

**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 **Wednesday, December 16, 2009** at **2:00 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

**Also present were:**

Cleo Crismond	Assistant Client Services Manager
Mike Eckert	District Counsel
Michelle Blackstock (via telephone)	Grau & Associates

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Ms. Crismond called the meeting to order at 2:00 p.m., and noted Supervisors Harrell and Berry were absent.

**SECOND ORDER OF BUSINESS**

**Presentation of Audited Financial Report  
for Fiscal Year Ended September 30,  
2008, Prepared by Grau & Associates**

Ms. Michelle Blackstock, of Grau & Associates, summarized the Audited Financial Report for Fiscal Year Ended September 30, 2008. She noted the prior period adjustment, on Page 19, has to do with the assessment revenues. The District recorded \$64,000, deemed uncollectible, in the prior year, due to Developer related matters. That was removed and the beginning total net asset (deficit), as restated, is (\$2,382,646); which results in the net asset ending at about negative \$3.3 million. She discussed the Balance Sheet, as provided on Page 8; the total fund balance is \$2.6 million. Page 10 reflects the statement of revenue and expenditures; the general fund has a shortfall of \$18,000 for the year, but a positive fund balance of \$27,000. The capital projects fund has a deficit of \$926,000 because the capital outlay is still

being extended. She noted the reserve accounts were withdrawn from, but the accounts have been replenished. Page 23 is a report on the internal control and is a clean report. Page 25 is the management letter for the Auditor General of Florida.

**THIRD ORDER OF BUSINESS**

**Consideration of Resolution 2010-1, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2008**

Ms. Crismond presented Resolution 2010-1 for the Board's approval.

**On MOTION by Mr. Pye and seconded by Ms. Mayer, with all in favor of approving Resolution 2010-1, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2008.**

Mr. Eckert stated, usually the Board reviews the audit before the end of the fiscal year; however, due to the District's meeting schedule, this was the earliest that the Board could review the audit. The state's website reflects the submittal date as October 15<sup>th</sup>.

**FOURTH ORDER OF BUSINESS**

**Discussion of Mood Litigation and Request for Attorney Client Strategy Session**

Mr. Eckert explained that, on October 22<sup>nd</sup>, Mood Development Corporation filed a complaint against the District; their complaint essentially seeks a determination of declaratory judgment by the court. It does not mean someone is seeking money, it just wants the court to declare what are the peoples' rights and responsibilities. Essentially, what they are asking the court to declare is that Mood's property is not legally within the boundaries of the District and that the District's Notice of Establishment did not comply with Florida law; the District's special assessments were not, validly, levied against Mood's properties and that the special assessments were not, validly, allocated to Mood's properties. The complaint was forwarded to the insurance company and they declined coverage. The letter received from Mood's attorney explicitly said they are writing the complaint and filing it against the District and they did not think that the way the complaint was written, the District would have insurance coverage. Mood filed it a week to

ten (10) days before the mediation was scheduled, in relation to the big developer lawsuit. He stated he did not attend the mediation on behalf of the District, as he could not make any concessions or any decisions on behalf of the District. Upon receipt of the complaint, several deficiencies were found in the way it was drafted and a Motion to Dismiss was filed by the District. Mood also filed a Motion to Consolidate, in which they want their claims against the District to be heard in the same case as all of the developer's litigations. Mr. Eckert stated, currently, he felt he would be able to get most of the allegations dismissed; however, if something was to go to trial, it would probably be a one (1)-day trial. He noted no hearings were scheduled and there was nothing in the complaint that was a surprise. In an attempt to be economically efficient, Mr. Eckert is trying to get as much dismissed, procedurally, as possible. He noted that the District's meetings are public and the District has the opportunity to discuss items in a special session. He requested an attorney client session to obtain advice from the Board regarding the Mood litigation and relating to settlement negotiations and strategy related to litigation expenses. The attendees would include the Board Members, District Counsel and the District Manager.

**On MOTION by Ms. Mayer and seconded by Ms. Shea, with all in favor of approving an attorney-client session during the regularly scheduled meeting on January 21, 2010 at 12:30 p.m., at the Candlewood Suites Hotel. Attendees will include Members of the Board of Supervisors, currently Ilse Mayer, Kathy Shea, Terry Pye, Matt Harrell, Jeff Berry, Legal Counsel, who may be Michael Eckert, Katie Buchanan, or Doug Smith, Chief Administrative Officer, currently Chesley E. Adams, Jr., and a court reporter.**

The special attorney client session will be held during the regularly scheduled meeting on January 21, 2010 at 12:30 p.m.

**FIFTH ORDER OF BUSINESS**

**Consideration of Agreement for Professional Engineering Services with Barraco and Associates, Inc.**

Ms. Crismond presented the Barraco and Associates, Inc., Agreement for Professional Engineering Services. Mr. Eckert noted the only change was the notice address was changed to reflect the current District Manager.

**On MOTION by Ms. Mayer and seconded by Ms. Shea, with all in favor of approving the Professional Engineering Services Agreement with Barraco and Associates, Inc.**

**SIXTH ORDER OF BUSINESS**

**Approval of October 15, 2009 Regular Meeting Minutes**

Ms. Crismond presented the October 15, 2009 Regular Meeting Minutes for the Board's consideration.

**On MOTION by Ms. Shea and seconded by Ms. Mayer, with all in favor of approving the October 15, 2009 Regular Meeting Minutes, as presented.**

**SEVENTH ORDER OF BUSINESS**

**Other Business**

There being no Other Business, the next order of business followed.

**EIGHTH ORDER OF BUSINESS**

**Staff Reports**

**a. Attorney**

Mr. Eckert discussed a proposed bill that would amend Chapter 197 and possibly affect how the District collects assessments. The other proposed bill is a provision to Chapter 190 that would require CDDs, after two (2) years, to purchase tax certificates that have been issued on a property within a District's boundaries. Mr. Eckert will update the Board as information is received.

**b. Manager**

**i. Unaudited Financial Statements as of October 31, 2009**

Ms. Crismond presented the Unaudited Financial Statements as of October 31, 2009.

**ii. NEXT MEETING DATE: January 21, 2010 at 12:30 P.M.**

Ms. Crismond reminded the Board that the next meeting date is January 21, 2010 at 12:30 p.m.

**NINTH ORDER OF BUSINESS**

**Audience  
Requests**

**Comments/Supervisors'**

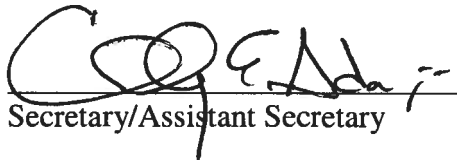
There being no Audience Comments, Ms. Crismond asked for any Supervisors' Requests. There being none, the next item followed.

**TENTH ORDER OF BUSINESS**

**Adjournment**

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

**On MOTION by Mr. Pye and seconded by Ms. Mayer, with all in favor, the meeting adjourned at 2:30 p.m.**

  
Secretary/Assistant Secretary

  
Chairperson/Vice Chairperson