

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

A Public Hearing and Regular Meeting of the Moody River Estates Community Development District's Board of Supervisors was held on **Thursday, August 18, 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
Elizabeth Keeler	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Michael Eckert (<i>via telephone</i>)	District Counsel
Wes Kayne	District Engineer
Doug Tarn	Barraco & Associates
Tony Grau (<i>via telephone</i>)	Grau & Associates
Gene Mitchell	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. One seat remained vacant.

SECOND ORDER OF BUSINESS

Public Comments (*agenda items*)

There being no public comments, the next item followed.

THIRD ORDER OF BUSINESS

**Presentation of Audited Financial Report
for Fiscal Year Ended September 30,
2015, Prepared by Grau & Associates**

Mr. Grau presented the Audited Financial Report for Fiscal Year 2015.

Mr. Grau reviewed the “Independent Auditors Report”, on Pages 1 and 2, which was a clean opinion. The financial statements were fairly stated in accordance with Generally Accepted Accounting Principles (GAAP). The “Balance Sheet”, on Page 4, reflected comparative amounts from Fiscal Year 2014 to Fiscal Year 2015. On Page 5, “Changes in Net Position”, reflected an increase of approximately \$10,000; activity was consistent with Fiscal Year 2014. The “Balance Sheet” for the “Governmental Funds”, on Page 9, reflected a “Total fund balance” of approximately \$95,000, in the “General Fund”, and approximately \$1.3 million in the “Debt Service Fund”. Regarding the “Statement of Revenues, Expenditures, and Changes in Fund Balances”, on Page 11, the “Capital Project Fund” was closed out during Fiscal Year 2015. There was a \$24,000 loss in the “General Fund” and a \$70,000 profit in the “Debt Service Fund”. The footnotes, beginning on Page 13, were the same as Fiscal Year 2014. The “Bonds payable” schedule, on Page 19, showed a reduction of \$275,000.

FOURTH ORDER OF BUSINESS

Consideration of Resolution 2016-3, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2015

Mr. Adams presented Resolution 2016-3 for the Board’s consideration.

On MOTION by Mr. Pye and seconded by Ms. Keeler, with all in favor, Resolution 2016-3, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2015, was adopted.

FIFTH ORDER OF BUSINESS

Public Hearing to Hear Comments and Objections on the Adoption of the Districts Final Budget for Fiscal Year 2016/2017, Pursuant to Florida Law

A. Affidavit/Proof of Publication

Mr. Adams presented the affidavit of publication for today’s Public Hearing and Regular Meeting.

B. Consideration of Resolution 2016-4, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2016, and Ending September 30, 2017; Authorizing Budget Amendments; and Providing an Effective Date

Mr. Adams presented Resolution 2016-4 for the Board’s consideration. There were no changes to the proposed Fiscal Year 2017 budget since its initial presentation. The “Projected Assessments”, on Page 7, reflected a \$0.22 decrease in operation and maintenance (O&M) assessments, for all product types, for Fiscal Year 2017.

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

No members of the public spoke.

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

On MOTION by Mr. Pye and seconded by Ms. Mayer, with all in favor, Resolution 2016-4, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2016, and Ending September 30, 2017; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

SIXTH ORDER OF BUSINESS

Consideration of Resolution 2016-5, Making a Determination of Benefit; Imposing Special Assessments; Providing for the Collection and Enforcement of Special Assessments, Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll

Mr. Adams presented Resolution 2016-5 for the Board’s consideration. The Resolution takes into consideration the adopted Fiscal Year 2017 budget, appropriation and assessment levels, recognizes that assessments will be collected, via the property tax bill, and directs the District Manager to transmit the resolution, budget and lien roll to the Property Appraiser for placement on the property tax bill.

On MOTION by Ms. Mayer and seconded by Ms. Keeler, with all in favor, Resolution 2016-5, Making a Determination of Benefit; Imposing Special Assessments; Providing for the Collection and Enforcement of Special Assessments, Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll, was adopted.

SEVENTH ORDER OF BUSINESS

Update: Qualified Candidates for November 8, 2016 General Election

- A. Seat 2: No Qualified Candidates**
- B. Seat 3: Terry Pye [incumbent – *unopposed*]**
- C. Seat 4: Elizabeth Keeler [incumbent – *unopposed*]**

Mr. Adams recalled that the qualifying period occurred for Seats 2, 3 and 4, which are up this year. The incumbents, Mr. Pye and Ms. Keeler, qualified for Seats 3 and 4, respectively. No candidates qualified for Seat 2, which was held by Mr. Berry, so it would remain open and the Board would fill the seat following the November election and the two week certifying period, more than likely, in January. With a vacant seat, typically, the Board would consider appointing a new Supervisor, if there were any interested parties who qualify. The appointee must be a qualified elector, living within the boundaries of the District. The appointed candidate would fill the unexpired term of the unfilled seat, which would be four years.

EIGHTH ORDER OF BUSINESS

Consideration of Resolution 2016-6, Declaring a Vacancy in Seat 2 of the Board of Supervisors Pursuant to Section 190.006(3)(B), Florida Statutes; and providing an Effective Date

Mr. Adams presented Resolution 2016-6 for the Board’s consideration. Resolution 2016-6 declares the vacancy in Seat 2.

On MOTION by Ms. Mayer and seconded by Ms. Keeler, with all in favor, Resolution 2016-6, Declaring a Vacancy in Seat 2, was adopted.

NINTH ORDER OF BUSINESS

**Consideration of Resolution 2016-7,
Adopting the Annual Meeting Schedule
for Fiscal Year 2016/2017**

Mr. Adams presented Resolution 2016-7 for the Board's consideration. The Resolution directs the District Manager to submit a copy of the annual meeting schedule to Lee County and the Department of Economic Opportunity. It will also be posted on the CDD website and advertised in the Fort Myers News Press. The schedule was, essentially, status quo from the Fiscal Year 2016 schedule, which identified the third Thursday of October, January, March, May, June, and August, at 1:00 p.m., at this location. The draft Fiscal Year 2018 budget would be presented in May and adopted at the August meeting. Mr. Eckert stated the District's Rules of Procedure provide for noticing each meeting and felt that it was necessary, to comply with the open meeting clause in the policy, in the Rules of Procedure.

On MOTION by Mr. Pye and seconded by Ms. Mayer, with all in favor, adopting the Resolution 2016-7, Adopting the Annual Meeting Schedule for Fiscal Year 2016/2017, was adopted.

TENTH ORDER OF BUSINESS

**Acceptance of Unaudited Financial
Statements as of June 30, 2016**

Mr. Adams presented the Unaudited Financial Statements as of June 30, 2016. There were no red flags. Assessment collections were 100% collected, year-to-date. The budget was set for a 4% early pay discount and, if everybody does not take advantage of the 4% discount, assessment revenue collections could exceed 100%. Expenses were on target, cumulatively, at 75%. "Other contractual", under "Water Management", on Page 2, was at 97%, due to a partial payment for the lake bank restoration project. Earlier in Fiscal Year 2016, there were a number of significant unbudgeted fountain repairs that drove up the expenses. A budget amendment for the Fiscal Year 2016 budget would more than likely be necessary, to roll-up some money out of your surplus fund balance to offset those unanticipated costs related to the fountain services that were repaired this year. Page 3 reflected the principal and interest payments made through the end of June.

ELEVENTH ORDER OF BUSINESS

Approval of May 19, 2016 Regular Meeting Minutes

Mr. Adams presented the May 19, 2016 Regular Meeting Meetings and asked for any additions, deletions or corrections.

The following change was made:

Line 21 and throughout: Change “Genl” to Geml”.

On MOTION by Mr. Pye and seconded by Ms. Myer, with all in favor, the May 19, 2016 Regular Meeting Minutes, as amended, were approved.

TWELFTH ORDER OF BUSINESS

OTHER BUSINESS

Mr. Adams distributed a Notice of Noncompliance received from the South Florida Water Management District (SWFMD) dated August 5, 2016. Adjacent property owners, south of Blue Banyan Court, along Randag Drive, reported excessive amounts of runoff, during and after rain events, from the property immediately to the north, along the south side of Blue Banyan Court, to SFWMD. The SWFMD reviewed the matter and noted that there was supposed to be a berm and swale constructed along the south side of those lots, inside the District, on the backside of lots along the south side of Blue Banyan Court, and along the wall, which was missing, in some locations. The District Engineer was asked to research the areas, in comparison to the actual plans and permit requirements.

Mr. Kayne stated the letter referred to Section J-1, with the plan sheets showing that section, with a swale and berm, along the rear lots; however, there was a permit about one year later where they actually changed the “Section T”, on these plans, and it was emailed to Mr. Adams.

In response to a question, Mr. Kayne stated that those plans were not in the original letter and he did not have the information. About one year later, it showed the perimeter berm coming up from existing ground and then the rear lots actually flow to the front to the road, which was intended. The section showed the berm being buried to a 5.5’ to 8.5’ elevation, which varies from those elevations, along the road. The home grades somewhat to the rear and to the side and, between the two homes, there should be a valley that goes to the roadway. Mr. Doug Tarn

evaluated the swale and berm and found that some were missing. Pools were constructed in some areas and, for others, it appeared that there may have been an issue during construction of the homes. There was a subsequent permit modification that showed the grade from the rear to the front, which, in the email indicated that there were no drainages. If grading, from the rear to the front, an easement is almost not necessary because, realistically, there really is not a berm, it would be land with an elevation that flow up front. At this point, to correct it, the lots would have to be regraded to be compliant with the permit, which could be a large undertaking and keep secondary drainage system could be considered because the area is graded about half-way back from a home where there is high point lot and it grades towards the back. In some areas there is a small distinguishable swale so there may be yard drainage in there and then pipe it out to the lake across the road through a couple of different areas. The problem with that approach would be that it would require drainage easements or residents must be on-board with owning and maintaining their portion. Mr. Adams stated that other parties would be pursued and it appeared there were a couple of undeveloped lots owned by DR Horton. It appeared that, if not all, most of the homes, along that stretch, were constructed within the last year, or so, which tends to indicate DR Horton. DR Horton probably owned, built, sold and, across the board, was wholly responsible for the deficiency in the construction versus the permit required. In the permitting process to construct the home, this should have been discovered by the Lee County Building Department.

Mr. Kayne stated, once the permit was in place, it was certified and approved. When the homes were built, some of those areas were impacted; they were not graded correctly, or not graded in the correct direction, based on the permit, which should have been discovered during the close-out process of the home by Lee County. Often, the County makes sure the water is not graded towards the home but they do not look at where the water going, such as to the rear of to the front.

Mr. Adams requested Mr. Kayne to provide that information and it would be attached to a letter that would be sent to DR Horton. Mr. Eckert stated the first contact would be to talk to the builder about why the lots were graded the way they were and what they intend to do to rectify the situation. Once a response is received it would be important to keep the SFWMD informed about the proposed solutions. The builder is the first one to question to determine if this was something created by them. If the builder was not responsible, it would be necessary to

go directly to the homeowner and, if a pool contractor or someone created the issue, they may need to contact their pool company or make arrangement to provide the drainage. As none of these lots were graded the right way, initially, it appears to be primarily a builder issue.

Mr. Pye suggested that the District evaluate the entire Moody River South. DR Horton bought 277 lots and the majority of them, about 85% were in Moody South. The deteriorating lake banks were mentioned, numerous times, along with around the entire Old Banyan Courts, Drives, and Boulevard areas, as all of those embankments were deteriorating. The reason that this came to the District's attention, per this letter, was because another community complained. It may be necessary to spend some money, as the District cannot rely on the County, the builder, or anybody else.

Mr. Adams suggested obtaining a proposal and reviewing those perimeter drainage situations and asking if there were any similar situations or any undeveloped lots owned by DR Horton, currently, which have not been sold. A brief write-up of the findings and discrepancies in the findings, etc., was requested, along with some viable options to correct, whether it is importing soil and regrading or including some additional yard drainage. That might help when going to DR Horton with an issue but also offering some viable options to correct this situation. Meaning, there is an issue but here are some options we see as being viable to help correct this situation.

Mr. Gene Mitchell, a resident, stated that a Buttonwood Estates resident, in Randag, wrote a letter about water being backed up over in their property, which was submitted to one of the Association board members to handle and to forward to Rebecca, because residents did not want to be liable for the expense of redoing all of the draining ditch back area. Then, Buttonwood Estates sent Mr. Mitchell a letter about a lawsuit, which was provided to the Board. Mr. Mitchell felt that the District had a responsibility to Buttonwood, because they were the ones with the water flowing onto their property and making a mess. It is a matter of who would repair it, whether it is DR Horton, the CDD or whomever; a letter should be sent to Buttonwood Estate residents advising that the CDD is aware of the issue and working on it but have not come up with a solution yet.

THIRTEENTH ORDER OF BUSINESS**Staff Reports****A. District Counsel**

There being no report, the next item followed.

B. District Engineer

There being nothing additional to report, the next item followed.

C. District Manager

Mr. Adams stated the geotube was installed, around the lake, and would remain in place until probably early to mid-October. Since it is the height of the rainy season and not uncommon to receive a 1” or 2” rainfall in the afternoon, if the geotube is cut and turf installed, it could go into the lake, creating reoccurring restoration costs. If any resident asks, turf will be installed around Lake 12 in mid-October.

FOURTEENTH ORDER OF BUSINESS

Public Comments (*non-agenda items*)

Ms. Keeler stated a member of the community, who is also on the landscape committee, asked if the CDD replaces any of the cypress trees that have not done well, along the banks of the lake, or who would be responsible. Mr. Adams stated, if some of the trees were dead, the CDD would replace them, as it is generally a requirement of stormwater permit to provide shaded area for fish. Mr. Adams asked for the exact location so a permit could be pulled to ensure it was one of those required planting areas. More than likely it is, if it is within 3’ to 4’ of the lake. Mr. Teckorius asked if the District needed to do anything to start negotiation, with the HOA, for the contract to maintain the grass and landscape. Mr. Adams stated, as far as the District is concerned, it is automatic and, if the HOA wants to re-negotiate the terms and conditions, they would come to the District.

Ms. Keeler stated the identification of the roadway, Randag, was not on a map she referenced, although it may have been an older map. Ms. Keeler requested another map. Ms. Crismond gave the information to a wetlands contractor who would be on site, on Monday, to review the area. Discussion ensued regarding Randag, which floods. Mr. Pye stated the Board previously discussed shopping the bonds but someone wanted to wait at least one year. Mr. Adams said the District’s interest rate was 5.35%, for 10 years. An underwriter would evaluate if there would be any opportunity to improve. The District is outside of the premium call period and pretty well built-out. The amount of concentrated risk definitely dwindled down, so there may be an opportunity to refinance. Information would be presented at the October meeting.

FIFTEENTH ORDER OF BUSINESS

Supervisors' Requests

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

SIXTEENTH ORDER OF BUSINESS


Adjournment

There being nothing further to discuss, the meeting adjourned.

On MOTION by Mr. Pye and seconded by Mr. Teckorius, with all in favor, the meeting adjourned at 1:42 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair