

**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 March 14, 2019 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:

Chris Jenner	Chair
Elizabeth Keeler	Vice Chair
William Keeler	Assistant Secretary
Ilse Mayer	Assistant Secretary
Robert Geltner	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant Regional Manager
Michael Eckert	District Counsel
Carl Barraco, Jr.	District Engineer
Teresa Silva	Resident and HOA President
Residents	

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mrs. Adams called the meeting to order at 6:00 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

Discussion: Applicable Permits and Compliance Issues for Moody River Estates CDD

Mr. Geltner stated that the response he received from Management did not have the attachments he requested regarding information and backup materials about any compliance

issues the CDD may have with governmental agencies, which he needed so that he could compare them with his information. Mrs. Adams stated the notices from the South Florida Water Management District (SFWMD) were emailed and, since most items were public records, the instructions of how to obtain copies of various permits were provided. Mr. Geltner asked other Board Members if being instructed to obtain information themselves was a valid response, as he did not think it was a proper response.

Mr. Keeler felt that receiving a non-compliance letter is not considered a violation unless the issue is not resolved. He asked if the notices pertained to residents or the CDD. Mrs. Adams stated most were residential issues that caused non-compliance related to breached berms, waste or residents extending their back yard into the conservation area. The CDD is working on non-compliance issues with the SFWMD. With the Board's recent increase in budget, the lake bank restoration program would, most likely, be completed within the next two years.

Ms. Keeler thanked Mr. Geltner for including the other Board Members in his request for information. She stated certain Board Members know how to obtain public records and doing so is very enlightening, as one can better understand the whole process, from the start.

FOURTH ORDER OF BUSINESS

Discussion/Consideration: Hancock Bridge Parkway Improvement – Grant of Perpetual Public Utility Easement

Mrs. Adams presented the Grant of Perpetual Public Utility Easement, along with a redline version reflecting that Mr. Geltner's and District Counsel's concerns and questions from the last meeting were incorporated into the document. Since he did not have a chance to review Mr. Geltner's email sent yesterday, Mr. Eckert stated that he was not sure if it would require making substantive changes and suggested Mr. Geltner present his email.

Mr. Geltner's questions and concerns were answered as follows:

- Mr. Adams addressed that the last meeting's minutes incorrectly stated improvements were for a potable water line rather than for the collection and transmission of a sewer line which coincides with what is stated in the Agreement.

Mr. Eckert confirmed that the County was waiting for the District to approve the easement before finalizing Exhibit A documents, which was a boundary description of the

actual easement area and not the aerial photographs that were behind Tab 4. The District would not expend any funds and would receive \$2,000 from the County to cover legal and engineering fees. At this point, he was comfortable presenting the document and agreed to Mr. Geltner's request to revise Section 2, Line 3, to insert "and limited to" before "include". Since the CDD is also a governmental agency, the language in the document was sufficient; however, if it was an easement on a resident's property, he would require further edits.

Mr. Keeler asked about the document and eminent domain. Mr. Eckert stated he was comfortable with the wording. Since this involves two different governmental agencies, in the question of whether the utility company could seize the property under eminent domain, the CDD would argue the County should not have the ability to take another government's property; however, the County is a little different in posture than a CDD and, under Chapter 190, counties are granted leeway in terms of taking over services.

Mr. Geltner moved to defer this item another month. He did not think the County was in a rush to have it approved. Mr. Adams stated the County already asked about the status of the Agreement. Mr. Geltner's motion died due to lack of a second.

Mr. Jenner asked Mr. Geltner if his memo had anything else of substantive concern and whether he believed the District to be exposed. Mr. Geltner stated yes, he had concerns; however, without Mr. Eckert's review, he had no idea whether the District was exposed. Mr. Eckert reviewed items, such as sewer services, for which a perpetual easement is typically given, and stated that the CDD has the right to assign that easement to any provider. If the Exhibit differed from what was originally represented, it would be brought back for further discussion; however, if there were no changes, he would forward it to Mr. Jenner. Mr. Adams addressed his concerns about subsurface items and there being no restrictions.

On MOTION by Mr. Keeler and seconded by Ms. Mayer, with Mr. Keeler, Ms. Mayer, Mr. Jenner, and Ms. Keeler in favor and Mr. Geltner dissenting, the Hancock Bridge Parkway Improvement – Grant of Perpetual Public Utility Easement, as amended to insert in Section 2, 3rd line "and limited to" before "include", and upon District Counsel's review of Exhibit A, was approved. [Motion passed 4-1]

FIFTH ORDER OF BUSINESS**Consideration of Uniform Collection Interlocal Agreement with Lee County Property Appraiser**

Mrs. Adams presented the Uniform Collection Interlocal Agreement. Mr. Adams stated there is an agreement already in place; however, the County was standardizing the agreement for all taxing authorities within Lee County. There were no significant changes. Mr. Eckert stated this specific change was occurring throughout the State, most likely due to whatever society the tax collector holds a membership in. They are shoring up certain items, and other than correcting the Statute, there were no significant changes to the document when compared against the original document.

Mr. Geltner's questions and concerns were answered as follows:

- Paragraph 6, last sentence, regarding terms practicable and uniform: He asked if the District has non-uniform billing on some of the lots and whether the District was impacted by that. Mr. Eckert replied no, since the District's approach was to levy assessments based on benefit; therefore, a level assessment was not practicable and assessment levels would be noticed when they certify the roll.
- Paragraph 7 parcel rate versus Paragraph 8 actual costs exceeding rate: Mr. Adams stated that fees are usually paid upfront and overages are reimbursed to the District; however, because the \$1 per parcel rate was a nominal fee against 2% fees, which is typical in other counties, reimbursement would most likely not occur. Regarding setting a cap, Mr. Adams stated that the cap limits on how much the District can be charged were set by Statute. Mr. Eckert stated he had never personally received a bill from the Tax Collector for actual expenses.
- Paragraph 12 regarding claims against the Property Appraiser: Mr. Geltner asked whether Mr. Eckert encountered property owners filing claims against the Property Appraiser that would trigger Paragraph 12. Mr. Eckert replied affirmatively and stated if they determined the District caused the issue, the District would be required to pay the legal fees. Mr. Eckert stated he would present the County a redline version to include additional language, requesting the Property Appraiser's Office notify the District of any claims before it reaches litigation; however, he was uncertain whether the County would agree to this change. Litigation is typically served on the District much faster when it involves the District compared to litigation just involving than with the County.

On MOTION by Mr. Geltner and seconded by Ms. Keeler, with all in favor, the Uniform Collection Interlocal Agreement with Lee County Property Appraiser, as amended, was approved and staff was requested to make a request to include additional language requesting the Property Appraiser's Office notify the District of any claims.

SIXTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of January 31, 2019

Mrs. Adams presented the Unaudited Financial Statements as of January 31, 2019. The Unaudited Financial Statements were accepted.

SEVENTH ORDER OF BUSINESS

Approval of January 10, 2019 Regular Meeting Minutes

Mrs. Adams presented the January 10, 2019 Regular Meeting Minutes. District Counsel's corrections were received.

The following changes were made:

Line 79: Change "Keeler" to "Geltner" and "Mayer" to "Keeler"

Line 81: Change "Keeler" to "Geltner"

Line 82: Change "Mayer" to "Keeler"

Line 119: Delete "time"

Discussion ensued regarding Line 151, which accurately captured Mr. Adams' statement on potable water rather than referring it as a sewer line, which was what was in the actual Agreement. Mr. Eckert stated the purpose of minutes was to reflect the nature of the conversation, which was about sewer lines, not potable water; he was fine with changing the minutes.

Lines 151: Change "potable water" to "sewer line"

Lines 163 and throughout: Change "water" to "sewer"

In response to Mr. Geltner's question regarding lines 169 and 170, Mr. Adams confirmed the statement "the current sewer line is old and failing", not the water line as stated.

Line 184: Change "work" to "granting Lee County the requested easement subject to District Staff working"

Line 184: Insert “the easement and other” after “preparing”

Line 185: Change “that encompass” to “to address”

In response to Mr. Geltner’s reference to Line 279 and his request, going forward, all Board Members would receive a draft Newsletter and submit their comments to Mrs. Adams.

Line 268: Change “work” to “working”

District Counsel’s suggested edit to insert a motion box on Line 298 to add a motion by Mr. Geltner to add evaluations to the next agenda, but failed without a second, was not added, as no motion was made on the January 10, 2019 audio.

On MOTION by Ms. Mayer and seconded by Ms. Keeler with all in favor, the January 10, 2019 Regular Meeting Minutes, as amended to incorporate edits previously submitted to Management an announced at the Board Meeting, were approved.

- **Action Items**

Items 16, 17, 14, 13, 12, 10, and 18 were completed.

Item 15: Changes were made to reflect all Board Members would receive articles for the newsletter rather than just sending to Ms. Mayer and Ms. Keeler. The spelling of Ms. Keeler’s name was corrected.

Item 13: Resident was changed to residence.

Item 2: The solar energy test project continues with mixed results. They are not able to run it as much as they want based solely on solar power, and were now looking into the idea of using batteries; however, residents do not want it in their backyard.

EIGHTH ORDER OF BUSINESS

Staff Reports

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

Mr. Eckert discussed several proposed bills being presented during the Florida Legislative Session, which, if passed, would require the District to change its Rules and Policies.

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

Mr. Barraco, Jr., had nothing to report. In response to a question of whether the District should be concerned about anything, he stated he is unaware of any issues.

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

- **NEXT MEETING DATE: May 9, 2019 at 6:00 P.M.**

The next meeting will be held on May 9, 2019 at 6:00 p.m.

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

- **Monthly Status Report – Field Operations**

Mrs. Adams presented the Monthly Status Report.

- **Key Activity Dates**

In response to a request, the dates in The Key Activity Dates Report would be placed in chronological order from the earliest to the latest.

- **Administrative Regulatory Due Dates**

This item was provided for information purposes.

NINTH ORDER OF BUSINESS

Public Comments (*non-agenda items*)

Ms. Teresa Silva, a resident and HOA President, recalled discussion, at the last meeting, regarding the District and the HOA working together towards resolving residential problems. Mrs. Adams stated that she would review the information regarding pool and flooding issues on residential property and work with the HOA President, Ms. Silva, to resolves those issues.

Mr. Adams asked for comments on the Lake 15 demonstration, in which SOLitude Lake Management (SOLitude) installed 100’ of the Shoresox® Erosion Control system. Although the end result was very nice, the repair method was cost prohibitive. There was uncertainty regarding whether all the approvals within Lee County were received or whether the Development Code could be changed to allow coverage of more than 20% of the lake bank.

TENTH ORDER OF BUSINESS

Supervisor’s Requests

Ms. Mayer stated she was underwhelmed by the public’s participation today, which was significantly lower than the prior meeting; she thanked the two residents who were in attendance. Ms. Keeler asked if Management could compare attendance records, year-over-year, as afternoon meetings were beneficial to increasing attendance. Mrs. Adams replied affirmatively. To boost attendance, Mr. Geltner suggested posting signs at each entrance into the community, similar to the HOA’s meeting signs.

Ms. Keeler acknowledged that there is a learning curve when new Supervisors join the CDD Board and, when that Supervisor is also part of the HOA Board, she was concerned about defining the lines so that residents are provided accurate information and not that of a Board Member's personal opinion. She asked Mr. Eckert to expand on the importance of keeping clear lines between the CDD and HOA, so that CDD Board Members represent the CDD and the HOA Board Member represents the HOA. She noted that, in the past, she dealt with and addressed many resident concerns due to them being given inaccurate information, which would continue to happen, if this matter was not addressed now.

Mr. Eckert stated he preferred that CDD Board Members not hold a seat on both Boards, as it reduces the possibility of anything being misconstrued; however, the law does not prohibit HOA Board Members from holding a seat on the CDD Board. He instructed CDD Board Members to be careful not to vote on anything that could benefit the HOA. In addition, if they talk about CDD issues during an HOA meeting, when other CDD Board Members are in attendance, as this could be interpreted as having a conversation about CDD business with another CDD Board Member outside of a publicly noticed CDD meeting. Another similar pitfall is when a CDD Board Member is on an HOA Committee and another CDD Board Member is on the Committee or in attendance.

Mr. Jenner suggested assigning the Vice Chair to present CDD updates, on behalf of the CDD, at the monthly HOA meetings. Discussion ensued regarding how the District's information was presented at HOA meetings in the past. Mr. Eckert reiterated that no two CDD Board Members should have a conversation about matters that would come before the CDD Board for action except at a publically noticed CDD meeting. He suggested, going forward, to advertise the HOA meetings as also being CDD meetings so that CDD Board Members would not be prohibited from speaking, since it would be a publicly advertised CDD meeting. If the Board decided against that option, Mr. Eckert suggested that other CDD Board Members leave the room when the CDD presentation is given and return when the presentation is finished.

The following responses were in response to Mr. Geltner's questions and concerns:

- Board Members will be sent financial disclosure requests from the Supervisor of Elections Office to complete annually, in July.

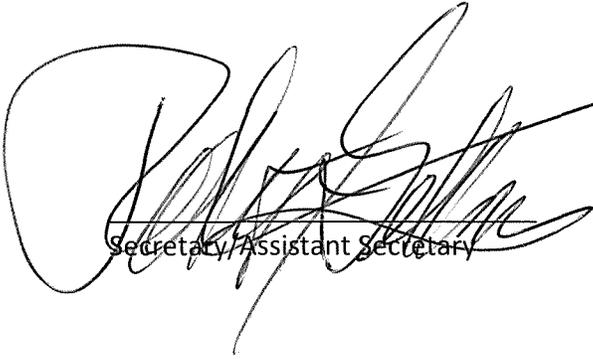
- Management was authorized to obtain costs to purchase seven portable signs notifying residents of CDD meeting times, signs similar to the HOA signs. Volunteers offered to post and remove them from the entrances to the community.
- Request drone use to capture video, for the District to obtain visual evidence as to the condition of the conservation areas and lakes. Mr. Adams stated one of his Districts used a drone once, at a cost of \$6,500 but it was no longer needed, due to improvements in aerial photography; the County collected 15 years of good data that can be retrieved from the County's website, free of charge.
- Mr. Jenner understood Mr. Geltner's observations about how this meeting was run; however, his observation, before joining the Board, was that Management ran the meetings. He asked other Board Members to comment on Mr. Geltner's request that he play a more active role in running the meetings, instead of Management running them. Mr. and Mrs. Adams stated the meetings could be run either way; it was the Board's decision. Ms. Keeler stated, regardless of whether Mr. Jenner was familiar with the discussions, there was still a learning curve for new Board Members, such as getting to know the dynamics of how everyone interacts with each other. Mr. Jenner was instructed to notify Mr. or Mrs. Adams anytime he wants to run a meeting.
- Mr. Geltner prepared and distributed, for discussion, a proposed Resolution of District Manager Performance and asked the Board to review it and to place it on the next agenda, for a vote.

Discussion ensued regarding, if approved, should Staff also evaluate Board Members, statute requirements for Staff evaluations, and the prior vote on this item when Mr. Geltner was not in attendance but had requested to have the item on the agenda and the Chair being the party to decide whether to add items to the agenda.

Mr. Adams stated that, at the last meeting the Board took action and voted not to revisit this matter; therefore, this decision could not be revisited unless there was an affirmative vote from the Board. Two separate issues were involved; first, this subject matter and, second, the District's Rules of Procedure by which Management typically works with the Chair in setting the agenda.

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

On MOTION by Mr. Geltner and seconded by Ms. Mayer, with all in favor, the meeting adjourned at 7:30 p.m.



Secretary/Assistant Secretary



Chair/Vice Chair