

Minutes of Meeting
Durbin Crossing
Community Development District

The regular meeting of the Board of Supervisors of the Durbin Crossing Community Development District was held Monday, March 27, 2017 at 6:00 p.m. at the Durbin South Amenity Center, 145 South Durbin Parkway, Jacksonville, Florida.

Present and constituting a quorum were:

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| Peter E. Pollicino | Chairman |
| Tim Brownlee | Vice Chairman |
| Sarah Gabel Hall | Supervisor |
| Jason Harrah | Supervisor |
| Debbie Driscoll | Supervisor |

Also present were:

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| Dave deNagy | District Manager |
| Mike Eckert | District Counsel |
| Stephen Howell | Vesta/Amenity Services Group |
| Dan Fagen | Vesta/Amenity Services Group |
| Margaret Alfano | Vesta/Amenity Services Group |
| Daniel Laughlin | GMS |
| Bill Kinsey | Down to Earth |
| Tom Rowand, Jr. | R&D Landscaping |
| Scott Clark | Special Counsel by telephone |
| Charlie Sheppard | Community Advisors |

The following is a summary of the discussions and actions taken at the March 27, 2017 meeting. A copy of the proceedings can be obtained by contacting the District Manager.

FIRST ORDER OF BUSINESS

Pledge of Allegiance

Mr. deNagy called the meeting to order at 6:00 p.m. and led the pledge of allegiance

SECOND ORDER OF BUSINESS

Roll Call

Mr. deNagy called the roll.

THIRD ORDER OF BUSINESS

Audience Comments

Mr. deNagy stated Scott Clark is on the phone and I would like to ask him to give us an update.

Mr. Clark stated at our last meeting we turned down a written offer of \$600,000 from the trustee's counsel. You authorized me to send a counter offer of \$1,050,000, which I did and I received absolutely no reply to that, dead silence. As we discussed I have proceeded and am drafting the complaint against U.S. Bank, trustee, for an accounting, for breach of fiduciary duty, fraud and for negligent misrepresentation. I anticipate we will be filing that before the week is out. I can answer any questions you have about that complaint, things that we are looking for, we are going to be seeking damages equal to the amount of interest not forgiven interest that accrued on that since the date it should have been accounted for and damages due to the delay and loss of interest rate environment in the district's refunding. I would like to make a request on the record in the future that the board conduct a shade meeting, it is an attorney/client privileged meeting where you and I, the district manager, district counsel and a court reporter get together in a room and I can answer in more detail your questions about where we are going. It is kind of a standard matter when there is litigation going on. I keep a fairly open request to conduct a shade meeting in case there are things that come up between now and the next meeting that you have that would merit us sitting down in person doing that. I may not conduct the shade meeting next month if there is no development that really merits that I don't want to waste the resources in coming and appearing in person but if something does happen I would like to have the request on the table. Mike can probably give you some additional guidance if you wish about the shade meeting and the sunshine law regulations that relate to that.

Mr. Eckert asked are you requesting a shade meeting specifically for the next board meeting?

Mr. Clark stated the way I like to do it since I don't really know if we are going to need that and if something happens two weeks from now then I can't schedule a shade meeting for the next meeting because I read the statute to require me to make a request in open meeting. I'm making a request that subject to cancellation if nothing really comes up that needs the meeting.

Mr. Eckert stated that is fine. We will have it as an agenda placeholder and if there is no need then we won't have it and if we need to have it we will have it. It will be the five board members, Scott, Dave and a court reporter will be the attendees.

Mr. Clark stated the logistical question on that would be timing, you have a 6:00 p.m. agenda so the question would be whether you would want to perhaps have that at 5:00 p.m. or later.

Mr. Eckert stated we have to go out of the regular meeting to start the shade session so I think we would just have it at 6:00 p.m. or we would start the board meeting earlier.

Mr. Clark stated we could do it at 6:00 p.m. If it happens I don't anticipate that it would be a long session unless we have some fairly dramatic development such as a potential settlement but I doubt that will happen in a month.

Mr. Clark left the conference call at this time.

Mr. deNagy stated the next item we will take out of order is the reserve study.

**ELEVENTH ORDER OF BUSINESS Presentation and Consideration of the
Community Advisors Capital Reserve Study**

Mr. deNagy stated Charlie Sheppard is with us and you should have all gotten an email from me this morning with a copy of the updated reserve study. Given the short time that we had to look at it I recommend we defer accepting the report until our April meeting and in the interim after you have had a chance to look at it more closely you can send me questions that I can get answers back to you from Charlie.

Mr. Sheppard stated I went through the property looked at the various components that you own and maintain and worked with Dave on the financial part and put together an inventory sheet that is in the back of the report. Dave and staff went through this and made a modification to it and if there may be comments that you have and I will make another adjustment.

Mr. deNagy stated there is a beginning balance of \$600,000 and that is the projected starting balance for FY 2018. I took into account where we were funding-wise plus our anticipated expenditures. This is an important report and I would like to get your feedback and once everybody is settled with it we will have a good document going forward to maintain our assets.

We will table this item and bring it back to the April board meeting and at that time we will look for acceptance of the report.

FOURTH ORDER OF BUSINESS Down to Earth Landscaping Update

Mr. Kinsey stated you signed off back in August on the sale of Down to Earth to a company out of Ohio that had already purchased R & D in 2016. We had two competing offices in the same location and we have tried to utilize the best of the two companies to move forward and combine our assets. Tom is landscape maintenance and my role is going to be construction and installation. Through the transition period I will be available for however long it takes until everybody is happy and Tom is going to be running the daily operations of maintenance moving forward.

Mr. Rowand stated I still have a small stake in my company and am very vested in the success of our company and operation in North Florida in particular. When we teamed up with Bill it became obvious that a lot of Bill's strength is design/build/construction and our strength is maintenance. Curb appeal is the number one thing that we do, flowers, mulching, we try to stay one step ahead of what everybody else is doing. It became apparent that we continue to evolve that we provide each other's strength to maximize our strengths and minimize our weaknesses. I am very familiar with this area and we do Durbin Crossing Townhomes, Bartram Plantation we have accounts peppered throughout the area. It made sense to change to one uniform look where we could better support each other.

Mr. Pollicino stated as companies merge they get bigger and bigger with more and more layers and it gets harder for our amenities manager to get in touch with someone to make a decision quickly and execute what we need to get done.

Mr. Rowand stated I will probably be here three days a week on and off, I don't spend time in the office but I will be communicating with Mike. I will probably walk this property with Mike five hours a week at the least. I don't know when that will take place and Mike has been here a couple of years.

Mr. Pollicino stated I have reservations about this partnership so we will continue to work with Steve and monitor what's going on. We have had significant issues with landscaping in this community in the past, this community has a significant learning curve, it has taken a long time to get a group to where we are and I don't want to lose the benefit of the learning curve in this transition.

Mr. Kinsey stated understand that I'm not leaving.

Mr. Rowand stated we are coming in to make it better I'm not trying to change the formula in areas that look good. I just want to make it look better.

Mr. Harrah asked SCG they now own Down to Earth and R & D, is that right?

Mr. Kinsey stated they own four different entities and up until now we have all been operating independently this is a merger that really should benefit all of our clients as a whole because we are getting more into what we really do and I can assure you that I'm still going to be in my office on 210, I am accessible.

Mr. Harrah asked will we see R & D trucks instead of Down to Earth?

Mr. Kinsey stated you will at some point in the near future.

Mr. Rowand stated this is an internal transition.

Mr. Eckert stated first of all I will ask that you let us do an addendum like we did the last time on our form versus what is here because one of the concerns I have is the last sentence says, if the reorganization is not completed the assignment will be automatically null and void. I don't know the status of the reorganization because if it is not done we shouldn't be assigning a contract to a new company because we are only doing it because it supposedly is the same company. The other thing the board needs to be aware and we talked about this the last time we had this issue is when you approve an assignment of the contract you open the argument that whatever the prior vendor did is now the responsibility of the new company so you need to make sure you take stock and make sure that you don't think you have any claims against the prior company before you approve the assignment. I'm not aware of anything I just think that is something you need to understand when you assign a contract that is how it would be interpreted. I would like to use our form of assignment like we used last time and also clear up that one issue because to me that language is we are assigning it and we are going to pay somebody but if they don't do something internally then we are stuck in the middle.

Mr. Kinsey stated I will work for the same people I work for now I will just have a different name on my shirt.

Mr. Pollicino asked are you satisfied with the terms, conditions and pricing in the contract?

Mr. Rowand responded absolutely.

Ms. Driscoll stated I have significant concerns with our median that is in need of some serious need of TLC.

Mr. Kinsey stated we have multiple proposals that Steve and I have talked about how we were going to address some of that. I don't think we have come to consensus on what it is going to be.

Ms. Driscoll asked what about irrigation repair? We have heard several times a year the irrigation is okay and we are finding out there are more and more irrigation repairs.

Mr. Kinsey stated the system that was originally installed some of the controllers and heads are old. Some of the stuff is old material and we have been upgrading and it is getting better and better. I think the system now is probably better than it has been in years.

Ms. Driscoll stated just so you understand for me as a board member one of our biggest ticket items in the budget is our landscape maintenance and we get called out on it when it is not up to par and when it is deteriorating we have to address it as a CDD, Steve has to address it and we don't want to continue to have that going forward.

Mr. Rowand stated the median you are referring to has dead grass and hot spots all up and down. When I went through with Mike I asked him what the situation was and he said they had re-sodded it several times the same area keeps dying and he said they are talking about putting plant material in there that is going to be more conducive. That was two Friday's ago and this Friday I said I want to go through and see it operating and also get with the irrigation tech to find out more of the history before we go in and change the concept of the island. I understand where he is going with that because we have done that on properties that if we keep sodding an area it is usually foot traffic related or it is an area that the irrigation is leaking. I don't think this is foot traffic it is just randomly dead grass throughout the island.

Mr. Pollicino stated you are on notice, we will continue to watch, we will be in touch with Steve and I encourage a point of contact we can reach out to, to discuss concerns. It might be prudent for you to come to the next meeting and give your initial 30 day assessment.

Mr. Harrah asked it is not official yet the R & D and Down to Earth merger?

Mr. Kinsey stated April 1.

Mr. Harrah stated so April 1, then transition period R & D trucks start showing up in the neighborhood in 30 days.

Mr. Rowand stated 30 to 45 we are going to have the same crew unless there is a process Mike and I determine we can make a change but the crew that is out here seem to be doing a good job.

Mr. Kinsey stated if anything we will try to make some upgrades because we have a few weak links over the past year. You have to understand when it comes to recurring revenue the only way we keep our jobs is by making you happy. That is our goal.

Mr. Eckert stated when you do a motion it will be for me to prepare an addendum subject to final review by the chairman and also not release that addendum until such time as we have a revised insurance certificate.

On MOTION by Mr. Pollicino seconded by Mr. Brownlee with all in favor district counsel was authorized to prepare an addendum to the Down to Earth Agreement subject to final review by the chairman and receipt of required insurance certificate.

FIFTH ORDER OF BUSINESS

Approval of Consent Agenda

- A. Approval of Minutes of the February 27, 2017 Meeting**
- B. Balance Sheet and Statement of Revenues and Expenses**
- C. Assessment Receipt Schedule**
- D. Impact Fee Summery Report**
- E. Check Register**

On MOTION by Mr. Pollicino seconded by Ms. Driscoll with all in favor the consent agenda items were approved.

SIXTH ORDER OF BUSINESS

Acceptance of the Minutes of the February 27, 2017 Audit Committee Meeting

On MOTION by Mr. Harrah seconded by Ms. Hall with all in favor the minutes of the February 27, 2017 audit committee meeting were accepted.

SEVENTH ORDER OF BUSINESS

Approval of Resolution of Appreciation No. 2017-04 in Honor of Girl Scout Troop 421's Service to the Community

On MOTION by Ms. Hall seconded by Mr. Harrah with all in favor Resolution 2017-04 was approved.

EIGHTH ORDER OF BUSINESS

**Consideration of Resolution 2017-06
Ratifying the Sale of the Series 2017 Bonds**

Mr. deNagy stated as you are all aware the bonds successfully closed March 15th and the refunding has gone through and you will see the impact to your assessments in November.

On MOTION by Mr. Brownlee seconded by Mr. Harrah with all in favor Resolution 2017-06 was approved.

NINTH ORDER OF BUSINESS

**Consideration of Accepting Dedication of
Certain Mailbox Kiosks**

Mr. deNagy stated information was provided in the agenda package along with Exhibits A and C that outlines the different phases and areas where these mailbox kiosks are being dedicated to the district.

Ms. Hall asked if we don't accept them can the HOA accept them? I say no, let someone else take care of them.

Mr. Eckert stated the district does already maintain some other mailbox kiosks in the community and we did get confirmation from the county that they don't require a permit and they are compliant with St. Johns County's regulations. Whether you choose to do this or not is purely a business decision for this board to make.

Mr. Brownlee stated for future board members it is going to be an expense that everybody is going to have to pay even people with their own mailboxes. Some of these small ones it is probably not much but some of the larger ones have awnings that will need to be replaced so it could run into some money in the future to maintain them.

Mr. Pollicino stated if you wanted to you could break out the parcels that are going to be impacted by these and assess them but it is a lot of work to do that and it is just not worth it.

Ms. Hall stated I have a mailbox and when my mailbox is broken I have to replace it and who approves that.

Mr. Harrah stated the ARC would have standards.

On MOTION by Mr. Harrah seconded by Mr. Pollicino with all in favor dedication of the mail kiosks as outlined in Exhibit A and C was accepted.

TENTH ORDER OF BUSINESS

Discussion of Durbin North Wall Maintenance

Mr. deNagy stated I believe this issue came up at the last board meeting and there was some discussion about a brick wall at Durbin North and the maintenance issue had to do with the side that is facing residences and access to get to the brick wall. Clark Gates, Margaret and I did quite a bit of due diligence about it and George as well and I want to talk about the maintenance of the interior portion of the wall.

Ms. Alfano stated since I have been here we have cleaned the outside of the wall twice and we never cleaned the other side. A resident called and inquired as to who was going to clean the resident's side of the wall and I asked Dave and we did investigation, the wall is ours, there is a little bit of an easement on the resident's side but the majority of the homeowners who back up to that wall have fences that abut the wall and the wall is the rear fence to their property. My first thought was they have fenced it off it is their maintenance cost. If we want residents to maintain it they can cause damage to it and if it is something we are going to maintain it costs between \$2,000 to \$2,500 to pressure wash the wall along with the monuments and other things that we do at the same time of year. It would be much more expensive to clean the other side of that wall just due to access issues, you have to go in and get permission from those people, etc.

Mr. Pollicino stated it is an operational nightmare and a homeowner is required to maintain a portion of CDD property leading to the bank of a pond, on a preserve lot it is your responsibility to maintain up to the line and if a weed or something growing into your property you will cut that and maintain to your property line. I think the same should apply to homeowners who live on a lot that backs up to a wall, it is their responsibility to maintain to the wall. We have some residents who choose to power wash it three times a year because that is their standard and some residents may have shrubbery along the wall. Whatever we need to do to amend our by-laws to make that clear to the residents that is what we have to do. I recommend we work with counsel and management to draft whatever it is, a resolution or amendment to deal with this.

Mr. Eckert stated I think part of the problem is the fact that we asked George this question and he went out and looked at it from a surveying standpoint and basically you have the end of a lot and then a couple feet that they just go ahead and stretch their fence across so they can tie into the wall, which I understand why they did it but it is not their land. That may have been what the thought was in the beginning that there is a maintenance area you can go around.

For your pond bank that you are required to maintain I imagine that is an HOA covenant. This is a little bit different in that you are saying we want you to maintain this wall but I'm sure it is not in the covenants. If you want to look for a document that is enforceable that you could say to a resident you must do this, it would have to be in the HOA covenants.

Mr. Harrah stated the only other option is we can clean it but where are we going to do it, the alternative we have is tear the fence down all through there where it connects we come in and spray then you can put your fence back. I would presume the majority of the people wouldn't want to do that.

Ms. Hall stated it is the same as the ponds they encroach on the easement.

Ms. Driscoll stated if you have a neighbor who put up a fence and choose to maintain their side of that fence if your side of the fence gets moldy or algae it becomes your side of the fence. I don't go to my neighbor and tell them they need to clean the other side of the fence because it faces my property. I get the issue and I get that one resident feels that way and it is our wall but we haven't enforced that ownership in every single instance of a fence or landscaping being installed.

Mr. Eckert stated we don't get notice of when that is even done. My guess is the HOA approval probably stops at the property line. I would be surprised if the HOA said go ahead put the fence on somebody else's property. If the district does it you can get permission and I think it is possible to say to homeowners we are okay with you maintaining that wall. You can choose to do that understand that if you grant that permission and they damage the wall then you want to go after them that is going to be difficult. George did check and see he didn't think there was any Styrofoam on there or anything like that it was all hardscape, all brick and that is good. Understand if you want to tell residents we are not maintaining it because you have taken away our access if you want to maintain it that is fine, don't damage our wall and if you do we may come after you but it is up to you. It is a business decision. It is a difficult issue I just want you to be aware that the more you grant permission for people to maintain your property the less chance you are going to have of recovering if there is any damage.

Mr. Pollicino stated just call the resident and say the board met and we are not going to maintain the inside of the wall.

Ms. Alfano stated it is one resident spearheading for more than one.

Ms. Hall stated tell them if they take their fence down we will pressure wash the wall.

Mr. Eckert stated two feet or so is our property it is not an easement it is our property but one thing you can do if you want to talk to residents and the board wants to take the risk of letting somebody else maintain your property is you could strongly encourage them and say we do not give you any permission to pressure wash but a soft wash or something like that may be better steps to protect the property.

Ms. Alfano stated the residents are allowed to clean the wall and I will call and let her know.

Mr. Harrah stated the bottom line is we are not doing anything, we are not cleaning that side of the wall. If they want to do something they can, take a water hose and spray the hose and be done with it.

ELEVENTH ORDER OF BUSINESS

**Presentation and Consideration of the
Community Advisors Capital Reserve Study**

This item taken earlier in the meeting.

TWELFTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

Mr. Eckert stated in the nature of a preview for next meeting as you have seen on a lot of our invoices we have been working hard to try to clean up all the little slivers of real estate that are all around here that developers tend to leave and we have Durbin North property conveyances and I think we are ready to come to your April meeting and we are still working on Durbin South. We are getting cooperation but we haven't gotten it buttoned up yet.

B. District Engineer

There being none, the next item followed.

C. District Manager

Mr. deNagy stated I sent to you an addendum to the GMS agreement, nothing is changing with the agreement dated August 23, 2005 other than we are adding the item for litigation and public records request, with an hourly rate for the pending litigation that Scott spoke about earlier. That is outside the scope of our original contract and wanted to add it to the agreement.

Mr. Eckert stated the estoppel letter fee is charged to someone who is requesting an estoppel not to the district. The lot debt payoff pay down letter the same thing is charged to whoever is requesting it, not to the district. On the public records request there has been some changes in the law and these are all very reasonable fees compared to what I have seen elsewhere but it doesn't mean that you can pass through these fees dollar for dollar to a person requesting public records. We will comply with the law when we deal with those but these don't seem unreasonable.

On MOTION by Mr. Pollicino seconded by Mr. Harrah with all in favor the amendment to the agreement with GMS was approved.

Mr. deNagy stated I will be getting with Margaret, Daniel and Steve to work on the FY 2018 budget that we will have at the next meeting.

D. General Manager - Report

Ms. Alfano reviewed her report, copy of which was included in the agenda package after which the following actions were taken.

On MOTION by Mr. Pollicino seconded by Mr. Harrah with all in favor Ms. Driscoll was authorized to work with staff to finalize the survey for future capital improvements and distribution strategy.

On MOTION by Mr. Brownlee seconded by Mr. Harrah with all in favor addition of seasonal staffing at Durbin North in the amount of \$6,363 was approved and district counsel was authorized to prepare an addendum to the Vesta agreement.

Mr. deNagy stated the lifeguard budget for this year is \$38,250 and the agreement with Vesta is for \$32,250 and is a \$6,000 difference, the \$6,000 was for night swim for FY 2017. We had an agreement in FY 2016 for night swim for \$3,700 but that was only for FY 2016. We talked about it and approved it for night swim for FY 2017 we just need another addendum to the agreement for the night swim in the amount of \$6,000.

On MOTION by Mr. Harrah seconded by Ms. Hall with all in favor staff was authorized to prepare an addendum to the Vesta agreement in the amount of \$6,000 to cover staffing of night swimming.

E. Operations Manager - Report

Mr. Howell gave an overview of the field operation manager's report, copy of which is attached hereto and made a part hereof.

THIRTEENTH ORDER OF BUSINESS Other Business

There being none, the next item followed.

FOURTEENTH ORDER OF BUSINESS Supervisor's Requests and Audience Comments

There being none, the next item followed.

FIFTEENTH ORDER OF BUSINESS Next Scheduled Meeting – Audit Committee and Board of Supervisors on April 24, 2017 @ 6:00 p.m. at the Durbin South Amenity Center

Mr. deNagy stated the next meeting will be April 24, 2017.

On MOTION by Mr. Pollicino seconded by Mr. Brownlee with all in favor the meeting adjourned at 7:57 p.m.


Secretary/Assistant Secretary


Chairman/Vice Chairman