

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

Two (2) Public Hearings and a Regular Meeting of the Moody River Estates Community Development District's Board of Supervisors were held on **Thursday, August 19, 2010 at 1:00 p.m.**, 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

**Also present were:**

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Mike Eckert	District Counsel
Matt Jackson	Coleman, Yovanovic & Koester
David Burt	Counsel for Mood Development Corporation

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

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

**SECOND ORDER OF BUSINESS**

**Affidavit of Publication for August 19, 2010 Public Hearings and Regular Meeting**

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

**THIRD ORDER OF BUSINESS**

**Public Hearing to Consider Resolution 2010-5, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2010, and Ending September 30, 2011**

Ms. Crismond presented Resolution 2010-5 for the purpose of adopting the Fiscal Year 2011 budget.

Mr. Adams indicated Resolution 2010-5 effectuates the adoption of the Fiscal Year 2011 budget. He recalled discussion at the last meeting regarding appropriations and the need to adjust appropriations due to unanticipated, unbudgeted litigation/legal expenses incurred during the current fiscal year and a need to increase the District's fund balance, which has been significantly depleted. Mr. Adams referred to the fund balance listed on Page 2, noting, the fund balance is only projected to be approximately \$26,000, at the end of Fiscal Year 2011, even with the increase to the fund balance. Mr. Adams indicated that amount is about 10% of the District's annual budget and is significantly lower than the target of at least 25% of a District's annual budget. He indicated this is important to carry the District, as it receives the majority of its revenue from property taxes and that revenue is not usually received until December.

Mr. Adams indicated the proposed increase to assessments was noticed at \$325 and the budget presented today reflects \$324.42, per single family unit.

Mr. Adams indicated the remainder of the budget is status quo; it anticipates the expenditures and service levels will remain consistent with the current year. The assessment amount is increasing, primarily because of the unforeseen legal expenses and the need to increase the fund balance. Regarding the debt service portion of the budget, Mr. Adams noted there was not much opportunity for adjustment; the expenses are driven by the amortization schedule of principal and interest obligations.

**On MOTION by Mr. Pye and seconded by Ms. Mayer, with all in favor, the Public Hearing on the proposed Fiscal Year 2011 budget was opened.**

Mr. David Burt, attorney for Mood Development Corporation, introduced himself and indicated he had no comments regarding the proposed budget.

Mr. Matt Jackson, attorney for Mood Development Corporation, introduced himself and indicated he had no comments regarding the proposed budget.

There being no further discussion, Mr. Eckert asked for a motion to approve Resolution 2010-5.

**On MOTION by Ms. Mayer and seconded by Ms. Shea, with all in favor, Resolution 2010-5, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2010, and Ending September 30, 2011, was adopted.**

**On MOTION by Mr. Pye and seconded by Ms. Mayer, with all in favor, the Public Hearing on the proposed Fiscal Year 2011 budget was closed.**

**FOURTH ORDER OF BUSINESS**

**Public Hearing to Consider Resolution 2010-6, Imposing Special Assessments to Fund its Operation and Maintenance Budget for Fiscal Year 2010/2011; Certifying an Assessment Roll; Providing for the Collection and Enforcement of Special Assessments; Providing for Amendment of the Assessment Roll; Providing A Severability Clause; and Providing an Effective Date**

Mr. Eckert presented Resolution 2010-6.

**On MOTION by Mr. Pye and seconded by Ms. Mayer, with all in favor, the Public Hearing on the special assessments was opened.**

Mr. David Burt, attorney for Mood Development Corporation, referred to the revised supplemental special assessment methodology and the methodology report from 2009 indicating the only benefit to the property east of Moody Road is a portion of the sanitary sewer system, which was already constructed. He indicated the report acknowledges that the District Engineer estimated the costs of that portion of the system is \$206,004.70 and there is no further infrastructure, benefits or improvements anticipated, for this property. Mr. Burt indicated from 2006 through 2009, Mood Development Corporation was assessed a total of \$256,325.64; roughly 25% greater than the estimated cost benefit of the property. He indicated it was confirmed that the portion of the sanitary sewer system, within Mood Development Corporation's property, was previously turned over to Lee County and the District does not own,

maintain or operate it; the burden is on the county. Mr. Burt summarized there is nothing the District is doing, plans to do or anticipates doing, that benefits, or will benefit, his client's property in the future.

Mr. Burt referred to the assessment notice indicating the proposed assessment for his client's property is an additional \$36,000 plus, for the next fiscal year. He indicated they were informed that, going forward, the District intends to assess an additional \$167,000 plus, to his client's property, for debt repayment. Mr. Burt stated his client's property would end up being apportioned well over \$400,000 to \$500,000 for a benefit that might have a value of \$206,000.

Based on these facts, Mr. Burt urged the Board to reconsider any further apportionments or assessments on Mood Development Corporation's property.

Mr. Eckert asked if the Board wished to make any adjustments to the assessments. The Board offered no adjustments.

Mr. Eckert asked Mr. Adams, the District Manager and whose company serves as the District's financial advisor, if the District's activities, contained in the budget, provide a special benefit for the lands within the District. Mr. Adams replied affirmatively. Mr. Eckert asked Mr. Adams if that benefit is fairly and uniformly allocated among the lands in the District. Mr. Adams replied affirmatively. Mr. Eckert asked Mr. Adams if it is a common methodology, in his experience as a CDD manager and financial advisor, for O&M assessments to be based on the number of units contemplated in the debt assessment methodology. Mr. Adams replied affirmatively; very common.

Mr. Eckert asked for a motion to approve Resolution 2010-6.

**On MOTION by Ms. Mayer and seconded by Ms. Shea, with all in favor, Resolution 2010-6, Imposing Special Assessments to Fund its Operation and Maintenance Budget for Fiscal Year 2010/2011; Certifying an Assessment Roll; Providing for the Collection and Enforcement of Special Assessments; Providing for Amendment of the Assessment Roll; Providing A Severability Clause; and Providing an Effective Date, was adopted.**

**On MOTION by Mr. Pye and seconded by Ms. Mayer, with all in favor, the Public Hearing on the proposed Fiscal Year 2011 budget was closed.**

**FIFTH ORDER OF BUSINESS**

**Approval of May 20, 2010 Regular Meeting Minutes**

Mr. Adams presented the May 20, 2010 Regular Meeting Minutes and asked if there were any additions, deletions or corrections.

**On MOTION by Mr. Pye and seconded by Ms. Shea, with all in favor, the May 20, 2010 Regular Meeting Minutes, as presented, were approved.**

**SIXTH ORDER OF BUSINESS**

**Other Business**

There being no Other Business, the next item followed.

**SEVENTH ORDER OF BUSINESS**

**Staff Reports**

**a. Attorney**

Mr. Eckert provided the Board and the District Manager with copies of correspondence between himself and Mood Development Corporation's attorney.

Mr. Eckert indicated there was a recent case regarding a CDD collecting HOA assessments. The HOA documents stated that HOA assessments shall be collected by the CDD. Mr. Eckert noted that was odd. He confirmed the court said the CDD does not have the ability to collect the HOA assessments and give them to the HOA. He brought this to the Board's attention, indicating the CDD's mechanism for collection of assessments is more secure than an HOA's ability to collect, so some parties were trying to have CDDs collect HOA assessments. Mr. Eckert felt that route should not be explored; however, it is legitimate for an HOA to dedicate common areas to a CDD, who can then maintain and assess for the O&M of those areas. Mr. Adams indicated many HOA's in the area have shifted those types of burdens to the CDD, putting the District in a position to collect the revenue to offset the expenses.

**b. Manager**

**i. Unaudited Financial Statements as of June 30, 2010**

Ms. Crismond presented the Unaudited Financial Statements as of June 30, 2010. Mr. Adams referred to the revenue, indicating collection exceeded 100%, as some taxpayers did not

take advantage of the 4% discount for early payment. Incurred expenses are at 85% of the budgeted amount.

**ii. Fiscal Year 2011 Proposed Meeting Schedule**

Mr. Adams presented the proposed meeting schedule for Fiscal Year 2011, noting a landowners' election is scheduled for November 11, 2010, with a regular meeting to follow. Ms. Crismond indicated Seats 1, 4 and 5 are up for election. Mr. Adams indicated the announcement was made at the last meeting, meeting the 90 day announcement criteria.

**On MOTION by Ms. Mayer and seconded by Mr. Berry, with all in favor, the Fiscal Year 2011 Proposed Meeting Schedule, as presented, and authorizing Staff to advertise, was approved.**

**EIGHTH ORDER OF BUSINESS**

**Audience  
Requests**

**Comments/Supervisors'**

There being no Audience Comments or Supervisors' Requests, the next item followed.

**NINTH ORDER OF BUSINESS**

**Adjournment**

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

**On MOTION by Mr. Pye and seconded by Mr. Berry, with all in favor, the meeting adjourned at 1:20 p.m.**

Katherine Shea  
Secretary/Assistant Secretary

She H. Mayer  
Chair/Vice Chair