

MINUTES OF MEETING  
TURNBULL CREEK  
COMMUNITY DEVELOPMENT DISTRICT

A special meeting of the Board of Supervisors of the Turnbull Creek Community Development District was held Tuesday, April 12, 2022 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:

Jim Oliver	District Manager
Jennifer Kilinski	District Counsel
Steve Collins	District Engineer
Jim Schieszer	Operations Manager
Erick Hutchinson	Amenity Manager
Eric Dailey	Halifax Solutions
Carol Brown	Rizzetta & Co.
Scott Brizendine	Rizzetta & Co.
Melissa Dobbins	Rizzetta & Co.
Howard McGaffney, David McInnes	DPFG
Bob Koncar Janice Davis	Inframark

The following is a summary of the actions taken at the April 12, 2022 meeting. An audio copy of the proceedings can be obtained by contacting the District Manager.

**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. Oliver called the meeting to order at 6:30 p.m. and called the roll.

**SECOND ORDER OF BUSINESS**

**Public Comments**

There being none, the next item followed.

April 12, 2022

Turnbull Creek CDD

**THIRD ORDER OF BUSINESS****Consideration of Management Proposals**

Representatives of Halifax Solutions, Rizzetta & Co., GMS, Inframark and DPFG gave an overview of their background and proposals followed by board questions then after board discussion Rizzetta & Co. was ranked no. 1 with 8 points, DPFG no. 2 with 9 points, GMS no. 3 with 14 points, Halifax no. 4 with 21 points and Inframark no. 5 with 23 points.

On MOTION by Mr. DelBene seconded by Mr. Wing with all in favor Rizzetta & Co. was selected to provide district management services and the contract with GMS will terminate in 60-days.

**FOURTH ORDER OF BUSINESS****Update Regarding Pond Bank Repairs/Consideration of Options for Same**

Mr. Collins stated we did not do an inspection every week but did do one this week. Some of the gullies are growing but Boudreaux is willing to regrade those and they have done that a couple times already. They are waiting for a decision from the board.

Mr. DelBene stated we are waiting on a decision from them about the refunding of the product.

Mr. Collins stated they have indicated that they cannot give a refund.

Ms. Kilinski stated you probably saw the communication that I sent out regarding that particular issue and want some assurances about mobilization, finishing the project and specifically the materials. I have talked to Steven a little bit, he saw Boudreaux's response, I was also hoping they would be here to answer some of these questions about other options. This project started with an informal RFP so it wasn't over the bid threshold that specified certain types of evaluation categories. It appears that Boudreaux's didn't realize what materials were required in the plan specifications and the materials they bid, which differed from the plans, was missed during the review of the RFPs – as Steven told you last time, Boudreaux's bid with that are inconsistent, as I understand it, with what was required. As you heard at your last meeting the materials that were delivered were not those that we expected to be put into the project and we also heard that it was likely that those materials would work. After that Steven called the supplier and the supplier said these materials are not appropriate for the use for which we intended them, namely on sloped banks. James Schieszer provided a summary of our options as it relates to the materials that have been delivered. My position as your legal counsel is the district relies on its technical experts to determine the materials that are to be used in this pond bank erosion project. I don't expect you

April 12, 2022

Turnbull Creek CDD

to know that, we have to rely on experts to tell us what should be used for the purposes for which we bid the project. The fact that materials were delivered that can't be used for this project, cannot be used for any future district project, I don't believe the district should have to pay for those materials, nor eat the costs related to installing the same. It should be between the engineer and the contractor. My concern is how do you get this project done quickly and with material that is going to actually stabilize the pond banks for the foreseeable future. Steven has provided some alternative options and we talked about whether these materials here maybe shouldn't be used for sloping or not as good for the slope but if they could be used it would be an enhancement over the sod and I think we can discuss some of those options but as it relates to materials that have been delivered I don't believe the district should have to pay for those and I think the option is we go back and say we are not paying for those materials, will you still complete the project, which was the intent of my original letters to all parties. We were looking for contractor adequate assurances. You can also try to find another contractor, the problem with that is going to be that you are going to get up-charged significantly – which may be chargeable against the current contractor but as you all are aware, legal battles are not inexpensive. You have pond banks that are currently eroding they are going to charge you for backfilling so you are better off trying to figure out a solution with the contractor that is mobilized if it is practically feasible and gives you a good final product. As it relates to materials that is absolutely my position. I feel very strongly about the district's position if we had to litigate it or file claims against it I feel very strongly about the district's position on that issue. That doesn't resolve the ongoing issue of the pond still not being completed, which is something we need to resolve this evening if we can.

Mr. DelBene asked Steven, what is your position with JMT eating the cost?

Mr. Collins stated I was told to speak with you in terms of recommendations from an engineering perspective, but I can't speak to that. However, I do not think the District will end up paying for the cost of the materials, I can say that.

The board discussed the quality and suitability of the fill that was delivered, the \$24,000 for the mat material that was delivered and unusable, responsibility of each of the parties, material deposits in bid, differences in the bid and the contract, pros and cons of trying to hire a new contractor, payment provisions within the contract, volume of water in the pond and flood capacity, buried storm inlets, environmental testing of fill, type of sod, options to complete the work on the pond bank.

April 12, 2022

Turnbull Creek CDD

On MOTION by Mr. DelBene seconded by Mr. Vencil with all in favor the environmental testing was approved at an anticipated cost of \$100 per sample, not to exceed \$600.

On MOTION by Mr. DelBene seconded by Mr. Labanowski with all in favor the two walk throughs, the environmental testing, and an amount not to exceed \$1,500 for the survey prior to the sod being laid was approved.

Mr. DelBene stated if we can arrange that with Boudreaux to occur before the sod gets laid, that way we can determine if it is actually four to one, but that is the plan now.

Mr. Collins stated I will talk to Geomatic who did the recent survey for us or Carlson but both of them told me how busy they were.

On MOTION by Mr. DelBene seconded by Mr. Labanowski with all in favor Option 2 of the alternatives and the \$24,000 deposit for material (sod) was approved.

Mr. Labanowski asked how fast can all this happen?

Mr. Collins stated we can collect samples tomorrow and mail them off to the lab.

Mr. Labanowski stated we don't have to wait on the testing of the soil, we can go ahead and get the project finished. Am I correct?

Ms. Kilinski stated if that is the direction you give.

Mr. DelBene stated that is the direction. If it comes back that it is contaminated with diesel then they have to redo it.

Mr. Labanowski asked two weeks?

Mr. Collins stated he told me it would be really fast. He said the sod contractor can deliver the sod within days and it would take them probably a week to install it, but they have to regrade first.

Mr. DelBene stated with that timeline when he contacts you regarding when the fill gets put in, if you could get with Jeremy and with Jim so we can arrange that first walk through so you can both verify that there is no issues with garbage being in the fill as well as that ledge you said they created making sure it is down through the water line.

April 12, 2022

Turnbull Creek CDD

Mr. Vencil stated as any of these projects go forward I strongly recommend that we have someone designated as the project manager, because we have asked a lot of people to have different responsibilities as far as managing this situation and having one person who is the project manager who is calling the shots and who is empowered to make those decisions, would have probably made this a little less stressful.

Mr. DelBene stated next time we have this type of project we will kick in a couple thousand dollars and designate our expert to be the project manager. Jennifer , I would like you to follow through requesting reimbursement for the materials that have been onsite that do not meet manufacturers specifications for our project.

#### **FIFTH ORDER OF BUSINESS**

#### **Update Regarding Encroachment Matters**

Mr. Oliver stated we sent out 21 letters total, we received none of the executed releases yet but I have spoken with six people and three intend to do it. Some of the calls I received they disagreed with what the estimate was so they are not going to take any action. Mr. DelBene stated the two I care about are the ones that actually impeded the project. What is going on with them?

Mr. Oliver responded Kelly Watson said that she would complete one. She provided the check for the survey. The ones next to them are not impeding that.

Mr. Labanowski stated I spoke to one individual who received a notice and he can't figure out what he did wrong. I went to the tax assessor's website and it turns out his fence is in the CDD property and he doesn't realize it. I want to show him on that map the next time I see him.

Ms. Kilinski stated let's look at the maps that JMT provided, it wasn't fencing. If you will give me the address between Steve and I we will make sure we pull up the aerials that we noticed them about. It wasn't fencing we were noticing them about.

#### **SIXTH ORDER OF BUSINESS**

#### **Consideration of License Agreement with Florida Race Day, LLC Regarding the Use of the District's Property for Triathlon**

Mr. DelBene stated the reason this is on the agenda is the Florida Race Day, LLC agreement was part of a docusign that was sent to me to sign off on but the board has to actually vote on it when we agree on these types of issues. I think it was Sarah who sent it.

April 12, 2022

Turnbull Creek CDD

Mr. Hutchinson stated Sarah sent it but I will take some of the blame on this. At the last meeting I had it on my notes, we got off on something else and I missed it. I pushed this through because Joe needed to know and it was my mistake. I meant to talk about it at the last meeting.

Mr. DelBene stated we have approved Joe's events before but I couldn't sign it without the board talking about it.

On MOTION by Mr. Wing seconded by Mr. DelBene with all in favor the license agreement with Florida Race Day, LLC was approved.

#### **SEVENTH ORDER OF BUSINESS**

#### **Board Guidance Regarding Preparation of Fiscal Year 2023 Proposed Budget**

Mr. Oliver stated we will do the transition over the next couple of months, but we will need to talk about the budget process itself. At your May meeting we will bring a proposed budget and I will work with Rizzetta on that so that will mesh. When we do that you will approve a proposed budget kind of set the high mark and you also set the public hearing date for your August meeting. You will have a June meeting in between to refine the budget. By the end of your June meeting you will know whether or not you need to send mailed notice to property owners or not. I didn't know if there was any particular guidance you wanted in terms of growing your capital reserves or any other particular line items you want.

#### **EIGHTH ORDER OF BUSINESS**

#### **Discussion of Amenity Usage for Sports and Parking/Mail Kiosk New Signs for 15 Minute Parking**

Mr. DelBene stated this item was added because of what everyone saw tonight with the soccer parking. Whatever Ancient City is doing differently this year compared to the past two years is complete garbage. They are not staggering their practice times, they are not staggering their game times and we see it every Tuesday now. I don't know why they think they can just bombard the field all at one time. My proposal is that they are required to split their program between Pescara and the amenity fields. It is not a perfect resolution, but it will at least split parking on Tuesdays so we don't have this.

The second part is, it was proposed by a resident that the signs be changed at the mail kiosks from 24 hour parking to 15 minute parking with a tow option. I'm in support of that because

April 12, 2022

Turnbull Creek CDD

I don't want the sports programs using those kiosks for parking. It is unfortunate if we tow a member of the community, but they shouldn't be parking there for sports parking.

Mr. Wing stated you are only talking about the two kiosks on 16 and out here. The one in Pescara there is parking there for the park.

Mr. DelBene stated it would have to be the designated kiosks. You can't separate the kiosk from the playground over there. I'm just talking about this one and the one on 16. If the board agrees we can just update over here.

Mr. Vencil stated it is going to continue causing frustration because people are not going to be able to come to practices they are signed up for because they are being managed improperly. I want to see what we can do to address the root of the problem instead of punishing the parents who are just trying to show up and go to soccer. I don't think they should be blocking the mail kiosk, but I don't think the signs are going to make the problem go away. We are going to continue to have people put cars anywhere where there is not a sign. Our problem is that the programs are not staggered appropriately and it puts the parents in a bad spot.

Mr. DelBene stated to ease the issue currently I have asked Erick to stagger Pescara and our field at the amenity center. Also actually have them give you a schedule of practices and games so they don't have three different age groups all practicing and playing at the same time.

Mr. Vencil stated in order to alleviate this and in order to address it more quickly than a 15-minute parking rule, we should force them to have a window printout, you need to put into your window your practice time, when you are allowed to be there. We are going to make Amenity and Ancient provide those when they get here.

Mr. DelBene stated I strongly suggest to both organizations that they are going to stagger their start times and if we don't see that situation alleviate for the rest of this year then we will consider that a failure on their part when it is time to renew their contract next year. They need to give us scheduling, where the kids are going to be located and who is going to manage their parking situation. It is no longer optional.

Mr. Hutchinson stated on the Amenity side of things there is a designated person that comes out. They are at Pescara taking photos so that person wasn't here today.

Mr. Vencil stated that person passed down to being me for Amenity. The administrator passed it down to the coach who passed it to the parents.

April 12, 2022

Turnbull Creek CDD

Mr. DelBene stated they are trying to make a parent responsible for it when it should be the administrator of the league. It shouldn't be a coach handling it, it needs to be someone responsible for the league.

Ms. Kilinski stated I know we don't want to do this to parents or kids but since we have had those problems before our contract specifically says that parking that obstructs vehicular traffic, emergency vehicle movement or otherwise impacts district property is prohibited and results in immediate termination of the license. They are held responsible for coordination of all parking efforts related to activities provided for herein. It is very explicit because we had those problems before.

Mr. DelBene asked will you email Erick that specific language so he can include it in his email and let them know it is a continuing problem and we have the right to cancel your contract.

Mr. Vencil asked where do we prefer overflow parking if parking is not available in the main lot?

Mr. Hutchinson stated at the last meeting you did ask me to talk to a representative of that open lot, which I did. They don't want to be held liable and the person I spoke with said that for them to entertain it there would have to be insurance taken out and that is just to send it up the chain for consideration. I don't know that it would be an option.

Mr. DelBene asked are we in agreement with the 15-minute parking sign with the tow option at this mail kiosk?

Ms. Kilinski stated we can provide you with previously approved parking rules adopted by this board and we already have a towing operator so the signage needs to reflect that a towing company specifically. The law is people need to know where to find their car in the event it is towed for violation of the rules.

### **Public Comments**

Ms. Randolph stated you talked a little about putting grass down. Can you talk about blowouts? There are a lot of blowouts at 2140 and 2144 South Sorento. Are those going to be filled before you put down the sod?

Mr. DelBene stated before the sod goes out Jeremy and the engineer are going to do a walk around to make sure everything is filled the way it should be and the sod will go on after that.



April 12, 2022

Turnbull Creek CDD

After that part of their contract is to make sure that all the waterways for the drainage are cleared as well.

Mr. Jeffries stated I live at 1893 South Cappero. Jim told us that we don't have to pay \$500.

Mr. Oliver stated it was \$750 and you were never informed that you were expected to pay for that survey. When you told me that I told you that you do not have to pay it.

Mr. Jeffries stated then it is not an issue. They are using my front yard for access and the sand is clogging my faucets. I have secured my irrigation system on the left side of my house because I know there are four or five sprinkler heads that are broken but what is the point of fixing them because it is all dirt. There is more than a pathway that needs to be replaced.

Mr. DelBene stated at the end of this contract we are not signing off on final payment until the entire thing is substantially completed, which includes the easement access. We will have discussions with you about running your sprinkler lines, making sure there are no breaks and making sure the sod in your yard is the way it was prior to them tearing it up for access. That is all part of the project.

#### **NINTH ORDER OF BUSINESS**

#### **Shade Session: Consideration of Security Cameras Proposal**

The board held a shade session dealing with security and took the following action.

On MOTION by Mr. DelBene seconded by Mr. Labanowski with all in favor the proposal from Alpha Dog for security cameras minus the tennis access control component in an amount not to exceed \$15,000 and monitoring in the monthly amount of \$226 was approved.

#### **TENTH ORDER OF BUSINESS**

#### **Supervisor's Requests and Public Comment**

Mr. Vencil stated I want to go back to the parking situation. I feel we need to address in the budget next year development of this car park in some way. I would like that developed to include additional parking, which would alleviate a lot of our issues for overflow parking for large event days. I know that is not a cheap addition to the budget, however, based on the last couple of years of growth we do not have enough parking. I would like to get proposals for developing that space and 80% of that space has never been used.

April 12, 2022

Turnbull Creek CDD

Mr. Wing stated developing parking there doesn't need to be a ton of money, you don't necessarily have to put down asphalt, you can use crushed stone.

Mr. Vencil stated I'm thinking bigger than that because I go over there every day and I see us paying for mowing of weeds and not using space that we own and I would like to look at ways to gather proposals to more effectively use that space to include additional overflow parking.

Mr. Labanowski stated Jennifer just so you know I checked and that house we just talked about they are in the easement with their patio section. There is only 14 feet between their house and the fence and there is a 12 ½ foot easement.

Ms. Kilinski stated I think that one is one of the houses that are in the easement and we told them there is nothing we are going to ask them to do about it, their house is physically located in the easement.

Mr. DelBene asked the berm that sits on S.R. 16, the actual border to our community, the easternmost border, currently Trimac is not maintaining it, Duval didn't maintain it before and I have talked to about 12 of the homeowners that sit on that berm, me included. Is it possible to remove that from CDD property so it goes residential and the residents along that berm will own that berm? On the other side of that berm is county land.

Ms. Kilinski stated it is possible, we have done it before. The tricky part is getting everybody to consent to that deed, but it is possible.

Mr. Labanowski stated you will have to check first with the buffer that is supposed to be in there because there are buffers mostly in every community, you either have a 10-foot, 20-foot or 25-foot buffer required.

Mr. DelBene stated that is fine, I just don't want them to own the buffer, I don't want the CDD to own the buffer, I want the residents to own the buffer. It is already private ownership sort of. I want to see if we can transfer it to us so we can remove it from our landscaping contract since no one maintains it anyway. What would be required from the residents of that berm to transfer?

Ms. Kilinski stated essentially you need to get a survey in that area as it relates to each lot and then you are just deeding real property to each homeowner, almost like a lot extension. I don't know if it is something that was constructed for mitigation - I would have to look into it to see if there is anything like that. If not then it is simple. They all have to be in agreement you wouldn't want one to say no.

April 12, 2022

Turnbull Creek CDD

Mr. DelBene stated cypress knees pop up in a few of the yards and that is the reason for the request.

Mr. Schieszer stated those trees were part of the mitigation for the property and all they really have to do is saw those off, a two-minute operation.

Mr. DelBene stated it is going to be a recurring problem. Don't look into that until I talk to all the homeowners.

On MOTION by Mr. Wing seconded by Mr. DelBene with all in favor the meeting adjourned at 10:23 p.m.

DocuSigned by:

*Jim Oliver*

D1BA5E5E7410418...

Secretary/Assistant Secretary

DocuSigned by:

*Chris DelBene*

DCDC8C5199784EA...

Chairman/Vice Chairman