

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, January 24, 2022 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
Tim Brownlee	Vice Chairman
Sarah Gabel Hall	Supervisor (by telephone)
Jason Harrah	Supervisor

Also present were:

Daniel Laughlin	District Manager
Mike Eckert	District Counsel
George Katsaras	District Engineer by telephone
Dan Fagen	Vesta
Margaret Alfano	Vesta by telephone
Zach Davidson	Vesta
Jaime Constancio	VerdeGo
Billy Genovese	VerdeGo
Chris Buttermore	Matthews Design Group

The following is a summary of the discussions and actions taken at the January 24, 2022 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 6:01 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

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There being none, the next item followed.

FOURTH ORDER OF BUSINESS

Approval of Consent Agenda

- A. Approval of Minutes of the November 15, 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. Pollicino with all in favor the consent agenda items were approved.

Mr. Laughlin stated representatives of the swim team are here to discuss the new season. This was on the agenda under Margaret’s report.

Ms. Alfano stated I’m grateful that the swim team representatives are here this evening and we are looking to move forward with our annual agreement for the swim team. We don’t have any changes in practice schedules the same number of meets and we are very excited about the enthusiasm that the co-leaders are bringing. Let’s not forget we were champs last year.

A representative of the swim team stated the kids love the community feel and we are excited to bring all that back.

Ms. Hall joined the meeting by telephone during this item.

On MOTION by Mr. Brownlee seconded by Mr. Harrah with all in favor the swim team 2022 agreement and schedule was approved in substantial form to the 2021 agreement.

FIFTH ORDER OF BUSINESS

Discussion on Widening of Veterans Parkway

Mr. Buttermore of Matthews Design stated we are working with St. Johns County on the widening from two to four lanes on Veterans Parkway. The master plan and the right of way was set for the four lanes and there is not an issue but where we have the right turn lane at Bent Creek it pushes the sidewalk against the right of way line. We need permission from you to grade within the property adjacent to that owned by Durbin Crossing CDD.

Mr. Eckert asked are you looking for a slope easement as well?

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Mr. Buttermore stated a temporary construction easement if there is no permanent fixture outside the right of way the sidewalk is in the right of way, we just need to tie into the slope from the elevated road and sidewalk onto the property.

Mr. Eckert stated I don't have an objection to whatever the board wants to do on this but I'm concerned because if you are going to do a slope that is going to support this sidewalk later, to the County may want a slope easement so we don't disturb that lateral support. We have seen this before in a lot of places. I don't have a concern that we can't get it worked out, but I do think that ultimately the county is going to want a slope easement.

Mr. Katsaras stated once they are done grading it the grading is going to be what it is so if the county comes back after the fact they have to deal with that grading in the future.

Mr. Eckert asked do you think all we need is a temporary construction easement for them to be able to do that work?

Mr. Katsaras stated I believe so.

Mr. Eckert stated it looks like there are trees there too.

Mr. Buttermore stated there is minor clearing.

Mr. Pollicino asked after you are done do you put the trees back?

Mr. Buttermore stated we could add some trees if that is requested. It is not the depth that is shown.

Mr. Pollicino stated whatever we agree to, let's have them restore it to preconstruction look to the best of their ability.

Mr. Harrah stated you are just clearing between 2 – 10 feet and putting in grass slope. We will have a new slope where there are existing trees.

Mr. Buttermore stated yes.

Mr. Eckert stated when somebody comes to the board I view this as is the board amenable to figuring out a way to work with us then you direct staff to work with them and come up with a solution that identifies and addresses the concerns you have and I'm hearing the tree buffer being cleared to whatever extent that might be is a concern. I just want to make sure that from the standpoint of I don't want to deal with the county six months from now saying we have to do something else. What is your timeframe?

Mr. Buttermore stated they are looking to go as soon as possible. It is holding up the sidewalk construction and the school board is concerned about kids walking to school.

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Mr. Eckert stated I will work with Zach. Right now, we have something with no maintenance and we have something that could potentially be maintenance and we need to resolve that issue.

SIXTH ORDER OF BUSINESS

Discussion of Developer Request to Release Easements to the CDD

Mr. Eckert stated there is a memo in your agenda package that was provided to all the board members. This is an item that came up at the October meeting and we had a chance to reach out to the developer's counsel. The issue is that in the HOA declaration of covenants there is a 10-foot easement in the front of every lot, a 10-foot easement in the rear of the lot and five-foot easements on each side of the lot. Those easements are reserved to the "declarant" and the declarant at that point in time and currently they think they are still the declarant, is the developer who we all worked with in doing the project for the CDD infrastructure. I reached out to the developer and said I have a resident who wants to get a release of this easement, here is his information, can you connect with him to get that released or is this something that is an oversight that you want to convey these easements before your company doesn't exist anymore, once they completely get out of project. That attorney came back and said we want to convey the easements that we have under that paragraph in the HOA covenants to the CDD. There are two issues that this raises and I'm not going to get into the resident request at this point in time, that is our next agenda item.

The first question is does the district want to take control of the easements, so somebody has them in perpetuity? Certainly, the downside of that is you could perhaps have some liability, but really the major downside is there is going to be a lot of requests that you are going to have to deal with to allow an encroachment into that easement, to release a part of that easement, it is more responsibility for the district if you take that on. In this community I believe the HOA is pretty much limited to covenant enforcement, I don't think the HOA owns any property so giving them an easement at this point, they are probably not the right candidate for that. If the CDD board wants to take an assignment of the easements then we would get an assignment of easement document and tell the developer to prepare that and provide it to us and we would take assignment of those easements. There are some benefits in terms of us being able to use those easements for access. George brought up a good point for those areas where it is difficult to get back to a pond or conservation area you have the 5-foot easement on each side so it is a 10-foot easement and we could use that as well. There may be certain occasions where we don't need the easement in any

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possible circumstance and maybe the board would be able to release it if legally permitted. The first step is for you to decide do you want to take an assignment of those easements and then the second step is to talk about figuring out whether you can release parts of those easements or grant encroachment agreements or things like that, and that is going to require a little more legal research but I wasn't going to do that without finding out if you are even interested.

Mr. Pollicino stated I think it makes sense to have the easements assigned to the CDD.

Mr. Harrah stated we have had issues of encroachments on pond banks so there are some easements that we own. How many are we talking about?

Mr. Eckert stated I would have to go back and look but the declaration says every lot has these easements. We already have the platted easements around the ponds and some separate easements called out by a metes and bounds description. This is just a general easement that is in the HOA declaration that everybody in the community is bound by in favor of the declarant.

On MOTION by Mr. Brownlee seconded by Mr. Pollicino with all in favor district counsel was authorized to negotiate an assignment of those easements contained in section 13.5 of the HOA covenants from the declarant to the CDD.

SEVENTH ORDER OF BUSINESS

Consideration of Easement Release Request for 272 Ellsworth Circle

This item tabled until the easements have fully been assigned by the developer and counsel is sure the CDD has the ability to release the easements.

EIGHTH ORDER OF BUSINESS

Discussion of JEA Easement Maintenance

Mr. Laughlin stated this is an item that has been brought up by a resident dealing with the lack of maintenance on the JEA easement. Since then, JEA came out and cut some of the areas. We have worked with Zach to reach out to them, and they are saying they aren't going to do that. It is not an area that is required to be maintained.

Mr. Eckert stated I have looked at it too. We own the land where the powerlines are, JEA has an easement and there is also a water company that has an easement over part of it. The easement says the only maintenance obligations are for the power company to maintain their equipment and to maintain a 25-foot vegetative buffer. I look at that language and ask does that mean maintain it, mow the grass, pull the weeds or does it mean you have to have a vegetative

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buffer? I think it means you have to have a vegetative buffer. The conclusion I reached is that we have no obligation to maintain this land to any standard, as a property owner we can maintain it to whatever standard the board wants provided we are in compliance with county rules and ordinances. JEA doesn't have an obligation to maintain it like we would maintain a common area. That leaves it to be a policy decision by the board how you choose to maintain that area.

Mr. Katsaras stated when it says maintain a 25-foot buffer you need 25-foot natural, they don't maintain, they just let it grow. Just like an upland buffer behind houses, you let it go natural.

Staff will reach out to JEA to see if their stance on whether they plan to maintain in the future or let it grow back to a natural state.

NINTH ORDER OF BUSINESS

**Consideration of Resolution 2022-02
Amending the Prompt Payment Policies**

Mr. Eckert stated this is housekeeping in nature, it is to update the interest rate we have to pay for late payments to a contractor from 1% per month to 2% per month. Make sure you pay your contractor on time or make sure that you follow our prompt payment act policies when you dispute an invoice.

On MOTION by Mr. Harrah seconded by Mr. Pollicino with all in favor Resolution 2022-02 was approved.

TENTH ORDER OF BUSINESS

Staff Reports

A. Landscape Maintenance Team - Report

Mr. Constancio gave an overview of the landscape report, copy of which was included in the agenda package.

Ms. Alfano stated Jaime, thank you for all you can do. Jaime has presented Zach and me with multiple proposals to address our worst Bermuda areas and Zach has recommended to replace areas of Bermuda with St. Augustine.

Mr. Davidson stated we spent some time on this with Jaime and we talked about and went through the Bermuda patch numbers and it was about \$116,000. We always have trouble with Bermuda and we wanted to present something that is a value for your buck. There is a St. Augustine called ProVista and it is an easier St Augustine to maintain, you don't cut it as much, you don't water it as much and it is less chemicals. Jaime gave us the numbers to convert all of

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North Durbin from Bermuda to St. Augustine. After looking at the numbers we realized we need to do this in phases.

On MOTION by Mr. Harrah seconded by Mr. Pollicino with all in favor Supervisor Harrah was authorized to work with staff on the installation of St. Augustine grass in specific areas along North Durbin Parkway to replace Bermuda in an amount not to exceed \$175,000 with funds coming from the proceeds from the past sale of credits and any balance to be paid out of capital reserves.

B. District Counsel

Mr. Eckert stated the legislature is talking again about raising the statutory immunity limits that we have of \$200,000 per person \$300,000 per occurrence to \$1 million and eliminating that distinction. At some point this kind of bill is going to pass and it will have an impact on your insurance rates. We will have to have a discussion with the insurance agents about what they anticipate it will do. Hopefully, the legislature will say we are making this change and it is going to take effect two years from now. It is good to have that conversation now to see if we need to budget anything in the spring.

Mr. Pollicino asked when is the qualifying period to qualify for election?

Mr. Eckert responded it is in June, we will announce the qualifying period in April or May and there will be an advertisement.

C. District Engineer – Consideration of Work Authorization for Preparation of a Stormwater Management Needs Analysis Report

On MOTION by Mr. Harrah seconded by Mr. Brownlee with all in favor work authorization 39 in an amount not to exceed \$10,000 to prepare the stormwater needs analysis was approved.

D. District Manager

There being none, the next item followed.

E. General Manager – Report

A copy of the general Manager’s report was included in the agenda package.

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F. Operations Manager - Report

Mr. Davidson gave an overview of the field operation manager's report, copy of which was included in the agenda package and presented a proposal to refurbish the play features at the north and south amenity centers.

On MOTION by Mr. Pollicino seconded by Mr. Harrah with all in favor the proposal from Slide-Rite to refurbish the play feature at the north amenity center and the slide repair at the south amenity center in an amount not to exceed \$18,000 was approved.

G. Amenity Manager – Report

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

Mr. Fagan stated Vesta has been acquired by Associa, a holding company, but nothing is going to change as far as who is on the front line, invoicing, our name, it is basically our ownership and our CEO is now reporting to another CEO.

ELEVENTH ORDER OF BUSINESS Supervisor's Requests and Audience Comments

A resident also employed by D.R. Horton stated there is a resident at the end of Saddlestone with questions about the common area behind his house, whose it is and how it should be used. He has been yelling at some of our kids for trespassing on his yard, so we had a little confusion about where his property limits are and since then he has put up a fence. We have a lot of kids at the end of Saddlestone who play, and balls roll into his yard, and he yells at them. Kids play in the street, his dogs are barking, he comes out and tells the children they need to quiet down. He is overstepping his boundaries and doesn't realize where his boundaries are on his property, nor does he know what the noise ordinance is. At the end of Saddlestone the three lots have common area, and he thinks his property goes all the way to the tree line and it does not, his fence should show that because we did his fence. I'm putting it out there now in case it comes up again. He may send an email, he may come to a meeting, but we are having issues with him.

Mr. Laughlin stated I haven't heard from him in months. He was trying to get a no trespassing sign put up in the common area.

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TWELFTH ORDER OF BUSINESS

**Next Scheduled Meeting – February 28, 2022
@ 6:00 p.m. at the Durbin South Amenity
Center**

Mr. Laughlin stated the next scheduled meeting is February 28, 2022 at 6:00 p.m. in the same location.

On MOTION by Mr. Brownlee seconded by Mr. Pollicino with all in favor the meeting adjourned at 7:16 p.m.

DocuSigned by:
Daniel Laughlin
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Secretary/Assistant Secretary

DocuSigned by:
[Signature]
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Chairman/Vice Chairman