

**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, September 10, 2024, at 10:00 A.M. at the Country Inn and Suites 24244 Corporate Court, Port Charlotte, Florida 33954.

Present and constituting a quorum:

Christopher Hasty	Vice Chairperson
Ashley Kingston	Assistant Secretary
Tara Brady	Assistant Secretary
Katherine Burke	Assistant Secretary

Absent:

David Truxton	Chairperson
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Also present were:

James P. Ward	District Manager
Greg Urbancic	District Counsel
Clay Rebel	District Engineer

Audience:

Denise Blakely
Robert Brady

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 10:00 a.m. He conducted roll call, and all Members of the Board were present, with the exception of Supervisor Truxton, constituting a quorum. He noted there were members of the public present and he reviewed the opportunities for members of the public to speak.

SECOND ORDER OF BUSINESS

Consideration of Minutes

June 11, 2024 – Public Hearing and Regular Meeting Minutes

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

On MOTION made by Tara Brady, seconded by Ashley Kingston, and with all in favor, the June 11, 2024 Public Hearing and Regular Meeting Minutes were approved.

THIRD ORDER OF BUSINESS

Staff Reports

I. District Attorney

No report.

II. District Engineer

No report.

III. District Manager

- a. Florida Law changes to Form 1 Filings
- b. Goals and objectives reporting requirements for CDD's
- c. Important Board Meeting Dates for Balance of Fiscal Year 2024
 - 1. General Election, November 5, 2024
 - 2. December 10, 2024 – Seat 1 & 4 New Board Members
- e. Financial Statement for period ending June 30, 2024 (unaudited)
- f. Financial Statement for period ending July 31, 2024 (unaudited)
- g. Financial Statement for period ending August 31, 2024 (audited)

Mr. Ward reviewed the changes to the Form 1 filing requirements including the ethics training requirements. He noted he would send links for free ethics training courses via email to the Board. He discussed the new performance measures and standards special districts were required to report upon. He stated the report was due September 30, 2024; this was a self-reporting requirement, and the report would be posted on the CDD's website. He indicated there were no external reporting requirements to any state agency. He stated he created a simple form for performance measures which he would fill out and post on the District's website annually. He reviewed the performance measures for this fiscal year and noted the Board could change these measures in the future if it was deemed appropriate. He asked for a motion to adopt the performance measures and standards.

On MOTION made by Tara Brady, seconded by Ashley Kingston, and with all in favor, the performance measures and standards were adopted.

Mr. Ward reported there was a general election in November of this year for Seats 1 and 4; two individuals qualified for these seats, one for each seat, and as such were automatically elected and would take office the first Tuesday after the election. He discussed the oaths of office each

individual would take before taking office. He noted the final landowner's seat would convert in 2026 to a qualified elector's seat.

Mr. Hasty asked who qualified for Seats 1 and 4.

Mr. Ward responded Denise Blakely and Robert Brady (who were present at today's meeting) would fill Seats 1 and 4 (Ashley Kingston's and Christopher Hasty's Seats).

Mr. Hasty: A piece of it is we have gone so many years past when we would typically have been seating residents that would have been doing a reasonable enough job that nobody really felt like they wanted to change course, so it's good to have the participation. It is nice. So, thank you for stepping up.

FOURTH ORDER OF BUSINESS

Supervisor's Requests

Supervisor Brady - Repairs/Maintenance of District Facilities

Ms. Tara Brady: I had submitted the email, and I had talked – I'll go first on the list. Assets that we have. It correlates with the goal of having the District Engineer review all of our assets. In looking at what we have and trying to make sure that we are budgeting appropriately for maintenance, when we are going to have to repair things. I tried to look at our list and see what assets we have that we maintain. We don't actually have a list, so I received all of our plans, which is great. I'm not as concerned about utilities because they go over to Charlotte County. We don't actually maintain those. But, the drainage pipes, the catch basins, the roads, the street signs, the sidewalks, all of those assets that we have as infrastructure that we are responsible to maintain, we don't actually have a list. I know somewhere in the budget it said we have about \$45 million dollars' worth of assets, which is great, but some of it is a lot older because it was in the original phase 1, some of it is not, what are the conditions, how many feet of pipe do we have, what size pipes, how many catch basins, etc., we don't have any of that. I would like to get an actual asset list. I did have this conversation with Clay. I called Jim, talked to Jim. So, Clay can give us almost everything for phase 2 because they have been involved in it. My biggest concern is we have no drainage plans or anything for phase 1, nor does he have an idea of what's out there because frankly the as-builts that were there are not all that great or what he can really find. So, I'm going to suggest that we authorize them to go out and look and collect the assets that we do have, so we have a complete list. I have some concerns where I see the indentations and the potholes right where a pipe joint is, and it's a lot easier to say, "hey, that is a problem, we should check that joint" and I know I get a little more detailed because is it what I do for a living, and I know the County standards are different than what we have to have with a CDD; however, we should still maintain things to a good functional way. With that said, phase 2 shouldn't be as bad. Have all of the assets in phase 2 been turned over to the CDD? I guess that would be my question. And Lennar could give us the list when everything has been turned over. I know a lot of the assets have been, but at least for phase 1, I know the CDD would have to eat that cost with them, but we need to know what's out there.

Mr. Ward: You are right about the details. We don't have details on phase 1. Phase 1 was done by a prior developer. The bonds went in default at some point, so whatever was paid for from phase 1, a majority of it was a land acquisition related to that large preserve in the community by Charlotte Harbor, so that was (indecipherable) funds. The rest of it in phase 1 included water and sewer utility lines which were transferred to Charlotte County. The only thing that's really left is a little bit of street drainage

that's in the phase 1 area, and some of the roadways that were in phase 1 up to the bridges, those wood bridges, including the wood bridges. That was basically the phase 1 project and obviously some of the lakes, all of the lakes from the golf course, and some of the lakes that were in the single family area. That's all that's in phase 1. It's not particularly a lot of stuff. I'm guessing a lot of the drainage system looks revised as a part of the phase 2 project. I don't know what happened to the roads up to the bridges, if they were redone at some point. I can kind of play through that because I kind of remember it in my head, but you're right. We do need some more details.

Ms. Brady: My motion would be to direct Atwell to give us a cost first that we could have at the next meeting to approve. I don't want to give a blanket approval of hey, go do this, not knowing what it would cost. But at least have him give us a cost estimate to get us phase 1 and then how would we do phase 2? We need Lennar to give us all of this when we take it over, so we have that information.

Mr. Ward: I have the authority to have that work done, so I can do that prior to another Board meeting and get a proposal from Clay to do that and approve it to the extent I deem it an appropriate cost. We can go from there. Generally, in all these developments, and pretty much true in this project too, Engineering has all that information anyway, not necessarily coming from Lennar. They don't need to get that much information from Lennar. Clay should be able to have all of the Engineering. He knows what's going on within the development because he's been the engineer to begin with, so they are going to have all that information to the extent that if you need something from Lennar you can go back and request it, but I think we should be able to do this 95% of the way in-house.

Ms. Brady: Okay.

Mr. Hasty: So, would it be better to direct him to start with a not to exceed number?

Mr. Ward: No. (Indecipherable).

Ms. Brady: So, we don't need a motion. I'm just giving him direction and he has the leeway without a motion to do what he needs.

Mr. Ward: This is within my scope of services. I'm good.

Ms. Brady: The next thing is the current maintenance. I know that the HOA was not happy with the draft maintenance agreement. He replied back with some of the things he had concerns about, which I did too. So, one of my biggest concerns right now, and again I don't even think the HOA is doing it, I think it's one of our land developments, is filling the potholes. I know Icon, for the HOA, goes out and throws some coal patch in when they need to if it's going to be a while. There are some extremely large potholes out there right now. I took my iPad and just drove (indecipherable) and the loop and there are some that are 2 feet wide and 6 inches deep. That's just not acceptable. We have had a ton of rain, I get it. It's been dry for a couple of days now. We need to at least get some coal patch in there and do it correctly so it's layered, and that will last us for a while. I requested the specifications they are using for when they are coming out to actually fix the asphalt. It needs to be done correctly. The HOA asked me for the Engineer to provide specs.

Mr. Hasty: Aren't the specs defined in the County standards?

Ms. Brady: I can do my County stats, and I can give them to them, I'm just saying.

Mr. Hasty: There are residential specs inside the County standards, right?

Ms. Brady: Because they don't bid out hole repair, the County does not have a spec per se' for pothole repair we put out to bid.

Mr. Hasty: But if we repair it to the standard cross section of what the road is supposed to be? You're talking about describing the methodology?

Ms. Brady: Yes. So, I have the activity guidelines of what we do through County code. I hope we can just provide that, and they are not going to say it has to be the engineer, or I'll send that to Clay, and he can just sign it and give it to them. Either way.

Mr. Ward: That's fine. You can do that. It's an established standard. We are not supposed to deviate from any County standards on how we do things. So, that's fine.

Ms. Brady: Okay. I'll get you that. The other thing is, and this may have to come out of our funds, is street sweeping. Right now, I have been told that they sweep the construction areas once a week. I have asked again, as I live right next to where they are building a pool for a year, and they have never once had street sweepers. Again, I know that my street sweeper for the County that comes in once a month, does it at night, but you can tell the next day when it's been done. So, in this instance, and again I'm just going by driving around, I've never seen where one day it looks like they swept over night. I took pictures of a pile of sand which for more than three months washed away down the street into the drain, and I sent it to them.

Mr. Hasty: Who did you send the pictures to?

Ms. Brady: Matt and Todd. I had a safety issue and Todd was great the other day, and Matt has been good with responding to stuff too.

Mr. Hasty: So, the HOA is supposed to be doing this, and they are not?

Ms. Brady: I don't know.

Mr. Ward: In normal districts, there is an agreement between the CDD and the HOA. In this particular District we haven't done an agreement yet. (Indecipherable) whatever standard they deem it appropriate. (Indecipherable).

Discussion ensued regarding the mess being made by the construction trucks, who was responsible for cleaning the construction mess, holes which needed filling, street sweeping, and getting Lennar to clean the roads in the construction areas.

Ms. Brady recommended hiring a street sweeper to come out monthly.

Mr. Ward: From a District's perspective that's easy to do. The problem is, we don't have an operations department as a CDD, it's only been administrative. We will have to figure that part of it out to make sure it gets done, somebody gets it inspected and pays for it.

Ms. Brady: I will be happy to be that inspector person. If the HOA doesn't want to do that and add that to whatever contact they already have out there, I am more than happy to do the specs like what we do for the County. I want to say we were paying like 12 cents a foot for them to do the whole county.

Mr. Hasty: Do we know when the Association is turning over?

Ms. Brady: It depends on who you ask. In my conversations with Matt, he did not think it would be until the end of next year. The end of 2025, but if I go into the sales office they are like, "we only have 150 houses to sell and we are completely out of here," so I don't really know. I did ask the County to tell me how many COs they've issued, but we are having a glitch that they can't actually pull that out of the system easily because of the old section and new section and a condo section.

Mr. Hasty: I think we should work towards where you want to be ultimately when the residents are in control of everything the Association is doing and the Board. So, residents are funding the operations of both agencies, and the District is really handcuffed on what it can do and how it can do it and the processes that it has to go through, like an RFQ and then an RFP and a sealed bid, so it is beneficial for the Association who has the flexibility to be able to do a lot of those things. They have a lot more agility. We got some comments back. Was it like, no, we don't want to do that?

Ms. Brady: They don't want to sign it because of these 7 things that are in there, but here's the part where I think our issue lies, Kathy here is on the HOA Board. She is the only resident on the HOA Board.

Ms. Kathy Burke: I'm not the HOA Board's biggest fan because I ask a lot of questions because I have residents asking me questions. If it was up to them, I think they would want me voted off, just to start with somebody else, but to be honest I've asked about when we are having turnover and I'm getting the same answers that Tara is getting. We have a lot of concerns within the community. Everybody is really itching for us to turnover and it seems to me they are not being up front about the reality. I have been around and counted doors in July where I knew people were living and their number didn't match mine. So, I'm not so sure they are being honest. I think they are stalling on the turnover.

Mr. Ward: 1,516 units are how many are in the CDD for purposes what we assess.

Ms. Burke: In July I counted 1,229 closed doors. August 31 was the end of the third quarter and my salesperson told me he had 13 closings himself, and he is one of four salespeople. So, I don't know what they've closed in August, but I know they've already sold a Terrace Building which has 34 units.

Ms. Brady: You're saying 1,516. What's not included? Because there are supposed to be 1,800 doors.

Discussion continued regarding the number of units in the development, which units were included in the District, when the turnover process would begin, when units closed versus when units were constructed, how many units were in the District at this time, and when the District would be at 90 percent capacity.

Mr. Hasty: Doing the math, 1499, 90 percent is 1350. That's 120 more closings to happen. Turnover doesn't happen the day that happens because you want to designate who your committee is, and the committee gets brought up to speed and all that sort of stuff. Usually, turnover runs 60 to 90 days. So, if you have 120 more closings it will take another 9 months or so, and then another 90 days to turnover, it's September or October of next year. It doesn't seem like an unreasonable statement so they may not

say it's June when they think it's August, and they may say it's October when they think it's August. By the end of next year, you will be turned over is a very safe statement that they know will be correct. We also don't know what will happen in the market from the developer's aspect of if sales slow down a little bit, then that may bleed out a little bit, maybe it bleeds another month or two, or another quarter out.

Discussion continued regarding when homes would close, when the development would reach 90 percent capacity, when the condos closed, the clubhouse, how the residents perceived the HOA and the CDD, and nonresidents using the pool area.

Mr. Hasty: Kathy are you suggesting the Board is seeking out other people to fill the pool, so it looks busy for sales?

Ms. Kathy: Yes.

Mr. Hasty: I don't know that (indecipherable) has that kind of time?

Ms. Brady: I don't agree with Kathy on that one. I think people have just used it. I will say this. I know it's against the rules, but I'm going away for three weeks, and my kid's going to stay at my house. My kid should be able to use the pool. It's against the rules and they can't now, so that's things we can change once we take it over. I think it's more that, or if I'm not going to be here for the summer, I have friends that live here, I'm going to give them my card so they can get in. In my opinion, that's more of what it probably is.

Discussion continued regarding nonresidents using the pool area, gym area and other community amenities, salespeople and other solicitors entering the gated community, the need to monitor who used community amenities, the need to find a better security company to monitor the gates, and construction on the weekends.

Mr. Hasty: Thank you for purchasing a home from us, and that was a couple of years ago. There is a handful of folks that stayed from the very beginning, and I think they will tell you that when the developer failed, Lennar tried to step in and finish the community, but the banks would not allow it. Lennar offered to buy their homes back from them and ultimately did buy back almost 40 of the homes, kept them on their books and rented them out for a decade until we got to a point where the bonds were defunct, took it out of default, and then we bought it back from the bank. We've taken it from the original developer to sort of do the right thing and finish the place. So, it's not that they are trying to swindle anybody. You said there was a perception that they were doing things just to get sales. They've been involved for a long time. And we've been on the Board for far longer than we should have had to be on the Board because most of the residents – how many people do we get from the public generally at the Tern Bay meetings? Zero. For years we've not had a soul show up. And so, we've been trying to do the right thing. I'm glad you're a part of it now to start this. It hurts my feelings a little bit to have been here for years and it's like well, you guys aren't doing this, this and this, and this is wrong and that's wrong, and I think it's a communication issue primarily, but I'm glad you're here to start transitioning this over because ultimately it needs to go back to the residents. You need to be in control of your own community.

Discussion continued regarding the need for better security at the gates into the community, and the construction gates.

Mr. Hasty: Anybody in the country can drive up to gate and say, "I'd like to be let in the community."

Ms. _____: (Indecipherable)?

Mr. Hasty: Because it keeps most people out. Most people that are up to no good do not want to go up to the guardhouse with their picture on the camera, with their license plate being recorded, and here's a copy of my driver's license, but you can't prevent them from coming in because of the nature of the District. This is a public board, everyone is elected officials, you have to file financial disclosures and all that stuff.

Ms. Brady: So, the rest of the infrastructure, we will work on the street sweeping and whether we get with the HOA and try to get them to do it because it's easier for them than us. I will let you do that, or do you want me to email them for that? And I will get the pothole standards and (indecipherable). The other thing is, I'm waiting for an email back – I've had lots of conversations with residents about that 50 foot easement out to the canoe launch. It was really good; they removed the dirt pile out of that thing that day. However, it's really overgrown, and you can't get back there now. Because the canoe launch is already there, we have to be providing access. We need to have that pathway cut back so there is access there. I almost want to ask should we ask Mr. Rebol (Engineer) to look because I know Lennar didn't permit that whole portion. The canoe launch was in when Tern Bay did it, so I want to see, should we verify it was actually permitted and done correctly. I don't know if we want to step that far, but I want to make sure that 50 foot easement is opened up. They have to maintain access to what was already there.

Mr. Hasty: Don't we have a budget for maintenance?

Mr. Ward: No. Because we don't have an agreement. The HOA is doing it. So, if the HOA does not do the maintenance, it doesn't get done. If you want the CDD to maintain its own assets we can do that, partially, all of it, whatever you want. It is up to the Board.

Mr. Hasty: So, we'd have to go out and get a bid for some landscaping thing.

Mr. Ward: The bidding requirement is for over \$195,000 dollars for maintenance items. Under \$195,000 dollars I can do whatever I want. I can get quotes; I can get whatever.

Ms. Brady: Maybe we just try with the HOA because, a perfect example was my issue with the sidewalks. I literally called Shawn from the golf course to come over and clean it. When they put that pile of dirt there, they had Shawn from the golf course put the pile of dirt there to block the walkway, so it would take him half a day to have the golf course guys go cut the bushes back. That would save the community as a whole a lot if they would just do that with us. If we want, I can send him an email giving him the specs for the potholes, giving him the sidewalk, and asking him about that, and will the HOA do this maintenance stuff for us now until we have the formal agreement done. That gives us a little bit of time. We will get his response back yes or no, and then by the time we have the next meeting, you two will be free, and we will have four residents on the Board and one Lennar. I definitely think we can get the HOA to cover it. It's all the same money, it's just easier for the HOA to do it.

Mr. Hasty: I don't disagree with you. How do we do this? Can she just do that?

Mr. Ward: I can help her, Yes.

Discussion ensued regarding communicating with the HOA, the CDD Board members not being permitted to communicate outside of public meetings regarding Board related issues, the CDD Board members being subject to the Sunshine Law.

Mr. Ward: To the extent that an item is going to appear before this Board, you are all subject to the Sunshine Law. To the extent that it is not going to appear before this Board, and I handle it internally, it's not a Sunshine Law issue because you are not voting on it. As long as this doesn't come up again in a Board Meeting, and you don't vote on it at all, it's fine, but it tends to come up after the fact, so I say don't discuss it.

Mr. Hasty: You guys shouldn't stand in the parking lot and talk about any of this stuff because that could be perceived as having a private meeting outside of a public meeting.

Mr. Greg Urbancic: I just want to add, there is a 1998 Attorney General Opinion that says unopposed candidates are not subject to the Sunshine Law until the election actually occurs. So, until the general election day, they are not subject, but as soon as that day hits, they would be subject. That's the prevailing interpretation, but I'm not saying not to be conservative.

Discussion continued regarding the Sunshine Law and being cautious about what was discussed outside of meetings.

Mr. Ward: I mentioned before the meeting about moving the meetings over to the community center or someplace.

Ms. Brady: I got back the response that they do not have a problem. They were going to check with the team and make sure there is nothing else scheduled in the fitness room on the second Tuesday of the month at 10 a.m. and will get back to me. You are copied on those emails.

Mr. Ward: I have to advertise these things a week in advance. I need ten days to do an advertisement. The hard part is, if we have to do an advertisement every single month, that's too much. If the HOA cannot commit to giving us a specific day, I do not recommend we advertise every month or correct the advertisement every two or three weeks. If they can confirm we can have all the dates I think it's a good idea to go there, if they can't or won't then we are going to have to stay here or go somewhere else.

Ms. Brady: Once the clubhouse is done, we can definitely do that.

Discussion ensued regarding when and where to hold the CDD meetings, and advertising requirements for CDD Board meetings.

Mr. Ward: I always make a resolution a year in advance to set the meetings, because I put that all on the website, so everybody knows when the meetings are ahead of time. But if we are going to change it, that's fine, I will do a one off for the next meeting, but then we are going to set a schedule for the rest of the meetings.

Discussion continued regarding when to hold CDD meetings.

Mr. Ward: Let's get through November and December and we can figure it out. We have a date for November, but I don't have any items for November, so the next meeting we would have would be in December because that's when I need to swear in the two new Board members. So, if you are good with that, that's what we will do. We will just have a December meeting, and I can move it over there once we get confirmation. When the new board members come up, we will put them on the Board, I will do a resolution and we will have a discussion at that meeting about the Board meeting dates, times and location, and then we can do another resolution at that point.

The Board agreed.

FIFTH ORDER OF BUSINESS

Public Comments

Public Comments: - Public comment period is for items NOT listed on the agenda, and comments are limited to three (3) minutes per person and assignment of speaking time is not permitted; however, the Presiding Officer may extend or reduce the time for the public comment period consistent with Section 286.0114, Florida Statutes

Mr. Ward asked if there were any public comments; there were none.

SIXTH ORDER OF BUSINESS

Adjournment

Mr. Ward adjourned the meeting at approximately 11:05 a.m.

On MOTION made by Tara Brady, seconded by Ashley Kingston, and with all in favor, the meeting was adjourned.

Tern Bay Community Development District



James P. Ward, Secretary



Tara Brady, Chairperson