

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, August 24, 2020 at 6:00 p.m. at the Durbin South Amenity Center, 145 South Durbin Parkway, Saint Johns, Florida and by Zoom.

Present and constituting a quorum were:

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

Also present were:

Daniel Laughlin	District Manager
Mike Eckert	District Counsel by Zoom
George Katsaras	District Engineer by Zoom
Stephen Howell	Vesta/Amenity Services Group
Justin Blackenbaker	Vesta/Amenity Services Group
Jay King	Vesta/Amenity Services Group
Danelle DeMarco	Vesta/Amenity Services Group
Todd Myhill	Vesta/Amenity Services Group

The following is a summary of the discussions and actions taken at the August 24, 2020 meeting. An audio copy of the proceedings can be obtained by contacting the District Manager.

**FIRST ORDER OF BUSINESS**

**Pledge of Allegiance**

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

**SECOND ORDER OF BUSINESS**

**Roll Call**

Mr. Laughlin called the roll.

**THIRD ORDER OF BUSINESS**

**Audience Comments**

There being none, the next item followed.

**FOURTH ORDER OF BUSINESS**

**Approval of Consent Agenda**

- A. Approval of Minutes of the July 27, 2020 Meeting**
- B. Balance Sheet and Statement of Revenues and Expenses**
- C. Assessment Receipt Schedule**
- D. Check Register**

On MOTION by Mr. Brownlee seconded by Ms. Driscoll with all in favor the consent agenda items were approved to include amendments on pages 4 and 5 of the July 27, 2020 meeting minutes.

**FIFTH ORDER OF BUSINESS**

**Public Hearing for the Purpose of Adopting the Fiscal Year 2021 Budget, Considering the Imposition of Special Assessments, Considering the Adoption of an Assessment Roll; and Providing for the Levy, Collection and Enforcement of Assessments**

On MOTION by Mr. Brownlee seconded by Mr. Pollicino with all in favor the public hearing was opened.

Mr. Laughlin stated there is no increase in assessments. The budget has been on the agenda for the past few meetings and it is pretty straight forward.

There being no questions or comments from the public, the board took the following action.

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

- A. Consideration of Resolution 2020-06 Relating to Annual Appropriations and Adopting the Budget for Fiscal Year 2021**

On MOTION by Mr. Harrah seconded by Ms. Driscoll with all in favor Resolution 2020-06 was approved.

**B. Consideration of Resolution 2020-07 Imposing Special Assessments and Certifying an Assessment Roll for Fiscal Year 2021**

On MOTION by Mr. Harrah seconded by Mr. Brownlee with all in favor Resolution 2020-07 was approved.

**SIXTH ORDER OF BUSINESS**

**Discussion Regarding Patio at 1915 Dumfries Court**

Mr. Laughlin stated we talked about this at the last meeting and we found that there is a structure on district property.

Mr. Eckert stated I wanted to let the board know upfront that I have talked to George Katsaras and he had the ability to look at this memo and make sure that he was comfortable with it as well. Essentially, the district as a property owner should not be permitting anyone to build anything on district-owned property. Part of this appears to be built on district property and Hopping Green & Sams' recommendation is that portion should be removed. Then you get down to the issue of how much do you want to allow within your drainage easement and George will speak to that because that is more of an engineering issue, but it is a concern from district counsel's perspective when the entire drainage easement has an improvement in there that is not something the district can easily move out of the way like a fence in the event we needed to use the easement. I think in this particular case it appears based on the maps that I reviewed that this was installed by a prior owner of the property. I'm not aware that this prior owner every got permission from the district to do any of this work in the easement or on the district's property. I would be surprised if this issue did not show up on a survey or title report when the property was purchased and that may be an avenue the current property owner has, but that isn't a concern to me as district counsel.

Mr. Katsaras stated I do have concerns that the current patio extends beyond the resident's rear property line over the top of bank, which is essentially the property line into district property. The top of bank of pond is basically the same as their rear property line and it looks to be about a one-foot to 18-inch drop and that would make it very difficult for the district to bring in heavy equipment across the top of bank should the need ever arise. As far as the easement is concerned there is a 10-foot access and drainage easement along the top of bank. Historically on other properties, I'm comfortable allowing up to a 5-foot release so releasing the innermost 5-feet of the 10-feet that still allows 5-feet for the district to maintain access around top of bank of the pond. In this case they would be asking for release of the entire 10-foot drainage easement. Being that

it is already existing I don't know how the board views that, but in my eye if this were a new project, I would not recommend approval.

Mr. Eckert stated whatever we release here in this situation, we want to make sure that we are not going to run afoul of any of our permit requirements. What you don't want to do is release something and a permitting agency say it is too much. I want to make sure everybody is aware of that.

Mr. Katsaras stated typically on new projects the water management district and the county require whoever is trying to get the release whether it is the resident or contractor, to get approval from the CDD. How this one got by the county and the water management district I don't know. The more recent ones they are making them come to the CDD to get approval.

Mr. Harrah asked will you go through your options?

Mr. Eckert stated I see these as two different situations even though it is the same patio. I don't think you should allow anything to be built on your property, especially anything to encroach on your pond bank that you own as the CDD. My recommendation there is that whatever is on district property be removed. In terms of the encroachment with the district's drainage easement the board can request the resident remove the encroachment that is within the drainage easement because it does interfere with the district's ability to use that, to move heavy equipment around the pond in the event we have pond bank failures that need to be remedied. We do have those from time to time. You also have the issue of the fact that there is no swale at the back to catch water and George can speak to whether or not that is the way those lots are engineered but that is one of the issues we run up against, which is one of the reasons why you need that drainage easement. The board can request a portion of the encroachment within the drainage easement be removed and release a portion of the drainage easement, that is option no. 2 and the other thing you can do is go to the permitting agency and see what they have to say about it, but if what George is saying they have recently been deferring to the CDD then I'm not sure you are going to end up with anything but option 1 and option 2. This is the kind of thing had it come before the board in advance my guess is the board would have said, maybe 3-feet. George has said he would be okay with up to 5-feet, but the board never would have approved the entire drainage easement to be taken up by an elevated hardscape when there is no way you can get equipment through your easement if you needed to.

Mr. Harrah asked is there an option to write up some kind of document, signed by the resident and the board that stipulates what the issue is, the feature was constructed on private property, it is a unique situation and in the event a bank failure or storm event, etc. would require the district to get on that property with no notice, whatever has to be taken up to access that portion or remove or crush or whatever the case may be, is the private resident's sole responsibility to replace at their own cost.

Mr. Eckert stated there is a way to draft a document that would do that. I will tell you that I don't think you should count on that document eliminating the litigation that you might face when somebody is very upset that you have torn out the patio. There is a way we can draft a document, but I don't think you can assume that document is going to avoid litigation.

Mr. Harrah stated that is where we are at. No. 1, the board writes something that says take it off our property. No. 2, is the district has some type of security that if we have a major storm event and a bank eroding or it is cutting back into people's property and we need to get in there immediately to do work and if they crush a piece of it you would have to put it back. That's the two options we have.

Mr. Brownlee stated that is not true because we have never let anyone build anything on our property. That has to go. Whether we want to approve the part that is on the easement is no. 2 and we might want to consider that with a document, but if we set a precedent here of saying okay, you're sorry you built on our property you can sign this document then someone else will come along with the same issue and say you did this for those people, you can do it for us too. I don't think we should set that precedent.

Mr. Pollicino stated let's hear from the resident.

Mr. Brown stated I hear the options in which I don't get a compromise. When I bought this property, this is what was sold to me. I had the impression it was all legal, it went through all the different attorneys and landscaping and surveys and title search saying this is my property and whatever was on that structure was in compliance with the HOA, the CDD, whatever. There was never an issue brought to me saying that property where the patio is, is in violation of your rules. If I had known that nobody would submit something to the board saying I want this done, knowing that it wasn't legally put up in the first place. This is what was sent to me and this is what was sold to me.

Ms. Brown stated you said there is no room for construction in the event they have to get in and do something to the pond. Before you make a life changing decision about altering property you should go out and look at it. If you look at that entire area, there is plenty of space around that pond in fact the bank that is opposite our pond has no properties on it so there are multiple access points around the lake.

Mr. Katsaras stated rain comes off the pavers and goes directly on the slope and will cause erosion opposed to water coming off a yard.

After further discussion district counsel was directed to try to negotiate an agreement to allow the paver patio to remain as it is and in the event the patio has to be removed in the future for possible pond bank repairs or other reasons that will be done at the homeowner's expense. Homeowner to pay for all legal and recording fees.

**SEVENTH ORDER OF BUSINESS**

**Staff Reports**

**A. Landscape Maintenance Report**

This item taken up under the operations manager's report

**B. District Counsel**

Mr. Eckert stated the governor has extended the time to meet remotely until October 1. We will keep you apprised on whether or not it gets extended again.

**C. District Engineer**

Mr. Harrah asked have you heard anything on the stoplight?

Mr. Katsaras responded I thought they were trying to get it completed by the next school year, but I will see if there is an update when I get back to the office tomorrow and see if COVID affected the schedule.

**D. District Manager – Consideration of Designating a Regular Meeting Schedule for Fiscal Year 2021**

On MOTION by Mr. Harrah seconded by Ms. Driscoll with all in favor the fiscal year 2021 meeting schedule reflecting meetings on the fourth Monday of the month was approved.

**E. General Manager - Report**

Mr. Myhill reviewed his report, copy of which was included in the agenda package.

**F. Operations Manager - Report**

Mr. Howell reviewed the field operation manager’s report, copy of which was included in the agenda package.

The board and staff discussed the initial cost and yearly operating cost of heating the pool with electric, gas and geothermal and will send out a survey with estimated initial cost and yearly cost to heat the pool with electric, options for a splash park, playground, remodel playground at amenity center, relocating the playground, utilizing existing equipment along with new equipment and shade structures, conversion of north amenity center hall and/or patio to gym facility and add a line that says for every \$10,000 it will cost homeowners X dollars. Responses will be reviewed at the September meeting.

**G. Amenity Manager – Report**

Ms. DeMarco gave an overview of the amenity manager’s report, copy of which was included in the agenda package.

**EIGHTH ORDER OF BUSINESS**

**Supervisor’s Requests and Audience Comments**

Mr. Pollicino asked how can we share the survey?

Mr. Laughlin stated we can email it to the board.

**NINTH ORDER OF BUSINESS**

**Next Scheduled Meeting – September 28, 2020 @ 6:00 p.m. at the Durbin South Amenity Center**

Mr. Laughlin stated our next scheduled meeting is September 28, 2020 at 6:00 p.m.

On MOTION by Mr. Harrah seconded by Mr. Brownlee with all in favor the meeting adjourned at 7:55 p.m.

August 24, 2020

Durbin Crossing CDD



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Secretary/Assistant Secretary



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Chairman/Vice Chairman