

**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, October 18, 2018 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:

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

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant Regional Manager
Michael Eckert	District Counsel
Wes Kayne	District Engineer
William Bond	Resident
Peter Wachter	Resident
Vincent Silva	Resident
Patty Wachter	Resident
Chris Jenner	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mrs. Adams called the meeting to order at 1:00 p.m. Supervisors Mayer, Teckorius, Elizabeth Keeler and William Keeler were present, in person. Supervisor Geltner was not present.

SECOND ORDER OF BUSINESS

Public Comments (*agenda items*)

Mr. William Bond, a resident, stated he preferred the CDD not add anymore fountains to the lakes, especially behind his residence, as he and his wife enjoy the quiet, peacefulness of no fountains.

THIRD ORDER OF BUSINESS**Discussion/Consideration: Management Evaluation Form**

Mrs. Adams presented the Management Evaluation Form, which was prepared at Mr. Geltner's request. Mr. Adams stated that Mr. Geltner's request, in his email, was for the Board to review the form and provide input; all other matters requested by Mr. Geltner would be deferred to the next meeting.

In response to Ms. Keeler's concern of Mr. Geltner's email causing a potential Sunshine Law violation, Mr. Eckert stated that the email was a one-sided conversation and, since no one responded to it, no violation occurred; however, his advice, going forward, was not to communicate with other Board Members outside of the meeting, even on a one-way basis. The Board must decide whether to take action or defer this item, as Mr. Geltner cannot require deferring items until his return.

Mr. Adams responded to Ms. Mayer's questions as follows:

- He has been part of Moody River's Management Staff since 2005 and Mrs. Adams has been involved for over 11 years.
- Mr. Geltner was appointed to the Board approximately six months ago.

Ms. Mayer stated that, as a Board Member since 2007, she considers the form insulting, disrespectful to Management and Mr. Adams and Mrs. Adams, individually, and is that it is without merit. She previously said, along with others, what a wonderful job they do and that they are very responsive; therefore, she will not participate in reviewing this form or act on it.

Mr. Teckorius voiced his opinion that existing Management was not so great because they are not located on site and were not able to print photographs sent to them, which he will discuss this later in the meeting. Board Members were directed to address Mr. Eckert with questions regarding Management's contract. Mr. Eckert explained that the Board's options were to make and pass a motion for the Board to undertake this exercise or decide to defer this item to the next meeting; if a motion is not made, the Board would move to the next item.

Mr. Teckorius made a motion to defer this item until Mr. Geltner is present so that he can provide input, since the HOA is currently reviewing Management Companies for the HOA.

Ms. Mayer pointed out that Castle cancelled their Management Contract with the HOA at the HOA Board Meeting, after Mr. Geltner publically berated and attacked them.

Mr. Teckorius withdrew his motion to defer this item and made a motion to authorize the evaluation of the form, in accordance with the criteria that is in the agenda package. The motion failed due to lack of a second.

On MOTION by Ms. Keeler and seconded by Mr. Keeler, with Ms. Keeler, Mr. Keeler and Ms. Mayer in favor and Mr. Teckorius dissenting, tabling this topic until such time as the Board votes affirmatively to reconsider the tabled item, was approved.

FOURTH ORDER OF BUSINESS

Discussion: CDD Fountain Summary and Replacement Schedule

Mrs. Adams recalled that, at the last meeting, she was directed to provide a replacement schedule of the fountain pumps and motors and Mr. Geltner was directed to research and present information regarding fountain pumps and motors. She presented the Fountain Summary and Replacement Schedule and Solitude’s backup material regarding protocol to replace fountain motors and pumps. In response to Ms. Keeler’s question, Mrs. Adams noted Mr. Geltner did not provide his research for this meeting.

FIFTH ORDER OF BUSINESS

Discussion: Inspection and Remediation of CDD Monuments

Mrs. Adams recalled this agenda item was requested by Mr. Geltner at the last meeting. Residents should contact the HOA directly with any issues since they maintain the monuments, through an Agreement with the CDD. Mrs. Keeler asked for clarification of the contract between the HOA and CDD and whether the CDD should address the concerns with the HOA. Mr. Adams noted the Agreement assigns the HOA responsibility to maintain the monuments. Based on his personal review, the photographs were typical occurrences and the HOA should contact the contractor to correct the matter, since the responsibility was assigned to the HOA; the CDD should not micromanage the HOA to do so. Mr. Eckert stated the Board can decide to

terminate the Agreement with the HOA, if dissatisfied; the Agreement was sent to the CDD Board six months ago. Discussion ensued regarding whether Mr. Geltner's email was forwarded to the HOA Board and Staff, the HOA Management change, whether the HOA hired a licensed and insured contractor for maintenance and whether the HOA is aware of the poor workmanship and the need to address it. Ms. Mayer noted that emails about this issue were sent to Ms. Silva. Mrs. Adams will forward Ms. Silva the email and confirm whether the work was performed by a license contractor and inform the HOA to address this matter with the contractor.

SIXTH ORDER OF BUSINESS

Discussion/Consideration: Posting to the Website

Mrs. Adams was previously directed, at Mr. Geltner's request, to obtain an estimate of the costs to convert his Summary of the Statutes and Other non-legally required documents concerning the District and the HOA into ADA compliant documents to post on the District's website. Ms. Keeler acknowledged the amount of work it took to prepare this document and expressed her concerns about the CDD and HOA commingling documents, etc., as it has the potential to cause misinterpretations and, as well as being too cumbersome and confusing to the viewer. Ms. Mayer recognized the amount of work that was done and agreed; she did not like the idea of commingling with the HOA and did not think it was a good idea. In her ten year tenure, she has never needed to refer to this.

Mr. Adams noted it was a valuable exercise that provided Staff the opportunity to confirm there were no holes in the files and, if any were found, they were corrected. The Board may request all information from Mr. Eckert or Mr. Adams, anytime.

SEVENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of August 31, 2018

Mr. Adams presented the Unaudited Financial Statements as of August 31, 2018. Since the 2018 Fiscal Year expenditures exceeded budget slightly, a budget amendment will be presented at the January meeting to prevent any findings in the annual audit. Assessment

revenue collections were at 101%. Expenditures were at 106%, with prorated projections expected to reach 115%. Additional legal and engineering costs involving agency-related issues, such as with the South Water Florida Water Management District (SFWMD), etc., and Hurricane Irma cleanup expenses, caused the Fiscal Year 2018 budget to likely exceed budget by 15%; however, he was not concerned, since the Fiscal Year 2019 budget assessment levels were increased. The additional revenue will be used to increase fund balance and to fast-track lake bank erosion repairs and other key projects.

Ms. Keeler asked for cost savings suggestions to avoid going over budget in Fiscal Year 2019. Mr. Adams stated that Professional fee spending could be curtailed by initiating policies, such as setting limits or placing not-to-exceed threshold amounts or requiring Board approval if a certain amount is exceeded, before moving forward with a project, rather than Board Members contacting Professional Staff directly and running up fees. Ms. Mayer motioned to place a cap on Board Members calling District Counsel or the District Engineer directly, without prior approval. She stated that, in ten years, she never had the need to contact either directly and Board Members need to follow a procedure to at least obtain approval from Management to contact the District Engineer or District Counsel, as the expenses were very high. Mr. Adams suggested adding that approval should be obtained from Management and with Management being in consultation with the Chair to determine if contact is necessary. Ms. Keeler made a motion to encompass a policy/procedure as stated by Ms. Mayer and Mr. Adams.

Mr. Eckert commented that the increase was not caused by Supervisors contacting him directly. Two issues caused the legal fee budget to increase. First, the budget was lower than any of his other Districts because of the limited number of scheduled meetings and low level of activity. Most of the fees incurred were for projects discussed at the Board level and for which District Staff was authorized to do. As most Districts budget \$20,000 to \$25,000 per year for attorney's fees and this District has maintained fees at the Developer level for several years, he credits Management for making the budget work. The District has a low amount budgeted for legal fees and it does not account for any extraordinary issues.

Mr. Teckorius asked the District Engineer whether Supervisors contacting him was the reason for his costs exceeding budget and, if not, he wants the prior motion stricken, as he feels

that all Board Members should be able to contact the District Engineer and District Counsel directly without obtaining any type of permission. Mr. Adams stated engineering expenses were not necessarily related to Supervisors calling but working on behalf of the District with agencies such as the SFWMD, etc. Mr. Teckorius contended that his calls to Professional Staff have never created costs to the District. Mr. Adams stated that costs have been incurred due to Mr. Teckorius contacting Professional Staff directly, such as the constant contact regarding the boat launch matter. Mr. Teckorius asked to be provided the bill and offered to pay it.

Mr. Kayne confirmed that the District's budget was on the lower end, compared to other Districts, due to the limited number of meetings; the budget was exceeded when the SFWMD and other agencies were involved. The budgets of his 15 Districts typically range from \$10,000 to \$40,000. Supervisors had not contacted him directly, except for Mr. Teckorius a year or two ago. The District is not billed for telephone calls providing quick answers but his company policy is to take direction from the Board, as a whole, or from District Management and, if a Supervisor contacts him directly, he would call to confirm approval of the inquiry.

Regarding the motion, Ms. Keeler asked for clarification, as her understanding was there would not be a barrier to accessing Professional Staff but, rather, there would be a time limitation on the contact, with the Board Member going through Management and Management and the Chair making a determination, so that excessive costs would not be incurred. Mr. Eckert stated he is sensitive to this issue and provides answers to small issues; however, items that involve a substantial amount of time are deferred until he can present it to the Board for approval.

The following exchange occurred:

Mr. Teckorius: "Pay attention to what I am saying. Mrs. Adams."

Mrs. Adams: "Yes, Mr. Teckorius."

Mr. Teckorius: "Thank you. I, John Teckorius, Supervisor, request that this District collect every bill that I have caused Barraco Engineering and it be submitted to me and I will pay that bill. That is my request, please. Thank you."

Regarding the most recent motion, Mrs. Adams stated that the motion was not yet seconded. Ms. Keeler asked Mr. Adams to reiterate the motion in a form that covers the

parameters discussed. Mr. Adams summarized that the Board wants to try to curb spending for the services of the District's hourly Professional Staff and suggested the motion state that there will not be any significant time spent with hourly rate Professionals without a Board affirmative approval, if it is a specific project. He questioned if it would be setting a specific time, such as an hour per month, for a Board Member to have direct interaction with an hourly Professional Staff member or otherwise funnel it through Management and allow Management to make the decision, after consulting with the Professional Staff regarding how much time the matter will take. Ms. Keeler suggested setting triggers for alerting the Board when a budgeted line item exceeds or is close to reaching budget or when there appears to be an inappropriate usage of funds. It would need to be determined if an hour per month would mean one hour per Supervisor or if it would be one hour collectively.

Mr. Eckert stated the budget is too low and must be addressed during the Fiscal Year 2020 budget season and, if in the past year, individual Supervisors' conversations caused the budget to be exceeded, he would support this motion to limit Supervisors but did not think it was necessary, since the reason for the overages was because of the reeducation process on the assessment history for the District, from 2005, and to summarize CDD laws and statutes to post on the CDD website. He suggested revisiting this issue in six months.

Mr. Adams stated that, as long as everyone keeps this matter in the forefront, in terms of projects that are requested, a motion was not necessary.

Mr. Keeler felt that any Supervisor request for use of legal or engineering services should first go through Management or be presented at a meeting for Board consideration; Supervisors should not be contacting them individually. Mr. Adams agreed that anything significant should be presented for Board consideration. Mr. Eckert stated that he does not take direction from Management; he is the Board's attorney. Mr. Keeler felt that it should be within Management's scope to assess any request, based on its experience. Mr. Eckert stated that would be appropriate.

Ms. Mayer withdrew her motion to place caps, limiting Supervisors in contacting hourly rate professionals.

Discussion ensued regarding phrasing the motion to encompass the process discussed. Ms. Keeler's motion was revised to include the process discussed.

On MOTION by Mr. Keeler and seconded by Ms. Mayer, with all in favor, Board Members that have a request for any legal or engineering services must first go through Management, prior to receiving any approval, or the request must be presented at a Board Meeting for the Board to evaluate and approve or reject, was approved.

EIGHTH ORDER OF BUSINESS

Approval of August 16, 2018 Public Hearing and Regular Meeting Minutes

Mrs. Adams presented the August 16, 2018 Public Hearing and Regular Meeting Minutes and asked for any additions, deletions or corrections. The following changes were made:

Line 24: Change "Solvan" to "Sullivan"

Line 29 and throughout: Change "Patarella" to "Paparella"

Line 30: Change "Sylva" to "Silva"

Line 45: Insert "or under their reports" after "item"

Line 108: Change "applied" to "implied"

Lines 105 and 109: Change "55" to "44"

Line 104: Change "Bridge" to "Homes"

Lines 165 and throughout: Change "Keller" to "Keeler"

Line 358: Change "Eckert" to "Kayne"

On MOTION by Ms. Mayer and seconded by Ms. Keeler, with all in favor, the August 16, 2018 Public Hearing and Regular Meeting Minutes, as amended, were approved.

- **Action Items**

Items 2, 5, 6, 11, 12, 13, 14, 15, 17, 19, 20 were completed.

Item 4: Status of research on feasibility study using solar energy: Mr. Eckert stated other Districts initiated running aerators with solar power but with mixed success; just six

months in on a two-year study, research indicates it is not worth it for the CDD to invest at this time.

Item 8: Mr. Teckorius confirmed the District was added to the HOA's checklist relating to their permit closeout process and will be notified of completed projects before the HOA's new Management Company takes over on December 1st.

NINTH 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. NEXT MEETING DATE: January 10, 2019 at 6:00 P.M.

The next meeting will be held on January 10, 2019 at 6:00 p.m. The Fiscal Year 2018/2019 Meeting Schedule was provided for informational purposes.

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

i. Monthly Status Report

Mrs. Adams presented the October 18, 2018 Monthly Status Report.

- Littoral planting at WL2-A is tentatively scheduled for the end of November.
- Restoration of Lakes 10 and 11 has been completed and littoral plantings are being scheduled.
- District website will be added to new wetland signs going forward but cannot be added to existing signs, due to space limitations.

Ms. Keeler noted the various agencies, restrictions and time constraints involved, when scheduling littoral plantings for Lake #9, which is an eagle sanctuary and should have at least 80% coverage.

- Due to requests and disruption of wetland area signs, additional signs were purchased; smaller signs were selected, saving the District over \$3,000.

Ms. Keeler stated the smaller signs were acceptable, as long as the message of compliance is relayed.

- **Annual Key Activity Report**

Mrs. Adams presented the October 18, 2018 Annual Key Activity Report.

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

Mr. Peter Wachter, a resident, asked who is responsible for cleaning up the sand like material that was spread on Sail Away Street to soak up the 55-gallons of hydraulic fluid spill by a garbage truck. Mr. Teckorius stated that the HOA was aware of the incident; however, he did not know their intentions regarding clean up.

Mr. Vincent Silva, a resident, stated he believed the HOA contacted Waste Pro USA (Waste Pro) and Waste Pro stated they would rectify the problem. Discussion ensued regarding the material spreading throughout the Village, Waste Pro's lack of follow up, whether environmental agencies were notified of the issue, etc. Mr. Silva stated he would contact the person to follow up in notifying the environmental agencies.

ELEVENTH ORDER OF BUSINESS**Supervisor's Requests**

Mr. Teckorius circulated photographs of the Conservation Area Keep Out signs and expressed his opinion that they were made of low grade materials, the posts were already rusting after only a year and a half and were too small and cannot be seen from the streets. He recommended replacing the existing signs with larger ones made of better material; despite being more costly, upgrading would provide greater longevity.

Ms. Keeler stated that, while Mr. Teckorius brought up a good point, the decision of whether the signage needs to be visible from the street needs to be made. Ms. Mayer discussed the signage aesthetics behind her residence. Discussion ensued regarding the statement a few years ago that signs were required to be installed in between the residents' property line, the CDD adding extra signs without being required to do so, etc. Ms. Keeler suggested that, going forward, the Board considers the cost factor, aesthetics and the sign's

purpose, rather than going back and forth about prior discussions. Both material and aesthetic points were valid, she too preferred the items selected to prevent being in violation.

Ms. Patty Wachter, a resident, suggested spraying the existing signs and posts to prevent further rust, rather than replacing them.

Mr. Teckorius did not believe the Board approved the signs and asked Mrs. Adams to provide a copy of the minutes in which the Board approved it. He considered Management's actions a violation.

Mr. Teckorius voiced his concern and opinion that over spraying various areas is killing vegetation; he circulated recent photographs of Lakes #9 and #16. Mrs. Adams explained that SOLitude sprays in the spring and in September to kill all the invasive materials in the wetland area.

As this is his last meeting, Mr. Teckorius, thanked everyone, stating it was a fun four years and he hoped everyone had as much fun as he had.

Ms. Mayer referred to a statement in Mr. Geltner's email about the CDD holding off initiating changes to make the CDD website compliant with the Americans with Disabilities Act (ADA) and asked if Management completed the conversion, as she is concerned about why he would recommend the delaying this action and not following the ADA requirements, as it could compromise the CDD. Mrs. Adams stated the CDD's website was ADA compliant. Mr. Eckert stated, to be fair, the law on that issue is gray because of actions taken by the Federal Government; however, the majority of the CDDs and Management taking a lead on making its CDD websites compliant, is considered Best Practices. Almost all the Districts they work with throughout Florida are all moving towards making their websites ADA compliant.

TWELFTH ORDER OF BUSINESS

Adjournment

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

On MOTION by Ms. Mayer and seconded by Mr. William Keeler, with all in favor, the meeting adjourned at 2:15 p.m.


Secretary/Assistant Secretary


Chair/Vice Chair