

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

A Public Hearing and Regular Meeting of the Moody River Estates Community Development District's Board of Supervisors was held on **Thursday, August 18, 2011 at 1:00 p.m.**, at the **Candlewood Suites, 3626 Colonial Court, Fort Myers, Florida 33913.**

Present and constituting a quorum were:

Ilse Mayer	Chair
Kathy Shea	Vice Chair
Terry Pye	Assistant Secretary
Jeff Berry	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

Ms. Crismond called the meeting to order at 1:00 p.m., noting, for the record, that Supervisors Mayer, Shea, Pye and Berry were present, in person. Supervisor Mazuk was not present.

SECOND ORDER OF BUSINESS

Affidavit of Publication for August 18, 2011 Public Hearing and Regular Meeting

Ms. Crismond presented the affidavit of publication for today's public hearing and regular meeting.

THIRD ORDER OF BUSINESS

Public Hearing to Consider Resolution 2011-6, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2011, and Ending September 30, 2012

Ms. Crismond presented Resolution 2011-6 and the proposed budget, for Fiscal Year 2012, for the Board's consideration.

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

No members of the public were present.

Ms. Crismond noted the only significant change to the budget was under 'water management', where the 'other contractual' line item was increased from \$55,000 to \$65,000, due to anticipated repairs during the coming year. She indicated the utilities line item was reduced from \$47,000 to \$45,000. Ms. Crismond referred to Page 3, stating the current assessment for single-family units is \$324.42 and the proposed fiscal year assessment is \$308.21. The current assessment for multi-family units is \$177.55 and the proposed is \$155.99. Mr. Adams reminded the Board that the contingency line item, in the professional and admin portion of the budget, was also dropped, in recognition that the District had built up its fund balance to a comfortable level. Mr. Adams indicated the District is on course to further pad the fund balance during the coming fiscal year. Discussion ensued regarding noticing requirements and Mr. Adams clarified that noticing was not required, as the assessments did not go up.

On MOTION by Ms. Mayer and seconded by Ms. Shea, with all in favor, Resolution 2011-6, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2011, and Ending September 30, 2012, was adopted.

FOURTH ORDER OF BUSINESS

**Consideration of Resolution 2011-7
Levying a Non Ad Valorem Maintenance
Assessment for the General Fund and a
Non Ad Valorem Assessment for the Debt
Service Fund for Fiscal Year 2012**

Ms. Crismond presented Resolution 2011-7, for the Board's consideration.

Mr. Adams explained this is the levying resolution that authorizes and certifies the lien roll which collects the revenues, in accordance with the budget just adopted, for the upcoming

fiscal year. He noted, for the record, that all of the District's collections are through the uniform method of collection, meaning, through the property tax bill. In response to a question by Mr. Eckert, Mr. Adams confirmed no letters objecting to the assessment were received.

On MOTION by Mr. Pye and seconded by Mr. Berry, with all in favor, Resolution 2011-7 Levying a Non Ad Valorem Maintenance Assessment for the General Fund and a Non Ad Valorem Assessment for the Debt Service Fund for Fiscal Year 2012, was adopted.

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

FIFTH ORDER OF BUSINESS

**Consideration of Award of Contract –
Lake & Wetland Maintenance**

Ms. Crismond presented the Lake & Wetland Maintenance bid information and reviewed the consideration of award of contract memorandum. She indicated the current lake and wetland management contract is set to expire August 31, 2011. Ms. Crismond reported that nine (9) companies received bid packages, with five (5) submitting bids. She indicated EarthBalance was previously subcontracted, by the District's current contractor, LakeMasters, to complete the wetland portion of the contract. Ms. Crismond advised that LakeMasters has cut ties with EarthBalance and started its own in-house wetland division, bringing key EarthBalance personnel over to them.

Ms. Crismond reviewed each of the bidding companies and the proposed costs. She concluded that, while not the overall lowest bidder, Management finds LakeMasters to be the lowest responsible and responsive bidder and recommends award of the contract to LakeMasters, for a first year cost of \$33,913 and with a second year option, in the amount of \$33,913.

Mr. Adams indicated, while EarthBalance is experienced with wetland management, it is in the startup mode, with regard to the lake maintenance side of the scope of work, and noted concerns about their ability to handle this type of project. He stated that lake maintenance is the largest part of this contract.

Mr. Eckert advised, for the record, that this contract was not required to be bid, under the District’s rules of procedure; therefore, the protest rights, etc., are not invoked and the Board has discretion to select the proposal it finds to be in the District’s best interests. He recommended a motion authorizing Staff to prepare a contract and for the Chair to execute the contract. Mr. Adams and Ms. Crismond indicated the District has its own contract and Mr. Eckert asked to review it.

On MOTION by Ms. Mayer and seconded by Mr. Berry, with all in favor, award of the Lake & Wetland Maintenance contract to LakeMasters, in a first year amount not-to-exceed \$33,913, with a second year option, at the same price, pending District Counsel’s review, and authorizing the Chair to execute the agreement, was approved.

SIXTH ORDER OF BUSINESS

Approval of May 19, 2011 Regular Meeting Minutes

Ms. Crismond presented the May 19, 2011 Regular Meeting Minutes and asked for any additions, corrections or deletions. The following changes were made:

- Line 39: After “wants”, insert “to get out of the District before litigation was resolved”
- Line 40: Delete “turned over to the other in the community”

On MOTION by Ms. Mayer and seconded by Mr. Berry, with all in favor, the May 19, 2011 Regular Meeting Minutes, as amended, were approved.

SEVENTH ORDER OF BUSINESS

Other Business

There being no other business, the next item followed.

EIGHTH ORDER OF BUSINESS

Staff Reports

a. Attorney

Regarding ongoing litigation, Mr. Eckert advised that two (2) cases are pending and it will become necessary to push one (1) of the cases forward, in the near future. He indicated it is

the case where Mood took advantage of a provision that is not applicable to special assessments and made no deposit with the court. He explained, if you want to dispute real estate taxes, you must file an action in court and deposit the amount you feel is due and owing. Mood took that action but claimed there was no amount due and owing, so they made no deposit.

Mr. Adams noted collections are at 98% and felt those monies were received. Mr. Eckert questioned if funds were received through tax certificate sales, despite Mood’s court filing. Mr. Adams and Mr. Eckert will research the matter.

Mr. Eckert indicated he met with the principals of Mood Development regarding settlement. Mood wants the Board to consider allowing them to continue disputing the assessments and ultimately allow them to get out of the District, if they bring their outstanding assessments current. The Board was not in favor. Mr. Eckert indicated counsel for Mood asked if the Board would consider mediation, which he felt is a possibility, in the future. He indicated counsel is to provide the District with written communication regarding the possibility of mediation. Mr. Eckert advised that the District was served with discovery, responded to some requests for admissions and numerous documents were requested. Mr. Eckert indicated he will continue monitoring the litigation but recommended not moving forward, until necessary.

b. Manager

i. Unaudited Financial Statements as of June 30, 2011

Ms. Crismond presented the Unaudited Financial Statements as of June 30, 2011.

ii. Fiscal Year 2012 Proposed Meeting Schedule

Ms. Crismond presented the proposed meeting schedule for Fiscal Year 2012.

On MOTION by Mr. Berry and seconded by Ms. Mayer, with all in favor, the Fiscal Year 2012 Proposed Meeting Schedule, as presented, and authorizing the District Manager to advertise, as required, was approved.

NINTH ORDER OF BUSINESS

**Audience
Requests**

Comments/Supervisors'

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

TENTH ORDER OF BUSINESS

Adjournment

There being no further business, the meeting adjourned.

On MOTION by Ms. Mayer and seconded by Ms. Shea, with all in favor, the meeting adjourned at 1:22 p.m.

Mr. Eckert asked that the record be reopened, as he discussed the status of the Mood litigation and a dispute with a title company that was fighting it. He noted that Mood Development hired another attorney.

****** No one left or entered the room between adjournments*****

The meeting adjourned at approximately 1:24 p.m.


Secretary/Assistant Secretary


Chair/Vice Chair