Mr. DelBene seconded by Ms. Burks with all in favor the public hearing was opened.

A resident asked a couple years ago didn't we make the ponds a line item that they would be prioritized every year and do the worst ones first?

Mr. Wing stated yes.

A resident stated then I don't understand the problem. One problem is we don't have a contractor to do it.

Mr. Wing stated the money set aside for the ponds was not sufficient.

Mr. DelBene stated for the first three years there were large installments and that is how we can fund what we are currently talking about with the geoweb. After the third year the capital reserves for each successive year comes to about \$15,000, \$16,000 and \$17,000 and that is all that is allowed for pond banks for that year. We would have to wait 2 decades to do one pond, that is why we are talking about increasing pond bank reserves. It is either that, bond or special assessment. Right now the capital reserve study does not account for doing 11 ponds with \$17,000 per year.

A resident stated I have a comment on behalf of the HOA board, we all would like to see the CDD board meet more frequently regardless of the increase in the cost. Every homeowner I have talked with has stated their frustration in how slow the CDD board performs. With meetings becoming more frequent they would be able to have more action more frequently to vote and pass things. Just like we are seeing now where you are having issues on needing another quote or having a decision made and this would not be pushed to September but October to finally decide

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on issues regarding your budget that is supposed to be happening right now. That increase we are in favor of, but on the other hand the pond bank issue and the increase and any cost for that I think that needs to be tabled for further discussion or at least a remedy sought out with the developers of the community first and see if there is a class action lawsuit. I'm not sure we pursued any kind of lawsuit in that regard or meeting with the county because they approved the plans and permitting for the neighborhood and if there is any action we can do from there and if we can get funds returned to us because the community has invested in our CDD bonds and stuff like that maybe we have some opportunities to pay for these expenses versus getting a new CDD bond in general for the entire neighborhood.

Mr. DelBene stated in order for the board to refinance the CDD's debt part of the agreement is they had to release the developer of all liability so there is no such thing as going after them anymore. That is not an avenue we can pursue.

A resident asked is there a remedy through the county?

Mr. DelBene stated unfortunately you can't do down that road.

A resident stated the county should be held accountable for approving things that were not up to code.

A resident stated I support you meeting more often, but from a bureaucracy level because I have been on this call for an hour and 43 minutes, I haven't heard a lot of action items and to increase the frequency of meetings to discuss what happened in the past or what people would like to see happen and then meeting adjourned and nothing is accomplished, that I don't support. I don't feel like I received anything. I brought up an issue about the quality of these meetings that I'm experiencing now and you are ready to move on. If that is how this is to go every month, then I don't support that.

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

A. Consideration of Resolution 2021-06 Relating to the Annual Appropriations and Adopting the Budget for Fiscal Year 2022

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Mr. Wing moved to approve Resolution 2021-06 adopting the budget as amended, adding \$6,400 in supervisors fees, \$16,000 engineering, \$350,698 landscape maintenance, capital reserves from \$312,000 to \$316,000.

Mr. DelBene stated just to confirm we can still make additional motions afterwards to change things.

Mr. Wing stated yes.

Mr. Torres asked changing the budget line totals?

Mr. DelBene stated, no to what you did earlier with your math.

Mr. Wing stated Chris can make a motion to reduce the amount going into reserves and reduce assessments or put it someplace else. We can still to that, yes?

Ms. Kilinski asked do you mean tonight?

Mr. Wing stated yes, before we do a final vote.

Ms. Kilinski stated yes.

Mr. Wing stated we are still shaping the budget internally, it can't go higher it can go lower.

Mr. DelBene stated I'm going to piggyback on Brian's motion and make a second motion, everything that Brian said, all your math, minus my reduction in capital reserves. That's my motion.

Mr. Wing stated I don't think we are all in agreement with everything in that motion, which is why I'm suggesting we do it separately.

Ms. Kilinski stated we can also come to consensus before you take the final vote.

Mr. Torres stated talk to each other, come to consensus and let's agree on one motion.

Mr. Vencil stated we have two motions right now.

Mr. Torres stated two thoughts. What Chris is proposing is to encourage Brian to amend his motion and reduce capital reserves to the amount of \$245,986, that would reduce the increase to about 7%.

Mr. Wing stated I accept that amendment.

Mr. Torres stated Brian's motion is changes as said and reducing the capital reserves to \$246,986.

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Ms. Burks seconded the motion as amended.

Mr. Vencil stated my motion would be to leave the budget as published with Chris' proposed reduction to capital reserves.

Mr. Torres stated I have a motion and a second, we are in discussion. You can bring your motion if this motion fails. We have a motion with the changes as described. Is there any further discussion on the motion that is on the table?

Mr. Vencil stated I think that the last conversation is never more productive. That is my position. My position on that motion is that I feel less conversation is never more productive, more conversation, more collaboration is always more productive. That is my opinion on that motion.

On voice vote with four in favor and Mr. Vencil opposed the motion passed.

B. Consideration of Resolution 2021-07 Imposing Special Assessments and Certifying an Assessment Roll for Fiscal Year 2022

Mr. Torres stated Resolution 2021-07 imposes special assessments and certifying the assessment roll for fiscal year 2022. The assessment roll will be attached to this resolution and provided to the county for the tax collector to process. It requires the resolution to be approved by the board

On MOTION by Mr. Labanowski seconded by Mr. Wing with all in favor Resolution 2021-07 was approved.

Mr. Wing asked what is the total increase?

Mr. Torres stated it is a 7.2% increase, the assessment amount is \$1,207,047 and \$1,338.96 per household. There is a collection fee of \$77,010.

SIXTH ORDER OF BUSINESS

**Consideration of Resolution 2021-08
Awarding Landscape and Irrigation
Maintenance Services Contract**

Ms. Kilinski stated next is the resolution awarding your landscape and irrigation maintenance services contract. At the meeting last week the board met to discuss and rank and

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ascribe points to the four landscape proposals that you had that were deemed responsive. This resolution essentially wraps up what you did at the last meeting, makes findings regarding the reason for the RFP, the points ascribed and awarding the contract to the number one ranked proposer Trimac. As we discussed at that meeting to the extent you are not able to successfully negotiate a contract with Trimac then you would move to the number two ranked proposer. That would be highly unusual given that the contract is part of the RFP package including fines, fees, penalties were included within that contract that you approved.

Mr. Vencil stated I want to make sure that we clarify what the penalties included in the contract are for unsatisfactory service.

Ms. Kilinski stated there are two different ways to think about the contract, one is that the contract has a \$100 per day penalty fine for failure to perform services that they have been notified of deficiencies for. Let's say day one there is six beds that need to be weeded and then you have 72 hours to perform, they don't do that, you can start doing \$100 per day every day after that they fail to perform. The second way to think about the contract is documentation matters so to the extent we have documentation that demonstrates their failure to perform on a monthly basis we can withhold the funds that would otherwise be produced to them pursuant to their contract as a means to get them to perform those services and we have to take remedial action to correct those deficiencies you can withhold those funds to pay a contractor to fix those issues upon proper notice.

As you know we haven't enforced that, but a lot of it is because it doesn't always get done faster either.

Mr. DelBene asked in regard to Jeremy's question the \$100 per day, is that a standard term that you include in contracts or have you seen it higher, have you seen it lower? What is your experience?

Ms. Kilinski stated it is typical in the landscape contracting context to have \$100 per day penalty. The risk of doing anything higher is that your RFP responses are going to be significantly higher so instead of saying you have penalty of \$500 per day you will see your RFPs come back at \$450,000 instead of \$350,000. That tends to be the sweet spot in getting people to say, I understand you mean business but if we are penalized it is not going to cost me an arm and a leg.

Mr. Labanowski asked if they can't perform due to an issue with the weather how can we go after them?

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Ms. Kilinski stated there is provision in the contract for rain days and if there are rain days that result in their failure to be able to perform they are supposed to notify the district. For example if they are not suppose to mow on Sundays they would reach out and say we had a rain day can we make it up on Saturday or Sunday and typically we would say yes or no because of a special event or something like that.

Mr. Labanowski stated if they didn't do it we could go after more than \$100 per day.

Ms. Kilinski stated the way the way you would hold funds under the contract is that you provide a deficiency notice. We did it here with Duval. Let's say the landscape amount would be \$5,000 we would notify them of the routine deficiency, their failure to perform, you say we are going to withhold that \$5,000 because we are seeing it may cost us more than that to remedy the situation that is onsite. You start retaining money, you might get supplemental proposals to do the work if they are not being responsive to you then you typically go out to RFP.

On MOTION by Mr. Labanowski seconded by Ms. Burks with all in favor Resolution 2021-08 was approved.

SEVENTH ORDER OF BUSINESS

Staff Reports (Part 2)

A. Attorney – (Presenter: Jennifer Kilinski)

There being none, the next item followed.

B. Manager – (Presenter: Ernesto Torres)

1. Discussion of Fiscal Year 2022 Meeting Schedule

On MOTION by Mr. Labanowski seconded by Mr. DelBene with all in favor the fiscal year 2022 meeting schedule reflecting the following dates was approved: November 9, 2021, January 11, 2022, March 8, 2022, May 10, 2022, June 14, 2022, August 9, 2022 and September 13, 2022.

Mr. DelBene asked who is in charge of mailing out the CDD notices for the meetings to the community?

Mr. Hutchinson stated I am.

Mr. DelBene asked can we get that done 5 to 10 days before the meeting?

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Mr. Hutchinson stated yes. The only reason way I do it that way is so it is fresh in people's minds, but I can whatever you want.

Mr. DelBene stated try to do it five days before the meeting.

Mr. Vencil stated the website is not up to date. The documentation, we had another board's notice on it.

Mr. Torres stated we got that fixed fairly quickly.

Mr. Vencil stated we also don't have meeting minutes.

Mr. Torres stated the June meeting minutes have to be approved before they are put on the website. It is on the agenda to be approved today.

C. Operation Manager – (Presenter: James Schieszer)

1. Memorandum

Mr. Labanowski asked about the slide for San Marino.

Mr. Schieszer stated the slide was approved in the amount of \$2,500 and it came back at \$3,800 and we need an approval for that. It went up because of installation. The slide design was changed, we are going to a straight slide, which is much cheaper, but the installation is more expensive. They are going to pull out the pad, put in a new pad, etc.

On MOTION by Mr. Wing seconded by Mr. Labanowski with all in favor the increase of \$1,300 for the installation of the slide was approved.

Mr. Schieszer gave an overview of the memorandum, copy of which was included in the agenda package.

2. Consideration of Water Fountain Proposals

Mr. Vencil stated these are the same fountains we looked at before. I thought we were going to find a cheaper alternative. Did we get warranty information?

Mr. Labanowski stated we decided we don't need it to be refrigerated.

Mr. Hutchinson stated I think the warranty was a year but I can't guarantee if that is accurate or if it covered everything. There were hidden fees such as transportation, delivery, in

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some of them but with Global Industrial it is all upfront, what you see is what you get as far as the price, where other sites nickel and dime you with other costs.

On MOTION by Mr. Wing seconded by Mr. Vencil with all in favor staff was authorized to purchase and install a water fountain in an amount not to exceed \$1,500.

3. Duval Audit Reports

A copy of the Duval audit reports was included in the agenda package.

D. Amenity Center Update (Presenter: Erick Hutchinson)

On MOTION by Mr. Wing seconded by Mr. DelBene with all in favor the agreement with Gift of Dance was approved.

Mr. Hutchinson stated I would personally like to remove two River Birch Trees by the pool area, they are dropping leaves in the pool and put trees in another area to replace them.

Ms. Kilinski stated there are tree planting requirements. We have had problems with the county approving birch removal at several communities. I recommend you call the county and find out what the cost for the tree exchange will be, but the county is extremely strict and they can fine you if you remove them without a tree planting plan.

Mr. Hutchinson stated I have been in discussion with Ancient City Soccer, they would love to cut us a check for \$4,000 and I'm also in discussion with Amenity Soccer to see if they will match it, but the goal is to improve the soccer field, by seeding, fertilization, or sod. They didn't say one specific thing, they just want it improved.

Mr. Labanowski stated that area is a dustbowl because of overuse and it is not given a chance to come back to life.

Mr. DelBene stated they can pay us.

Ms. Kilinski stated it is like the pool heater question we did with the swim team. You probably want a simple acknowledgement. Maybe just an email that they say, yes.

Mr. DelBene stated send an email to Amenity Services and let them know about the offer from Ancient City and ask them to let you know if they will match it.

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Mr. Hutchinson stated I sent it, I just haven't received a response. To be fair it hasn't been more than three days. I have had residents ask for a stair stepper in the gym. It is the last thing that did not get replaced, it is one of the original pieces.

Mr. DelBene stated there is no budget for it and it is not on the capital reserve list, but you could put together some product information and the cost.

EIGHTH ORDER OF BUSINESS

Supervisor's Requests and Public Comments

A resident stated I want confirmation of when the new landscape company will start.

Ms. Kilinski stated October 1st.

Mr. Vencil stated we actually had action on a lot of things we had not made action on so I appreciate the action this stuff. Let's continue to be proactive. I appreciate the efforts of staff, Jim is up to speed now and taking charge of stuff and I appreciate how hard you have been working to try to get the landscaping under control. I appreciate all the events you put on so far this year, a lot of positive feedback on that. Thank you.

Mr. Labanowski stated you may want to include because I don't think it is clear, I would like to see in the reserve study an item to include the clearing of the drainage. That is going to be an expensive job and something that should be in the reserve study. The drainage between Pescara and Mirror Lakes. That affects the preserve area that affects the homeowners who back up to that preserve. If the water doesn't drain out of the property they go underwater.

Mr. DelBene asked Ernesto will you add that to the agenda for the next meeting?

Mr. Torres stated do you want to update the capital reserve?

Mr. DelBene stated I do not want another reserve study.

Mr. Labanowski stated something has to be done on a regular basis, it is not a one-time shot.

Mr. DelBene stated I think it would be better as a yearly budget item.

Mr. Labanowski stated let's wait until October and get a price from Trimac.

Ms. Burks stated I truly appreciate all the hard work and I know the transition of Jerry being gone and I want to say thank you and welcome aboard.

NINTH ORDER OF BUSINESS

Approval of Consent Agenda (Presenter: Ernesto Torres)

A. Approval of Minutes of the June 8, 2021 Meeting

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- B. Balance Sheet as of June 30, 2021 and Statement of Revenues & Expenditures for the Period Ending June 30, 2021; Month-to-Month Income Statement; Assessment Receipt Schedule**
- C. Approval of Check Register**
- D. Ratification of Agreement with First Coast Mulch for Installation of Landscape Mulch**

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

On MOTION by Mr. Wing seconded by Mr. DelBene with all in favor the agreement with First Coast Mulch was ratified.

TENTH ORDER OF BUSINESS

Next Scheduled Meeting – September 14, 2021 at 6:30 p.m.

Mr. Torres stated the next scheduled meeting is September 14, 2021 at 6:30 p.m.

On MOTION by Mr. Wing seconded by Mr. DelBene with all in favor the meeting adjourned at 9:15 p.m.

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 Secretary/Assistant Secretary

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 Chairman/Vice Chairman