

1 **MINUTES OF MEETING**
2 **MOODY RIVER ESTATES**
3 **COMMUNITY DEVELOPMENT DISTRICT**
4

5 A Regular Meeting of the Moody River Estates Community Development District's
6 Board of Supervisors was held on **Thursday, June 18, 2015 at 1:00 p.m.**, in the **Clubhouse at**
7 **Moody River Estates, 3050 Moody River Blvd., North Fort Myers, Florida 33903.**
8

9 **Present and constituting a quorum were:**

10 Terry Pye Chair
11 Ilse Mayer Assistant Secretary
12 John Teckorius Assistant Secretary
13 Elizabeth Keeler Assistant Secretary
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16 **Also present were:**

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18 Chuck Adams District Manager
19 Cleo Crismond Assistant Regional Manager
20 Lindsay Whelan (*via telephone*) District Counsel
21 Carl Barraco, Jr. District Engineer
22 Rebecca Sarver HOA Manager
23 Chris Shields HOA Counsel
24 Kathy Frazer Resident
25 Brian Woods Resident
26 Karen Woods Resident
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29 **FIRST ORDER OF BUSINESS**

Call to Order/Roll Call

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31 Mr. Adams called the meeting to order at 1:00 p.m., and noted, for the record, that
32 Supervisors Pye, Mayer, Teckorius and Keeler were present, in person. Supervisor Berry was
33 not present.
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35 **SECOND ORDER OF BUSINESS**

Public Comments (*agenda items*)

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37 There being no public comments regarding the agenda items, the next item followed.
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39 **THIRD ORDER OF BUSINESS**

**Continued Discussion: Fiscal Year 2016
Proposed Budget**
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42 Mr. Adams indicated that the proposed Fiscal Year 2016 budget and public hearing date
43 were approved during the May meeting. He reported that O&M assessments are increasing for
44 the East Parcel. Mr. Adams explained that the Board had the option to review and make changes
45 to the proposed Fiscal Year 2016 budget until the public hearing.

46 Mr. Adams announced that the Public Hearing was scheduled for August 20, 2015.

47 Mr. Teckorius questioned if the \$7,500 budgeted for “Aquascaping”, on Page 1, included
48 trees falling into lakes. Mr. Adams responded affirmatively.

49

50 **FOURTH ORDER OF BUSINESS**

**Update: Installation of Fencing Abutting
Lake #2**

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52

53 Mr. Adams recalled that, several months ago, discussion ensued regarding a
54 homeowner’s fence that was installed and encroached into the District’s lake maintenance
55 easement. He specified that the Homeowners Association (HOA) was pursuing remedies and
56 requested to address the Board.

57 Mr. Chris Shields, HOA Counsel, indicated that the HOA was responsible for enforcing
58 multiple regulations and restrictions. He noted that several months ago, Mr. and Mrs. Statti,
59 residents, requested permission and the HOA approved the fence but not the location; approval
60 was conditioned upon the fence not encroaching into any easements.

61 Mr. Shields reported that mediation with the HOA was requested March 25, 2015, as
62 required by law, before pursuing action. During mediation, Mr. and Mrs. Statti and the HOA
63 were unable to reach a settlement. He discussed that the HOA was considering legal action,
64 seeking an injunction to have the fence removed. The fence was within the District’s easement
65 so Mr. Shields did not want to spend HOA funds pursuing legal action, if the location of the fence
66 was not an issue for the District. Mr. Shields wanted to confirm the District’s position and
67 direction before moving forward with legal action.

68 Mr. Adams reiterated that it was determined that the location of the fence significantly
69 encroached and inhibited the District’s ability to utilize the lake maintenance easement. Mr.
70 Adams confirmed the District’s opinion that this issue must be abated and supported the HOA’s
71 pursuit of a positive result. Mr. Shields responded that the District’s involvement may be
72 required for future settlements or negotiations.

73 Ms. Whelan confirmed that the Board wanted the HOA to continue handling the legal
74 matter at this time. She indicated that, ultimately, it was the Board’s decision whether to

75 participate with the HOA as part of the settlement agreement. Ms. Whelan noted that, if the
76 Board wanted to proceed, legal action would be pursued.

77 Mr. Adams asked what form of settlement was being pursued. Mr. Shields replied that
78 abatement of the encroachment would be pursued and that the property owners were solely
79 responsible for this mistake. Mr. Adams noted that, prior to installation, the residents neglected
80 to obtain a survey or conduct an examination of the survey.

81 Mr. Teckorius stated that the onus was on the property owners and did not want to
82 compromise; he felt that if the Board compromised for one resident, it must compromise for all.
83 He inquired “what percentage of the fee would be due to counsel.” Mr. Shield’s responded that
84 the District would not absorb legal fees; the District is not a party to the litigation and is not
85 paying any money to pursue the fence removal. Ms. Whelan indicated that the current settlement
86 would be between the HOA and the property owner and conceded that, when the present legal
87 action was settled, the CDD would not engage in further action if the fence was removed.

88 Ms. Rebecca Sarver, HOA Manager, stated that Mrs. Statti submitted a screen shot, via
89 email, which outlined the property line but neglected to submit a site plan. Ms. Sarver referred
90 to an email she received after the fence was installed, in which Mrs. Statti stated that the lake
91 bank easement was not encroached; she was aware of this because “Lowe’s did a survey.” Ms.
92 Sarver stated that Mrs. Statti was under the misconception that Lowe’s conducted a survey but,
93 in actuality; Lowe’s staked the location of the fence.

94 Ms. Mayer reported that homeowners were given a survey, during closing, which
95 properly outlines the 20’ lake maintenance easement. Ms. Sarver clarified that the county was
96 not concerned with interior easements, only that a permit was obtained to build something that
97 the county must inspect.

98 Ms. Mayer questioned if the HOA had the legal right to physically remove the fence. Mr.
99 Shields advised that the governing documents might permit the association to physically remove
100 the fence; however, he was unsure. Mr. Shields would not encourage the HOA to remove the
101 fence and suggested that the best course of action would be to obtain a court-ordered injunction
102 to have the fence removed, unless the homeowners to remove the fence themselves. Mr. Shields
103 believed that this issue could be resolved within six months to one year. Ms. Whelan relayed
104 that proceeding via litigation may be the quickest route, if the HOA enforced legal action.

105

106 **FIFTH ORDER OF BUSINESS**

Discussion: ‘No Trespassing’ Signage

107 Mr. Adams recalled previous discussions regarding ‘No Trespassing’ signage to keep
108 outsiders from entering the property and fishing in District ponds. Ms. Whelan contacted the
109 Sheriff’s office and was provided the following requirements:

- 110 ➤ ‘No Trespassing’ signage must be placed not more than 500’ apart along, and at
111 each corner of, the boundaries of the land.
- 112 ➤ Signs must be in letters of not less than 2” in height, with the words “no
113 trespassing” and with the CDD’s name listed as the property owner.

114 In response to a question, Ms. Whelan confirmed that the signage location must be
115 around each lake tract. Ms. Mayer questioned if it would be permissible to have signage at
116 community entrances, in lieu of all around the lakes. Ms. Whelan stated that, for the Sheriff to
117 enforce the policy, signs must be placed around the ponds. Mr. Adams noted that placing signs
118 at the entrances would be supplemental to the requirements in order for the Sheriff’s office to
119 pursue enforcement. Mr. Adams stated that the CDD has a policy that may be utilized; violators
120 may be informed that fishing and trespassing are prohibited and that the Sheriff’s office will
121 issue citations to repeat offenders. The Board agreed that a copy of the District’s policy would
122 be distributed to trespassers and to inform them that the Sheriff would be contacted, rather than
123 posting signs around the lake.

124 Ms. Crismond reported that a lock was placed on the fence located between the CDD and
125 school and she had the key.

126 Ms. Kathy Frazer, a resident, suggested posting signage around popular fishing areas.
127 Mr. Adams believed that could be an option. Ms. Whelan clarified that District representatives
128 are authorized to call the Sheriff if a trespasser is observed on site. It was determined that
129 signage would only be required for the Sheriff’s office to conduct roving patrols of the
130 stormwater ponds or if the public contacted the Sheriff’s office.

131 Mr. Adams stated that Vania would be provided a copy of the CDD policy, which will be
132 posted on the Moody River CDD website. He noted that residents could contact the District,
133 guardhouse, or Vania to report incidents and the Sheriff’s office will be contacted. The Board
134 was advised that the courtesy officers’ sole responsibility was to manage the guardhouse, not
135 enforce community rules.

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137 **SIXTH ORDER OF BUSINESS**

Approval of May 21, 2015 Regular Meeting Minutes

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139

140 Mr. Adams presented the May 21, 2015 Regular Meeting Minutes and asked for any
141 additions, deletions or corrections.

142 The following changes were made:

143 Line 22: Change “Lindsey” to “Lindsay”

144 Line 29: Insert “Leak” after “Nancy”

145 Line 111: Change “Professional and admin” to “Professional and Admin”

146 Line 113: Change “management” to “Management”

147 Line 115: Change “Property appraiser” to “Property Appraiser”

148 Line 116: Change “Tax collector” to “Tax Collector”

149 Line 123: Insert “of the District” after “east side”

150 Line 123: Change “Professional admin” to “Professional Admin”

151 Line 233: Insert “Leak” after “Nancy”

152 Line 267: Insert “always” before “necessary”

153 Line 288: Insert “staff” before “contact”

154 Line 342: Change “Hueter” to “Huether”

155

**On MOTION by Ms. Keeler and seconded by Ms. Mayer, with
all in favor, the May 21, 2015 Regular Meeting Minutes, as
amended, were approved.**

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160 **SEVENTH ORDER OF BUSINESS** **Other Business**

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162 There being no other business, the next item followed.

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164 **EIGHTH ORDER OF BUSINESS** **Staff Reports**

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166 **A. Attorney**

167 Ms. Whelan will provide details of the Sunshine Law to Board members, via email.

168 **B. Engineer**

169 There being no report, the next item followed.

170 **C. Manager**

171 **i. Approval of Unaudited Financial Statements as of April 30, 2015**

172 The Unaudited Financial Statements as of April 30, 2015, were provided for
173 informational purposes.

174 ii. **NEXT MEETING DATE: August 20, 2015 at 1:00 P.M.**

175 Mr. Adams indicated that the next meeting is scheduled for August 20, 2015 at 1:00 p.m.,
176 at this location, and will include the budget Public Hearing.

177

178 **NINTH ORDER OF BUSINESS**

Public Comments (*non-agenda items*)

179

180 Mr. Adams stated that, over the past ten years, the District had a maintenance agreement
181 with the HOA for the stormwater facilities, including lakes, wetlands, interconnecting pipes and
182 control structures. He indicated that these facilities were contained within tracts and, in some
183 cases, included landscaping. The HOA agreed to maintain these landscaped areas. Mr. Adams
184 noted that buffers exist outside conservation areas, as well as tracts of landscaping between lakes
185 and road right-of-ways (ROW's); however, to avoid duplication of overhead costs, it was decided
186 that one entity would control landscaping maintenance.

187 Mr. Adams referenced Exhibit A and advised that he was in the process of preparing a
188 landscape maintenance map, listing tracts by plat name and location, which will be attached to
189 the agreement.

190 Ms. Crismond indicated that the lake and wetland contract expired at the end of August.
191 Ms. Whelan prepared a new LakeMasters Aquatic Weed Control, Inc. (LakeMasters) contract
192 and LakeMasters agreed to hold their price of \$33,324. Ms. Mayer indicated that LakeMasters
193 did an excellent job during the past nine years, was always responsive, had the best price and no
194 complaints were received from residents or Board Members regarding their maintenance
195 activities. The Board agreed that LakeMasters might be the best option; however, they wanted to
196 obtain additional proposals.

197 In response to Mr. Teckorius' inquiry regarding water quality testing, Ms. Crismond
198 provided a handout and indicated that LakeMasters checked pH balances, adjusted chemicals and
199 buffers, accordingly, to ensure that the chemicals work efficiently.

200 Ms. Crismond reported that Lake #6 was scheduled for lake bank repairs between late
201 July and early August. She noted that the fountain, on Lake #15, was scheduled for installation
202 at the end of July.

203 Mr. Teckorius asked if MP3 audio files could be posted to the Moody River CDD
204 website. Mr. Adams replied affirmatively.

205 Ms. Mayer was concerned about golf carts being driven in the rear of resident properties
206 and suggested notifying property owners prior to driving golf carts around their backyards.

207 Ms. Crismond reported that conservation signs, near the outside perimeter, had to be
208 removed due to vandalism.

209 Ms. Frazer informed the Board that Juniper removed a Cypress tree that fell on Lake #18,
210 between 3041 and 3061 Scarlett Oak. Mr. Adams stated that the Cypress tree would be replaced.

211 Ms. Frazer asked if she could copy minutes from the Moody River CDD website and post
212 them to Banyan’s website. Mr. Adams responded affirmatively.

213 Mr. Adams indicated that the District periodically inventoried Cypress trees around lakes
214 to ensure that the South Florida Water Management District (SFWMD) quota was met.

215 In reviewing the property appraiser’s website, Mr. Adams observed that the District did
216 not have title ownership for all the lake tracts. He felt that it would be best if all the tracks were
217 owned by the District and indicated that, since DR Horton no longer had ownership, tracts
218 should be owned by the District.

219 Mr. Adams advised that lakes tend to attract tragedies and, if an individual were hurt or
220 killed, it would expose the community to potential lawsuits or claims; therefore, the District
221 should solely own the lake tracts.

222 Mr. Adams explained that both the District and HOA could be pursued and the District
223 had sovereign immunity protections, limiting claims to “a few hundred thousand dollars”,
224 whereas, HOA or private corporation claims could be “hundreds of millions of dollars”.

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226 **TENTH ORDER OF BUSINESS**

Supervisors’ Requests

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228 There being no Supervisors’ requests, the next item followed.
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230 **ELEVENTH ORDER OF BUSINESS**

Adjournment

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232 There being nothing further to discuss, the meeting adjourned.
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234 **On MOTION by Ms. Mayer and seconded by Ms. Keeler, with**
235 **all in favor, the meeting adjourned at 2:02 p.m.**
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237 [SIGNATURES APPEAR ON THE FOLLOWING PAGE]
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Secretary/Assistant Secretary

Chair/Vice Chair

DRAFT