

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

The Board of Supervisors of the Toscana Isles Community Development District held a Public Hearing and Regular Meeting on September 6, 2023, at 10:00 a.m., at the Toscana Isles Amenity Center, 100 Maraviya Blvd., Venice, Florida 34275.

Present were:

Scott Blaser	Chair
Bill Contardo	Vice Chair
Paul Schmitt	Assistant Secretary
James Collins	Assistant Secretary
Michael Traczuk	Assistant Secretary

Also present were:

Cindy Cerbone	District Manager
Jamie Sanchez	Wrathell, Hunt and Associates, LLC (WHA)
Whitney Sousa (via telephone)	District Counsel
Shawn Leins (via telephone)	District Engineer
Diane Jochum	Resident/HOA Board Member
Anthony Scappatura	Juniper Landscaping

Residents present:

Bill Ambrose	Thomas Hart	Lisa Hart	Sue Doyle
Nancy Gibson	Joni Salafia	Fred Salafia	Linda Hogenmiller
Jeff Munzing	Eugene Coblentz	Dennis Koroll	

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Ms. Sanchez called the meeting to order at 10:01 a.m. Supervisors Contardo, Collins, Traczuk and Schmitt were present. Supervisor Blaser was not present as roll call.

SECOND ORDER OF BUSINESS

Discussion: Resolution 2021-05, Policies Regarding the Conduct of Meetings of the Board [3 minutes]

Ms. Sanchez read the following Meeting Policies listed in Resolution 2021-05:

- Board Supervisors and members of the public shall use respectful tones and words when they are addressing the Board, the public, or District Staff.

- Board Supervisors and members of the public should avoid repetitive or redundant questions or comments.
- Degrading, uncomplimentary, or disrespectful remarks about an individual in any way may result in the adjournment of the Board meeting.
- Agenda items or discussion topics must pertain to District business.

THIRD ORDER OF BUSINESS

**Discussion/Consideration:
Duration [1.10 hour]**

Meeting

This item was not addressed.

FOURTH ORDER OF BUSINESS

**Approval of August 2, 2023 Regular
Meeting Minutes [2 minutes]**

On MOTION by Mr. Collins and seconded by Mr. Traczuk, with all in favor, the August 2, 2023 Regular Meeting Minutes, as presented, were approved.

▪ **Update: Juniper Landscaping Sabal Palm Warranty**

This item was an addition to the agenda.

Mr. Scappatura stated that all warranty replacement work, trees, shrubs and turf sections were completed, with the exception of where tree stakes need to be removed at two residences.

Mr. Scappatura noted the following:

- The latest assessment was conducted yesterday.
- The punch list was given to the installation team; it is expected to take half a day to complete.
- The dead palms are not under warranty and any replacement would need Board approval. The warranty on the replacement palms was voided when Juniper was terminated the second week of May. Juniper had no contact with the irrigation system or control when the pump system was replaced.
- The remaining punch list items will be completed September 22, 2023. Once completed a final walkthrough with Mr. Schmitt will be coordinated.

FIFTH ORDER OF BUSINESS**Chairman's Opening Remarks [5 minutes]**

This item was presented following the Ninth Order of Business.

SIXTH ORDER OF BUSINESS**Resident Concerns [2 minutes]**

Ms. Sanchez stated that she replied to most resident concerns and, once the District Engineer has completed his inspection, she will respond to outstanding items regarding the guard house, ownership, insurance requirements, street signs and the fountains.

- **Overlap in Field Review with Master Association**

Regarding the possibility of overlap in Engineering services, Ms. Sanchez stated that Mr. Chris Simmons confirmed that the Master Association has not retained an Engineer yet to assess damage from Hurricane Ian.

SEVENTH ORDER OF BUSINESS**Public Comments [15 minutes]**

Ms. Sanchez explained the protocols for public comments.

Resident Eugene Coblenz asked the Board to consider purchasing the land for sale around the CDD weir, in order to establish a berm to prevent future flooding and avoid a repeat of what occurred when Habitat for Humanity developed the land near the main guard gate.

Resident Lisa Hart asked if the landscape warranty on the new homes under contract is voided if the Juniper contract is terminated.

Resident and HOA Board Member Diane Jochum asked Mr. Scappatura if cleanup plans include removing the lumber behind the homes, filling in holes, cutting root balls to ground level and laying mulch.

Mr. Schmitt asked Mr. Scappatura to clarify if the original warranty on the enhanced area where they replaced the palms and the warranty of the palms that were part of the credit, are void. Mr. Scappatura replied affirmatively, the warranties are void because Juniper had no control of the irrigation system as of May 15, 2023.

Mr. Schmitt recalled Mr. Scappatura's boss confirming, at a previous meeting, that Juniper would replace the dead sabal palms. Mr. Scappatura stated that, without documented proof that the palms died prior to May 15, 2023, Juniper will not uphold the warranty. Ms.

Cerbone stated that Ms. Sanchez will review the transcribed meeting minutes and audio and send it to Juniper. She will provide an update at the next meeting.

Regarding filling in holes, leveling root balls and overall cleanup, Mr. Scappatura stated Juniper will level the 3’ stumps and Juniper gave or will give a credit for any remaining root balls. He noted that the HOA scope did not include removing all the lumber nor was it part of the warranty but he can submit a proposal for the work.

EIGHTH ORDER OF BUSINESS

Public Hearing to Consider the Adoption of the Fiscal Year 2023/2024 Budget [5 minutes]

- A. Proof/Affidavit of Publication**
- B. Consideration of Resolution 2023-09, Adopting a Budget for the Fiscal Year Beginning October 1, 2023, and Ending September 30, 2024; and Providing an Effective Date [5 minutes]**

Ms. Sanchez stated that the proposed Fiscal Year 2024 budget is the same version that was presented at prior meetings.

Mr. Blaser arrived at the meeting at 10:24 a.m.

Ms. Sanchez noted that, overall, assessments decreased \$15.54 for each unit type compared to the Fiscal Year 2023 assessments. Ms. Cerbone stated that the decrease is because, unlike in the prior fiscal year, this year there was no need to increase the amount for working capital.

On MOTION by Mr. Collins and seconded by Mr. Contardo, with all in favor, the Public Hearing was opened.

Resident Bill Ambrose asked if the “Supervisor’s” budgeted amount will decrease if the Board decides to transition from monthly to quarterly meetings. Mr. Sanchez replied affirmatively but the budgeted amount is for the maximum number of meetings.

On MOTION by Mr. Collins and seconded by Mr. Contardo, with all in favor, the Public Hearing was closed.

On MOTION by Mr. Schmitt and seconded by Mr. Collins, with all in favor, Resolution 2023-09, Adopting a Budget for the Fiscal Year Beginning October 1, 2023, and Ending September 30, 2024; and Providing an Effective Date, was adopted.

NINTH ORDER OF BUSINESS

Consideration of Resolution 2023-10, Imposing Annually Recurring Operations and Maintenance Non-Ad Valorem Special Assessments; Providing for Collection and Enforcement of All District Special Assessments; Certifying an Assessment Roll; Providing for Amendment of the Assessment Roll; Providing for Challenges and Procedural Irregularities; Providing for Severability; Providing for an Effective Date [5 minutes]

On MOTION by Mr. Schmitt and seconded by Mr. Traczuk, with all in favor, Resolution 2023-10, Imposing Annually Recurring Operations and Maintenance Non-Ad Valorem Special Assessments; Providing for Collection and Enforcement of All District Special Assessments; Certifying an Assessment Roll; Providing for Amendment of the Assessment Roll; Providing for Challenges and Procedural Irregularities; Providing for Severability; Providing for an Effective Date, was adopted.

▪ **Chairman’s Opening Remarks [5 minutes]**

This item, previously the Fifth Order of Business, was presented out of order.

Mr. Blaser tabled opening remarks as Ms. Sanchez confirmed that the Second Order of Business was reviewed.

TENTH ORDER OF BUSINESS

Consideration of Resolution 2023-11, Golf Cart Policy (to be deferred) [5 minutes]

This item was deferred.

A Board Member voiced their opinion that, until the Board resolves this matter, Mr. Babbar should not do any additional work on it. Ms. Sanchez recalled that the Board reviewed and asked Mr. Babbar to modify the policy regarding the age limit and to ensure that it complies with State laws.

Discussion ensued regarding whether the CDD Resolution is needed or if it can be eliminated since the HOA documents already include language stating that the policy applies to all State laws.

Board Members think the HOA should be responsible for implementing and enforcing the Golf Cart Policy and Parking Policy.

Ms. Sousa stated entities typically implement a policy to convey information to residents but it is not legally required. Mr. Babbar would have to determine if the policy should be modified or eliminated. Ms. Sanchez will follow up with Mr. Babbar and provide an update at the next meeting.

ELEVENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of July 31, 2023 [3 minutes]

On MOTION by Mr. Schmitt and seconded by Mr. Contardo, with all in favor, the Unaudited Financial Statements as of July 31, 2023, were accepted.

TWELFTH ORDER OF BUSINESS

STAFF REPORTS [10 minutes]

A. District Counsel: Straley Robin Vericker

Ms. Sousa stated that, upon review of the Agreement with the HOA, Mr. Babbar determined that the HOA is responsible for maintaining the guardhouse.

Mr. Blaser asked about ownership. Ms. Sanchez stated she addressed this earlier; this and other outstanding items will be done once the District Engineer completes his inspection.

B. District Engineer: AM Engineering, LLC

Ask when the Inspection Report would be done, Mr. Liens stated he expects to complete the inspection by October 15, 2023. The Report will be included in the November agenda.

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

- **NEXT MEETING DATE: October 4, 2023 at 10:00 AM**
 - **QUORUM CHECK**

THIRTEENTH ORDER OF BUSINESS

Board Members' Comments/Requests [5 minutes]

- **Discussion: Area Near the Weir**

Mr. Collins discussed how he was notified that this property is for sale and asked if the Board should consider purchasing it or be concerned about development, as he thinks it is in an area that the Board would not want to be developed. Ms. Cerbone reminded everyone that the HOA has dedicated access and maintenance rights to the weir and it is located on private property and all the stormwater permits are in the owner's name.

Asked if development of this property could worsen the CDD's drainage system, Mr. Leins stated the Developer would have to construct certain ponds or stormwater management facilities and prove to the Southwest Florida Water Management District (SWFWMD) and the City of Venice that the drainage ditch that outflows to the weir is not adversely impacting anybody downstream or upstream with their development.

Asked if there is any benefit to the CDD to acquire this property for stormwater purposes, Mr. Leins replied no; he thinks it will not significantly impact the system.

Mr. Collins thinks it is strange the HOA, which is not a government agency, runs the stormwater system. Mr. Leins stated that the SWFWMD and the City regulate the system. The operation and maintenance (O&M) of these types of private systems is left to the HOA.

Ms. Sanchez stated that, per Mr. Babbar, "If the new property owner of the weir altered the property that is not in compliance with permitting requirements and it causes drainage issues to CDD property, the CDD would have standing to get involved and have its property restored and request reimbursement for any expenses."

Asked about the status of the legal suit, Ms. Cerbone stated there is nothing planned until calendar year 2024. Ms. Sousa noted Mr. Babbar advised that discovery is planned for later this year and possibly a trial at the beginning of next year.

- **Discussion: Parking and Towing**

Mr. Collins asked the Board to comment on the HOA parking and towing policy that was disseminated to the Board and Staff.

A resident voiced their belief that the CDD will need to create a policy authorizing towing if the HOA decides to implement a towing policy. Ms. Cerbone stated that towing is included in the HOA policy but the CDD will not have to take any action unless the HOA decides it wants to enforce towing.

Mr. Collins suggested the HOA incorporate certain language from the recent correspondence in qualifying 30-days, the philosophy, etc., into its policy.

This item was tabled.

A Board Member asked if the CDD and HOA websites have links connecting the two. Ms. Sanchez replied no; to do so would require Board approval, as the CDD is only required to post certain items on its website. It was noted that the CDD website is public and to proceed would pose a lack of control over what is published on the other side and require complying with the Americans with Disability Act (ADA) guidelines. Ms. Cerbone stated, typically, the HOA would post the CDD's website link on its website. Ms. Sanchez noted that the HOA representative nodded in agreement to post the CDD's link on the HOA website.

FOURTEENTH ORDER OF BUSINESS**Public Comments [15 minutes]**

Resident Nancy Gibson voiced concern about flooding and asked if maintenance is planned around the weir. She noted there are several downed trees in the area.

Mr. Blaser stated that all public comments will be answered at the end of this section.

Mr. Ambrose asked how Juniper will handle landscape warranties on new builds, if they have no control over the irrigation.

Resident Thomas Hart recalled that the CDD golf cart resolution was originally passed to ensure liability protection for the CDD and the community, in the event of an accident.

Ms. Jochum stated that the HOA does not want towing in the parking policy, the HOA's concern was to reduce from 90 to 30 days and use the policy only in extreme cases. Regarding the golf cart policy, the HOA is following the State statutes, which will be effective October 1, 2023. The HOA will implement golf cart registration and is working on plan to implement the process. She asked why the CDD is waiting for an Engineer's Report to determine ownership. She asked if the HOA's continual maintenance easement will go to the new owner if the property is sold. She noted that the weir is clean, beautiful and on a maintenance schedule; she encouraged everyone to visit it.

Resident Jeff Munzing appreciated the way the CDD, HOA and residents are communicating and getting along. He encouraged everyone to participate in the blood drive on September 23, 2023.

A resident asked if the District Engineer can confirm that, if there are different conditions, they can redesign and double the flow through the weir with the same footprint, to avoid potential flooding. Ms. Cerbone advised that the CDD does not own the weir; it is on

private property and the HOA is the permit holder to access and maintain the weir. The HOA would have to engage an Engineer. The property for sale is located next to the weir.

Asked who determined which entity is responsible for the weir, Ms. Cerbone stated that she is not aware of an existing contract; maintenance easement agreements are typically issued and named on the plat and stormwater permits.

Asked about recording easement agreements, Ms. Cerbone stated these are typically located on the Sarasota County Court Records. Questions regarding the weir should be directed to the HOA.

In response to the question from Mr. Hart, Ms. Cerbone recalled that, in a previous meeting, District Counsel advised that the reason for the CDD golf cart resolution was to provide an extra layer of protection to the CDD and community in the event of an accident. It was noted that the CDD has sovereign immunity up to \$200,000.

In response to the question from Ms. Jochum, it was noted that, at a previous meeting, the Board directed Mr. Leins to determine ownership and responsibilities and include it in the Report. Regarding why District Counsel is not doing this, Ms. Cerbone stated that Mr. Leins must review the records and confirm which improvements were paid for from bond funds. Regarding if Mr. Leins is reviewing any conveyances to the HOA, Ms. Cerbone replied no; typically, public improvements paid for with bond funds are not conveyed to private parties, like the HOA. The Developer conveyed tracts to the HOA to perform maintenance.

Regarding whether docks and seawalls will be included in the Report, Ms. Sanchez was asked to have Mr. Leins define the stormwater pond attributes, such as docks, seawalls and the island, in the Report.

Regarding a comment about the CDD transitioning to quarterly meetings, Mr. Blaser stated that is the goal.

On MOTION by Mr. Blaser and seconded by Mr. Contardo, with all in favor, cancelling the October 4, 2023 meeting, was approved.

FIFTEENTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Blaser and seconded by Mr. Traczuk, with all in favor, the meeting adjourned at 11:15 a.m.


Secretary/Assistant Secretary


Chair/Vice Chair