

**MINUTES OF MEETING
ASTURIA COMMUNITY DEVELOPMENT DISTRICT**

The regular meeting of the Board of Supervisors of the Asturia Community Development District was held on Tuesday, August 23 2022 at 6:00 p.m. in the Gathering Room, Asturia Clubhouse, 14575 Promenade Parkway, Odessa, FL 33556.

Present and constituting a quorum were:

Jon Tietz	Chairman
Glen Penning	Assistant Secretary
Marie Pearson	Assistant Secretary
Susan Coppa	Assistant Secretary
Jacques Darius	Assistant Secretary

Also present were:

Bob Nanni	District Manager
Lauren Gentry	District Counsel
Michael Osipov	District Engineer (via phone)
Hunter Faulkner	Land Use Counsel (via phone)
Elizabeth Moore	Inframark (via phone)
Audience	

The following is a summary of the discussions and actions taken.

FIRST ORDER OF BUSINESS

Call to Order

Mr. Nanni called the meeting to order, and a quorum was established.

SECOND ORDER OF BUSINESS

Addition and/or Deletions to the Agenda

There were no additions and/or deletions of the agenda.

SEVENTH ORDER OF BUSINESS

Staff Reports

C. Land Use Counsel

i. Consideration of Resolution 2022-16, Intent to Sue

A discussion ensued regarding Hines. Mr. Faulkner stated the Board will notice the developer with our dispute resolutions procedures with the County and invite the developer to take part in that dispute resolution and inform them prior to being able to file a lawsuit. In the event a lawsuit had to be filed, Mr. Faulkner suggested if a resolution cannot be reached within the statutory remedy between the two governmental entities. Mr. Faulkner explained the developer would be shielded under the developer's entity; he cannot confirm until all files are reviewed. Mr. Penning requested Mr. Faulkner fix the verbiage and email it back to the Board so it can be approved.

Mr. Nanni commented on the length of the Board meeting, stating that the agreement the Board has with Inframark has a two-and-a-half-hour limit for meetings.

On MOTION by Mr. Tietz, seconded by Mr. Penning, with all in favor, the regular meeting was suspended. 5-0

FOURTH ORDER OF BUSINESS

Public Hearing to Adopt the Fiscal Year 2023 Budget

On MOTION by Mr. Tietz, seconded by Mr. Darius, with all in favor, the Public Hearing to Adopt the Fiscal Year 2023 Budget was opened. 5-0

Mr. Nanni reminded the Board they did a 15% high water mark for the 2023 Budget. A resident questioned what last year's budget was and what this year's budget is. Mr. Penning explained the CDD's budget to the resident, stating the Board is trying to build their reserves.

On MOTION by Mr. Tietz, seconded by Mr. Darius, with all in favor, the Public Hearing to Adopt the Fiscal Year 2023 Budget was closed. 5-0

On MOTION by Ms. Pearson seconded by Ms. Coppa, with all in favor, the regular meeting was opened. 5-0

A. Resolution 2022-14, Adopting the Fiscal Year 2023 Budget

On MOTION by Mr. Penning, seconded by Ms. Pearson, with all in favor, Resolution 2022-14, Adopting the Fiscal Year 2023 Budget, was adopted as presented. 5-0

On MOTION by Mr. Tietz, seconded by Mr. Darius, with all in favor, the regular meeting was suspended. 5-0

FIFTH ORDER OF BUSINESS

Public Hearing to Adopt the Fiscal Year 2023 Assessments

On MOTION by Mr. Tietz, seconded by Mr. Penning, with all in favor, the Public Hearing to Adopt the Fiscal Year 2023 Assessments was opened. 5-0

A resident express concern about the fund increase. The Board noted their rationale, which is they must increase the cost to reduce them. The Board stated they must fund the District to a responsible level. Those funds will be used to go after the party that damaged the District, in hopes to reduce overall payments. Further Discussion ensued.

On MOTION by Mr. Tietz, seconded by Mr. Darius, with all in favor, the Public Hearing to Adopt the Fiscal Year 2023 Assessments was closed. 5-0

On MOTION by Mr. Tietz seconded by Ms. Coppa, with all in favor, the regular meeting was opened. 5-0

A. Resolution 2022-15, Levying Non-Ad Valorem Assessments

Mr. Nanni asked if the Board had any questions. There being no further discussion.

On MOTION by Mr. Tietz seconded by Mr. Darius, with all in favor, Resolution 2022-15, Levying Non-Ad Valorem Assessments, was adopted as presented. 5-0

SEVENTH ORDER OF BUSINESS

Staff Reports (Continued)

C. Land Use Counsel

i. Consideration of Resolution 2022-16, Intent to Sue

Mr. Tietz read the updated letter from Mr. Faulkner out loud regarding Resolution 2022-16, Intent to Sue. The resolution will include commercial developments.

0:30:40.1-0:32:21.9

On MOTION by Mr. Tietz seconded by Mr. Penning, with all in favor, Resolution 2022-16, Intent to Sue to include whereas the future multifamily and commercial development project located at the parcel ID owned by Asturia Multifamily Owner LLC does not fall within the District's boundaries and it's residents will not be assessed by the District, the residents of Land Tower and future residents Multifamily Tower will use the Districts road ways and other infrastructure as Land Towers and Multifamily owners only means to access, was adopted as amended. 5-0

THIRD ORDER OF BUSINESS

Audience Comments on Agenda Items

A resident suggested the vendors provide reports ahead of time to be reviewed. Mr. Tietz noted that it was enacted at the previous meeting. It is still in discussion with management and Inframark. The Board noted looking at this month's agenda package that this was in effect.

SIXTH ORDER OF BUSINESS

Consent Agenda

- A. Approval of the May 24, 2022 Meeting Minutes**
- B. Approval of the June 28, 2022 Meeting Minutes**
- C. Approval of the Minutes of the August 9, 2022 Workshop**
- D. Approval of the July 31, 2022 Financial Report**

Mr. Nanni stated that Ms. Golovan, the Districts accounts payable personnel emailed Board members regarding invoices pending approval. Mr. Darius questioned a FedEx bill of \$147.57. Mr. Nanni noted that may be Inframark’s bill. This discussion was tabled, and item E. Consideration of the Operations and Maintenance Expenditures for July 2022 was removed from the consent agenda.

On MOTION by Mr. Tietz, seconded by Mr. Penning, with all in favor, the Consent Agenda, consisting of the May 24, 2022 Meeting Minutes, June 28, 2022 Meeting Minutes, Minutes of the August 9, 2022 Workshop, and July 31, 2022 Financial Report, was approved as amended. 5-0

E. Consideration of the Operations and Maintenance Expenditures for July 2022

- Mr. Penning questioned the conflict of interest with Sterns and Weaver, and why it was not disclosed that the attorney was representing the adjacent property at the beginning. Mr. Penning expressed his concerns about paying \$4,200 to Sterns and Weaver. He requested management review the conflict of interest disclosure, review the reports for information to see if there was anything that was discovered the District did not already present, and review steps to file a complaint. Further discussion was had regarding conflict of interest. The Board was in consensus to hold the \$4,200 bill from Sterns and Weaver for the call and for management to review their bill and negotiate a new amount.
- Mr. Penning commented on the contract for the District engineer and stated the contract mentions no work should be done without a work authorization. He expressed concerns with all invoices. Mr. Nanni stated he spoke with Mr. Osipov about flexibility with invoices. Mr. Penning request to have verification of work authorization and the not to exceed amount, review bills for accuracy, stormwater vs street, billing rates and reimbursements. He will email this list to Mr. Nanni. Mr. Tietz stated he will not be submitting any additional work at the current rate. Mr.

Penning stated that Mr. Osipov billed the District for a two-hour workshop he did not attend. Discussion ensued regarding management and invoices.

- Mr. Penning read an Inframark deficiency letter into the record (1:17:18.0-1:18:51.0). The Board authorized District counsel to two hours to produce an Inframark deficiency letter.
- Mr. Tietz requested a recommended action on what the Board should do regarding the engineer.

On MOTION by Mr. Tietz, seconded by Mr. Penning, with all in favor, the Operations and Maintenance Expenditures for July 2022, absent any invoices and late fees from Halff Associates, Inframark, Sterns and Weaver and FedEx was approved as amended. 5-0

SEVENTH ORDER OF BUSINESS

Staff Reports

A. District Engineer

i. Field Report

- Mr. Tietz stated the engineer provided a draft report of the roadway assessment. The stormwater assessment was also submitted and the quality of that assessment, which the Board previously discussed for the \$8,500, was only \$8,000. It was a list of inventories of what the District currently owns and what the expected lifetime of what those owned assets were. There was nothing beyond superficial data. Mr. Penning noted the engineer was given the UES (Universal Engineer Service Reports) that showed deficiencies in the road but has not addressed any of those issues. Mr. Tietz stated the District needs a signed document to take to the County within sixty days.
- Ms. Gentry stated that it was okay to give the District manager a not to exceed amount to engage another engineering firm to complete our road assessment. She suggested the Board needs to be clear on what results they are looking for to avoid the current issues at hand. Mr. Tietz suggested to set a not to exceed amount of \$8,500 and see if anyone would accept.

On MOTION by Mr. Tietz, seconded by Mr. Darius, with all in favor, for management to use an amount not to exceed \$8,500 to include an assessment of deterioration, settlement, degradation, causation, and cost to repair for Asturia CDD roadways including a written report within 45 days, was approved. 5-0

B. District Counsel

i. Consideration of Amended Amenity Policies 2022 Revisions

- Ms. Gentry noted she did incorporate the revisions the Board requested based on their workshop discussion and is included in the agenda package. The increased amount should be put in a notice and push the hearing back to November.
- Mr. Penning made corrections to the policies.

On MOTION by Mr. Tietz, seconded by Mr. Penning, with all in favor, the Amended Amenity Policies 2022 Revisions was approved as amended. 5-0

- Ms. Gentry stated the hearing for the fees will be at the October meeting.

ii. Consideration of Resolution 2022-17, Adopting a Policy on Use of District Property.

- Ms. Gentry stated as discussed at the last meeting, a policy was created to address the problems with construction equipment and homeowners using the District’s property. This policy sets forth a procedure for anyone who wants to use the equipment must apply to the District in advance, then must be signed off by the District that it is approved. Ms. Gentry noted that if the policy is approved, she will prepare a form of agreement that management can prepare each time. This is to be placed on the District’s website.

On MOTION by Mr. Penning, seconded by Mr. Tietz, with all in favor, Resolution 2022-17, Adopting a policy on Use of District Property, was adopted. 5-0

iii. Consideration of 2022 Fee Letter

- Ms. Gentry stated they came up with a flat fee proposal for the District. If the Board accepts this proposal, there will be a flat fee rate for meeting attendance and is based on hours. There is a flat fee for meeting that are two and a half hours and another fee for meeting over that time, which will be billed as a separate line item in your monthly billing.
- Mr. Tietz stated he is issued an email to Inframark requesting all the vendors submit their reports in writing. He states he would prefer a correspondence between the Board and Counsel where it is delayed. Mr. Darius stated he prefers to have counsel in the short term.
- Ms. Gentry noted she does not feel they can adequately fulfill their judiciary duty to the District if they are not in attendance. It provides some protection to the District at a meeting. Mr. Darius stated at the workshop it was suggested that anything approved would be contingent upon legal review. Ms. Coppa expressed she does not believe legal counsel is needed at every meeting. Consideration of the 2022 Fee Letter was tabled for thirty days.
- A discussion was had regarding statutes of limitations and the roadways. Ms. Gentry recommended authorizing a not to exceed amount for Jimerson Burke to give an opinion of what the statute or limitations the District's roadway claims are.

On MOTION by Mr. Penning, seconded by Mr. Darius, with all in favor, to engage Jimerson Burge on a not to exceed two hours was approved. 5-0

D. Field Inspection Reports

i. Blue Water Aquatic Report: July 2022

a. 3-Month Aquatic Maintenance Revised Agreement

Mr. Tietz stated the revised agreement presented by Blue Water at the previous meeting was \$890 per month but was amended to add the Fenland Way pond, which includes an additional \$40.

On MOTION by Mr. Penning, seconded by Ms. Pearson, with all in favor, the 3-Month Aquatic Maintenance Revised Agreement was approved. 5-0

Ms. Gentry recommended the District grants counsel authorization to add an addendum to this agreement to add indemnity to the District and spell out the insurance requirements.

- ii. RedTree Landscape Report: July 2022**
 - a. Grounds Maintenance Weekly Mowing 08.08.2022**
 - b. Grounds Maintenance Weekly Mowing 07.29.2022**

Mr. Tietz stated field service referred nine or twelve items on the field service report saying they are deficient; we would like to refer those items to RedTree for correction.

E. District Manager

- i. Inframark Field Inspection Report: August 2022**
- ii. Inframark Sidewalk Inspection Report: August 2022**

Discussion ensued regarding sidewalks and homeowner and District responsibility. Mr. Darius suggested to have POA and ask them to enforce the sidewalk inspections. Give them the list and have them find the homeowners. Mr. Tietz stated the Board is going to the POA about the new policy on use of District property and the locations that Brendan listed that had ARB approval for a pool or any other work that has damage to the property. All these tasks will be sent out by management.

iii. Presentation of Workload Report as of August 2022

Mr. Nanni presented his report. He stated the video cameras have been installed. The pool monitor item has improved. Ryan Holmes' complaints were discussed. Mr. Tietz asked if there was any update on the pocket park and the monument sign. Ms. Gentry stated more information was needed on who was contacted. Mr. Tietz requested to have a letter by next Tuesday from respective parties.

iv. Discussion of Holiday Lighting

Ms. Coppa stated she spoke with the owner of Holiday Lighting and the District would pay the labor cost of \$1,410 going forward. They are looking to install Christmas lights the week of November 13-19. An invoice will be sent to Mr. Tietz and will request half payment.

On MOTION by Ms. Coppa, seconded by Ms. Pearson, with all in favor, for management to hire Tampa Holiday Lighting with a not to exceed amount of \$800 for a deposit for holiday lights installation out of the Contingency Fund. 5-0

- v. **Acceptance of the Fiscal Year 2023 Meeting Schedule**
Meeting schedule remains the same.

On MOTION by Mr. Tietz, seconded by Mr. Penning, with all in favor, the Fiscal Year 2023 Meeting Schedule was accepted. 5-0

F. District Items

- i. **Discussion of Purchase 2015 Cushman Hauler for \$7,508 from Discovery Golf Cars of Land O’ Lakes**
- ii. **Discussion to Purchase Simpson Power Washer 95002 from Amazon for \$4,499**
- iii. **Discussion to Purchase EDOU 20 Pressure Washer Surface Cleaner from Amazon for \$315.19**
- iv. **Discussion to Enter into PEO Agreement with United Employment Services of Clearwater for Providing Employees for Amenity/Community Services**
- v. **Consideration of a 60-Day Notice for Management’s Performance**

Mr. Darius suggested to table all the above items except the PEO Agreement due to lack of District funds. Mr. Tietz expressed the need for the pressure washer. Further discussion was had. He also inquired if the PEO addendum was waived. Mr. Penning stated it was not. Ms. Gentry suggested two pathways the Board could use, the first would be to give notice to a default. In that case the Board would send a notice of termination specifying the default, and they would have 45 days to fix it. The second pathway is that the agreement can be terminated by either party upon 60 days written notice for any reason.

On MOTION by Mr. Penning, seconded by Mr. Darius, with all in favor, the Purchase 2015 Cushman Hauler for \$7,508 from Discovery Golf Cars of Land O’ Lakes, Purchase Simpson Power Washer 95002 with a not to exceed order of \$5,000, Purchase EDOU 20 Pressure Washer Surface Cleaner from Amazon with a not to exceed order of \$500 and PEO Agreement with United Employment Services of Clearwater for Providing Employees for Amenity/Community Services was approved as amended. 5-0

EIGHTH ORDER OF BUSINESS

Supervisors’ Requests

Supervisor requests were received, and a discussion was had regarding management.

On MOTION by Mr. Tietz, seconded by Mr. Penning, with all in favor, to rescind the previous motion of Consideration of a 60-day Notice for Management's Performance was approved. 5-0

On MOTION by Mr. Penning, seconded by Mr. Tietz, with all in favor, to send a Notice to management pursuant to section 1.1 of the Agreement that the Management Agreement will terminate at the end of this term, December 1st was approved. 5-0

On MOTION by Mr. Penning, seconded by Mr. Darius, with all in favor, to send a notice of default to Inframark with a 60-Day period to remedy that default was approved. 5-0

The Board directed counsel to obtain bids for District Manager.

NINETH ORDER OF BUSINESS

Audience Comments

No audience comments were received.

TENTH ORDER OF BUSINESS

Adjournment

There being no further business,

On MOTION by Mr. Tietz, seconded by Mr. Darius, with all in favor, the meeting was adjourned. 5-0


Chairman