

**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, January 21, 2016 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
Michael Eckert	District Counsel
Doug Tarn	District Engineer
Malcolm Haase	Resident
Gene Mitchell	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 1:03 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

Continued Discussion: District's Ability to Assume Certain Common Maintenance Responsibilities from the Master Association

Mr. Eckert circulated an email from District Counsel that was transmitted to the District Manager, regarding the District's ability to maintain certain infrastructure within the "hard" gates, which restrict access to the community; therefore, having the gates limits what the District can own and maintain behind them.

Mr. Eckert advised that since the CDD is a government, the Board is subject to the same laws as county commissioners; Board Members are public officials running a government. The District may own and maintain facilities behind the gates that exclude public access, such as water or sewer lines or the stormwater management system, as long as it is treated as a utility. For items such as parks, recreation facilities, common spaces and playgrounds, there is an expectation of public access. If the CDD owns and maintains them, the gates must be "soft" gates. Most communities do not want "soft" gates because access must be granted to the public.

Mr. Eckert explained that, with "hard" gates, the District could have landscaping to prevent soil erosion into the stormwater management system, water, sewer and irrigation lines and landscaping outside the gates along the roadway perimeter; however, Florida Law prohibits the CDD from owning and operating roads, streetlights and common and recreation areas, unless the gates become "soft" gates. Changing to "soft" gates is a significant community decision that involves reviewing HOA documents. Some communities want the CDD to own the amenities but also want "hard" gates and are struggling with the decision.

Mr. Teckorius felt that this is a bad idea. Mr. Adams agreed.

In response to a question, Mr. Eckert confirmed that this was his legal opinion.

Mr. Berry believed that the CDD provides maintenance, not ownership. Mr. Eckert advised that the CDD cannot maintain a private facility, as it would involve using public money to benefit a private entity. Ms. Keeler felt that this makes sense. Mr. Eckert advised that it made sense, if the Board recognizes that the District is a unit of local government, under Florida Law.

Mr. Eckert recalled that, at the last meeting, the Board requested an opinion on the Mood Development Corporation (Mood) settlement and the outstanding assessments. He explained that the agreement did not require Mood to prepay debt assessments on its property. Mood owns two parcels; one prepaid its debt assessments and the other is billed on an annual basis. Mr. Eckert believed that Mood was not currently out of compliance with the agreement.

Mr. Teckorius indicated that one parcel was purchased in March and owned by an LLC in Minnesota. It has 55 units and each owner pays \$135, per year and the owners do not benefit

from CDD amenities. Mr. Adams pointed out that, as long as mood follows the provisions of the settlement agreement, the District was “at a loss” as to what it can do.

Mr. Teckorius stated that Owner “A” recently sculptured five to six acres of land and hydroseeded it in an area where a drain will be installed. He has pictures of the ponding and will be drained from that property, which is in the CDD; therefore, he wondered if the CDD can receive compensation for the owner’s benefit of utilizing the District’s newly installed overflow pipe.

Mr. Adams clarified that the property owner is providing a benefit to the District by modifying the outfall pipe, as required by their permit. The modification benefitted the owner, as it allowed their retention and eventual conveyance of their stormwater through the system but, ultimately, the invert of the pipe was lowered by 6”, which provided a greater benefit to the District.

Mr. Adams understood that the permit requires on-site stormwater retainage in the sculpted area. The water buildup that occurred one or two months ago, resulted from recent construction activities; the owner was required to install sedimentation and erosion controls during construction, due to exposed soils, to hold back water from free flowing into the system, taking contaminants and soil into the pipe and discharging into the bay. Mr. Adams noted that, as the grass fills in and thickens, the sedimentation controls will be removed and there will no longer be ponding, other than what it is designed to hold. The requirement for attenuation is the first .5”.

Mr. Teckorius stated that, once the grass is at 70%, the sedimentation controls can be removed. Mr. Tarn concurred.

Mr. Teckorius reiterated his question about whether the CDD could receive compensation for the property owner, who benefits from utilizing the District’s stormwater system. Mr. Adams explained that the District does not own the outfall pipe, as it was not constructed with District funds and there is no easement in favor of the District. The only obligation would be for the owner to maintain drainage, through their stormwater permit for that parcel, which happens to pass the District’s drainage through their system. Mr. Adams noted that this is no different than inland communities receiving stormwater from upstream development, through the District’s stormwater system, and discharging downstream. Each surface water management permit has an

obligation to maintain their system, as designed and, if they create any negative impacts, upstream or downstream, they are required to modify and remediate the system.

Since the Land Development Order (LDO) was issued and the District will be purchasing a portion of the outfall pipe, Mr. Teckorius asked if the CDD should pursue the owner of the parcel, for an easement to maintain the pipe. Mr. Adams replied no, as the agreement is between the current developer and the association but, once the facilities are in place, it would make sense for the District to consider an agreement with the association for the District to maintain the facilities, on behalf of the association.

Mr. Teckorius asked if the CDD should obtain an easement from Mr. Heuther. Mr. Adams indicated that the easement will be in favor of the association but can be assigned to the CDD, through an agreement with the association. Mr. Teckorius believed that the owner must be contacted if the pipe is damaged. Mr. Adams recommended contacting the agencies and the owner at the same time. Mr. Teckorius stated that he cannot call Mr. Adams because it is not his responsibility, which is why he wants the CDD to be responsible for all of the pipes in the system.

Mr. Adams suggested constructing the outfall pipe and putting the easement in place, and then the association can decide whether to enter into an agreement with the CDD.

FOURTH ORDER OF BUSINESS

Approval of October 15, 2015 Regular Meeting Minutes

Mr. Adams presented the October 15, 2015 Regular Meeting Minutes and asked for any additions, deletions or corrections.

The following change was made:

Line 68: Remove the entire sentence.

Regarding Line 194, Mr. Teckorius asked about the number of lakes to be completed this year under the lake bank erosion project. Mr. Adams is waiting for the contractor to provide proposals and is hopeful that several lakes can be restored.

In response to Mr. Teckorius' question regarding Line 204, Ms. Crismond indicated that the tree, on Lake 9, was planted the week of the last meeting.

Mr. Teckorius noted that the electrical box for the fountain, in Lake 11, was not repaired. Ms. Crismond reported that the housing of the unit was replaced but the electrical panel was on

order. Mr. Teckorius noticed that one air pump box was installed but the lower box must be replaced; it had been missing for two months.

On MOTION by Mr. Berry and seconded by Ms. Keeler, with all in favor, the October 15, 2015 Regular Meeting Minutes, as amended, were approved.

FIFTH ORDER OF BUSINESS

Other Business

Mr. Teckorius questioned if the District Engineer asked the county to investigate the slope of the lake banks, as reflected in Line 253, of the October 15, 2015 Regular Meeting Minutes, as it is the developer's responsibility to bring the lakes into compliance. Mr. Adams indicated that the lakes are on the engineer's certification list.

Mr. Teckorius pointed out that lakes in Moody south were never in compliance. He felt that the construction of the homes, along these lakes, must be reviewed and approved. Mr. Adams explained that when the lakes were transferred to the District, several years ago, for ownership and operation, Staff reviewed the list from the certification, from the certification, from the construction to the operational phase. The District assumed those responsibilities and they are on the list. Staff is hopeful that, during development, when the back slopes are graded, the developer makes corrections to eliminate erosion, washouts and vertical ledges that take lakes out of compliance.

Mr. Berry pointed out that the slopes on the lake banks of the new houses, were corrected. Mr. Adams explained that this is why slope restoration was being completed in phases. The slopes for the undeveloped areas will be addressed later, as it is not an immediate aesthetic issue; there may be remediation, at no cost to the District, as the lots are developed.

Mr. Teckorius suggested holding monthly CDD meetings, versus four regular meetings and two emergency meetings. Mr. Berry disagreed, as monthly meetings are not budgeted, nor are professional costs. Ms. Keeler agreed. In response to Mr. Berry's question, Mr. Adams indicated that Management's costs are set but the District Engineer and District Counsel's costs are hourly. Mr. Berry asked about advertising. Mr. Adams estimated that individual newspaper advertisements cost \$300.

Mr. Adams questioned whether the Board needs to meet monthly to discuss the stormwater management system.

SIXTH ORDER OF BUSINESS

Staff Reports

A. Attorney

Mr. Eckert reported on two legislative items. The first bill, which was approved by both committees but not yet approved by the Legislature, gives CDDs more authority to tow vehicles parked on CDD property. The second bill may have a dramatic impact on all Florida CDDs by making CDD websites interactive; the cost per District, to implement this change would be significant. The bill is being monitored but, in the future, the estimated cost for the website charge, may be presented and he may ask if the Board wants to adopt any resolution, indicating whether or not the District is in favor. Mr. Eckert stated that he District cannot absorb the costs in the budget; therefore, assessments would have to be increased to accommodate the new law. There is concern bas no more than one vendor has this type of program, resulting in a sole source contract. If interested, he requested that the Board adopt a resolution.

Mr. Adams believed that it would cost \$9,000 to \$10,000, per District, to make the website interactive and upload additional information.

B. Engineer

Mr. Teckorius asked if the LDO was approved. Mr. Adams indicated that it was reviewed and there were no concerns.

Mr. Tarn reported that a site visit was performed on the East Parcel on December 7. There was minor flooding but, at the time of the site visit, most of the water had dissipated. He indicated that, the NPDES documentation was accepted for the silt fence, downstream. There were no drainage structures or modifications to the outfall pipe.

Mr. Adams advised that the LDO was provided to Mr. Kayne for review and Mr. Kayne had no any concerns. The LDO seems consistent with the design planning and discussion.

C. Manager

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

Mr. Adams presented the Unaudited Financial Statements as of November 30, 2015. Activity was limited, as October was an accrual month but 70% to 80% of the actual aseessment

revenue will be received in December, as most owners pay their property taxes in the last week of November.

ii. NEXT MEETING DATE: March 17, 2016 at 1:00 P.M.

Mr. Adams indicated that the next meeting is scheduled for March 17, 2016 at 1:00 p.m., at this location.

SEVENTH ORDER OF BUSINESS

Public Comments (*non-agenda items*)

Mr. Malcolm Haase, a resident, asked if the CDD is responsible for maintaining a certain quality of water. The ponds have unsightly plant material and there are clogged sprinkler heads.

Mr. Adams advised that, since 1993, stormwater systems in Southwest Florida are required to have littoral shelves with beneficial plants, at a 4:1 slope, which is approximately 12' to 15' off shore and 3' to 4' deep. Beneficial plants absorb impurities from adjacent lawns, primarily nitrogen and phosphorus and help with erosion control. Submersed aquatics, such as hydrilla, bladderwort and coontail, are maintained, every two weeks under a chemical treatment program. Each lake is treated, as needed. Algae is quickly removed with a contact herbicide or copper derivative. Submersed aquatics are treated with Sonar, once or twice per year, which is absorbed by the plant, all the way to the root, killing the plant. Over a period of months, algae will regenerate. Some contractors use a contact herbicide, such as Diquat, which burns the plant material but, as the plant material decomposes, it releases nutrients into the water; therefore, the contractor prefers to treat the ponds once or twice per year, versus monthly. If irrigation ponds are not properly maintained, material can enter the intake where pumps are pulling from the water. Periodically, algae may get into the intake valve but it can be prevented with a proper filtering system. The water source is an open air holding pond, versus a closed source, such as potable water but the cost difference is substantial.

Mr. Haase asked if water testing is performed. Mr. Adams replied no.

Mr. Gene Mitchell, a resident, asked about clogged sprinkler heads in Juniper and what can be done, as it will cost thousands of dollars to replace them. Mr. Adams suggested installing a strainer or filtering system with properly sized filters.

Mr. Adams requested that Mr. Mitchell speak to the association about installing the filtering system, as the point of pulling water out of the lake is the ideal location for a filtering system with an automatic backwash system.

Mr. Teckorius noted that it is the HOA's responsibility to install a side stream filter, because they own the pumping stations. Mr. Adams advised that a blow off program is necessary, at the end of the lines, in the cul-de-sacs, to prevent buildup.

Mr. Teckorius stated that the Juniper's developer left timers in the meter boxes and never replaced them, causing the pumps to turn on, utilizing electricity and ruining the drives. Mr. Adams surmised that the controller lines were cut and, instead of re-running the controller lines, a battery operated unit was installed. Mr. Teckorius stated that the HOA is paying \$80 to replace each timer.

EIGHTH ORDER OF BUSINESS

Supervisors' Requests

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

NINTH ORDER OF BUSINESS

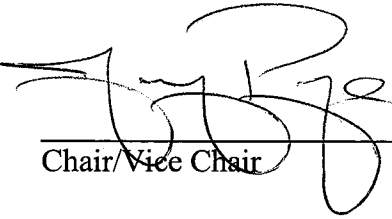
Adjournment

There being nothing further to discuss, the meeting adjourned.

On MOTION by Ms. Mayer and seconded by Ms. Keeler, with all in favor, the meeting adjourned at 1:42 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair