

**MINUTES OF MEETING
MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT**

A Public Hearing and Regular Meeting of the Moody River Estates Community Development District's Board of Supervisors were held on **Monday, September 9, 2013 at 1:00 p.m.**, in the **Clubhouse at Moody River Estates, 3050 Moody River Blvd., North Fort Myers, Florida 33903.**

Present and constituting a quorum were:

Ilse Mayer	Chair
Terry Pye	Assistant Secretary
Jeff Berry	Assistant Secretary
Frank Reynolds	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Mike Eckert (<i>via telephone</i>)	District Counsel
Chuck Bowen	Hopping Green & Sams, P.A.
Carl Barraco	District Engineer
Residents	

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 1:00 p.m., and noted, for the record, that Supervisors Mayer, Berry, Reynolds and Pye were present, in person. Supervisor Shea was not present.

SECOND ORDER OF BUSINESS

Administration of Oath of Office to Newly Appointed Supervisor, Frank Reynolds (Seat 4) (*the following to be provided in a separate package*)

Mr. Adams, a Notary of the State of Florida and duly authorized, administered the Oath of Office required by the Florida Constitution and Division of Elections, as well as the Oath of Office required of all CDD Board Members, pursuant to Florida Statute.

Mr. Adams provided and briefly discussed the following items:

- A. Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees**
- B. Membership, Obligations and Responsibilities**
- C. 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**

Mr. Bowen discussed the responsibility of a Board Member to abstain from voting if there is a conflict of interest and indicated that the Board Member must complete a form explaining the abstention.

Mr. Adams advised that, following the appointment of Mr. Reynolds, at the last meeting, the Board considered the reorganization of its officers and elected to keep the slate as it was prior to Mr. Reynolds' appointment and appointed Mr. Reynolds as an Assistant Secretary.

THIRD ORDER OF BUSINESS

Affidavit of Publication

Mr. Adams presented the affidavit of publication for today's Public Hearing and Regular Meeting.

FOURTH ORDER OF BUSINESS

Public Hearing to Consider Resolution 2013-10, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2013, and Ending September 30, 2014

Mr. Adams presented Resolution 2013-10 for the Board's consideration. Mr. Adams stated that, year over year, the appropriation levels remain the same in how it relates to the assessment levels, on the operating side. At the bottom of Page 2, he noted that the assessment is the same as it was in the prior year for the single-family units.

Mr. Adams advised that the debt service fund is based on the amortization schedule, which outlines the annual repayment of principal and interest, with an interest only payment due on November 1, of each year, and a principal and interest payment due on May 1, of each year.

Mr. Adams explained that, in re-appropriating revenues, year over year, based on keeping assessments the same, the major change was for "Other contractual", under "Water management", and is related to the lake bank erosion issues that developed over the last ten (10)

to 12 years. He reported that the lake bank erosion projects were successfully completed for Lakes 1 and 2; the lakes were restored, re-sodded and replanted with aquatic vegetation. Aquatic vegetation was also added around the island with the eagle's nest, on Lake 9, and the lake was stocked with sport fish, at the request of the Board, to help support the food needs of the eagle and the ospreys in the area. Mr. Adams stated that all projects were completed within the current budget year and the new budget will begin on October 1. Another list of priority lakes will be compiled, with the worst being repaired first. The lake bank repairs are considered a multi-year project, which allows the District to avoid having to secure financing or increase the assessments. The county is receptive to this approach, as long as the District is making a good faith effort.

Mr. Berry inquired about the cost to repair the two (2) lakes. Mr. Adams indicated that it was just under \$40,000. Ms. Mayer commented that the cost was very reasonable for the amount of work that was performed.

On MOTION by Ms. Mayer and seconded by Mr. Berry, with all in favor, the Public Hearing was opened.

A resident asked if the budget contemplated additional fountains. Mr. Adams explained that the CDD maintains the existing fountains. There is a fountain maintenance line item within the budget but it is not related to additional fountains.

A resident asked the assessment amount paid by the developer, per lot. Mr. Adams replied the same amount is paid, per lot, whether it is built on or not. The developer owns the units so he pays the same amount. Mr. Adams explained that all units are counted in, as if they are built.

On MOTION by Ms. Mayer and seconded by Mr. Reynolds, with all in favor, the Public Hearing was closed.

With regard to the lake bank regrade, Mr. Reynolds asked how many lakes will be completed in Fiscal Year 2014. Mr. Adams explained that a portion of the \$97,500 is for lake and wetland maintenance. He referred to the detailed write-up, located on Page 4, noting that \$45,000 is budgeted for lake and wetlands, \$7,500 for fountain repairs and maintenance and

\$45,000 for pipes, inlets and lake banks. Regarding the number of lakes to be completed, Mr. Adams indicated that it is based on linear footage; some lakes have less shoreline requiring restoration.

Mr. Reynolds asked if the two (2) lakes that were completed will be transferred to operational phase. Mr. Barraco advised that they are close to transitioning to the operational phase. The South Florida Water Management District (SFWMD) accepted the maintenance.

A resident reported that four (4) mature trees, directly across from the Clubhouse, by the gazebo, that are three-quarters into the water, with exposed roots and numerous trees are falling into the lakes. The resident asked if the trees can be examined. Mr. Adams explained that the new budget begins on October 1 and anticipates being able to get a contractor to evaluate the trees in November or December. The resident asked if the trees can be saved. Mr. Adams replied affirmatively.

Mr. Reynolds asked if the trees are homeowners' trees. The resident replied no.

On MOTION by Mr. Pye and seconded by Ms. Mayer, with all in favor, Resolution 2013-10, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2013, and Ending September 30, 2014, was adopted.

FIFTH ORDER OF BUSINESS

Consideration of Resolution 2013-11, Making a Determination of Benefit; Imposing Special Assessments; Providing for the Collection and Enforcement of Special Assessments, Including But Not Limited to Penalties and Interest Thereon; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll

Mr. Adams presented Resolution 2013-11 for the Board's consideration. He explained that this resolution is commonly known as the assessment levying resolution, which makes certain findings with regard to benefit and imposes a special assessment in an amount consistent with the budget that was adopted. Mr. Adams noted that the budget and the lien roll are exhibits to this resolution.

In response to a question from Mr. Berry, Mr. Adams confirmed that there was no change in the assessment levels, from last year. Mr. Berry asked if anything different was done with one (1) parcel. Mr. Adams indicated that adjustments were made based upon the settlement agreement and relief was granted on several line items that did not pertain to receiving any benefit. Mr. Adams explained that the biggest reduction is due to the fact that it was not necessary to budget for 'litigation legal' expenses and some of those funds were reallocated to "water management".

On MOTION by Ms. Mayer and seconded by Mr. Berry, with all in favor, Resolution 2013-11, Making a Determination of Benefit; Imposing Special Assessments; Providing for the Collection and Enforcement of Special Assessments, Including But Not Limited to Penalties and Interest Thereon; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll, was adopted.

SIXTH ORDER OF BUSINESS

**Consideration of Award of Contract:
Lake & Wetland Maintenance**

Ms. Crismond referred to the bid tabulation sheet and indicated that three (3) contractors submitted proposals. Of the three (3), Aquagenix and LakeMasters have the capability to maintain the contract, with LakeMasters being the District's contractor for the past seven (7) years. Ms. Crismond advised that Staff's recommendation is to award the bid to LakeMasters.

Ms. Mayer voiced her opinion that it is better to retain the contractor that the Board and Staff know. Mr. Adams stated that the Board has the right to award to the lowest responsible and responsive bidder that best serves the interests of the District.

A resident asked if Management investigate into the possibility that the lakes are in this condition, as a result of a lack of quality workmanship. The resident pointed out that LakeMasters has been the District's contractor for seven (7) years and there are trees falling in the water. Mr. Adams advised him that this is not the lake maintenance contractor's issue or responsibility.

With regard to LakeMasters, Mr. Adams explained that his firm has 27 CDD clients in Southwest Florida and LakeMasters is the contractor for 90% of those. The resident asked if LakeMasters is responsible for keeping the shorelines intact. Mr. Adams stated that they are responsible for spraying exotics and invasives.

Mr. Reynolds asked if the lake behind the Clubhouse is identified as part of the contract. Mr. Adams replied affirmatively.

On MOTION by Ms. Mayer and seconded by Mr. Reynolds, with all in favor, awarding the Lake & Wetland Management contract to LakeMasters, with a first year price of \$33,324 and a second year price of \$33,324, was approved.

SEVENTH ORDER OF BUSINESS

Consideration of Publication of Notices of Rule Development and Rulemaking Relating to Updated Rules of Procedure

- A. Memorandum Regarding Updated Provisions**
- B. Updated Rules of Procedure**
- C. Notice of Rule Development**
- D. Notice of Rulemaking**

Mr. Bowen explained that the District has Rules of Procedure in place, which are designed to promote efficient conduct of the District’s business and to ensure that the District is in compliance with Florida law.

Referring to Tab 7B, Mr. Bowen indicated that this is the latest version of the recommended Rules of Procedure, with the redlined changes. He noted that the memo, located behind Tab A, explains the major changes to the rules.

Mr. Bowen advised that the amended rules must be adopted, via the administrative rule making process, provided by Florida Statute. A public hearing must be held but, prior to tet public hearing, two (2) forms of notice must be advertised.

Mr. Adams stated that Staff will advertise for the public hearing to occur at the October 17, 2013 meeting.

On MOTION by Mr. Pye and seconded by Ms. Mayer, with all in favor, authorizing Staff to advertise the Notice of Rule Development and Notice of Rulemaking relating to the updated Rules of Procedure, with the public hearing to be held on October 17, 2013, was approved.

EIGHTH ORDER OF BUSINESS

Approval of May 16, 2013 Regular Meeting Minutes

Mr. Adams presented the May 16, 2013 Regular Meeting Minutes and asked for any additions, deletions or corrections.

The following changes were made:

Line 22: Change "Association Manager" to "Secretary/Treasurer"

Line 23 & throughout: Change "Sekora" to "Teckorius"

Line 435: Change "Gabel" to "Geml"

Line 295: Change "1" to "1'"

On MOTION by Ms. Mayer and seconded by Mr. Reynolds, with all in favor, the May 16, 2013 Regular Meeting Minutes, as amended, were approved.

NINTH ORDER OF BUSINESS

Other Business

Mr. Adams advised that it is time for the District is due to go out for RFP/RFQ for audit services. He asked the Board to appoint themselves as the Audit Selection Committee, authorize the use of the same evaluation criteria as used previously and authorize Staff to proceed with proper advertising for RFQ/RFP, to be included on the October agenda.

On MOTION by Ms. Mayer and seconded by Mr. Berry, with all in favor, appointing the Board as the Audit Selection Committee, authorizing the use of the previous evaluation criteria and authorizing Staff to proceed with advertisement of the RFQ/RFP, to be considered on the October, 2013 agenda, were approved.

TENTH ORDER OF BUSINESS

Staff Reports

A. Attorney

Mr. Bowen introduced himself and indicated that he has been working with Mr. Eckert on Moody River Estates CDD. Mr. Eckert could not attend today's meeting as the result of a clerical error and Mr. Bowen was attending in his stead.

Mr. Bowen recalled previous discussion with regard to project completion letters that Staff is working on. Mr. Bowen reported that the work on that project is ongoing. Mr. Barraco informed Mr. Bowen that there was a slight "snag" regarding obtaining records of past

construction and Staff is working around those difficulties. Further updates will be provided at the next meeting.

B. Engineer

With regard to lake maintenance repairs, Mr. Barraco pointed out that, after the repairs are made, continued maintenance is required, which is a part of the District’s responsibilities.

Mr. Barraco reported that Staff is close to obtaining final certification from SFWMD. SFWMD accepted the repair schedule previously discussed by Mr. Adams; therefore, Staff may proceed with SFWMD’s issuance of the certification of the water management system.

Mr. Barraco indicated that he has been working with District Counsel to complete the final certifications for the CDD; the final language is being drafted and they await final certification from SFWMD.

C. Manager

i. Approval of Unaudited Financial Statements as of July 31, 2013

Mr. Adams presented the Unaudited Financial Statements as of July 31, 2013. He pointed out that assessment levy collections were at 107%, year-to-date, which he believes is the result of tax certificate sales, from the prior year. Expenses, through the end of July, were at 66% and, prorated, would have been 75%. Mr. Adams noted that recent completion of the lake bank project will bring the expenses in line, year-to-date.

ii. Fiscal Year 2014 Proposed Meeting Schedule

Mr. Adams presented the proposed meeting schedule for Fiscal Year 2014, noting that it is the same schedule as in years past.

On MOTION by Ms. Mayer and seconded by Mr. Reynolds, with all in favor, the Fiscal Year 2014 Proposed Meeting Schedule, as presented, and directing Staff to advertise, accordingly, was approved.

ELEVENTH ORDER OF BUSINESS

Audience Requests

Comments/Supervisors’

A resident stated that he and his wife are fairly new to the CDD and asked Mr. Adams his position and title.

Mr. Adams explained that this is the Moody River Estates Community Development District. The District owns and operates the stormwater system, which is comprised of the

ponds, wetlands and interconnecting pipe works. The large fountains, at the entrance, are also part of the District's responsibility. Through an agreement with the association, the association manages some of the other facilities owned by the District, such as perimeter landscaping and walls.

Mr. Adams advised that the District has a five (5)-member Board of Supervisors, much like a city or county. He introduced the Board and Staff.

The resident asked if the perimeter sidewalks are the responsibility of the District. Mr. Barraco indicated that he assumed that the sidewalks were maintained by the Lee County Department of Transportation (DOT) because they are in the right-of-way; however, someone suggested that they are maintained or owned by either the HOA or the CDD. Mr. Barraco will research the matter.

Mr. Reynolds stated that the HOA is responsible and have proceeded with bidding out the second lift of the roads that are complete, in the center section, which includes the off-site sidewalk asphalt area. Mr. Reynolds confirmed that the concrete areas were repaired and the offsite sidewalk is the responsibility of the HOA. It was found that no sections conform to the construction standards of Lee County DOT, except at the intersections. Mr. Reynolds indicated that the bids are in and the second lift on all of the center roads will be completed. The HOA management will notify homeowners and the off-site asphalt sidewalk will be part of the asphalt project.

In response to an inquiry regarding the carriage homes, it was noted that some of the carriage homes are still under the ownership of a different owner/developer and that section must be identified.

A resident asked if the Silver Thorn Loop paving will not be completed until the loop is completed. Mr. Reynolds advised that it was part of the calculation of the bid and will be determined by the developer's timeline to finish the loop. The developer will engage the of Silver Thorn Loop residents to determine if they want the pavement because there will be a lot of construction traffic on it and it may be damaged.

In response to a question, Mr. Reynolds voiced his understanding that everything in the center section has been accounted for, as far as the second lifting of pavement.

For the record, Mr. Barraco asked for confirmation that the HOA is responsible for the off-site sidewalks, Mr. Reynolds indicated that it was his understanding.

A resident asked if the shoreline around the big pond, in the Sanctuary area, will be carved back. He explained that he is re-sodding his yard and questioned whether the CDD will tear it up, later. Mr. Adams explained that the District is restoring areas that have washed out and have a 1' or greater vertical drop at the lake's edge.

TWELFTH ORDER OF BUSINESS

Adjournment

There being nothing further to discuss, the meeting adjourned.

On MOTION by Ms. Mayer and seconded by Mr. Berry, with all in favor, the meeting adjourned at 1:40 p.m.


Secretary/Assistant Secretary


Chair/Vice Chair