

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, September 26, 2016 at 6:00 p.m. at the Durbin South Amenity Center, 145 South Durbin Parkway, Jacksonville, Florida.

Present and constituting a quorum were:

Peter E. Pollicino	Chairman
Sarah Gabel Hall	Supervisor
Jason Harrah	Supervisor

Also present were:

Dave deNagy	District Manager
Mike Eckert	District Counsel by telephone and in person
Clark Gates	Hopping Green & Sams by telephone and in person
Stephen Howell	Vesta/Amenity Services Group
Dan Fagen	Vesta/Amenity Services Group
Margaret Alfano	Vesta/Amenity Services Group
Bill Kinsey	Down to Earth
Several Residents	

The following is a summary of the minutes and actions taken at the September 26, 2016 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 and led the pledge of allegiance.

SECOND ORDER OF BUSINESS

Roll Call

Mr. deNagy called the roll.

THIRD ORDER OF BUSINESS

Audience Comments

There being none, the next item followed.

**NINTH ORDER OF BUSINESS Consideration of Easement Encroachment
156 Wellwood Avenue**

Mr. Pollicino stated this is a request to encroach into the district's drainage easement for a pool that was reviewed by the district engineer and he found no issues that would affect the CDD from fulfilling its obligations in the maintenance of the common area or the pond.

On MOTION by Mr. Pollicino seconded by Mr. Harrah with all in favor the easement encroachment for 156 Wellwood Avenue was approved.

FOURTH ORDER OF BUSINESS Approval of Consent Agenda

- A. Approval of Minutes of the August 22, 2016 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. Harrah seconded by Ms. Hall with all in favor the consent agenda items were approved.

**FIFTH ORDER OF BUSINESS Ratification of Engagement Letter with
Berger Toombs Elam Gaines & Frank for FY
2016 Audit Services**

On MOTION by Ms. Hall seconded by Mr. Pollicino with all in favor the engagement letter with Berger Toombs to perform the fiscal year 2016 audit in the amount of \$3,725 was ratified.

**SIXTH ORDER OF BUSINESS Ratification of Lot Owner Agreements and
Releases**

Mr. deNagy stated we have two agreements, one for Lindsey and Timothy Rice as well as Elsie Masmann.

Mr. Eckert stated when we did our agreement with Dream Finders to sell the right-of-way there were two lots that were kind of close to where the road would be installed. Part of the

agreement we had with Dream Finders was to try to get those lot owners to release any claims that they had by virtue of that road being installed. You have the two lot owner releases in front of you, the terms and compensation to those lot owners to release any claims is consistent with the amount set forth in the agreement with Dream Finders. Both of those lots will have some of their debt assessment owed on the bonds paid down in exchange for releasing any claims they may have against the district for that road going in the right-of-way that the district sold.

Mr. Pollicino stated the funds used to satisfy the two homeowners are funded by Dream Finders.

On MOTION by Mr. Harrah seconded by Mr. Pollicino with all in favor the two lot owner agreements and releases were ratified.
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SEVENTH ORDER OF BUSINESS

Consideration of Conveyance to the District of a Durbin Crossing North LLC Parcel

Mr. Eckert stated there are two conveyances proposed. The first one consists of six parcels and another one is a single parcel. The one at the top of the page is the one the developer is willing to give to the district, but there is a significant amount of surveying costs that go along with this and the board needs to decide whether or not you want to pay the surveying cost to take title to those slivers of property. They are not included within the district's capital improvement plan so the district is not obligated to take them. It is up to the board to decide whether or not to allocate district funds to do a survey to have those parcels deeded over to the CDD.

Ms. Hall asked if we don't pay the surveyor's fee what happens?

Mr. deNagy stated the developer keeps it.

Mr. Eckert joined the meeting in person at this time.

Mr. Harrah asked do you have any idea why Wood Development wouldn't have turned this over in the beginning to us?

Mr. Eckert stated it is a cleanup at the end of the process. When developers finish working in a community, they look to see if they still own any slivers of property here and there. If it was part of our improvement plan that George put together for us when we sold our bonds, we could have required them to convey that to us. But it is not part of that, it is not part of the completion agreement and it really is our choice do we want to own this property or not. If we do, they are saying they are not willing to pay the \$4,500 for the survey.

Mr. Pollicino asked what is the downside of just saying keep it?

Mr. Harrah stated we are already doing the mowing.

Ms. Hall stated they can't build anything on it.

Mr. Eckert stated there is nothing wrong with me going back to them and saying at this point in time the district doesn't want to spend the \$4,500 to do it as you do not want to either.

Mr. Pollicino stated I think you go back to them and say it is not in our budget to incur any fees for these slivers of land and if you are interested in cleanup on your part pay the survey and turn them over and we will take them.

Mr. Eckert stated the next one is Tract G in Durbin Crossing North Phase 2B Tract G. It is a tract and you are not looking to have any surveying work done. It is a matter of preparing a deed and having that recorded.

Mr. Harrah stated I'm pretty sure that is an empty lot with a lift station. I don't know who owns the lots where the lift station sits on.

Mr. Pollicino stated I think the answer is the same.

Mr. Eckert stated that's fine. I will let them know if they want to pay the cost of the transaction the district would be willing to do it, otherwise the district is not willing to incur the cost at this time.

EIGHTH ORDER OF BUSINESS

**Consideration of Prompt Payment Policies –
Resolution 2016-10**

Mr. Eckert stated we prepared these policies for all of our districts not in relation to any particular issue but because the Prompt Payment Act that is included within the Florida Statutes is, in my opinion, very difficult to follow. However, there are some places in the Prompt Payment Act where districts are given discretion to adopt policies such as to deal with disputed invoices. If you don't adopt your own policies you essentially get punished by the statute and lose your ability to actually contest something that is an improper invoice. We have included whatever flexibility the law allows us to and also tried to clarify the Florida Statutes that apply to the Prompt Payment Act. On most things, such as janitorial services and things like that, it is usually not an issue, but if we have a construction project and we have a problem we want to make sure we have the most flexibility and protection that we possibly can. We are recommending it for your approval.

Mr. Harrah asked do we have to send this out to all the vendors we have?

Mr. Eckert stated you don't have to send it out, but it is good for Dave to have that in his office to use as a quick reference guide in terms of what to do when we do have a dispute.

On MOTION by Mr. Harrah seconded by Mr. Pollicino with all in favor Resolution 2016-10 was approved.

TENTH ORDER OF BUSINESS

Staff Reports

A. Attorney

Mr. Eckert stated we have the trustee acknowledgement that we passed out. Essentially, we had a situation about a year and a half or two ago when I brought to the board's attention that there was about \$325,000 sitting in the 2006-1 prepayment account, which is your impact fee bonds that the builder pays. The trustee used that money pay interest to the bondholders instead of redeeming bonds, which is to the detriment of the district. Your district manager's office caught that and brought that to the attention of the trustee and the trustee agreed that it was a mistake. To fix that, we entered into an indenture amendment the board approved, which basically said they, the trustee, were going to cancel \$325,000 worth of bonds. It was supposed to take the form of what is called a DWAC, which is a technical term that DTC uses and is the one that has the registration for all the bonds. We got through that the trustee tried to DWAC the bonds and DTC said no, you can't do that because the bonds are frozen because you tapped your reserve and, therefore, we are not going to be able to do a DWAC. Essentially, the trustee reached out to us and said we can't comply with this, can we just go ahead and cancel them on paper, we will record that they are canceled and everybody will reflect it on their books and when we get to the point where we have \$325,000 left in bonds outstanding, we will cancel them at that point in time. It gets us to the exact same place it is just a little bit of a different structure.

The document you have in front of you is a document that the trustee wants to post on EMMA, which is basically the information repository for when people want to trade bonds or look and see what is going on with bonds, they go there and look for the current status. This will reflect the \$325,000 will be canceled at the end of the bond term. We are recommending approval rather than try to force the trustee to do something that is not possible.

On MOTION by Mr. Harrah seconded by Mr. Pollicino with all in favor the document provided by the trustee on the 2006-1 Bonds to be posted on EMMA was approved as outlined above.

Mr. Eckert stated in terms of the interlocal agreement with the county for mowing, I reached out to Mr. Caldwell earlier today and he said he is sitting down with their legal staff later this week and we should get a response from them. They are comparing it with other agreements they have in other communities, which is why we used an agreement from another community as a model. Hopefully, I will have more to report on that at your next meeting.

I have asked your underwriter to be available to come to your October meeting to talk to you about the refunding of the bonds.

B. Engineer

Mr. deNagy stated the engineer has provided a work authorization changing the estimated fee for FY 2017 from \$6,750 that is budgeted and he feels it will be a little bit higher this year and he has a work authorization for \$8,000. The reason for that is a lot of things come up such as the easement encroachment.

Mr. Harrah asked where do we get the additional money?

Mr. deNagy stated there are line items throughout the year that go up and down so we can move money from another line item.

On MOTION by Mr. Harrah seconded by Mr. Pollicino with all in favor work authorization no. 34 in the amount of \$8,000 was approved.

Mr. Gates joined the meeting at this time.

C. District Manager

1. Resignation of Dissemination Agent

Mr. deNagy stated we received a letter from Prager & Co. terminating their agreement as dissemination agent for the district. Prager would supply all the updates to EMMA with regard to anything going on with the bonds. Their recommendation is to have the district manager serve

as dissemination agent being familiar with the district and we do dissemination reporting for other districts.

2. Consideration of Agreement/Proposal with GMS for Dissemination Services

Mr. deNagy stated we provided an agreement from GMS and the fee for that would not change from what Prager was charging the district and what is in our budget and that is \$6,750.

On MOTION by Mr. Harrah seconded by Mr. Pollicino with all in favor the agreement with GMS for dissemination agent services in the amount of \$6,750 was approved in substantial form.

D. General Manager - Report

Ms. Alfano reviewed her report, copy of which was included in the agenda package.

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.

ELEVENTH ORDER OF BUSINESS Other Business

There being none, the next item followed.

TWELFTH ORDER OF BUSINESS Supervisor’s Requests and Audience Comments

Ms. Hall stated the gym looks really good, good job Margaret on the installation.

THIRTEENTH ORDER OF BUSINESS Next Scheduled Meeting – October 24, 2016 @ 6:00 p.m. at the Durbin South Amenity Center

Mr. deNagy stated the next meeting is scheduled for October 24, 2016 at 6:00 p.m. in the same location.

On MOTION by Mr. Harrah seconded by Ms. Hall with all in favor the meeting adjourned at 6:45 p.m.

September 26, 2016

Durbin Crossing CDD


Secretary/Assistant Secretary


Chairman/Vice Chairman