

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

A Regular Meeting of the Moody River Estates Community Development District's Board of Supervisors was held on **Thursday, November 11, 2010 at 1:00 p.m.**, immediately following the Landowners' Election, at the **Candlewood Suites, 3626 Colonial Court, Fort Myers, Florida 33913.**

Present and constituting a quorum were:

Ilse Mayer	Chairperson
Kathy Shea	Vice Chairperson
Terry Pye	Assistant Secretary
Jeff Berry	Assistant Secretary
Ron Mazuk	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Mike Eckert	District Counsel

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 1:13 p.m., noting that Supervisors Pye, Shea, Berry, Mayer and Mazuk were present, in person.

SECOND ORDER OF BUSINESS

Administration of Oath of Office to Newly Elected Supervisors *(the following to be provided in a separate package)*

Mr. Adams, a Notary of the State of Florida and duly authorized, administered the oath of office to the newly elected supervisors. He provided the Supervisors with the following documents and an explanation of each:

- **Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees 2010**
- **Membership, Obligations and Responsibilities**
- **Form 1: Statement of Financial Interests**

- **Form 1X: Amendment to Form 1, Statement of Financial Interests**
- **Form 1F: Final Statement of Financial Interests**

THIRD ORDER OF BUSINESS

**Consideration of Resolution 2011-1,
Canvassing and Certifying the Results of
the Landowners' Election**

Mr. Adams presented Resolution 2011-1 for the Board's consideration. He indicated the Landowners' Election was held prior to this meeting, at which Ms. Mayer and Ms. Shea each received 272 votes and Mr. Mazuk received 271. Ms. Mayer and Ms. Shea will each serve four (4)-year terms and Mr. Mazuk will serve a two (2)-year term.

On MOTION by Mr. Pye and seconded by Mr. Berry, with all in favor, Resolution 2011-1, Canvassing and Certifying the Results of the Landowners' Election, was adopted.

FOURTH ORDER OF BUSINESS

**Consideration of Resolution 2011-2,
Electing Officers of the District**

Mr. Adams presented Resolution 2011-2 for the Board's consideration. Mr. Adams indicated, prior to the election, he served as Secretary, Ms. Mayer as Chair, Ms. Shea as Vice Chair, Mr. Craig Wrathell as Treasurer and the remaining Supervisors served as Assistant Secretaries. He explained the Board can choose to maintain the same slate of officers, with the addition of Mr. Mazuk as an Assistant Secretary, or they can reorganize. Mr. Pye nominated the slate of officers, as indicated by Mr. Adams, with Mr. Mazuk as an Assistant Secretary. The Supervisors were elected to the following positions:

Chair	<u>Ilsa Mayer</u>
Vice Chair	<u>Kathy Shea</u>
Secretary	<u>Chuck Adams</u>
Treasurer	<u>Craig Wrathell</u>
Assistant Secretary	<u>Terry Pye</u>
Assistant Secretary	<u>Jeff Berry</u>
Assistant Secretary	<u>Ron Mazuk</u>
Assistant Secretary	<u>Craig Wrathell</u>

On MOTION by Mr. Pye and seconded by Mr. Berry, with all in favor, Resolution 2011-2, Electing Officers of the District, as nominated, was adopted.

FIFTH ORDER OF BUSINESS

Consideration of Resolution 2011-3, Amending the General Fund Budget for Fiscal Year 2010

Mr. Adams presented Resolution 2011-3 for the Board's consideration. He indicated the District exceeded its budgeted amounts in the legal portions of the budget, leading to the District exceeding the budgeted expenditures. For this reason, it was necessary to use a portion of the fund balance to bump up revenues to offset the excess expenditures. Mr. Adams explained this amendment is necessary to make the adjustment so that expenditures do not exceed revenues and to avoid a finding in the District's Fiscal Year 2010 audit.

On MOTION by Ms. Mayer and seconded by Mr. Berry, with all in favor, Resolution 2011-3, Amending the General Fund Budget for Fiscal Year 2010, was adopted.

SIXTH ORDER OF BUSINESS

Request for Conversion of District Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity

Mr. Adams indicated a request was received to convert the District's Environmental Resource/Surface Water Management Permit from the construction phase to the operational phase. He explained the South Florida Water Management District (SFWMD) issues permits initially, for construction and, once the system is complete, they conduct inspections to sign off on the project. This phase is essentially completed on the north end of the community. Once this is completed, SFWMD requires transfer of the permit from the construction to the operational phase and putting it into the name of the operating entity.

Mr. Adams indicated that the District Engineer reviewed the systems and the north end of the system is in a position to complete the transfer. The south end of the system still has items

that need to be addressed and the developer, Colonial Homes, is working with his consultant to bring the south system into a position for the Board to consider at a future meeting.

Mr. Adams indicated the Board is asked to consider transfer of the north system and authorize Staff to complete the process and the Chair to execute the transfer request.

On MOTION by Mr. Pye and seconded by Mr. Berry, with all in favor, authorizing Staff to complete the Conversion of District Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity and authorizing the Chair to execute the transfer application, was approved.

SEVENTH ORDER OF BUSINESS

Approval of August 19, 2010 Public Hearing and Regular Meeting Minutes

Mr. Adams presented the August 19, 2010 Public Hearing and Regular Meeting Minutes and asked if there were any additions, deletions or corrections.

On MOTION by Ms. Mayer and seconded by Ms. Shea, with all in favor, the August 19, 2010 Public Hearing and Regular Meeting Minutes, as presented, were approved.

EIGHTH ORDER OF BUSINESS

Other Business

There being no other business, the next item followed.

NINTH ORDER OF BUSINESS

Staff Reports

a. Attorney

Mr. Eckert recalled previous discussion of a recent case regarding a CDD collecting HOA assessments, where the court said the CDD does not have the ability to collect the HOA assessments and give them to the HOA. He advised that this matter was finalized and it does not appear that it will be appealed.

Regarding the litigation between Mood Development Corporation and the property owners, Mr. Eckert reported there were findings of fact and conclusions of law issued by the

court. He advised the Board that they fought to keep the District out of the underlying litigation and they were successful; however, Conclusion of Law #52 states the court finds that Mood had actual and constructive knowledge that the Moody Marina property was included within the CDD through the MTA, the option and development agreement, in negotiations with Tony Persichilli. He indicated that is good news for the District, as it can be used to further narrow the issues in the District’s case and helps its case against Mood. Mr. Eckert indicated he received a call from Mood’s counsel wanting to schedule depositions with third party witnesses; he coordinated with the witnesses and provided the information but has never heard back from Mood’s attorney. He felt the District’s case has taken a backseat to the other case.

b. Manager

i. Unaudited Financial Statements as of September 30, 2010

Mr. Adams presented the Unaudited Financial Statements as of September 30, 2010. He indicated the financials are consistent with the budget amendment just adopted. Brief discussion ensued regarding who operates the irrigation system. Mr. Adams confirmed the CDD does not maintain it. In response to a question, Mr. Adams confirmed the CDD closed out the construction fund a few years ago and Lennar’s build-out of another street will not result in costs to the District.

ii. NEXT MEETING DATE: March 17, 2011 at 1:00 P.M.

Mr. Adams indicated the next meeting will be March 17, 2011.

TENTH ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors'

There being no audience comments or supervisors’ requests, the next item followed.

ELEVENTH ORDER OF BUSINESS

Adjournment

There being no further business, all were in agreement with adjournment.

On MOTION by Ms. Mayer and seconded by Mr. Berry, with all in favor, the meeting adjourned at 1:40 p.m.

Katherine A. Stee
Secretary/Assistant Secretary

She H. Mason
Chair/Vice Chair