

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, November 28, 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
Sarah Gabel Hall	Supervisor (by telephone)
Jason Harrah	Supervisor
William Clarke	Supervisor
Shalene Estes	Supervisor

Also present were:

Daniel Laughlin	District Manager
Mike Eckert	District Counsel
George Katsaras	District Engineer by telephone
Margaret Alfano	Vesta/Amenity Services Group
Danelle DeMarco	Vesta/Amenity Services Group
Zach Davidson	Vesta/Amenity Services Group
William Dean	Yellowstone
Blake Dougherty	Yellowstone

The following is a summary of the discussions and actions taken at the November 28, 2022 meeting.

**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.

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**FOURTH ORDER OF BUSINESS    Organizational Matters****A.    Oath of Office for Newly Elected Supervisors**

Mr. Laughlin being a notary public of the State of Florida administered the oath of office to Jason Harrah, Peter Pollicino and Shalene Estes.

**B.    General Information for New Supervisors**

Mr. Eckert stated you are subject to the Sunshine Law, you can't talk to another board member outside of a publicly noticed meeting about a matter that may come before the board for action and that includes texts, emails, writing, and verbal conversations. You also can't use staff or anyone else as a conduit for those communications. We are subject to the public records law and to the extent that you create a document or receive a document that relates to CDD business you need to keep that. For things that come from my office, we have copies and things that come from the district manager, we have copies of that but anytime you mark on something that we provide, that becomes a different public record and you would need to retain that and we suggest you keep that separate and apart from your business papers or personal papers in the event we received a public records request. Also, it is a good idea to have a separate email address just for district business and should you receive an email that relates to district business on a personal email account or text message, it is best to forward that email to your actual CDD specific account so there is one place to look for that. Social media posts where you may be communicating with another board member are subject to the public records law and sunshine law. My advice is not to use social media for district business other than announcements such as "the pool is open," "we have a new activity," that type of thing.

**C.    Consideration of Resolution 2023-01 Designating Officers**

Mr. Laughlin stated we have the chair and vice chair to appoint, secretary, treasurer and assistant secretaries and assistant treasurers.

On MOTION by Mr. Harrah seconded by Mr. Clarke with all in favor Peter Pollicino was appointed chairman.
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On MOTION by Mr. Pollicino seconded by Ms. Estes with all in favor Jason Harrah was appointed vice chairman.

On MOTION by Mr. Harrah seconded by Mr. Pollicino with all in favor Resolution 2023-01 was approved reflecting the following: Peter Pollicino chair, Jason Harrah vice chair, Daniel Laughlin secretary and treasurer, Sarah Hall, Shalene Estes, William Clarke, Jim Oliver, Marilee Giles and Darrin Mossing assistant secretaries and Jim Oliver assistant treasurer.

**FIFTH ORDER OF BUSINESS**

**Approval of Consent Agenda**

- A. Approval of Minutes of the October 24, 2022 Meeting**
- B. Balance Sheet and Statement of Revenues and Expenses**
- C. Assessment Receipt Schedule**
- D. Check Register**

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

**SIXTH ORDER OF BUSINESS**

**Consideration of Audit Engagement Letter from Berger Toombs for Fiscal Year 2022**

Mr. Laughlin stated counsel made some revisions to the engagement letter and we would look to have it approved in substantial form.

Mr. Eckert stated they included an indemnification provision where the district would indemnify them if there was some misuse of electronic records, and we never agree to that. Also, I requested a deadline of June 1<sup>st</sup> of getting a draft audit and June 15<sup>th</sup> to get the final audit so we can meet the state deadline. In the last couple of years some of the auditors have gotten far behind. I still have two that haven't been submitted to the state yet that were due June 30<sup>th</sup>.

On MOTION by Mr. Harrah seconded by Mr. Pollicino with all in favor the engagement letter with Berger Toombs to perform the fiscal year 2022 audit was approved in substantial form to include the revisions by district counsel.

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**SEVENTH ORDER OF BUSINESS****Consideration of Resolution 2023-02  
Amending the District's Records Retention  
Policy**

Mr. Eckert stated this is a resolution prepared by our office. The district as a local government is required to adopt a records retention schedule. We did this a long time ago at this district and basically, we gave you two options at that point in time, it was either follow the state's records retention schedule and keep bond documents longer than the state requires because the IRS requires you to keep them longer, or you could just keep everything. At that time the board said we are going to keep everything and not dispose of records until we figure out if there a better way to deal with it. The resolution presented today says we don't have to keep transitory messages, which are documents such as a text or email that says, "the meeting is at 6:00 p.m. tonight," non-substantive non-business-related things that their value is lost as soon as you return that call. The other thing it does is designate the electronic record as the official record and that allows us to start the process of getting rid of the boxes of paper files that everybody has related to the district business that are already saved electronically. I'm sure that GMS has that redundancy built in, so they are saved in another location as well. There are some things such as an original deed that we are not going to get rid of.

Mr. Harrah asked are all your districts adopting this?

Mr. Eckert stated yes.

On MOTION by Mr. Harrah seconded by Ms. Estes with all in favor Resolution 2023-02 was approved.

**EIGHTH ORDER OF BUSINESS****Discussion of Suspension and Termination of  
Access Rule**

Mr. Eckert stated this has also been prepared by our office and is going out to all the districts that I work with that have amenities. We have had some significant damage to district improvements, not necessarily here, but other places. For example, in Clay County I had a client where three teenagers decided they wanted to build a fire on the playground, so they did it on a \$6,000 slide. They were caught and the parents said they were going to come in and pay for the damage and never showed up. The amenity privileges were suspended, the suspensions ran their course, still no reimbursement to the district for any of the costs, which means the rest of the residents who pay attention to the rules are paying for it. One of the things we have done through

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this rule is try to make sure that we add our best chance of collecting on things like that as well as to recoup some of the administrative costs. When I have to write a letter for suspension, the residents are paying for that. What we have provided in here are situations under when you can be suspended, or access privileges terminated. Also an administrative reimbursement of up to \$500 in order to offset the administrative and legal costs associated with the suspension or termination, a requirement for property damage reimbursement and in the event the reimbursement is not made the suspension would continue until the time it is made and it also gives the board the ability if the property damage reimbursement isn't made that you can suspend the amenity access to everybody associated with that household. We are hopeful this will remedy the situations we have come across and again, that was just one example.

Your amenity manager would be the one that suspends people from the amenities until your next board meeting but it is not necessarily the very next board meeting so if something happened yesterday, they wouldn't be suspended until today, they would be suspended to the next board meeting where we can provide them notice and an opportunity to be heard and we can present that to the board in an organized fashion. I'm not asking the board to approve this, I just need to know from the board do you want to set this in motion for us to adopt it as a rule and if so we would be bringing it back before you at your December or January meeting depending on when you meet next and that would set a public hearing at least 30-days after that. We really have 60-90 days to chew on this and any suggestions the board has we would want to incorporate those in the final version. I would rely a lot on the expertise of your onsite staff and any suggestions they have.

Mr. Pollicino stated the last sentence on number six says, any legal action warranted. Does that include a lien on the property if they don't pay?

Mr. Eckert responded no, because we are not an HOA, and we don't have the independent authority to lien property. We can levy a special assessment, but you can't do a special assessment based on benefit, which is really a fine. You cannot do that; you could put a lien on the property if you went to court and got a monetary judgment if they didn't pay it, you could put a lien but you have to go through the court first.

Mr. Pollicino asked if we adopt this are the residents grandfathered into this or do they have to opt into the new rules?

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Mr. Eckert stated no, they wouldn't have to opt into it, it would automatically apply to them. It would apply to any incident that occurs after you adopt this. Margaret can send the current rules to the board. We try to keep out of the rule things, like written warning, verbal warning because your staff has already dealt with the minor things and what we have learned is most of the time the things that come to the board's attention is usually major stuff. If you can send the current rules to everybody and they can compare the two, that would be helpful.

## **NINTH ORDER OF BUSINESS**

### **Staff Reports**

#### **A. Landscape Maintenance Team - Report**

Mr. Dougherty gave an overview of the landscape update, copy of which was enclosed in the agenda package.

Mr. Laughlin opened the floor for public comments on the landscape proposal.

Mr. Gruber asked are we replacing with the same type of grass? It seems like that grass never thrives.

Mr. Pollicino stated we are replacing it with St. Augustine grass.

There being no further comments, the following motion was made.

On MOTION by Mr. Harrah seconded by Mr. Clarke with all in favor the proposal for monument enhancement throughout the community in the amount of \$21,283.11 was approved.

#### **B. District Counsel – Memorandum Regarding Surplus Property Resolutions**

Mr. Eckert stated I have two items, one is on the agenda, a memorandum regarding surplus property resolutions. From time to time the district will have surplus property which is basically property that is either obsolete, doesn't have any value or the district just doesn't need it anymore. Any time we have that you have to adopt a resolution that deals with the disposition of that and one of the ways that is authorized by Florida Statute, you can donate it to a local government, sometimes you can auction it, sometimes you can donate it to a 501c3 charity. Any time we have that issue come up with surplus property your staff and I will work together and present you with two resolutions. One is an either or: if it is over \$5,000 value you use one and if it is under \$5,000 you use a different one. You will have the ultimate decision-making authority on where that property is going to go and your staff and I will work on making sure you get that. There is no

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action for you tonight, but we had updated these resolutions based on the most current law and we wanted you to be aware that we have this.

The second item is at the last board meeting it was brought to the board's attention that we have an issue with the pool delaminating in certain parts. We believe that is under warranty, we have engaged a specialty attorney that deals with construction law as well as an expert and those two are working on that issue. The negotiations we had with the pool contractor, did break down and at this point in time I don't have any action to ask the board to take because the attorney and expert are still working through those issues. As soon as we get any kind of a recommendation, or they need board authorization, we will call a special meeting or do it at our regular meeting if we can. Because this is something that may end up in litigation, I will ask the board members if you have questions on this, please call me and I can talk you through that the status.

### **C. District Engineer**

Mr. Katsaras stated we are continuing to work with JEA on the meter to provide irrigation at the park and I hope to have costs shortly on fees that will be due. I will continue to work with Zach and Daniel on that.

Ms. Alfano asked the cost of irrigation of the ballfields, is that something we are moving forward with regardless of the amount? Some of these JEA fees are very high.

Mr. Harrah stated I don't know that we have an alternative.

Ms. Alfano stated I don't know either but if it gets to the \$50,000 mark, are we going to have to wait for approval?

Mr. Laughlin stated it is a lot of money. I agree it is something that needs to be done, it is irrigation and if we don't have it, everything is going to die.

Mr. Eckert stated I think the board should authorize a not to exceed amount. I don't know how much history you have on this issue, but we had an interlocal agreement with the county and we were sharing the cost of certain water to the ballfields and the county park. That agreement allowed the county to terminate it at some point in time. The county got a permit to dig a well for their property and are disconnecting us from the ability to irrigate our property. We have to retrofit the system so that we can actually irrigate the property we still have now that the county has opted out of that.

Mr. Harrah asked can this wait to the next meeting for a not to exceed amount?

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Mr. Katsaras stated they won't release a meter until the fees are paid.

Mr. Harrah asked do you have an idea of what the cost may be?

Mr. Katsaras stated when we calculated it, I think it was around 12,000 gallons per day, it is going to be between \$50,000 to \$60,000 and that is just tap fees and capacity fees. The capacity fees are what get you because JEA keeps raising those and it goes by the gallons per day. We might be able to talk to JEA about transferring and seeing if capacity fees were originally paid when the meter was put in years ago and see if there is a way to recoup some of that.

Mr. Eckert stated I think the conversation with JEA will be worthwhile.

#### **D. District Manager**

There being none, the next item followed.

#### **E. General Manager - Report**

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

Mr. Harrah stated the county is turning the basketball courts at Veterans Park into pickle ball courts. We need to consider fencing our basketball courts and possibly a gate with an access code.

#### **F. Operations Manager - Report**

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

Mr. Clarke left the meeting during this report.

Mr. Davidson reported that the top of the monument on Islesbrook and Longleaf for the community park is starting to come apart and I'm getting proposals to get that replaced and since we may not have a December meeting, I would like the board to give me a not to exceed \$10,000 to have that fixed. It could become a hazard.

Ms. Alfano stated it is not necessarily an identifier to a community but to the park. I'm not sure it is something we need to replace.

Mr. Eckert asked George, could that sign be required by the development order? It says community park, but it is a county park.



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Mr. Katsaras stated I don't know that it is a requirement, it is probably some kind of wayfinding sign for someone unfamiliar with the park.

Mr. Harrah stated if George and Mike say we don't need it, let's take it out.

**G. Amenity Manager – Report**

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

**TENTH ORDER OF BUSINESS**

**Supervisor's Requests and Audience Comments**

Ms. Estes stated I would like to discuss tonight or next month the Borlund Grover site plan for ingress and egress for the new development by our main entrance.

Mr. Harrah asked has the county approved it?

Ms. Estes stated the county has approved the commercial entitlement, but they are in for review right now.

Mr. Harrah asked do they not have to notify us?

Mr. Eckert stated the CDD doesn't have any permitting or land development approval powers. Typically, there are certain things like rezonings and things like that where you have to notify property owners within so many feet and that is typically when the district does get notified because we are a property owner. Beyond that, there is no requirement that they notify us as a local government.

Ms. Estes stated since it is in for review now it is a good time to look at it and see if we have any concerns, whether it is landscaping, ingress/egress or anything like that.

Mr. Harrah stated George can get a copy of the site plan and maybe bring it to the January meeting.

Mr. Gruber stated there is speculation about what happened to the snowflakes on the monuments.

Mr. Davidson stated it was a vender miscommunication, those shouldn't have been installed.

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**ELEVENTH ORDER OF BUSINESS**

**Next Scheduled Meeting – December 19, 2022  
@ 6:00 p.m. at the Durbin South Amenity  
Center**

Mr. Laughlin stated our next scheduled meeting is December 19<sup>th</sup>. I know we normally cancel our December meeting, but we will keep it for now in case something comes up about the pool and as we get closer, we can cancel it.

Mr. Eckert stated run the notice and we can make a decision four or five days in advance of the meeting.

On MOTION by Ms. Estes seconded by Ms. Hall with all in favor  
the meeting adjourned at 7:36 p.m.

DocuSigned by:  
*Daniel Laughlin*  
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Secretary/Assistant Secretary

DocuSigned by:  
*[Signature]*  
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Chairman/Vice Chairman