

**MINUTES OF MEETING  
MALABAR SPRINGS  
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the Malabar Springs Community Development District held Multiple Public Hearings and a Regular Meeting on February 21, 2023 at 9:30 a.m., at B.S.E. Consultants, Inc., 312 South Harbor City Boulevard, Suite 4, Melbourne, Florida 32901.

**Present at the meeting were:**

Michael Caputo	Chair
Timothy Smith	Vice Chair
Justin Frye	Assistant Secretary

**Also present were:**

Cindy Cerbone	District Manager
Andrew Kantarzhi	Wrathell, Hunt and Associates, LLC
Jere Earlywine (via telephone)	District Counsel
Ana Saunders	Interim District Engineer
Neil Miserendino	Public

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Ms. Cerbone called the meeting to order at 9:46 a.m.

Supervisors Caputo, Frye and Tim Smith were present. Supervisors Seifel and Candice Smith were not present.

**SECOND ORDER OF BUSINESS**

**Public Comments**

There were no public comments.

**THIRD ORDER OF BUSINESS**

**Administration of Oath of Office to Supervisors, Jon Seifel [SEAT 4] and Candice Smith [SEAT 5] *(the following will be provided in a separate package)***

**A. Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees**

- B. Membership, Obligations and Responsibilities**
- C. Chapter 190, Florida Statutes**
- D. Financial Disclosure Forms**
  - I. Form 1: Statement of Financial Interests**
  - II. Form 1X: Amendment to Form 1, Statement of Financial Interests**
  - III. Form 1F: Final Statement of Financial Interests**
- E. Form 8B - Memorandum of Voting Conflict**

This item was deferred.

**FOURTH ORDER OF BUSINESS**

**Public Hearing Confirming the Intent of the District to Use the Uniform Method of Levy, Collection and Enforcement of Non-Ad Valorem Assessments as Authorized and Permitted by Section 197.3632, Florida Statutes; Expressing the Need for the Levy of Non-Ad Valorem Assessments and Setting Forth the Legal Description of the Real Property Within the District's Jurisdictional Boundaries that May or Shall Be Subject to the Levy of District Non-Ad Valorem Assessments; Providing for Severability; Providing for Conflict and Providing for an Effective Date**

- A. Affidavit/Proof of Publication**
- B. Consideration of Resolution 2023-27, Expressing its Intent to Utilize the Uniform Method of Levying, Collecting, and Enforcing Non-Ad Valorem Assessments Which May Be Levied by the Malabar Springs Community Development District in Accordance with Section 197.3632, Florida Statutes; Providing a Severability Clause; and Providing an Effective Date**

<p><b>On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, the Public Hearing was opened.</b></p>
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Mr. Miserendino stated his interest in becoming more informed and active. Ms. Cerbone stated that the public is welcome to direct questions to the District Manager's office.

**On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, the Public Hearing was closed.**

**On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, Resolution 2023-27, Expressing its Intent to Utilize the Uniform Method of Levying, Collecting, and Enforcing Non-Ad Valorem Assessments Which May Be Levied by the Malabar Springs Community Development District in Accordance with Section 197.3632, Florida Statutes; Providing a Severability Clause; and Providing an Effective Date, was adopted.**

#### **FIFTH ORDER OF BUSINESS**

**Public Hearing to Consider the Adoption of an Assessment Roll and the Imposition of Special Assessments Relating to the Financing and Securing of Certain Public Improvements**

- A. Affidavit/Proof of Publication**
- B. Mailed Notice to Property Owner(s)**
- C. Engineer's Report (*for informational purposes*)**

Ms. Cerbone stated the Engineer's Report was presented at the last meeting. Feedback was received at the last meeting regarding potential outcomes relating to the irrigation system. The Report in the agenda book is the old Engineer's Report, not the updated version. She read in the following that the District Engineer added at the end of the second paragraph in Section IV, on Page 5:

"The Developer or a private irrigation company may elect to privately finance and operate the irrigation system for the community, in which case the irrigation system would not be included as part of the CIP."

Ms. Cerbone stated the purpose of inserting the sentence was to allow for the potential, but not to guarantee that this will happen. Ms. Saunders stated that was the substantial change to the Report; minor grammatical revisions might have been made.

Mr. Caputo asked if the Engineer's Report was updated to reflect the new Phase lines. Ms. Saunders stated it was not. Mr. Earlywine stated the Report is needed for the Master Lien; a Supplemental Report will be produced specific to the phases, when necessary for the issuance of bonds. Ms. Cerbone stated work on the Draft Supplemental Report is underway.

**D. Master Special Assessment Methodology Report *(for informational purposes)***

Ms. Cerbone stated that the Master Special Assessment Methodology Report is unchanged since it was presented at the last meeting. She recalled discussion about the Equivalent Residential Unit (ERU) weighting for the multi-family units.

Mr. Earlywine stated, if the ERU weights will be changed, now is the time to do so. Currently, the ERU weighting for the townhomes and villas are 0.60.

Discussion ensued regarding the Appendix Tables. The consensus was the ERUs are proper, as listed.

A Board Member asked if bond proceeds can be utilized to finish the lots in the "build to rent" section. Mr. Earlywine stated the "build to rent" lots are treated like any other lot for assessment purposes unless treating them differently is desired. Those lots can typically be paid down through a contribution, if assessments are not desired; otherwise, they are treated like regular lots.

**On MOTION by Mr. Smith and seconded by Mr. Caputo, with all in favor, the Public Hearing was opened.**

- ***Hear testimony from the affected property owners as to the propriety and advisability of making the improvements and funding them with special assessments on the property.***

No members of the public spoke.

- ***Thereafter, the governing authority shall meet as an equalizing board to hear any and all complaints as to the special assessments on a basis of justice and right.***

The Board, sitting as the Equalizing Board, made no changes.

**On MOTION by Mr. Smith and seconded by Mr. Frye, with all in favor, the Public Hearing was closed.**

- E. Consideration of Resolution 2023-28, Making Certain Findings; Authorizing a Capital Improvement Plan; Adopting an Engineer's Report; Providing an Estimated Cost of Improvements; Adopting an Assessment Report; Equalizing, Approving, Confirming and Levying Debt Assessments; Addressing the Finalization of Special Assessments; Addressing the Payment of Debt Assessments and the Method of Collection; Providing for the Allocation of Debt Assessments and True-Up Payments; Addressing Government Property, and Transfers of Property to Units of Local, State and Federal Government; Authorizing an Assessment Notice; and Providing for Severability, Conflicts and an Effective Date**

Ms. Cerbone presented Resolution 2023-28 and read the title.

Mr. Earlywine stated this Resolution makes certain findings with respect to the Capital Improvement Plan (CIP) and the debt assessment process. It sets forth that the CIP in the Engineer's Report is in the best interests of the CDD, benefits the property owners, assessments described in the Methodology Report are fairly and reasonably allocated and that the benefit to the property exceeds the assessment burden. The Resolution authorizes the Capital Improvement Plan (CIP), adopts the Engineer's and Assessment Methodology Reports and finalizes, equalizes and confirms the levy of the assessments.

**On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, Resolution 2023-28, Making Certain Findings; Authorizing a Capital Improvement Plan; Adopting an Engineer's Report; Providing an Estimated Cost of Improvements; Adopting an Assessment Report; Equalizing, Approving, Confirming and Levying Debt Assessments; Addressing the Finalization of Special Assessments; Addressing the Payment of Debt Assessments and the Method of Collection; Providing for the Allocation of Debt Assessments and True-Up Payments; Addressing Government Property, and Transfers of Property to Units of Local, State and Federal Government; Authorizing an Assessment Notice; and Providing for Severability, Conflicts and an Effective Date, was adopted.**

**SIXTH ORDER OF BUSINESS**

**Public Hearing to Hear Public Comments and Objections to the Adoption of the Rules of Procedure, Pursuant to Sections 120.54 and 190.035, Florida Statutes**

- A. Affidavits of Publication**
- B. Consideration of Resolution 2023-29, Adopting Rules of Procedure; Providing a Severability Clause; and Providing an Effective Date**

Ms. Cerbone presented Resolution 2023-29 and the Rules of Procedure, which were presented at the last meeting.

**On MOTION by Mr. Frye and seconded by Mr. Smith, with all in favor, the Public Hearing was opened.**

No members of the public spoke.

**On MOTION by Mr. Smith and seconded by Mr. Frye, with all in favor, the Public Hearing was closed.**

**On MOTION by Mr. Frye and seconded by Mr. Smith, with all in favor, Resolution 2023-29, Adopting Rules of Procedure; Providing a Severability Clause; and Providing an Effective Date, was adopted.**

**SEVENTH ORDER OF BUSINESS**

**Public Hearing on Adoption of Fiscal Year 2022/2023 Budget**

- A. Affidavit of Publication**
- B. Consideration of Resolution 2023-30, Relating to the Annual Appropriations and Adopting the Budgets for the Fiscal Year Beginning October 1, 2022, and Ending September 30, 2023; Authorizing Budget Amendments; and Providing an Effective Date**

Ms. Cerbone presented the proposed Fiscal Year 2023 budget, which is unchanged since last presented. The budget is Landowner-funded, with expenses being funded as incurred.

**On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, the Public Hearing was opened.**

Mr. Miserendino asked why the Affidavits of Publication were notarized by a Wisconsin notary. Ms. Cerbone stated that they are notarized where the ad is processed; which is increasingly common.

**On MOTION by Mr. Frye and seconded by Mr. Caputo, with all in favor, the Public Hearing was closed.**

Ms. Cerbone presented Resolution 2023-30 and read the title.

**On MOTION by Mr. Frye and seconded by Mr. Smith, with all in favor, Resolution 2023-30, Relating to the Annual Appropriations and Adopting the Budgets for the Fiscal Year Beginning October 1, 2022, and Ending September 30, 2023; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.**

#### **EIGHTH ORDER OF BUSINESS**

#### **Consideration/ Ratification of Engagement with Jere Earlywine at Kutak Rock LLP**

Mr. Earlywine discussed his transition from KE Law Group to Kutak Rock LLP.

**On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, the engagement of Jere Earlywine/Kutak Rock LLP for District Counsel Services, was ratified.**

#### **NINTH ORDER OF BUSINESS**

#### **Consideration of Resolution 2023-14, Designating Dates, Times and Locations for Regular Meetings of the Board of Supervisors of the District for Fiscal Year 2022/2023 and Providing for an Effective Date**

Ms. Cerbone presented Resolution 2023-14.

Discussion ensued regarding bond issuance and construction.

Mr. Earlywine stated bonds will likely be issued during the second quarter of 2023, with the bond validation hearing likely in March and bond issuance authorized in April.

Mr. Frye anticipated bond validation in April, with bond sales in May.

Ms. Cerbone stated Supervisor Candice Smith expressed concern about the early meeting start time; she will speak with Ms. Smith and adjustments might be made, if necessary.

The following will be inserted into the Fiscal Year 2023 Meeting Schedule:

DATES: Third Tuesday of each month

TIME: 10:00 AM

Ms. Cerbone stated the March meeting will likely be canceled.

**On MOTION by Mr. Smith and seconded by Mr. Caputo, with all in favor, Resolution 2023-14, Designating Dates, Times and Locations for Regular Meetings of the Board of Supervisors of the District for Fiscal Year 2022/2023 and Providing for an Effective Date, was adopted.**

#### **TENTH ORDER OF BUSINESS**

#### **Approval of Minutes**

- A. December 15, 2022 Landowners' Meeting**
- B. December 15, 2022 Organizational Meeting**

**On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, the December 15, 2022 Landowners' Meeting and Organizational Meeting Minutes, as presented, were approved.**

#### **ELEVENTH ORDER OF BUSINESS**

#### **Staff Reports**

- A. District Counsel: *Kutak Rock LLP***  
There was no report.
- B. District Engineer (Interim): *B.S.E. Consultants***  
There was no report.
- C. District Manager: *Wrathell, Hunt and Associates, LLC***



Ms. Cerbone noted that the Fiscal Year 2024 budget will be discussed at the next meeting and asked if the CDD will own any improvements requiring field operations in Fiscal Year 2024. If so, the Board must decide whether to contract with the HOA to maintain CDD improvements. The consensus was that the CDD budget will budget for the expense, as the HOA is not established.

- **NEXT MEETING DATE: TBD**
  - **QUORUM CHECK**

The next meeting will be on March 21, 2023, unless canceled.

**TWELFTH ORDER OF BUSINESS****Board Members' Comments/Requests**

There were no Board Members' comments or requests.

**THIRTEENTH ORDER OF BUSINESS****Public Comments**

There were no public comments.

**FOURTEENTH ORDER OF BUSINESS****Adjournment**

**On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, the meeting adjourned at 10:28 a.m.**

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



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Secretary/Assistant Secretary



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Chair/Vice Chair