

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

The Board of Supervisors of the Moody River Estates Community Development District held a Regular Meeting on October 21, 2021 at 1:00 p.m., at the Clubhouse at Moody River Estates, 3050 Moody River Blvd., North Fort Myers, Florida 33903.

Present were:

John Teckorius	Chair
Robert Geltner	Vice Chair
Chris Jenner	Assistant Secretary
Edward Pike	Assistant Secretary
Julie Canoura	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant District Manager
Shane Willis	Operations Manager
Mike Eckert	District Counsel
Wes Kayne	District Engineer
Carl Barraco	Barraco & Associates
Mike Radford (via phone)	M.R.I. Inspection LLC
Susan Garling	HOA President
Terri Silva	Resident/HOA Vice President Board
Dennis Dudycha	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mrs. Adams called the meeting to order at 1:00 p.m. Supervisors Teckorius, Geltner, Jenner and Pike were present, in person. Supervisor Canoura was not present at roll call.

Due to the lengthy agenda, Mr. Teckorius asked the CDD team members that are required to attend this meeting to review their calendars to discuss a date to continue this meeting, as the plan was to recess at 3:45 p.m. The CDD team members include the District Manager, Wrathell Hunt and Associates, District Counsel and the District Engineer, if necessary.

Mr. Geltner suggested and the Board agreed to the following agenda format changes:

- Staff Reports would be moved to earlier in the meeting so certain CDD Staff can leave.
- The Twenty-First Order of Business would be heard after the Fifth Order of Business.

➤ The Twenty-Fourth Order of Business would be heard after the Twenty-Second Order of Business.

SECOND ORDER OF BUSINESS

Public Comments (3 minutes - agenda items)

Resident Dennis Dudycha asked why the CDD did not take care of the stormwater management system, as it is responsible for annual inspections along the banks. He asked how it got to this point and why it was not brought to the attention of the Board many years ago. A Board Member asked what violation was he referring to. Mr. Dudycha stated many homeowners received a violation notice regarding the canals.

Mr. Barraco stated that CDDs were not required to perform annual inspections for the entire system; however, he did recommend the annual or bi-annual inspections of the lakes. Typically, CDD's rely on homeowners to request inspections of questionable conditions, as the cost for the District Engineer to inspect every perimeter of the lake and structures would be excessive.

Mr. Kayne gave an overview of the criterion and parameters for which CDDs are required to inspect structures; however, smaller CDDs might direct Staff to inspect everything annually to avoid incurring large costs. A Board Member voiced their opinion that it made sense to check the system annually or every other year to prevent major issues. Mr. Barraco stated the two issues involve maintenance and a lack of homeowner awareness that, when upgrading their yard, they could intentionally or unintentionally manipulate the system. The Architectural Review Committee (ARC) submittal of applications to the CDD related to CDD issues and breaking ground was discussed, along with requiring a scale drawing on a site plat survey.

THIRD ORDER OF BUSINESS

Staff Report – District Engineer: *Barraco & Associates, Inc.*

- **Discussion: Stormwater Management System 20 Year Needs Analysis Pursuant to F.S. 403.9302 (2021)**

Mr. Kayne discussed new legislation that requires CDDs to provide long-term planning for its existing stormwater and waste water management systems, for the next 20 or more years. This will require completing the initial template and reviewing the website periodically to determine if there are any updates to the template. The initial report is due by June 30, 2022,

followed by every five years thereafter. The template is similar in information to the National Pollutant Discharge Elimination System (NPDES) Report and Storm Permit. This task would be added to the Activities Report. The draft report would be presented in February or March 2022.

FOURTH ORDER OF BUSINESS

Discussion: Scope of Inspection of Stormwater Management System and Frequency

A. Will Barraco and Associates, Inc., be Inspecting the Common Areas of the Master Association and the Eight Carriage and Coach Associations for Areas that are Not in Compliance with SFWMD Permit or Other Applicable Governmental Authorities

Mr. Teckorius recalled that, at the last meeting, the CDD engaged Barraco & Associates to inspect the CDD's entire Stormwater Management System. He believed that would include the Eight Carriage and Coach Associations, if they are considered part of the CDD's responsibility.

Ms. Canoura arrived at the meeting at 1:16 p.m.

Mr. Kayne stated that those areas are included and confirmed that they would inspect any of the perimeter conditions that are pertinent to the CDD's Environmental Resource Permit (ERP), along with the preserve areas or boundary conditions that have permanent berms and swales. Inspections had commenced and would have nothing to do with Community Associations and everything to do with areas that are part of the CDD's ERP requirements, to prevent future violations. Discussion ensued regarding whether inspections would include all CDD water conveying ditches and distinguishing if the CDD or homeowner would be financially responsible for restoring areas in violation to bring them back into compliance. Mr. Barraco stated, as District Engineer, they would only work for the CDD; they would not take direction or work with individual lot owners, due to a potential conflict of interest.

A Board Member asked about developing a criteria and what Mr. Eckert thought would be the best method of recouping costs from the property owner. Discussion ensued regarding delaying creation of a policy, approving the ARC Agreement, a clause in the ARC Agreement and the individual homeowners incurring the engineering costs. Mr. Eckert suggested proceeding with the CDD's current process of notifying the homeowner of the violation and ask them to consult their expert and submit the solution to the SFWMD for approval before restoring the area and, if the owner rejects that, the CDD could pursue legal action against the homeowner for reimbursement of the cost for the CDD to make repairs, etc. He did not recommend placing a lien

or assessment on the lot. Mr. Eckert offered to provide options for dealing with situations for homeowners hesitant to work with the CDD to make the repairs. The Board felt that it was premature to do so until the District Engineer is further along with the inspections.

Mr. Geltner asked about responding to the violation letter. Mr. Barraco stated that Mr. Kayne requested a 120-day extension and receiving a violation letter was not uncommon. He stated that the possible repair costs would not be substantial. He discussed combining repairs and suggested not to overact. He noted that a group of homeowners with similar issues could engage one contractor and split the repair costs. The Board was instructed to email Mr. Kayne to schedule individual tours. The schedule would be provided to the HOA President, Ms. Garling, to email to effected homeowners, with a copy to Mrs. Adams.

▪ **Discussion: Violation Notices and Solutions Available to Owners**

• **SFWMD Non-Compliance Notice**

This item, previously the Sixth Order of Business, was presented out of order.

Mr. Geltner asked how the CDD was responding to Items #2 and #3 in the SFWMD October 7, 2021 violation letter. Mrs. Adams stated that the M.R.I. proposal to remove debris from the inlets and control structures was executed. The CDD will submit the M.R.I. report to the SFWMD, as documentation, along with the CDD’s response letter.

B. How Frequently Should the CDD be Conducting Inspections of Compliance with Stormwater Management System Elements for Compliance with SFWMD and Other Governmental Authorities

Mr. Teckorius suggested implementing a policy in which the District Engineer and Mr. Adams perform annual inspections. In response to a question of why the Board did not establish a policy, Mr. Adams stated a policy was derived as a reaction to the SFWMD violation notice and from Lee County regarding berm breaches.

Mr. Kayne gave an overview of issues from various areas in Moody River North and South, and the Development Order. In response to a question about responsibilities, Mr. Kayne discussed the categories included in the Stormwater Needs Analysis Report. Mr. Barraco discussed how they arrive at costs and recommended performing annual inspections and educating residents. He stated that he did not know any operator who performs annual inspections of the berms and pipes. Discussion ensued regarding not using drones because of visibility and GPS issues. Mr. Eckert suggested working with Mr. Kayne and present something at the next workshop.

C. Discussion: MRE –As Built – Cost Estimate to Secure

This item was presented simultaneously with Item 4D.

D. Discussion: MRE Design Drawings for All 21 Lakes

Mr. Teckorius asked for a proposal to provide design drawings for all 21 lakes. Mr. Kayne stated he was able to locate only five as-builts, through public records; Barraco & Associates did not do them and he did not know if the others exist. Ms. Canouras stated that Collier County required surveys at that time but Lee County did not. Discussion ensued regarding the volume of the lakes and the CDD storing groundwater, not rainwater run-off. In response to a question, it was noted that there was no point in looking for 2005 as-builts.

FIFTH ORDER OF BUSINESS

Discussion: Stormwater Maintenance Plan

- **Barraco and Associates, Inc., to Produce a More Specific Instrument/Document for MRE Stormwater Maintenance Plan Submitted to Authorities Having Jurisdiction (Independent Official Recording, Similar to Eagle Management Plan)**

Mr. Kayne stated that they would work with Mr. Eckert to compile a list of the frequencies based on the NPDES permit for the local municipalities and complete a template that is submitted to the County to provide to the Board.

- **Discussion: Joint CDD/HOA Town Hall Meeting to Discuss Stormwater Drainage System**
This item, previously the Twenty-First Order of Business, was presented out of order.

The Board discussed additional engineering costs and decided against a Town Hall meeting.

SIXTH ORDER OF BUSINESS

Discussion: Violation Notices and Solutions Available to Owners

- **SFWMD Non-Compliance Notice**

This item was presented following Agenda Item 4A.

Mrs. Adams asked why Staff was not invited to attend the inspection with the SFWMD on July 9, 2021. Mr. Teckorius stated that he did not meet with Mr. Koltz from SFWMD, as noted in the October 7, 2021 letter. He questioned why they did not include the CDD Management firm in the distribution list. Discussion ensued regarding whether the CDD’s stormwater system was

properly cleaned over the last sixteen years, asking the District Manager to provide input on agenda items and moving the District Engineer Staff Report to earlier in the meeting.

SEVENTH ORDER OF BUSINESS

Update: LDO Status for Lakes 8 & 18

Mr. Kayne presented Barraco’s response to the County’s questions and comments regarding the Lake Bank Maintenance Limited Review Development Order (LDO) application involving Lakes 8 and 18. Discussion ensued regarding criteria for identifying a geotube as hardened and covered under warranty and one that is considered maintenance and sliced opened to lay sod. The site plan includes a 4:1 slope. Mr. Adams and Mr. Barraco discussed processes involving geotubes. Mrs. Adams stated that the County charged \$1,200 for an LDO.

▪ **Wrathell, Hunt and Associates, LLC Letter of Termination**

This item was an addition to the agenda.

Mr. Adams distributed and presented the Wrathell, Hunt and Associates, LLC (WHA) 60-day Notice of Termination letter dated October 21, 2021. He stated that WHA would cease District Management Services on December 20, 2021. WHA would help with the transition to a new firm. Mr. Willis would attend meetings in person and prepare the interview process.

EIGHTH ORDER OF BUSINESS

Discussion: Contact with District Counsel

A Board Member recommended scheduling at least three firms within the next week or two. Mr. Eckert provided options to either advertise a formal Request for Proposals (RFP) or prepare a general RFP document. Discussion ensued regarding requiring proposals from local firms in Florida and the transition process. Mr. Geltner reminded everyone that he provided the Board with a list of local CDDs a few months ago.

The Special Meeting would be advertised for Tuesday, November 16, 2021 at 10:00 a.m., at the Clubhouse at Moody River Estates, 3050 Moody River Blvd., North Fort Myers, Florida 33903, for the purpose of conducting interviews and selecting a management firm.

On MOTION by Mr. Geltner and seconded by Ms. Canoura, with all in favor, authorizing Mr. Eckert to contact and request proposals from up to eight District Management firms, provide a copy of the CDD’s budget and schedule the Special Meeting, was approved.

**MOODY RIVER ESTATES CDD
NINTH ORDER OF BUSINESS**

October 21, 2021

Discussion: Evaluation of District Management and Vendors – Set Timeline to Complete

This item was deferred.

TENTH ORDER OF BUSINESS

Discussion: Amending the District's Management Contract to Include Broader Scope of Work Checklist

This item was deferred.

ELEVENTH ORDER OF BUSINESS

Discussion: Records Retention, ADA Compliance, Webmaster

A Board Member asked about retrieving CDD records from the Cloud. Mrs. Adams stated Ms. Canoura discussed this with Ms. Gillyard; it is a lengthy process. She was unsure if WHA had files located at the warehouse. Mr. Eckert stated that files would be transferred electronically.

- **Consideration of Resolution 2022-01 Amending Resolution 2010-04 Providing for the Appointment of a Records Management Liaison Officer, the Duties of the Records Management Liaison Officer, and Adopting a Records Retention Policy; and Providing for an Effective Date**

Mr. Eckert presented Resolution 2022-01, which corrected a clerical error in Resolution 2010-04. As Mr. Geltner requested clarification to Resolution 2022-01, Mr. Eckert would revise the Resolution and send to Mr. Geltner for review. This item would remain on the agenda.

- **Discussion: Request for WHA to Secure Competitive Bids to Bring All Lakes into Compliance**

- **Barraco and Associates, Inc., to Prepare Scope of Work and Design Documents**

This item, previously the Fifteenth Order of Business, was presented out of order.

Mr. Teckorius asked the District Engineer to prepare documents to bring the lakes into compliance to prepare a bid package in the future and for cleaning the CDD's interconnecting pipes. Mr. Kayne stated that the Board previously approved the process and the inspections would be during the dry season. Discussion ensued regarding whether MRI should proceed with cleaning each end of the pipes and leaving 40' of uncleaned pipe or increase the scope of work to the entire pipe, whether to remove or leave debris on site and the budget.

Mr. Radford explained the cleaning process. He presented Proposals #2963 and #2911 to clean out the entire pipe and to clean each end of the pipe, respectively; #2911 was approved at the last meeting.

TWELFTH ORDER OF BUSINESS

Discussion/Consideration: Consent to Use Agreement, 3300 Bayan Hollow Loop.

Mrs. Adams presented options for addressing the encroachment within the Lake Maintenance Easement (LME). Ms. Garling stated that, during the request for a copy of the approved ARC application, the homeowner advised her that he put the home on the market. Mr. Eckert suggested deferring this item, as the current homeowner has not been cooperative and would probably not enter into an agreement with the CDD. Mrs. Adams suggested addressing these incidents on a case-by-case basis, due to a recent conversation with a contractor advising of another situation. Mr. Eckert agreed with Mrs. Adams and offered to discuss this matter individually with the Board Members. Mr. Eckert was asked to send a letter to the current homeowner. Discussion ensued regarding implementing a standard policy, possible CDD liability, homeowner cooperation, clarifying that the lake bank easement does not pertain to the stormwater drainage easement and the encroachment being reflected in the survey provided to the new homeowner. This item was deferred.

A Board Member noted the encroachment at 3080 Scarlet Oak Place, where shrubs were planted through the 20' LME. As recommended, the Board deferred this to the next meeting.

THIRTEENTH ORDER OF BUSINESS

Discussion/Consideration: M.R.I. Inspection, LLC, Estimate #2963 for Lakes 9 to 12 Dewatering

The Board decided to defer this item and proceed with the original scope of work in Estimate #2911, in a not-to-exceed amount of \$3,350, that was approved at the last meeting.

FOURTEENTH ORDER OF BUSINESS

Discussion: M.R.I. Inspection, LLC Update Regarding Lake #8

This item was discussed during the Sixth Order of Business.

**MOODY RIVER ESTATES CDD
FIFTEENTH ORDER OF BUSINESS**

October 21, 2021

Discussion: Request for WHA to Secure Competitive Bids to Bring All Lakes into Compliance

- **Barraco and Associates, Inc., to Prepare Scope of Work and Design Documents**

This item was presented following the Eleventh Order of Business.

SIXTEENTH ORDER OF BUSINESS

Discussion: Drone Assistance for Waterways – Bill Holderby, Professional Drone Pilot

The Board discussed and decided to defer this item. Ms. Canoura would provide Mr. Eckert with contact information to schedule the presentations at a workshop, once directed by the Board.

SEVENTEENTH ORDER OF BUSINESS

Discussion: Reschedule of Bill from Eagle Eye

This item was discussed during the Sixteenth Order of Business.

EIGHTEENTH ORDER OF BUSINESS

Discussion: Correspondence Regarding Review of Facilities Maintenance Agreement

This item was deferred.

NINETEENTH ORDER OF BUSINESS

Discussion: Monuments

This item was deferred.

TWENTIETH ORDER OF BUSINESS

Continued Discussion: Signage for Conservation Areas

This item was deferred.

TWENTY-FIRST ORDER OF BUSINESS

Discussion: Joint CDD/HOA Town Hall Meeting to Discuss Stormwater Drainage System

This item was presented following the Fifth Order of Business.

As certain Board Members questioned deferring agenda items, Mr. Eckert clarified that the Sixteenth, Seventeenth, Eighteenth, Nineteenth and Twentieth Orders of Business were deferred as they relate to long-term maintenance approaches and policy decisions and stated that the Board decided not to hold Town Hall meetings, earlier in the meeting.

TWENTY-SECOND ORDER OF BUSINESS

**Discussion: Draft 5 – Proposed Resolution
Related to Moody River Estates East**

Ms. Canoura asked which Board Members were interested in pursuing this matter, as Mr. Madden did not respond to Mr. Eckert’s letter. Mr. Geltner referred to his notes and reported that there was no response because Mr. Huether did not engage Mr. Madden to represent him.

- **Discussion: Moody East – BOS to Vote to Discontinue Effort to Pursue or to Acquire**
This item, previously the Twenty-Fourth Order of Business, was presented out of order.

On MOTION by Ms. Canoura and seconded by Mr. Jenner, with Ms. Canoura, Mr. Jenner and Mr. Pike in favor and Mr. Geltner and Mr. Teckorius dissenting, discontinuing the effort to pursue or to acquire Moody River Estates East at this time, was approved. [Motion passed 3–2]

TWENTY-THIRD ORDER OF BUSINESS

**Discussion: No-Call Bond Provision
Alternatives**

Ms. Canoura asked if the reason for a no-call bond provision was that it offered a better interest rate because the investor receives a guaranteed amount for the length of the bond. Mr. Eckert replied affirmatively. He noted that it may be beneficial to refinance bonds in year nine and stated that the 2017 bonds are not callable for another five years. The Underwriter would contact the CDD if it is beneficial to refinance the bonds.

TWENTY-FOURTH ORDER OF BUSINESS

**Discussion: Moody East – BOS to Vote to
Discontinue Effort to Pursue or to Acquire**

This item was discussed during the Twenty-Second Order of Business.

TWENTY-FIFTH ORDER OF BUSINESS

**Discussion: Issue at Lake Bank Behind 3111
Midship Drive**

Mr. Geltner invited the Board to tour the area and suggested contacting the homeowner before going behind the residence. Mrs. Adams stated due to the homeowner’s concern about water run-off, she and Mr. Adams toured the area with the homeowner; this is not a CDD issue.

TWENTY-SIXTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of August 31, 2021

Mrs. Adams presented the Unaudited Financial Statements as of August 31, 2021. The financials were accepted.

TWENTY-SEVENTH ORDER OF BUSINESS

Approval of August 19, 2021 Public Hearings and Regular Meeting Minutes

Mr. Teckorius presented the August 19, 2021 Public Hearings and Regular Meeting Minutes.

The following changes were made:

Line 30 and throughout: Change “Martin” to “Morton”

Line 153: Delete “was”

Line 206: Change “garden” to “yard”

Line 210: Change “repeat” to “storm”

Line 461: Change “John” to “Jon”

On MOTION by Mr. Teckorius and seconded by Ms. Canoura, with all in favor, the August 19, 2021 Public Hearings and Regular Meeting Minutes, as amended, were approved.

• **Action Items**

Items 93, 102, 110, 111, 112 and 115 were completed.

Item 114: Change “John” to “Jon”

Item 109: Mr. Kayne would provide thumb drive containing Barraco’s drawings to Mr. Teckorius and Mrs. Adams.

TWENTY-EIGHTH ORDER OF BUSINESS

Staff Reports

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

I. Consideration of District Counsel Transition Letter (*to be provided under separate cover*)

Mr. Eckert presented the transition letter from Hopping Green & Sams, P.A. (HGS) to Kutak Rock LLP (Kutak Rock) to provide District Counsel services, effective November 15, 2021. The Fee Schedule would remain the same.

On MOTION by Mr. Teckorius and seconded by Mr. Geltner, with all in favor, the District Counsel Transition Letter, engaging Kutak Rock LLP for District Counsel Services and designating Mr. Michael Eckert as the District's lead Attorney, was approved.

Ms. Canoura asked if the Board should consider changing the meeting time or dates due to Mr. Eckert's conflicting schedule. The Board chose to defer discussions until the CDD engages a new District Management firm.

II. District Counsel's Opinion Regarding the Risks of the Following:

a. BOS Maintaining Elected Positions in the Community Under the Auspices of the HOA and Most Especially When Multiple Supervisors Maintain Such a Position Within the Same Body

Mr. Eckert stated that he typically provides very conservative advice, which is not always strictly what is allowed by law but what is the best practice. Board Members should be very careful if they are going to be on other community Boards, as CDD related issues may come up.

b. Harassing HOA Residents That May Have Issues With the CDD

Mr. Eckert stated that as Board Members make CDD policy and engage Staff to implement those policies, they should be hesitant in getting involved in day-to-day operations of the CDD. Staff should be presented with homeowner questions to carry out and, if they do not, then they would have to address staffing issues.

c. Failing to Follow the Advice of Legal Counsel

Mr. Eckert suggested strongly that the Board follow legal advice based on law; however, it is up to them to decide how to follow any business advice.

d. Holding Meetings at the Facility and Time of Canceled Workshops

Mr. Eckert stated that, due to a recent notice issue, it is important not to have more than one Board Member attending a community meeting, as a best practice, to prevent a potential Sunshine violation.

Ms. Canoura asked if Mr. Teckorius and Mr. Geltner should choose between a seat on the CDD Board or the Central Neighborhood Committee (CNC). Mr. Eckert stated it is an individual decision; however, if a CDD issue is discussed, one Board Member should leave the meeting. Mr. Teckorius and Mr. Geltner stated they were known to leave a meeting when that situation arises.

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

- **UPCOMING WORKSHOP/MEETING DATES:**
 - I. **December 16, 2021 Workshop at 11:00 A.M.**
 - II. **January 13, 2022 at 6:00 P.M.**
- **QUORUM CHECK**

The next workshop will be held on December 16, 2021 at 11:00 a.m.

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

- **Monthly Status Report - Field Operations**
 - **Key Activity Dates**

There were no reports; however, Mrs. Adams stated that the reason any aeration system or fountain is down for a long time is due to delays in obtaining parts due to supply chain problems nationwide.

TWENTY-NINTH ORDER OF BUSINESS

Public Comments (*non-agenda items*)

There were no public comments.

THIRTIETH ORDER OF BUSINESS

Supervisor’s Requests


There were no Supervisors’ requests.


THIRTY-FIRST ORDER OF BUSINESS

Adjournment

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

On MOTION by Mr. Pike and seconded by Mr. Jenner, with all in favor, the meeting adjourned at 4:57 p.m.


Secretary/~~Assistant Secretary~~


Chair/~~Vice Chair~~