

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

A Regular Meeting of the Moody River Estates Community Development District's Board of Supervisors was held on **Thursday, May 21, 2015 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:

Terry Pye	Chair
Jeff Berry	Vice Chair
Ilse Mayer	Assistant Secretary
John Teckorius	Assistant Secretary
Elizabeth Keeler	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Wes Kayne	District Engineer
Lindsay Whelan	Hopping Green & Sams, P.A.
Tony Grau (<i>via telephone</i>)	Grau & Associates
Joe Paparella	Resident
Karen Woods	Resident
Sherry Gifford	Resident
Sandra Paparella	Resident
Tamara Grider	Resident
Nancy Leak	Resident
Tom Ward	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 all Supervisors were present, in person.

SECOND ORDER OF BUSINESS

Public Comments (*agenda items*)

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

THIRD ORDER OF BUSINESS

**Consideration of Resolution 2015-6,
Accepting the Audited Financial Report
for the Fiscal Year Ended September 30,
2014**

Mr. Tony Grau, of Grau & Associates, presented the Audited Financial Report for the fiscal year ending September 30, 2015.

Mr. Grau reviewed the “Independent Auditors Report”, on Page 1 and 2, which was a clean opinion, followed by an overview of the “Management’s Discussion and Analysis Report”, on Pages 3-5, which was a recap of the District’s financial activity for the year. Mr. Grau discussed the summary balance sheet, on Page 4, which reflected assets and liabilities and the net position, with comparative numbers for the prior year. He referred to the summary income statement, on Page 5, reflecting revenues, expenses, and changes in net position, which increased by \$150,000, compared to the prior year increase of approximately \$124,000.

Mr. Grau stated that the “Balance Sheet”, on Page 9, showed a “General Fund” balance of approximately \$87,000 and a “Debt Service” balance of \$1.3 million, the balance of which is restricted for debt service.

Mr. Grau reviewed the “Statement of Revenues, Expenditures, and Changes in Fund Balances”, on Page 11 and advised that the “Capital Project Fund” was closed out during the year. He reported a \$24,000 loss in the “General Fund” and a \$70,000 profit in the “Debt Service Fund”. Mr. Grau indicated that the footnotes, beginning on Page 13, are the same as last year. The “Bonds payable” schedule, on Page 19, shows a reduction of \$275,000. Mr. Grau reported that next year’s scheduled payment is \$225,000.

Mr. Grau reported that the “Independent Auditor’s Report on Internal Control Over Financial Reporting and on Compliance and Other Matters” reflected did not identify any deficiencies in internal control. He advised that the “Independent Auditor’s Report on Compliance With The Requirements of Section 218.415, Florida Statutes, Required By Rule 10.556(10) of The Auditor General of The State of Florida”, on Page 25, is a new report related to compliance with the District’s investment policy, and was a clean report. The “Management Letter”, on Page 26, disclosed no findings.

Mr. Grau opened the floor for questioning. In the third paragraph on Page 13, regarding the way in which the Board is elected, Mr. Adams noted that the proper statement is “at large basis”, rather than “based upon owners of property within the District.” Page 19, Mr. Adams

clarified that July 11 is the actual date of issuance and July 1 is the date of the issue of \$10,710,000 of Capital Improvement Revenue Bonds.

With regard to “Note 10 – Risk Management”, on Page 20, Mr. Adams indicated that the last sentence will be revised to indicate that there were no settled claims made in the past three years.

FOURTH ORDER OF BUSINESS

**Consideration of Resolution 2015-6,
Accepting the Audited Financial Report
for the Fiscal Year Ended September 30,
2014**

Mr. Adams presented Resolution 2015-6 for the Board’s consideration.

On MOTION by Mr. Pye and seconded by Ms. Mayer, with all in favor, Resolution 2015-6, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2014, was adopted.

FIFTH ORDER OF BUSINESS

**Consideration of Resolution 2015-7,
Approving the District’s Proposed
Budgets for Fiscal Year 2015/2016 and
Setting a Public Hearing Thereon
Pursuant to Florida Law; Addressing
Transmittal, Posting and Publication
Requirements; and Providing An
Effective Date**

Mr. Adams presented Resolution 2015-7 for the Board’s consideration. He explained that, each year, the District is required to approve a draft budget prior to June 15 and set a public hearing for final adoption. The public hearing cannot be held earlier than 60 days from the date the draft budget is approved.

Mr. Adams suggested changing the public hearing from September 20, 2015 to the Regular Meeting on August 20, 2015 at 1:00 p.m., at this location.

On Page 1, Mr. Adams noted a reduction in expenditures under “Professional and Admin” by approximately \$7,000, most of which was related to “Engineering”. Under “Water Management”, he advised that “Utilities” were adjusted, based upon actual expenses in the current year.

On Page 2, Mr. Adams called attention to a slight reduction in “Property Appraiser” and “Tax Collector” fees. He explained that each office charges \$1 and \$1.50 per folio number; the District had a reduction in folios because a neighborhood was re-platted and 12 single-family units were lost. The assessment summary table reflects a reduction of 12 units, which was originally 787 and is now 775. This means that there are fewer units to share operating costs and the cost per unit increased. Mr. Adams noted a \$5,000 reduction in the “Engineering” budget and recalled that \$5,000 extra was added, last year, related to the NPDES application filing. That activity will not occur in Fiscal Year 2016 so \$5,000 was removed. Mr. Adams stated that the units on the east side of the District participate in all “Professional and Admin” costs, with the exception of the “Engineering” line item; therefore, the \$5,000 reduction does not change their assessment levels. On Page 2, he indicated a \$4,750 use of fund balance, in Fiscal Year 2015, to keep the assessments at or below the prior year level. This budget does not anticipate any use of fund balance so the properties on the east side do not have the benefit of the \$5.63 per unit reduction.

Mr. Adams stated that approval of the proposed budget does not bind the Board to the services or appropriation levels; it will be carried on the agenda for review, each month, until adoption. Mr. Adams indicated that the proposed budget will be posted on the District’s website and transmitted to Lee County.

On MOTION by Mr. Berry and seconded by Mr. Pye, with all in favor, Resolution 2015-7, Approving the District’s Proposed Budget for Fiscal Year 2015/2016 and Setting a Public Hearing Thereon Pursuant to Florida Law for Thursday, August 20, 2015 at 1:00 p.m., at this location, was adopted.

SIXTH ORDER OF BUSINESS

Discussion: Conservation Area Acreage Reconciliation

Mr. Adams discussed the Moody River Estate Conservation Area Acreage Reconciliation, which is the product of a recent newsletter and Staff’s attempt to reconcile the number of wetlands, lakes, and actual acreage. He noted discrepancies and errors in the tabulation tables in the permits.

Mr. Wes Kayne, of Barraco and Associates, Inc., recalled questions, at the last meeting, regarding some of the areas that were provided as wetlands. He explained that he used

environmental documents that were available on the South Florida Water Management District (SFWMD) website; however, he noted some discrepancies in those documents and contacted Mr. Dex Bender, the environmentalist that created some of the wetland lines, and Mr. Bender sent the line work used for those areas. The current map reflects the information sent by Mr. Bender, which he used when establishing the areas for the conservation tracts and compared the recorded conservation tracts to the line work. Mr. Kayne advised that there are still minor discrepancies but he felt comfortable with the numbers. He indicated that he created a spreadsheet that consolidated some of the key numbers for the wetlands.

Mr. Teckorius thanked Mr. Kayne, recalling a discrepancy of 20 acres, at the last meeting.

SEVENTH ORDER OF BUSINESS

Consideration of Proposals for Fountain Installation, Lake 15

- A. Aquagenix**
- B. Architectural Fountains, Inc.**
- C. LakeMasters Aquatic Weed Control, Inc.**

Ms. Crismond recalled that, at the last meeting, a resident asked the Board to consider installing a fountain in Lake 15. Since so many residents would benefit from the fountain, the Board directed Staff to obtain proposals.

Ms. Crismond advised that all three contractors are well known. Of the three, the current contractor, LakeMasters, was able to provide a lower estimate than the other two contractors, at \$9,900. Ms. Crismond recommended hiring LakeMasters to install the fountain but to wait until the new budget to perform the installation.

Mr. Adams advised the Board that, if they wanted to move forward with installing the fountain, fund balance may be utilized, rather than including it in the Fiscal Year 2016 budget.

Ms. Mayer asked if the other lakes in the south parcel had aerators so that they remain clear and have sufficient oxygen for the fish. Mr. Adams confirmed that there are several aerators in the south parcel. He explained that, in Lee County, the Land Development Code (LDC) requires that, if a lake is dug deeper than 12', an aeration system must be installed. In those cases, the developer installs an aeration system in order to certify it as complete, which was the case in several of the District's lakes. Staff evaluates lakes to determine if there are ongoing issues and if that issue can be abated by adding aeration.

Mr. Adams indicated that Moody River Estates has one of the better performing systems and one of the least problematic lake systems, with regard to routine lake maintenance issues. He advised that he saw no need for the Board to spend a lot of money to install aeration.

Ms. Keeler recalled discussion about installing a fountain in the beginning of the entrance in the south Moody River Estates area, between Lake #15. After walking the south area and on Skyline, she felt that the majority of the residents might benefit more from a centralized location, such as Lake #16, which is a larger lake and 80% to 90% of residents residing in the south area drive by Old Banyan Road.

Mr. Adams agreed that the lake is on a central throughfare but not at the only ingress and egress to the south side so not everyone will pass it; however, a fountain in that location can be easily justified. He confirmed that electricity is readily available there so there would be no change in the price.

Mr. Teckorius voiced his opinion that it was up to the Board to approve spending the dollars for the fountain but it was up to the residents to decide what lake they want the fountain installed in. Mr. Adams explained that the Board Members are representatives of the residents. Mr. Teckorius suggested asking the residents who reside on the south side of Moody River Estates prior to making a decision. Mr. Adams reiterated that the Board Members are elected officials, control the budget, lakes and stormwater features and make the decision regarding whether to install a fountain or an aerator. He cautioned against a referendum or surveys but the Board may have conversations with the residents and defer making the decision.

The Board agreed to defer this item. It will be placed on the next agenda.

Mr. Berry confirmed that the Board originally discussed placing a fountain in Lake 15 because it is an entryway. Mr. Adams stated that it would be consistent with the entryway. Mr. Berry understood that the entire parcel is not completely built out. He noted that a fountain will be placed in Lake 16, where there are five houses; when Lake 18 is finalized and built out, those residents will wonder why they do not have a fountain, and so on. Mr. Adams advised that those requests are easy to challenge because they are locations where he does not normally support fountain installation. Mr. Berry pointed out that Old Banyan Way is a thoroughfare for those who live in the community but not the same as Skyline.

Ms. Keeler pointed out that Lake 15 is a small area and it benefits the houses around that area and not the rest of the south parcel, whereas, residents of the south parcel who walk or cycle will always walk up and down or cycle on Old Banyan Road and it is a larger lake.

Ms. Sandra Paparella, a resident of the south side, was in favor of placing the fountain at the entrance, where everyone can see it. Not all will benefit from another location.

Ms. Sherry Gifford, a resident of the south side, agreed that the fountain should be placed at the front entrance. She concurred that if a fountain is placed in Lake 16, other residents will want one, as well.

Ms. Karen Woods, a resident, asked if the Board would consider installing two fountains. Mr. Berry voiced his opinion that it was not the Board's responsibility to install the fountains or budget for them.

Mr. Adams recalled that the District owns and operates the fountains at the main entry, which were installed with bond funds; the District assumed operation, going forward. At the last meeting, it was noted that there is an entrance on the south side and there should be a fountain consistent with the main entry.

Ms. Woods reported that there is a smell coming from Lake 15 and a fountain may help with the smell. It was noted that the fountain makes it worse. Mr. Adams asked if the lake had algae recently. He explained that, if a lake had algae and it was treated, the smell is part of the algae dying process.

Ms. Tamara Grider, a resident, stated that she had lakes all around her building. Her car is parked far from the fountain in Lake 12 and it has spray on it all the time. She asked how a fountain in Lake 15 would affect the school buildings and the parking lot.

Mr. Teckorius indicated that there are trees there.

Ms. Nancy Leak, a resident, stated that she did not want a fountain because the neighbors who have one have wet lanais from wind blowing the water.

On MOTION by Mr. Pye and seconded by Mr. Teckorius, with all in favor, installing a fountain in Lake 15, was approved.

Mr. Teckorius asked to add to the LakeMasters' proposal that all fasteners, screws, nuts and bolts, etc., will be stainless steel.

EIGHTH ORDER OF BUSINESS

Consideration of Resolution 2015-8, Adopting a Policy Regarding Recreational Activities on District Ponds; Providing Trespass Enforcement Authority; Authorizing the Issuance of a Letter Regarding the Same; Providing a Severability Clause; and Providing an Effective Date

Ms. Whelan presented Resolution 2015-8 for the Board's consideration. She recalled discussion, at the last meeting, about fishing and recreational activity on the ponds, and the question as to whether the District could prohibit these activities. Ms. Whelan referred to the draft policy, which is a resolution adopting the policy prohibiting recreational activities in the ponds, which includes fishing, boating, swimming and other recreational activities. The District does not currently have a usage policy of the ponds and they are primarily for stormwater management purposes. If adopted, this will be reiterated. Ms. Whelan explained that, if the Board wants to permit fishing, the ponds must be open to everyone, not just residents.

Ms. Whelan noted that the last page of the resolution is a letter that the District Manager would send to the Sheriff's Office regarding enforcement, indicating that the District recently adopted a policy to prohibit recreational activities in the ponds and asking the Sheriff to issue citations to anyone violating the policy.

Mr. Berry asked if signage must be installed. Ms. Whelan indicated that it is not always necessary to install signage. She suggested utilizing the newsletter and the website to inform residents of the policy.

Mr. Berry asked how outsiders will know they are trespassing if "No Trespassing" signs are not posted. Ms. Whelan agreed that signage is helpful. She will contact the county to find out if it is required.

Mr. Adams indicated that, if the county requires signage, a sign may be posted at the gatehouse or main entrance.

Mr. Teckorius recalled previous conversations regarding the loss of the alligator and "do not feed the alligator" signs. It was determined that the CDD did not install the signs. Questions arose about taking the signs down and adding signs to the south side; however, signs cannot be installed until next year's budget. Mr. Teckorius stated that signs cost \$75 each, installed. The District has 21 lakes; therefore, one sign per lake will cost \$1,600. Mr. Teckorius indicated that signs are needed on the south side but he was not aware of any

problems on the north side. He suggested installing signs, under \$2,000, and discuss the type to be installed. He stressed the necessity for “No Fishing” signs.

Ms. Mayer stated that the Homeowners Association (HOA) specifies that there is no fishing in the lakes; therefore, all residents should be aware. She suggested only installing signs if the law enforcement agency requires them.

Ms. Whelan clarified that the purpose of this resolution was to ensure police enforcement, allowing police to issue a citation.

Mr. Adams stated the Board can approve the resolution, since the policy was adopted, and staff can contact the Sheriff’s office to determine what is required to enforce the policy.

Ms. Gifford observed nonresidents parking their cars, climbing the fence and fishing in the small pond in the back of the community; therefore, signs will be necessary.

Mr. Joe Paparella, a resident, stated that he observed pickup trucks on the road by the school and the owners fish in the ponds and the residents pay to have the fish installed in the lakes. Mr. Paparella indicated that he placed zip ties on both fence doors and outsiders cut them.

Mr. Teckorius asked if it would be wise to place locks on the gates. Mr. Adams replied affirmatively.

On MOTION by Mr. Berry and seconded by Ms. Mayer, with all in favor, Resolution 2015-8, Adopting a Policy Regarding Recreational Activities on District Ponds; Providing Trespass Enforcement Authority; Authorizing the Issuance of a Letter Regarding the Same; Providing a Severability Clause; and Providing an Effective Date, was adopted.

NINTH ORDER OF BUSINESS

Consideration of Hopping Green & Sams Hourly Rate Adjustment

Ms. Whelan referred to letter from Mr. Michael C. Eckert and noted that the firm has not adjusted its fees since 2012. Ms. Whelan stated that, annually, the firm reviews its rates to determine whether they comport with market averages. Based on the most recent review, Hopping Green & Sams (HGS) is proposing to adjust rates at \$20 per hour for Associates and \$15 per hour for shareholders. Ms. Whelan noted that her billing rate is significantly less than her predecessors in the first half of the year.

Ms. Whelan stated that the new hourly rates are proposed to take effect on October 1, 2015, in conjunction with the new fiscal year.

TENTH ORDER OF BUSINESS

Approval of March 19, 2015 Regular Meeting Minutes

Mr. Adams presented the March 19, 2015 Regular Meeting Minutes and asked for any additions, deletions or corrections.

The following changes were made:

Line 118: Change “Kanye” to “Kayne”

Line 327: Change “audit committee” to “the auditor’s audit committee”

Lines 497 & 502: Change “Whalen” to “Whelan”

On MOTION by Ms. Keeler and seconded by Mr. Berry, with all in favor, the March 19, 2015 Regular Meeting Minutes, as amended, were approved.

ELEVENTH ORDER OF BUSINESS Other Business

Mr. Adams provided an update regarding the east property. He reported that he met with Mr. Huether and his Engineer. He referred to the current alignment of the drainage and outfalls. Mr. Adams stated that he assumed that the District had an easement over the drainage pipe and found that it does not, nor does the District own the pipe. Mr. Huether discussed trying to realign the pipe and would like it to run the property line, for greater use and flexibility of his property. Mr. Adams advised Mr. Huether that he will have to prove, through his engineer, to the SFWMD, that he is not creating any upstream impacts to the District. Mr. Adams indicated that the permit for the parcel reflects the District as the operating entity, which will not be the case. Mr. Huether will be install the pipe and operate the drainage; with the realignment, he will allow the ability for the association to tie into this drainage. The District has no issues and has no ownership or operating responsibilities.

Mr. Adams explained that Mr. Huether is performing the realignment as part of the settlement with the HOA. In response to a question from Mr. Berry, Mr. Adams confirmed that the property owner must impact any negative impacts created to the District, upstream.

TWELFTH ORDER OF BUSINESS

Staff Reports

A. Attorney

There being no report, the next item followed.

B. Engineer

There being no report, the next item followed.

C. Manager

i. Approval of Unaudited Financial Statements as of March 31, 2015

Mr. Adams presented the Unaudited Financial Statements as of March 31, 2015. He indicated that the District exceeded its revenue budget.

ii. 668 Registered Voters in District as of April 15, 2015

Mr. Adams reported that there were 668 registered voters residing within the boundaries of the District as of April 15, 2015.

iii. NEXT MEETING DATE: June 18, 2015 at 1:00 P.M.

Mr. Adams indicated that the next meeting is scheduled for June 18, 2015 at 1:00 p.m., at this location.

THIRTEENTH ORDER OF BUSINESS

Public Comments (*non-agenda items*)

A resident asked if copies of materials to be discussed at the CDD meetings may be obtained, in advance. Mr. Adams provided the District's website address.

Mr. Tom Ward, a resident, asked when the original bond was issued. Mr. Adams stated that it was issued in 2006; final payment will be made in 2036. Mr. Ward asked if bonds are ever renegotiated. Mr. Adams stated that bonds are reviewed for refinancing; however, refinancing may not occur in the first ten years. Ms. Whelan confirmed that the rate, upon issuance, was 5.35%. Mr. Ward reported dry spots in the grass and asked if it was related to water quality. Mr. Adams explained that, during dry times of the year, in a fresh water system that is in close proximity to a salt water source, as water is drawn down, if there is no natural rainfall to flush the system, salinity levels will rise, resulting in an infiltration of snails.

Ms. Crismond suggested that Mr. Ward discuss the issue with the HOA.

Mr. Teckorius asked Mr. Adams to find out when the pH was last checked.

Ms. Grider asked about the plants around the perimeter of the lakes and the cypress trees on the banks. Mr. Adams explained that they were initially installed as part of the stormwater

permit, which usually requires the installation of shade trees in certain locations, creating a cool water retreat during hotter months. Maintenance responsibility belongs to the adjacent property owner.

Mr. Teckorius reported that the HOA is going to hire a landscape architect to complete an inventory of the plants that are required per the permit.

FOURTEENTH ORDER OF BUSINESS Supervisors' Request

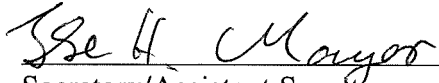
There being no Supervisors' requests, the next item followed.

FIFTEENTH ORDER OF BUSINESS Adjournment

There being nothing further to discuss, the meeting adjourned.

On MOTION by Ms. Mayer and seconded by Ms. Keeler, with all in favor, the meeting adjourned at 2:25 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair