

**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 was held on **Thursday, January 16, 2014 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
Chuck Bowen	District Counsel
Carl Barraco	District Engineer
Sid McKenna	Resident
Robert Lansing	Resident
Bob Soulak	Resident
Norman Massey	Resident
Barbara Bucks	Resident
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.

Mr. Adams indicated that there are several items on today's agenda that Staff would like to defer to a special meeting. He polled the Board for their availability on Thursday, January 30, at 1:00 p.m., at this location. Mr. Adams noted that Agenda Items 4, 5 and 7 will be deferred to the special meeting. He explained that Item 4 is Resolution 2014-2, which relates to the opportunity to be heard legislation. Item 5 is the discussion and consideration of the responses to the RFP for Annual Audit Services; this item requires an additional advertisement for an Audit

Committee Meeting. The Audit Committee Meeting must take place prior to the Regular Meeting; therefore, if the meeting is held on January , the Audit Committee Meeting will begin at 1:00 p.m., with the Regular Meeting immediately following. Item 7 deals with declaring the Series 2005 project complete.

For the benefit of the public, Mr. Adams, Staff and the Board introduced themselves.

Mr. Adams confirmed that a quorum of the Board has been ensured to hold a Special Meeting on January 30, 2014.

SECOND ORDER OF BUSINESS

Public Comments

Mr. Adams advised that this portion of the meeting is for public comments on agenda items; comments for non-agenda items will be heard later in the meeting. He indicated that the Board has historically accommodated public comments during a specific agenda item, after they have exhausted their comments.

Mr. Bowen advised that, due to a new rule that was adopted during the last session of the Florida Legislature, if the Board decides to take action on a non-agenda item, public comments will be heard on that item, as well.

There being no public comments, the next item followed.

THIRD ORDER OF BUSINESS

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

Mr. Bowen requested a motion to open the public hearing.

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

Mr. Bowen explained that the Rules of Procedure dictate how the District will conduct its business. He noted that the Rules of Procedure are different from the amenity policies. The Rules of Procedure relate to how the Board will run the meetings and who attends which functions.

Mr. Bowen advised that the Rules of Procedure have been in place since the inception of the District. He noted that, approximately every five (5) years Hopping Green & Sams, P.A. (HGS), reviews the Rules of Procedure for its Districts and makes modifications in accordance with changes in the law or case law. Mr. Bowen indicated that case law is based on decisions made by the court.

Mr. Bowen clarified that HGS first applies the updates to a template and then proposes the changes to all of its Districts. He indicated that the new Rules of Procedure, appended as an exhibit to Resolution 2014-1, are the culmination of the work performed by HGS.

Mr. Bowen recalled that, during the prior meeting, discussion was held regarding the substance of the Rules and the changes. He summarized that, for example, other the changes stipulate who can participate in mediations, as well as procedures for public records requests and bids.

Mr. Sid McKenna, a resident, asked if the Board Members are residents of the District. Ms. Mayer advised that she is a Moody River Estates owner and resident. Mr. McKenna asked Ms. Mayer if she is a volunteer. Ms. Mayer indicated that she was elected to the position of Board Supervisor.

Mr. McKenna stated that he would like to figure out “who he is speaking to.” In response to Mr. McKenna’s inquiry, Ms. Mayer clarified that this “is not really a job.” Mr. McKenna indicated that it is a “paying position.” It was noted that Board Members are elected officials. Mr. McKenna asked if the Board and Staff are employees of Lee County.

Mr. Bowen explained that this is the Moody River Estates Community Development District, which is a unit of local government established by Florida Statute. Referring to the Board, Mr. Bowen explained that they are Supervisors, which is the governing board of the CDD. Mr. Bowen advised that the District’s hired Staff includes himself, as District Counsel, Mr. Adams and Ms. Crismond, as representatives of the District Manager, and Mr. Barraco, as District Engineer. he is District Counsel; therefore, he is hired Staff; Mr. Adams, is the District Manager and is hired Staff. Ms. Crismond and Mr. Barraco are hired Staff as well.

Mr. Bowen summarized that the Board hears and takes action on various matters that come before it.

Mr. Adams advised that the Board’s duties and authorities are specific to Moody River Estates CDD. He noted that there are approximately 70 to 80 districts within Lee County, which

were established by the developers, primarily for the purpose of financing infrastructure, as the property is developed, through the issuance of bonds.

Mr. McKenna asked if Staff is responsible for other communities. Mr. Adams replied affirmatively and noted that they are part-time consultants.

For the public's information, Mr. Berry asked Mr. Adams to explain the District's responsibilities versus the association's responsibilities.

Mr. Adams explained that the District's responsibilities are primarily infrastructure related. Districts are usually established by the majority landowner at the time that they are ready to develop a community with 100% consent of the property owners. Moody River Estates CDD was established by a local Lee County Ordinance. He reiterated that the primary reason for the establishment of a District is to finance infrastructure through the issuance of revenue bonds. Property owners are subject to annual special assessments to repay the debt service, which is the annual principal and interest repayment obligation on the bonds, as well as an operation and maintenance (O&M) assessment to maintain that infrastructure.

Mr. Adams indicated that stormwater management, which includes the lakes and wetlands, were a part of the bond issue and are part of the District's O&M responsibilities. Other infrastructure brought in under the bond issue was water and sewer; once the water and sewer system was complete, it was turned over to Lee County, for ownership, operation and maintenance. Annually, as part of the O&M budget, residents are assessed for administrative and professional services and, operationally, the lake and wetland maintenance operations, which are all the lakes and interconnecting pipes, control structures and wetland preserves.

Mr. McKenna asked if these items can be located within the budget. Mr. Adams replied affirmatively and noted that, behind the operating budget is the debt service budget, which is the annual principal and interest repayment obligations that are apportioned over all benefitted properties. Mr. Adams pointed out that residents have the opportunity to pay off the outstanding principal on the debt service to remove that annual assessment from the property tax bill and forego accrual of interest charges. He clarified that residents will always be subject to the O&M assessments.

Mr. McKenna mentioned that residents will receive a surcharge but not an annual bill. Mr. Adams explained that the assessment will still appear on the tax bill, in the non ad valorem section; however, only the O&M assessment will appear, if the debt service assessment is paid off. Mr. Adams pointed out that the O&M assessment is ongoing.

Mr. Robert Lansing, a resident, expressed concern with the decreasing wildlife and water quality. Mr. Adams indicated that, in his experience, wildlife will fluctuate, year to year; fish are somewhat stable but birds will pick and choose their winter habitat, with no particular rhyme or reason. Mr. Adams indicated that these concerns were brought to the District's attention last spring and discussions were held with biologists, the District Engineer and the lake maintenance contractor. Mr. Adams recalled that the District had a very healthy predatory bird population that depleted the fish stock. One of the lakes adjacent to the eagle's nest was restocked with approximately 5,000 sports fish. Mr. Adams clarified that all of the lakes are interconnected; therefore, when one (1) lake is restocked, the fish do not necessarily stay there. He noted that lake bank restoration was performed, on the first two (2) lakes, this past summer. Restoration of the lake across from the community center will take place in the next few weeks.

Mr. Adams explained that the District does not have a direct opportunity to improve water quality. Lee County tried to assist with water quality issues through the adoption of a fertilizer ordinance. He pointed out that the primary provisions of the ordinance are to ensure that fertilizer is not utilized too close to the water's edge or during the rainy season.

Mr. Lansing mentioned that he has not seen a turtle in over two (2) years. Mr. Adams advised that there are hundreds of turtles near Lake #1, behind Ms. Mayer's home. Ms. Mayer concurred and noted that she sees six (6) to seven (7) at a time, while they are sunning. Mr. Adams pointed out that the turtles move around.

Mr. Bowen noted that this is a public hearing and requested that the comments pertain to the Rules of Procedure; other comments can be addressed later in the meeting.

Mr. Adams asked if there were public comments regarding the Rules of Procedure. No public comments were made.

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

A. Affidavits of Publication

- **Notice of Rule Development**
- **Notice of Rule Making**

The affidavits of publication, for today's Public Hearing, were included for informational purposes.

B. Consideration of Resolution 2014-1, Adopting Rules of Procedure of the Moody River Estates Community Development District; Providing a Severability Clause; and Providing an Effective Date

Mr. Adams presented Resolution 2014-1 for the Board’s consideration.

On MOTION by Mr. Mayer and seconded by Mr. Reynolds, with all in favor, Resolution 2014-1, Adopting Rules of Procedure of the Moody River Estates Community Development District; Providing a Severability Clause; and Providing an Effective Date, was adopted.

FOURTH ORDER OF BUSINESS

Discussion: New “Opportunity to Be Heard” Legislation

- **Consideration of Resolution 2014-2, Providing for the Public’s Opportunity to Be Heard; Designating Public Comment Periods; Designating a Procedure to Identify Individuals Seeking to Be Heard; Addressing Public Decorum; Addressing Exceptions; And Providing for Severability and an Effective Date**

This item was deferred to the January 30, 2014 meeting.

FIFTH ORDER OF BUSINESS

Discussion/Consideration: Responses to RFP for Annual Audit Services

- A. Affidavit of Publication**
- B. RFP Package**
- C. Respondents**
 - i. Carr, Riggs & Ingram, LLC**
 - ii. Grau & Associates**
 - iii. Newman, Seland & Oppenheimer, LLC**
- D. Ranking of Proposals**
- E. Award of Contract**

This item was deferred to the January 30, 2014 meeting.

SIXTH ORDER OF BUSINESS

Consideration of Resolution 2014-3, Amending the General Fund Portion of the Fiscal Year 2013 Budget

Mr. Adams presented Resolution 2014-3 for the Board’s consideration. He noted that the budget amendment is an exhibit to the resolution. The primary reason for the budget amendment is that actual total expenditures, in the operating budget, for Fiscal Year 2013, were \$270,724 against a budgeted total expenditure of \$263,279.

Mr. Adams stated that, if the budget is not amended, a note will automatically be included in the audit indicating that the District exceeded the budgeted expenditures for the fiscal year. He pointed out that the District exceeded the budget consciously, with the intent to roll up funds from the fund balance, if offsetting revenues were not received.

Referring to “Revenues”, Mr. Adams reported that approximately \$21,000 was received, in addition to the budgeted amount. This revenue offset the additional expenditure and left the District with a balance of \$17,152.

Mr. Adams noted that the actual “Expenditures” budget of \$277,024 and the final amended budget amount of \$284,031 was for a specific reason. As the auditors conduct their field work and review the journal entries, if there are any inaccuracies and expenditures must be increased, he wants to make sure there is a buffer to offset any increased adjustments without an additional budget amendment or a note in the audit indicating that the expenditures were exceeded. More than likely, the \$10,000 variance will not be touched and it will be returned to the fund balance, increasing the fund balance from \$101,537 to approximately \$111,537.

Mr. Adams indicated that this is a standard housekeeping item and asked if there were any questions.

On MOTION by Mr. Pye and seconded by Mr. Mayer, with all in favor, Resolution 2014-3, Amending the General Fund Portion of the Fiscal Year 2013 Budget, was adopted.

SEVENTH ORDER OF BUSINESS

Consideration of Actions Related to Declaring the Series 2005 Project Complete (to be provided under separate cover)

This item was deferred to the January 30, 2014 meeting.

EIGHTH ORDER OF BUSINESS

Approval of September 9, 2013 Public Hearing and Regular Meeting Minutes

Mr. Adams presented the September 9, 2013 Public Hearing and Regular Meeting Minutes and asked for any additions, deletions or corrections.

On MOTION by Ms. Mayer and seconded by Mr. Reynolds, with all in favor, the September 9, 2013 Public Hearing and Regular Meeting Minutes, as presented, were approved.

NINTH ORDER OF BUSINESS

Other Business

There being no other business, the next item followed.

TENTH ORDER OF BUSINESS

Staff Reports

A. Attorney

Mr. Bowen indicated that he had nothing additional to report but he is happy to answer any questions.

B. Engineer

Mr. Barraco advised that he received correspondence from the HOA regarding irrigation. He noted that, although the irrigation system is on District property, the system itself is owned by the HOA. During South Florida Water Management District's (SFWMD) final certification, the District was asked to become a co-permittee, because of the system's location. Mr. Barraco recommended that the District provide an easement to the HOA for the purpose of accessing the irrigation system.

Mr. Adams indicated that the system was installed by the developer and agreed that the best way to handle this is to grant an easement to the HOA.

Mr. Bowen advised that he will perform research and prepare the easement.

C. Manager

i. Approval of Unaudited Financial Statements as of November 30, 2013

Mr. Adams presented the Unaudited Financial Statements as of November 30, 2013. He pointed out that assessment levy collections were at 9%, year-to-date. Mr. Adams indicated that property owners who take advantage of the 4% discount usually wait until the last week in November to pay.

Referring to expenses, Mr. Adams advised that the one-time annual insurance premium and District filing fee payments were made. Expenses, through the end of November, were at 12%, prorated would have been 17%.

Mr. Reynolds asked if the engineering budget has sufficient funds. Mr. Adams indicated that Mr. Barraco performed additional services that were not anticipated during the budget preparation process, such as certification of the project completion and permit items.

Mr. Reynolds asked if the amount reflected in the financials includes the funds for the District's lake reconstruction project and year-end certification. Mr. Adams asked if Mr. Reynolds was referring to the lake bank erosion repairs. Mr. Reynolds replied affirmatively. Mr. Adams indicated that there is no certification requirement for lake bank repairs; however, SFWMD is contacted as repairs are completed.

ii. NEXT MEETING: March 20, 2014 at 1:00 P.M.

Mr. Adams reported that the next regularly scheduled meeting will be held on March 20, 2014 at 1:00 p.m., at this location. A special meeting will be held on January 30, 2014 at 1:00 p.m., at this location.

ELEVENTH ORDER OF BUSINESS

Supervisors' Requests

There being no Supervisors' requests, Mr. Adams opened the meeting to public comments or questions.

In response to Mr. McKenna's question, Mr. Adams advised that the District's budgets, meeting schedules and minutes are posted on the website, www.moodyrivercdd.net.

Mr. McKenna reported on an interesting article in the newspaper regarding mineral rights and the District was one (1) of the communities that was reported to have signed over their mineral rights to D.R. Horton. He asked whether there is more information available on this topic. Mr. Adams indicated that, as a District Manager, he has not been contacted regarding mineral rights. Mr. Barraco believes that it does not apply to any land owned by the District. Mr. Adams deduced that it might pertain to lake bottoms or preserve areas. A resident indicated that she read the article and does not feel that it will affect District residents.

Mr. Bob Soulak, a resident, asked for clarification regarding lake maintenance. He advised that he mentioned to the management company, two (2) months ago, that there were several dead trees and nothing has been done. Mr. Adams advised that the lake maintenance contractor performs a weekly review and treatments, as necessary, for nuisance material such as

algae, submersed aquatics and grassy weeds, along the edge, which do not belong with the beneficial plants. In response to Mr. Soulak's question, Mr. Adams advised that, generally, silt fences are the responsibility of the builder who installed them and the District relies on the county to force the developers to remove them as a part of obtaining a certificate of completion.

In response to Mr. Soulak's question regarding trees, Mr. Adams indicated that the trees along the edge of the lake are not the District's responsibility; they are the responsibility of the adjacent property owner. Mr. Adams advised against cutting trees.

Mr. Norman Massey, a resident, asked who holds title to the conservation land. Mr. Adams indicated that it is likely the District. The District can assume responsibility in one (1) of two (2) ways, by an easement or by fee title ownership; fee title ownership is not necessary and an easement will suffice. Mr. Massey questioned whether the District owns the mineral rights if it owns the land. Mr. Adams indicated that he has not researched the District's stance with regard to mineral rights; however, if the District owns the land, it may own the rights. In response to Mr. Massey's comment regarding drilling on land designated as a conservation area, Mr. Bowen indicated that there are conservation restrictions. Mr. Adams advised that mineral rights are not his area of expertise; he must research the topic.

Ms. Barbara Bucks, a resident, asked if something can be done with regard to the lake water levels. Mr. Adams advised that rain is the only source that increases water levels and, during the dry season, the levels will decrease as the District draws water for irrigation purposes.

With regard to the preserves, Ms. Bucks noted that they are dry and a fire hazard. Mr. Adams explained that the area is a natural preserve and is subject to a permit issued by SFWMD and Lee County, in some cases. The permits are very specific with regard to the activities that can be performed within the preserves. Preserves must be left in a natural state, with the exception of maintaining them free of exotics and nuisance vegetation. Removing dead trees and pruning are considered invasive activities that cannot be performed.

Referencing the budget discussed today, Ms. Bucks asked if it only pertains to the District. Mr. Adams replied affirmatively. She asked whether the assessments will decrease as more homes are built within the District. Mr. Adams replied no. He explained that, as infrastructure is installed within the District, all existing and planned units pay a per unit assessment to the District. Mr. Adams clarified that Mr. Reynolds is currently paying O&M assessments on the vacant lots. He noted that the District's intentions are not to significantly

increase the operating costs, in the future; however, those facilities are in place and available to provide a benefit to both the existing and planned homes.

In response to Ms. Bucks' inquiry regarding paying off the debt assessment, Mr. Adams advised her to call the District Management Office for a payoff amount. Mr. Adams advised that the interest rate on the bonds is currently 5.35% and clarified that the amount of the payoff will depend on the product type purchased. In response to Ms. Bucks' question, Mr. Adams conveyed that the bonds will mature May 1, 2036.

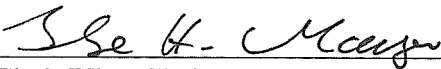
TWELFTH ORDER OF BUSINESS

Adjournment

There being nothing further to discuss, the meeting adjourned.

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


Secretary/Assistant Secretary


Chair/Vice Chair