

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

The Board of Supervisors of the Moody River Estates Community Development District held a Regular Meeting on Thursday, May 10, 2018 at 6:00 p.m., in the Clubhouse at Moody River Estates, 3050 Moody River Blvd., North Fort Myers, Florida 33903.

**Present and constituting a quorum were:**

Ilse Mayer	Chair
Elizabeth Keeler	Vice Chair
John Teckorius	Assistant Secretary
William Keeler	Assistant Secretary
Robert Geltner	Assistant Secretary

**Also present were:**

Chuck Adams	District Manager
Cleo Adams	Assistant Regional Manager
Michael Eckert	District Counsel
Wes Kayne	District Engineer
Carl Barraco	Barraco & Associates
Tony Grau ( <i>via telephone</i> )	Grau & Associates
Michelle Rigoni	Hopping Green & Sams, P.A.
Robert Ercole	Resident
Tamara Greiger	Resident
Leo Foley	Resident
Steve Kolach	Resident
Phil James	Resident
Bill Bond	Resident
Residents	

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Adams called the meeting to order at 6:05 p.m. All Supervisors were present, in person.

**SECOND ORDER OF BUSINESS**

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

There being no public comments, the next item followed.

**THIRD ORDER OF BUSINESS**

**Presentation of Audited Financial Report  
for Fiscal Year Ended September 30,  
2017, Prepared by Grau & Associates**

This item was presented during the Fifth Order of business.

**FOURTH ORDER OF BUSINESS**

**Consideration of Resolution 2018-03, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2017**

This item was presented during the Fifth Order of business.

**FIFTH ORDER OF BUSINESS**

**Consideration of Resolution 2018-04, Approving a Proposed Budget for Fiscal Year 2018/2019 and Setting a Public Hearing Thereon Pursuant to Florida Law; Addressing Transmittal, Posting and Publication Requirements; Addressing Severability; and Providing an Effective Date**

Mr. Adams presented Resolution 2018-04. As anticipated, there will be increases in the operating and underwater management budgets for Fiscal Year 2019. A number of lake bank erosion repairs were warranted and, upon completion of those repairs, in two years, there should be \$45,000 remaining that can be repurposed for other projects, without increasing assessments. A \$20,000 fund balance increase was anticipated. In response to Mr. Geltner's question, Mr. Adams stated that another client he manages enlisted Florida Gulf Coast University to conduct a study for a cost of \$75,000 for a report advocating the importance of aerating the fountains and littorals in the ponds to assist in reducing the muck layer that develops over time. Discussion ensued regarding stormwater management, bacteria technology, BMP's, street sweeping and invasive plant and fish species.

***\*\*\*Mr. Grau joined the meeting via telephone.\*\*\****

- **Presentation of Audited Financial Report for Fiscal Year Ended September 30, 2017, Prepared by Grau & Associates**

***\*\*\*This item, previously the Third Order of Business was presented out of order.\*\*\****

Mr. Grau presented the Audited Financial Report for Fiscal Year Ended September 30, 2017 and described the information that could be found on each page. Mr. Adams stated that it was a clean, unqualified audit with no findings. In response to a question, Mr. Adams stated that no new projects were anticipated.

- **Consideration of Resolution 2018-03, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2017**

***\*\*\*This item, previously the Fourth Order of Business was presented out of order.\*\*\****

Mr. Adams presented Resolution 2018-03.

**On MOTION by Mr. Teckorius and seconded by Ms. Mayer, with all in favor, Resolution 2018-03, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2017, was adopted.**

Discussion of the Proposed Fiscal Year 2019 Budget resumed.

Mr. Geltner inquired about Best Management Practices (BMPs) and asked what the community could do, as a whole, to improve stormwater quality, with respect to gutters, swales, berms, etc. Mr. Adams replied, utilizing licensed landscapers with BMP certification, avoiding the use of bleach when pressure washing, reducing chlorine when emptying pools, street sweeping and replacing soil. Ms. Keeler stated that pond maintenance is a complex issue and felt that the CDD's restoration efforts were not aggressive enough to combat the drastic soil erosion in the lakes on the south side and a few in the central, due to the wave action and season cycles. She expressed concern about the reduction in littoral plantings, as the problem will escalate if not addressed sooner, rather than later. It was beneficial that the District utilized aeration and communities that did not have serious problems with oxygenation. She advocated a moratorium on constructing more fountains and was in favor of utilizing District funds to restore the ponds instead. Mr. Adams stated that there was no allotment in the budget for new fountains and funds would be repurposed to aggressively restore the lake banks. In response to a Board Member's question regarding geotube and matting, Mr. Adams stated that geotube is recognized as a hardening of the lake bank and the County limits its use to only 20% of the lake bank. Geotubes are good at stabilizing the lake bank but were very unattractive. The CDD is currently recovering soil from the ponds and placing it in a sacrificial geotube, which is a lower quality, cylindrical geotube that is used as a means of collection which resets the lake bank. Regarding irrigation, Mr. Adams stated that the HOA pumps water from a few irrigation-only ponds for distribution throughout the community. With regard to information-sharing outside of Regular Board Meetings, Mr. Adams stated that, unlike the HOA, which was more relaxed, the Sunshine Law does not allow two or more CDD Board Members to meet outside of the advertised meetings to discuss District business. Mr. Geltner pointed out the CDD will expend \$410,000 on electricity over the next ten years and directed Staff to research the feasibility of solar energy to augment or replace electrical usage. Mr. Eckert reported that a nearby community recently

installed three different solar-powered aerators on a large lake. He believed that it would take two or three years to determine if there was a reduction in aquatic midges and other effects; an update on the project could be provided every six months. Mr. Geltner questioned the “Assessment roll preparation” line item at \$12,875. Mr. Adams explained that the lien roll management was a year-round exercise that included preparing and updating the CDD’s lien roll each year, ensuring that debt service collections are in line and appropriate for making payments, providing bond payoff information and estoppel letters for those who are selling their properties, etc. Mr. Geltner directed Staff to add a footnote to the financials, going forward, and provide a better explanation of CDD expenditures. In response to Mr. Geltner’s question regarding “Hurricane cleanup”, Mr. Adams stated that he normally did not budget for hurricanes and suggested budgeting to increase fund balance, over the next few years, for disaster recovery. A Board Member requested reassurance that the increase on the Multi-family product type is not a result of the stormwater management because Multi-family residents do not pay assessments towards that.

Mr. Eckert stated that the legal services budget in most of the Districts is \$25,000 to \$35,000, assuming there is no litigation; the CDD’s level of activity during the last two or three months absorbed the budgeted amount. If the same level of activity is sustained, the budgeted amount for legal services would be insufficient; this was brought to the Board’s attention to explore if the Board wanted to adjust the budget based on that information. Discussion ensued regarding adjusting the legal services budget, assessment collections and posting requirements.

**On MOTION by Mr. Geltner and seconded by Ms. Keeler, with all in favor, Resolution 2018-04, Approving a Proposed Budget for Fiscal Year 2018/2019 and Setting a Public Hearing Thereon Pursuant to Florida Law for August 16, 2018 at 1:00 p.m., at this location; Addressing Transmittal, Posting and Publication Requirements; Addressing Severability; and Providing an Effective Date, was adopted.**

**SIXTH ORDER OF BUSINESS**

**Discussion: Matters Resulting from Workshop**

Mr. Adams stated that this item was addressed with Jason, immediately following the workshop, and no actions were taken.

**SEVENTH ORDER OF BUSINESS**

**Discussion: Fountain Replacement Summary/Schedule**

Mrs. Adams presented the Fountain Replacement Schedule. She stated that there were no issues with making repairs; however in a few years, Staff will have to consider replacing the fountains as the bulk of the systems are aging. Mrs. Adams circulated a document that addresses all 21 lakes for each fiscal year from 2004 to 2025, including details regarding pump replacement or motor replacement etc.

**EIGHTH ORDER OF BUSINESS**

**Discussion: Aeration Replacement Summary/Schedule**

Mrs. Adams presented the Aeration Replacement Schedule. Fountain and aeration issues would be addressed on an as-needed basis, for the next few years, and then be more aggressively addressed, along with installing additional aeration systems, after the completion of the lake bank erosion repairs.

**NINTH ORDER OF BUSINESS**

**Consideration of Informational Paragraph on Ponds for Website**

Mr. Adams presented the Informational Paragraph on Ponds for the District website. Mr. Geltner offered a revision of the paragraph and included a heading and link to the website. He highlighted an area that was the key to informing the general public of the negative aspects of fishing, swimming and boating in District lakes and contributing to pollution. Mr. Eckert pointed out that the circulated paragraph is slightly different from the one in the agenda and asked Ms. Rigoni to highlight the change. Mr. Adams stated that it would be appropriate to approve the document and authorize Staff to post it on the District website. Mr. Geltner would forward an electronic version. Mr. Geltner motioned for approval of the statement, along with a heading and emphasis as included in the document that he gave to Mrs. Adams.

**On MOTION by Geltner and seconded by Ms. Mayer, with all in favor, the Informational Paragraph on Ponds, as revised to include a heading and arguments against swimming, boating and fishing in District lakes, and authorizing Staff to post it onto the District website, were approved.**

**TENTH ORDER OF BUSINESS**

**Discussion: Summary of Governing Documents**

Mr. Adams stated that Mr. Geltner prepared a compilation of every document of importance to CDD homeowners. District Counsel reviewed the Governing Documents, making

sure there were no legal issues with some of the entries, and re-organized it. In response to Mr. Adams' inquiry, Ms. Rigoni stated that the document is intended to direct residents to where they can find further resources. The Governing Documents are a summary, as opposed to a comprehensive document; Staff merely adjusted the formatting and removed the plat provision to the end for easier reading.

Discussion ensued regarding the usefulness of the Governing Documents, posting it on the District webpage and the corresponding links. In response to Mr. Geltner's question regarding highlighting the "Important note to readers" on Page 19, by boldfacing and underlining it, Mr. Eckert replied affirmatively.

## **ELEVENTH ORDER OF BUSINESS**

### **Discussion: Supervisor Geltner's List of Items**

Mr. Geltner reviewed the items list.

#### **A. Follow-up of Items from Previous Meetings**

##### **i. Statutes, Rules, Governing Documents, Etc; Affecting CDD or HOA**

This item was completed.

##### **ii. Workshop to Help Board Understand Assessment Calculations**

This item was completed.

##### **iii. Procedures to Monitor and Evaluate District Manager**

Mr. Adams stated that he was evaluated by two other clients. The Brooks used Survey Monkey and Pelican Sound used another means; both used very generic questions. It is important that the Board create its own list of criteria and questions, in terms of the District Manager's supportiveness and consultative abilities. In both cases, the same questions were used to evaluate all three professional Staff members. The most important thing was the comments section. This item was tabled.

##### **iv. Rename "Debt Service Reserves"**

Mr. Geltner clarified that the "Reserves" in question are reserves maintained for repayment of the bonds. Mr. Adams stated that it is identified in the budget as "Debt Service Reserve Account Balance Requirement".

##### **v. Facilities Maintenance Agreement**

Mr. Adams stated that the Facilities Maintenance Agreement is favorable to the community, as a whole. He felt that only the HOA should be responsible for landscape maintenance inside and outside of the gates and the CDD has the best position in allowing the

HOA to manage the landscaping. Mr. Geltner noted Section 2.2, of the Governing Documents, which considers the scope of CDD responsibilities, and read the following into the record:

*“The Community Development District is empowered to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain systems and facilities, including without limitation roads, water and sewer, irrigation, water management, street-lighting, parks and facilities for indoor and outdoor recreation, cultural and educational uses and limited access assurance services.”*

In response to Mr. Geltner’s inquiry regarding the roads, Mr. Eckert confirmed that the roads are owned by the HOA and pointed out that any reference in the HOA covenants seeking to impose a duty on the CDD, is unenforceable. The CDD receives its power from Chapter 190 of the Florida Statutes. Mr. Geltner commented that the monument signage repairs were not completed by the HOA.

**vi. Conservation Area Signs**

Mr. Geltner stated that the Board previously discussed placing the District’s website on future purchases of conservation signs and asked if it was feasible. Mr. Adams replied affirmatively and stated that a picture of the sign would be used as an icon on the District’s website.

**vii. Existence or Not of Assets and Reserves for Assets**

Mr. Geltner recalled previous discussions regarding whether the CDD had assets that required establishing reserves and that the pipes and other infrastructure have such lengthy life expectancies that it was not necessary.

**B. New Items**

**i. Survey of Best Practices Used By Other Florida CDDs**

**ii. CDD Smartphone App**

Mr. Eckert stated that it would become a public record when someone would access the App; therefore, the Board should be mindful of how the data would be captured, if a public record requests were submitted. Mr. Adams stated that it might be best to forego the App.

**iii. Signboards at MRE Entrances**

The consensus was to refrain from adding more signs at entrances.

**iv. Map Showing Ownership and Maintenance Responsibilities**

**v. Frequently Asked Questions with Answers Posted to Website**

**vi. Acquisition of Property**

Mr. Geltner stated that the owner of a nearby boat launch was selling it and the adjacent land and asked if there was an interest in acquiring the property. He suggested conducting a

feasibility study. It was noted that the CDD could not use the land for recreational facilities because it is zoned residential. Mr. Eckert stated that he previously dealt with that landowner and it was difficult to finalize agreements but he finally did, through mediation.

**vii. Lake Maintenance**

**viii. Lake Maintenance – Vendor Review**

In response to Mr. Geltner’s question regarding the current contractor’s quality of work, Mr. Adams vouched for the contractor and stated that SOLitude Lake Management was the best and most knowledgeable company in the area.

**ix. Request for Copies of Correspondence**

**x. Does Any 2018 Legislation Affect District or Board?**

Mr. Geltner presumed that Staff would alert the Board to any changes from the legislative sessions that affected the CDD. Mr. Eckert replied affirmatively and stated that there was a bill that required mandatory ethics training for special District Board Members, which failed but would probably be subsequently re-introduced.

**xi. Library of Blueprints, Maps, Drawings, Plans, Details, etc. Relating to CDD**

**xii. Rules and Procedures**

In response to Mr. Geltner’s question regarding accepting documents by email, Mr. Eckert stated that the rule provided protection for the District and documents that are filed with the District that are bid protests, which must be delivered in person. Mr. Geltner asked if the purpose could be accomplished by declaring that bid protest documents cannot be emailed to the CDD, Mr. Eckert stated that the language could be amended but only after notices for rule development and rule making workshops were noticed; the process would cost \$500 to \$750. Mr. Eckert provided the following responses to the remainder of Mr. Geltner’s Rules questions:

- As to Rule 1.2, it was to protect the privacy of the citizenry.
- As to Rule 1.3 (1), Mr. Adams could provide the names of publications used by the District.
- As to Rule 1.3 (7), the “Opportunity to Be Heard” Legislation memorandum was circulated
- As to Rule 1.3 (11), the Board already holds discussions after an item is seconded by a Board Member. Regarding rule changes, the CDD usually changes rules every three or four years, as new statutes come online.
- As to Rule 2.0 (4), it depended on the rule being proposed.

➤ As to Rule 2.0 (5), it is a rarity for a member of the public to have a petition; usually they would confer with a Board Member about an item, that Board Member proposes the petition and then a public hearing is set.

**TWELFTH ORDER OF BUSINESS**

**Acceptance of Unaudited Financial Statements as of March 31, 2018**

Mr. Adams presented the Unaudited Financial Statements as of March 31, 2018. Assessment revenue collections are at 91%.

**THIRTEENTH ORDER OF BUSINESS**

**Approval of March 15, 2018 Regular Meeting Minutes**

Mr. Adams presented the March 15, 2018 Regular Meeting Minutes and asked for any additions, deletions or corrections. The following changes were made:

Line 30: Change “Shriber” to “Shrieber”

Line 32 and throughout: Change “Colish” to “Kolach”

Line 87: Change “Council” to “Counsel”

Line 171: Change “would attend” to “would likely attend”

Line 179: Change “this location” to “3050 Moody River Blvd., North Fort Myers, Florida 33903”

Lines 223 and 224: Delete “In response to a question, he stated the documents are relative to the CDD Board only and not the HOA.”

Line 257: Change “Rhodes” to “Rose”

Lines 349 and 350: Change “Rules and Policy Procedures” to “Rules of Procedures”

Line 403: Change “Keller” to “Keeler”

Line 432: Insert “in attendance” after “two attorneys,”

Line 455: Change “May 17, 2018 at 1:00 p.m.” to “May 10, 2018 at 6:00 p.m.”

Lines 456 and 457: Delete “instead of the previously one scheduled for May 17, 2018 at 1:00 p.m.”

Line 463: Change “Promenade” to “Preserve”

Line 470: Change “they” to “some” and “classification” to “species”

Line 490: Change “nest” to “next”

**On MOTION by Ms. Mayer and seconded by Ms. Keeler, with all in favor, the March 15, 2018 Regular Meeting Minutes, as amended, were approved.**

- **Action Items**

Items 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16 and 18 were completed.

Items 1, 8, 17, 19 and 20 were ongoing.

**FOURTEENTH ORDER OF BUSINESS**

**Staff Reports**

**A. District Counsel: *Hopping Green & Sams, P.A.***

There being no report, the next item followed..

**B. District Engineer: *Barraco & Associates, Inc.***

There being no report, the next item followed.

**C. District Manager: *Wrathell, Hunt & Associates, LLC***

**i. 1,065 Registered Voters in District as of April 15, 2018**

Mr. Adams reported that there were 1,065 registered voters residing within the boundaries of the District as of April 15, 2018.

**ii. NEXT MEETING DATE: June 21, 2018 at 1:00 P.M.**

The next meeting will be held on June 21, 2018 at 1:00 p.m., at this location.

**D. Operations Manager: *Wrathell, Hunt & Associates, LLC***

Mrs. Adams presented the May 10, 2018 Monthly Status Report. In January, a representative of a resident residing on Lake #16 requested changes in the fountain times and height, which the Board approved. Since then, several neighbors indicated that they preferred the previous schedule; therefore, she suggested running all of the fountains at the same time to avoid issues. Mr. Adams stated the fountain changes cost the District approximately \$200. The Board's consensus was to change the fountains to the previous schedule and maintain uniformity throughout the community. In response to a question, Mrs. Adams stated that the fountains run every day, from noon to 10:00 p.m., and the lights are activated from 7:30 p.m., to 10:00 p.m.

**FIFTEENTH ORDER OF BUSINESS**

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

Mr. Robert Ercole, a resident, stated that a certain type of fish was consuming all the other fish and cautioned against re-stocking the lakes until it was evident what type of fish it is. Ms. Keeler stated that carp, also called "the devil fish," was an invasive species. Discussion ensued regarding water testing, the upcoming General Election and community input.

Mr. Steve Kolach, a resident, asked if it will cost \$300 to change the pump. Mr. Adams replied no.

Ms. Tamara Greiger, a resident, asked if the fountains with controllers that guard against over-spraying would be impacted. Mrs. Adams replied affirmatively. Ms. Greiger expressed concern because the uncontrolled water would seep into some lanais and into her garage, causing mildew. She asked if the CDD could transfer facility maintenance to the HOA. Mr. Adams stated the CDD's position is that it is best served in the current relationship with the HOA.

Mr. Leo Foley, a resident, presented photographs and complained about tire tracks from the street to the pond made by SOLitude vehicles. He asked District Staff to speak with the contractor. In response to Mr. Foley's question regarding an easement, Mr. Adams stated that there were several access easements, including from the pond to the street, at certain locations, which are usually 15' wide on each side of the property.

Mr. Phil James, a resident, asked for a clarification of the information sharing process. Mr. Adams stated that Management could best answer questions or concerns about pond maintenance and individual Board Members could be contacted with questions regarding policy changes; however, the contents of conversations cannot be shared with other Board Members. Mr. James felt that the ponds are a direct reflection of the health of the lands that drain into it and he researched the effects of the littoral zone, vegetation, landscaping, algae growth, pollution prevention and pet wastes on the lake health. He referenced the Pond Watch Program and grants from the South Florida Water Management District (SFWMD) for projects in stormwater management ponds in communities that meet the SFWMD's core missions. If the CDD is expending funds for lake restoration, it could possibly align those efforts to the core missions of the SFWMD. Mr. James would forward the information to Management. Upon receipt of the pond research data, Mr. Adams would circulate it to the Board Members.

Mr. Bill Bond, a resident, cited a free pond analysis service that the CDD could use.

**SIXTEENTH ORDER OF BUSINESS**

**Supervisor's Requests**

Mr. Geltner noted that approximately 45 members of the public attended the workshop meeting.

**SEVENTEENTH ORDER OF BUSINESS**

**Adjournment**

There being no further business to discuss, the meeting adjourned.

**On MOTION by Ms. Mayer and seconded by Mr. Geltner,  
with all in favor, the meeting adjourned at 8:13 p.m.**

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

COEAL  
Secretary/Assistant Secretary

Ibe Meyer  
Chair/Vice Chair