

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 Tuesday, December 6, 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
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
Captain Ryan Smith	St. Johns Sheriff's Office

The following is a summary of the actions taken at the December 6, 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 at roll call with the exception of Mr. Chamberlain and Ms. Little.

SECOND ORDER OF BUSINESS

Private Session Regarding Discussion of Security System and Security Plan (Board & Staff only)*

At 6:32 p.m., a Private Session to discuss the District's security system was convened. All Members of the Public were asked to leave the room, and no members of the public were in attendance. Captain Ryan Smith of the St. Johns Sheriff's Office (SJSO) discussed the District's security system and plan.

The Private Session ended at 6:55 and the Regular Meeting agenda resumed.

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Supervisor Little joined the meeting.

THIRD ORDER OF BUSINESS

Public Comment

There being none, the next item followed.

FOURTH ORDER OF BUSINESS

Organizational Matters

A. Oath of Office for Newly Elected Supervisors

Mr. Oliver, a Notary of the State of Florida and duly authorized, administered the Oath of Office to Ms. Little and Mr. Payne.

B. Consideration of Resolution 2023-01 Declaring Board Vacancy (Seat 1)

Mr. Oliver presented Resolution 2023-01 declaring a vacancy in Seat 1. Mr. Eckert explained that the District was required to declare the seat vacant and at some point, the Board would consider reappointing someone to the vacancy. Mr. Payne read Resolution 2023-01 into the record:

“A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE BRANDY CREEK COMMUNITY DEVELOPMENT DISTRICT DECLARING A VACANCY IN SEAT 1 ON THE BOARD OF SUPERVISORS PURSUANT TO SECTION 190.006(3)(b), FLORIDA STATUTES; AND PROVIDING FOR SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.”

On MOTION by Mr. Payne seconded by Mr. Jolly with all in favor Resolution 2023-01 Declaring a Vacancy in Seat 1 was adopted.

C. Appointment of New Supervisor to Fill Vacancy (Seat 1)

Mr. Eckert stated that Seat 1 was for a four-year term. The Board was not appointing someone temporarily. They were appointing anyone who lived in the District, was registered to vote at an address within the District and 18 years of age to fill the unexpired term. Mr. Blalock asked if they should confirm that Mr. Alton Chamberlain was willing to serve before appointing him. Mr. Eckert pointed out that if Mr. Chamberlain was appointed and he refused to take the Oath or resigned, a vacancy would be created and the Board would go through this process again. He stayed in his seat until a replacement filled it. By Statute, the Board had 90 days to fill the vacancy from the second Tuesday after the election. Mr. Payne asked if he could speak to Mr. Chamberlain about this matter. Mr. Eckert did not recommend it, due to the Sunshine Law,

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but Mr. Oliver could see if Mr. Chamberlain was interested. Mr. Payne stated that the Board wanted Mr. Chamberlain on the Board for his expertise. Mr. Blalock approved of Mr. Chamberlain serving on the Board and believed that he would do it if the Board needed him to but did not seem motivated. If the Board was meeting next month, Mr. Blalock recommended canvassing the residents to see if anyone was interested and making a decision at the January meeting. Mr. Payne requested that Mr. Oliver to reach out to Mr. Chamberlain first to see if he wanted to serve on the Board.

D. Administration of Oath to Newly Appointed Supervisor

This item was tabled.

E. Election of Officers, Resolution 2023-02

Mr. Payne agreed to continue serving as Chairman and Ms. Little to continue serving as Vice Chair. Mr. Blalock wanted to keep the same officer structure. Mr. Payne read the name of the current officers:

- **Chairman:** Meredith Payne
- **Vice Chair:** Barbara Little
- **Assistant Secretaries:** Shawn Jolly, Clarence Blalock, Alton Chamberlin, Marilee Giles, Howard McGaffney, Daniel Laughlin and Darrin Mossing
- **Secretary/Treasurer:** James Oliver
- **Assistant Treasurer:** Howard McGaffney, Marilee Giles, Daniel Laughlin and Darrin Mossing

On MOTION by Mr. Blalock seconded by Mr. Jolly with all in favor electing the officers as stated above as evidenced by Resolution 2023-02 was adopted.

FIFTH ORDER OF BUSINESS

Approval of the Minutes of the September 21, 2022 Meeting

Mr. Payne commented that on Page 7, the Santa meet and greet would be held in December, not was held in December and wanted to discuss the Board having a meeting in December, not cancelling it. These corrections would be incorporated.

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On MOTION by Mr. Payne seconded by Mr. Blalock with all in favor the Minutes of the September 21, 2022 Meeting were approved as amended.

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

Mr. Payne recalled that an agreement was executed with an attorney for the Florida, Power & Light (FPL) easement process. Mr. Eckert confirmed that the Board engaged Mr. Robert Yerkes of Foerster, Isaac & Yerkes, an eminent domain attorney. Mr. Masters reported meeting with FPL and Foerster, Isaac & Yerkes at the front entrance to discuss spacing of the pole in front of McDonalds next to the monument. It was a tight fit. FPL would look at it, but they spent a year on this project and moving the pole would change the dynamics of the project. They had not yet taken a soil sample in the area next to the monument wall in front of McDonalds. Pole height was addressed. Foerster, Isaac & Yerkes questioned what would be on those poles other than the basics and whether outside vendors would use the poles. FPL was supposed to have a proposal for the Board before the end of the year. There was nothing further as of today, but he hoped to hear something in the next couple of weeks on whether or not FPL would be able to move the pole. Foerster, Isaac & Yerkes would be looking at the land and if FPL offered was fair compensation for the District. Mr. Masters should have something by the next meeting, but if he heard anything before then, he would provide it to the Board. Mr. Blalock noticed several areas in the county where there were 80-foot poles with 39-foot wooden poles below it and asked if the new poles would eliminate the wooden poles or if they would have both. Mr. Masters confirmed that FPL would replace one wooden pole. Mr. Payne requested that this item be included on future agendas.

SEVENTH ORDER OF BUSINESS**Designation of New Public Hearing Date to Consider the Adoption of District Rates**

This item was discussed after the Eighth Order of Business.

EIGHTH ORDER OF BUSINESS**Discussion of Draft Disciplinary and Enforcement Rule**

Mr. Eckert presented a revised draft Disciplinary and Enforcement Rule, which all of the Districts received that he represented. This was due to property damage by residents that were not reimbursed; for example, three kids causing \$6,000 in property damage to a plastic slide

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when they built a fire on a playground. The new rule would allow for an administrative fee up to \$500 and a reimbursement fee, keep the suspension in place until the fees were paid and deactivate all household passes. If the Board was in favor, a notice of rulemaking would be published in conjunction with the public hearing on the rates in January to have the hearing in March. Discussion ensued. *There was Board consensus for District Counsel to proceed and provide resolutions at the January meeting to start the process.*

- **Designation of New Public Hearing Date to Consider the Adoption of District Rates**

Mr. Eckert would reschedule the public hearing on the rates for March 1, 2023.

NINTH ORDER OF BUSINESS

Consideration of Resolution 2023-03, Amending the Capital Reserve Fund Budget for Fiscal Year 2022

Mr. Oliver presented Resolution 2023-03, which was included in the agenda package. The budget was amended to reflect the actual amount spent for *Capital Outlay - Equipment/Facilities* of \$48,771, as the budgeted amount was \$30,000, which was based on a projection. This action must be taken to balance the budget.

On MOTION by Mr. Payne seconded by Mr. Jolly with all in favor Resolution 2023-03 Amending the Capital Reserve Fund Budget for Fiscal Year 2022 was adopted.

TENTH ORDER OF BUSINESS

Consideration of Resolution 2023-04, Amending the Records Retention Policy

Mr. Eckert presented Resolution 2023-04, which was included in the agenda package. The Board previously adopted a Record Retention Policy providing for the retention of all documents. The resolution allowed for the disposal of transitory messages such as non-substantive voicemails and emails and determined that electronic records were considered the official record, allowing for the disposal of paper files. Mr. Payne read the Resolution 2023-04 into the record:

“A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE BRANDY CREEK COMMUNITY DEVELOPMENT DISTRICT ADOPTING CERTAIN AMENDMENTS TO THE DISTRICT’S RECORD RETENTION POLICY;

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ADDRESSING CONFLICTS AND SEVERABILITY; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.”

On MOTION by Mr. Payne seconded by Mr. Jolly with all in favor Resolution 2023-04 Amending the Records Retention Policy was adopted.

ELEVENTH ORDER OF BUSINESS

Other Business

There being none, the next item followed.

TWELFTH ORDER OF BUSINESS

Staff Reports

A. Attorney – Memo Regarding Proper Use of Surplus Property Resolution

Mr. Eckert presented a memorandum regarding the proper disposal of surplus property, which was included in the agenda package with three different resolutions describing how and when to dispose of surplus property, since the District was a government. When there was property that the District wanted to dispose of because it no longer had value or was obsolete, it was required to adopt a resolution. At the time of disposal, District Staff would determine the value of the property. This was for informational purposes. Mr. Payne questioned whether the District had assets that could be disposed of. Mr. Masters stated that there was fitness equipment in the shed that could be disposed of due to the lack of space in the Fitness Center. There was prior discussion about donating it to a high school and questioned how to dispose of the pool furniture. Mr. Eckert advised there could be an arrangement such as an auction or donation to a 501c3. Mr. Payne requested that Mr. Masters inventory the equipment. Mr. Blalock asked if the Board must adopt two resolutions. Mr. Eckert explained that the Board would choose one of the resolutions, based on the method of disposal of the property.

B. Engineer

There being none, the next item followed.

C. Manager

There being none, the next item followed.

D. Operations Manager - Report

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Mr. Masters presented the Operations Manager Report, which was included in the agenda package and asked if there was a procedure if a company such as Comcast or AT&T wanted to come into the community and install lines in their easement. Mr. Eckert would have to look at the plat to see if there was an easement for utility providers. Palencia had a situation where Comcast proposed to come in and install lines on District owned property. Mr. Payne questioned whether Comcast wanted to come into the community. Mr. Masters heard that Comcast wanted to do Phase 1 first and Phase 2 afterwards. Mr. Payne asked if the Board could refuse Comcast's request. Mr. Eckert replied that the Board could deny them access to District property they needed to cross District property where there was no easement.

Mr. Masters reported that the following vendors were proposing increases:

- *Yellowstone – 3% increase starting in January, 2023*
- *Lake Doctors - \$30 increase*
- *Poolsure - \$13,365 to \$16,706.28 increase*

Mr. Masters explained that originally Yellowstone requested a 4% increase but agreed to 3% with a guarantee of two years. Last year, they proposed a 4% increase, which the Board accepted, but their bill from January through May of 2022 mistakenly had the old amount. Mr. Payne asked if Mr. Masters was satisfied with Yellowstone's performance. Mr. Masters felt that Yellowstone's request for an increase was reasonable as they were fair and responsive to the District's needs. Mr. Payne asked if the Lake Doctors increase was an overall increase or per pond. Mr. Masters confirmed that it was an overall increase. Poolsure provided the pool chemicals and a technician for the Phase 1 Rec Pool, Splash Pool and Amenity Center Pool. The contract started at \$10,000 per year and this was a 25% increase starting in January. He suggested keeping them for another year as this increase was comparable with other pool chemical companies. Mr. Payne preferred having a two-year commitment. Mr. Masters would ask. Trash services decreased from \$900 to \$300 after staff threatened to terminate Republic. They also credited the District \$2,000. Mr. Payne asked if it was a one-year contract. Mr. Masters stated that it was a three-year agreement. Mr. Payne thanked staff for the excellent work.

Mr. Masters reported that the Splash Pool had a leak and it would be closed in January for in-house staff to find it. The pool contractor would be providing a quote to replace the feature pump holding tank, which they recommended. It was not in danger of failing. The Flock LPR readers were discussed with Captain Smith. They were not getting the service that was promised

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by Flock, but the issues were corrected. They were going to give the District four months of service for free, but after Mr. Payne wanted more, they offered six months for free. Mr. Payne appreciated the trees around the half basketball court in Phase 1 being removed because there was a liability issue. Mr. Masters agreed as the trees were Wax Myrtles, which were declining. Ms. Little questioned who removed the dead trees. Mr. Masters asked the developer to remove their trees before the storm. There were some trees in the preserve that were dead that they would cut down. Mr. Jolly questioned the status of the pool furniture restringing. Mr. Masters reported that it was on hold due to the holidays and would resume in January. He hoped to complete it before the season started. Mr. Payne appreciated the good work.

E. Amenity Manager - Report

Ms. Meadows presented the Amenity Manager's Report, which was included in the agenda package. The Halloween event had a large turnout and they anticipated larger numbers at future family events. The Concert on the Green was held on November 19th. The band was amazing and they hoped to have them again. There was not a large turnout due to the weather. There was a blood drive this weekend and a Santa meet and greet on December 17th. Mr. Payne served spider juice during the Halloween event and attended the concert. In his opinion, the hot dogs were tasty and the events were well planned and organized. He appreciated staff's efforts.

THIRTEENTH ORDER OF BUSINESS

Supervisor's Requests and Audience Comments

Supervisor's Requests

Mr. Payne recalled discussion about setting aside reserve funds for storm damage to the retention ponds; however, the District Engineer did not believe that any funds were necessary because any damage to the system would be handled by the county and any damage to the ponds would not cause any operational issues. There should not be any issues in the next five to ten years. Mr. Blalock asked if the resident was satisfied on the answer provided regarding the washout around the culvert. Mr. Masters believed that the resident expected the response.

Audience Comments

None offered.

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FOURTEENTH ORDER OF BUSINESS Financial Reports

A. Balance Sheet & Income Statement as of September 30, 2022

Mr. Oliver presented the September 30, 2022 Balance Sheet and Income Statement, which were included in the agenda package. On the expense side, there was a positive variance of \$29,557 and \$274,000 in the Capital Reserve.

B. Assessment Receipt Schedule

Mr. Oliver reported a 100% collection in assessments. Assessments would be placed on Tax Bills for next fiscal year.

C. Approval of Check Registers

Mr. Payne reviewed the Check Register and found no anomalies with standard expenses.

On MOTION by Mr. Payne seconded by Ms. Little with all in favor the August 1, 2022 through September 30, 2022 Check Register in the amount of \$125,865.12 was approved.

FIFTEENTH ORDER OF BUSINESS Discussion of Performance Review for 2022

Mr. Masters and Ms. Meadows volunteered to leave the room. Mr. Oliver distributed an Evaluation Form to the Board based on the Incentive Policy. Mr. Payne did not see any reason why Mr. Masters and Ms. Meadows could not be awarded the maximum points. Mr. Oliver noted that Mr. Masters would receive an increase of \$4,560 and Ms. Meadows would receive an increase of \$2,912 or 8%. Discussion ensued and the Board agreed on the bonus based on the benefits that the District received from their involvement and there being no complaints.

On MOTION by Mr. Payne seconded by Mr. Blalock with all in favor awarding annual incentive bonuses of the maximum allowable of 8%, per CDD policy, to Mr. Jim Masters and Ms. Jennifer Meadows was approved.

Mr. Eckert felt that the consistency demonstrated by District Staff was exceptional compared to some other Districts that he worked with. Mr. Masters and Ms. Meadows returned to the room and their bonuses were announced, which they appreciated.

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SIXTEENTH ORDER OF BUSINESS

Next Scheduled Meeting – January 11, 2023 at 6:30 p.m. at Phase 2 Amenity Center

Mr. Payne stated that the next scheduled meeting was on January 11, 2023 at 6:30 p.m. at this location, thanked the Board for an excellent year and wished everyone a Happy Holiday.

SEVENTEENTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Payne seconded by Mr. Blalock 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