

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

Two (2) Public Hearings and a Regular Meeting of the Moody River Estates Community Development District's Board of Supervisors were held on **Thursday, August 20, 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
Lindsay Whelan	District Counsel
Carl Barraco, Jr.	District Engineer
John Hofstetter	Resident
Malcolm Haase	Resident
John Petelinsek	Resident
Gene Mitchell	Resident
Sandra Paparella	Resident
Alan Swiftman	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 all Supervisors were present, in person.

SECOND ORDER OF BUSINESS

Public Comments (*agenda items*)

There being no public comments, the next item followed.

THIRD ORDER OF BUSINESS

Public Hearing to Hear Comments and Objections on the Adoption of the District’s Final Budget for Fiscal Year 2015/2016, Pursuant to Florida Law

A. Affidavit of Publication

Mr. Adams presented the affidavit of publication for today’s Public Hearings and Regular Meeting. He noted that the advertisement indicated an assessment increase on certain properties within the District. The affected properties, primarily the “East Parcel”, through an agreement, only participate in certain professional costs in the administrative portion of the budget.

B. Consideration of Resolution 2015-9, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2015, and Ending September 30, 2016; Authorizing Budget Amendments; and Providing an Effective Date

Mr. Adams presented Resolution 2015-9 for the Board’s consideration.

Mr. Adams indicated that the budget was discussed, in detail, at previous meetings. There was a slight reduction in total appropriations and, as a result, the fund balance was reduced to zero. Referring to Page 2, Mr. Adams stated that less than \$5,000 of fund balance was used Fiscal Year 2015 to keep assessments at the same level. He indicated that, by reducing the fund balance to zero, in Fiscal Year 2016, the assessment level remained the same as Fiscal Year 2015.

Mr. Adams reiterated that the multi-family “East Parcel” did not receive the benefit of the reduction on the operating side and assessments increased. He noted that the explanation for the difference in assessment levels was on Page 8.

Mr. Adams explained that the “Debt Service” fund is based on the “Amortization Schedule” and the obligation of principal and interest payments due each year, which helped to keep the assessment levels the same, year over year. He indicated that, like a mortgage, the interest payments were weighted at the front end of the loan. Mr. Adams noted that the final debt service payment is due on May 1, 2036.

Mr. Adams stated that the assessments would be listed as Moody River Estates CDD or MRE CDD on the 2016 property tax bill.

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

There were no public comments.

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

On MOTION by Mr. Pye and seconded by Ms. Mayer, with all in favor, Resolution 2015-9, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2015, and Ending September 30, 2016; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

FOURTH ORDER OF BUSINESS

Public Hearing to Hear Comments and Objections on the Imposition of Special Assessments to Fund the Budget for Fiscal Year 2015/2016, Pursuant to Florida Law

A. Mailed Notices to Property Owner(s)

Mr. Adams presented proof of the mailed notices for today’s Public Hearing and Regular Meeting. He indicated the “East Parcel” notices included information regarding the proposed assessment increase.

In response to a Board Member’s question, Mr. Adams advised that Mood Development was the owner of the “East Parcel” and Florida Tax Lien Assets IV, LLC had a lien interest in the property.

B. Consideration of Resolution 2015-10, Imposing Special Assessments and Certifying an Assessment Roll; Providing a Severability Clause; and Providing an Effective Date

Mr. Adams presented Resolution 2015-10 for the Board’s consideration. He explained that the resolution incorporates the adopted budget, the appropriation and assessment levels and directs Staff to certify and submit a lien roll to the Lee County Tax Collector for placement of the assessments on the property tax bills.

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

Mr. John Hofstetter, a resident, asked what the “East Parcel” referred to. Mr. Adams indicated that the “East Parcel” is comprised of a number of properties on the east side of Moody Road. He noted that 55 residential multi-family units and 14 single-family units are being assessed by the District. Through a lawsuit, a settlement was reached between the District and a property owner regarding the annual operations and maintenance (O&M) assessment levels, as the “East Parcel” does not receive benefit from District operations.

Mr. Adams explained that water from the “East Parcel” does not flow into the District’s drainage system; the District’s drainage flows across the “East Parcel” to an outfall. The District reduced the O&M assessments for the “East Parcel” to include only District overhead costs, with the exception of engineering costs. The District recognized that engineering is stormwater related and the “East Parcel” does not enjoy benefit from District engineering services.

Mr. Teckorius asked if, when the 42” overflow pipe is intersected, the “East Parcel” could receive some benefit from the District’s system, resulting in increased assessments.

Mr. Adams indicated that the “East Parcel” is under a separate stormwater permit and the facilities and outfall on the “East Parcel” were not constructed with District funds. He noted that the permit envisioned that the District would, at some point, own and operate the system, as the District was listed as the operating entity in the “early years”. Mr. Adams emphasized that the District was never listed as the permitted entity, only as a potential operating entity.

Mr. Adams compared the “East Parcel” to a community located downstream on a river and the community would have to take into account not only their flow but the flow from communities upstream, as well. He reiterated that the “East Parcel” did not receive any benefit and was required to maintain the downstream system that that the District was reliant upon.

Mr. Malcolm Haase, a resident, questioned how the undeveloped properties were handled with respect to assessments. Mr. Adams stated that all property in Moody River Estates, including undeveloped property, was platted and is included on the tax roll and received an assessment from the District for O&M.

Mr. John Petelinsek, a resident, asked if the “East Parcel” included Mangrove Bay. Mr. Adams indicated that Mangrove Bay is not within the boundaries of the District.

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

On MOTION by Mr. Pye and seconded by Mr. Berry, with all in favor, Resolution 2015-10, Imposing Special Assessments and Certifying an Assessment Roll; Providing a Severability Clause; and Providing an Effective Date, was adopted.

FIFTH ORDER OF BUSINESS

Consideration of Resolution 2015-11, Adopting the Annual Meeting Schedule for Fiscal Year 2015/2016

Mr. Adams presented Resolution 2015-11 for the Board’s consideration.

Mr. Adams indicated that the proposed meeting schedule was the same as previous years, which is the third Thursday of October, January, March, May, June and August at 1:00 p.m., at this location. The proposed budget for Fiscal Year 2017 will be presented at the May meeting and adopted at the August meeting.

On MOTION by Mr. Berry and seconded by Mr. Pye, with all in favor, Resolution 2015-11, Adopting the Annual Meeting Schedule for Fiscal Year 2015/2016, and authorizing Staff to advertise, accordingly, was adopted.

SIXTH ORDER OF BUSINESS

Consideration of Proposals for Maintenance of Water Management Areas, Fountains and Aerators

- A. Aquagenix**
- B. Lake & Wetland Management, Inc.**
- C. Lake Masters Aquatic Weed Control, Inc.**

Ms. Crismond reported that she contacted four contractors to provide aquatic maintenance services but only three responded. She indicated that Aquagenix had the highest bid, Lake & Wetland Management, Inc. was the second highest and Lake Masters Aquatic Weed Control, Inc. (LakeMasters) had the lowest bid.

Ms. Crismond recalled that the current contractor, LakeMasters, agreed to hold their current price for the next three years. District Counsel provided a three-year contract, with the ability to terminate with 30 days notice. Ms. Crismond noted a typographical error on the price for the third year.

Ms. Crismond advised that LakeMasters has been the District’s contractor for years and Staff felt they did a great job for the District.

Mr. Teckorius agreed that LakeMasters is doing a great job but asked why they omitted photos of Lakes 4, 7, 10, 15 and 19 from their bid. Mr. Adams assumed that LakeMasters provided a sampling of their current work.

Mr. Teckorius questioned why EarthBalance was performing work for the CDD. Ms. Crismond indicated that EarthBalance was hired for littoral planting and to remove unsightly plant material in one of the wetland dry detention areas. Mr. Teckorius felt that EarthBalance did a good job and asked if the HOA ever hired them. Ms. Crismond did not believe so. Mr. Adams indicated that EarthBalance handled special projects for the District. He explained that the District benefited from the bulk purchasing savings that District Management had obtained by bringing many of their communities together for purchasing these services.

On MOTION by Ms. Teckorius and seconded by Mr. Mayor, with all in favor, awarding a three-year contract for maintenance of water management areas, fountains and aerators to Lake Masters Aquatic Weed Control, Inc., was approved.

SEVENTH ORDER OF BUSINESS

Update: Installation of Fencing Abutting Lake #2

There being nothing to report, the next item followed.

EIGHTH ORDER OF BUSINESS

Approval of June 18, 2015 Regular Meeting Minutes

Mr. Adams presented the June 18, 2015 Regular Meeting Minutes and asked for any additions, deletions or corrections.

On MOTION by Ms. Mayer and seconded by Ms. Keeler, with all in favor, the June 18, 2015 Regular Meeting Minutes, as presented, were approved.

NINTH ORDER OF BUSINESS

Other Business

Mr. Adams reported that Advantage Marine Services (Advantage) recently completed erosion repairs on Lake 6. A nonwoven geo-tube was pumped full of soil from the lake, tied off and stabilized. Mr. Adams noted that the geo-tube would remain until water levels receded, at which time, the tube would be cut open horizontally and the soil would be raked off to restore the 4:1 slope. Sod would then be installed and compacted to better withstand rain runoff while it reestablished.

Mr. Adams noted that Advantage’s prices are significantly less than other contractors and District Management has used them on several projects in Lee County.

Mr. Adams advised that, last weekend, Advantage left their boat and trailer on District property and they were towed. He contacted the towing company and authorized the boat and trailer to be released to Advantage, at their cost.

TENTH ORDER OF BUSINESS

Staff Reports

A. Attorney

There being no report, the next item followed.

B. Engineer

Mr. Barraco reported that the owner of the “East Parcel” submitted an application to the South Florida Water Management District (SFWMD) for approval. Staff followed up to confirm that the changes to the outfall remain as reviewed and will continue to monitor. Mr. Adams stated that any changes that Staff views as a detriment to the CDD will be brought to the Board’s attention.

Mr. Teckorius indicated that, with the rain received in the past week and the lakes at peak level, the system worked properly but voiced concern about future work.

Mr. Barraco reported that the system was reviewed and deemed to be constructed as originally designed. He pointed out that outfalls should flow almost continuously during the wet season. He cautioned that the lake levels were not at their peak.

Mr. Barraco explained that the minimum design for a stormwater system in the area is that roads are not flooded more frequently than once every five years. He noted that the perimeter of the project was designed not to be flooded more frequently than once every 25 years and the homes were designed so that they would not flood more than once every 100 years.

Mr. Teckorius pointed out that other communities have had flooding issues while the District has not.

Mr. Barraco indicated that the best thing that could be done to mitigate flooding was to continue the maintenance program.

C. Manager

i. Approval of Unaudited Financial Statements as of June 30, 2015

Mr. Adams presented the Unaudited Financial Statements as of June 30, 2015. He pointed out that, as of June 30, 2015, expenditures were under budget but, with the erosion repair, expenditures were expected to be on budget by the end of Fiscal Year 2015.

Mr. Berry asked which line item the new fountain on the south property was paid from. Mr. Adams indicated that funding came from fund balance.

ELEVENTH ORDER OF BUSINESS

Public Comments (*non-agenda items*)

Mr. Gene Mitchell, a resident, questioned the ownership of the “ratty” fence on Skyline Drive.

Discussion ensued regarding the location of the fence.

A Board Member stated that the fence was discussed at an architectural review meeting and was determined to belong to Buttonwood.

Mr. Mitchell questioned why the south side of Skyline Drive, approaching Randag Road, did not look as nice as the north side. Mr. Adams indicated that the area in question, Wetland 3, was a conservation area. Mr. Mitchell did not understand why one side of the street could be nicely landscaped while the other side “looked like a junk yard” and felt that the District was getting “shorted”, which was not right. Mr. Mitchell requested that trees and shrubs be planted and a chain link fence installed. Mr. Adams reiterated that the area in question was a conservation area and Staff could only remove exotic and invasive species. Ms. Crismond noted that the District could remove trash and foreign materials from the conservation area.

Discussion ensued regarding what is permitted within a protected area.

Mr. Adams stated that Staff will look into the matter further.

Ms. Sandra Paparella, a resident, witnessed children fishing in District lakes. She spoke to the children, who noted that there were no “No Fishing” signs. Ms. Paparella advised that she printed out the policy regarding recreational activities on District ponds, confronted the boys and called the police but the children came back the next day. The boys told her they lived in the community but she saw them sneaking through the broken fence near Hancock Elementary. Ms. Paparella asked if anything could be done.

Mr. Adams stated that the solution is to install “No Trespassing/No Fishing Signs” every 500’ around the perimeter of the ponds but the unsightliness of the number of signs that would be required deterred the Board from taking further action. He recalled that the Board adopted a “no fishing” policy for residents and non-residents, which is on the CDD’s website. Mr. Adams advised that the policy could be used when confronting someone who is fishing, which may or may not have the desired effect.

Ms. Paparella noted that the children favor Lakes 16 and 17.

Ms. Whelan stated that properly posted signs allow the Sheriff to act without Staff or the Chair. Mr. Adams indicated that, most likely, enforcing the “no fishing” policy would not be at the top of the Sheriff’s priority list.

Discussion ensued regarding a teen on a golf cart who was vandalizing the community.

Mr. Teckorius requested an update on the re-creation of “Exhibit A”. Mr. Adams stated that Staff is matching the exhibit with ownership records and it then will be added to the District map, which will be color coordinated as to ownership areas that pertain to the agreement and ownership areas that are maintained by the District.

Mr. Teckorius reminded Management that D.R. Horton is planning a turnover to the homeowners on October 30, 2015 and asked how this affects the District. Mr. Adams confirmed that it does not affect the District at all.

Mr. Teckorius noted the possibility of the District renegotiating some of the CDD’s responsibilities. Mr. Adams stated that there was an entire menu of services that a CDD could provide the District. He noted that the residents must make that decision.

Mr. Teckorius asked how the community would go about doing that. Mr. Adams replied that, after the turnover, a joint meeting of the Homeowner’s Association and CDD could be held. Mr. Teckorius asked if there could be a workshop. Mr. Adams advised that workshops allow for community input but do not allow the Board to take action.

Mr. Adams stated that he manages other CDDs that have taken advantage of all services allowed under the statute. Ms. Whelan pointed out that the CDD could not take over private lot maintenance but could manage common areas within the community.

Discussion ensued regarding CDD responsibilities.

Ms. Keeler questioned the management of Lake 20. Mr. Adams replied that all lakes are managed by the District and all lake tracts are District owned.

TWELFTH ORDER OF BUSINESS

Supervisors' Requests

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

THIRTEENTH 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 1:58 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



Secretary/Assistant Secretary



Chair/Vice Chair