

MINUTES OF MEETING  
BRANDY CREEK  
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Brandy Creek Community Development District was held on Wednesday, September 21, 2022 at 6:30 p.m. at the Johns Creek Phase 2 Amenity Center, 251 Huffner Hill Circle, St. Augustine, FL 32092.

Present and constituting a quorum were:

Meredith Payne	Chairman
Barbara Little	Vice Chairperson
Alton Chamberlain	Supervisor
Clarence Blalock	Supervisor
Shawn Jolly	Supervisor

Also present were:

Jim Oliver	District Manager
Mike Eckert	District Counsel
Jim Masters	Vesta/Amenity Services Group
Jennifer Meadows	Vesta/Amenity Services Group
Robert Yerkes ( <i>via phone</i> )	Foerster, Isaac & Yerkes
Trevor Hutson ( <i>via phone</i> )	Brigham Property Rights Law Firm

*The following is a summary of the discussions and actions taken at the September 21, 2022 meeting. A copy of the proceedings can be obtained by contacting the District Manager.*

**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. Payne called the meeting to order at 6:30 p.m. All Supervisors were present.

**SECOND ORDER OF BUSINESS**

**Public Comment**

There being none, the next item followed.

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**THIRD ORDER OF BUSINESS****Approval of the Minutes of the July 13, 2022 Meeting**

Mr. Payne stated on Page 5, capital reserves would be used to resurface the pool, not the roads.

On MOTION by Mr. Payne seconded by Mr. Chamberlain with all in favor the Minutes of the July 13, 2022 Meeting were approved as amended.

**FOURTH ORDER OF BUSINESS****FPL Request for Easement Rights**

Mr. Eckert recalled that the Board had questions that they needed Florida, Power & Light (FPL) to answer such as how the lines would be installed, what was underneath the ground, what effect it would have on the entry monuments, what the entry monuments would look like and if there were any tree issues. He felt that the District would be better served with engaging an eminent domain attorney, although he would provide comments on the easement agreement to the selected firm. The firms that submitted proposals were qualified and worked in the area.

Mr. Masters and the District Engineer spoke to the FPL engineer, a month-and-a-half to two months ago and used Google Maps for pictures of the location. FPL needed to take some soil samples and wanted to use an arborist to remove Magnolia trees along the monument wall that were interfering with the poles that they wanted to install. Soil samples were taken three weeks ago, but the area next to the monument wall in front of McDonalds was missed and a soil sample was now being taken in this area. They were also waiting on the arborist. The current wooden poles along CR 210 were 39 feet, but the proposed poles were 80 feet tall, which requires a base that was 20 feet down. Since it may negatively impact the appearance of the entry monuments and landscaping, the District Engineer suggested that the poles next to the CDD's monument, be moved 20 feet further west of the wall. FPL offered \$31,000 the CDD for the main area next to the monument wall and \$21,000 for the area between Hurricane Grill & Wings and Publix.

Mr. Oliver introduced Mr. Robert Yerkes of Foerster, Isaac & Yerkes and Trevor Hutson of Brigham Property Rights Law Firm, who were eminent domain attorneys. Mr. Yerkes and Mr. Hutson provided their qualifications. They believed there would be movement by FPL towards late this year or early next year. Mr. Oliver noted that according to the engagement letters, the condemner paid the legal costs and asked if the District would be made whole for the

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engineering costs. Mr. Yerkes explained that under Florida Law, in eminent domain procedures, the District was entitled to receive reasonable expert costs of attorney's fees, but this was not an eminent domain case at this point and would not be one until FPL filed a lawsuit. These were voluntary discussions between the owners and FPL and they would negotiate any costs with FPL. In many cases, FPL paid the engineering and attorneys costs. Mr. Chamberlain noted that the Board wanted to be treated right and was not looking for a cash windfall. Mr. Blalock felt that it was in the best interest of the community to proceed and even though the costs were steep, he was confident that FPL would compensate the CDD. Mr. Eckert felt that both firms were qualified and recommended the firm that the Board was most comfortable with and had the experience that was the most beneficial be selected. The Board favored Mr. Yerkes to represent the CDD based on his punctuality and knowledge.

On MOTION by Mr. Blalock seconded by Mr. Chamberlain with all in favor selecting Foerster, Isaac & Yerkes to serve as eminent domain counsel to negotiate with FPL on acquiring property along County Road (CR) 210 for overhead distribution lines was approved.

Mr. Payne questioned the next step. Mr. Eckert explained that the Chair would sign the Engagement Letter and recommended that Mr. Masters, Mr. Oliver and the District Engineer have a conference call with Mr. Yerkes to get up to speed on this matter and plan a strategy.

Mr. Payne opened the floor to audience comments. Resident Paul Dowd, a new resident, who lived behind Silverleaf, voiced concern about the CR 2209 expansion. Mr. Chamberlain attended two meetings about the expansion as he lived behind Silverleaf, which was south of CR 16. His understanding was that the developer was not going to develop anything between Brandy Creek and Silverleaf but was acquiring land further to the south. Further information could be obtained on the St. Johns County website through the Geographic Information System (GIS). Mr. Dowd voiced concern about transmission lines going close to County Road 210. Mr. Chamberlain stated that there was a transmission line easement running on the east side that FPL already owned. If FPL expanded it, they must go further to the west and not closer to the road.

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**FIFTH ORDER OF BUSINESS**

**Consideration of Resolution 2022-08,  
Resetting the Public Hearing on Non-  
Resident User Fees and Rates**

Mr. Payne presented Resolution 2022-08, noting a typo in the first paragraph, which referred to the Lakeside Plantation CDD. Mr. Eckert would make this change. Mr. Oliver stated that the public hearing was scheduled for November 9, 2022 at 6:30 p.m. Mr. Payne read the following resolution into the record:

*“A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE BRANDY CREEK COMMUNITY DEVELOPMENT DISTRICT RESETTING THE DATE, TIME AND LOCATION OF THE PUBLIC HEARING TO CONSIDER AND HEAR COMMENT ON THE ADOPTION OF REVISED AMENITY FACILITIES POLICIES RELATED TO NON-RESIDENT USER FEES AND ACCESS CARD FEES, AUTHORIZING PUBLICATION OF NOTICE OF SUCH HEARING, PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.”*

On MOTION by Mr. Payne seconded by Ms. Little with all in favor Resolution 2022-08 Resetting the Public Hearing on the Non-Resident User Fees and Rates for November 9, 2022 at 6:30 p.m. at this location was adopted.

Mr. Payne recalled that the Board set \$2,500 for the non-resident fee and \$25 for a replacement access card and asked if \$25 was reasonable and if new owners should be charged for a card. Mr. Eckert recommended advertising at the higher amounts.

**SIXTH ORDER OF BUSINESS**

**Other Business**

There being none, the next item followed.

**SEVENTH ORDER OF BUSINESS**

**Staff Reports**

**A. Attorney**

Mr. Eckert amended the easement to address the changes made by FPL. In November, each of the Districts he represented would receive amendments to the Disciplinary Enforcement Rules regarding the suspension of privileges.

**B. Engineer**

Mr. Masters reported that they were in a standby mode for the soil sample and arborist.

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**C. Manager**

Mr. Oliver requested that the Board adopt a resolution designating Hancock Whitney Bank as District depository, which was a requirement under the bonds.

On MOTION by Mr. Payne seconded by Mr. Blalock with all in favor designating Hancock Whitney Bank as District depository and GMS employees as authorized account signers was approved.

**D. Operations Manager****1. Report**

Mr. Masters presented the Operations Manager Report, which was included in the agenda package. He was happy with Yellowstone's performance and worked well with their Account Manager. They were very receptive. On October 1<sup>st</sup>, they go into their off-season mode with the landscaping and the property would be serviced once a week versus two days. There were projects that they were going to work on in the off-season such as cutting back tree lines and cleaning up some areas. Yellowstone cut back 130 Palm trees between the Amenity Center and front entrance as part of their contract.

Mr. Masters provided information on the license plate readers (LPRs). Mr. Eckert suggested discussion at a closed session if the information provided was about how the system operated. Mr. Masters replaced handicapped chair lifts in Phases 1 and 2 that were not working properly or not at all, through a company that provided a rate of under \$10,000 to install two new chair lifts. Since this was an ADA requirement, the Chairman approved the work. They were very efficient and provided a five-year warranty on parts. The new chairs work well, were very simple and ADA approved. Mr. Jolley asked if there were covers. Mr. Masters stated the company that installed the chairs, offered a cover for \$250, but he would rather spend \$50 for a cover that needed to be replaced every year.

**2. Lake Doctors Service Report**

Mr. Masters presented the Lake Doctors Service Report, which was included in the agenda package. For the past month, there were many blooms in the ponds; however, they could only treat a pond once as they had to wait at least 10 days to re-treat. Getting their boat into the ponds without damaging lawns or pond banks, was also an issue. There were currently three ponds that needed attention and Lake Doctors was coming out either tomorrow or next Tuesday.

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Mr. Masters worked well with Lake Doctors and believed that the blooms would be cleared up soon. The Service Reports were not attached, as there was a problem submitting them electronically and would be included in the next Operations Report.

### **3. Discussion of Splash Pool Leak – Red Rhino Report**

Mr. Masters presented a report from Red Rhino, which was included in the agenda package. They were a pool leak detection company that came out a month ago and performed mini inspections. If Mr. Masters removed the grids, they could check the pressure to determine where the leak was. This will occur in the next two or three weeks. Red Rhino discovered a leak in the unit that held the water, but this was not the leak affecting the Splash Pool. Mr. Payne questioned the cost to repair the leak. Mr. Masters estimated \$3,000 to \$4,000, if the leak was where he believed it was, in a PVC pipe.

Regarding the holiday lighting, Mr. Masters presented a proposal from M&G for \$6,800; however, for \$5,200 to \$5,300, he could install the lights and the Board could discuss whether they wanted to continually spend this amount of money on future holiday lighting. Ms. Little suggested polling the community. Mr. Masters could put up decorations for resident feedback. Mr. Payne wanted to reduce the amount to half next year, but still get the aesthetic appeal during the holidays such as wrapping the lights at a lower point and installing lights on fences around the pool. Mr. Blalock asked if the POA was going to stop contributing. Mr. Payne explained that only Phase 1 wanted to pass the cost onto residents, as Phase 2 was continuing to support the contribution to social activities. The CDD contributed \$10,000, Phase 2 contributed \$1,500 and Phase 1 contributed \$3,000. Ms. Little asked if there was any liability to have residents provide construction and electrical services. Mr. Masters stated they must be licensed. Mr. Chamberlain proposed installing permanent exterior monument lighting with particular colors for holidays. Mr. Oliver would place this item on the January/February agenda.

A discussion of the District's security system was held without public in attendance.

Mr. Payne questioned the amount that they were playing to Flock. Mr. Masters recalled that the annual amount was \$10,000 and asked if the Board would be happy with a month or two-month discount. Mr. Payne preferred paying \$8,000 versus \$10,000. Mr. Chamberlain wanted the District to receive a discount of \$2,500. Mr. Blalock did not want to sever the relationship with Flock, as there was a disconnect with the county. Mr. Payne felt that the

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District should receive a \$2,000 or \$2,500 discount. Mr. Eckert agreed with this approach. The Board complimented Mr. Masters on doing a great job.

#### **E. Amenity Manager - Report**

Ms. Meadows presented the Amenity Manager's Report, which was included in the agenda package. They looked at some cost saving events that, so far, seemed to be successful. Due to the weather, they were showing movies indoors and treating it as a slumber party. There would be more types of these events in the future. The yard sale was on October 15<sup>th</sup>. Signs would be posted and there would be an advertisement in the newspaper. There was a Halloween event on October 27<sup>th</sup> and a concert with North of 40, who were popular in the Jacksonville area, on November 19<sup>th</sup>. They plan to have a liquor truck. The Santa meet and greet was in December. Mr. Payne suggested turning off the sprinkler system, since the event was held on the field.

### **EIGHTH ORDER OF BUSINESS**

#### **Supervisor's Requests and Audience Comments**

##### **Supervisor's Requests**

Mr. Chamberlain reported that the Shands Bridge, connecting Clay County to St. Johns County, as part of the State Road 23 construction project from I-10 to I-95, was awarded to his competitor for \$600 million. The next portion of the project was from Shands to I-95, which was originally estimated at \$470 million, but was now in the \$700 million to \$800 million range. It may not be completed until 2032, due to the lack of DOT funds. He may have to call into future meetings as he accepted another job, resulting in him spending more time on the road, but would retain his residency in the District. Mr. Blalock suggested seeing how this worked, as long as there was a quorum. Mr. Payne had no issue with Mr. Chamberlain calling into meetings and appreciated his value and contribution to the Board and the District. Mr. Chamberlain's seat was up for election in November and Mr. Eckert explained that if Mr. Chamberlain was reappointed, he could not participate or vote until he took the Oath of Office. Mr. Payne wanted to discuss the Board cancelling the December meeting. Mr. Oliver would place this item on the November agenda. Mr. Payne suggested reserving funds in the Capital Reserve for pond erosion. Mr. Oliver stated that the Board could discuss adding to the Five-Year Stormwater Analysis Report at the next meeting.

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**Audience Comments**

None.

**NINTH ORDER OF BUSINESS**

**Financial Reports**

**A. Balance Sheet and Income Statement as of July 31, 2022**

Mr. Oliver presented the July 31, 2022 Balance Sheet and Income Statement, which were included in the agenda package. On the expense side, there was a positive variance of \$42,341 and a balance \$282,735 in the Capital Reserve. Mr. Blalock asked if remaining funds at the end of the year rolled into the Capital Reserve. Mr. Oliver explained that it stays in the general fund until otherwise designated by the board. Mr. Payne suggested placing excess funds into the Capital Reserve. Mr. Blalock recalled increasing fees to get the Capital Reserve to a minimal balance and prevent future increases.

**B. Assessment Receipt Schedule**

Mr. Oliver reported a 100% collection in assessments. Tax Bills would be sent out on November 1<sup>st</sup>.

**C. Approval of Check Registers**

On MOTION by Mr. Payne seconded by Ms. Little with all in favor the June 1, 2022 through July 31, 2022 Check Register in the amount of \$129,477.50 was approved.

**TENTH ORDER OF BUSINESS**

**Next Scheduled Meeting – November 9, 2022 at 6:30 p.m. at Phase 2 Amenity Center**

Mr. Payne stated that the next scheduled meeting was on November 9, 2022 at 6:30 p.m. at this location, which was the public hearing on the non-resident user fees. Ms. Little requested that the incentive performance process be placed on the November agenda. Mr. Blalock would be out of town and may not be able to call in. Mr. Payne, Ms. Little and Mr. Blalock confirmed their attendance in person.

**ELEVENTH ORDER OF BUSINESS**

**Adjournment**



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On MOTION by Mr. Payne seconded by Ms. Little with all in favor the meeting was adjourned.

DocuSigned by:  
*Jim Oliver*  
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Secretary/Assistant Secretary

DocuSigned by:  
*Meredith Payne*  
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Chairman/Vice Chairman