

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, October 25, 2021 at 6:00 p.m. at the Durbin South Amenity Center, 145 South Durbin Parkway, Jacksonville, Florida.

Present and constituting a quorum were:

Peter Pollicino	Chairman
Tim Brownlee	Vice Chairman
Sarah Gabel Hall	Supervisor
Jason Harrah	Supervisor
William Clarke	Supervisor

Also present were:

Daniel Laughlin	District Manager
Mike Eckert	District Counsel
George Katsaras	District Engineer by telephone
Dan Fagen	Vesta
Margaret Alfano	Vesta
Danelle DeMarco	Vesta
Jaime Constancio	VerdeGo
Several Residents	

The following is a summary of the discussions and actions taken at the October 25, 2021 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 and led the pledge of allegiance.

SECOND ORDER OF BUSINESS

Roll Call

Mr. Laughlin called the roll.

THIRD ORDER OF BUSINESS

Audience Comments

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There being none, the next item followed.

FOURTH ORDER OF BUSINESS Ratification of Transfer of Client Matters to Kutak Rock LLP

Mr. Pollicino joined the meeting at this time.

Mr. Eckert stated our firm is going to be winding down legal operations, and our practice group is primarily the remaining people at the firm. We are going to become the Florida office of Kutak Rock, which is a national firm that provides public finance and local governments, land use, and environmental legal services. They do not have an office in Florida yet and they have asked us to open their office in Tallahassee. I will still be working out of St. Augustine. There will be no change in the rates that the district has negotiated with us and no change in terms of who would be providing legal services; it would still be me. It is a good opportunity for our practice group to learn some more best practices and get some additional support in areas of the law such as bankruptcy and federal tax and things like that. We believe it is a good synergy and a good way forward. You have received a transition letter, you have two alternatives, alternative one is to transition over to Kutak Rock with me as your attorney and option two would be you could go out and find a different attorney if you so choose.

On MOTION by Mr. Brownlee seconded by Mr. Harrah with all in favor option 1 was selected and the chair was authorized to execute a new fee agreement as of November 15th with Kutak Rock LLP.

FIFTH ORDER OF BUSINESS Approval of Consent Agenda

- A. Approval of Minutes of the September 27, 2021 Meeting**
- B. Balance Sheet and Statement of Revenues and Expenses**
- C. Assessment Receipt Schedule**
- D. Check Register**

On MOTION by Mr. Brownlee seconded by Mr. Clarke with all in favor the consent agenda items were approved as amended.

SIXTH ORDER OF BUSINESS Acceptance of Engagement Letter with Berger Toombs for Fiscal Year 2021 Audit

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Mr. Laughlin stated this is the engagement letter with Berger Toombs to perform the fiscal year 2021 audit.

Mr. Eckert stated we have reviewed it and we are comfortable with it from a legal perspective.

On MOTION by Mr. Harrah seconded by Mr. Pollicino with all in favor the engagement letter with Berger Toombs to perform the fiscal year 2021 audit was approved.

SEVENTH ORDER OF BUSINESS Consideration of Resolution 2022-01 Amending the Fiscal Year 2021 General Fund Budget

Mr. Laughlin stated at the end of the year we do a budget amendment, which will balance the different line items. We had some that went over budget, and some were under budget and we are moving money to balance it.

On MOTION by Mr. Brownlee seconded by Ms. Hall with all in favor Resolution 2022-01 was approved.

EIGHTH ORDER OF BUSINESS Staff Reports

A. Landscape Maintenance Team - Report

Mr. Constancio stated I think everyone has seen mulch has gone down, we have to do a final walk with Zach to make sure we have the coverage we discussed. We are going through all the monuments and did a major reduction on the Bermuda. It is down to 2” so we can better treat the weeds and getting the other groundwork done by AgrowPro so come spring we can have a better impact of green grass. We did a lot of work prior to the mulch going in.

Mr. Clarke asked do we ever trim the Magnolias and take the bottom branches off?

Mr. Constancio stated that is what it has been. In some areas along Durbin Parkway, we raised it so we could get access to clean it up. Typically, all the magnolias we have been told keep them from the bottom up growth. It wouldn’t be a bad idea and I will bring it up with Zach.

Mr. Brownlee stated the entry to the community off Veterans on North Durbin Parkway the plantings that are in there now are the best I have seen.

Mr. Pollicino stated I agree, it is the best it has been in years.

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B. District Counsel

Mr. Eckert stated I will have four memos for you that deal with legislative changes, and they will go out in your next agenda package. There is a prompt payment policy change where we are going to have to pay 2% instead of 1% for late fees to construction contractors. It is important that if there is a payment dispute in terms of the service that we provide the notices required under the prompt payment act to preserve our rights. There was also a bill that passed that requires us to get a 20-year stormwater analysis done, which basically is going to be our plan of how we are going to maintain, fund, repair, and replace our stormwater system. That is something your engineer will be working with your manager on. It also applies to wastewater systems, but we don't own a wastewater system. We built wastewater then transferred that to the county. There are a couple other bills, one is dealing with the electronic publication of meetings on the website, however, we don't recommend that at this point in time because you have to pay the newspaper on a weekly basis to publish an ad saying we are publishing our new ads on the website.

Mr. Pollicino asked Mr. Eckert to comment on the memo about the ribbons.

Mr. Eckert stated the memo I provided to the board was that I recommended that the ribbons be taken down and I think November 1 is the date that gave plenty of notice. The basis for my concern is you have potential equal protection issues that can come up later if there is another party that wants to put up ribbons and things like that and this is a public space, so we need to be careful of making sure we don't have those types of claims that come up in the future. I know there have been additional conversations and looking for a more permanent community memorial and that is where we are focusing our efforts.

C. District Engineer

Mr. Katsaras stated I will continue to work with Zach on a couple items we are working on now such as the repair of the south amenity parking lot, the turn lane on Tollerton and the erosion behind some of the lots where the pond bank repair was made.

D. District Manager

Mr. Laughlin stated I was contacted by a resident who is here today about a pool install he is working on. Essentially, a survey company put an easement on his home survey even though he lives on the preserve there is a flat statement in here that mentions easements. I talked to George

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to get his thoughts on it, and he mentioned he doesn't believe it is there, but there is a note on page 9.

Mr. Harrah stated we have a resident putting in a pool.

Mr. Godsey stated I haven't done anything because I'm disputing the survey. When I was looking for homes in Durbin we went to an open house and received a survey, and I was very concerned about the depth of my lot and not having an easement because I wanted to put a pool in and was only purchasing a home where I could do that. The survey they gave out during the open house did not have any utility easements other than the JEA easements in the front of the home. However, a few days before closing I received a survey from Target Surveying and they applied an additional 10-foot easement in the front of the property, the rear of the property and a 5-foot easement on both sides. They told me now that I have gotten to the point of addressing it with them that they are not basing it off my plat map, which doesn't have those easements, they are basing it off this footnote, that says, every lot depicted on the plat map, which is every lot in Durbin is subject to the 10-foot easement on the front and back and 5 on the sides and therefore, having next to every home in Durbin that they do a survey for. This is more than just me, this is literally anyone who has a survey company reviewing that note on the plat map because the reference is to the official record book where the covenants and restrictions and easements are recorded for our neighborhood. They are pulling it straight out of that and therefore a blanket easement is what they stated applies.

Mr. Eckert stated the plat sketch does not contain the easement; however, the HOA declaration of covenants, conditions and restrictions says that every lot has that 10-foot easement reserved for the developer. That is pretty common; a lot of times they are even called HOA covenants, conditions, restrictions and easements. That is a recorded document against the property and at least in my opinion the developer or whoever owned the land on the plat, does have that easement. The question that came up to me is who has the ability to vacate or release a portion of that easement if the board was so inclined to facilitate whatever was trying to be done with the property back there. We have probably 20 or 30 different assignments of easements from the developer to the CDD. I don't know if this particular one is covered or not so I don't know if the district can be the one to say we will release our rights to the easement. I have to go back and look and see if it has ever been assigned to us but at least in my opinion the easement exists, it is really

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a question of is it something we can even deal with at all or is it something that the developer retained and the developer will have to be the one to release it.

Mr. Pollicino asked what is the remedy?

Mr. Eckert stated the remedy is twofold, one is to determine who actually has the easement at this point in time because the developer could have assigned it to the CDD and then the CDD would be the one that would have the ability to release a portion of it or vacate it if you wanted to. Or the developer could have granted the CDD an easement but also retained it's easement in which case you would have to get releases from the CDD and the developer. Or the developer could have kept it and never assigned it to the CDD at all and then you would have to talk to the developer because the CDD wouldn't have the ownership interest in that easement. I have to go through those documents and see if it was ever assigned to the CDD but I wasn't going to do that unless the board directed me to do that work.

Mr. Harrah stated I think we need to do that.

Ms. Hall asked do any of your neighbors have a pool?

Mr. Godsey responded yes with a screen enclosure that goes 5-feet to his fence, which was a big red flag that the survey was not reasonable.

Ms. Hall asked how do we escalate this because it takes forever to build a pool right now?

Mr. Pollicino stated Mike can do the research and come back.

Mr. Eckert stated we have all the documents; it is just a question of looking through them. There were so many assignments of easements over the years because you do it each time an area is developed. It is probably going to take me a week.

On MOTION by Mr. Clarke seconded by Mr. Harrah with all in favor district counsel was authorized to look into clause 9 of the plat and easement assignments from the developer to the district and provide that information to the chairman.

Mr. Eckert stated I will read the last sentence, it is probably better that he found out now, because in the event owner constructs any improvements or structures on the easement shown on the plat, the owner of the parcel is subject to said easement shall remove said improvements or structures upon the written request of declarant, its successors, trustees or assigns. We will get it figured out.

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E. General Manager - Report

Ms. Alfano reviewed the general manager’s report, copy of which was included in the agenda package.

F. Operations Manager – Report

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

G. Amenity Manager – Report

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

NINTH ORDER OF BUSINESS

Supervisor’s Requests and Audience Comments

There was a discussion on taking down the ribbons, having a temporary memorial at the amenity center until a permanent community type memorial is constructed, and communicating to residents that a permanent location is being worked on.

Any messaging going out will be under Daniel Laughlin’s name.

Ms. Hall moved to have a teal mailbox put up at the rotunda for Tristyn Bailey memorial until a permanent memorial is built and the motion failed for lack of a second.

Mr. Clarke moved to follow counsel guidance that as of November 1st, no longer have memorials on district property until a permanent memorial can be constructed for all members of the community. Mr. Brownlee seconded the motion and on voice vote with two in favor and Mr. Pollicino, Ms. Hall and Mr. Harrah opposed, the motion failed.

District staff will handle the issue.

TENTH ORDER OF BUSINESS

**Next Scheduled Meeting – November 15, 2021
@ 6:00 p.m. at the Durbin South Amenity Center**

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Mr. Laughlin stated the next meeting is November 15, 2021 at 6:00 p.m. in the same location.

On MOTION by Mr. Clarke seconded by Mr. Pollicino with all in favor the meeting adjourned at 8:26 p.m.

DocuSigned by:
Daniel Laughlin
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Secretary/Assistant Secretary

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[Signature]
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Chairman/Vice Chairman