

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

A Special Meeting of the Moody River Estates Community Development District's Board of Supervisors was held on **Thursday, June 5, 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
Jeff Berry	Assistant Secretary
Terry Pye	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
Wes Kayne	Barraco & Associates
John Teckorius	Resident

**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, Pye and Reynolds were present, in person. Supervisor Shea was not present.

**SECOND ORDER OF BUSINESS**

**Public Comments (*agenda items*)**

There being no public comments on agenda items, the next item followed.

**THIRD ORDER OF BUSINESS**

**Consideration of Resolution 2014-7,  
Approving Proposed Budgets for Fiscal  
Year 2014/2015 and Setting a Public  
Hearing Thereon Pursuant to Florida  
Law**

Mr. Adams presented Resolution 2013-9 for the Board’s consideration. He explained that, as a governmental entity and in accordance with Florida Statutes, the District is required to approve a draft budget, each year, prior to June 15, for the purpose of setting the public hearing and distribution to local municipalities. Mr. Adams advised that the public hearing for the final adoption of the budget cannot occur earlier than 60 days from the date the proposed budget is approved. He anticipated that the public hearing will be held on August 21, 2014 at 1:00 p.m., at this location.

Mr. Adams noted that, generally, the proposed budget does not anticipate any significant changes, year over year; however, there are a few exceptions. He advised that the “Audit” line item was reduced from \$6,300 to \$4,300 and the “Other contractual” expenditure was reduced from \$97,500 to \$72,500. Mr. Adams noted that catch basin and inlet cleaning was performed the last several years and are functioning well; therefore, the expenditure can be reduced.

Mr. Adams referred to the “Excess/(deficiency) of revenues over/(under) expenditures”, on Page 2, and noted that \$22,710 of fund balance was utilized to avoid the need for an assessment increase in Fiscal Year 2014. He stated that, in the right-hand column, “Proposed FY 2015”, the amount was reduced to \$0.00, as the District will not offset the expenditures this fiscal year. Under “Assessment Summary”, Mr. Adams pointed out a \$2 decrease in assessments, from the current fiscal year.

Mr. Adams pointed out the “Definitions of General Fund Expenditures”, provided on Pages 3 and 4, and the “Debt Service Schedule”, provided on Pages 6 and 7. He indicated that the debt will retire in May, 2036. Mr. Adams stated that the “Projected Assessments” are summarized, on Page 8, and provides a year-over-year comparison. He reiterated that assessments will decrease by \$2 in Fiscal Year 2015.

Mr. Adams advised that the budget will continue to carry the note explaining that the Mood Development property is only assessed for administrative costs, as they are not located within the developed boundaries of the District or connected to the District’s facilities, including the stormwater management system.

Mr. Adams recalled that the District made a commitment, several years ago, to join the National Pollution Discharge Elimination System (NPDES), as a co-permittee, to provide the necessary coverage as an owner of a municipal separate storm sewer system (MS4). He stated that the budget must be modified to include the program. Mr. Adams explained that the District

will complete an application and be included as a co-permittee during the next five-year permitting cycle. He conveyed that approximately \$5,000 in fees will be incurred to prepare the application and inventory maps; a portion of the fund balance may be used to offset the unexpected expenditure. Mr. Adams recommended that the Board authorize Staff to utilize fund balance to offset a portion of the NPDES related expenditure to maintain assessments at or slightly below the current year assessment levels.

Mr. Adams advised that the fund balance is currently approximately \$80,000 against an annual budget of \$240,000. He recalled his recommendation that the District maintain a fund balance of at least 20% to 25% of the annual budget to address the gap funding needs in October, November and December expenses.

**On MOTION by Mr. Pye and seconded by Ms. Mayer, with all in favor, Resolution 2014-7, Approving Proposed Budgets for Fiscal Year 2014/2015, as amended, and Setting a Public Hearing Thereon Pursuant to Florida Law for August 21, 2014 at 1:00 p.m., and authorizing utilization of fund balance to fund the NPDES expenditures and maintain the proposed assessment level, was adopted.**

**FOURTH ORDER OF BUSINESS**

**Approval of April 24, 2014 Regular Meeting Minutes**

Mr. Adams presented the April 24, 2014 Regular Meeting Minutes and asked for any additions, deletions or corrections.

The following changes were made:

Line 21: Change “Cane” to “Kayne”

Line 320: Change “Mr. \_\_\_\_\_” to “Mr. Teckorius”

Line 322: Change “Mr. \_\_\_\_\_” to “Mr. Adams”

Line 323: Change Mr. “\_\_\_\_\_” to “Mr. Bowen”

**On MOTION by Ms. Mayer and seconded by Mr. Berry, with all in favor, the April 24, 2014 Regular Meeting Minutes, as amended, were approved.**

**FIFTH ORDER OF BUSINESS**

**Other Business**

There being no other business, the next item followed.

**SIXTH ORDER OF BUSINESS**

**Staff Reports**

**A. Attorney**

Mr. Bowen reported that the legislature just wrapped concluded its most recent session and several bills impacting CDDs were passed. He indicated that his office is analyzing the bills and he will provide additional information at a later date.

Mr. Bowen highlighted that legislation mandated that each District have a website in place, by October 1, 2015. The Board confirmed that the District already has a website. In response to Mr. Bowen's question, Mr. Adams confirmed that the website is specific to Moody River Estates CDD. Mr. Bowen indicated that certain items must be displayed on the website, such as who serves on the Board, the most recent audit, the establishment documents, etc.; he noted that he will verify that the District's website is in compliance.

Mr. Bowen stated that the legislature passed a reform bill that will require every elected official to attend an ethics education class. Mr. Bowen indicated that he is awaiting additional information on this and will communicate his findings to the Board.

Mr. Bowen conveyed that the legislature increased the power and enforcement remedies of the joint legislative audit committee, which is the committee that receives the District's annual audits. The committee will be able to enforce the rules on districts that do not comply with the submission of the annual audit.

Discussion ensued regarding the ethics education class.

**B. Engineer**

**i. MS4 Permitting and Regulation**

**\*\*\*This item, previously Item 6.A.i. was presented out of order.\*\*\***

Mr. Barraco indicated the MS4 is a requirement of the NPDES permit.

Mr. Barraco introduced Mr. Wes Kayne, who handles the MS4 permitting process at Barraco & Associates.

Mr. Bowen indicated that his office prepared a memorandum regarding the MS4 and CDDs, which serves as an introduction to the MS4 process. Mr. Bowen expressed his opinion that Moody River Estates CDD is ahead of the curve, as all the groundwork has been performed.

Mr. Bowen referred to the Hopping Green & Sams, P.A. memorandum, located behind Tab 6. He indicated that it was prepared and disseminated to all the districts that the firm represents, in response to questions received regarding MS4 permitting and requirements.

Mr. Bowen explained the acronym and clarified that it refers to the stormwater systems. The Environmental Protective Agency (EPA), at the federal level, adopted rules that require MS4 to be regulated. He noted that the FDEP is implementing the rules but not regulating.

Mr. Bowen indicated that the MS4 systems are divided into “Type I”, “Type II” and “unregulated” depending on the size of the system, the number of residents it serves and the body of water into which the system discharges. He noted that a series of technical engineering requirements or designations determines the type of MS4 system. Mr. Bowen clarified that Types I and II are required to be permitted under the EPA’s regulations.

Mr. Kayne explained that a CDD can seek its own MS4 permit or “piggyback”, as a co-permittee through the county’s permit. He noted that, typically, CDDs file as a co-permittee. Mr. Kayne advised that, several years ago, his predecessor was working on the permitting; however, due to deadlines, it was decided that the District should forego the application until the next seven-year cycle. Mr. Bowen voiced his understanding that a discussion was held with the county and the county concurred that the District should wait until the next cycle. Mr. Kayne concurred.

Mr. Kayne indicated that he was advised by a Lee County representative that new applicants can begin to submit applications during the fourth year. He expressed his understanding that the District will not have to comply with the requirements until the next cycle begins. Mr. Kayne advised that Staff will lead the inspection of the structural integrity, which include the lakes, swales and dry retention areas (DRAs) and noted that there is a total maximum daily load (TMDL) for nitrogen levels. Mr. Kayne indicated that inventory maps and exhibits will be created and affixed to the application, subsequent to inspection of those items.

Mr. Barraco summarized that, although the District did not meet the prior deadline, it is now appropriate to submit the application and continue the process.

Ms. Mayer asked if it is a mandatory process. Mr. Barraco advised that his firm is involved with approximately ten districts and the majority have filed as co-permittees. Mr. Barraco stated that, whether permitting is mandatory is a gray area; however, it is a “good way” for the District to monitor and maintain its stormwater system. He clarified that 20% of the District’s system must be inspected every year; therefore, the entire system is inspected during the five-year cycle.

Ms. Mayer asked for an explanation of the advantages. Mr. Barraco reiterated that the District’s system will be maintained and pointed out that the prior rainy season was heavy and many districts experienced flooding. Mr. Barraco stated that, in his opinion, the flooding was related directly to the lack of maintenance of their stormwater system; maintenance is important. Mr. Barraco indicated that reporting to the county will provide the District with documented proof that the system is operating the way it was designed.

Mr. Reynolds indicated that two different dates were provided for the application process; he requested clarification. Mr. Kayne clarified that the District can apply during the fourth year of the cycle; currently, it is the third year of the seven-year cycle. Mr. Reynolds questioned whether the inspections will be performed too early and will expire by the time the application is submitted. Mr. Kayne advised that his firm will begin compiling the application documents. Mr. Barraco stressed that the maps will not change; they might be updated but they will not change.

Mr. Reynolds noted that Mr. Barraco indicated that the MS4 permitting process will ensure that the stormwater system is properly maintained and questioned whether the District has a process currently in place. Mr. Adams confirmed procedures are currently in place to ensure that the system is properly maintained. Mr. Barraco indicated that the NPDES program will ensure that the entire system is maintained.

Mr. Adams clarified that a system is not in place, from a water quality perspective; however, the aquatic vegetation is maintained through the current contractor. The catch basins have been inspected and cleaned during the last several years. This program will assist the District in creating a “benchmark”, in terms of the District’s water quality, and that the system is performing as designed to improve water quality before it is discharged into the canal system.

Mr. Adams indicated that, as a co-permittee, the District will enjoy many financial benefits. Lee County will handle all of the educational requirements and will pick up hazardous materials.

Ms. Mayer asked if this process will increase assessments. Mr. Adams indicated that the NPDES Report is approximately \$15,000 and noted that the District will be notified by the county if additional testing must be performed before it becomes a bigger issue. Mr. Reynolds asked if another line item will be reduced, as a result of including the MS4 Permitting and NPDES Report. Mr. Adams stated that the District is currently running a “tight shop” and the NPDES program will generate a \$10 per door front assessment increase, moving forward. Mr. Adams advised that the permitting process and report would be far more expensive if the District undertakes the process on its own rather than as a co-permittee.

**C. Manager**

**i. Approval of Unaudited Financial Statements as of April 30, 2014**

Mr. Adams presented the Unaudited Financial Statements as of April 30, 2014. He pointed out that assessment levy collections were at 94%, as of April 30, 2014.

Mr. Adams advised that the Mood parcel underwent a successful tax certificate sale and sold for approximately \$14,000; therefore, the District is 100% collected, at this point.

**ii. 533 Registered Voters in District as of April 15, 2014**

There were 533 registered voters residing within the boundaries of the District as of April 15, 2014.

**▪ Mood Development Status Update**

*\*\*\*This item was an addition to the agenda.\*\*\**

Mr. Adams recalled that the District is to receive approximately \$126,000 in reimbursed legal fees as part of the settlement with Mood Development; however, all attempts to deliver the invoice package, with a proof of receipt signature, have failed. Mr. Adams advised that Staff will continue to attempt delivery at their address of record, on the property appraiser’s website and to the address on the settlement agreement, which are the same. If all attempts fail, other methods of delivery will be investigated.

**iii. NEXT MEETING DATES:**

- **June 19, 2014 at 1:00 P.M.**
- **August 21, 2014 at 1:00 P.M.**

The Board agreed to cancel the June 19, 2014 meeting; therefore, the next meeting will be held on August 21, 2014 at 1:00 p.m., at this location.

**SEVENTH ORDER OF BUSINESS**

**Public Comments (*non-agenda items*)**

Mr. John Teckorius, a resident, questioned whether the number of units, on Page 8 of the proposed budget, is accurate. Mr. Adams explained that the number of units will be adjusted, when the replat is approved. Mr. Adams noted that the replat is in the process of being approved; the dedications will be finalized today.

Mr. Teckorius asked if the fees that are incurred to properly transmit the invoices to Mood Development can be supplemented to the \$126,000. Mr. Adams indicated that Management is not paid on an hourly rate. Mr. Teckorius pointed out that the attempts can add up to many hours. Mr. Bowen advised that he will bring the matter up for discussion, during a Board Meeting, if the cost of pursuing that funding becomes a large expense. Mr. Adams noted that, if it is a couple of hours, it will not be worth pursuing; however, if the District must file a separate lawsuit to enforce the settlement, the additional fees will be added at that time.

Mr. Reynolds indicated that he was under the impression that Mood East had 190 multi-family units and the settlement agreement reflects 55 multi-family and 14 single-family homes. Mr. Adams clarified that Mood Development changed their plans and the settlement agreement recognizes the change. Mr. Adams indicated that a declaration was filed to reflect the change.

In response to a question regarding the bird perches, Mr. Adams reported that Mr. Tom Ward decided not to pursue this item at this time.

**EIGHTH ORDER OF BUSINESS**

**Supervisors' Requests**

There being no Supervisors' requests, the next item followed

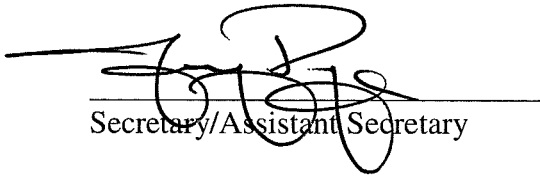
**NINTH ORDER OF BUSINESS**

**Adjournment**

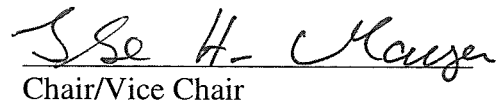
There being nothing further to discuss, the meeting adjourned.

**On MOTION by Ms. Mayer and seconded by Mr. Berry, with all in favor, the meeting adjourned at 1:38 p.m.**





Secretary/Assistant Secretary



Chair/Vice Chair