

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, March 1, 2023 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 <i>by phone</i>	Supervisor
Shawn Jolly	Supervisor
Thomas Metych	Supervisor

Also present were:

Jim Oliver	District Manager
Mike Eckert	District Counsel
Jim Masters	Vesta/Amenity Services Group
Jennifer Meadows	Vesta/Amenity Services Group
Dan Fagen	Vesta/Amenity Services Group
Robert Yerkes	Foerster, Isaac & Yerkes
Residents	

The following is a summary of the discussions and actions taken at the March 11, 2023 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

A Resident voiced concern about Vesta expenditures. Mr. Payne explained that costs increased 4% industry wide. Vesta did most of the work in-house.

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THIRD ORDER OF BUSINESS**Update Regarding FPL Request for Easement Rights**

Mr. Robert Yerkes of Foerster, Isaac & Yerkes, an eminent domain attorney, updated the Board on the Florida, Power & Light (FPL) matter. There were two easements: one for the parcel on Nature Park Parkway, behind the monument and the other for a parcel 10-feet off of County Road (CR) 210, east of Hurricanes. He met several times with the FPL engineer to address CDD concerns about the landscaping at the entrance and trees that need to be moved. FPL's initial offer for the two parcels was \$31,000 and the District ended up receiving \$130,000 in compensation. A provision was added to the easements for sovereign immunity at Mr. Eckert's suggestion, to protect the CDD from any tort action. Upon receipt, the easements would be sent back to FPL and the CDD would receive a check in two weeks. The date for installation had not been determined as FPL had not acquired all of the parcels they needed. Mr. Payne asked if they addressed damage to CDD property. Mr. Eckert confirmed that damages were covered in both easements to his satisfaction and felt that Mr. Yerkes did an excellent job with the resolution as the recovery was far more than FPL was initially willing to pay. Mr. Payne opened the floor to audience comments since this item was not listed on the agenda. There being no comments, Mr. Payne closed the floor to audience comments.

On MOTION by Mr. Jolly seconded by Ms. Little with all in favor authorizing the Chair to execute the Florida, Power & Light easements on County Road 210 in exchange for the payment of \$130,000 was approved.

Ms. Little thanked Mr. Yerkes for doing a great job.

FOURTH ORDER OF BUSINESS**Organizational Matters****A. Appointment of New Supervisor to Fill Vacant Seat**

Mr. Eckert stated there was one vacancy on the Board in Seat 1 for a four-year term expiring in November of 2026. In order to serve on the Board, candidates must be 18 years old, a citizen of the United States, resident of State of Florida and a registered voter within the CDD. An e-blast was sent to residents, announcing the vacancy and requesting that interested qualified residents provide resumes and letters of interest. Mr. Eckert suggested that each candidate introduce themselves, their qualifications and why they were interested in serving on the Board.

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Mr. Payne noted there was two candidates: Mr. Thomas Metych and Mr. Chuck Dicey. Mr. Chuck Dicey was a resident since 2011, retired and had prior experience with the POA and CDD, having familiarity with the Sunshine Law and capital budgets. Mr. Payne questioned what leadership quality Mr. Dicey had. Mr. Dicey was experienced working with nuclear power plants, was honest and would assist the Board with whatever it needed. Mr. Thomas Metych was a resident for two years and retired from the Army, specializing in logistics, personal management, financing and security. Mr. Payne questioned Mr. Metych's leadership quality. Mr. Metych stated that he always put everyone's needs above his own, was hands on and ensured that issues were handled personally and correctly. Mr. Payne thanked Mr. Metych for his service. Mr. Payne opened the floor to nominations. Ms. Little nominated Mr. Chuck Dicey.

Ms. Little moved to appoint Mr. Chuck Dicey to Seat 1 and Mr. Payne seconded the motion.

Mr. Blalock preferred to have new ideas and new perspectives.

On VOICE VOTE with Ms. Little and Mr. Payne in favor and Mr. Blalock and Mr. Jolly dissenting, the appointment of Mr. Chuck Dicey to Seat 1 with a term ending November 2026 was not approved. (Motion Failed 2-2)

Mr. Blalock nominated Mr. Thomas Metych.

On MOTION by Mr. Jolly seconded by Mr. Payne with all in favor the appointment of Mr. Thomas Metych to Seat 1 with a term ending November 2026 was approved.

Mr. Payne thanked both candidates for their interest in serving on the Board and congratulated Mr. Thomas Metych.

B. Oath of Office for Newly Appointed Supervisor

Mr. Oliver, a Notary of the State of Florida and duly authorized, administered the Oath of Office to Mr. Thomas Metych.

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Mr. Eckert explained that the District was a Governmental entity and each supervisor is subject to the Sunshine, Public Records and Ethics Laws. Each Supervisor was required to fill out a Financial Disclosure Form. Mr. Oliver provided Form 1, Statement of Financial Interests to Mr. Metych, which was required to be filed with the Supervisor of Elections within 30 days. If Mr. Metych chose to receive compensation of \$200, I-9 and W-4 forms must be filled out. Mr. Eckert would confer with Mr. Metych after the meeting to discuss the Sunshine and Public Record Laws.

C. Election of Officers, Resolution 2023-07

Mr. Oliver requested that the Board designate Mr. Metych as an Assistant Secretary.

On MOTION by Mr. Payne seconded by Ms. Little with all in favor electing Mr. Thomas Metych as an Assistant Secretary as evidenced by Resolution 2023-07 was adopted.

FIFTH ORDER OF BUSINESS

Approval of the Minutes of the January 11, 2023 Meeting

On MOTION by Mr. Payne seconded by Ms. Little with all in favor the Minutes of the January 11, 2023 Meeting were approved as presented.

SIXTH ORDER OF BUSINESS

Public Hearings to Consider

A. Adoption of Non-Resident User Fees and Rates, Resolution 2023-05

Mr. Eckert stated the proposed non-resident user rate was \$2,500 per year. The CDD was allowed to charge a user fee because these were public facilities. There was also a proposed \$25 replacement access card fee.

On MOTION by Mr. Payne seconded by Mr. Jolly with all in favor the Public Hearing to Adopt Non-resident User Fees and Rates was opened.

Mr. Payne pointed out that the non-resident user rate, which had not changed since the inception of the community, was being raised from \$1,300 to \$2,500, which was reasonable. Regarding the replacement access card fee, Mr. Payne felt that \$25 was reasonable. Ms. Little

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suggested reducing it to \$20. Mr. Masters felt that charging \$20 for new and lost cards was reasonable as the fee to process the card was \$5. Resident Phillip Reynolds felt that \$10 or \$15 was more reasonable. Mr. Payne noted if they were renters, they should receive a card from their landlord. Mr. Masters pointed out that prior tenants were not leaving their access cards. Mr. Payne questioned the standard protocol in other Districts. Mr. Fagen confirmed that other Districts charged \$25 per card and provided two cards to new homeowners. If an owner wanted to purchase an additional card, they must pay \$25. Mr. Eckert felt there was a private way to deal with tenants who did not turn in their cards such as recouping the cost from a security deposit. *There was Board consensus to charge \$20 per card.* Mr. Blalock felt that the \$2,500 non-resident user rate was fair as it was close to the operation and maintenance (O&M) fee that residents pay. Mr. Payne was in favor of charging \$2,500. Resident Phillip Reynolds questioned the number of non-residents using the facility. Mr. Master stated that four non-resident families were using the facility last year.

On MOTION by Mr. Payne seconded by Ms. Little with all in favor the Public Hearing to Adopt Non-resident User Fees and Rates was closed.

On MOTION by Mr. Payne seconded by Mr. Jolly with all in favor adopting a non-resident user rate of \$2,500 and \$20 lost access card fee as evidenced by Resolution 2023-08 was adopted.

B. Adopting Revised Amenity Suspension and Termination Rules, Resolution 2023-09

Mr. Eckert stated due to the amount of property damage in other Districts and the responsible party paying for the property damage versus residents, staff recommended revising the Amenity Suspension and Termination Rules to include up to a \$500 administrative reimbursement. There was also property damage reimbursement, which was limited to the amount of property damage. The Board would consider whether to suspend privileges and to assess administrative and property damage reimbursements. Typically, suspensions would be for a minimum of 90 to 180 days; however, it would not be lifted until the amounts were paid to the District. If there was no such reimbursement, the Board could suspend amenity access cards associated with that household.

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On MOTION by Mr. Payne seconded by Ms. Little with all in favor the Public Hearing to Adopt the Revised Amenity Suspension and Termination Rules was opened.

Mr. Payne asked if the 90-to-180-day suspension was in the resolution. Mr. Eckert stated it was at the discretion of the Board on a case-by-case basis, but it should not go above one year, unless it was for egregious conduct. Resident Phillip Reynolds asked if the CDD could issue a punitive fine. Mr. Eckert explained that the District could go to court and sue a resident for damaging public property; however, if someone caused \$2,500 worth of damage, by the time they paid an attorney to get involved, residents would pay over \$2,500. Resident Phillip Reynolds pointed out this was a hangout for people that did not live in the community. Mr. Eckert stated unless they paid the annual user fee, they were not supposed to be using the amenities and it became an enforcement issue for staff.

On MOTION by Mr. Payne seconded by Mr. Metych with all in favor the Public Hearing to Adopt the Revised Amenity Suspension and Termination Rules was closed.

On MOTION by Mr. Payne seconded by Ms. Little with all in favor adopting the Revised Amenity Suspension and Termination Rules as evidenced by Resolution 2023-09 was adopted.

SEVENTH ORDER OF BUSINESS

Consideration of Proposals

A. Yellowstone Landscape Services for Enhancement Improvements

Mr. Masters presented the following proposals from Yellowstone Landscape Services (Yellowstone) for enhancement improvements:

- **Proposal #1:** Remove Jasmine from Phase 2 entrance median and replace with Zoysia grass for \$3,055.

Mr. Masters pointed out that Yellowstone had a new weed killer that was working well with the Jasmine and it was coming back. Therefore, this proposal was tabled. He would request that Yellowstone purchase 30 Jasmine plants for the north side of the monument.

- **Proposal #3:** Remove dead Spartina grass along wood line on Johns Creek Parkway and replace with new Spartina grass for \$1,895.70.

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Mr. Masters recommended purchasing 60 units of Spartina grass to fill in dead spots on both sides of Johns Creek Parkway by the Phase 1 Amenity Center. Mr. Payne looked at these areas with Mr. Masters and felt that the proposal was reasonable. Mr. Blalock asked if there were any other options. Mr. Masters stated they currently had 300 plants along both sides of the road and this was the most efficient way to fill in this area.

On MOTION by Ms. Little seconded by Mr. Payne with all in favor the proposal with Yellowstone Landscape Services to remove dead Spartina grass along wood line on Johns Creek Parkway and replace with new Spartina grass in the amount of \$1,895.70 was approved.

- **Proposal #2:** Change out Oleander in Phase 2 median and install Arboricola and Bluemymind plants and add mulch for \$1,570. This proposal was tabled.

B. Resurfacing of Tennis Courts and Addition of Pickleball Lines

Mr. Masters presented proposals from Court Surfaces in the amount of \$12,900 and Tennis Unlimited in the amount of \$10,900 to repair, resurface and add the pickleball lines to the tennis court in Phase 1, which was requested by residents. The tennis court was in good shape, but there were some damaged areas from tree roots. Even though there was a \$2,000 difference between Court Surfaces and Tennis Unlimited, Mr. Masters recommended the proposal from Court Surfaces as it was a better value and Tennis Unlimited performed substandard repair work. Mr. Eckert requested that any motion be subject the preparation of an agreement, due to issues with past contractors. Mr. Payne questioned the root damage. Mr. Masters explained that tree roots were raising the court in certain areas. Mr. Payne was in favor, due to requests from residents. Mr. Metych asked if they were going to remove the tree roots. Mr. Masters stated they would grind down the surface to a lower level and re-fill, but it would be a continuous issue because it was surrounded by trees.

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On MOTION by Mr. Payne seconded by Ms. Little with Mr. Metych, Mr. Jolly, Mr. Payne and Ms. Little in favor and Mr. Blalock dissenting, the proposal with Court Surfaces to repair, resurface and add pickleball lines to the tennis court in Phase 1 in the amount of \$12,900, subject to the preparation of an agreement by District Counsel to cover the District from any losses was approved. (Motion Passed 4-1)

C. Commercial Fitness Products to Purchase a Climbmill/Stair Stepper for Fitness Center

Mr. Masters received requests from residents to purchase a Matrix climbmill and stair stepper for the Fitness Center and presented a proposal from Commercial Fitness Products in the amount of \$7,235, who provided preventative maintenance. There was three-year parts and labor warranty. Mr. Payne asked if there would be high usage of this equipment. Mr. Masters believed there would be based on the number of residents that wanted it. Mr. Metych asked if they looked at multiple quotes from other vendors. Mr. Masters did not but could obtain additional proposals. Mr. Blalock voiced concern that there was no room in Fitness Center. Mr. Masters stated they must pull a unit out to make room, but there was a machine that performed the same function as two machines. Mr. Payne requested that this item be tabled and that Mr. Masters obtain additional proposals.

D. Installation of Wooden Fence around Phase 1 Pool Pump Area

Mr. Masters stated there was a metal fence around the Phase 1 pool pump area and proposed purchasing a wood fence so that residents did not see the pump equipment and help keep noise over this area. After he obtained the proposals for wood, Mr. Jolly requested a vinyl fence. The cost for 72 feet vinyl fence was less, under \$3,500. Mr. Payne preferred a color that was consistent with the tan motif and a material that lasted longer, which was the vinyl. Mr. Blalock felt that vinyl would look better. Mr. Masters presented proposals from Armstrong Fence Company (Armstrong) and Masters Quality Fence (Masters), which was owned by his son. He recommended Armstrong, as they had a strong presence in the neighborhood and could complete the job quicker than his son. Mr. Payne asked if the cost was \$3,250. Mr. Masters confirmed that vinyl fence from Armstrong was \$3,500 and \$3,200 from Masters. Mr. Payne felt that the cost was equitable.

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On MOTION by Ms. Little seconded by Mr. Jolly with all in favor the proposal with Armstrong Fence Company to install a vinyl fence around the Phase 1 pool pump area in the amount of approximately \$3,500 was approved.

Mr. Payne questioned the status of the pool leak. Mr. Masters recalled at the last meeting; the Board approved \$10,000 for the pool leak at the Splash Pool. The company came out and presented a proposal of \$5,900, but once they started digging, additional problems were found and provided a proposal for \$7,100 to complete the job, for a total amount of \$13,000 to \$14,000. They should be completed in the next three days and would get the pools filled to be ready for Spring Break. Mr. Payne questioned if the leak would be fixed. Mr. Masters did not know until the pool was filled with water but believed that the source was located and fixed.

EIGHTH ORDER OF BUSINESS

Discussion of Fiscal Year 2024 Budget Process

Mr. Oliver explained that the Proposed Budget would be presented at the May meeting and the Board would have 60 days to refine it. A public hearing would be scheduled for July or August. If there was an assessment increase, the Board would know ahead of time. A preliminary budget would be sent to the Board with basic information. Mr. Payne encouraged the Supervisors to review the budget thoroughly when they received it and make any recommendations.

NINTH ORDER OF BUSINESS

Other Business

There being none, the next item followed.

TENTH ORDER OF BUSINESS

Staff Reports

A. Attorney

Mr. Eckert recalled that the Board approved an increase in the Poolsure contract and was working with them in multiple Districts on a formal agreement, which would be prepared by Ms. Katie Buchanan in his office. Once she had a form of agreement that was acceptable, they would get it signed. If Mr. Masters was getting hassled by suppliers, they could accelerate that process. Mr. Masters noted no issues. Mr. Payne asked if there would be further increases. Mr. Eckert stated that they were still dealing with insurance, notification and a request for the District to indemnify them, which as a Government, they did not do. He did not think they would be able to

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save on chemicals for a long time because the market was volatile. Mr. Payne appreciated their diligence to protect the District.

B. Engineer – Work Authorization No. 41 for 2023 Hourly Billing Rate Escalation

Mr. Oliver pointed out that the District Engineer attended meetings as needed, which saved the District money. They submitted Work Authorization No. 22 for General Consulting Engineering Services for Fiscal Year 2022-2023 in the amount of \$5,000. The budget was \$7,000. Discussion ensued.

On MOTION by Mr. Payne seconded by Mr. Metych with all in favor Work Authorization No. 22 for General Consulting Engineering Services for Fiscal Year 2022-2023 in the amount of \$5,000 was approved.

C. Manager

Mr. Oliver would provide the Fiscal Year 2022 audit at the next meeting along with the Proposed Budget.

D Operations Manager

- 1. Report**
- 2. Lake Doctors Report**
- 3. Yellowstone Report**

Mr. Masters presented the Operations Manager Report, which was included in the agenda package along with the Lake Doctors and Yellowstone Reports. Yellowstone was performing the landscaping two days per week every week starting on March 1st. He was happy with their service as they were responsive to the District's needs. When they were not mowing, they were trimming Palmettos at no additional charge. Landscaping was a large cost for the community. They did not just pay for someone to cut their grass. They were paying for their expertise in fertilization, chemicals and pest control. Yellowstone was not always perfect, but if Mr. Masters noticed anything, they responded the same day or the next. The ponds looked good during the winter, but there would now be blooms, due to residents putting fertilizer down that ran into the ponds. They currently come out twice a month or when there was a particular issue at no charge. Their Health Department inspection for the pools was held on Monday, which the District

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passed. The next one would be in July. At the last meeting, the Board took action to have Southern Breeze re-strap 30 chaise lounge chairs for Phases 1 and 2 for under \$4,000. The chairs arrived today. They had five more chairs for Phase 1, which Mr. Masters would re-strap. Ms. Little noted that the chairs looked great.

Mr. Masters questioned whether the Board had any questions or concerns about the pressure washing. They typically pressure wash around the pools at the Amenity Centers, sidewalks in front, common areas, monuments, sidewalks and curbs at front entrance off of CR 210 and the back part of Huffner Hill Circle. They discussed pressure washing sidewalks and curbs from the Amenity Center to East and West American Eagle Drive and could get prices to the Chair. Mr. Payne questioned how long it would be until they had to pressure wash the back part of Huffner Hill and what other Districts did. Mr. Masters believed that once a year was sufficient. Mr. Fagen stated that typically other Districts power washed their assets such as their Amenity Center and monuments. Mr. Payne preferred to obtain proposals to look at the value for the money and making a decision going forward. Resident Phillip Reynolds preferred that the CDD pressure wash the common areas as well as utility boxes. Mr. Masters stated they were talking about pressure washing and painting power boxes, but the power box must be in the common area and not in a resident's yard, since it was a liability issue. Mr. Eckert clarified that there was a low liability risk for the District as the risk was primarily with the homeowner. Mr. Masters would reach out to the utilities. Mr. Payne preferred to place flyers on homeowners' doors when they were pressure washing and painting utility boxes. Resident Phillip Reynolds did not think that residents cared about the sidewalks. Ms. Little thanked Mr. Masters for his hard work.

E. Amenity Manager - Report

Ms. Meadows presented the Amenity Manager's Report, which was included in the agenda package. They were looking at revamping the Fit-n-Fifty by changing its name and opening it up to adults of any age, not just 50 and older. The food trucks were returning tonight. There would be one truck for the next four months, but if there was a need, they could add additional trucks. The King and Princess Dance was on February 11th. They able to get a castle backdrop from the St. Johns Stage Performing Arts Studio, which enhanced the photos. There were a few games including Rapunzel's Hair Tangle, where kids and Dads were wrapped in

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streamers. The blood drive was on February 18th. There were only 10 donations, but they saved 30 lives. There would be a Spring Egg Hunt on April 1st, Mom & Son Event and Start of the Summer celebration on Memorial Day weekend. Ms. Little thanked Ms. Meadows for posting the pictures online. Mr. Payne expressed gratitude to the District Manager, District Counsel, Ms. Meadows and Mr. Fagen.

ELEVENTH ORDER OF BUSINESS

Supervisor's Requests and Audience Comments

Supervisor's Requests

Ms. Little asked if they could do anything about motorized scooters on Johns Creek Parkway, as they were not being seen by cars. Mr. Eckert stated that St. Johns Parkway was owned by the county; however, the CDD and HOA could educate the community. Ms. Little requested notification in the newsletter.

Audience Comments

Resident Phillip Reynolds appreciated Vesta, but voiced concern that their budget for next year would be high and requested that the Board consider costs. Mr. Payne stated that they could talk to Vesta about the costs, do some comparative analysis with other Districts and be frugal in their budget analysis. Resident Paul Dowd voiced concern about people using their community as a cut through when there were backups from Publix to CR 210 and suggested posting "*No Left Turn*" signs or speed humps. Mr. Eckert suggested speaking with District Engineer who had contacts with the county since it was a county road.

TWELFTH ORDER OF BUSINESS

Financial Reports

A. Balance Sheet & Income Statement as of January 31, 2023

Mr. Oliver presented the January 31, 2023 Balance Sheet and Income Statement, which were included in the agenda package. They were four months into the fiscal year and there was \$261,000 in the Capital Reserve. Another \$105,000 would be added during the fiscal year, bringing the total to \$366,000. There was a positive variance on the Income Statement. Mr. Payne noted that the Capital Reserve was the highest they had.

B. Assessment Receipt Schedule

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Mr. Oliver presented the Assessment Receipt Schedule, which was included in the agenda package, showing an 89% collection in assessments. The most recent schedule showed assessment collections at 98.5%.

C. Approval of Check Registers

Mr. Payne reviewed the Check Register. There were standard expenditures and no anomalies.

On MOTION by Mr. Payne seconded by Ms. Little with all in favor the December 1, 2022 through January 31, 2023 Check Register in the amount of \$310,622.39 was approved.

THIRTEENTH ORDER OF BUSINESS

**Next Scheduled Meeting – May 10, 2023
at 6:30 p.m. at Phase 2 Amenity Center**

Mr. Payne stated that the next meeting was scheduled for May 10, 2023 at 6:30 p.m. at the Phase 2 Amenity Center.

FOURTEENTH ORDER OF BUSINESS

Adjournment

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

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Jim Oliver
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Secretary/Assistant Secretary

DocuSigned by:
Meredith Payne
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Chairman/Vice Chairman