

**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, October 15, 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
Ilse Mayer	Assistant Secretary
John Teckorius	Assistant Secretary
Elizabeth Keeler	Assistant Secretary

**Also present were:**

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Michael Eckert ( <i>via phone</i> )	District Counsel
Wes Kayne	District Engineer
Malcolm Haase	Resident
Rick Doren	Resident
Brian Woods	Resident
Nancy Leek	Resident
Tamara Greider	Resident
Chuck Walter	Resident
Joan Dalson	Resident

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Adams called the meeting to order at 1:01 p.m., and noted, for the record, that Supervisors Pye, Mayer, Teckorius and Keeler were present, in person. Supervisor Berry was not present.

**SECOND ORDER OF BUSINESS**

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

Mr. Rick Doren, a resident, commented that the community is in the process of a turnover from the developer to residents and the community service agreements are being reviewed. He

inquired about the District Management, District Counsel and District Engineer evaluation process and whether evaluations were performed.

Mr. Adams stated that service provider evaluations were not completed; however, they can be done and may apply to one or all of the services. All three disciplines have continuing service agreements. The District Management and the District Engineer agreements have a 30 or 60-day termination provision. District Counsel's agreement is at will.

Mr. Doren asked when District Management was hired.

Mr. Adams originally worked with the District under a prior service provider. Wrathell, Hunt and Associates, LLC, was hired as District Manager in mid-2005.

Mr. Teckorius asked how the Board could compare service providers.

Mr. Adams explained that comparisons are usually made in the form of a request of qualifications (RFQ) or request for proposals (RFP) in order to provide proposals that are not only financial in nature but also provide qualifications and references. If the goal is simply to save money, the current CDD service providers' fees are outlined within the District's budget and competitors have access to those figures, which is why the focus should be on the service provided, local presence, history, company size and qualification-based attributes are taken into consideration.

Mr. Brian Woods, a resident, asked if the District provided any turf services for weeds within 20' of the water's edge.

Mr. Adams explained that it is the adjacent property owner's responsibility to maintain to the water's edge. A lake tract may include a 15' to 20' perimeter above the high water mark. One way to convey the tract is by a tract that includes a setback or, the actual tract is the high water line and the adjacent properties include a 15' to 20' easement over them for access around the lake perimeter. In either situation, the responsibility to maintain to the water's edge falls on the adjacent property.

Mr. Woods noted that there are weeds around the lake but it was difficult to reach the water's edge.

Mr. Adams expounded that the adjacent property owner maintained a horticultural based program, from the high-water point, up. Landscape contractors can spray for weeds to the water's edge. The District maintained the lakes from the high-water mark, down, with an aquatic

based program that used a different set of Environmental Protection Agency (EPA) registered chemicals.

**THIRD ORDER OF BUSINESS**

**Discussion: CDD Review**

- **Additional Services: CDD vs. Master Association**

Mr. Adams delivered an overview regarding the purpose of CDDs and a brief history of the District. A CDD can provide a menu of services to a community under Chapter 190, Florida Statutes. The services can include common area, right-of-way (ROW), park and landscape maintenance and community center amenity operations. Some districts own well fields, which supply irrigation water within the community and have monthly billing services. Additional powers can be granted, allowing a district to provide security services, park services, mosquito control, etc. The additional powers can be granted through a follow-up petition to Lee County. As it pertains to Moody River CDD, landscaping and streetlighting, within the common areas and ROWs and operation and maintenance (O&M) of the community's well field were previously discussed. The District can provide services that all unit owners benefit from, with the exception of the East Parcel, which, by settlement agreement, is not assessed for O&M.

Mr. Adams indicated that a primary benefit of the District handling maintenance is its ability to collect revenue. Through an agreement with the tax collector and property appraiser, the CDD utilizes the property appraiser's records, which are annually updated, to create the District's lien roll, which is transmitted to the tax collector and the assessments are placed on the property tax bills. Delinquencies are remedied via tax certificate sales. This collection method is beneficial to programs that are dependent on the ability to collect revenue. In contrast, associations use mailed billing programs; if there are collection issues, delinquent accounts are pursued, individually.

Mr. Adams stated that a CDD is a public entity and business is conducted in the public forum; meetings are advertised and the public is allowed to participate. There is a high level of transparency. An association's meetings can be tighter, more closed door and less participatory.

Mr. Adams advised that, even if additional powers are granted, it was not recommended that the District assume security services. As a government entity, the CDD's ability to manage access control, as tightly as the association, would be impeded.

Mr. Pye requested that a letter listing the services offered by the CDD be provided to the master association board. Mr. Adams suggested hold a joint town hall meeting of the association and the District, after the new master association board settles in. Both entities are capable of providing services to the community and it must be determined which services are to be provided by each entity.

Mr. Eckert explained that, because the community has “hard” gates and access is restricted, the services that the CDD can provide are limited, under Florida law.

Mr. Teckorius asked what the District could offer with regard to streetlighting and the irrigation system and if the CDD could manage the lake irrigation pump stations, along with the street grates leading to the ponds.

Mr. Adams reported that the CDD could assume the association’s streetlighting agreement and expense it through the District’s budget. The District cannot maintain irrigation on private property but it can manage and operate the community’s well system and the transmission line, up to the point of contact with private property. The CDD could manage the lake irrigation pump stations and drainage conveyance system from the road to the ponds.

Mr. Teckorius asked if the CDD could manage the landscaping in each of the neighborhood associations’ common areas. Mr. Adams replied that CDDs do not typically manage neighborhood association landscaping, as not all property owners receive the benefit.

Mr. Eckert advised that further discussion would be required for the CDD to maintain common area landscaping, it would require “soft” gates, rather than “hard” gates. The site plan must be reviewed regarding the specific areas. From a Florida law perspective, if the District owned and operated the recreation facilities, the facilities must be accessible by the public but the public could be required to pay a facility usage fee.

Mr. Adams advised against taking on any recreation responsibilities, as associations do a better job managing those types of operations. There must be further discussion after District Counsel’s review of the law. The District can service the community’s perimeter and the landscaping outside the gates. The new master association board will be allowed time to acclimate and discuss amongst themselves what services they would like the District to potentially consider.

Mr. Adams presented the Ownership Map provided by the District Engineer.

Questions arose regarding the accuracy and conveyance of the map.

Mr. Kayne reported that it was difficult to include that amount of information and have it be understandable.

Discussions ensued regarding the map.

It was determined that the vast amount of information conveyed on the map was causing confusion. The current maintenance responsibly map will remain the same and an ownership map will be created, as a separate exhibit.

District Management will reach out to the new master association, after the first of the year, to schedule a joint spring meeting.

Mr. Pye asked the present members of the association committee what percentage of HOA fees was collected. Mr. Wood stated that HOA assessment collections were between 95% and 97%. During the economic downturn, collections were approximately 85%. Ms. Keeler asked how the shortage was compensated. Mr. Wood replied that, currently, the shortage was reimbursed by the developer and is referenced as a liability on the HOA’s balance sheet.

**FOURTH ORDER OF BUSINESS**

**Approval of August 20, 2015 Public Hearings and Regular Meeting Minutes**

Mr. Adams presented the August 20, 2015 Public Hearings and Regular Meeting Minutes and asked for any additions, deletions or corrections.

The following changes were made:

Line 83: Change “2012015-9” to “2015-9”

Line 311: Change “Ms. Mayer” to “Ms. Keeler”

**On MOTION by Ms. Mayer and seconded by Ms. Keeler, with all in favor, the August 20, 2015 Public Hearings and 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. Eckert clarified that there are no public access questions with regard to conservation lands, reuse and irrigation. The Florida Legislative Session will begin in January, 2016, instead of March, 2016. District Counsel will monitor the session and advise of anything that could impact the District.

**B. Engineer**

There being no report, the next item followed

**C. Manager**

**i. Approval of Unaudited Financial Statements as of August 31, 2015**

Mr. Adams presented the Unaudited Financial Statements as of August 31, 2015. Total revenue collections were at 110% and expenses were at 84%, with one month left in Fiscal Year 2015. Additional revenues become surplus fund balance and are available to be allocated to any programs that the Board sees fit. Page 3 reflected that all principal and interest payments were made; the principal prepayment was made by the developer when he took 24 lots down to 12 lots and made the true-up payment.

**ii. NEXT MEETING DATE: January 21, 2016 at 1:00 P.M.**

Mr. Adams suggested holding a joint meeting of the CDD and the association in March, 2016.

**SEVENTH ORDER OF BUSINESS**

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

Mr. Malcolm Haase, a resident, asked when work on Lake 6 will be finished.

Mr. Adams reported that work on Lake 6 was in abeyance because of high water. Now that the rainy season is over, in the upcoming weeks, geotubes will be cut open, the soil will be raked off to the original 4:1 slope and sod will be installed to the water's edge. While the lake was an eyesore when work was halted, once completed it will look like new.

Mr. Haase asked if there were plans to complete any more lakes this year. Mr. Adams replied affirmatively. The CDD is working off of a list created a few years ago, during the engineering certification, of lakes that were noted to be out of compliance with the water's edge. At the time, Southwest Florida Water Management District (SWFWMD) agreed to the District's plan to restore the slopes over a number of years.

In response to a question from Ms. Nancy Leek, a resident, Mr. Adams stated that the District has nothing to do with the boat ramp.

Ms. Tamara Greider, a resident, asked if the cypress trees, on Lake #9, were being replaced.

Ms. Crismond indicated that the tree will be planted this week; the contractor delayed installation due to high water.

Mr. Chuck Walter, a resident, asked about the electrical box and fountain in Lake 11.

Ms. Crismond stated that there are work orders for both the fountain and the electrical box.

Mr. Woods asked if, because of the association turnover, a survey of the trees would be taken.

Mr. Adams believed that the HOA would perform a full canopy tree survey; the District will not.

Ms. Joan Dalson, a resident, asked how fluid it would be for the District to assume additional responsibilities and if it could be done at any point during the year.

Mr. Adams indicated that the assumption of a large program, requiring a large amount of revenue, would ideally match up with the District's budget year. The District's fiscal year begins on October 1; the HOA's fiscal year begins January 1. Timing works well for a transfer of services; the District can budget for a full year and will have received the first round of property tax collections by the time the HOA begins their new fiscal year.

**EIGHTH ORDER OF BUSINESS**

**Supervisors' Requests**

Ms. Keeler asked for an update on the wetland clean up requested by Mr. Gene Mitchell, at the last meeting.

Ms. Crismond reported that the wetland contractor will be removing trash in WL-2A this month, while performing maintenance.

Mr. Teckorius informed the District Engineer that Mr. Heuther's permit for the outflow pipe extension was approved and he hired contractors. A permit requirement called for chaperones at that interception point with the inverts to be reviewed by contractors. Mr. Heuther owns 12 or 14 single-family home parcels and there is a new owner for the 55 multiple-family unit parcel. Mr. Heuther paid off the bond for his parcel, which is why he receives the reduced assessment rate; the owner of the 55-unit parcel did not pay off the bond debt and should be paying the full assessment.

Mr. Teckorius asked who now owns the 55-unit parcel, if the bond was paid off and if the owner was being charged the full assessment, regardless of whether they are using the District's amenities or not.

Mr. Adams was unaware that parcel ownership had changed and will research the settlement agreement. Previously, a group purchased the parcel's tax certificates.

Mr. Eckert believed that the new owner would have the same agreement provisions as Mr. Heuther. There are two parcels of land within the District that are treated differently from each other. District Counsel will review the agreement and provide copies.

Mr. Adams clarified that the East Parcels are within the District's boundaries but the CDD has no maintenance obligations.

If the owners did not pay off their bond, Mr. Teckorius asked why they are allowed to pay the minimum amount. Mr. Adams did not know if that statement was accurate.

Mr. Eckert advised that approximately \$200,000 of bond debt was levied against the East Parcels. District Counsel will review the assessment records to verify whether the bond debt on one of the parcels was paid off.

Mr. Teckorius believed that Mr. Heuther paid \$95,000 towards the bond on the 14-unit parcel.

Mr. Adams indicated that Mr. Heuther had no obligation to pay off the bond; he believed that Mr. Heuther chose to do so because the parcel was going to a not-for-profit and it was in his best interest to remove that debt from the parcel.

Mr. Teckorius stated that, due to lake erosion, there were questions regarding the property lines of the Blue Jasmine homes, on Lake #9, and asked who monitored the 4:1 slope and made sure that the developer corrected the issue.

Mr. Adams advised that the county monitors the slope, as part of the building permit process, and asked Mr. Kayne to bring the issue to their attention.

**NINTH ORDER OF BUSINESS**


**Adjournment**

There being nothing further to discuss, the meeting adjourned.

**On MOTION by Ms. Keller and seconded by Ms. Mayer, with all in favor, the meeting adjourned at 2:03 p.m.**



  
Secretary/Assistant Secretary

  
Chair/Vice Chair