

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 15, 2023 at 11:00 a.m. at the Heritage Park Amenity Center, 225 Hefferon Drive, St. Augustine, Florida 32084.

Present and constituting a quorum were:

Joanne Wharton	Chairperson
Robert Curran	Vice Chairman
Thomas Ferry	Supervisor
Judith Kinnecom	Supervisor
Louis Pingotti	Supervisor

Also present were:

Jim Oliver	District Manager
Wes Haber	District Counsel
Rich Gray	Operations Manager
Residents	

The following is a summary of the actions taken at the November 15, 2023 meeting. A copy of the proceedings can be obtained by contacting the District Manager.

FIRST ORDER OF BUSINESS

Roll Call

Mr. Oliver 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 21, 2023 Meeting

Mr. Ferry pointed out that Resident Mari White lived on Oak Arbor Circle.

On MOTION by Ms. Wharton seconded by Mr. Curran with all in favor the Minutes of the September 21, 2023 Meeting were approved as amended.

November 15, 2023

Heritage Park CDD

FOURTH ORDER OF BUSINESS**Ratification of Audit Engagement Letter with
Grau & Associates for Fiscal Year 2023**

Mr. Oliver reported as a unit of government, the District is required to have an independent audit performed each year. In addition, to comply with Chapter 218 of the Florida Statutes, the District is required to select an auditor through a Request for Proposals process. Grau & Associates (Grau) was selected by the Audit Committee and the firm presented an engagement letter for the Fiscal Year 2023 audit in the amount of \$3,400. This was within the CDD's budgeted amount of \$4,500. The engagement letter was executed in order for Grau to start the audit process.

On MOTION by Mr. Ferry seconded by Ms. Kinnecom with all in favor the engagement letter with Grau & Associates to perform the audit for Fiscal Year 2023 in the amount of \$3,400 was ratified.

FIFTH ORDER OF BUSINESS**Discussion of Project Memorandum
Regarding Pond Bank Repair Options**

Mr. Oliver reported that the Board performed a site visit on a few different ponds that had various levels of deteriorating pond banks and as a result, the District Engineer prepared a memorandum with some options, which was included in the agenda package. Mr. Oliver requested that the Operations Manager, Mr. Rich Gray, hold off on obtaining proposals until the Board discussed this matter, as some of the options were costly and it was felt that there should be resident input from residents directly impacted by it.

Mr. Ferry felt that it was a good idea to have native plants and trees, but questioned whether it would impact the lawn mowing. Mr. Oliver did not think so as the mowing would be directly on the bank. Ms. Wharton pointed out that they must do more weed whacking; however, they did not need resident input on the grasses. Tree placement was not necessary as the grasses would be sufficient, but voiced concern with tree roots developing as it caused erosion, due to creating paths for the water to follow, versus grasses, which would not interfere with the surface roots or residents view of the ponds. Mr. Ferry asked if Ms. Wharton was in favor of native plants and grass instead of native plants and trees. Ms. Wharton stated that she was in favor of native plants and Muhly grass versus Cord grass and having a River Birch tree. Although Option 3 was stunning, Ms. Wharton felt that it was pricy and suggested mixing a section of Option 2 with Option 1 on the section that was in worst shape on Pond 1800, eliminating the trees and

November 15, 2023

Heritage Park CDD

waiting at least six months to a year to see how it was doing, but was not in favor of increasing assessments. Mr. Haber recalled that he and Mr. Oliver corresponded with the District's Underwriter, Ms. Rhonda Mossing regarding the potential to refund bonds in February of 2024, in order to lower assessments or keep assessments level. Mr. Curran indicated that they needed to be careful about planting and restricting trucks from accessing Pond 1800 as the proposal included trimming back the pond bank. Mr. Gray clarified that the work would be from the crest down to the water. Ms. Wharton pointed out that vehicles would be driving at the top of bank on Pond 1800. Mr. Curran recalled at the Villas, Weeping Willow trees at the top of the bank died. Ms. Wharton preferred to discuss the replacement of trees separately.

Ms. Kinnecom was in favor of repairing the pond banks, particularly the Hawthorne pond. Mr. Pingotti agreed. Ms. Wharton felt that there would be an increase in snakes as the plants would provide a place for snakes to hide and asked if there were any liability issues. Mr. Haber advised if the Board choose to put in grass as the best and most economical erosion control and was maintaining the grasses properly, the District was protected by sovereign immunity. There was only liability if the District was not maintaining it. Ms. Wharton pointed out that they only needed to cut them back every few years and requested that staff provide standard horticultural information and a maintenance schedule. Mr. Gray reported that Cord and Muhly grasses would take 16 to 18 months to establish. Ms. Kinnecom pointed out if someone was on the pond and were bit by a snake, they were technically trespassing. Ms. Wharton requested a bid on Pond 1800, to walk the ponds with the contractor to discuss the spacing of the plants, in order to be conservative with their budget and to have a variety of plantings with Cord grass, Muhly grass and Fakahatchee. Mr. Oliver suggested that Ms. Wharton work with Mr. Gray and Yellowstone Landscape on a proposal for Pond 1800 and bring back to the Board for discussion. Ms. Wharton requested that a rock that the CDD placed on the pond bank be hidden as it was an eyesore. Mr. Gray recalled that the homeowner placed it there to cover up irrigation. Ms. Wharton would meet with the homeowner. Mr. Ferry asked if the ponds would get worse before the plants were established. Mr. Gray could not say, without speaking with the District Engineer, if it was going to stop the erosion immediately. They may lose some of the embankment, but it would not completely fall; however, Yellowstone provided a one-year warranty for the installation of plants. Ms. Wharton believed that mulch around the area would stop the erosion and would meet with Mr. Gray and Yellowstone to discuss options.

November 15, 2023

Heritage Park CDD

After further discussion, there was Board discussion for staff to provide a bid on plantings for Pond 1800, for Ms. Wharton to walk the ponds with the contractor to discuss the spacing and variety of the plants and work with the homeowner regarding the placement of a rock.

SIXTH ORDER OF BUSINESS**Discussion Regarding Heritage Park CDD Assessments – Track K**

Mr. Oliver presented a letter from Kutak Rock, indicating that Tract K was owned by the District, but no portion of the District's special assessments levied to repay debt services on the Series 2004A bonds was allocated. Ms. Wharton asked if the original documentation showed that the lot was for HOA use, as it was her understanding that the developer owned it. Mr. Haber recalled that it was owned by the HOA and then they sold it to a private entity and it remained vacant, but even if the developer controlled the HOA, if there was a deed or some other conveyance to the HOA, it would be considered owned by the HOA. Mr. Haber offered to review any documentation to confirm this. Ms. Wharton pointed out there was nothing in writing and was word of mouth. Mr. Oliver suggested that Mr. Haber discuss with the Board what the CDD had the authority to do and what they did not have authority over.

Mr. Haber explained that CDDs were created under Chapter 190 and were a limited purpose of government, for the purpose of operation and maintenance (O&M) of facilities owned by the CDD. The CDD did not have police powers or the ability to enforce Ordinances, i.e., PUDs or Development Agreements for another entity, but if Board Members individually believed that something was being violated, they should bring it to St. Johns County, as the Board did not have the ability to restrict the use of property. However, they had the ability to charge someone for changing the use of a property, if they were benefitting from the CDD's drainage or other improvements, which was the purpose of the letter, but the Board did not have any control over how the property was developed. Mr. Curran asked if any drainage was established on this tract. Mr. Haber did not believe so, but could look at the maps. Mr. Oliver indicated that he along with the Chair and the District Engineer answered Ms. Wharton's questions about how it impacted the drainage and the District Engineer's noted no impacts according to his review. Ms. Wharton pointed out that the property was flooding because it was not developed, but the flow of the water was in the original plan. Mr. Oliver noted that the

November 15, 2023

Heritage Park CDD

property owner was informed that if they changed the use of the property, they would be assessed.

SEVENTH ORDER OF BUSINESS

Consideration of Yellowstone Landscape Proposal for Woodline Cutback

Mr. Oliver presented a proposal from Yellowstone for the clearing of the woodline on Pond 1800 in the amount of \$2,840, which was a result of the walking tour that the Board took last month. Mr. Gray explained that the purpose was in the event that maintenance needed to drive vehicles back there. Yellowstone would cut back about 5 to 8 feet and haul everything out. If they cut back too far, it would not look good, due to the amount that would die back. Ms. Wharton was in favor of this, as long as a truck could get by without damaging the truck and questioned whether any trees would be cut. Mr. Gray confirmed that the branches of some trees would have to be cut, but the entire tree would not be removed.

On MOTION by Mr. Ferry seconded by Ms. Kinnecom with all in favor the proposal with Yellowstone Landscape for the woodline cutback of Pond 1800 in the amount of \$2,840 was approved.

Mr. Oliver reported that for the Series 2013 bonds, the first optional call date was on May 1, 2024. When Ms. Mossing spoke with him and Mr. Haber in January of 2023, she offered to provide an Investment Banking Agreement to the District. The Underwriter that served the District since inception was MBS Capital Markets, who brings bonds to market, analyze the deal, obtain the credit rating and perform all of the prep work in order to go to the market. There were no costs associated with it, unless bonds were issued or refunded. Rather than hold this until the January meeting, Mr. Oliver requested Board approval to enter into an Investment Banking Agreement with MBS Capital Markets in order to start the prep work and obtain the credit rating.

On MOTION by Mr. Ferry seconded by Ms. Kinnecom with all in favor entering into an Investment Banking Agreement with MBS Capital Markets was approved.

EIGHTH ORDER OF BUSINESS

Staff Reports

A. Attorney

There being none, the next item followed.

B. Engineer

November 15, 2023

Heritage Park CDD

There being none, the next item followed.

C. Manager

Mr. Oliver reported that the Fiscal Year 2023 audit process has commenced and the completed audit would be delivered in the Spring 2024, which would be well in advance of the statutory deadline.

D. Operations Manager

Mr. Gray presented the Operations Manager Report. The five reserve fountains that were purchased from Future Horizons at the last meeting arrived and were placed on the shelf. There was now a total of seven fountains on reserve. There was an issue with a controller on Pond 1400 that was hit by a mower; however, the funds were recuperated from the landscaper. Ms. Wharton asked if there were two fountains. Mr. Gray confirmed that there was this fountain and a rear fountain. Ms. Wharton recalled that the front fountain was replaced in May and asked if this one was damaged. Mr. Gray indicated that the back fountain was damaged. A resident witnessed it being hit by a mower and the landscaper confirmed that it was their mower. Pond maintenance confirmed that it could not be repaired. Ms. Wharton asked if the controller was being replaced. Mr. Gray confirmed that it was being replaced with a new controller. It was going to raise it because Mr. Gray felt that it looked low to the ground. Ms. Wharton asked if there were any repairs or replacements on any of the other fountains in the past few months. Mr. Gray reported that other than the 1400 controller, Pond 300 needed a new power box as it kept cycling and shorting off. It was replaced for free. All of the other fountains were working fine, although the entrance fountain needed to be reset a couple of times. The fountain on Pond 1500 only needed to be reset once, but there was a great deal of trash, which they were picking up. Ms. Wharton believed this was due to Halloween and the amount of wind.

NINTH ORDER OF BUSINESS

Audience Comments

There being none, the next item followed.

TENTH ORDER OF BUSINESS

Supervisors Requests

Ms. Wharton recalled that over \$3,000 was spent on new signs in the last couple of months; first \$1,400 was spent and then \$1,800. Mr. Gray explained that one was an installation charge and the other charge was for materials. Ms. Wharton felt that they did all they could possibly do with the signage, which was being used by residents to place their fishing tackle on,

November 15, 2023

Heritage Park CDD

hang coats on or to lean their bikes on. This was a great deal of money and Ms. Wharton did not want any additional funds to be spent on signage. Mr. Current felt that the signs were working as he did not have to chase any kids.

Mr. Pingotti recalled at the second meeting, which was held the other day, all residents were told to call a Supervisor of the CDD to take action on the Tract K property and requested that someone draft a response so that everyone was on the same page and knew what to say.

Mr. Haber advised that it was outside of the Board's authority to do anything about how property within their boundaries was developed. Mr. Oliver indicated that the CDD was formed for the construction, acquisition of capital assets and the O&M of those assets. Ms. Wharton felt that the acquisition of land left the possibility for something to happen with the CDD purchasing the property. Mr. Haber explained that CDDs have the authority to acquire real property, such as levying a large assessment across the entire neighborhood to purchase Tract K and leave it vacant, but not to issue an order stating that it could not be used for a certain purpose. However, if the CDD owned the property, they would have the right to determine how it gets used. Mr. Curran recalled that when the property was first up for sale, one person wanted to purchase it, but no one else wanted to. Therefore, the Board did not purchase it.

ELEVENTH ORDER OF BUSINESS Financial Reports

A. Balance Sheet and Statement of Revenues & Expenditures

Mr. Oliver presented the Unaudited Financial Statements through October 31, 2023, which were included in the agenda package. There was not much activity as this was the first month in the new fiscal year. The Capital Reserve Fund balance was \$116,000.

B. Assessment Receipt Schedule

Mr. Oliver presented the Assessment Receipt Schedule, which was included in the agenda package. The District was less than 2% collected as Tax Bills were sent out on November 1st, but it should be 100% collected by this Spring.

C. Approval of Check Register

Mr. Oliver presented the Check Register for September 14, 2023 to November 9, 2023 in the amount of \$57,418.30, which was included in the agenda package. Ms. Wharton questioned what Capital Reserve Check #5 in the amount of \$12,871.80 was for. Mr. Oliver confirmed that it was for the fountain reserve stock, which was considered to be a capital asset. Ms. Wharton

November 15, 2023

Heritage Park CDD

asked if the liability insurance amount of \$7,900 was the same as the prior year. Mr. Oliver replied affirmatively. It covered the District’s liability insurance and public officials liability insurance.

On MOTION by Ms. Wharton seconded by Mr. Curran with all in favor the Check Register for September 14, 2023 to November 9, 2023 in the amount of \$57,418.30 was approved.

Ms. Wharton indicated that she was approached by a homeowner asking if they pay their CDD fee in full, whether they would not have any additional fees, which she forwarded to Mr. Oliver, but requested that Mr. Oliver provide a brief answer, as her understanding was that the resident would owe half. Mr. Oliver explained that there were two components to the CDD assessment; one was the debt service assessment to pay back the bonds and the other one was for O&M, to maintain the landscape ponds and operating the District. Residents could certainly pay off their debt service, similar to paying off their home mortgage, but could not pay off the O&M costs. Mr. Oliver would provide this explanation to the resident. Ms. Wharton questioned when their debt service would be paid off. Mr. Oliver confirmed that there were different assessments for different product types, according to the Amortization Schedule in the Adopted Budget. The bonds were 30-year bonds, which were to mature on May 1, 2035.

TWELFTH ORDER OF BUSINESS

**Next Scheduled Meeting – January 25, 2024
@ 1:00 p.m.**

Mr. Oliver stated that the next meeting was scheduled for January 25, 2024 at 1:00 p.m.

THIRTEENTH ORDER OF BUSINESS

Adjournment

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

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Secretary/Assistant Secretary

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Chairman/Vice Chairman