

**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 19, 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
Ilse Mayer	Assistant Secretary
John Teckorius	Assistant Secretary

**Also present were:**

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Michael Eckert	District Counsel
Wes Kayne	District Engineer
Mike Geml	President, MRE Community Association
Steve Kolach	Resident
Robert Geltner	VP, MRE Community Association
Melvin Wroten	Chair, Architectural Review Board

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Adams called the meeting to order at 1:02 p.m., and noted, for the record, that Supervisors Pye, Mayer, and Teckorius were present, in person. Supervisors Keeler and Berry were not present.

**SECOND ORDER OF BUSINESS**

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

There being no public comments, the next item followed.

**THIRD ORDER OF BUSINESS**

**Acceptance of Resignation of Supervisor  
Jeffrey Berry [Seat 2, Term Expires  
November, 2016]**

Mr. Adams presented Mr. Jeffrey Berry's resignation letter for consideration.

**On MOTION by Mr. Pye and seconded by Ms. Mayer, with all in favor, the resignation of Mr. Jeffrey Berry, dated January 21, 2016, was accepted.**

- **Discussion/Consideration: Appointment of Candidate to Fill Unexpired Term**
- **Administration of Oath of Office** *(the following to be provided in a separate package for newly elected Board Members)*
  - A. **Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees**
  - B. **Membership, Obligations and Responsibilities**
  - C. **Financial Disclosure Forms**
    - i. **Form 1: Statement of Financial Interests**
    - ii. **Form 1X: Amendment to Form 1, Statement of Financial Interests**
    - iii. **Form 1F: Final Statement of Financial Interests**
  - D. **Form 8B: Memorandum of Voting Conflict**
- **Consideration of Resolution 2016-\_\_, Electing Officers**

These items were deferred.

**FOURTH ORDER OF BUSINESS**

**Consideration of Resolution 2016-1, Approving the District’s Proposed Budgets for Fiscal Year 2016/2017 and Setting a Public Hearing Thereon Pursuant to Florida Law; and Providing An Effective Date**

Mr. Adams presented Resolution 2016-1, for the Board’s consideration. The resolution approves the District’s proposed budgets for Fiscal Year 2016/2017 and sets a Public Hearing for final adoption. The fiscal year runs from October 1, 2016 to September 30, 2017. The Public Hearing is scheduled for August 18, 2016 at 1:00 p.m., at this location. The most significant change was “Water management”, “Other contractual”, which increased from \$72,500 to \$85,000. The increase was due to utilizing \$7,000 of surplus funds to keep assessments at or below current levels to offset the revenue needs in the budget.

Mr. Teckorius asked if the increase was due to the addition of the fountain at Moody River Central. Mr. Adams replied an increase in fountain repairs. There were many unexpected

fountain repairs this Fiscal Year, primarily for power control and meter boxes. The fountains should be good for another ten years but increased maintenance is anticipated, due to aging.

Mr. Adams stated the “Debt Service” fund is a product of the amortization schedule, identifying annual principal and interest payment requirements.

Mr. Teckorius asked if he was correct when he advised residents that they could pay off their debt, in round numbers, which, at this point, is approximately under 10,000 and, if the debt is paid off, their tax bill would go from under \$2,000 to approximately under \$400. Mr. Adams explained there were many different product types with differing liens within the community; therefore, the payoff amount is dependent on product type. Residents should contact the District office and provide their address and folio number, to obtain the correct payoff amount. Debt may be paid off, at any time, which would remove the Debt Service assessment from the yearly assessment but the Operation and Maintenance (O&M) assessment would continue.

**On MOTION by Mr. Pye and seconded by Ms. Mayer, with all in favor, Resolution 2016-1, Approving the District’s Proposed Budgets for Fiscal Year 2016/2017 and Setting a Public Hearing for Thursday, August 18, 2016 at 1:00 p.m., at this location, was adopted.**

**FIFTH ORDER OF BUSINESS**

**Consideration of Resolution 2016-2, Implementing Section 190.006(3)(A)(2)(C), Florida Statutes, and Instructing the Lee County Supervisor of Elections to Conduct the District’s General Election**

Mr. Adams presented Resolution 2016-2, for the Board’s consideration. The resolution implements Section 190.006(3)(A)(2)(C), Florida Statutes, and instructs the Lee County Supervisor of Elections (SOE) to conduct the District’s General Election. The following seats would appear on the ballot, if there are multiple qualifiers, in the CDD; Seat 2, which is vacant, Seat 3, currently held by Mr. Pye and Seat 4, currently held by Ms. Keeler. If there are no competing qualifiers, those who qualify, unopposed, would automatically be appointed to those seats and the seat would not be on the ballot. The term would begin no sooner than two weeks following the election, which will be held on November 8, 2016. The prequalification period begins June 6, according to the SOE website, Lee.vote. The qualifying period runs from noon on

Monday, June 20 through noon, Friday, June 24. Ms. Bernice Feliciano, of the SOE office, is the coordinator of the qualifying period.

**On MOTION by Ms. Mayer and seconded by Mr. Pye, with all in favor, Resolution 2016-2, Implementing Section 190.006(3)(A)(2)(C), Florida Statutes, and Instructing the Lee County Supervisor of Elections to Conduct the District’s General Election, was adopted.**

**SIXTH ORDER OF BUSINESS**

**Moody River Estates Association, Inc.,  
Homeowners Request**

**A. Maintenance and Condition of the Preserve Areas**

Mr. Mike Geml, President of the MRE Community Association (MRECA), stated there did not appear to be any allocation, in past or future budgets, for cleanup or maintenance of the preserve areas. Mr. Adams responded maintenance of the preserve areas is part of “Water management”, “Other contractual”. The maintenance is defined as periodic trash pickup and exotic and invasive material removal or treatment. Mr. Geml asked if there was any reference to or if Mr. Adams recalled whether cleanup or removal was performed in the past. Ms. Crismond responded yes, trash removal. Mr. Geml sent a photo of a fallen tree. Mr. Adams replied the photo was received; the tree is in the process of being removed and the section of fence is being repaired. With regard to the treatment program, the contract requires twice per year, though the contractor performs quarterly treatments. Mr. Geml asked if there was follow-up to the efficacy of the maintenance contract, because many residents are concerned that the preserve areas are unattractive, filled with debris and the fallen palm fronds and dead trees are creating a fire hazard. The message the MRECA wants to send to the CDD is that special or greater attention is required for many areas prior to the rainy season.

**B. Verification of Electric Bills Servicing the Ponds and Identify Responsibility and Possible Discrepancies**

In reference to the budget, Mr. Geml noted \$43,000 was allocated for utilities, and suspected the majority was for electric. The forecast for the remaining Fiscal Year 2016 budget was \$21,000 and \$43,000 would be allocated in Fiscal Year 2017, as well. He asked if the CDD was being cautiously optimistic by allocating the same amount as in Fiscal Year 2016, when the projected year-end amount is about half of what was budgeted. Mr. Adams responded it will be

about \$2,500 less. The anticipated expenditures are \$40,515 and the additional funds are generally due to the fluctuation of fuel costs. Mr. Geml asked if there are any electric bills for auditing purposes. He recalled that, ten years ago, Coach Home residents were paying the electric bill for one of the fountains for over one year. Mr. Geml would like to compare bills, for verification. Mr. Adams responded that Ms. Crismond audited the meters, several years ago, making sure servicing was correct, and recently, as a result of some questions, did so again. Her findings were that there was one or two providing some joint benefit. There is a location where there is a fountain, which is a CDD item, and an irrigation pump, which is an HOA item. Mr. Adams did not believe there was an issue and felt that the cost of a second meter, for separation, did not make sense. Mr. Geml stated that three meters are being billed to the HOA, for \$20, when no electricity is being used. Mr. Adams responded the CDD receives those types of bills for servicing a sprinkler clock, which do not reach the minimum amount. Mr. Geml was given a map of CDD meters. Ms. Crismond will correct any inaccuracies, if necessary.

Mr. Geml stated his belief that homeowners may perform internal maintenance in the preserve areas. Mr. Adams responded that homeowners were not allowed to do anything in the preserve areas; there is signage to that effect. Mr. Eckert stated the permits require that debris must remain where it falls; the District has permit obligations which must be complied with. Mr. Adams understood what the HOA was looking for. He explained that the CDD is limited but may be able to perform some perimeter “policing” of smaller branches; however, the fallen trees provide a habitat for wildlife.

Mr. Geml wanted it on the record that the homeowners cannot do anything. Mr. Adams noted that permits are available online, on the South Florida Water Management District (SFWMD) e-permitting website.

Mr. Steve Kolach, a resident, asked if the landscapers are supposed to maintain branches hanging over on the sidewalks or over fences, from the preserves. Mr. Adams responded, in the case where a tree is coming over your property, homeowners have a legal right, to cut branches at the property line. This rule also applies to root intrusion, above and below the property line. Regarding the surrounding sidewalk, if branches are hanging over the sidewalk from the preserve, then the branches are in the landscape area and the landscaper has the right to cut them back, to the sidewalk. In CDD landscape programs, the District tries to maintain a clear height

of 8' over the sidewalks and 14' over roadways. Mr. Kolach asked if the landscapers were aware of that. Mr. Adams indicated that the HOA controls the landscaping.

Mr. Robert Geltner, VP of the Moody River Estates Community Association, wanted it on the record that he lives close to the preserve; there is quite a bit of fuel within about 30' of his residence and it is quite concerning. There used to be problems with homeless people using the preserve as a place to sleep. Mr. Geltner asked if permits that affect this area from SFWMD, or any other documents that affect the community can be placed on the District's website so that everything is in one location. Mr. Adams responded he can place the links for those documents on the CDD website. There are 11 different permits; 1/3 belong to CDD, 1/3 are for the East project and the other 1/3 are for the HOA.

Mr. Melvin Wroten, ARB Chair, asked where CDD setback information for pools and lakes is located. Mr. Adams responded the CDD does not have any setbacks; however, in some cases, where a home is along the edge of a lake, the CDD has an easement. It is a 20' Lake Maintenance Easement (LME), for access purposes. Mr. Adams will email the plats to Mr. Wroten.

Mr. Eckert stated, from a District perspective, there is no legal ability for the HOA to waive the District's easement. Mr. Adams stated when it comes to preserve edges, 5' is the county's standard. In the preserves, there is a conservation easement and the outer boundary lines up; there is no setback or access easement along the perimeter.

**SEVENTH ORDER OF BUSINESS**

**Approval of January 21, 2016 Regular Meeting Minutes**

Mr. Adams presented the January 21, 2016 Regular Meeting Minutes and asked for any additions, deletions or corrections.

Mr. Eckert provided minor changes, to be incorporated.

**On MOTION by Mr. Pye and seconded by Mr. Teckorius, with all in favor, the January 21, 2016 Regular Meeting Minutes, as amended to incorporate Mr. Eckert's changes, were approved.**

**EIGHTH ORDER OF BUSINESS**

**Other Business**

Mr. Teckorius reported on what he learned about the 42" overflow pipe holder overflow on the east parcel, which was discussed previously. The existing pipe has been there from the beginning and will remain, as is. Construction of the boat ramp is proceeding. The original plans called for a 42" pipe to be installed and reconnected to the existing pipe. That portion of pipe was installed but will be blocked off and the 42" existing pipe will remain for some time. There will continue to be an open Land Development Order (LDO) on that property until that is completed. Mr. Teckorius asked if that means that a Certificate of Occupancy (CO) will not be issued on the property. Mr. Kayne asked if a portion of the drainage was installed on the property. Mr. Teckorius responded the portion that goes up, along the side of the boat ramp and across the asphalt area, to the driveway, was installed. Regarding the maritime portion, to the junction box, one portion is Meritage's responsibility. Another portion is not going to be installed; it is under Mr. Huster's LDO. In response to the question, if there is an open LDO on this particular pipe could the boat ramp get an occupancy permit, Mr. Kayne did not know. Mr. Teckorius asked Mr. Kayne to look into it and report to Mr. Adams. Mr. Adams will email the information to the Board when he receives it.

Mr. Teckorius stated, with regard to the U3 property, the alternate eagle's area, the other day, there were construction fences along the sides of those properties and, as of today, the fences are gone. 14 homes are being built. There is a utility easement along the front of the property and someone dumped a load of dirt in the preserve a couple of weeks ago. It is HOA property; however, concrete block and debris are being thrown in there. Mr. Teckorius asked if the CDD has enough control of the property to write to DR Horton. Mr. Adams responded it is not inside the confines of the preserve, as it is well mowed, and mowing cannot be done in a preserve, so it is probably along the edge of the preserve. Staff will inspect the area.

Mr. Teckorius's next item was in regard to Lake 5, where repairs were made to the bank, last year. The lake level is now low and the geotubes are now exposed. According to the 4:1 slope requirement, there should not be more than a 12" drop. Mr. Adams responded it is still in compliance; it is visually unappealing when the water level drops because you can see the bags. There is a 15-year guarantee on the bags.

Mr. Teckorius stated that he was searching the Lee County permitting station, trying to find the acreage that is owned. In looking at the permit, under "General Environmental Resource Permits", the staff report, dated in 2004, strictly referring to "Moody Ranch", 246.36 acres,

which only refers to Moody South and Central, excluding Moody North. When adding up wetlands on site, the map shows 35.63 and Exhibit 2 calls for 39.7. There is a discrepancy with the official exhibits. With regard to lakes, the map shows 36.6 and the official document calls for 37.4. Mr. Teckorius asked if the District Engineer could look into it. Mr. Kayne provided backup of everything he previously researched. He stated that the hatched area for the wetlands and preserves and the table were from the environmentalists because he also had discrepancies when reviewing different permits. The environmentalists provided the line work from their latest documentation. The discrepancies seem to come from the areas noted as “preserves” or “conservation areas” but Mr. Kayne will check the documentation.

Mr. Eckert noted that the District owns what it was given a deed for, or dedicated, by plat. Those are finite legal descriptions. The District was not involved in the preparation of the map. If the permits require a different number of conservation acres than the District has, then there is a discrepancy that must be reviewed. Mr. Kayne will study the recorded conservation easements from those areas. Mr. Adams stated if it appears to be a significant effort, Mr. Kayne should keep the Board apprised.

**NINTH ORDER OF BUSINESS**

**Staff Reports**

**A. Attorney**

Mr. Eckert reported on three legislative items. The first bill, presented at last month’s meeting, regarding all Florida CDDs making their websites interactive, did not pass. District Counsel will keep apprised, should it resurface in the next session. Of the two bills that did pass, one bill requires language, in 14-point type, in contracts, with any vendor the District hires, indicating who the records custodian is so, if a public records request is received, the contractor will know who to talk to. There is an eight-day waiting period before the contractor can be sued for not providing the public records. The second bill expanded the documents required to be posted on the website, such as the agenda, and related material for meetings, seven days in advance of the meeting and the information must remain online for at least one year. The CDD bill passed, raising the threshold for boundary amendments and for establishment. The threshold is now 2,500 acres versus 1,000 acres. The state government is no longer establishing CDDs, leaving it to cities and counties. The boundary amendment threshold changed in terms of how much a District can amend its boundaries by going through a simplified process.



**B. Engineer**

Mr. Kayne stated, since the last meeting the application was submitted to Lee County to become a co-permittee NPDES MS4 permit. A meeting with the Florida Department of Environmental Protection (FDEP) and Lee County is set for July 12 regarding the MS4 permit and application. Mr. Kayne provided updated maps to the Board, based on the electric service location markup and updated the actual aerial.

**C. Manager**

**i. Approval of Unaudited Financial Statements as of March 31, 2016**

Mr. Adams presented the Unaudited Financial Statements as of March 31, 2016. As indicated in the budget discussion, there was a large expense under “Other contractual”, “Water management”, for repairs and replacement of meter and control panels related to fountain facilities. The majority were addressed.

**ii. 933 Registered Voters in District as of April 15, 2016**

Mr. Adams advised that there were 933 registered voters residing within the boundaries of the District as of April 15, 2016.

**iii. NEXT MEETING DATE: June 16, 2016 at 1:00 P.M.**

Mr. Adams indicated that the next meeting is scheduled for June 16, 2016 at 1:00 p.m., at this location.

**TENTH ORDER OF BUSINESS**

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

There being no public comments, the next item followed.

**ELEVENTH ORDER OF BUSINESS**

**Supervisors’ Requests**

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


**TWELFTH ORDER OF BUSINESS**

**Adjournment**

There being nothing further to discuss, the meeting adjourned.

**On MOTION by Ms. Mayer and seconded by Mr. Pye, with all in favor, the meeting adjourned at approximately 1:49 p.m.**

  
Secretary/Assistant Secretary

  
Chair/Vice Chair