

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

The Board of Supervisors of the Moody River Estates Community Development District held a Public Hearing and Regular Meeting on August 15, 2019 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:

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

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant Regional Manager
Mike Eckert	District Counsel
Wes Kayne	District Engineer
Teresa Silva	Resident and HOA President
Kyra Gravitt	Resident
Leo Foley	Resident
7 Residents	

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

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

SECOND ORDER OF BUSINESS

Public Comments (*agenda items*)

There were no comments on agenda items.

THIRD ORDER OF BUSINESS

**Acceptance of Resignation of Ilse Mayer
[Seat 5]; *Term Expires November 2022***

Mr. Jenner presented the resignation of Ms. Ilse Mayer. Mrs. Adams stated that filling the vacant seat could be discussed today and an appointment could be made or candidates could be solicited and interested parties could submit a resume or a letter of interest.

On MOTION by Mr. Geltner and seconded by Mr. Keeler, with all in favor, the resignation of Supervisor Ilse Mayer, was accepted.

FOURTH ORDER OF BUSINESS

Consideration of Appointment to fill Unexpired Term of Seat 5

This item was deferred to the next meeting. Mr. Adams would send information to Ms. Teresa Silva, a resident and the HOA President, for the HOA to e-blast to residents about the vacancy and advising interested parties to submit a resume or a letter of interest.

A. Administration of Oath of Office to Newly Appointed Supervisor (the following will be provided in a separate package)

- i. Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees**
- ii. Membership, Obligations and Responsibilities**
- iii. Financial Disclosure Forms**
 - a. Form 1: Statement of Financial Interests**
 - b. Form IX: Amendment to Form 1, Statement of Financial Interests**
 - c. Form IF: Final Statement of Financial Interests**
- iv. Form 8B – Memorandum of Voting Conflict**

On MOTION by Mr. Geltner and seconded by Ms. Keeler, with all in favor, delaying the appointment to fill unexpired term of Seat 5, was accepted.

B. Consideration of Resolution 2019-05, Designating a Chair, a Vice Chair, a Secretary, Assistant Secretaries, a Treasurer and an Assistant Treasurer of the District, and Providing for an Effective Date

This item was deferred.

FIFTH ORDER OF BUSINESS

Public Hearing to Hear Comments and Objections on Adoption of Fiscal Year 2019/2020 Budget

A. Proof/Affidavit of Publication

The affidavit of publication was provided for informational purposes.

- B. **Consideration of Resolution 2019-06, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2019, and Ending September 30, 2020; Authorizing Budget Amendments; and Providing an Effective Date**

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

No members of the public spoke.

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

On MOTION by Mr. Geltner and seconded by Ms. Keeler, with all in favor, Resolution 2019-06, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2019, and Ending September 30, 2020; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

Mr. Geltner referred to Page 2 of Resolution 2019-06 and asked Mr. Adams if, as District Manager, he ever had to exercise the authority described in Section 3 b., which stated “The District Manager or Treasurer may authorize an increase or decrease in line item appropriation within a fund if the total appropriations do not increase.” Mr. Adams replied no.

SIXTH ORDER OF BUSINESS

Consideration of Resolution 2019-07, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2019/2020; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing for an Effective Date

Mr. Eckert stated Resolution 2019-07 gave the Board the ability to certify and levy assessments and direct that assessments be placed on the County tax roll for collection.

Mr. Geltner asked if Exhibit B, the Assessment Roll, could be entered into the record, including the addresses. Discussion ensued regarding protection of private information. District Counsel stated that confidential information must be redacted for any individuals who notified the District that their personal information was exempt from public disclosure. Mr. Adams stated a copy of Exhibit B, with private information redacted, would be provided to Mr. Geltner, after September 1, 2019.

On MOTION by Mr. Geltner and seconded by Ms. Keeler, with all in favor, Resolution 2019-07, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2019/2020; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing for an Effective Date, was adopted.

SEVENTH ORDER OF BUSINESS

Consideration of Resolution 2019-08, Designating Dates, Times and Locations for Regular Meetings of the Board of Supervisors of the District for Fiscal Year 2019/2020 and Providing for an Effective Date

Mr. Jenner presented Resolution 2019-08. The following change was made to the meeting schedule:

DATE and TIME: Change "May 14, 2020" to "May 21, 2020" and "6:00 PM" to "1:00 PM"

On MOTION by Mr. Geltner and seconded by Mr. Keeler, with all in favor, Resolution 2019-08, Designating Dates, Times and Locations for Regular Meetings of the Board of Supervisors of the District for Fiscal Year 2019/2020 and Providing for an Effective Date, as amended, was adopted.

EIGHTH ORDER OF BUSINESS

Discussion: Placing U.S. Army Corps of Engineers Permit Number SAJ-2003-1743 (IP-JWS) on District's Website

Mr. Adams stated the U.S. Army Corps of Engineers Permit is 39 pages long and it would cost \$2 to \$3 per page to convert the document to an Americans with Disabilities Act (ADA) accessible format for the visually impaired for posting on the website.

On MOTION by Ms. Keeler and seconded by Mr. Geltner, with all in favor, authorizing placement of the U.S. Army Corps of Engineers Permit Number SAJ-2003-1743 (IP-JWS) on the District’s website, at a not-to-exceed cost of \$150 to convert it to an ADA compliant format, was approved.

NINTH ORDER OF BUSINESS

Discussion: Supervisors’ Attendance at HOA Meetings

Ms. Keeler asked District Counsel to clarify the parameters for Supervisors’ attendance and actions at HOA meetings, with regard to the Sunshine Law. Mr. Eckert reviewed the requirements of the Sunshine Law, which stated that no two CDD Board Members may discuss anything that may come before the CDD Board for action outside of a publicly noticed meeting. The publicly noticed requirement refers to the CDD noticing the meeting, not an HOA meeting notice. To avoid an accusation of a Sunshine Law violation at an HOA meeting, when one CDD Board Member is providing an HOA update, the best practice would be for other CDD Board Members to leave the room so that nobody can claim the Board Members had a conversation through another person. Discussion ensued regarding best practices for Board Members outside of CDD meetings.

Ms. Keeler would contact Mr. or Mrs. Adams if she was unable to attend the HOA meeting on behalf of the District. Mr. Eckert cautioned against commenting via social media.

TENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of June 30, 2019

Mr. Jenner presented the Unaudited Financial Statements as of June 30, 2019.

On MOTION by Mr. Geltner and seconded by Ms. Keeler, with all in favor, the Unaudited Financial Statements as of June 30, 2019, were accepted.

ELEVENTH ORDER OF BUSINESS

Approval of May 9, 2019 Regular Meeting Minutes

Mrs. Adams presented the May 9, 2019 Regular Meeting Minutes. District Counsel previously submitted changes to Management. The following additional changes were made:

Line 52: Change "habits" to "habitat"

On MOTION by Mr. Geltner and seconded by Ms. Keeler, with all in favor, the May 9, 2019 Regular Meeting Minutes, as amended and including the changes previously submitted to Management, were approved.

- **Action Items**

There being no updates, the next item followed.

TWELFTH ORDER OF BUSINESS

Staff Reports

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

Mr. Eckert stated the Rules of Procedures were completed and would be approved for noticing purposes, at the next meeting; final adoption would be at the next public hearing. Amendment 12 was passed in 2018, which states that no public officer or employee can abuse their position to gain a disproportionate benefit. Many terms are undefined; therefore, as the Legislature works to further clarify the language and determine the penalties, Supervisors were advised to speak with District Counsel before voting on issues that may benefit their particular street or neighborhood.

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

There being no report, the next item followed.

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

The next meeting will be held on October 17, 2019 at 1:00 p.m.

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

- **Monthly Status Report – Field Operations**

Mrs. Adams distributed the Monthly Status Report.

- **Key Activity Dates**

There being no discussion, the next item followed.

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

Mr. Leo Foley, a resident, expressed frustration about a trailer parked in the common area between Carriage III and Carriage V. He presented a photograph of a flatbed trailer on Silver Thorn Loop. Mrs. Adams stated the District's contractor, Anchor Marine, was doing lake bank restoration work and utilizing the easement. Discussion ensued regarding easement rights in the Declarations. Mr. Eckert stated he would review the Covenants. Mr. Foley stated he was frustrated about ongoing damage to the lawn. Mr. Adams stated he would look into it.

Ms. Kyra Gravitt, a resident, asked how often preserve area trees and vegetation are inspected. Mrs. Adams stated the wetland invasives are treated twice per year but the District does not inspect trees. Ms. Gravitt asked if the CDD was responsible for a tree in the preserves that fell on her property. Mrs. Adams stated the District was not responsible unless the homeowner put the District on notice prior to the tree falling. Mr. Eckert stated the law in Florida states that, if the District has notice of a defective tree, the District has a duty to remove it or cut the branches. If there is no notice and the tree falls, the homeowner is responsible for the parts from the property line inward to their house, in terms of legal liability. A copy of the applicable legal interpretation of Florida Common Law, prepared by Mr. Eckert, was given to Ms. Silva to share with homeowners. Mr. Eckert stated, for the record, that, as District Counsel, he has no attorney/client relationship with any individual homeowners and/or renters within the District.

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

Mr. Geltner stated that the HOA created a Governing Document Amendment Committee and expressed his concerns that the HOA Board might adopt changes that could adversely affect the District. Mr. Eckert stated he was aware of the Committee and would offer to review to protect the District's interests.

FIFTEENTH ORDER OF BUSINESS**Adjournment**

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

On MOTION by Ms. Keeler and seconded by Mr. Keeler, with all in favor, the meeting adjourned at 2:12 p.m.


Secretary/Assistant Secretary


Chair/Vice Chair