

**MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT
DISTRICT**

**REGULAR MEETING
AGENDA**

October 20, 2016

Moody River Estates Community Development District

2300 Glades Road, Suite 410W • Boca Raton, Florida 33431

Phone (561) 571-0010 • Fax (561) 571-0013 • Toll-free: (877) 276-0889

October 13, 2016

ATTENDEES:

Please identify yourself each time you speak to facilitate accurate transcription of meeting minutes.

Board of Supervisors
Moody River Estates Community Development District

Dear Board Members:

The Board of Supervisors of the Moody River Estates Community Development District will hold a Regular Meeting on **Thursday, October 20, 2016 at 1:00 p.m.**, in the **Clubhouse at Moody River Estates, 3050 Moody River Blvd., North Fort Myers, Florida 33903**. The agenda is as follows:

1. Call to Order/Roll Call
2. Public Comments (*agenda items*)
3. Consideration of **Resolution 2017-1**, Adopting Prompt Payment Policies and Procedures Pursuant to Chapter 218, Florida Statutes; Providing a Severability Clause; and Providing an Effective Date
4. Consideration of **Resolution 2017-2**, Relating to the Amendment of the Annual Budget for the Fiscal Year Beginning October 1, 2015 and Ending September 30, 2016; and Providing for an Effective Date
5. Discussion/Consideration: Refinancing the District's Series 2006 Bonds (*backup to be provided under separate cover*)
6. Acceptance of Unaudited Financial Statements as of August 31, 2016
7. Approval of **August 18, 2016** Public Hearing and Regular Meeting Minutes
8. Other Business
9. Staff Reports
 - A. District Counsel
 - B. District Engineer
 - C. District Manager
 - NEXT MEETING DATE: January 19, 2017 at 1:00 P.M.

10. Public Comments (*non-agenda items*)
11. Supervisors' Requests
12. Adjournment

Should you have any questions and/or concerns, please contact me directly at 239-464-7114.

Sincerely,



Chesley E. Adams, Jr.
District Manager

FOR BOARD MEMBERS AND STAFF TO ATTEND BY TELEPHONE:

CALL IN NUMBER: 1-888-354-0094

CONFERENCE ID: 8593810

Hopping Green & Sams

Attorneys and Counselors

MEMORANDUM

To: Board of Supervisors
Moody River Estates Community Development District

From: Mike Eckert

Date: September 9, 2016

Re: Prompt Payment Policies and Procedures

The purpose of this memorandum is to outline the Moody River Estates Community Development District's ("District") responsibilities under the Local Government Prompt Payment Act (Chapter 218, Part VII, Florida Statutes) ("Act"). The Act requires districts to establish procedures for marking payment requests or invoices as "received" and to establish dispute resolution procedures in the event a dispute occurs between a district and a contractor.

The accompanying proposed resolution and policy ("Prompt Payment Policies and Procedures") sets forth specific policies and procedures to ensure timely payment to vendors or contractors providing goods or services to the District and to provide guidance in contracting matters. The Prompt Payment Policies and Procedures will provide more protection for the District by establishing a process to deny and resolve instances of improper invoices such as an invoice for goods or services that fail to meet the contract requirements. As required by the Act, the Prompt Payment Policies and Procedures delineate the procedure for accepting and calculating the date of payment for construction services and non-construction goods and services.

If you have questions regarding the Prompt Payment Act, or the attached proposed Resolution and Prompt Payment Policies and Procedures, please do not hesitate to contact me.

RESOLUTION 2017-1

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT ADOPTING PROMPT PAYMENT POLICIES AND PROCEDURES PURSUANT TO CHAPTER 218, FLORIDA STATUTES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Moody River Estates Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, Florida Statutes, being situated in Lee County, Florida; and

WHEREAS, Chapter 218, Florida Statutes, requires timely payment to vendors and contractors providing certain goods and/or services to the District; and

WHEREAS, the Board of Supervisors of the District (the “Board”) accordingly finds that it is in the best interests of the District to establish by resolution the Prompt Payment Policies and Procedures attached hereto as **Exhibit A** for immediate use and application.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT:

SECTION 1. The Prompt Payment Policies and Procedures attached hereto as **Exhibit A** are hereby adopted pursuant to this resolution as necessary for the conduct of District business. The Prompt Payment Policies and Procedures shall remain in full force and effect until such time as the Board may amend them; provided, however, that as the provisions of Chapter 218, Florida Statutes, are amended from time to time, the attached Prompt Payment Policies and Procedures shall automatically be amended to incorporate the new requirements of law without any further action by the Board.

SECTION 2. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect. All District resolutions, policies or parts thereof in actual conflict with this Resolution are, to the extent of such conflict, superseded and repealed, except as noted below.

SECTION 3. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2016.

ATTEST:

MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT

Secretary/Assistant Secretary

Chairman, Board of Supervisors

Exhibit A: Prompt Payment Policies and Procedures

MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT

Prompt Payment Policies and Procedures **In Accordance With the Local Government Prompt Payment Act** **Chapter 218, Part VII, Florida Statutes**

_____, 2016

Moody River Estates Community Development District
Prompt Payment Policies and Procedures

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I. Purpose

In accordance with the Local Government Prompt Payment Act (Chapter 218, Part VII, Florida Statutes) (“PPA”), the purpose of the Moody River Estates Community Development District (“District”) Prompt Payment Policies and Procedures (“Policies & Procedures”) is to provide a specific policy to ensure timely payment to Vendors and Contractors (both hereinafter defined) providing goods and/or services to the District and ensure the timely receipt by the District of goods and/or services contemplated at the time of contracting. Please note that the PPA, like any statute or law, may be amended from time to time by legislative action. These Policies & Procedures are based on the statutory requirements as of the date identified on the cover page of this document. By this reference, as applicable statutory provisions subsequently change, these Policies & Procedures shall automatically be amended to incorporate the new requirements of law. These Policies & Procedures are adopted by the District to provide guidance in contracting matters. Failure by the District to comply with these Policies & Procedures shall not expand the rights or remedies of any Provider (hereinafter defined) against the District under the PPA. Nothing contained herein shall be interpreted as more restrictive on the District than what is provided for in the PPA.

II. Scope

These Policies & Procedures apply to all operations of the District, including Construction Services and Non-Construction Goods and Services, as applicable.

III. Definitions

A. Agent

The District-contracted architect, District-contracted engineer, District Manager, or other person, acting on behalf of the District, which is required by law or contract to review invoices or payment requests from Providers (hereinafter defined). Such individuals/entities must be identified in accordance with §218.735 (1), Fla. Stat., and further identified in the relevant agreement between the District and the Provider.

B. Construction Services

All labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvement to real property that require a license under parts I and II of Chapter 489, Fla. Stat.

C. Contractor or Provider of Construction Services

The entity or individual that provides Construction Services through direct contract with the District.

D. Date Stamped

Each original and revised invoice or payment request received by the District shall be marked electronically or manually, by use of a date stamp or other method, which date marking clearly indicates the date such invoice or payment request is first delivered to the District through its Agent. In the event that the

Agent receives an invoice or payment request, but fails to timely or physically mark on the document the date received, “Date Stamped” shall mean the date of actual receipt by the Agent.

E. Improper Invoice

An invoice that does not conform to the requirements of a Proper Invoice.

F. Improper Payment Request

A request for payment for Construction Services that does not conform to the requirements of a Proper Payment Request.

G. Non-Construction Goods and Services

All labor, services, goods and materials provided in connection with anything other than construction, alteration, repair, demolition, reconstruction, or other improvements to real property.

H. Proper Invoice

An invoice that conforms to all statutory requirements, all requirements of these Policies and Procedures not expressly waived by the District and any additional requirements included in the agreement for goods and/or services for which the invoice is submitted not expressly waived by the District.

I. Proper Payment Request

A request for payment for Construction Services which conforms to all statutory requirements, all requirements of these Policies & Procedures not expressly waived by the District and any additional requirements included in the Construction Services agreement for which the Payment Request is submitted not expressly waived by the District.

J. Provider

Includes any Vendor, Contractor or Provider of Construction Services, as defined herein.

K. Purchase

The purchase of goods, materials, services, or Construction Services; the purchase or lease of personal property; or the lease of real property by the District.

L. Vendor

Any person or entity that sells goods or services, sells or leases personal property, or leases real property directly to the District, not including Construction Services.

IV. Proper Invoice/Payment Request Requirements

A. General

Prior to Provider receiving payment from the District, Non-Construction Goods and Services and Construction Services, as applicable, shall be received and performed in accordance with contractual or other specifications or requirements to the satisfaction of the District. Provision or delivery of Non-Construction Goods and Services to the District does not constitute acceptance for the purpose of payment. Final acceptance and authorization of payment shall be made only after delivery and inspection by the Agent and the Agent’s confirmation that the Non-Construction Goods and Services or Construction Services meet contract specifications and conditions. Should the Non-Construction Goods and Services or Construction Services differ in any respect from the specifications, payment may be withheld until such time as the Provider takes necessary corrective action. Certain limited exceptions which require payment in advance are permitted when authorized by the District Board of Supervisors (“Board”) or when provided for in the applicable agreement.

B. Sales Tax

Providers should not include sales tax on any invoice or payment request. The District’s current tax-exempt number is _____. A copy of the tax-exempt form will be supplied to Providers upon request.

C. Federal Identification and Social Security Numbers

Providers are paid using either a Federal Identification Number or Social Security Number. To receive payment, Providers should supply the District with the correct number as well as a proper Internal Revenue Service W-9 Form. The District Manager shall treat information provided in accordance with Florida law.

Providers should notify the District Manager when changes in data occur (telephone _____, email _____, Fax _____).

D. Proper Invoice for Non-Construction Goods and Services

All Non-Construction Goods and Services invoiced must be supplied or performed in accordance with the applicable purchase order (including any bid/proposal provided, if applicable) or agreement and such Non-Construction Goods and Services quantity and quality must be equal to or better than what is required by such terms. Unless otherwise specified in the applicable agreement, invoices should contain all of the following minimum information in order to be considered a Proper Invoice:

1. Name of Vendor
2. Remittance address
3. Invoice Date
4. Invoice number

5. The “Bill To” party must be the District or the Board, or other entity approved in writing by the Board of the District Manager
6. Project name (if applicable)
7. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of goods should also contain:
 - a. A complete item description
 - b. Quantity purchased
 - c. Unit price(s)
 - d. Total price (for each item)
 - e. Total amount of invoice (all items)
 - f. The location and date(s) of delivery of the goods to the District
8. In addition to the information required in Section IV.D.1-6 above, invoices involving the purchase of services should also contain:
 - a. Itemized description of services performed
 - b. The location and date of delivery of the services to the District
 - c. Billing method for services performed (i.e., approved hourly rates, percentage of completion, cost plus fixed fee, direct/actual costs, etc.)
 - d. Itemization of other direct, reimbursable costs (including description and amount)
 - e. Copies of invoices for other direct, reimbursable costs (other than incidental costs such as copying) and one (1) of the following:
 - i. Copy of both sides of a cancelled check evidencing payment for costs submitted for reimbursement
 - ii. Paid receipt
 - iii. Waiver/lien release from subcontractor (if applicable)
9. Any applicable discounts
10. Any other information or documentation, which may be required or specified under the terms of the purchase order or agreement

E. Proper Payment Request Requirements for Construction Services

Payment Requests must conform to all requirements of Section IV.A.-D., above, unless otherwise specified in the terms of the applicable agreement or purchase order between the District and the Contractor.

V. Submission of Invoices and Payment Requests

The Provider shall submit all Invoices and Payment Requests for both Construction Services and Non-Construction Goods and Services to the District’s Agent as provided in the purchase order or agreement, as applicable, and to the District Manager as follows:

Submit the invoice and/or payment request, with required additional material and in conformance with these Policies and Procedures, by mail, by hand delivery, or via email (Note: email is the preferred method for receipt of Non-Construction Goods and Services invoices).

1. Mailing and Drop Off Address

c/o _____

2. Email Address

VI. Calculation of Payment Due Date

A. Non-Construction Goods and Services Invoices

1. Receipt of Proper Invoice

Payment is due from the District forty-five (45) days from the date on which a Proper Invoice is Date Stamped.

2. Receipt of Improper Invoice

If an Improper Invoice is received, a required invoice is not received, or invoicing of a request for payment is not required, the time when payment is due from the District is forty-five (45) days from the latest date of the following:

- a. On which delivery of personal property is fully accepted by the District;
- b. On which services are completed and accepted by the District;
- c. On which the contracted rental period begins (if applicable); or
- d. On which the District and the Vendor agree in a written agreement that provides payment due dates.

3. Rejection of an Improper Invoice

The District may reject an Improper Invoice. Within ten (10) days of receipt of the Improper Invoice by the District, the Vendor must be notified that the invoice is improper and be given an opportunity to correct the deficient or missing information, remedy the faulty work, replace the defective goods, or take other necessary, remedial action.

The District's rejection of an Improper Invoice must:

1. Be provided in writing;
2. Specify any and all known deficiencies; and
3. State actions necessary to correct the Improper Invoice.

If the Vendor submits a corrected invoice, which corrects the deficiencies specified in the District's written rejection, the District must pay the corrected invoice within the later of: (a) ten (10) business days after date the corrected invoice is Date Stamped; or (b) forty-five (45) days after the date the Improper Invoice was Date Stamped.

If the Vendor submits an invoice in response to the District's written rejection which fails to correct the deficiencies specified or continues to be an Improper Invoice, the District must reject that invoice as stated herein.

4. Payment of Undisputed Portion of Invoice

If the District disputes a portion of an invoice, the undisputed portion shall be paid in a timely manner and in accordance with the due dates for payment as specified in these Policies & Procedures.

B. Payment Requests for Construction Services

1. Receipt of Proper Payment Request

The time at which payment is due for Construction Services from the District is as follows:

a. If an Agent must approve the payment request before it is submitted to the District Manager, payment (whether full or partial) is due twenty-five (25) business days after the payment request is Date Stamped. The Contractor may send the District an overdue notice. If the payment request is not rejected within four (4) business days after Date Stamp of the overdue notice, the payment request shall be deemed accepted, except for any portion of the payment request that is fraudulent, misleading or is the subject of dispute.

The agreement between the District and the Contractor shall identify the Agent to which the Contractor shall submit its payment request, or shall be provided by the District through a separate written notice no later than ten (10) days after contract award or notice to proceed, whichever is later. Contractor's submission of a payment request to the Agent shall be Date Stamped, which shall commence the time periods for payment or rejection of a payment request or invoice as provided in this section.

b. If, pursuant to contract, an Agent is not required to approve the payment request submitted to the District, payment is due twenty (20) business days after the payment request is Date Stamped unless such payment request includes fraudulent or misleading information or is the subject of dispute.

2. Receipt and Rejection of Improper Payment Request

a. If an Improper Payment Request is received, the District must reject the Improper Payment Request within twenty (20) business days after the date on which the payment request is Date Stamped.

b. The District's rejection of the Improper Payment Request must:

1. Be provided in writing;
2. Specify any and all known deficiencies; and

3. State actions necessary to correct the Improper Invoice.

c. If a Contractor submits a payment request which corrects the deficiency specified in the District's written rejection, the District must pay or reject the corrected submission no later than ten (10) business days after the date the corrected payment request is Date Stamped.

3. Payment of Undisputed Portion of Payment Request

If the District disputes a portion of a payment request, the undisputed portion shall be paid in a timely manner and in accordance with the due dates for payment as specified in this section.

VII. Resolution of Disputes

If a dispute arises between a Provider and the District concerning payment of an invoice or payment request, the dispute shall be resolved as set forth in § 218.735, Fla. Stat., for Construction Services, and § 218.76, Fla. Stat. for Non-Construction Goods and Services.

A. Dispute between the District and a Contractor

If a dispute between the District and a Contractor cannot be resolved following resubmission of a payment request by the Contractor, the dispute must be resolved in accordance with the dispute resolution procedure prescribed in the construction contract, if any. In the absence of a prescribed procedure in the contract, the dispute must be resolved by the procedures specified below.

B. Dispute Resolution Procedures

1. If an Improper Payment Request or Improper Invoice is submitted, and the Provider refuses or fails to submit a revised payment request or invoice as contemplated by the PPA and these Policies and Procedures, the Provider shall, not later than thirty (30) days after the date on which the last payment request or invoice was Date Stamped, submit a written statement via certified mail to the Agent, copying the District Manager, specifying the basis upon which the Provider contends the last submitted payment request or invoice was proper.
2. Within forty-five (45) days of receipt by the Agent and District Manager of the disputed, last-submitted payment request or invoice, the Agent and/or District Manager shall commence investigation of the dispute and render a final decision on the matter no later than sixty (60) days after the date on which the last-submitted payment request or invoice is Date Stamped.
3. Absent a written agreement to the contrary, if the Provider refuses or fails to provide the written statement required above, the Agent and/or District Manager is not required to contact the Provider in the investigation. In

addition, and absent a written agreement to the contrary, if such written statement is not provided, the District may immediately contract with third parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider.

4. The Board shall approve any decision of the District Manager to contract with a third party which would result in: 1) an expenditure above what is budgeted for the Construction Services or Non-Construction Services; or 2) an expenditure which exceeds the original contract amount for the Construction Services or Non-Construction Services by more than ten percent (10%) or Ten Thousand Dollars (\$10,000).
5. A written explanation of the final decision shall be sent to the Provider, via certified mail, within five (5) business days from the date on which such final decision is made. A copy of the written explanation of the final decision shall be provided to the Chairperson of the Board simultaneously with the certified mailing to the Provider.
6. If a Provider does not accept in writing the final decision within five (5) days after receipt by the Provider, the District may immediately contract with third parties to provide the goods and services subject to the dispute and deduct the costs of such third party purchases from amounts owed to the Provider. If the costs of the third party purchases exceed the amount the District owes to the Provider, the District may seek to recover such excess from the Provider in a court of law or as otherwise provided in an agreement between the District and the Provider. Nothing contained herein shall limit or affect the District's ability to enforce all of its legal and contractual rights and remedies against the Provider.

VIII. Purchases Involving Federal Funds or Bond Funds

When the District intends to pay for a purchase with federal funds or bond funds, the District shall make such purchases only upon reasonable assurances that federal funds or bond funds sufficient to cover the cost will be received. When payment is contingent upon the receipt of bond funds, federal funds or federal approval, the public procurement documents and any agreement with a Provider shall clearly state such contingency. (§ 218.77, Fla. Stat.).

IX. Requirements for Construction Services Contracts – Project Completion; Retainage

The District intends to follow the PPA requirements for construction project completion and retainage, including, but not limited to, § 218.735 (7) and (8), Fla. Stat.

X. Late Payment Interest Charges

Failure on the part of the District to make timely payments may result in District responsibility for late payment interest charges. No agreement between the District and a Provider may prohibit the collection of late payment interest charges allowable under the PPA as mandatory interest. (§218.75, Fla. Stat.).

A. Related to Non-Construction Goods and Services

All payments due from the District, and not made within the time specified within this policy, will bear interest, from thirty (30) days after the due date, at the rate of one percent (1%) per month on the unpaid balance. The Vendor must submit a Proper Invoice to the District for any interest accrued in order to receive the interest payment. (§ 218.74 (4), Fla. Stat.).

An overdue period of less than one (1) month is considered as one (1) month in computing interest. Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

B. Related to Construction Services

All payments for Construction Services that are not made within the time periods specified within the applicable statute, shall bear interest from thirty (30) days after the due date, at the rate of one percent (1%) per month, or the rate specified by agreement, whichever is greater. The Contractor must submit a Proper Payment Request to the District for any interest accrued in order to receive the interest payment. An overdue period of less than one (1) month is considered as one (1) month in computing interest. (§ 218.735 (8)(i), Fla. Stat.).

Unpaid interest is compounded monthly. The term one (1) month means a period beginning on any day of a month and ending on the same day of the following month.

C. Report of Interest

If the total amount of interest paid during the preceding fiscal year exceeds \$250, the District Manager is required to submit a report to the Board during December of each year, stating the number of interest payments made and the total amount of such payments. (§ 218.78, Fla. Stat.).

RESOLUTION 2017-2

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT RELATING TO THE AMENDMENT OF THE ANNUAL BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2015 AND ENDING SEPTEMBER 30, 2016; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on August 20, 2015, the Board of Supervisors (hereinafter referred to as the “Board”) of the Moody River Estates Community Development District (hereinafter referred to as the “District”), adopted a Budget for Fiscal Year 2015/2016; and

WHEREAS, the Board desires to amend the previously adopted budget for Fiscal Year 2015/2016.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT:

Section 1. The Fiscal Year 2015/2016 Budget is hereby amended in accordance with Exhibit “A” attached hereto; and

Section 2. This resolution shall become effective immediately upon its adoption, and be reflected in the monthly and Fiscal Year End September 30, 2016 Financial Statements and Audit Report of the District.

PASSED AND ADOPTED this ____ day of _____, 2016.

Secretary/Assistant Secretary

Chair/Vice Chair

EXHIBIT “A”

**MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT
AMENDED GENERAL FUND BUDGET
FISCAL YEAR 2016**

**MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT
AMENDED GENERAL FUND BUDGET
FISCAL YEAR 2016**

	FY '16 Actual	FY '16 Original Budget	Budget to Actual Variance	Proposed Amendment Increase/ (Decrease)	FY '16 Amended Budget
REVENUES					
Assessment levy	\$ 240,678	\$ 238,178	\$ (2,500)	\$ 2,500	\$ 240,678
Interest and miscellaneous	110	-	(110)	110	110
Total revenues	<u>240,788</u>	<u>238,178</u>	<u>(2,610)</u>	<u>2,610</u>	<u>240,788</u>
EXPENDITURES					
Professional & admin					
Supervisor	2,584	6,459	3,875	(3,875)	2,584
Management	44,802	44,802	-	-	44,802
Accounting services	8,742	8,742	-	-	8,742
Audit	4,300	4,300	-	-	4,300
Assessment roll services	12,875	12,875	-	-	12,875
Arbitrage rebate calculations	1,500	1,200	(300)	300	1,500
Dissemination agent	-	1,000	1,000	-	1,000
Trustee	3,622	3,150	(472)	472	3,622
Legal - general counsel	5,821	12,000	6,179	-	12,000
Engineering	6,397	5,000	(1,397)	1,397	6,397
Computer services	609	500	(109)	109	609
Postage	1,197	1,250	53	(53)	1,197
Telephone	500	500	-	-	500
Insurance	5,923	6,515	592	(592)	5,923
Printing & binding	1,100	1,100	-	-	1,100
Legal advertising	932	1,500	568	(568)	932
Other current charges	554	2,000	1,446	9,212	11,212
Annual district filing fee	175	175	-	-	175
Total professional & admin	<u>101,633</u>	<u>113,068</u>	<u>11,435</u>	<u>6,402</u>	<u>119,470</u>
Water management					
Other contractual	88,190	72,500	(15,690)	15,690	88,190
Utilities	46,153	43,000	(3,153)	3,153	46,153
Aquascaping	875	7,500	6,625	-	7,500
Total water management	<u>135,218</u>	<u>123,000</u>	<u>(12,218)</u>	<u>18,843</u>	<u>141,843</u>
Other fees and charges					
Property appraiser	777	844	67	(67)	777
Tax collector	1,088	1,266	178	(178)	1,088
Total other fees and charges	<u>1,865</u>	<u>2,110</u>	<u>245</u>	<u>(245)</u>	<u>1,865</u>
Total expenditures	<u>238,716</u>	<u>238,178</u>	<u>(538)</u>	<u>25,000</u>	<u>263,178</u>
Excess/(deficiency) of revenues over/(under) expenditures	2,072	-	(2,072)	(22,390)	(22,390)
Fund balance - beginning	94,860	97,244			94,860
Fund balance - ending	<u>\$ 96,932</u>	<u>\$ 97,244</u>			<u>\$ 72,470</u>

**MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT
FINANCIAL STATEMENTS
UNAUDITED
AUGUST 31, 2016**

**MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT
BALANCE SHEET
AUGUST 31, 2016**

	Major Funds		Total Governmental Funds
	General	Debt Service	
ASSETS			
Cash - SunTrust	\$ 129,011	\$ -	\$ 129,011
Investments			
Revenue	-	590,051	590,051
Reserve	-	596,463	596,463
Deferred cost	-	118,990	118,990
Total assets	<u>\$ 129,011</u>	<u>\$ 1,305,504</u>	<u>\$ 1,434,515</u>
LIABILITIES AND FUND BALANCES			
Liabilities:			
Accounts payable	\$ 9,173	\$ -	\$ 9,173
Total liabilities	<u>9,173</u>	<u>-</u>	<u>9,173</u>
Fund Balances:			
Restricted for:			
Debt service	-	1,305,504	1,305,504
Unassigned	119,838	-	119,838
Total fund balances	<u>119,838</u>	<u>1,305,504</u>	<u>1,425,342</u>
Total liabilities and fund balances	<u>\$ 129,011</u>	<u>\$ 1,305,504</u>	<u>\$ 1,434,515</u>

**MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT
STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCES
GENERAL FUND
FOR THE PERIOD ENDED AUGUST 31, 2016**

	Current Month	Year to Date	Budget	% of Budget
REVENUES				
Assessment levy	\$ -	\$ 240,678	\$ 238,178	101%
Interest and miscellaneous	5	110	-	N/A
Total revenues	<u>5</u>	<u>240,788</u>	<u>238,178</u>	101%
EXPENDITURES				
Professional & admin				
Supervisor	646	2,584	6,459	40%
Management	3,734	41,068	44,802	92%
Accounting services	728	8,014	8,742	92%
Audit	-	5,050	4,300	117%
Assessment roll services	1,073	11,802	12,875	92%
Arbitrage rebate calculations	-	-	1,200	0%
Dissemination agent	-	-	1,000	0%
Trustee	-	-	3,150	0%
Legal - general counsel	396	5,763	12,000	48%
Engineering	1,225	6,397	5,000	128%
Computer services	609	609	500	122%
Postage	197	1,097	1,250	88%
Telephone	42	458	500	92%
Insurance	-	5,923	6,515	91%
Printing & binding	92	1,008	1,100	92%
Legal advertising	-	456	1,500	30%
Other current charges	49	554	2,000	28%
Annual district filing fee	-	175	175	100%
Total professional & admin	<u>8,791</u>	<u>90,958</u>	<u>113,068</u>	80%
Water management				
Other contractual	8,976	83,059	72,500	115%
Utilities	3,689	39,053	43,000	91%
Aquascaping	-	875	7,500	12%
Total water management	<u>12,665</u>	<u>122,987</u>	<u>123,000</u>	100%
Other fees and charges				
Property appraiser	-	777	844	92%
Tax collector	-	1,088	1,266	86%
Total other fees and charges	<u>-</u>	<u>1,865</u>	<u>2,110</u>	88%
Total expenditures	<u>21,456</u>	<u>215,810</u>	<u>238,178</u>	91%
Excess/(deficiency) of revenues over/(under) expenditures	(21,451)	24,978	-	
Fund balance - beginning	141,289	94,860	97,244	
Fund balance - ending	<u>\$ 119,838</u>	<u>\$ 119,838</u>	<u>\$ 97,244</u>	

**MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT
STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCES
DEBT SERVICE FUND SERIES 2005
FOR THE PERIOD ENDED AUGUST 31, 2016**

	Current Month	Year to Date	Budget	% of Budget
REVENUES				
Assessment levy	\$ -	\$ 715,716	\$ 712,265	100%
Interest	6	71	-	N/A
Total revenues	<u>6</u>	<u>715,787</u>	<u>712,265</u>	100%
EXPENDITURES				
Principal	-	240,000	240,000	100%
Principal prepayment	-	10,000	-	N/A
Interest	-	475,615	475,883	100%
Total expenditures	<u>-</u>	<u>725,615</u>	<u>715,883</u>	101%
Excess/(deficiency) of revenues over/(under) expenditures	6	(9,828)	(3,618)	
Fund balance - beginning	<u>1,305,498</u>	<u>1,315,332</u>	<u>1,249,692</u>	
Fund balance - ending	<u><u>\$ 1,305,504</u></u>	<u><u>\$ 1,305,504</u></u>	<u><u>\$ 1,246,074</u></u>	

1 **MINUTES OF MEETING**
2 **MOODY RIVER ESTATES**
3 **COMMUNITY DEVELOPMENT DISTRICT**
4

5 A Public Hearing and Regular Meeting of the Moody River Estates Community
6 Development District's Board of Supervisors was held on **Thursday, August 18, 2016 at 1:00**
7 **p.m.**, in the **Clubhouse at Moody River Estates, 3050 Moody River Blvd., North Fort**
8 **Myers, Florida 33903.**
9

10 **Present and constituting a quorum were:**

11 Terry Pye	Chair
12 Ilse Mayer	Assistant Secretary
13 John Teckorius	Assistant Secretary
14 Elizabeth Keeler	Assistant Secretary

15 **Also present were:**

16	
17	
18	
19 Chuck Adams	District Manager
20 Cleo Crismond	Assistant Regional Manager
21 Michael Eckert (<i>via telephone</i>)	District Counsel
22 Wes Kayne	District Engineer
23 Doug Tarn	Barraco & Associates
24 Tony Grau (<i>via telephone</i>)	Grau & Associates
25 Gene Mitchell	Resident

26

27 **FIRST ORDER OF BUSINESS**

Call to Order/Roll Call

28

29 Mr. Adams called the meeting to order at 1:00 p.m., and noted, for the record, that all
30 Supervisors were present, in person. One seat remained vacant.

31

32 **SECOND ORDER OF BUSINESS**

Public Comments (*agenda items*)

33

34 There being no public comments, the next item followed.

35

36 **THIRD ORDER OF BUSINESS**

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

37

38

39

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

41 Mr. Grau reviewed the “Independent Auditors Report”, on Pages 1 and 2, which was a
 42 clean opinion. The financial statements were fairly stated in accordance with Generally
 43 Accepted Accounting Principles (GAAP). The “Balance Sheet”, on Page 4, reflected
 44 comparative amounts from Fiscal Year 2014 to Fiscal Year 2015. On Page 5, “Changes in Net
 45 Position”, reflected an increase of approximately \$10,000; activity was consistent with Fiscal
 46 Year 2014. The “Balance Sheet” for the “Governmental Funds”, on Page 9, reflected a “Total
 47 fund balance” of approximately \$95,000, in the “General Fund”, and approximately \$1.3 million
 48 in the “Debt Service Fund”. Regarding the “Statement of Revenues, Expenditures, and Changes
 49 in Fund Balances”, on Page 11, the “Capital Project Fund” was closed out during Fiscal Year
 50 2015. There was a \$24,000 loss in the “General Fund” and a \$70,000 profit in the “Debt Service
 51 Fund”. The footnotes, beginning on Page 13, were the same as Fiscal Year 2014. The “Bonds
 52 payable” schedule, on Page 19, showed a reduction of \$275,000.

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54 **FOURTH ORDER OF BUSINESS**

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

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

<p>60 61 On MOTION by Mr. Pye and seconded by Ms. Keeler, with all 62 in favor, Resolution 2016-3, Accepting the Audited Financial 63 Report for the Fiscal Year Ended September 30, 2015, was 64 adopted.</p>

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66
67 **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**

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72 **A. Affidavit/Proof of Publication**

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

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

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

85
86 **On MOTION by Mr. Pye and seconded by Ms. Mayer, with all**
87 **in favor, the Public Hearing was opened.**

88
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90 No members of the public spoke.

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

95
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97 **On MOTION by Mr. Pye and seconded by Ms. Mayer, with all**
98 **in favor, Resolution 2016-4, Relating to the Annual**
99 **Appropriations and Adopting the Budget for the Fiscal Year**
100 **Beginning October 1, 2016, and Ending September 30, 2017;**
101 **Authorizing Budget Amendments; and Providing an Effective**
102 **Date, was adopted.**

103
104
105 **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

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

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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.

155 **NINTH ORDER OF BUSINESS**

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

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

168

**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.**

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174 **TENTH ORDER OF BUSINESS**

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

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177 Mr. Adams presented the Unaudited Financial Statements as of June 30, 2016. There
178 were no red flags. Assessment collections were 100% collected, year-to-date. The budget was
179 set for a 4% early pay discount and, if everybody does not take advantage of the 4% discount,
180 assessment revenue collections could exceed 100%. Expenses were on target, cumulatively, at
181 75%. “Other contractual”, under “Water Management”, on Page 2, was at 97%, due to a partial
182 payment for the lake bank restoration project. Earlier in Fiscal Year 2016, there were a number
183 of significant unbudgeted fountain repairs that drove up the expenses. A budget amendment for
184 the Fiscal Year 2016 budget would more than likely be necessary, to roll-up some money out of
185 your surplus fund balance to offset those unanticipated costs related to the fountain services that
186 were repaired this year. Page 3 reflected the principal and interest payments made through the
187 end of June.

188

189 **ELEVENTH ORDER OF BUSINESS**
190
191

Approval of May 19, 2016 Regular Meeting Minutes

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

194 The following change was made:

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

196

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.

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202 **TWELFTH ORDER OF BUSINESS**

OTHER BUSINESS

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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 to SFWMD about excessive amounts of runoff, during and after rain events, from the property immediately to the north, along the south side of Blue Banyan Court. 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.

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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.

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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

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

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

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

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

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

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

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

282

283 **THIRTEENTH ORDER OF BUSINESS**

Staff Reports

284

285 **A. District Counsel**

286 There being no report, the next item followed.

287 **B. District Engineer**

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

289 **C. District Manager**

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

295

296 **FOURTEENTH ORDER OF BUSINESS** **Public Comments (*non-agenda items*)**

297

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

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

317

318 **FIFTEENTH ORDER OF BUSINESS** **Supervisors' Requests**

319

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

321

322 **SIXTEENTH ORDER OF BUSINESS** **Adjournment**

323

324 There being nothing further to discuss, the meeting adjourned.

325

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

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[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

DRAFT

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Secretary/Assistant Secretary

Chair/Vice Chair

DRAFT