

**MINUTES OF MEETING  
TERN BAY  
COMMUNITY DEVELOPMENT DISTRICT**

The Regular Meeting of the Board of Supervisors of the Tern Bay Community Development District was held on Tuesday, June 11, 2024, at 10:00 A.M. at Charlotte County Center, 18501 Murdock Circle, Suite 203, Port Charlotte, Florida 33948.

**Present and constituting a quorum:**

David Truxton	Chairperson
Christopher Hasty	Vice Chairperson
Ashley Kingston	Assistant Secretary
Tara Brady	Assistant Secretary

**Also present were:**

James P. Ward	District Manager
Greg Urbancic	District Counsel

**Audience:**

Angie Rolesh (ph)

All residents' names were not included with the minutes. If a resident did not identify themselves or the audio file did not pick up the name, the name was not recorded in these minutes.

**PORTIONS OF THIS MEETING WERE TRANSCRIBED VERBATIM. ALL VERBATIM PORTIONS  
WERE TRANSCRIBED IN *ITALICS*.**

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. James Ward called the meeting to order at approximately 10:09 a.m. He conducted roll call, and Board Members Hasty, Truxton and Kingston were present, constituting a quorum.

**SECOND ORDER OF BUSINESS**

**Notice of Advertisement**

**Notice of Advertisement of Public Hearings**

**THIRD ORDER OF BUSINESS**

**Acceptance of Resignations**

**Acceptance of Resignations from Supervisor Anthony Burdett (Seat 3) effective June 4, 2024, and Supervisor Barry Ernst (Seat 5) effective June 3, 2024, with both Seats having terms that expire in November 2026**

Mr. Ward asked for a motion to accept the resignations of Supervisor Ernst and Supervisor Burdett.

**On MOTION made by Christopher Hasty, seconded by Ashley Kingston, and with all in favor, the resignations of Anthony Burdett and Barry Ernst were accepted.**

#### **FOURTH ORDER OF BUSINESS**

#### **Consideration of Resolution 2024-3**

**Consideration of Resolution 2024-3, a Resolution of the Board of Supervisors appointing qualified electors to fill the vacancies in Seat three (3) and Seat five (5) on the Board of Supervisors pursuant to Section 190.006(3)(b) Florida Statutes; if the Board appoints individuals to fill the seats, the following items will also be considered for the newly appointed members**

- I. Administration of the Oath of Office**
- II. Guide to the Sunshine Amendment and Code of Ethics for Public Employees**
- III. Sample of E-filed Form 1 – Statement of Financial Interests; (2024 Changes to the Law and filing requirements)**

Mr. Ward noted two individuals expressed interest in serving on the Board, Tara Brady who was present, and Kathy Burke who was not available today due to an illness in her family. He explained the remaining Board Members could fill the two empty seats by appointment; these were qualified elector seats. He stated if the Board was in agreement to appoint Ms. Tara Brady and Ms. Kathy Burke to fill the vacancies, a motion to adopt Resolution 2024-3 was in order.

**On MOTION made by David Truxton, seconded by Ashley Kingston, and with all in favor, Resolution 2024-3 was adopted, and the Chair was authorized to sign.**

Mr. Ward, as a notary public, administered the Oath of Office to Ms. Tara Brady. He stated he understood Ms. Brady was a county employee and was well aware of the Sunshine Law and Code of Ethics, so he would not review these, but if Ms. Brady had any questions, he or Mr. Greg Urbancic would be happy to answer them. He noted Ms. Brady was required to file a Form 1 within 30 days of today. He indicated he would sign Ms. Brady up with the State Ethics Commission, and she would need to log onto the website and file a Form 1. He noted ethics training was a requirement for next year's Form 1, not this year's Form 1. He indicated he would also send Ms. Brady the links for the ethics training.

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

#### **Consideration of Resolution 2024-4**

**Consideration of Resolution 2024-4, a Resolution Re-Designating the Officers of the Tern Bay Community Development District.**

Mr. Ward stated Mr. Truxton served as Chair, Mr. Hasty served as Vice Chair, while Ms. Kingston served as an Assistant Secretary, and he (Mr. Ward) served as Secretary and Treasurer. He asked if the Board wished to add Ms. Brady and Ms. Burke as Assistant Secretaries.

The Board agreed to add Ms. Brady and Ms. Burke as Assistant Secretaries.

**On MOTION made by David Truxton, seconded by Ashley Kingston, and with all in favor, Resolution 2024-4 was adopted, and the Chair was authorized to sign.**

**SIXTH ORDER OF BUSINESS**

**Consideration of Minutes**

**March 12, 2024 - Regular Meeting Minutes**

Mr. Ward asked if there were any corrections or deletions to the Regular Meeting Minutes; hearing none, he called for a motion.

**On MOTION made by David Truxton, seconded by Ashley Kingston, and with all in favor, the March 12, 2024 Regular Meeting Minutes were approved.**

**SEVENTH ORDER OF BUSINESS**

**Public Hearing**

**PUBLIC HEARINGS – FY 2025 BUDGET AND SPECIAL ASSESSMENTS**

Mr. Ward explained the Public Hearing process noting there were two public hearings, the first related to the Budget itself. He stated the General Fund Budget assessment rate for Fiscal Year 2025 was \$377.44 per unit, down from Fiscal Year 2024’s assessment of \$490.76 per unit.

**a) FISCAL YEAR 2025 BUDGET**

**I. Public Comment and Testimony**

Mr. Ward called for a motion to open the Public Hearing.

**On MOTION made by Ashley Kingston, seconded by David Truxton, and with all in favor, the Public Hearing was opened.**

Mr. Ward asked if there were any members of the public in person or present via audio or video with any comments or questions with respect to the Fiscal Year 2025 Budget; there were none. He called for a motion to close the Public Hearing.

**On MOTION made by Ashley Kingston, seconded by David Truxton, and with all in favor, the Public Hearing was closed.**

**II. Board Comment and Consideration**

Mr. Ward asked if there were any questions or comments from the Board. He stated the operations of the District were currently all within the Master HOA; the District was not doing any

maintenance activities. He stated the only maintenance type activity the CDD was doing was paying the FPL bills for the streetlights in the District.

Ms. Brady noted the other portion of the budget was debt service.

Mr. Ward concurred.

Ms. Brady stated technically the CDD was responsible for the infrastructure, not the HOA, even though the HOA was maintaining the infrastructure, and while the costs did “all come out of the same pocket” she would like to see the agreement between the Master HOA and the CDD.

Mr. Ward indicated the CDD did not have a formal agreement with HOA at this time. He stated an agreement was sent to the HOA, but the HOA and CDD were still in discussions with respect to the agreement. He indicated he would send her the draft of the agreement which basically required the HOA to do the maintenance required, not to any specific standard. He stated under the agreement, the Board had the ability to terminate the agreement at any time with notice.

Mr. Hasty asked about the supervisor fees of \$1,600 dollars. He noted the math for this was two residents, four meetings a year. He stated as the Board transitioned over to homeowners this fee would likely increase to the full allotment. He noted now was not the right time to do this, but perhaps in the next budget cycle this could be considered.

### **III. Consideration of Resolution 2024-5, a resolution of the Board of Supervisors adopting the Annual Appropriation and Budget for Fiscal Year 2025**

Mr. Ward called for a motion to approve the budget beginning October 1, 2024 and ending on September 30, 2025.

**On MOTION made by David Truxton, seconded by Ashley Kingston, and with all in favor, Resolution 2024-5 was adopted, and the Chair was authorized to sign.**

### **b) FISCAL YEAR 2025 IMPOSING SPECIAL ASSESSMENTS; ADOPTING THE ASSESSMENT ROLL AND APPROVING THE GENERAL FUND SPECIAL ASSESSMENT METHODOLOGY**

Mr. Ward indicated this public hearing was related to the imposition of the special assessments for the general fund, it adopted the assessment roll and approved the general fund special assessment methodology related to the Fiscal Year 2025 budget.

#### **I. Public Comment and Testimony**

Mr. Ward called for a motion to open the Public Hearing.

**On MOTION made by Ashley Kingston, seconded by Tara Brady, and with all in favor, the Public Hearing was opened.**

Mr. Ward noted this Resolution adopted the General Fund only at the rate of \$377.44 per year per unit. He stated this was what would be on the November 2024 tax bills along with the capital assessment for the debt service fund identified in the FY 2025 budget. He asked if there were any members of the public present in person, audio or video with any comments or questions; there were none. He called for a motion to close the Public Hearing.

**On MOTION made by Tara Brady, seconded by Ashley Kingston, and with all in favor, the Public Hearing was closed.**

**II. Board Comment and Consideration**

Mr. Ward asked if there were any questions or comments from the Board.

Ms. Brady asked if there was a projected end date for the bonds.

Mr. Ward stated the original bond issue was through May 2027, and the next bond issue went to June 2052.

*Ms. Brady: So, the residents can expect to pay that \$1,570 and \$1,812 and \$995 dollars based on what type of home until 2052.*

*Mr. Ward: Until it is completed, correct. There are two provisions, when you hit certain thresholds there are refinancing opportunities generally 10 years from the date of issuance. The 2005 bonds have reached that limit, but the rates are not substantially different than they were then. The other bond issue was recently done so we still have many years to go on that.*

*Mr. Hasty: The debt can always be paid off early by a homeowner on that site if they wish to break the debt check. Otherwise, it's financed at 4 and a 5 maybe, 5.5% maybe? They can pay it off early to get rid of the debt assessment.*

*Mr. Ward: That is correct.*

**III. Consideration of Resolution 2024-6, a resolution of the Board of Supervisors imposing special assessments, adopting an assessment roll, and approving the General Fund Special Assessment Methodology**

Mr. Ward called for a motion.

**On MOTION made by Christopher Hasty, seconded by Ashley Kingston, and with all in favor, Resolution 2024-6 was adopted, and the Chair was authorized to sign.**

**Consideration of Resolution 2024-7, a Resolution of the Board of Supervisors designating the dates, time, and location for regular meetings of the Board of Supervisors of the District**

Mr. Ward explained Resolution 2024-7 set the dates, time, and location of the Board's meetings for Fiscal Year 2025 for the second Tuesday of each month at 10:00 a.m. at the Country Inn and Suites near I-75. He stated the Board was not bound by these dates, the time, or the location; these could be changed as the Board deemed appropriate. He asked if there were any questions; hearing none, he called for a motion.

**On MOTION made by Ashley Kingston, seconded by David Truxton, and with all in favor, Resolution 2024-7 was adopted, and the Chair was authorized to sign.**

**NINTH ORDER OF BUSINESS**

**Consideration of Resolution 2024-8**

**Consideration of Resolution 2024-8, a Resolution of the Board of Supervisors Approving the assignment of the Engineering Services Agreement from Banks Engineering to Atwell, LLC; Authorizing the Chairperson to execute the Assignment; Providing general authorization; and addressing conflicts, severability, and an effective date**

Mr. Ward stated there were three professionals who worked on CDDs, a District Manager, District Attorney and District Engineer. He stated the Engineer for this District was Banks Engineering whose firm was recently sold to Atwell, LLC. He stated this Resolution transferred the existing agreement with the same terms and conditions from Banks Engineering to Atwell, LLC. He asked if there were any questions; hearing none, he called for a motion.

**On MOTION made by Tara Brady, seconded by Ashley Kingston, and with all in favor, Resolution 2024-8 was adopted, and the Chair was authorized to sign.**

**TENTH ORDER OF BUSINESS**

**Staff Reports**

**I. District Attorney**

*Mr. Greg Urbancic: A Bill was passed and became law in Florida which requires all special districts to establish goals, objectives, and performance measures for the functions that they do. So, that is something we will have to come up with for the next fiscal year and then at the end of every fiscal year going forward we will have to do an annual report as to how we did on those goals, objectives, and performance measures.*

*Mr. Truxton: When does this go into effect?*

*Mr. Ward: They don't have to be done until October of next year. We will set them probably in the early part of the fiscal year, and then they go into effect October 1 next fiscal year. It's reported in FY 2026 for FY 2025.*

**II. District Engineer**

No report.

**III. District Manager**

- a. Supervisor of Elections Qualified Electors Report as of April 15, 2024**
- b. Florida Law changes to Form 1 Filings**
- c. New performance reporting requirements for CDD's**
- d. Important Board Meeting Dates for Balance of Fiscal Year 2024**
  - 1. Candidate Qualifying period: June 10 through June 14, 2024 (Seats 1&4)**
  - 2. General Election, November 5, 2024**
- e. Financial Statement for period ending December 31, 2023 (unaudited)**
- f. Financial Statement for period ending January 31, 2024 (unaudited)**
- g. Financial Statement for period ending February 29, 2024 (audited)**

Mr. Ward noted statute required the Supervisor of Elections to report the number of qualified electors within the District as of April 15 annually. He reported Tern Bay had 670 qualified electors and the CDD already started the transition to a qualified elector board. He noted there were two seats up for this November election, Seat 1 and Seat 4. He stated the qualification period was this week, from noon yesterday through noon this Friday, so anyone who was a registered voter living within the boundaries of the District can qualify for those two seats at the Supervisor of Elections Office.

Mr. Truxton asked if only one qualified elector registered for a Seat, then the Board could appoint someone to sit on the Board.

Mr. Ward explained how an individual might be elected or appointed to a Seat on the Board.

*Mr. Urbancic: If they are unopposed then they just get seated two weeks after the general election. There is no election, but they get seated at that time automatically.*

Mr. Ward reminded the Board to file the Form 1 before July 1, 2024. He noted the ethics training requirement would be for next year's Form 1. He discussed the late fee for not filing the Form 1 in a timely manner.

**ELEVENTH ORDER OF BUSINESS****Supervisor's Requests and Audience Comments**

Mr. Ward asked if there were any Supervisor's requests.

Mr. Hasty asked about the seat Ms. Tara Brady was appointed to.

Mr. Ward explained the seat Ms. Brady was appointed to would be up for election in 2026.

*Mr. Hasty: So, 1 and 4 are up for election and then we've got 2 and 3 –*

*Mr. Ward: Dave's seat does not turn out until 2026. Seat 3, Tara's seat, will turn out in 2026, and Ashley's seat turns out this year, and then seat 5, Kathy was just appointed to that seat, and her term will turn out in 2026.*

*Ms. Kingston: And that's if someone is elected or submits paperwork to become part of this Board, if not I would just stay on?*

*Mr. Ward: You have two choices, you can resign and whoever is in that seat, the balance of the Board at that point can appoint that individual (there is no requirement for that to happen) they appoint someone else to fill out that unexpired term. It would be kind of weird to do something like that.*

*Mr. Hasty: That's only from the qualified electors. We cannot put a developer in at that point. It's all resident seats at this point.*

*Mr. Ward: The seats up for election, seat 1 and seat 4, are landowner seats at this point, so this election in November is the first election of these two seats as a qualified elector election. You can put a qualified elector in that seat before November by resigning and doing that, but it's not required.*

Mr. Ward asked if there were any audience members present in person, or via audio or video with any questions or comments.

*Ms. Tara Brady: In one of the last meetings and in the budget, it shows that we have about \$45 million dollars in assets accounted for. Do we have a list of those assets? I know in one of the prior minutes the Engineering Firm was going through a list and doing that cost. I would like to see what that is that we have that we own and the list of those assets. I also, I made myself a little map, because if have concerns on what Lennar still owns, what the CDD owns, the HOA is doing stuff, and I made a map of what we actually own and what Lennar still owns. And I'm a little confused as to why some of this stuff was turned over to us last year and some not, especially with what was a large portion – almost all of the roads are turned over to us, half of the ponds but they are in the portion that's just being developed now, and the ponds that have been done for a while are still in Lennar's name, so I'm confused as to why a lot more of that stuff wasn't turned over to the CDD and Lennar still has that and why the roads are still being done and top coated by Lennar were already turned over to us. And then when we do accept the final stuff on the roads, as they put that out and have someone come in and do that work, is anyone actually inspecting it? I had to stop at the one door of the truck and say, "It's raining, you're pouring asphalt, you're not doing MOT, you have the road shut and it's one way, and you're sitting in the truck that people are actually jumping the curb and driving the wrong way." She further described her conversation with the truck driver. A lot of that topcoat they just put on you can see where a car turns and it's now sketching out because I don't think anybody inspected it while they were doing it to make sure the temperature was right and all of that. Those are some of my concerns with what we own and what now is in our name. And I don't even know if that's an CDD issue.*

*Mr. Ward: What I'll do is I'll have Atwell prepare the documents you want, and we'll try to get them on an Agenda. I doubt they are going to be able to get that done before the next regularly scheduled meeting, so it will probably be in a few months, and we will go from there. We will get them to also sketch out what the timeframe is to transition the balance of the system you are seeing is still in Lennar's name and when that will happen and the process to do that.*



*Ms. Brady: Then my last question is, I have all of the documents every time it has gone back to the Board of County Commissioners for changing of the development itself. For when we took out some verandahs and put in more terraces, deleted some homes, we still have the 1810 and all of that. In all of those, there is supposed to be a pathway. In all of the plans. And I know it says "We may construct—" So, there is the pathway out behind the 11<sup>th</sup> tee box, and then there is a dirt path, and there is an old concrete canoe launch out there, and the plans had shown that was going to be developed as a pier possibly, a lookout tower, and the kayak launch. So, we've asked at the HOA meetings, and I was told "we are never doing that, it was part of the original Tern Bay, it's never been in Lennar's plans." But it is still in the plans which just were approved last November. I'm a little concerned now that people have been asking about it, all of a sudden in the last two weeks, a huge pile of dirt has been dumped on the conservation land to block the path, so that people can't walk out there. And I don't know if it's because people had been walking out there and now more and more residents are excited about the fact that we might have this and be able to use this amenity and questioning why it's not being developed, but I'm concerned. It's concerning to me that a big pile of dirt is on conservation land that's supposed to be turned over to the state. I don't even know how to go about that.*

*Mr. Ward: Just as a high level, those questions are outside of the CDD's authority, but you are a Board Member, and even I ask those questions, so you said that and I will relay that information, well, these guys will have it, but I will relay the information on to Lennar, to see what their response is going to be for all of those issues.*

*Mr. Hasty: So, none of us here are actually in the development chain for Tern Bay. I'm acquisitions, purchasing on the land side, and Dave is a consultant for us really in the northern territories, so we will take your questions back to the development team and see if we can't stitch something together between the development folks and the association folks.*

*Ms. Brady: Knowing I asked those because part of what the CDD does is the assets and eventually it says in there we are responsible for the infrastructure and parks and recreation if people want it. So, I'm just trying to think long term, if we can't get what a majority of people thought they were buying into, if there is no way to hold that to get done, that may be something the HOA may come and ask the CDD to do, because it is in the duties that we technically could do.*

*Mr. Ward: You can also decide unilaterally of what the HOA wants to do with all of those things. We can budget for them and provide that kind of infrastructure.*

*Mr. Hasty: I think the Districts ultimately have the ability to issue additional funds, do additional capital improvements, you can even purchase adjacent lands.*

*Mr. Ward: Let's not talk about any additional bond issues. It's a little difficult. We will get Atwell working on the stuff.*

Discussion ensued regarding Tern Bay and wanting the development to be the best it could be, the maintenance agreement with the HOA, how the deed dedications worked between Lennar and the CDD, and when the budgets were developed annually for the next fiscal year.

Mr. Ward discussed when he put together the budgets for the Districts noting for a District which was in transition, such as Tern Bay, he put the budget together early, usually in January or February.

*Mr. Hasty: The HOA has more flexibility in how they contract their work and execute things and the members of the HOA Board can talk outside of a public meeting. It's just easier to function that way, and because they transition on different cycles. The HOA transitions when you get to a 90 percent completion, but the District transitions based on the calendar, 2 to 4 years after you collect 250 qualified electors. So, they transition at different times, and one is difficult, and one is flexible. Up until now, Lennar has had control over both because of the seats we maintained, so we are running it the way I think you would want to run it, we just haven't gotten all the paperwork done because we haven't needed to, so this is the perfect time to start running through that process. I'm glad you're on early enough to help us move forward in a way residents want as opposed to the way you've seen it done in the past.*

Ms. Imani Torrence read a question from the chat window from Jeff Campbell: "I'm closing to purchase a home in Heritage Landing. Trying to find out if the preserve west of the community will ever be developed. How do I go about finding out?"

Mr. Hasty recommended speaking with the salesperson.

Ms. Brady stated west was the harbor which would probably never be developed unless referring to that pathway and park land that she was talking about. *That's the only development I have seen in any plans and then there's the preserve north of us but on the back side of hole 12.*

*Mr. Ward: I'm comfortable answering the question because I know the answer. Jeff, if you are listening, the answer to your question is no, that preserve is not going to be developed at any point. It has been there since time began and it is in the ownership of the Tern Bay CDD and it's not a development parcel, other than what was to be a path through it for access to Charlotte Harbor at some point, and I don't even know what kind of a path it was supposed to be, but it's a small path. There will never be any homes back there.*

**TWELFTH ORDER OF BUSINESS**

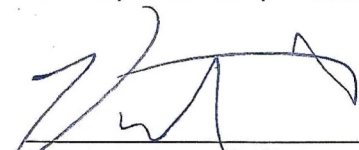
**Adjournment**

Mr. Ward adjourned the meeting at approximately 10:50 a.m.

**On MOTION made by Christopher Hasty, seconded by Ashley Kingston, and with all in favor, the meeting was adjourned.**

Tern Bay Community Development District

  
James P. Ward, Secretary

  
David Truxton, Chairperson