

**MINUTES OF MEETING
TOSCANA ISLES
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the Toscana Isles Community Development District held a Regular Meeting on February 24, 2021, at 10:00 a.m., at the Venice Nokomis Elks Lodge #1854, 1021 Discovery Way, Nokomis, Florida 34275.

Present were:

Alex Hays	Chair
Brian Watson	Vice Chair
Daniel Peshkin	Assistant Secretary
Jeffrey Sweater	Assistant Secretary
Michael LaBoe	Assistant Secretary

Also present were:

Cindy Cerbone	District Manager
Daniel Rom	Wrathell, Hunt and Associates, LLC
John Vericker	District Counsel
John Peshkin	Representative LALP Development, LLC
Robert Gomez	Universal Engineering Sciences, LLC (UES)
Surendra Sagi	Universal Engineering Sciences, LLC (UES)

Residents present in person were:

Dave Lewis	Tony Dandy	Joe Tain	Lisa Hart
Jim Edwards	Bill Ambrose	Erika Lewis	Howard Horst
Bill Markham	Ricky Hess	Bob Guarnieri	John Huot
Chris Simmons	Jeanne Foley	Tom Gerson	Mike Paganelli
Thomas Hart	Richard Cirello	Elizabeth Montoni	Ed Leahy
Janet Leahy	Karen Clarke	Ken Swanson	Paula Steinert
David Lewis	Jack Rosen	William Moore	Mike Schrenko
Janet Sasso	Donna Scanlon	John Scanlon	Jane Stroder
Jeff Mandel			

Residents present via telephone were:

Elizabeth Turk	Carol McDonald	Jim Nolan	Nancy Gibson
Robert Budetti	Doreen Budetti	Joe Farinello	Bill Sutherland
Bob Gibson	Tony O'Day	Mary O'Keefe	

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Ms. Cerbone called the meeting to order at 10:06 a.m. All Supervisors were present.

SECOND ORDER OF BUSINESS

**Discussion/Consideration: Meeting
Duration [2 hours]**

Ms. Cerbone discussed the Rules of Procedure related to public participation in the public comments sections of the agenda and noted that, under Florida Statute, Board Members and Staff are not required to respond to public comments or answer any questions during the meeting. She referred to the Resolution on decorum and conducting productive meetings, which was adopted at the last meeting, and noted that an off-duty Florida Highway Patrol Officer was present at the meeting.

Board Members agreed that two hours to conduct this meeting was sufficient.

THIRD ORDER OF BUSINESS

Update: Developer [20 minutes]

Mr. John Peshkin introduced himself as a Representative of LALP Development, LLC, the Developer of the Toscana Isles Community, and stated that, in his capacity as the Manager of Vanguard Realtors, the Manager of LALP Development, he was presenting an update. He summarized his professional background, as a homebuilder, various positions as a Board Director, and time dedicated to charitable giving. He discussed the seven-person Advisory Committee he created to ensure important community matters are fairly addressed and prioritized.

Mr. John Peshkin read portions of Mr. LaBoe’s February 13, 2021 letter emailed to some Toscana Isles residents. In Mr. John Peshkin’s opinion, Mr. LaBoe’s claims challenge Mr. John Peshkin’s personal integrity, incite distrust and were not factual; rather, Mr. LaBoe’s claims were untrue, inaccurate and slanderous statements, which have damaged Mr. John Peshkin’s reputation. Mr. John Peshkin stated that those who made allegations and misrepresentations about him would be held accountable. Mr. John Peshkin provided the Developer’s position on the following claims in Mr. LaBoe’s letter:

- Lake Ownership: The intent is for the Developer to transfer lake ownership rights to the HOA or CDD.

- Additional fees for irrigation water: The Developer does not intend to charge additional fees for irrigation water and there are no documents to support that claim.
- Excessive water use issues at the Clubhouse and pool area: The causes of these issues were due to periodic maintenance issues that were expected, were addressed and were paid solely by the Developer.

It was noted that Mr. Sweater, a CDD Board Member and licensed Professional Engineer, after reviewing all the reports and meeting with the associated contractors related to this issue, concluded that the average daily water flow rate was not anything unusual for all the uses they have. This finding was based on Mr. Sweater's experience calculating thousands of flow projections and constant review of flow data water meter bills. Mr. Sweater was unable to find any data or proof, at this point, to indicate that there could be a long, ongoing water leak issue at the Clubhouse or with the pool, since it opened.

- Asking residents to contribute funds to engage Engineers and Attorneys, which would be credited back through the HOA, once the CDD Board transitions to resident control: HOA's are governed by the State of Florida, which would probably not allow proceeding with this action.

- Defining roadway and curbing issues as structurally defective:

Mr. John Peshkin read portions of Mr. LaBoe's letter and discussed Mr. Hays' conversations, in which residents expressed their satisfaction with the explanation given about the roadway construction process and conveyed during his follow up; residents had no other concerns and the actions taken were no longer a concern.

Mr. John Peshkin read conclusions from the three qualified Engineering firms engaged, which differed from Mr. LaBoe. From their inspections and testing, the Engineering firms deemed the following:

- Elements of the roadways were not deficient; cracks were typical and simply an aesthetic issue.
 - The material used met or exceeded the design criteria in the approved plans and the specifications.
 - The peer review Engineering firm validated that the roads were constructed properly and were not structurally defective.

Mr. John Peshkin asked residents to reflect on the responses provided today, carefully consider them versus Mr. LaBoe's allegations and contact the District Manager Ms. Cerbone, the Association Manager Ms. Williams or someone on the Advisory Board directly to express any genuine concerns or ideas for improving the community.

FOURTH ORDER OF BUSINESS

Update: CDD Roadways [20 minutes]

Mr. Robert Gomez and Mr. Surendra Sagi, of UES, Consulting Engineers (UES), reviewed their firm and educational and professional experience. Mr. Sagi and Mr. Gomez, who were engaged to perform a peer review, discussed the scope of work that they performed to reach the conclusions that Mr. John Peshkin discussed earlier. They deemed, in their professional opinions, that the roadways and curbs were built according to the plans and the materials used met the minimum requirements detailed by AM Engineering and the City; one exception was the recommendation to address a curb area with an asphalt issue.

Mr. LaBoe posed questions and expressed his belief that he had not received all the reports. The other Board Members were polled and confirmed receipt of Management's email that contained a link to the information from the thumb drive Mr. Hays provided to Management to distribute to the Board. Ms. Cerbone would confirm the document count in the email her office sent to the Board.

FIFTH ORDER OF BUSINESS

Public Comments [15 minutes]

For the record, each person attending in person and via telephone was identified.

Ms. Cerbone read resident Dave Lewis' question regarding whether Mr. LaBoe and others would be awarded the same amount of time to respond as LALP was given. The Board agreed to Ms. Cerbone responding to the question. Ms. Cerbone stated that Board Members are not constrained to time limits; another opportunity to discuss comments and requests later in the agenda was offered.

Mr. LaBoe commented about Mr. John Peshkin, who is not on the Board, being allotted time on the agenda to respond to the allegations that were made and expressed his belief that his character was questioned. Mr. LaBoe stated that he would email his collection of documents about the conveyance of the lakes and excessive water usage issues to every

property owner. He recommended engaging a third-party Engineer to perform additional testing on the roadway and curbs.

Resident Tony Dandy asked the Board to consider changing to a meeting venue closer to the community, as it would allow residents the opportunity to participate in the meetings and to hear agenda items first hand, instead of hearing rumors.

Resident Joe Tain noted the ways the CDD tried to resolve continual washouts on his and his neighbor's property, which he felt was an engineering issue that should be corrected.

Resident Lisa Hart voiced her opinion that roadway and curb projects were not done correctly, as she observed several cracks during her daily walks. She felt that everything needed to be fixed.

Resident Elizabeth Turk thanked the Board for the information that was provided today and stated that she was still concerned about the curbs near her home cracking.

Resident Jeff Mandel felt that the meeting was informative and asked for a transcript of the meeting and related information to be posted to an e-blast site.

Resident Janet Sasso noted she did not receive Mr. LaBoe's documents and asked him to send his information to everyone in the community, if he intends on speaking on behalf of everyone.

Ms. Cerbone confirmed the number of items in the email that Management sent to the Board one day after the last meeting, as discussed earlier. Mr. Sweater confirmed that the email he received had the same number of items. In response to a question about missing reports, Mr. Sweater stated that the third-party Engineer's list of files were the same files he reviewed and were the same ones emailed to the Board.

SIXTH ORDER OF BUSINESS

Discussion: Requisition(s) [10 minutes]

Mr. LaBoe stated that he would comment on Requisitions No. 247 and No. 248 later in the meeting.

Ms Cerbone stated the Requisitions were being presented for ratification, as they were already processed by the District Engineer, as stipulated in the bond validation process. The Developer asked for requisitions to be placed on the agenda, for transparency purposes, although it is not required.

Mr. LaBoe asked why retainers were not collected from the contractors engaged to pressure wash the tennis courts and who worked on the mailbox project, so that damaged areas can be restored to their original conditions. He felt that the HOA and CDD should not have to incur those expenses. Mr. Hays stated that, because the parties are arguing over who caused the damages and, since it would be difficult to prove which contractor is responsible, the CDD would incur the costs to restore the property; however, payment could be borne by LALP Development, due to overage of the bonds.

Ms. Cerbone read each of the following requisitions into the record:

- A. **No. 241, Guy's Hauling & Dumpster Service, Inc. [\$1,266.55]**
- B. **No. 242, T-Top Electric, LLC [\$1,025.00]**
- C. **No. 243, AM Engineering, LLC [\$5,951.58]**
- D. **No. 244, Juniper Landscaping of Florida, LLC [\$4,234.50]**
- E. **No. 245, Pat O'Hara Pavers, Inc. [\$18,958.10]**
- F. **No. 246, Heavyweight Industries, LLC [\$4,383.81]**
- G. **No. 247, Becerra Construction of Central Fl, Inc. [\$7,237.21]**
- H. **No. 248, The Kleaning Krew Pros, LLC [\$500.00]**

On MOTION by Mr. Watson and seconded by Mr. Daniel Peshkin, with Mr. Watson, Mr. Daniel Peshkin, Mr. Hays and Mr. Sweater in favor and Mr. LaBoe dissenting, Requisitions No. 241 through 248, as presented by Ms. Cerbone, were ratified. [Motion passed 4-1]

SEVENTH ORDER OF BUSINESS

Ratification of Agreement(s),
Contract(s)/Change Order(s)/ Purchase
Order(s)/Proposal(s) [10 minutes]

Ms. Cerbone presented the following items:

- A. **Becerra Construction of Central Fl, Inc.**
 - **Change Order #1**
 - **Roof Install**
- B. **Juniper Landscaping of Florida, LLC, Phase 7**
 - **Proposal #101511 – Removal of Oak Tree at New Road at Main Entry**
- C. **Sarasota Land Services, Inc.**

- I. **Change Order 11, Phase 5 and 6**
 - **Removal and Disposal of Nuisance and Exotic Vegetation for Excavation of Project Outfall**
- II. **Change Order 2, Phase 7**
 - **Change Section of Phase 7 Curb from Miami to F Catch Curb**

On MOTION by Mr. Watson and seconded by Mr. Daniel Peshkin, with all in favor, Items 7A through 7CII, as presented, were ratified and/or approved.

EIGHTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of January 31, 2021

Ms. Cerbone presented the Unaudited Financial Statements as of January 31, 2021.

On MOTION by Mr. Sweater and seconded by Mr. Hays with all in favor, the Unaudited Financial Statements as of January 31, 2021, were accepted.

NINTH ORDER OF BUSINESS

Approval of January 27, 2021 Regular Meeting Minutes

Ms. Cerbone presented the January 27, 2021 Regular Meeting Minutes. The following change was made:

Line 437: Change "Manager" to "Engineer"

Mr. LaBoe stated that he would email his items about the minutes to Ms. Cerbone.

On MOTION by Mr. Sweater and seconded by Mr. Daniel Peshkin, with Mr. Sweater, Hays, Mr. Daniel Peshkin and Mr. Watson in favor and Mr. LaBoe dissenting, the January 27, 2021 Regular Meeting, as amended, were approved. [Motion passed 4-1]

TENTH ORDER OF BUSINESS

Staff Reports

- A. **District Counsel: *Straley Robin Vericker***

There being no report, the next item followed.

- B. **District Engineer: *AM Engineering, LLC***

There being no report, the next item followed.

C. District Manager: *Wrathell, Hunt and Associates, LLC*

I. Update from HOA Regarding Clubhouse Availability

The Property Management Company's response regarding availability of the Clubhouse was provided for informational purposes.

II. Billings and Payments D.R. Horton for the Series 2014 Debt Service for FY2015 and FY2016

Ms. Cerbone provided an overview of the matter and discussed email exchanges between her and Mr. LaBoe. She provided Mr. LaBoe with the data he requested to complete his analysis; however, he did not reciprocate. She referred to the minutes of the prior meeting in which Mr. LaBoe twice agreed to provide Ms. Cerbone with the documents supporting his claim that Management had not billed D.R. Horton sufficiently. She referred to the document in the agenda package, in which Management confirmed D.R. Horton assessments were paid, according to the Assessment Methodology Report that the attorneys involved in the bond validation process reviewed and approved.

Mr. LaBoe stated that his reason for sending emails was to document discussions. He stated that he would provide the documents to Ms. Cerbone once his analysis is completed. Ms. Cerbone stated, for the record, that Mr. LaBoe is the only Board Member in any of her Districts who refuses to converse via telephone. She suggested that Mr. LaBoe send follow up emails to recap telephone conversations; otherwise, Management may have to request a fee increase to provide additional services. Mr. LaBoe stated he would email the data to Ms. Cerbone and to residents so they can make an informed decision on this matter.

This item would be removed from the agenda.

III. Discussion: Unit 2 Phase 7 Recorded Plat and Associated True-Up

Ms. Cerbone recalled the True-Up discussions at the last meeting and discussed the True-Up process, which is implemented when certain criteria are triggered. She referred to the re-plat that the City approved and District Management's letter to LALP Development in the agenda package, requesting a True-Up payment no later than March 15, 2021. Renaming Unit III was for the City Planning and Zoning Department's purposes; there was no connection between the CDD names. The funds allocated in Unit III were placed in the construction fund and were not being used to pay down the bond and not reallocated elsewhere. Ms. Cerbone

noted that the budget lists the units associated with the various bond funds, which is posted on the CDD website. This item would be removed from future agendas.

IV. Recap of November, 2020 Landowner Election

The 2020 Landowner Proxy documents were provided for informational purposes.

V. NEXT MEETING DATE: March 31, 2021 at 10:00 A.M., at Comfort Suites Sarasota – Siesta Key, 5690 Honore Avenue, Sarasota, Florida 34233

• **QUORUM CHECK**

The next meeting will be held on March 31, 2021 at 10:00 a.m., at the Comfort Suites, Siesta Key, 5690 Honore Avenue, Sarasota, Florida 34233. Meetings would be held at this location for the remainder of the Fiscal Year.

Mr. LaBoe asked for CDD meetings to be held at the Elks Lodge for the remainder of the fiscal year. He read portions of two Florida Statutes that he interpreted to mean that the CDD would be in violation if the meeting location is not changed to accommodate larger gatherings. Ms. Cerbone read into the record portions of the prior minutes, which discussed this matter in detail. Mr. Vericker discussed the Florida Statutes and stated public meeting do not mean space limitations do not apply. He did not foresee the District being in violation if meetings are held at the Comfort Suites because in person, telephone and/or Zoom participation is available to the residents. Ms. Cerbone discussed options, although not ideal, which would allow all residents to speak in person, while adhering to room capacity.

Mr. Sweater explained why meetings were conducted at the Developer's location and voiced his opinion that there was no need to bring this up again until after the Board fully transitions to the residents. Discussion ensued.

On MOTION by Mr. LaBoe and seconded by Mr. Sweater, with Mr. LaBoe and Mr. Sweater in favor and Mr. Daniel Peshkin, Mr. Watson and Mr. Hays dissenting, changing the meeting location to the Elks Lodge for the remainder of Fiscal Year 2021, was not approved. [Motion failed 2-3]

ELEVENTH ORDER OF BUSINESS

Board Members' Comments/Requests [5 minutes]

These items were addressed during the Sixth Order of Business and in prior meetings; work to restore CDD property to its original condition was in progress. The following items would remain on the agenda until the issues are corrected:

- **Mailbox Roof Structure Project**
 - **Concrete Dust, Concrete and/or Stucco Material and Paint Adhered to the Surface of the Newly Resurfaced Tennis Court**
 - **Construction Contracts Contract**
 - **Scope of Work**
 - **Subsequent Cleanup of Work Site**

TWELFTH ORDER OF BUSINESS

Public Comments

Those attending the meeting in person and via telephone were asked if they wished to make additional public comments.

Mr. Dandy reiterated his earlier comment about the importance of selecting a meeting venue that is convenient to residents so they can participate in meetings. He stated that he would prefer a timeline of when work on the tennis court issues would be resolved instead of the answer that work was in progress. He expressed his disappointment that, in his opinion, residents do not seem to have a voice in the community.

Ms. Cerbone read a second comment from Ms. Hart, wherein Ms. Hart asked why the Board does not want to conduct meetings at the Elks Lodge, knowing it is an option that can accommodate large gatherings.

Resident Chris Simmons stated he was baffled as to why, in his opinion, the Board-elected representatives would not serve the residents effectively by conducting meetings closer to the community.

Resident Thomas Hart referred to Mr. John Peshkin's earlier comment about residents expressing their satisfaction in the explanation about the roadway construction process and stated that he was never contacted and that, if questioned, he would not express satisfaction with the issue. He thanked Mr. Sweater for seconding Mr. LaBoe's motion to conduct meetings at the Elks Lodge but he was discouraged when Mr. Sweater said it was a waste of time to make that request again.

Residents John Huot echoed the previous statements.

Resident Joe Farinello's comments were inaudible.

Resident Doreen Budetti voiced her opinion that the earlier statement about caring about the community but then not allowing a change in venue cast a negative impression on three Board Members.

Resident Tony O'Day asked for meetings to be available via Zoom.

Resident Mary O'Keefe felt that conducting in person and Zoom meetings would help.

Resident Janet Sasso asked why some Board Members objected to meet at the Elks Lodge.

Mr. LaBoe expressed his opinion that precedent was set when Mr. John Peshkin was placed on the agenda and allowed to speak; therefore, he stated that he would schedule speakers for future meetings. Mr. Vericker stated that Mr. John Peshkin's comments fell under public comments and, although typically slotted for three minutes, the Board could but did not interrupt his time. Discussion ensued.

THIRTEENTH ORDER OF BUSINESS

Adjournment

There being nothing further to discuss, the meeting adjourned.

On MOTION by Mr. Watson and seconded by Mr. Hays, with all in favor, the meeting adjourned at 12:12 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



Secretary/Assistant Secretary



Chair/Vice Chair