

MINUTES OF MEETING  
HERITAGE PARK  
COMMUNITY DEVELOPMENT DISTRICT

The regular meeting of the Board of Supervisors of the Heritage Park Community Development District was held on Thursday, November 18, 2021 at 1:00 p.m. at the Heritage Park Amenity Center, 225 Hefferon Drive, St. Augustine, Florida 32084.

Present and constituting a quorum were:

Ken Kinnecom	Chairman
Robert Curran	Vice Chairman
Mark Masley	Supervisor
Joanne Wharton	Supervisor
Thomas Ferry	Supervisor

Also present were:

Jim Oliver <i>via phone</i>	District Manager
Daniel Laughlin	GMS
Wes Haber	District Counsel
Michelle Otts <i>via phone</i>	District Engineer
Brian Stephens	Riverside Management Services

*The following is a summary of the actions taken at the November 18, 2021 meeting. A copy of the proceedings can be obtained by contacting the District Manager.*

**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. Laughlin called the meeting to order at 1:00 p.m. All Supervisors were present.

**SECOND ORDER OF BUSINESS**

**Public Comment**

There being none, the next item followed.

**THIRD ORDER OF BUSINESS**

**Approval of the Minutes of the September 16, 2021 Meeting**

*Mr. Kinnecom left the meeting, temporarily.*

On MOTION by Ms. Wharton seconded by Mr. Curran with all in favor the Minutes of the September 16, 2021 Meeting as presented were approved. (Motion Passed 4-0)

**FOURTH ORDER OF BUSINESS**

**Update Regarding Installation of Replacement Pond Fountains**

*Mr. Kinnecom returned to the meeting.*

Mr. Stephens reported that all of the replacement pond fountains were received. The fountains on Pond 600 and Pond 1100 were replaced with new fountains and Future Horizons was holding the remaining three fountains. As a fountain breaks, as long as it is not a catastrophic repair, it will be repaired instead of replacing it. One fountain was recently repaired as it only had a \$20 issue. If the Board wanted to entertain ordering additional fountains this fiscal year, now would be the time as Future Horizons informed him yesterday of a price increase of 20% or \$509 per fountain after January 1, 2022. If more fountains were ordered, they would hold it in their inventory.

Mr. Kinnecom was in favor of holding the remaining three fountains and waiting until there was a need to purchase more. Ms. Wharton would not mind ordering one or two and having five on reserve. Mr. Stephens stated each fountain cost \$2,306.56 if five were ordered versus \$2,500 for one fountain. Mr. Kinnecom noted adequate funds in reserves and proposed purchasing two fountains at the lower price.

On MOTION by Mr. Kinnecom seconded by Ms. Wharton with all in favor purchasing two fountains from Future Horizons if they honor the discounted price of \$2,306.56 was approved.

**FIFTH ORDER OF BUSINESS**

**Update Regarding Encroachment Matters**

Mr. Stephens presented three proposals for fence removal from CDD property at 324 and 330 Hefferon Drive. At a prior meeting, Mr. Eldred was directed to send notices to the property owners. The following was addressed regarding each property:

- 324 Hefferon Drive: Owned by the Liu family. There was a challenge due to a language barrier. They were originally provided an extension to November 1<sup>st</sup> to

complete the work, but according to their daughter, they were unsuccessful in finding a contractor to provide a proposal and were willing to allow the District to proceed with the work and would reimburse the District.

Mr. Haber recommended that staff obtain a proposal for the work, have the homeowner pay the amount and, in the agreement, the CDD would hold the funds for the sole purpose of paying the contractor. If they did not pay, the CDD would sue under the agreement. Ms. Wharton agreed. Mr. Kinnecom felt that was fair. Mr. Oliver noted the agreement would provide transparency to what the District was trying to accomplish. Ms. Wharton asked if they were able to get an estimate. Mr. Stephens was concerned about finding a contractor to perform the small job.

- 330 Hefferon Drive: Owned by the Bodenstein family. Mr. Bodenstein was in favor at the last meeting to a 50/50 split with the District for the re-location of his fence from District property.

Discussion ensued and the following was addressed regarding 330 Hefferon Drive:

- Mr. Kinnecom stated Mr. Bodenstein had a handwritten proposal of \$1,850 and asked if Mr. Bodenstein was amenable to the proposal and paying \$925. Mr. Stephens stated Mr. Bodenstein provided the proposal. Mr. Kinnecom felt it was reasonable due to the size of the project. Ms. Wharton noted a lower proposal from Hardwick Fence, which she wanted to provide to the owner.
- Ms. Wharton was not in favor of using District funds to pay half of the cost to remove and reinstall the fence since it was the resident's issue. Mr. Kinnecom agreed, but since the fence was installed during development and was not detected until a year ago, the District was justified in correcting it.

Mr. Haber explained that general funds were being used to pay for this expenditure versus bond funds, which had restrictions. At the last meeting, there was discussion that it would benefit the CDD because of foot traffic. The Board was using this reasoning in its decision to enter into the agreement, but the purpose of the agreement was to establish the resident and CDD obligation. Mr. Kinnecom noted the most important issue in this decision were the drainage pipes within the CDD easement.

- Mr. Curran asked if they would have one contract to do both jobs. Mr. Stephens stated 324 Hefferon Drive was more complicated as a concrete slab must be removed before the fence.

On MOTION by Ms. Wharton seconded by Mr. Ferry with all in favor showing the lower proposal from Hardwick Fence to the owner of 330 Hefferon Drive and the CDD paying half of the total amount if the owner accepted it was approved.

Discussion ensued and the following was addressed regarding 324 Hefferon Drive:

- Ms. Wharton asked if the homeowner wanted to remove the entire basketball court. Mr. Kinnecom stated they would only remove what was on CDD property. Mr. Oliver did not discuss with the owner the details about removing the entire basketball court, only about the portion of the improvement encroaching on CDD property.
- Mr. Kinnecom asked who had the certified survey as they did not want to cut additional cement. Mr. Stephens believed that Ms. Otts had the survey. Mr. Haber envisioned a proposal describing all of the work to be conducted, the homeowner agreeing to the work and granting any access rights that the CDD's contractor may need to fulfill the work described in the proposal.
- Ms. Wharton noted the potential for damage when cutting concrete and was thrilled that the homeowner was on board to get this taken care of as soon as possible.

Mr. Kinnecom requested Mr. Stephens obtain bids and provide to the Board at the next meeting or a special meeting.

**SIXTH ORDER OF BUSINESS**

**Consideration of Transition Letter for Legal Services to Kutak Law**

Mr. Haber who was replacing Mr. Carl Eldred who left Hopping, Green & Sams (HGS), stated over the past six months to a year, a number of lawyers left HGS. As a result, he along with 9 attorneys in his practice group left to join the Kutak Rock law firm. This was their first Florida office. They represent Special Districts across the county as well as public financial, real estate and governmental work. When a lawyer leaves a law firm, the Florida Bar requires the lawyer to give the client notice and the decision to either stay with the law firm presently

representing the District or move with the lawyer switching firms. A letter providing the option for the District to move to Kutak Rock and assigning Mr. Haber as District Counsel or engaging a different attorney was provided to the Board. His rates would not change. Mr. Haber currently speaks to Mr. Eldred and would continue to utilize him as an ongoing resource.

On MOTION by Mr. Kinnecom seconded by Mr. Masley with all in favor engaging Kutak Rock, LLP. and Mr. Haber continuing to serve as District Counsel was approved.

Ms. Wharton asked whether a motion was needed for the Chairman to sign the agreement. Mr. Haber requested an amendment to the prior motion to include the authorization for the Chairman.

On MOTION by Mr. Ferry seconded by Ms. Wharton with all in favor authorizing the Chairman to sign the agreement with Kutak Rock, LLP. was approved.

**SEVENTH ORDER OF BUSINESS**

**Discussion of Prosser Rate Increase**

Mr. Oliver presented a letter from Prosser with their updated rate schedule and recommended approval. Ms. Wharton questioned the overall rate increase. Mr. Oliver did not know and would verify. Mr. Kinnecom noted the \$235 for the Principal was not much more than what existed for a decade and was not a significant increase. Ms. Wharton agreed with the increase as Prosser has been very responsive.

On MOTION by Mr. Kinnecom seconded by Mr. Curran with all in favor the Updated Rate Schedule from Prosser was approved.

**EIGHTH ORDER OF BUSINESS**

**Ratification of Audit Engagement Letter with Grau & Associates**

Mr. Laughlin reported that Grau & Associates was selected by the Audit Committee and presented a letter to engage them for the Fiscal Year 2021 audit.

On MOTION by Ms. Wharton seconded by Mr. Masley with all in favor the engagement letter with Grau & Associates to perform the audit for September 30, 2021 in the amount of \$3,200 was ratified.

**NINTH ORDER OF BUSINESS**

**Staff Reports**

**A. Attorney**

Mr. Haber presented the following memorandums regarding statutory changes in the last legislative session:

**1. Publication of Legal Notices**

The law was changed to allow units of government to use a newspaper website to advertise meetings. Because the law requires the publication of a notice on a weekly basis, stating that all other notices would be on the newspaper's website, it is only beneficial to units of government that are publishing multiple advertisements per week. This is not the case for this District. Mr. Haber would continue to monitor this and if there were cost savings, he would inform the District Manager.

**2. Needs Analysis that Districts Providing Wastewater or Stormwater Management Services Must Complete by June 30, 2022**

The law was changed to require all units of government including CDDs to prepare a Needs Analysis every five years for their stormwater management services and file it with the State by June 30, 2022. It is recommended that the District Manager request a proposal from the District Engineer for the Board to consider at the next meeting to provide the inspection and prepare the report for the District. All CDDs across the State were required to do this. Ms. Wharton asked why the Office of Economic and Demographic Research was requiring it. Mr. Haber believed it was a coordinated effort due to a large stormwater failure that impacted homes and businesses recently in Central Florida to ensure nothing slipped through the cracks.

**3. Prompt Payment Requirements**

The law was changed regarding how and when a unit of government was obligated to pay contractors. When the Prompt Payment Law was applied to CDDs, the District adopted a resolution adopting Prompt Payment Policies. In light of this change to the Prompt Payment Law, dealing with disputes between the contractor and a CDD, Mr. Haber recommended that a resolution be adopted by the Board amending the Prompt Payment Policy to make it consistent with Florida Law. A form of the resolution and amendment to the policy were included with the

memorandum. This item was informational for this meeting and the District Manager would include the resolution on a future agenda to bring the policy current with the law.

**4. Public Records Exemptions for Addresses and Other Information Associated with Certain Officers, Judges, etc.**

The law was changed with respect to actions exempt law enforcement officers, employees, justices and judges must take to take advantage of the exemption from public records requests. In order to take advantage of that exemption, the individual needs to communicate to the unit of government that they want to be exempt. The District management company, GMS, serves as the custodian of records.

**B. Engineer**

Mr. Laughlin noted the District Engineer was not present. Mr. Ferry requested the District Engineer provide a certified copy of the survey.

**C. Manager**

Mr. Oliver apologized for not being present in person. The District Engineer had intended to attend the meeting but has experienced a traffic jam on the way. She was on the conference line several times, but due to conference line issues, had fallen off the call.

**B. Operations Manager - Report**

Mr. Stephens presented the Operations Manager Report, which was included in the agenda package. A GFCI outlet and waterproof cover were replaced on the fountain in Pond 500, which was \$20. He ordered additional "No Fishing" signs to replace cracked ones. All signposts were re-painted. Mr. Kinnecom asked if timers were adjusted for Daylight Savings Time. Mr. Stephens replied affirmatively. Ms. Wharton appreciated Mr. Stephens re-painting the posts and ordering new signs.

**TENTH ORDER OF BUSINESS**

**Audience Comments**

There being none, the next item followed.

**ELEVENTH ORDER OF BUSINESS          Supervisors Requests**

Mr. Kinnecom received a complaint from a resident earlier this week regarding a storm drain that did not look right. Later that day, he called the county and the next day, a manager from the Utility Department was out there. They noticed settlement at the curb. The next morning a utility truck fixed the settlement. He appreciated the county's quick response. Ms. Wharton was uncomfortable with the District hiring off-duty officers from the St. Johns County Sheriff's Office for traffic control. Mr. Curran explained after further analysis of the data provided by the Traffic Lieutenant, which he provided to the District Manager and the Chairman, the number of cases did not justify hiring a deputy for four hours a day at \$40. Mr. Kinnecom noted there were many violations, such as people not coming to a complete stop at the stop sign off of Heritage Park Drive and speeding motorcycles. Ms. Wharton wanted the HOA to take the initiative to contact the police.

**TWELFTH ORDER OF BUSINESS          Financial Reports**

**A.      Balance Sheet and Statement of Revenues & Expenditures**

Mr. Laughlin presented the Unaudited Financial Statements through October 31, 2021, which was included in the agenda package.

**B.      Assessment Receipt Schedule**

Mr. Laughlin presented the Assessment Receipt Schedule, which was included in the agenda package.

**C.      Approval of Check Register**

On MOTION by Mr. Kinnecom seconded by Mr. Masley with all in favor the Check Register from September 9, 2021 to November 10, 2021 in the amount of \$57,653.94 was approved.
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**THIRTEENTH ORDER OF BUSINESS          Next Scheduled Meeting – January 20, 2022  
@ 1:00 p.m.**

Mr. Laughlin stated the next meeting was scheduled for January 20, 2022 at 1:00 p.m.




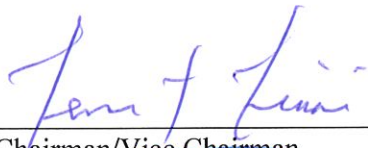
November 18, 2021

Heritage Park CDD

**FOURTEENTH ORDER OF BUSINESS      Adjournment**

On MOTION by Mr. Curran seconded by Mr. Masley with all in favor the meeting was adjourned.

  
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Secretary/~~Assistant Secretary~~

  
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Chairman/~~Vice Chairman~~