

Minutes of Meeting  
Rivers Edge  
Community Development District

The regular meeting of the Board of Supervisors of the Rivers Edge Community Development District was held Wednesday, May 17, 2023 at 11:02 a.m. at the RiverTown Amenity Center, 156 Landing Street, St. Johns, Florida.

Present and constituting a quorum were:

Mac McIntyre	Chairman
Frederick Baron	Supervisor by telephone
Robert Cameron	Supervisor
Scott Maynard	Supervisor

Also present were:

Howard McGaffney	District Manager
Lauren Gentry	District Counsel
Corey Roberts	Kilinski Van Wyk
Ryan Stillwell	District Engineer
Jason Davidson	General Manager
Kevin McKendree	Field Operations
Kimberly Fatuch	Lifestyle Director
Kevin Council	Amenity Manger
Jay King	Vice President, Vesta
Cheyne Solesbee	Yellowstone
Mike Scuncio	Yellowstone
Malcolm Santos	Yellowstone
Several Residents	

The following is a summary of the discussions and actions taken at the July 19, 2023 meeting.

**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. McGaffney called the meeting to order at 11:02 a.m. and called the roll.

**SECOND ORDER OF BUSINESS**

**Audience Comments**

There being none, the next item followed.

July 19, 2023

Rivers Edge CDD

**THIRD ORDER OF BUSINESS****Approval of the Consent Agenda**

- A. Minutes of the June 21, 2023 Meeting**
- B. Financial Statements as of May 31, 2023**
- C. Check Register**

Mr. McGaffney stated I received an email yesterday from Mr. Baron with several comments. Staff has provided answers to those questions. Jason will provide an update on some financial matters related to Staples and the ongoing \$10 late fee.

Mr. Baron stated put it out to all our contractors to ensure they have timely submissions, no more than 60-days from efforts being conducted that the billing is submitted to the CDD. We don't want to get caught with late payments after the October timeframe with items coming in January and February that were last year's bills.

Mr. McGaffney stated prior to the end of the fiscal year we send that out to all the vendors as well as engineer and district counsel to get everything in by September 30<sup>th</sup> so that we can get it paid in September. It doesn't always work out, but we will make that effort.

Jason has reached out and established a relationship with the manager of Staples for our government account and to let them know that sending a physical invoice was causing the delay. By the time we got it, it would be approved, scan it and the check would go out within 10 days, then another 10 days for snail mail and that puts us in the late period. We have set up electronic distribution of the invoices to Jason, within 48 hours he has reviewed and approved it and sent it us to us and we turn it around within 24 to 48 hours. We are trying to set this up for online payments so we are not sending checks via snail mail.

On MOTION by Mr. McIntyre seconded by Mr. Cameron with all in favor the consent agenda items were approved.

**FOURTH ORDER OF BUSINESS****Staff Reports**

- A. District Counsel**
  - 1. Discussion of District Easement Policy**

Ms. Gentry stated in your agenda package we included a copy of your current policy documents that were adopted several years ago. As a part of the policy we set forth the procedures for residents to request an encroachment into district easement areas. There was no fee associated

July 19, 2023

Rivers Edge CDD

with those requests at that time, and we have heard advice from your engineer when this issue has come up since then about the issues that can arise when allowing encroachments into your drainage and access and maintenance easements. There was some discussion at the last meeting about how we want to treat these requests, what considerations are appropriate for granting them or not granting them and how we want to treat these in general. This is for board discussion if there is anything you would like to revisit about the policy. In the event you wanted to impose a fee for these applications I did include a resolution that would set a public hearing on that, but by no means do you have to do that. Are you comfortable with your current easement policy?

Mr. Maynard asked in that process do we typically have fees incurred on the front end or on the back end if we had to have access?

Mr. Stillwell stated from a cost perspective if someone makes a variance request the fee that the district would incur is our hourly rate for someone to go onsite and look at it then the feedback on that response. There is also some legal effort associated with the agreement to exercise that but from a county or any other permit fees that would not be handled by the CDD.

Ms. Gentry stated sometimes it is just a review of the plats and doesn't require a site inspection, but in some cases your Engineer will need to make a site visit, which incurs more fees. In the past this board has taken the position that we don't grant encroachments in the easements unless there is some extenuating circumstance, but if someone thinks they have an extenuating circumstance they can submit the application. We have a form agreement and if it is granted, we just plug in the information so the legal costs are minimal. It gets recorded and the county charges per page and the recording fee is around \$70.

Mr. Cameron stated we are absorbing that at this time.

Ms. Gentry stated you are not currently collecting fees for that, and I can count on one hand the number applications that have actually been approved. The discussion at the last board meeting was we are so rarely going to grant these that we are counting this as an administrative cost of doing business.

Mr. McIntyre stated I don't think the board should incur any expense. It is a resident request and application fees are in order regardless of the frequency.

Ms. Gentry stated we can talk about the application fee and how you want to approach these requests in general. In the past you have said no approvals absent extenuating circumstances. If you are going to charge a fee, I recommend we add some language to your policy to clarify that

July 19, 2023

Rivers Edge CDD

so people know before they incur that fee if there is a good chance it will be denied. That language could be added to your policy immediately if that is how you want to approach it. Let's visit that first before we determine how we want to approach the fee.

Does the board still want to maintain the policy that as general matter we don't approve encroachments unless there is an extenuating circumstance, or do you want to modify how you look at those requests?

Mr. McIntyre stated I think we should stick with the existing policy. Mr. Cameron stated we also need to look at properties that already have fences.

Ms. Gentry stated I will keep this part of the discussion on what we do with approvals prospectively moving forward and afterwards we can turn to what we do about existing encroachments.

On MOTION by Mr. McIntyre seconded by Mr. Cameron with all in favor staff was authorized to amend the policy to include a statement that applications will not be approved absent extenuating circumstances.

## **2. Consideration of Resolution 2023-14 Setting a Public Hearing on Rulemaking/Setting Fee Structure**

Ms. Gentry stated I separately circulated sample fees from other districts. Some districts adopt a flat fee that applies whether we grant the request or not. Another option is to have an initial application fee and if your request is granted you pay an additional fee to cover the cost to prepare and record the agreement. We are open to suggestions from the board as well.

Mr. Cameron asked can we do a minimal initial fee and actual costs for the rest.

Ms. Gentry stated you can track actual costs. It's a little bit more effort on the administrative side rather than a flat fee.

Mr. McGaffney stated it is well intended but will add additional layers of communication. You may want to set a flat rate.

Mr. Cameron stated I liked the \$200 and \$300.

Ms. Gentry stated that reference was to if an engineer can evaluate the request without a site visit one fee applies and if a site visit is required the second fee applies. For advertising purposes we can advertise a range and we can continue talking about this to adopt a final fee within that range at the hearing. For an initial application fee, for instance, we can set \$50 to \$150 and

July 19, 2023

Rivers Edge CDD

you can adopt a final fee somewhere in that range. For the site visit we can call that an additional review charge and if additional review is needed the applicant is notified so they can decide if they want to continue pursuing the request. The third tier if it is approved could be the administrative fees.

Mr. Stillwell stated the board has already decided they will not grant an encroachment unless there is an extenuating circumstance so you would have to have a site visit along with onsite personnel.

Ms. Gentry stated in that case it makes sense to have two tiers of fees: an initial application fee that captures the costs of an engineering site visit, and a second tier that covers the legal/administrative fees of processing and recording the agreement if approved. These fees will not go into effect until September when they are adopted.

After further discussion the following fee structure will be noticed: An initial application fee of \$150 to \$300 and an additional \$100 to \$200 if approved.

On MOTION by Mr. Maynard seconded by Mr. Cameron with all in favor Resolution 2023-14 setting a public hearing for September 23, 2023 at 11:00 a.m. was approved.
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Ms. Gentry stated there are two additional matters relating to easement encroachments. First is a specific encroachment request that the board considered at your last meeting at 429 Narrowleaf. The resident is present and he wanted an opportunity to address the board. You also need to address how you want to approach existing encroachments.

The board determined to hear the resident's statements first.

Mr. Rios outlined his request for a 5-foot encroachment and the construction of a fence and gate for access and pointed out that other homes in the area have fences.

Ms. Stillwell stated this is the location where the adjacent neighbor's fence encroaches on the easement already.

Ms. Gentry stated the HOA has stated that they did not approve the fence to be in that easement. We are working with them to get them to enforce through their own rules for that existing encroachment.

Mr. McIntyre stated I'm inclined to stick with the initial ruling because we are trying to get the HOA to get the other encroachment removed. Whether they got permission from the HOA

July 19, 2023

Rivers Edge CDD

or not, the HOA doesn't really have the authority to grant permission of any fencing into the CDD easement. Unfortunately, your neighbor may be in jeopardy of having to incur the cost of removing his fence.

Mr. Rios stated that is not my goal. My goal is to make sure I comply with the regulations and see if you can grandfather that. Maybe you can do a further investigation and approve him because he told me all you have to do is contract this company and they do all the background, go to the HOA, CDD and all that stuff. I don't know if that company went to the builder and the builder approved it because he is the first owner of his home, I'm the second owner of mine. The company I'm using is local and they told me I had to do the approval with the HOA and CDD.

Mr. McIntyre stated I hear your reasoning, but I don't think that meets the extenuating circumstances criteria. If we grandfather you in then anybody else can come back with the same thing, now the door is open for inconsistency. The policy stands, we have already reviewed your case, given our ruling on it and I'm inclined to keep it that way.

Mr. Cameron stated if the next-door neighbor has chosen to move the fence if told to do so by the HOA and he proves the HOA gave permission, either the HOA incurs the cost or he can review it with us a third time. It was probably the fence company that said they got their approval and built it anyway. If the HOA gave him approval and doesn't force him to move the fence then we should reconsider his request.

Mr. Baron stated I am not in agreement. Your opinion is your opinion. I don't share that opinion and will go on the record of it would be illegally put in and it is going to cause a more consummation of legal aspects if it is not corrected in the proper manner and in line with St. Johns County ordinances.

Mr. McGaffney asked does it impact St. Johns County ordinance or is it just our policy?

Mr. Stillwell stated it is the CDD's easement that is in accordance with St. Johns County land development code and St. Johns River Water Management District regulations. Having a fence installed in that easement limits our access.

Mr. Cameron asked what about the fence in the back? Does that limit your access? The one that goes all the way across?

Mr. Stillwell stated yes, we can't access through the easement.

July 19, 2023

Rivers Edge CDD

Mr. McGaffney stated one scenario that has already been brought up is it potentially happened at different control of the board and maybe it was approved via the standards of the HOA and the CDD. I don't know. We would probably spend more in legal fees and my time trying to track down what happened versus trying to figure it out. You have two situations. I don't know that they are mutually exclusive based on what I'm hearing now. That back fence stretches across multiple properties. Likely, builders put that in when they were building homes. The home with the existing fence which is 419, we don't have proof and the HOA doesn't have proof that it was ever approved. It could have been done at a different time, just not recorded.

Ms. Gentry stated the HOA sent us a document that they sent to the owner of 419 Narrowleaf stating that there is no approval to place a fence in the district easement.

Mr. McGaffney stated it definitely occurred prior to any of us being aware of it. That brings us to Carlos who is saying I just want to do what he has done but maybe a little different with a gate for access. The decision is twofold, (1) address Mr. Rios specific request and (2) we will get direction from the board after that decision on how you want to proceed with 419.

Mr. Rios stated the two houses behind me have a fence.

Ms. Gentry stated unfortunately, they didn't get approval from the CDD. We will follow-up with the HOA on those as well.

Mr. McGaffney asked as it relates to Mr. Rios at 429 Narrowleaf is there a motion for an easement access or encroachment or are you going to stick with the policy?

It was the consensus of the board to stick with the policy and not approve an encroachment into the district's easement.

Mr. McGaffney stated as it relates to 419 I didn't hear a response.

Mr. Cameron stated if we are doing this with the homeowners then the builder fence should be removed.

Ms. Gentry stated the builder's fence is a little different case, and the board can decide how you want to treat this because this easement is for an underground drainage pipe that runs lengthwise along the easement, not for access to a pond. From an access standpoint, the fence running perpendicular across the pipe is less burdensome than a fence running parallel down the length of the pipe.. I defer to Ryan as to how big of a problem the builder fence would be.

July 19, 2023

Rivers Edge CDD

Mr. Stillwell stated I agree. The concern with a fence running parallel with the pipe is that every post that went into the ground could have hit the pipe whereas one that crosses the pipe is a panel that can be removed quickly versus posts being there and a gate.

Mr. Cameron stated they didn't get permission from the CDD so why are we treating them any different?

Mr. Gentry stated let's just talk about existing encroachments. We are aware that this board as a general matter has not approved these encroachments in the majority of the cases except for very few that we have on file. I want to make you aware of a situation in Nassau County that we were dealing with where unfortunately, every homeowner who had an easement around a stormwater pond had placed a fence there without CDD knowledge. Every easement was blocked. We were in the position of then having to send legal letters to every homeowner begging them to move their fences. Luckily some did, but some didn't and the district started getting complaints from the properties that had moved their fences saying why is it our burden for all the maintenance traffic to go over our easement. It was unfair. We ended up having to bring injunctions in county court against the people who did not move their fences and there was no mechanism to recover legal fees for that. It was a district expense to enforce their easement rights. We are trying to avoid that situation from happening here. For these existing encroachments I do think it is important to enforce the district's rights, it is much simpler for us if it was not approved by the HOA. If the HOA is willing to use their enforcement mechanisms the same way they would enforce anything that was done without their permission or contrary to their permission, that is the simplest route. If people do not move their fences it is important to put them on notice that they are encroaching and the CDD has the right to require them to move that fence. Does the board want to do a property-wide evaluation, authorize Jason and Ryan, of course Ryan would have fees associated with that, to evaluate what encroachments exist throughout the whole property, or do you want to continue dealing with these as they arise on a case-by-case basis?

Mr. Cameron stated we are going to have more people questioning because there are going to be resales in the neighborhoods. The person is going to look at what's next to them and say why can't I do it. We need to see if Jason's team can do it and bring it back to the board.

Ms. Gentry stated perhaps Jason's team will do a preliminary review and we will caveat that with they are not engineers and they are not going to do a property survey. I recommend you allow me to write a form letter that when there are unauthorized encroachments discovered, we



July 19, 2023

Rivers Edge CDD

automatically send that letter that puts them on notice their fence is in a CDD easement, the district reserves the right to require you to move this in the future, and we report those addresses to the HOA so they can follow-up through their mechanisms.

Mr. McIntyre asked Jason is that something that is doable in your wheelhouse with your people?

Mr. Davidson responded it is. We would throttle back off of summertime in the winter we can definitely do that.

Mr. Baron moved to authorize Jason's team to evaluate encroachments and district counsel was authorized to prepare a form letter to be sent to the addresses with encroachments and Mr. McIntyre seconded the motion.

The floor was opened for public comment on the motion.

A resident asked where are the rules written regarding the CDD?

Mr. McGaffney stated you will find the policies on the website, and I will give you my card and we can direct you to the specific policy. Now we are discussing to have a policy to further clarify that the desire of this board is to not encroach in those easements. Now we are talking about existing fences that do not have approval.

On voice vote with all in favor the motion passed.

## **B. District Engineer**

### **1. Kendall Crossing/Main Street Stop Sign Proposal**

Mr. Stillwell outlined the proposal and stated this is the same vendor being used on all the installs in RiverTown. This would be a cost share item, districts II and II have already approved these.

On MOTION by Mr. Maynard seconded by Mr. McIntyre with all in favor the proposal from American Architectural Graphics, Inc. in the amount of \$4,147.00 was approved.

### **2. Kendall Crossing/Main Street Striping Proposal**

July 19, 2023

Rivers Edge CDD

Mr. Stillwell stated the second item is the thermoplastic and stop bars they are adding with those stop signs. That proposal is from Burnham Construction for \$1,300 to be cost shared. CDD II and III both approved this.

On MOTION by Mr. Maynard seconded by Mr. Cameron with all in favor the proposal from Burnham Construction, Inc. for thermoplastic striping and 2 stop bars along Rivertown Main Street in the amount of \$1,300 was approved.

Mr. Stillwell stated we talked about it earlier today but once we get both contractors scheduled, we will work with Jason and get an alert out to the residents of this three-way stop installation.

Mr. Stillwell left the meeting at this time.

**C. District Manager**

There being none, the next item followed.

**D. General Manager**

**1. Monthly Amenity and Field Operations Report**

Mr. Davidson stated we are still in line with our schedule for the installation of the new gym equipment. The current equipment extraction will begin tomorrow, the new floor installation will begin on the 24<sup>th</sup> through the 25<sup>th</sup>. There is a 24 and 48 hour curing process for that floor. The new equipment installation is scheduled for the 27<sup>th</sup> and we hope to have the gym opened by that weekend.

**2. Pond Service Report**

A copy of the Charles Aquatics, Inc. pond report for June was included in the agenda package.

**E. Landscape and Irrigation Maintenance – Monthly Report**

Mr. Scuncio gave an overview of the landscape update for July, copy of which was included in the agenda package.

July 19, 2023

Rivers Edge CDD

Mr. McGaffney stated I sent out an email regarding the Spanish Moss and I want to thank Yellowstone and the onsite staff for their efforts. We get a lot of resident requests and we try to address those as quickly as we can but the Spanish Moss is not part of the Yellowstone agreement and the fact that you did that at no additional cost to the district is very appreciated.

Yellowstone representatives left the meeting at this time.

## **FIFTH ORDER OF BUSINESS**

### **Business Items**

#### **A. Items for Board Consideration**

##### **1. Proposal for Pond Maintenance (Cost Share)**

Mr. McGaffney stated at the last two meetings cost share items came before all three boards. The other two boards opted as long as we were all in agreement, to put Charles Aquatics on notice for deficiency per the terms of the agreement. We will put them on notice and give them time to resolve that and respond to that and report back on a monthly basis if we need to go in a different direction.

It was the consensus of the board to put Charles Aquatics on notice.

Mr. McGaffney stated district counsel will be sending them a letter.

##### **2. Proposal for Pool Deck Audio Speaker Repair (Cost Share)**

Mr. Davidson stated it was discovered that a multitude of speakers on the RiverHouse deck have become non-functional. We were able to acquire a couple proposals for replacement, one from TMT and one from 5 Smooth Stones. The proposal from 5 Smooth Stones is a little more expensive, however, by the time we purchase the surge protector with TMT the prices would come in line or exceed that potential amount. As that was explained to REII and REIII they requested staff look at the warranty with 5 Smooth Stones and see if they would warrant the five years and if so then it would be approved contingent upon that. Also, they set a not to exceed amount of \$10,883.30. Is the board in agreement with that or do you want to go forward with TMT?

<p>On MOTION by Mr. Maynard seconded by Mr. McIntyre with all in favor staff was authorized to work with Supervisor Thomas of REII and REIII to make the final selection in an amount not to exceed \$10,883.30.</p>
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July 19, 2023

Rivers Edge CDD

### **3. Fifth Amendment to the Vesta Agreement – Revised Fees for FY 2023 and 2024**

Mr. McGaffney stated Rivers Edge III had previously agreed to engage Vesta formally for field operations and general management. The cost share methodology that we applied was a 40/40/20 split for the General Manager and Field Operations line items. When I was doing the budget with Supervisor Baron we talked about this and discussed the 40/40/20 split. That will be the methodology we will apply if approved by Rivers Edge today. It will apply for the remaining two months of the fiscal year and Rivers Edge III is going to engage them contingent upon this approval. For 2024 we are still going to do that with the updated 2024 fees that were previously approved in February by the boards for Vesta. I will update the table in your agenda and add another column to further clarify the prorated amount for Rivers Edge. Even though we are going to approve that today, the River Lodge, which is the name that has been given to River Edge III's new amenity center, is under construction and is planned to open in 2024. The fiscal year 2024 pricing here will only last until that opens. Then, we will go out with an RFP and get updated information and we will time the RFP around the same time in early spring to also include the River Lodge.

On MOTION by Mr. McIntyre seconded by Mr. Cameron with all in favor the Fifth Amendment to the Vesta Agreement for the two remaining months was approved in substantial form subject to review and approval by the chair and the district manager was authorized to update the table.

#### **SIXTH ORDER OF BUSINESS**

#### **Other Business**

Mr. McGaffney stated as it relates to the fiscal year 2024 budget you received an email from me that said I mistakenly applied the cost share methodology to three of the positions with Vesta so it impacts it in the amount of \$27,500. When we go into our public hearing, I will make that announcement and say we are going to have to increase those expenses, but we cannot increase the assessments on the residents. We will pay for it out of the carry forward surplus from this year, which you will have.

#### **SEVENTH ORDER OF BUSINESS**

#### **Supervisors' Requests**

July 19, 2023

Rivers Edge CDD

Mr. Cameron stated a lot of our boxes are old and don't have surge protection. I don't know if it is better to buy it at the meter from FPL or add surge protection to the boxes. It would stop the GFI's from blowing as much, which may save money on repairs.

Mr. McKendree stated I'm looking into it right now at the club.

## **EIGHTH ORDER OF BUSINESS**

### **Audience Comments**

Mr. Janzen stated the stop sign at Kendall Crossing and Orange Branch the one going south, I saw three cars run it in 30 seconds. The tree in front of it blocks that stop sign and you may want to trim or remove that tree.

Ms. Caballero stated we moved in four years ago and we are tennis players. The community is becoming more about pickleball than tennis. We have a league that we got approved on Friday nights and the girls also play on Friday daytime. The problem is when those lines were installed makes it impossible for you to play tennis at a competitive level. There are white lines everywhere. I don't mind sharing the court, my problem is you can't share a court and make it unplayable for one half of the group that is sharing it. I don't know the timeframe for painting those lines. I reviewed a lot of diagrams on how that should have been set up, the way ours is set up doesn't utilize the existing lines so they drew a court in but they kind of threw it in. They didn't take into consideration that there will still be tennis played on those courts. I can send you some of the diagrams, they should have used our service line as some of the lines. They could have extended it outside our net. They could make it four courts instead of two the way it is set up now. We need more courts. They have to be maintained and now there are more lines.

Mr. McIntyre asked are we in a window to reevaluate?

Mr. Davidson stated I can reach out to Mr. Bullock and see what options we have.

Mr. McIntyre stated we will take all of that into consideration when we get to the point where we can build the new tennis courts. That is being discussed; we don't have the timeframe ,but it is an active discussion to get our own additional courts here and hopefully, Mattamy might decide to put others in. We also know they need to be resurfaced. These things are being massaged, we have to find the budgetary means for it and not raise everyone's fees. Thank you for your patience and we will take all of that into consideration.

July 19, 2023

Rivers Edge CDD

Ms. Hounshell stated one thing you might want to look at in time to get budget savings is the clay courts are in bad shape. Would it be more cost effective to convert those to a hard court instead of clay courts.

A resident stated we can't play on hard courts, we can only play on clay.

Mr. Cline stated one con to putting extra lines out there without properly maintaining marks it is very easy to trip and get injured.

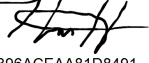
Mr. McGaffney stated Supervisor Baron is the liaison to work with staff to bring back a plan for pickleball courts to the full board.

**NINTH ORDER OF BUSINESS**


**Next Scheduled Meeting – August 16, 2023 at 6:00 p.m. at the RiverTown Amenity Center**

Mr. McGaffney stated the next scheduled meeting is August 16, 2023 at 6:00 p.m. in the same location.

On MOTION by Mr. McIntyre seconded by Mr. Cameron with all in favor the meeting adjourned at 12:33 p.m.

DocuSigned by:  
  
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Secretary/Assistant Secretary

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Chairman/Vice Chairman