

MOODY RIVER ESTATES

**COMMUNITY DEVELOPMENT
DISTRICT**

February 11, 2021

BOARD OF SUPERVISORS

REGULAR MEETING

AGENDA

Moody River Estates Community Development District

OFFICE OF THE DISTRICT MANAGER

2300 Glades Road, Suite 410W • Boca Raton, Florida 33431

Phone (561) 571-0010 • Fax (561) 571-0013 • Toll-free: (877) 276-0889

February 4, 2021

Board of Supervisors
Moody River Estates Community Development District

Dear Board Members:

ATTENDEES:

Please identify yourself each time you speak to facilitate accurate transcription of meeting minutes.

NOTE: MEETING LOCATION

The Board of Supervisors of the Moody River Estates Community Development District will hold a Regular Meeting on February 11, 2021 at 6:00 p.m., at The Best Western, 13021 N. Cleveland Avenue, Fort Myers, FL 33903. The agenda is as follows:

1. Call to Order/Roll Call
2. Public Comments (*agenda items*)
3. Confirmation of Administration of Oaths of Office for Newly Elected Supervisors, Robert Geltner [Seat 3] and John Teckorius [Seat 4]
4. Acceptance of Resignation of Supervisor Paul Hoffman, Seat 5; *term expires November, 2022*
5. Consideration of Resolution 2021-01, Declaring a Vacancy in Seat 2 of the Board of Supervisors Pursuant to Section 109.006(3)(b), Florida Statutes; and Providing an Effective Date
6. Discussion/Consideration of Candidates to Fill Vacancies in Seats 2 and 5
 - A. Julie Canoura
 - B. William Krukowski
 - C. Edward Pike
7. Administration of Oath of Office to Newly Appointed Supervisors (*the following to be provided in a separate package*)
 - A. Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees
 - B. Membership, Obligations and Responsibilities
 - C. Financial Disclosure Forms
 - I. Form 1: Statement of Financial Interests
 - II. Form 1X: Amendment to Form 1, Statement of Financial Interests

III. Form 1F: Final Statement of Financial Interests

D. Form 8B – Memorandum of Voting Conflict

8. Consideration of Resolution 2021-02, Designating a Chair, a Vice Chair, a Secretary, Assistant Secretaries, a Treasurer and an Assistant Treasurer of the Moody River Estates Community Development District, and Providing for an Effective Date
9. Discussion/Consideration: Amendment to Resolution 2020-05, Adopting an Internal Controls Policy Consistent with Section 218.33, Florida Statutes; Providing an Effective Date (Supervisor Geltner)
10. Discussion: Board Member Responsibilities
 - A. Sample CEO Self-Evaluation
 - B. Management Evaluation
 - C. Evaluating the Executive Director – Your Role as a Board Member
11. Discussion: CDD Newsletter
12. Consideration of E-Verify Memo and Memorandum of Understanding
13. Acceptance of Unaudited Financial Statements as of December 31, 2020
14. Approval of August 20, 2020 Virtual Public Hearings and Regular Meeting Minutes
 - Action Items
15. Staff Reports
 - A. District Counsel: *Hopping Green & Sams, P.A.*
 - B. District Engineer: *Barraco & Associates, Inc.*
 - C. District Manager: *Wrathell, Hunt & Associates, LLC*

- NEXT MEETING DATE: March 11, 2021 at 6:00 P.M.

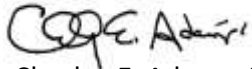
○ QUORUM CHECK

SEAT 1	Chris Jenner	<input type="checkbox"/> IN PERSON	<input type="checkbox"/> PHONE	<input type="checkbox"/> NO
SEAT 2		<input type="checkbox"/> IN PERSON	<input type="checkbox"/> PHONE	<input type="checkbox"/> NO
SEAT 3	Robert Geltner	<input type="checkbox"/> IN PERSON	<input type="checkbox"/> PHONE	<input type="checkbox"/> NO
SEAT 4	John Teckorius	<input type="checkbox"/> IN PERSON	<input type="checkbox"/> PHONE	<input type="checkbox"/> NO
SEAT 5		<input type="checkbox"/> IN PERSON	<input type="checkbox"/> PHONE	<input type="checkbox"/> NO

- D. Operations Manager: *Wrathell, Hunt & Associates, LLC*
 - Monthly Status Report- Field Operations
 - Key Activity Dates
- 16. Public Comments (*non-agenda items*)
- 17. Supervisors' Requests
 - Supervisor Geltner – Discussion: Email to Management on 05.20.20
- 18. Adjournment

Should you have any questions and/or concerns, please contact me directly at 239-464-7114.

Sincerely,



Chesley E. Adams, Jr.
District Manager

FOR BOARD MEMBERS AND STAFF TO ATTEND BY TELEPHONE

CALL IN NUMBER: 1-888-354-0094

CONFERENCE ID: 8593810

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

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MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT
BOARD OF SUPERVISORS
OATH OF OFFICE

I, ROBERT GELTNER A CITIZEN OF THE STATE OF FLORIDA AND OF THE UNITED STATES OF AMERICA, AND BEING AN OFFICER OF THE **MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT** AND A RECIPIENT OF PUBLIC FUNDS AS SUCH OFFICER, DO HEREBY SOLEMNLY SWEAR OR AFFIRM THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND OF THE STATE OF FLORIDA.

Signature

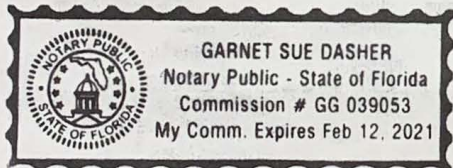
Printed Name: ROBERT GELTNER

STATE OF FLORIDA

COUNTY OF LEE

The foregoing oath was administered before me this by means of ☐ physical presence or ☐ online notarization on this 4 day of January, 2021 by Robert Geltner, who is personally known to me or has produced _____ as identification, and is the person described in and who took the aforementioned oath as a Member of the Board of Supervisors of Moody River Estates Community Development District and acknowledged to and before me that he/she took said oath for the purposes therein expressed.

(NOTARY SEAL)



Signature

NOTARY PUBLIC, STATE OF FLORIDA

Print Name: Garnet Dasher

Commission No.: GG 039053 Expires: 2/12/21

MAILING ADDRESS: ☒ Home

☐ Office

County of Residence LEE

12941 TURTLE COVE TRAIL

Street

239 464 2643

Phone

Fax

NORTH FORT MYERS, FL

City, State, Zip

33903

GELTNER@COMCAST.NET

Email Address

MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT
BOARD OF SUPERVISORS
OATH OF OFFICE

I, John Teckorios, A CITIZEN OF THE STATE OF FLORIDA AND OF THE UNITED STATES OF AMERICA, AND BEING AN OFFICER OF THE **MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT** AND A RECIPIENT OF PUBLIC FUNDS AS SUCH OFFICER, DO HEREBY SOLEMNLY SWEAR OR AFFIRM THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND OF THE STATE OF FLORIDA.

John Teckorios

Signature

Printed Name: John Teckorios

STATE OF FLORIDA

COUNTY OF LEE

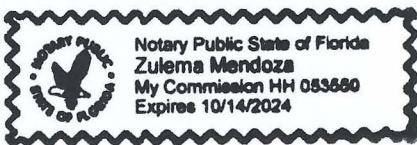
The foregoing oath was administered before me this by means of ☒ physical presence or ☐ online notarization on this 4 day of JANUARY, 2021 by John Teckorios, who is personally known to me or has produced _____ as identification, and is the person described in and who took the aforementioned oath as a Member of the Board of Supervisors of Moody River Estates Community Development District and acknowledged to and before me that he/she took said oath for the purposes therein expressed.

(NOTARY SEAL)

Zulema Mendoza

NOTARY PUBLIC,

STATE OF FLORIDA



Print Name: Zulema Mendoza

Commission No.: HH053550 Expires: 10/14/24

MAILING ADDRESS: ☒ Home

☐ Office

County of Residence Lee

13120 GRAY HERON DR 239-938-5333 _____
Street Phone Fax

Alt. Ft. Myers, FL 33903
City, State, Zip

JTeckorios@ComCAST.net
Email Address

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

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NOTICE OF TENDER OF RESIGNATION

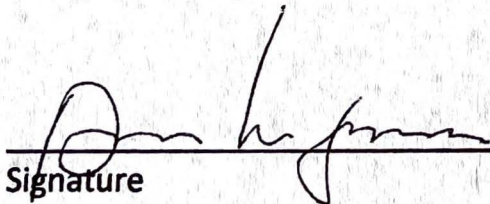
To: Board of Supervisors
Moody River Estates Community Development District
Attn: Chesley E Adams, Jr., District Manager
2300 Glades Road, Suite 410W
Boca Raton, Florida 33431

From: PAUL HOFFMAN
Printed Name

Date: 12/19/2020
Date

I hereby tender my resignation as a member of the Board of Supervisors of the *Moody River Estates Community Development District*. My tendered resignation will be deemed to be effective as of the time a quorum of the remaining members of the Board of Supervisors accept it at a duly noticed meeting of the Board of Supervisors.

I certify that this Notice of Tender of Resignation has been executed by me and ☒ personally presented at a duly noticed meeting of the Board of Supervisors, ☐ scanned and electronically transmitted to gillyardd@whhassociates.com or ☒ faxed to 561-571-0013 and agree that the executed original shall be binding and enforceable and the fax or email copy shall be binding and enforceable as an original.


Signature

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

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RESOLUTION 2021-01

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT DECLARING A VACANCY IN SEAT 2 OF THE BOARD OF SUPERVISORS PURSUANT TO SECTION 190.006(3)(b), FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Moody River Estates Community Development District ("**District**") is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*; and

WHEREAS, on November 3, 2020, three (3) members of the Board of Supervisors ("**Board**") were to be elected by "**Qualified Electors**," as that term is defined in Section 190.003, *Florida Statutes*; and

WHEREAS, the District published a notice of qualifying period set by the Supervisor of Elections at least two (2) weeks prior to the start of said qualifying period; and

WHEREAS, at the close of the qualifying period two (2) Qualified Electors qualified to run for the three (3) seats available for election by the Qualified Electors of the District; and

WHEREAS, pursuant to Section 190.006(3)(b), *Florida Statutes*, the Board shall declare the remaining seat vacant, effective the second Tuesday following the general election; and

WHEREAS, a Qualified Elector is to be appointed to the vacant seat within 90 days thereafter; and

WHEREAS, the Board finds that it is in the best interests of the District to adopt this Resolution declaring one seat available for election as vacant.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT:

SECTION 1. The following seat is hereby declared vacant effective as of November 17, 2020:

Seat #2 (currently held by William Keeler)

SECTION 2. Until such time as the District Board nominates a Qualified Elector to fill the vacancy declared in Section 1 above, the incumbent Board Supervisor of that respective seat shall remain in office.

SECTION 3. This Resolution shall become effective upon its passage.

PASSED AND ADOPTED this 11th day of February, 2021.

ATTEST:

**MOODY RIVER ESTATES COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chair/Vice Chair, Board of Supervisors

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

6A

Date: January 27, 2021

To: Chuck Adams

From: Julie Canoura – Moody River Estates Resident – FL voter

RE: MRE CDD Application Notice

Every member of a community desire to stay safe, healthy, and financially sound in all manners. I am interested in filling a CDD Board of Supervisor vacancy because I believe the CDD BOS Committee is a designed process that helps create those conditions and provides the very foundation a community builds from to improve the lives of its residents. I'd like to be in the position to champion improvements that will benefit the boundaries of the Moody River Estates Community. Improvements are associated with the conservation areas, landscaping, wetland maintenance, and the irrigation systems to name a few.

Additional volunteers can help make MRE the most desired master-planned community in North Ft. Myers and I've the time to be part of the collective action needed to generate solutions aimed to increase property value for years to come.

Below you'll find a condensed version of my resume. I am future-focused and business-grounded. My interactive method allows me to meet people on level ground and I hold paramount the welfare of Moody River Estates.

Thank you in advance for consideration.

Julie Canoura

(630)667-3102



Julie Canoura
Real Estate Broker
630-667-3102
realtorjulie@me.com



◆ CDPE – REO- Short Sale ◆ REOMAC Education ◆ Education Committee - IL. RE Board ◆ CE Author

CERTIFICATION

- | | |
|---|---|
| <ul style="list-style-type: none"> ◆ HAFA Certified - Asset Plan, USA ◆ VA – Veteran Affairs Certification ◆ CDPE Short Sale Certified & Compromise Sale Certified ◆ Military Relocation Professional (MRP) ◆ Author of BPO continuing education course for IAR ◆ RES.NET Agent Certification | <ul style="list-style-type: none"> ◆ REO and BPO Training - LionsGate Financial - ◆ RE and the Government ◆ Effective Communication for the REO Process ◆ Equator Platinum Certified ◆ Anatomy of a Short Sale – IAR ◆ Broker Price Opinion – Five Star Institute |
|---|---|

Bank Foreclosure Responsibilities :

- Pre-foreclosure through to close services.
- On-site inspection of mold/water/fire/vandal damage to foreclosure properties.
- Tradesmen hire, review bids, verify that work has been successfully completed and is code compliant.
- Process vendor payments
- Talk to witnesses and police, document statements, record damage and generate reports.
- Provide relocation services to foreclosure individuals whose lives are disrupted in the same way as a victim of a natural disaster.
- Determined reason for non-payment, reviewed hardship letters and discussed workout options.
- Communicated with and directed documentation to legal counsel.
- Property disposition.

PROFESSIONAL EXPERIENCE

Option Realty Group (Licensed in 2002 – 2015):

REO Real Estate Agent:

Motivated, passionate, self-starting real estate professional offering a core system built on respect and courtesy with a professional spirit that goes beyond the office door.

Listing, selling, and managing traditional real estate, distressed properties in various stages of default and foreclosures. Proficient in market value research and interpretation of statistical data. Complete understanding of foreclosure complexities and QC specifications and standards.

Established broker/agent/investor networks to facilitate the sale of non-performing assets. Track day-to-day tasks from assignment to closing which include inspections, occupancy checks, evictions, and relocation assistance. Draft valuation reports and include two-year statistical data that supports value. Monitor rehab projects and reconcile invoices. Initiate winterization to ensure asset preservation. Maintain adherence to real estate boards, local, state, and federal laws. Implement and maintain marketing plans.

College academic preparation and numerous real estate specific certifications. Pref-foreclosure and loss mitigation experience: Familiar with IL timelines, forbearance agreements, short sales, and deed in lieu alternatives to bankruptcy.

Professional Trade Organization:

Served on the REOMAC Education Committee and on the Education Committee with the Mainstreet Organization of Realtors for four terms. Current member of the Illinois Mortgage Broker Association and The Naperville Ladies VFW Auxiliary and the Military Veterans Association of Real Estate Professionals.

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

6B

William Krukowski

12614 Blue Banyon Ct.
N. Fort Myers, FL 33903
631 834-9707
kruk329@aol.com

Moody River Estates
Community Development District

I am a resident of Moody River Estates South since January 1st 2019. Since living here I have become involved in the well being and safety of the community. I am now Chairman of the Moody River South Committee, I am vice chair of the Architectural Review Committee, and was on the Landscape Contract Committee.

I moved here from New York with my partner Theresa Pisciotta after I retired from the Suffolk County Sheriff's Office as a Deputy Sheriff for almost 23 yrs. Before becoming a Deputy Sheriff I worked for the Hess Corp. as a station manager, then a field supervisor for Suffolk County and lower upstate New York, with many managerial duties.

While living in Holbrook NY, I became involved with the Sachem Youth Advisory Group, a sports organization serving the local area. I started managing my son's baseball team, which I did for 8 yrs. While doing that I was asked to also be a director with the baseball division, then became the commissioner of the program. I later went on to oversee the entire program of 4 sports as President of SYAG.

I feel I could be an asset to the CDD with my managerial skills and my ability to work with people. I have been a homeowner for over 40 yrs. I was also involved with a small HOA in my community in Mattituck NY. I strive to get things accomplished and make our environment flourish. Thank you for your consideration.

Bill Krukowski

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

6C

Edward Pike



3170 Banyon Hollow Loop • North Fort Myers, FL 33903 • (239)297-5312
E-Mail: epike@gcex.co.uk

31-JAN-2021

Cleo Crismond
Moody River Estates CDD
9220 Bonita Beach Road Suite 214
Bonita Springs, FL 34135
(239)989-2939

Dear : Cleo Crismond and Moody River Estates CDD Board of Supervisors:

I would like to apply to take over the seat on the Moody River Estates CDD, which has been vacated by Mr. Paul Hoffman.

I have been a resident of Moody River Estates for the past three years and have taken an active role in the community and wish for further that into serving on the CDD. I live in Moody River South, the same area where Mr. Hoffman used to live.

My background should be well suited with many unique skills, which would prove to be highly advantageous to the MRE CDD.

First, and foremost, I am a family man with two young children (ages 7 and 8), which would be unique within the CDD's current perspective and have made what is most likely a longer term investment in the community as compared to traditional retirees.

I have previously served on the Board of Governors of Guilford College, so I am quite familiar with the nuances serving on an elected board.

I have owned my own business and have an MBA, so I am familiar with all areas of running a business and all associated business and economic theory as well as managerial accounting knowledge.

I have specialized metallurgical knowledge due to training during employment at Allegheny Technologies specialty materials for over a decade in my work with high performance alloys (S.Steel, Nickel based and Titanium based alloys).

I am a life long passionate outdoorsman with ties to the area dating back to 1977 when I was 6 years old. I have fished in numerous lakes throughout Lee County throughout the years and am very familiar with their issues. I am familiar with the current invasive species infestation and the damage they have done and will continue to do in a more rapid fashion to our local native fishery if left unchecked. The Moody River lakes are currently full of plecos, Siamese walking catfish, Mayan cichlids and spotted tilapia.

I have also been a marine aquarium hobbyist for many years, which has imparted quite a lot of knowledge regarding water quality to me.

I plan to attend the scheduled meeting on February 11, 2021 at the Best Western Hotel on Cleveland Avenue at 6 PM.

If you require any additional information from myself, feel free to contact me anytime at (239)297-5312.

Thank you for your time and consideration.



Sincerely,

Edward Pike

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

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RESOLUTION 2021-02

A RESOLUTION DESIGNATING A CHAIR, A VICE CHAIR, A SECRETARY, ASSISTANT SECRETARIES, A TREASURER AND AN ASSISTANT TREASURER OF THE MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Moody River Estates Community Development District ("District") is a local unit of special-purpose government created by, and existing pursuant to Chapter 190, *Florida Statutes*, being situated in Lee County, Florida; and

WHEREAS, the Board of Supervisors of the District desires to appoint the below-recited persons to the offices specified.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT:

1. **DISTRICT OFFICERS.** The District officers are as follows:

_____ is appointed Chair

_____ is appointed Vice Chair

Chesley (Chuck) E. Adams, Jr. is appointed Secretary

_____ is appointed Assistant Secretary

_____ is appointed Assistant Secretary

_____ is appointed Assistant Secretary

Craig Wrathell is appointed Assistant Secretary

Craig Wrathell is appointed Treasurer

Jeff Pinder is appointed Assistant Treasurer

2. **EFFECTIVE DATE.** This Resolution shall become effective immediately upon its adoption.

Adopted this 11th day of February, 2021.

ATTEST:

**MOODY RIVER ESTATES COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chair/Vice Chair, Board of Supervisors

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

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MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT
PROPOSED AMENDED RESOLUTION 2020-03

March 12, 2020

PROPOSED AMENDED RESOLUTION 2020-03
A RESOLUTION BY THE BOARD OF SUPERVISORS OF THE
MOODY RIVER ESTATES COMMUNITY DEVELOPMENT
DISTRICT ADOPTING AN INTERNAL CONTROLS POLICY
CONSISTENT WITH SECTION 218.33, FLORIDA STATUTES;
ADOPTING A POLICY OF PERFORMANCE REVIEW OF
DISTRICT MANAGER, LEGAL COUNSEL AND PROFESSIONAL
STAFF; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Moody River Estates Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes* being situated entirely within Lee County, Florida; and

WHEREAS, consistent with Section 218.33, *Florida Statutes*, the District is statutorily required to establish and maintain internal controls designed to prevent and detect fraud, waste, and abuse as defined in Section 11.45(1), *Florida Statutes*; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and safeguard assets; and

WHEREAS, the District retains the services of a District Manager and a legal counsel who are the only ones granted the authority by the Board to access and control the assets of the District; are the ones most likely to be involved in fraud, waste, and abuse (as hereinafter defined); are the ones the Board relies upon to promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; are the ones the Board relies upon to engage in economical and efficient operations; are the ones the Board relies upon to ensure the reliability of financial records and reports; and, are the ones the Board relies upon to safeguard assets of the District(as hereinafter defined).

WHEREAS, to demonstrate compliance with Section 218.33, *Florida Statutes*, the District desires to adopt by resolution the Internal Controls Policy attached hereto as **Exhibit A**.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF
SUPERVISORS OF THE MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT:

SECTION 1. The attached Internal Controls Policy attached hereto as **Exhibit A** is hereby adopted pursuant to this Resolution.

SECTION 2. If any provision of this Resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 3. This Resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED THIS _____ DAY OF _____, 20____.

ATTEST: MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT
Secretary/Assistant Secretary Chair/Vice Chair, Board of Supervisors

MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT INTERNAL CONTROLS POLICY

1. Purpose.

1.1. The purpose of this internal controls policy is to establish and maintain internal controls for the Moody River Estates Community Development District **and to insure that the conduct and performance of the District Manager and legal counsel in the performance of their duties are periodically evaluated to insure that they meet the requirements of Florida law and the expectations of the Board.**

1.2. Consistent with Section 218.33(3), *Florida Statutes*, the internal controls adopted herein are designed to:

1.2.1. Prevent and detect Fraud, Waste, and Abuse (as hereinafter defined).

1.2.2. Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.

1.2.3. Support economical and efficient operations.

1.2.4. Ensure reliability of financial records and reports.

1.2.5. Safeguard Assets (as hereinafter defined).

2. Definitions.

2.1. “Abuse” means behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary operational practice given the facts and circumstances. The term includes the misuse of authority or position for personal gain.

2.2. “Assets” means District assets such as cash or other financial resources, supplies, inventories, equipment and other fixed assets, real property, intellectual property, or data.

2.3. “Auditor” means the independent auditor (and its employees) retained by the District to perform the annual audit required by state law.

2.4. “Board” means the Board of Supervisors for the District.

2.5. “District Management” means (i) the independent contractor (and its employees) retained by the District to provide professional district management services to the District and (ii) any other independent contractor (and its employees) separately retained by the District to provide amenity management services, provided said services include a responsibility to safeguard and protect Assets.

The District Manager is responsible for managing the resources entrusted to them to carry out District programs. A major factor in fulfilling this responsibility is ensuring that adequate controls exist and that management performance is periodically evaluated to insure that controls are properly implemented.

Public officials, legislators, and taxpayers are entitled to know whether government agencies are properly handling funds and complying with laws and regulations. They need to know whether government organizations, programs, and services are achieving the purposes for which they were authorized and funded. Officials and employees who manage programs must be accountable to the public and to their governing Boards.

2.6. “Fraud” means obtaining something of value through willful misrepresentation, including, but not limited to, intentional misstatements or intentional omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an entity’s assets, bribery, or the use of one’s position for personal enrichment through the deliberate misuse or misapplication of an organization’s resources.

2.7. “Internal Controls” means systems and procedures designed to prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and safeguard assets.

2.8. “Risk” means anything that could negatively impact the District’s ability to meet its goals and objectives. The term includes strategic, financial, regulatory, reputational, and operational risks.

2.9. “Waste” means the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.

3. Control Environment.

3.1. Ethical and Honest Behavior.

3.1.1. District Management is responsible for maintaining a work environment that promotes ethical and honest behavior on the part of all employees, contractors, vendors and others.

3.1.2. Managers at all levels must behave ethically and communicate to employees and others that they are expected to behave ethically.

3.1.3. Managers must demonstrate through words and actions that unethical behavior will not be tolerated **by management, employees, contractors, vendors or the board.**

4. Risk Assessment.

4.1. **Risk Assessment.** District Management is responsible for assessing Risk to the District **and providing a report to the Board concerning those risks and suggestions for minimizing those risks.**

District Management’s Risk assessments shall include, but not be limited to:

4.1.1. Identifying potential hazards.

4.1.2. Evaluating the likelihood and extent of harm.

4.1.3. Identifying cost-justified precautions and implementing those precautions **after Board approval.**

4.1.4 Submitting to the Board a Risk Assessment Report outlining their findings along with suggestions for precautions that might be adopted by the Board.

4.1.1.5 The Board shall vote on the adoption of a plan to implement or modify suggestions sent to the Board in the Risk Assessment 5. Control Activities.

5.1. **Minimum Internal Controls. In addition to exercising its primary responsibility to recruit, retain, evaluate and terminate a District Manager, legal counsel and other professional staff,** ~~t~~The District **Board** hereby establishes the following minimum Internal Controls to prevent and detect Fraud, Waste, and Abuse:

5.1.1. Preventive controls designed to forestall errors or irregularities and thereby avoid the cost of corrections. Preventive control activities shall include, but not be limited to, the following:

5.1.1.1. Identifying and segregating incompatible duties and/or implementing mitigating controls.

5.1.1.2. Performing accounting functions in accordance with Generally Accepted Accounting Principles (GAAP) and Governmental Accounting Standards Board (GASB) standards.

5.1.1.3. Requiring proper **Board** authorizations to access and/or modify accounting software.

5.1.1.4. Implementing computerized accounting techniques (e.g. to help identify coding errors, avoid duplicate invoices, etc.).

5.1.1.5. Maintaining a schedule of the District's material fixed Assets.

5.1.1.6. Maintaining physical control over the District's material and vulnerable Assets (e.g. lock and key, computer passwords, network firewalls, etc.).

5.1.1.7. **Identifying criteria for determining what are "sensitive" documents and** Retaining and restricting access to sensitive documents, **subject to Board approval.**

5.1.1.8 Annual performance review of the District Manager, legal counsel and/or other professionals paid by the District using a format to be adopted by the Board.

5.1.1.8. Performing regular electronic data backups.

5.1.2. Detective controls designed to measure the effectiveness of preventive controls and to detect errors or irregularities when they occur. Detective control activities shall include, but not be limited to, the following:

5.1.2.1. Preparing financial reports in accordance with Generally Accepted Accounting Principles (GAAP) and Governmental Accounting Standards Board (GASB) standards.

5.1.2.2. Reviewing financial statements and investigating any material variances between budgeted expenses and actual expenses.

5.1.2.3. Establishing and implementing periodic reconciliations of bank, trust, and petty cash accounts.

5.1.2.4. Establishing an internal protocol for reporting and investigating known or suspected acts of Fraud, Waste, or Abuse.

5.1.2.5. Engaging in periodic physical inventory counts and comparisons with inventory records.

5.1.2.6. Monitoring all ACH (electronic) transactions and the sequencing of checks.

5.2. Implementation. District Management **subject to approval of the Board,** shall implement the minimum Internal Controls described herein. District Management may also implement additional Internal Controls that ~~it~~ **the Board** deems advisable or appropriate for the District, **subject to approval of the Board.** The specific ways District Management implements these minimum Internal Controls shall be consistent with Generally Accepted Accounting Principles (GAAP) and otherwise conform to Governmental Accounting Standards Board (GASB) and American Institute of Certified Public Accountants (AICPA) standards and norms.

6. Information and Communication.

6.1. Information and Communication. District Management shall communicate to **the Board and** its employees (needing to know) information relevant to the Internal Controls, including but not limited to any changes to the Internal Controls and/or changes to laws, rules, contracts, grant agreements, and best practices.

6.2. Training. District Management shall regularly train **the Board and** its employees (needing the training) in connection with the Internal Controls described herein and promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.

7. Monitoring Activities.

7.1. Internal Reviews. **The Board with the assistance of District Manager and legal counsel,** ~~District Management~~ shall internally review the District's Internal Controls at least once per year. In connection with this internal review, District Management shall:

7.1.1.1. Review its operational processes.

7.1.1.2. Consider the potential risk of Fraud, Waste, or Abuse inherent in each process.

7.1.1.3. Identify the controls included in the process, or controls that could be included, that would result in a reduction in the inherent risk.

7.1.1.4. Assess whether there are Internal Controls that need to be improved or added to the process under consideration.

7.1.1.5. Implement new controls or improve existing controls that are determined to be the most efficient and effective for decreasing the risk of Fraud, Waste or Abuse **subject to approval of the Board**

7.1.1.6. Train **the Board and** its employees on implemented new controls or improvements to existing controls.

7.2. **External Audits and Other Reviews.** Audits and other reviews may be performed on various components of the District's Internal Controls by the Auditor consistent with Government Auditing Standards (GAS). Audits may identify material deficiencies in the Internal Controls and make recommendations **to the Board** to improve them. District Management shall communicate and cooperate with the Board and the Auditor regarding the potential implementation of Auditor recommendations.

8.0 District Manager shall disclose in writing to the Board annually by December 31st any actual or perceived conflicts of interests.

Specific Authority: §§ 190.011(5)], 218.33(3), *Florida Statutes* **Effective date:** _____, 2020

The 2019 Florida Statutes

Title XIV TAXATION AND FINANCE

Chapter 218 FINANCIAL MATTERS PERTAINING TO POLITICAL SUBDIVISIONS

218.33 Local governmental entities; establishment of uniform fiscal years and accounting practices and procedures.—

(1) Each local governmental entity shall begin its fiscal year on October 1 of each year and end it on September 30.

(2) Each local governmental entity shall follow uniform accounting practices and procedures as promulgated by rule of the department to assure the use of proper accounting and fiscal management by such units. Such rules shall include a uniform classification of accounts.

(3) Each local governmental entity shall establish and maintain internal controls designed to:

- (a) Prevent and detect fraud, waste, and abuse as defined in s. 11.45(1).
- (b) Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.

(c) Support economical and efficient operations.

(d) Ensure reliability of financial records and reports.

(e) Safeguard assets.

(4) Any word, sentence, phrase, or provision of any special act, municipal charter, or other law that prohibits or restricts a local governmental entity from complying with this section or any rules adopted under this section is nullified and repealed to the extent of the conflict.

History.—s. 2, ch. 73-349; s. 66, ch. 77-104; s. 20, ch. 96-324; s. 63, ch. 2001-266; s. 14, ch. 2019-15.

See also:

<https://www.maine.gov/osc/internal-audit/guide-for-managers>

Internal Controls for Nonprofits

<https://www.councilofnonprofits.org/tools-resources/internal-controls-nonprofits>

[Printer-friendly version](#)

“Internal controls” are financial management practices that are systematically used to prevent misuse and misappropriation of assets, such as occur through theft or embezzlement. Internal controls are generally described in written policies that set forth the procedures that the nonprofit will follow, as well as who is responsible. The goal of internal controls is to create business practices that serve as “checks and balances” on staff (and sometimes board members) and/or outside vendors, in order to reduce the risk of misappropriation of funds/assets.

Example of a basic internal control: A policy that requires two signatures on a check is a basic internal control. This business practice is designed to prevent one person from having sole authority for writing checks on the nonprofit’s behalf.

Example of an internal control that every nonprofit can put into practice: A policy to lock the office door when no one is monitoring the entrance. This policy is designed to minimize the risk of theft of computers that can happen in broad daylight, and with very little time needed to unplug, pick up, and carry away some of the nonprofit’s most precious assets.

More examples of internal control policies:

- A policy requiring that employees may only be reimbursed for expenses that are approved in advance, in writing;
- A “segregation of duties” policy requiring that the person who logs in checks received in the mail is not the same person who is responsible for depositing checks. Similarly, the same person should not both prepare the payroll, and also distribute or have custody of the payroll checks.
- A periodic review by an objective person of the list of all vendors receiving fees/checks from the nonprofit (because a common scheme involves creating a fictitious vendor).
- A policy to keep all cash in a locked drawer and to deposit cash and checks in the bank, soon after they are received.

- A policy to conduct a background check of employees who handle money, prior to hire and periodically throughout employment.

Where should you start? The top priority for any nonprofit is to put in place at least the basic internal controls that address who has access to the nonprofit's bank accounts, and who has authority to spend money on the nonprofit's behalf, whether via check, cash, credit card, or some other means.

Most internal controls are common sense – but not all those described in the resources below may make sense for your nonprofit. Your nonprofit's insurance agent or broker, or an accountant, can provide advice about what is needed at your nonprofit.

PRACTICE POINTERS

- If your nonprofit uses checks, who has access to blank checks? And who is authorized to sign them? Perhaps using other methods to transfer payments than check-writing is a risk management strategy to consider.
- Does everyone in your nonprofit (including board members) know how money moves through the organization? Creating a flowchart will help everyone visualize the journey, which can also prompt discussion about who is responsible at which stages, and where internal control weaknesses could exist. Read more practical tips in this guest blog post: [3 rules for strong internal controls for small nonprofits](#) (Andy Robinson and Nancy Wasserman)
- Know what documentation you should be keeping, and be consistent. Adopting a written policy helps everyone know what the expectations are, such as for requesting reimbursements. Examples: Reimbursement of expenses over \$5 requires a receipt; All vendors must submit invoices that include a detailed description of services rendered. Other examples described here: [Protecting assets with sound internal controls](#) (Minnesota Council of Nonprofits)
- Two easy steps even very small nonprofits can take to strengthen internal controls are: (1) conduct a "surprise internal audit" - An unexpected examination of how cash and checks flow through the organization, and what vendors are receiving payments for, can deter fraudulent schemers; (2) Make sure that a second person, besides the designated "bookkeeper," sees bank statements. This offers another layer of transparency and protection to the organization. You can read more about these two easy strategies here: [How to lessen segregation of duties problems in two easy steps](#) (CPA Scribo)
- This is very basic: Define who is responsible for what functions in your organization. Read about [Five Internal Controls for the Very Small Nonprofit](#) (Blue Avocado)

Resources

- [Guide to Internal Controls and Financial Accountability](#) for not-for-profit-boards (New York State Attorney General)
- [Nonprofit controls and how to make them work for you](#) (FMA and Nonprofit Quarterly)
- [Ensuring internal controls in an electronic age](#) (CliftonLarsonAllen)[Fraud awareness handbook](#) for international contracts (US AID)
- [Financial Management Guide for Nonprofit Organizations](#) offers practical information for grantees on what is expected by the federal government in terms of financial accountability. It includes descriptions of the expectations for financial reporting and internal control procedures (The National Endowment for the Arts, Office of the Inspector General).
- [Internal controls](#) (Greater Washington Society of CPAs)
- [A primer on detecting, preventing, and investigating nonprofit fraud, embezzlement and charitable diversion](#) (Venable, LLP)
- New York State Attorney General's [Internal Controls and Financial Accountability for Not-for-Profit Boards](#) offers practical examples of internal control procedures. (New York State Charities Bureau)

Category:

[Ethics & Accountability](#)

Why Internal Controls Should Matter to Your Nonprofit

<https://trust.guidestar.org/why-internal-controls-should-matter-to-your-nonprofit>

by [Jon Osterburg, Jitasa](#), on 8/7/18 8:00 AM

Almost every month news articles are published about an employee at a nonprofit that was caught in fraudulent behavior. Unfortunately, the “do good” missions of nonprofits and their staffs do not necessarily make them less susceptible to incidences of internal fraud. According to the [2012 Report to the Nations on Occupational Fraud and Abuse](#) by the Association of Certified Fraud Examiners, the median loss related to fraud for a nonprofit is \$100,000 per occurrence. When it happens, it not only depletes the organization of precious financial resources but also damages the nonprofit’s reputation among its donor community.

There is something nonprofits can do, however. A [2010 study of nonprofits by BDO, LLP](#), attributes a four-year decrease in the incidence of fraud and in severity of the frauds to an increased awareness in the nonprofit sector about internal controls.

So, what exactly are internal controls, and why are they so important?

Internal controls are an organization’s plans, methods, and procedures implemented for the purpose of achieving its missions, goals, and objectives. In addition, internal controls are important to put in place within any organization, for-profit or nonprofit, **because they serve as the first line of defense in safeguarding assets and detecting and preventing errors, fraud, and impropriety.**

Fraud occurs when you have 1) opportunity, 2) need, and 3) rationale. While you cannot directly safeguard against an employee's need and rationale, internal controls focus on minimizing opportunities for fraud.

A critical component of designing and implementing internal controls are control activities, which include but are not limited to: separation of duties, authorizations, documentation, and audits.

1. CREATE A CLEAR SEPARATION OF DUTIES AND RESPONSIBILITIES WITHIN YOUR ORGANIZATION

Assign different people the responsibilities of authorizing transactions, recording transactions, and maintaining custody of the related asset. A few examples:

- If you have a store front or record sales transaction, a different individual than the sales agent/cashier should count the end-of-day cash drawer and create the deposit slip.
- A different individual than the individual who handles petty cash, bank deposits, and signs checks should open bank statements and perform your monthly reconciliations.

While it may not be possible to eliminate the opportunity for theft, separation of duties and responsibilities can minimize opportunities for temptation and ease of access to theft. In addition, by increasing the chances that an individual engaging in fraudulent behavior will be caught, the incidence of fraud will decrease.

2. REQUIRE THE AUTHORIZATION OF CERTAIN TRANSACTIONS

A few best practice examples:

- Implement an approval process for the payment of invoices.
- Require two signatures for all organizational checks.

3. MAINTAIN DOCUMENTATION AND RECORDS

Documentation provides evidence of the underlying transactions and establishes the responsibility for the execution and recording of the transaction.

4. CONDUCT AUDITS

Implementing separation of duties, approvals, and maintaining documentation and records are only the beginning. Once they are in place, you should conduct scheduled and random internal audits as an additional safeguard against fraud.

Sometimes the best defense is a good offence. Protecting against fraud requires proactive implementation of a system of separate duties. It's a nonprofit's responsibility to its donors, program recipients, and itself to protect against fraud.

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

10A

SAMPLE
Executive Director Performance Appraisal -- Self Evaluation

TO: Executive Director

FROM: Board of Trustees

RE: Self Evaluation

DATE:

Dear [Name of Executive Director]: The performance evaluation process is a two-way dialogue. The Board of Trustees would appreciate your input regarding the specific subjects you would like to discuss regarding your performance in the past year, and your professional development goals in the coming year. Please return this to the Board Chair by **date**. Your comments will form the basis for a discussion with selected members of the Board of Trustees that will constitute your formal performance evaluation for the period beginning ____ to present, and also will provide a basis for the identification of your performance goals for the period ____ through _____. As necessary, please use additional pages to complete your thoughts.

1. What do you believe has been your most significant achievements during the past year?

2. What have been the most significant challenges for you during the past year?

3. Is there any area of your job where you believe you are not in alignment with the expectations of the board of directors? Please explain.

4. In what areas are you striving to achieve personal and professional development? How can the Board assist you in your development as the chief staff leader? What specific professional development opportunities do you think would help you in your job?

5. In a separate document, please share your immediate and longer term goals to support the organization's strategic priorities, noting the levels of priority, "urgent", "soon" and "later", with timeframes for deliverables, as applicable.

6. What can the Board do, individually and/or collectively, to support you in your work relating to fund development and cultivating donors for the organization?

7. Is there anything else you would like to discuss in your performance review meeting?

8. Taking all factors into consideration, how would you rate your overall performance in the past year?

1 = Unsatisfactory
2 = Below Expectations
3 = Meets Expectations
4 = Exceeds Expectations
5 = Exceptional

Signed: _____

Date: _____

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

10B

Strengthen ties between the board and executive leader

[SOURCE: <https://www.missionbox.com/article/100/evaluating-your-nonprofit-executive-director-tips-for-board-members>]

An effective executive director or chief executive is crucial to a nonprofit's success. In turn, the executive leader relies on the board of directors or trustees to provide oversight and direction. One common way to do this is through a performance evaluation.

The benefits of evaluation

Board members might be uncomfortable evaluating the executive leader due to fear of conflict or lack of experience with the process. Still, it's a worthwhile task. An evaluation can be used to:

- Strengthen the relationship between the board and executive leader
- Assess the leader's accomplishments
- Provide suggestions for improving skills or performance
- Justify adjustments to the leader's compensation
- Set new goals for the leader
- Measure progress toward organizational goals
- Identify challenges within the organization

Getting started

The first step is to create an executive evaluation policy. This policy typically explains:

- When and how often the performance evaluation will be done
- What criteria will be used to evaluate performance

- How the findings of the evaluation will be shared and discussed with the leader

Evaluation is typically recommended at least annually. Many boards make the evaluation part of an annual overall organizational evaluation. This is helpful because organizational performance information can be used to measure the executive leader's performance. It also allows the board to set new goals for the organization and executive leader at the same time, which can then be reviewed at the next evaluation.

Whatever the timing, it's important to give the executive leader advance notice of the board's expectations and the criteria used for the evaluation.

Setting objectives and identifying feedback sources

To set objectives upon which to evaluate the executive leader, the board should review:

- The executive director or chief executive job description
- Relevant board policies
- The annual plan or strategic plan

These documents likely highlight areas of responsibility, major priorities related to your nonprofit's mission, limitations on certain financial and ethical practices, and organizational goals.

Next, you'll need to determine what information the board will use to assess the executive leader's performance. Options include:

- A self-evaluation
- Reports submitted to the board
- Information collected from staff, clients, customers, funders, partner organizations, volunteers or other stakeholders (such as through surveys or anonymous feedback)

- Intermittent of continuous observation of the executive leader by board members

You might ask your executive leader to help select the sources of feedback. Some organizations hire an outside consultant to collect this information.

Creating the evaluation

If you're creating a survey that monitors your executive leader's performance relative to his or her job description, you'll likely want to ask questions that help you collect information on:

- Administrative and staff management
- Problem-solving and decision-making skills
- Leadership
- Business development
- Fundraising
- Risk management
- Relationships with the board, community and public
- Planning and budgeting

You may ask open-ended questions or use a scale, with answers ranging from not applicable to outstanding. Keep your focus narrow to avoid overwhelming those you ask to complete the survey — and to make it easier for you to compile and analyze the data. You might consider asking another nonprofit for a copy of its review survey as a starting point.

Another option is to analyze the executive leader's performance results and give him or her a rating for each goal stated in your annual plan.

Some organizations also use the executive leader's job description and list of responsibilities to analyze strengths and weaknesses and note actions to support improvement.

Discussing the evaluation

Once you've compiled the evaluation information, discuss the findings and agree on a summary of the evaluation as a board before meeting with the executive leader. Make sure your evaluation focuses on the leader's performance, not his or her personality, and includes both praise and concerns. Also, keep in mind any changes or challenges the executive leader might have experienced during the review period and how they might have affected his or her performance.

Next, determine which board members will meet with the executive leader. Consider putting one person in charge of keeping the meeting on track and making sure everyone has a chance to speak. During the meeting, review the executive leader's accomplishments and strengths and then move on to areas of concern and opportunities for growth. Use examples to support your points and be specific with any recommendations.

After the review meeting, a member of the board should write up the evaluation as a formal report and ask the executive leader to sign and date it (agreeing that he or she understands what the report states).

A performance evaluation poses a great opportunity to provide constructive feedback. However, it shouldn't be the only feedback your executive leader receives. Maintaining close communication with your executive leader throughout the year can help keep him or her on track — and prevent surprises when the formal evaluation occurs.

References

First Nonprofit Foundation: **Evaluating the executive director: Your role as a board member** by Vincent Hyman (2011)

Blue Avocado: **Executive director evaluation survey form** by Jan Masaoka

Minnesota Council of Nonprofits: Conducting executive director performance evaluations

Knowhow Nonprofit: Appraising the CEO: 360⁰ profiling

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By **MissionBox** staff

Writers and editors working together to elevate social impact worldwide — one paragraph at a time

Executive Director Evaluation Survey Form

[SOURCE: <https://blueavocado.org/board-of-directors/executive-director-evaluation-survey-form/>]

by [Jan Masaoka](#) on November 14, 2011

Categories: [Board of Directors](#) | [Leadership and Management](#) Topic

Tags: [Strategic Planning](#) | [Executive Director](#)

*In the last issue of Blue Avocado, we discussed how board evaluations of executive directors (CEOs) are different from all other performance evaluations in the organization. These differences — including the limited ability of board members to observe the executive — are also among the reasons why **45% of executives have not had a review in the last year** (CompassPoint's [Daring to Lead 2011](#) study). In this article we draw on that discussion and on the submissions of dozens of Blue Avocado readers to propose a process and an evaluation instrument.*

(At the end of this article is a link to download the survey form in Word to make it easy for you to modify.)

When we reviewed various the dozens of evaluation instruments sent in by Blue Avocado readers, we found that nearly all of them had these attributes in common:

-
- Most reviews used a checklist form (rather than narrative)
-
- Most focused on ED's actions and behaviors (rather than on organizational performance)
-
- Most relied on input from board members only (rather than include input from others such as staff, funders, clients, art critics, etc.)

Although we feel that evaluations that are narrative, focus on organizational performance and contain elements of a 360 degree evaluation are better ways to evaluate executives, we also realize:

•

- Without a checklist of some kind, the ED evaluation most likely won't take place
-
- Evaluation of organizational performance is complex and is more likely to arise *from* executive evaluation than to occur *before* it, and
-
- Input from others in and outside the organization is more appropriately focused on organizational assessment, not as narrowly as on ED evaluation.

Most importantly: despite the fact that board members may have little to go on and not much experience with ED evaluation, it's still important to have the evaluation.

Perhaps the most important thing we learned from executive directors about the value that did emerge from evaluations is that the discussions — if held in good faith — result in better-aligned expectations and goals for the organization and for the executive.

As a result, we adapted instruments to:

-
- Give board members the chance to reflect (and discuss) not only on the executive's performance but on the performance of the board and of the organization
-
- Spark discussions between the executive and the board (rather than to sum them up)
-
- Give the executive the opportunity reflect and learn (if so inclined)
-
- Provide a basis for salary and fire/keep decisions,
-
- Lead to alignment and clarification of goals and expectations.

Process

- A. The board should assign a small group or one person to managing the ED's evaluation. This can be the officers, or a task force created for the job.
- B. The ED should go over the process and instrument(s) with that committee prior to the start. This can be as simple as an email or as deep as a group discussion about goals of the evaluation.
- C. The board can collect the information from respondents. Rather than compile an "average," it's important to report how many board members marked "outstanding," how many marked "needs improvement," and so forth. Having all board members mark "fine" is quite different from half of them marking "outstanding" while another half mark "improvement needed."
- D. An executive session of the board (perhaps 1 hour without any staff present) to discuss the survey results and comments in general.
- E. Relaying the information to the executive: by the board chair or another assigned member or two.
- F. The executive's chance to respond (in person or in writing) to the full board.
- G. The review and the response (if there is one) are placed in the executive's personnel file.

Tip: Involve HR to make sure the review takes place. Most supervisors would not complete reviews of their staff if there were not someone from HR reminding and nagging them. An HR or finance staffperson can keep reminding the board officers that a review must be completed for the executive's personnel file and that salary documentation must be provided.

At the end of this article is a link to download the survey form in Word. Please do not use any of these templates "as is." Instead, use them as a basis for forms that are relevant to your organization's circumstances:

1. Overall organizational performance	
a. Works with the board and management staff to develop strategies for achieving mission goals and financial viability.	<input type="checkbox"/> Outst <input type="checkbox"/> Very Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
b. Appropriately provides both support and leadership to the board.	<input type="checkbox"/> Outst <input type="checkbox"/> Very Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
c. Demonstrates quality of analysis and judgment related to progress and opportunities, and need for changes.	<input type="checkbox"/> Outst <input type="checkbox"/> Very Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
d. Maintains and utilizes a working knowledge of significant developments and trends in the field (examples: AIDS/HIV, environmental law)	<input type="checkbox"/> Outst <input type="checkbox"/> Very Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
e. Builds respect and profile for the organization in its various constituencies. Supports the overall field/movement in which the organization works.	<input type="checkbox"/> Outst <input type="checkbox"/> Very Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
f. Establishes ambitious goals for excellence and impact and initiates, maintains, and adapts programs with excellence and impact	<input type="checkbox"/> Outst <input type="checkbox"/> Very Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
g. Comments on overall organizational performance:	

2. Community leadership	
a. Serves as an effective spokesperson. Represents the organization well to its constituencies, including clients/members/patrons, other nonprofits, government agencies, elected officials, funders, and the general public	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
b. Establishes and makes use of working relationships with organizations and individuals in the field.	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
c. Sees that communication vehicles are developed and utilized well.	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
d. Comments on community leadership:	

3. Administration and Human Resources	
a. Establishes and leads an effective management team	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
b. Recruits and retains a diverse staff (as the organization has identified diversity)	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
c. Maintains appropriate balance between programs and administration	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
d. Ensures that procedures and organizational culture maximize volunteer involvement	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
e. Ensures compliance with relevant workplace and employment laws	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
f. Sees that employees are licensed and credentialed as required and that appropriate background checks are conducted	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
f. Ensures that job descriptions are developed and that regular performance reviews are completed and documented	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
g. Leads staff in maintaining a climate of excellence, accountability, and respect.	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
h. Comments on administration and HR:	

4. Financial sustainability and mission impact	
a. Assures adequate control and accounting of all funds, including maintaining sound financial practices	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
b. Sees that programs and activities are developed, executed, modified and dismantled to maximize mission impact	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
c. Works with the staff, finance committee and the board to prepare budgets, monitor progress, and initiate changes (to operations and/or to budgets) as appropriate	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
d. Sees that official records and documents are retained; sees to compliance with federal state and local regulations (examples: Form 990, payroll withholding)	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
e. Develops realistic, ambitious plans for acquiring funds	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
f. Jointly with the president and secretary of the board, conducts official correspondence for the organization, and jointly with designated officers, executes legal documents appropriately	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
g. Successfully involves others in fundraising and in earned income generation.	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
h. Establishes positive relationships with institutional funders such as foundations, government agencies, churches, corporations, and so forth.	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
i. Establishes positive relationships with individual donors.	<input type="checkbox"/> Outst <input type="checkbox"/> V Good <input type="checkbox"/> Fine <input type="checkbox"/> Impr Needed <input type="checkbox"/> Don't know
j. Comments on financial sustainability and mission impact:	

Senior Staff on Executive Director Review

Please help the board of directors conduct its review of the executive director's performance over the last year by sharing your thoughts. Your comments will be shared with the members of the board of directors, but your name will not be identified with specific comments. Please submit this to _____ via _____ by _____ date.

1. Overall organizational performance

2. Community leadership

3. Administration and HR

4. Financial sustainability and mission impact

5. Board of directors

6. Miscellaneous

7. Are there any specific suggestions for professional development or individual workplan that the board might consider recommending to the executive director?

What about 360 degree evaluations?

Every few years it's very helpful for a board to get a sense of how its executive — and the organization as a whole — is experienced by volunteers, visitors, patrons, clients, members, funders, collaborative partners, and others. A 360 degree evaluation takes a good deal of time (not only from the board but from everyone who is asked to give input), and it makes the most sense to use the opportunity not only to learn about the CEO, but about the organization.

Please [click here to see a Blue Avocado article on 360 degree organizational assessments](#).

Other data

Many organizations also have established goals and objectives for the year, such as number of enrollments, visitors to the art gallery, decrease in euthanized animals, and so forth. There may also be data available such as average rating score for workshops conducted by the organization, ticket sales, attendees at annual fundraising lunch, etc.

Measuring organizational performance against such benchmarks is tremendously helpful, as is measuring performance against an updated job description. However, there are limitations to over-relying on such benchmarks:

-
- There may be external reasons why performance did not meet benchmarks, and those gaps may be more productively addressed in a broader context than the annual review of the CEO.
-
- A great many organizations do not have such organizational performance benchmarks, nor does the executive have a recently-updated job description. It's necessary to have an evaluation tool that does not require these to be in place.

The role of judgment

No one every has enough information to do a perfectly informed, "objective" evaluation of anyone. If an executive evaluation results in substantive discussion about organizational goals, organizational

values about how work is done, and how the board and executive can both do better, then the evaluation “worked.”

Click here to download the word doc of the survey: [ED Eval Form: Word](#) and here to download a PDF: [ED Eval Form: PDF](#)

Our thanks to the many anonymous Blue Avocado readers who contributed to this article, as well as to Nancy Aleck, Kathy Booth, Steven Bowman, Marsha Caplan, Douglas Ford. Krista Glaser, Amy Heydlauff, Lyn Hopper, Trudy Hughes, Jeanette Issa, Shalom Black Lane, Kristen Larsen, Peggy Liuzzi, Dan Lozer, Diane May, Pat Moore. Paul Rosenberger, Erin Ryan, Penelope Sachs, Kate Stephenson, Lynda J. Timbers, Connie Zienkewicz. I hope we didn't miss anyone! Special thanks, too, to reviewers of this article: Trish Tchume (Young Nonprofit Professionals Network), Liz Heath (Sound Nonprofits), Rick Moyers (Meyer Foundation) and Tim Wolfred (CompassPoint Nonprofit Services).

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MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

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10
THINGS
EVERY
BOARD MEMBER
NEEDS
TO KNOW

Evaluating the Executive Director

Your Role As a
Board Member

Second Edition, 2011

by Vincent Hyman

Mission

Our mission is to foster effective risk management practices and the overall development and advancement of nonprofits through unique, creative initiatives.

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Welcome to this series of short briefing papers for nonprofit board members. Whether a seasoned leader or first-time trustee, there is a continual need to revisit the expectations and demands of the critical board member roles in steering, supporting and safeguarding nonprofit organizations. In this series, First Nonprofit Foundation has identified topics of particular interest to board members and will provide digests of time-tested wisdom, emerging thought, and the insights of highly experienced practitioners. We trust these papers will succeed in helping nonprofits to develop and advance. As always, we welcome your comments and suggestions.

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*Organizational performance is synonymous with chief executive performance.*¹

—John Carver



John Carver, noted governance expert, put it succinctly more than twenty years ago: the organization's performance is synonymous with the chief executive's.

So it would seem simple, really: If the organization is doing well, the executive must be perfect. Problems in the organization? Must be an imperfect executive.

Life is never so simple. Organizations exist in complex environments that include the board itself, the staff, its customers, clients, donors, and other stakeholders; the organization's traditions, values, and history; its economic, social, competitive and regulatory environment; and on and on. The organization's executive serves a key role of carrying out the board's directives while balancing these numerous—and often conflicting—interests and pressures.

Still, the heart of Carver's pronouncement holds: the executive's job is to manage the board's abstract policies into concrete reality. If the board has directed astutely and the executive has managed shrewdly, the organization should perform well, given its challenges. Your job, as a board member, is to monitor that organization in such a way as to be sure the executive is delivering the goods. Moreover, your executive needs this monitoring. The executive can't do what you direct absent of feedback and direction.

Some boards neglect their duty of evaluating the director. They may fear conflict, be at a loss for the tools, or lack the tradition. All are poor, if common, reasons to avoid evaluation. That's too bad, because evaluation offers numerous benefits, including:

- Ensuring that the board is meeting its duty to actively lead the organization
- Monitoring whether organizational goals are being achieved
- Providing an opportunity to set new annual goals
- Maintaining a formal, documented, fair, and pragmatic process for providing feedback to the executive
- Helping the executive understand the board's perspective on his or her strengths and limitations
- Providing direction for specific improvements in skills and performance
- Providing documented processes that help the board retain, improve, or retire the executive, as well as justify changes in compensation and other matters of record
- Maintaining a process and documentation that can help protect the board if they let a chief executive go and the chief executive decides to sue the organization
- Helping board members examine the executive's accomplishments rather than personality
- Laying the foundation for an improved working relationship between board and executive
- Identifying opportunities, strengths, challenges, and strategic questions before they become troubling issues²

2

If your board is not currently evaluating the executive, you should know that across the sector, three-quarters of executives receive a formal, written evaluation from the board.³

The benefits are many, and, any discomfort aside, the board must evaluate its executive or it simply is not doing its job. The following steps will facilitate this task:

1. Set an executive evaluation policy
2. Set objectives and criteria
3. Choose monitoring sources
4. Choose an approach
5. Conduct an executive performance survey (Option A)
6. Monitor performance-to-plan (Option B)
7. Prepare a strengths and weaknesses evaluation (Option C)
8. Meet with the executive and document the review
9. Consider compensation
10. Avoid common problems

You will find specific advice about each of these steps below. However, the most important thing you should take away from this booklet is that the board should evaluate the executive at least annually—and it should be monitoring organizational performance (which is a reflection of executive performance) at every meeting. The specifics are less important than being sure that the evaluation is done in a timely and respectful manner.

1.

Set an Executive Evaluation Policy

As with any employee, the provision of performance feedback should be ongoing. Nothing is more damaging than stockpiling mistakes to be flung at the director during a single session. Big surprises or “gotchas” delivered at a performance evaluation are sure sign that the board is doing a poor job of communicating with the director.

Your organization should have both a tradition and a policy of annual review of the executive, often connected to an annual review of the organization. For example, one organization’s policy reads:

A formal in-person assessment of executive performance shall be carried out by the board of directors annually. The plan for the assessment will be developed in conjunction with the chief executive officer and submitted to the board for review and approval [at the] end of the fiscal year. Assessment criteria and standards will be specified prior to the appraisal. Findings will be given to the board and the chief executive prior to the evaluation session. The executive will have the opportunity to comment, respond, include other assessment information and suggest developmental ideas prior to and during the evaluation session.⁴

In general, the goal of performance reviews is to recognize how well the individual is doing his or her job and to identify ways to improve. For the executive, the board should clearly identify performance expectations and standards relevant to the organization’s performance, the executive job description, the annual work plan, the development plan set in the previous evaluation, and ongoing performance feedback given during previous board meetings.

Because the executive’s performance is so closely associated with the performance of the organization, many boards choose to make the executive evaluation part of an annual cycle of broader organizational evaluation. This is very helpful, as the information on organizational performance likely includes very useful measurements. Further, most such evaluations lead to the establishment of next year’s goals—which goals should be built into the plan for the coming year’s executive evaluation.



2.

Set Objectives

If your organization has never evaluated its director, you have some work ahead of you. It is unfair to judge an employee when you have not set objectives for the employee. Ensure that the board, as a group, has stated the organization's short- and long-term objectives with enough clarity that the executive—the board's employee—can reasonably be held accountable for accomplishing those objectives.

This booklet can't give a full account of a process for setting organizational objectives. However, there are several documents you should review when setting objectives (or determining what objectives may have been set) to which the executive will be held accountable:

- Last year's executive evaluation, including any developmental expectations
- The executive job description
- Board policies that set expectations and limitations for the executive
- The organization's annual plan (or, if no annual plan, then the strategic plan)

Previous evaluation

Providing the board conducted one, the previous year's executive performance evaluation most likely includes an action plan for the current year, with developmental goals for the executive. Include these in the evaluation; if not attended to, an excellent reason needs to be provided.

Job description

The executive job description should list major areas for which the executive is responsible. It's essential that the board review this in preparation for the job evaluation, especially if your board has never evaluated its director. These categories of responsibilities will also be helpful should the board choose to use a survey to gather information about the executive.

Board policies

Look to your policy documents for useful objectives upon which to evaluate the executive. These should specify, in some form, the major ends which the executive can be reasonably expected to accomplish. (Some of these ends are also reflected in the executive job description.) For example, some boards have adopted policies that express the mission, with subsections discussing the major priorities related to the mission. Or, boards may specify certain programmatic strategies, supported by short-term or annual goals that are core to the accomplishment of the mission. The board should hold the executive accountable for making reasonable progress towards these priorities.

Similarly, policy documents may set certain limitations on the executive. For example, the board may have a policy regarding finances that states the executive will not unreasonably risk organizational assets, including property, unnecessary liability, insufficient fund controls, or investing organizational surplus in insecure instruments. Or the board may have a policy limiting the executive from imprudent business practices, such as treating employees unfairly or choosing violating ethical standards relative to the organization's field of practice. With such policies in place, the board can hold accountable the executive who has failed to observe these limitations.

Annual plan

The final area to examine for objectives is the organization's annual work plan, or, if one does not exist, its strategic plan. These should clearly spell out goals for the organization relative to its practices. Examples might include establishment of a development office, generation of a surplus, reduction of a deficit, closing a certain program, establishing a beneficial new strategic alliance—whatever the board, executive, and staff have seen fit to establish. The executive is accountable for reasonable performance to achieve these goals within the timeframe established.

3.

Choose Monitoring Sources

5

While the board is ultimately responsible for the executive evaluation, it may choose to consult with others to collect information. Some boards rely only on their own interactions with the executive when assessing performance. Others feel that relying on board perceptions is too narrow, and collect information from multiple sources. Since in most organizations board members interact primarily with the executive and rarely with staff, a failing executive has an easier time hiding problems from the board than from staff.

The choice of which information sources really varies with the board and its goals. Typical sources include:

- The executive's own written evaluation of his or her performance, outlining his or her accomplishments and concerns for the year.
- A compilation of the reports submitted to the board, either specifically in preparation for evaluation or throughout the year. (You may wish to use the "nonprofit dashboard" described in another *Ten Things* booklet, *Strong Partners: Building an Excellent Working Relationship between the Nonprofit Board and Its Chief Executive*.⁵)

- Information collected from those staff who report directly to the executive (in larger organizations) or from the entire staff (in smaller organizations).
- Information from others with whom the executive interacts and whose perceptions impact organizational performance: clients or customers, funders, collaborating or partner organizations, volunteers, and even key members of the community.

Which of these sources you choose is also determined by the particular assessment approach you pick (see “Choose an Approach”). However, it is helpful if the executive is involved in selecting the sources.

The second aspect of this question is choosing who should conduct the annual review. This depends on the size and nature of the board. Most usual is for the board officers or a committee of the board to lead the evaluation process.⁶ This group reports on the evaluation data to the entire board. The in-person performance evaluation, again, depends on the board size and the nature of the evaluation. (See “Meet with the executive and document the review.”) In general, it is better to use seasoned board members with a deep knowledge of the organization.

Some organizations may use outside consultants to collect information or review executive performance. Keep in mind that evaluating the executive is like running an EKG on the heart of the organization: you will not get any closer to the pulse of the organization. If you use an external service, it should be as a contributing part of the overall effort. And, whether the in-person evaluation is presented by a committee, a board officer, or the entire board, the final evaluation must be the voice of the entire board. It is only as a single entity that the board has any power at all.

4.

Choose an Approach

To some extent, you are always evaluating the executive director, via observation at formal and informal meetings, in conversations you have with other volunteers, donors, and stakeholders—basically, any time you hear something about the executive or the organization, you are making an assessment that reflects on the executive. However, such judgments are quite personal, subject to interpersonal chemistry, and resistant to hard data about organizational performance.⁷

Personal judgments should always be questioned and compared to data when possible, both by the individual who holds the opinion and by others on the board. Unaired and unexamined judgments—whether rosy or negative—readily morph into strong

positions that can't be swayed by facts. Such positions prevent the board from guiding the executive objectively. Countless good executives have been fired and bad executives retained based solely on well-defended but woefully inaccurate personal perceptions. And that is bad for the organization.

By adopting a systematic approach to evaluation, your board can reduce the subjectivity of the information collected.

Boards usually choose from among three options when evaluating the executive.

- **Option A:** Assessment of performance via survey
- **Option B:** Assessment of “performance-to-plan” or organizational performance
- **Option C:** Assessment of executive's strengths and weaknesses

For clarity, we've separated these into three approaches. In reality, organizations often combine these options. In some cases, they will cast a very broad net, (sometimes called a “360-degree assessment”). They may review only the organization and interpret the results as a reflection of the director, or they may use the combined approach to review the executive director. At the conclusion of this booklet, we'll describe how one organization actually reviews its director—not as a model for you to follow, but as an illustration of what works in one organization.

Let's explore each of the options above with attention to their benefits and drawbacks. Points five, six, and seven below will explain how to conduct each approach.

Option A: Assessment of performance via survey

Surveys can help you gather performance information from a variety of sources. Typically, survey questions are geared to the categories established by in the executive job description, though they could also be tied to goals specified in an annual plan. Such areas might include finance, fundraising, community relations, human resources, program performance, planning, and governance. Surveys should be delivered only to the individuals and groups best able to provide feedback on executive performance—board members, staff, community members, other stakeholders—as noted in “Choose Monitoring Sources,” above. Generally, respondents are asked to rank various categories on a five-point scale. Open-ended questions may also be included.

Surveys have several advantages. They can be automated via online survey tools such as Survey Monkey (www.surveymonkey.com). They can be sent via email to a broader range of respondents, often using the same software, which may also provide systems for compiling and analyzing the responses. They can assure anonymity for those responding to the survey—ensuring the executive's staff can respond more honestly.

Surveys can also be tailored for different groups. For example, community members might receive only questions about the CEO's representation of the organization to



the community, while staff might receive a separate set of questions regarding internal communications.

The process of survey development forces the board to think through and specify criteria for evaluation, which the executive director can also see. Surveys can repeat certain long-term questions annually, enabling the board and executive to monitor changes over time. The survey assessment approach can also be helpful when an organization has not previously conducted an assessment and the board feels it needs the perceptions of others beyond the board.

But there are serious downsides. Unless questions are tested with a few people first and carefully worded, they may be easily misinterpreted. Hence, a poorly worded question can deliver useless or misleading results.⁸ Surveys tend to weight all performance aspects similarly, so if the director does a great job on community relations and finances but has failed at an area the board thinks is very minor, the less important category can “drag down” the overall score. Surveys rely on perceptions, so that if objective data show that the executive director has met all the new business generation goals set by the board, but the individuals surveyed believe that the executive has not generated new business, the survey will show poor performance. Surveys are impersonal, as well. As the group delivering the survey, you have no opportunity to probe an individual’s response. Similarly, the respondent can’t ask you to clarify the question. Additionally, due to anonymity, open-ended feedback can sometimes be critical in a way that is vindictive instead of constructive.

Finally, survey data can make highly subjective responses appear as iron-clad judgments. Surveys usually report numeric ratings for performance. We are conditioned to think that numbers are more reliable and “scientific” than words. For physics and math and extremely scrupulous studies, that is the case. For any survey used to gather perceptions about an executive director, the numbers are simply helpful guidance. They are not facts.

Option B: Assessment of performance-to-plan

Performance-to-plan assessments realize the implications of John Carver’s opening quote: Organizational performance is synonymous with chief executive performance. The approach in this case is that the board, with information from the executive and staff, sets organization-wide goals annually, consistent with the strategic plan and the policies it has developed. These are broad goals, achievable through a variety of means and through a coordination of the organization’s activities. To the degree possible, measurable but realistic results are specified. For example, the goal might be to generate a three percent surplus at fiscal year end. Usually, the manner in which the measurable result is achieved is not specified (except as limited by policies—for example, achieving the surplus through risky investments or buying lottery tickets would be prohibited by most board policies). The executive is then evaluated based

on the degree to which the objectives were actually met, bounded by situations outside the executive's control (for example, a surprise—a facility failure, natural disaster, or legislative change—that requires consuming the surplus the executive was so scrupulously building).

This approach has several advantages. It keeps the board in its all-important policy-setting role, and the executive in the policy-realization role. It keeps the board out of the micromanaging details, and frees the executive to focus on results delivery. In other words, the focus is on making the organization succeed, per the board's direction. The approach also concentrates on measurable outcomes, which lessens the impact of subjective personal opinion, and potentially reduces conflict over strongly held positions.

This approach works well with a strong board and a confident, proven executive director; in such cases the measurable outcomes can yield dramatic growth and change. It works well with boards that are almost exclusively focused on governing (policy-setting).

There are disadvantages to this approach. It does not readily take into account broad environmental changes that may require a shift in priorities, particularly when the board does not recognize the changed situation and will not adjust policy measures accordingly. It does not lend itself to assessing less tangible aspects of management that lead to organizational success. Its focus on means (getting results) could also result in executive behavior that contradicts other important organizational values, if those values have not been expressly stated in board policies.

This approach, theoretically appealing, has real limits for many nonprofit organizations—small organizations with budgets less than \$500,000.

First, resource restrictions limit the organization's capacity to collect and organize the data required for the "objective" monitoring described above.

Second, board members in these small organizations often do double duty. One moment they are directors who set policy and supervise the executive. The next moment, they are volunteer staff who greet new clients, stuff envelopes, or run the phone tree for the annual fundraiser. This is an inherent and unavoidable conflict of interest (though it is manageable). The board members are supervising the executive in their policy role, and doing the executive's bidding in their staff volunteer role. Holding the executive fully responsible for the delivery of service is acceptable when the executive can fire the employee or volunteer at will. But when that service is actually being provided by a board member who is one of the executive's supervisors, there's an obvious problem. How does the executive reprimand a board member who influences the rest of the board—who is one of his bosses? No matter how scrupulous board members are about this dual role, the conflict exists.

This situation—resource restrictions and inherent conflict of interest—is less than ideal, but it is a fact of life for many nonprofits. Such organizations can benefit from the discipline of the performance-to-plan model, but they must be aware of their reporting (monitoring) restraints and the situation wherein board members double as service volunteers. With regards to the reporting restraints, boards have to take care not to demand reports the organization doesn't have the resources (financial or time) to deliver. And with regards to their dual roles, wise boards and executive directors simply need to do their best to manage the complex situation.

Option C: Assessment of executive's strengths and weaknesses

In the strengths and weaknesses approach, the executive and board list and discuss the executive's strengths and weaknesses. They then focus on action plans for building on the strengths and addressing the weaknesses. In a typical strength and weakness review, the board will look at the job description, annual plan, and previous year's professional development goals. It may provide a rating for activities within each of these categories.

Option C is the most subjective and the least formulaic of the three approaches described in this briefing booklet. It is advantageous when the board has a more intimate relationship with the executive, and when the board prefers the comfort of a somewhat informal, qualitative discussion with the director. In general, there is a “gentle” feel to the approach; the board takes on a role similar to that of a supervisor who provides coaching to help the employee reach top performance. Boards can talk with the executive in the broad context of how the organization is doing and how the executive should tweak his management style to serve the needs of the organization.

Organizations with longtime executive directors known for some essential and difficult-to-replace strengths can use the “weaknesses” portion of the review to seek, with the director, ways to compensate for those weaknesses that don't ask the director to “fix” performances areas that are unfixable or not worth the executive's time. In this way, the strength/weaknesses approach facilitates discussion about what the organization needs, what the executive director can do best, and how to match needs with strengths. Personal though it is, the strengths/weaknesses model helps board and executive discuss performance in the context of the organization, its environment, the board, and the executive's specific skill set.⁹

The highly subjective nature of this approach can be considered one of its drawbacks. It also may be more difficult to connect this approach to organizational performance, as it tends to look more at skills and professional performance than at the degree to which the executive is managing the organization to produce the results the board desires. It can be very easy explain away performance problems that are genuinely hindering the organization. In organizations with a charismatic, powerful leader and a weak board, years of poor performance can be ignored until the problems threaten the

entire organization. Even when the board and executive are honest about weaknesses, it can be difficult to decide when too many changes are required to account for natural weaknesses.

Ultimately, the board is not the executive's coach. Its job is to set policy and direction for the organization, and to hold the executive accountable for accomplishing its directions. While an attractive and comfortable approach, the strength/weakness approach should be used carefully.

Some boards of directors combine performance reviews with a review of the entire organization, using a "360-degree assessment" which takes in the perceptions from multiple stakeholders and may also include reports such as those provided by the nonprofit dashboard. This format has been borrowed from the for-profit world. It often uses survey tools, such as in Option A, with a goal to gather data from all stakeholders on the organization's performance. The 360-degree assessment holds the executive directly accountable for the organization's performance, as in Option B.

The benefit of this type of assessment is that it properly builds context for the chief executive's performance: the board sees how the executive is doing as a part of how the organization is doing as whole. It is especially helpful for board members who don't fully understand the challenges facing their executive.

However, boards need to be careful not to overweight the perceptions of other stakeholders. External stakeholders are in the position of the proverbial blind men and the elephant. They see only the very small part of the organization that they interact with—and hence may give unfairly glowing or negative reviews as a result. A client who sat too long on one isolated, bad day in a waiting room is going to give an angry review, while one whose family was rescued from disaster will be unflinching loyal to the organization, and perhaps the executive, for life. Since one can never know the mood of a respondent in an anonymous survey, attend to comments but don't take them as gospel.

None of these approaches are ideal, and governance experts disagree about their use. Some governance experts (notably Carver) advocate for monitoring the organization only, and evaluating the executive according to the organization's performance. Others advocate for the replacement of all of these approaches with year-round communications that focuses on the entire system, of which the executive director's actions is just one part.¹⁰

However, all experts would agree that boards are failing in their duty if they do not regularly assess the executive director's performance. If your board has not yet established a regular system to evaluate the director, begin immediately; pick the approach that's most likely to get you started rather than the one you think is "best." If your



board has long experience with evaluations, compare the approach you currently use with the three described above and consider whether changes would be in order.

Regardless of whether you choose one or a combination of these approaches or some alternate approach, your board must focus on being sure to evaluate at least annually, on setting careful objectives for the executive, and on providing continuous honest feedback.

5.

Option A: Conduct an Executive Performance Survey

Surveys typically look at the aspects of executive performance most important to the board. Survey questions could be derived from the items in the executive director's job description, from goals set in the previous year, or both. The decision of what to survey should involve both the board and the executive, who will most likely have specific issues he or she wants to probe for deeper feedback.

Organizations that gather responses from a variety of audiences may tailor questions for each audience. For example, board members receive one version—perhaps the most thorough—that focuses on all the areas that the board needs to assess. Meanwhile, if community relations is important to the organization, a separate brief survey goes to community members, focusing on the executive's interaction with the community. If the work of the organization involves participation in advocacy coalitions, another survey might collect opinions from coalition members about the executive's work in the coalition, testimony at the legislature, and so forth.

When monitoring performance relative to the job description, collect information related to the categories expressed in that description. Typical performance areas include:

- Administrative management (including staff management)
- Professional skills, problem solving, and decision-making
- Business development
- General leadership
- Community and public relations
- Board relations
- Planning, finance, budgeting
- Fundraising
- Compliance with policies
- Risk management

Questions relative to these areas might include:

- (For board relations) How satisfied are you with the executive director's provision of timely information to the board?
- (For policy compliance) How satisfied are you with the director's performance in ensuring that the organization complies with new HIPPA regulations?
- (For business development) How satisfied are you with the new early childhood reading program acquired by the executive director?

If the board intends to use the same questionnaire over time, with an executive who likely will have long-term tenure or with a job description that is stable even as executives change, the repetition of certain questions over several years carries the added benefit of providing a longitudinal look at executive performance.

When monitoring performance relative to annual objectives, the survey should include those subjective areas that can't be demonstrated via internal reports. For example, if the annual plan includes an objective such as "improved community outreach," the survey should collect perceptions of those who witnessed the outreach. When the annual plan includes an objective visible via report, such as generating surplus revenue of three percent or better, than there's no need to waste valuable survey space (and respondent time) by asking such a question.

With such surveys, a six-point scale is effective. Typically, these scales are some variation on:

5. Outstanding
4. Significantly exceeds expectations
3. Meets expectations
2. Needs improvement
1. Unsatisfactory
- N/A Not applicable/Don't know

Surveys can also include open-ended questions. For example, you might ask:

- What were the executive director's most compelling, significant, or beneficial accomplishments in the past year?
- In what specific ways might the executive improve her performance?
- Any other comments?

Keep in mind that audiences have limited interest and time to fill out surveys. Board members may want to collect information on thirty items, but a community member may not respond to more than five questions, and a busy staff member may have time for fifteen. And remember, someone (likely someone on the board) is going to have to compile and analyze the responses for the board. Don't ask for more information than you have time to compile, analyze, and use.



Surveys tend to assign the same level of importance to every question. The board may need to know that the executive is performing adequately relative to risk management, but their concern about the executive's planning and decision-making responsibilities is much greater. To deal with this, some boards attach a "weighting" factor as it computes the relative value of each answer. If a particular item accounts for only five percent of the executive's time and the board's priority, while another area gets 30 percent, weight them accordingly.

A related issue is that people interpret scales differently. Some are tough graders, some are easy graders, and some will vary their application of the scale as they proceed through the questions. The discrepancies in "grading" can be reduced by increasing the number of people surveyed.

Another issue is that wordy survey questions are easy to misconstrue. For example, one survey available online asks the respondent to respond "remarkable, satisfactory, unsatisfactory, or unknown" to the following question:

"[The executive] serves as an effective spokesperson for the agency; represents the programs and points of view of the organization to agencies, organizations, and the general public."¹¹

This survey question really combines two questions into one: a) a question about whether the executive was an "effective spokesperson"; and b) a question about whether the executive represented the organization to "agencies, organizations, and the general public." Some respondents will interpret the question as a general inquiry about the executive's qualities as a spokesperson. Others will break the questions into its components, which renders it all but unanswerable. For example, how do you respond if the executive was effective with the general public but ineffective with agencies? For this reason, structure your survey to ensure that you ask only one question in each survey item. Use fewer words, not more, to ask your question. If an example is necessary, add an example—after the question—as a point of clarification. With this in mind, the above question might have been better worded, "How effective is the executive as a public spokesperson for the organization?"

Since you won't be there to explain what you mean by a question, check your questions with a few people to be sure your question are clear and elicit useful responses.

There are links below to some helpful online survey templates. None are perfect—and some contain good examples of questions that combine too many elements—but they can help you see how a survey can be structured. Use the online template samples to develop your own surveys that incorporate areas your board is most concerned about.

This survey, from the Minnesota Council of Nonprofits, is perhaps one of the most thorough: http://www.mncn.org/info/template_hr.htm#Sample%20Executive%20Director%20Evaluation%20Form.

5. Option A: Conduct an Executive Performance Survey

Carter McNamara's well known nonprofit site, ManagementHelp.Org, provides a basic but helpful starting template. It can be viewed at: www.managementhelp.org/boards/edvalfrm.htm

The Board Café, a free online newsletter for boards at www.boardcafe.org, offers a third template: <http://www.compasspoint.org/boardcafe/details.php?id=74>

There are many other sample surveys available; a simple search of the Internet will get you there.

6.

Option B: Monitor Performance-to-Plan

As noted, the board must have a plan, with specific, hopefully quantifiable results if it is to use the performance-to-plan approach. The details of every plan change year to year. Unlike the categories addressed in surveys, plan categories tend to be about specifics such as performance to budget, development of new programs, increases in revenue, number of public speaking events, and so forth. Annual plans are about the organization rather than the executive. And when written with care, the plans are about results, not activity. So, a plan may specify that 1,000 school children will receive training in the organization's area of expertise. The executive is measured on the degree to which the organization actually accomplishes or exceeds that result.

An evaluation on performance-to-plan may use a simple form such as in the following partial example, which also rates the performance.¹²



Results Specified	Performance Result	Rating	Notes
Generate a three percent surplus at fiscal year end	No surplus generated, but see notes.	Acceptable	Court-ordered change in regulation required immediate hire of two new staff, as approved by board. Board informed that the choice would result in negative-to-break even budget for the fiscal year.
Raise \$50,000 in unrestricted funds	\$77,800 raised	Exceeds goal	New e-advocacy system expanded donor base
Train 1,000 school children in local school district	1,222 children trained	Exceeds goal	Initial follow-up with teachers shows improved organizational skills.
Lobby executive branch for regulatory changes to early education eligibility	No action taken	Failed goal	Executive states that she re-directed staff activity given other priorities and time constraints. Board regrets shift and expects action.
Formalize HR processes; hire HR director per budget	HR director hired; Policy manual rewritten; Continuous improvement program instituted	Exceeds goal	Salary approved by board proved too low. Variance approved. New HR director is aggressively moving goals forward.

As with the survey option, various components in the plan may be weighted differently. In the example above, the executive did not cause the organization to perform one of the tasks. The executive director may have been negligent, or may have made a calculated assessment that other priorities were more valuable. In discussion, the board expressed the importance of this priority and notes that it expects action.

7.

Option C: Prepare a Strengths and Weaknesses Evaluation

A strengths and weaknesses evaluation can begin with the job description for the executive, but isn't limited to that. The partial example below, for a younger organization with an entrepreneurial leader shows how a chart can be used that shows the responsibilities, strengths, weaknesses, and responsibilities for each, and additional categories may be added.¹³

Responsibility	Strength	Weakness	Action Plan
External relations: Communicates organizational mission, vision, and programs to constituents, other publics as needed	A real strength. Excellent presenter. Quickly develops rapport with constituents, regardless of background; seen as "friend" in the community.	Could be better at remembering factual and statistical details related to programs and clients.	Develop method to capture annual stats on our programs and include in presentations. Combine numbers with moving anecdotes.
Resource development: Develops fundraising strategies; ensures that adequate funds are available for programs and goals	Excellent at talking with donors and prospects. Fundraising goals have been met.	Follow up on foundation grants is inconsistent. Keeps donor and prospect data "in his head."	Develop plan to systematize development; develop budget to hire development director and submit to board.
Board relationships: Models effective working relationships with board members; delivers reports as required by board	Warm, easy working relationship with all board members.	Requested reports delayed or incomplete.	Executive notes that there is not enough time or staff to develop the reports the board requires. Work with board member Amy W. to develop a plan for improved reporting.
(Other categories as needed)			

Additional objectives

- Improve follow through on board requests for information
- Develop organization policies manual
- Systematize staff supervision—ensure that performance reports are provided for all employees on time
- Develop regular e-news communications

Board role in achieving objectives

- Board member Niki B. will work with accountant to develop reporting template
- Board member Charles S. will assist on the formalization of personnel policies and the creation of a manual and the development of an annual performance review mechanism
- Board member Darnell W. will create a template and schedule for an e-newsletter

8.

Meet with the Executive and Document the Review

An effective evaluation focuses the board members' individual perceptions and expectations. If the evaluation also includes perceptions from staff, the community, or other stakeholders, these also must be compiled. The board only has power as a body, and it must come to agreement on the overall thrust of the evaluation before the performance appraisal meeting. The evaluation is not a time for board members to air personal differences. The board should plan on a discussion prior to meeting with the executive, during which members agree to a common set of performance criteria and bring forth any unspoken expectations, concerns, and praise for the executive. The individual or group charged with compiling and summarizing the results of external data collection and organizational reports should have these documents fully prepared before the meeting, so that all can see the actual data.

The review meeting

Once the board has prepared its overall expectations and review, it's time to meet with the executive. Some boards have the board chair alone conduct the actual review. Others use the executive committee, the personnel committee, or the full board. Larger boards can have difficulty reaching consensus, and, if not managed well, can appear to "gang up" on the executive director. At the same time, the board has to decide if it is comfortable leaving the actual evaluation to a sole member or a representative committee.

Evaluation meetings can be uncomfortable. The data collection, the executive's own participation in the development of the review process and questionnaires, and the board's pre-review meeting should help to diminish the discomfort. Set the meeting at a time (and place) that eliminates outside distractions; you want every participant's full attention. So, this is not a dinner meeting, and if it is held during work hours, other staff must not be able to interrupt. Arrange the room to encourage discussion and opinions. If at all possible, don't put the executive on one side of the table and the review group on the other. And, when a group is conducting the in-person evaluation, have a point person who is responsible for keeping communications on track and healthy. Charge this person with ensuring that everyone, including the executive director, speaks.

Start the meeting by emphasizing accomplishments and strengths, using specific examples from the reports and information you've collected. Build on the strengths and then move to the areas of concern. Discuss these with diplomacy, but be specific about what needs improvement and which goals were not met. Allow ample room for discussion of whether goals or responsibilities were unrealistic, not specific enough, were inadequately funded as a result of board action, and when the executive director did not have the requisite knowledge or skill to deliver the result.

For unmet goals, the board will need to decide whether to move them to the next plan, or whether circumstances have changed so that the goal is no longer relevant. New goals for the next performance period can also be discussed during this meeting. Speak in terms of the results required, and ask the executive director to develop a plan and budget to meet the goal. Be sure that all goals are actually items the executive director can be expected to deliver, given the resources available and current environment. Don't demand more than can be reasonably expected.

Documenting the review

After the evaluation is complete, a board member should write it up as a formal report. This report should include:

- The accomplishments during the period and the documentation for those
- Ratings (if a survey or rated approach was used)
- A list of unmet goals (if any) and explanations
- Next year's goals (noting if they are from the organization's annual plan, discussions during the performance review, or both)
- Dates for any required follow-up with the executive director
- A list of professional development needs and opportunities, along with how the board will support the development through budget and other resources

The executive should sign and date the report, noting that he or she has read and understood the contents. The written report also needs room for the executive director to respond in writing. Those who participated in the in-person assessment need to sign the review. A summary should be delivered to the full board (if all were not present), and the report should be filed in the executive director's personnel file.

Consider Compensation

There is no easy way to assign monetary value to a person's performance—especially in the nonprofit world, where mission is so critical and people are often afraid to talk about money.

Experts are divided on whether to connect compensation discussions to the performance review. Some argue that parties won't talk openly about strengths and weaknesses when the discussion influences salary. Thus, compensation negotiations and performance assessment should be separate. This argument is nice in theory, but it dismisses the reality that compensation is an expression of value delivered; separating the discussions may be artificial.

Some argue that compensation drives behavior, and so performance should be directly linked to it. In this view, people should be paid for the value they deliver, and should be rewarded more handsomely for delivering greater value. However, that argument also has weaknesses. People derive rewards from a variety of sources, of which money is only one. The "value exchange" between employer (board) and employee (executive) is complex. Executives work for a compote of emotional rewards, altruism, relationships, prestige, challenge, money, and much more. Skew one of the ingredients too much, and the flavor no longer pleases. (A poorly conducted evaluation, or badly framed critiques can certainly upset the recipe.)

Whether or not performance evaluation and compensation are linked, the amount the board pays the executive does ultimately make a statement about the value it places on his or her performance. Chief executive salary also announces the competitive position the board wants the organization to hold in the nonprofit marketplace.

This booklet offers no recommendation on which approach is better—we only point out the advantages and disadvantages of each. That said, compensation is likely to come up some time near the performance review. The following tips will help you consider an appropriate value.

- Research the compensation of executive directors for similar organizations in your region. You can look to comparisons based on size, budget, field of practice, and background expectations of the CEO. You can make direct calls to your peers on the boards of other organizations; review their form 990s (using Guide-star.org), use reports provided by your state nonprofit association, and reports provided by professional salary review groups. If yours is a small organization with limited funds, a larger peer in the community may be willing to share their data.

- Consider the position of your organization in the marketplace. Who do you compete with? What do they pay their executives? How do you want to appear relative to those organizations?
- Consider the performance of your executive director relative to those of his or her peers.
- Consider the cost of retaining your current executive and of hiring a replacement. What would you need to pay to get the executive you want?
- Consider internal equity. How does the executive's salary, and the means by which it is set, compare to other salaries in the organization?
- Avoid undue persuasion by the chief executive—and avoid the perception of such persuasion. In salary negotiations, the board needs to have done its research separate from that of the executive. The board or its designee should research and supply comparative figures. If a firm is hired to do the research, that firm should report to the board, not the executive director.
- Remember, it's not just salary—it's a compensation package. Sabbaticals, time off, retirement planning, paid education, and so forth are all part of the picture.
- It's about the budget, too. No matter how much you feel your executive is worth, compensation has to be justifiable within a sound financial policy.
- Public perception is important. Donors who sense that a CEO is exorbitantly paid may choose to move their loyalties elsewhere. Underpayment also sends messages (true or not) about the financial state of the organization, its quality, and its concern for employee wellbeing.
- If you tie compensation incentives directly to performance, identify both the incentives and the criteria for measuring successful attainment of goals many months ahead of the evaluation. Take care that the total compensation (including incentives) does not grow beyond the marketplace.
- Remember that the IRS is watching. Excessive compensation can result in the loss of tax-exempt status.
- Be sure that the entire board has discussed and approved the compensation package.¹⁴

10.

Avoid Common Problems¹⁵

Boards run into predictable problems related to evaluation. Check the following list to prepare for and avoid these.

- **Procrastination.** The board delays the evaluation for a meeting, then another, and then another...
- **Accentuating only the negative.** The board focuses only on problems, neglecting the executive's accomplishments.

- **Accentuating only the positive.** Fearing conflict, board members sugarcoat their concerns, and add a creamy nougat filling of vague praise for good measure. The executive never hears board concerns directly. Thus, he or she can't modify performance—or correct members' misperceptions.
- **Banking concerns for the big date.** The board stores its concerns for months, then vents them all on the executive during the review.
- **Reviewing personality, not performance.** Both matter, but personality matters when it influences the organization's accomplishments. You don't have to like the executive—you have to value the results he or she achieves through careful management of the organization.
- **Failing to debrief.** After each evaluation, the board should consider what worked and what didn't, including the executive director's frank appraisal of the process. Plan immediately for changes that will have an impact on the next evaluation cycle.
- **Forgetting the executive director's context.** The board may set plans and priorities, but absent input from staff, these plans and priorities can quickly overwhelm the executive director with demands. Remember, the executive director is also serving staff, volunteers, and other constituents.
- **Emphasizing the wrong outcomes.** The board focuses on performance-to-plan, but it has picked the wrong measures of success. Or, it attaches too much weight to performance measures that bring little benefit to the organization. The executive, closer to the work, chooses other outcomes more likely to bring success, and is judged a poor performer—for “failing” to do the wrong things!
- **Choosing the wrong assessment approach.** The board adopts someone else's evaluation system, chooses a boilerplate form off the Internet, doesn't get input on what to evaluate from the executive, follows outside guidance uncritically, or otherwise doesn't diligently prepare to assess its executive.
- **Ignoring situational changes during the year.** The board may have carefully set measurement criteria in the previous year. But a lot can change in a year—and the executive has to make adjustments, sometimes on the fly. While the executive director should be informing the board of such adjustments, the board's rigid adherence to criteria that no longer fit only sends the message that the executive should focus on the board's directives at the expense of organizational effectiveness. It's also a cue that the board's directives may be too narrow and inflexible.
- **Delaying feedback.** The executive director needs to hear board feedback when the board has it. The formal evaluation should be a place to sum and enrich the feedback that has gone on throughout the year.
- **Neglecting to evaluate itself.** The board comes down hard on the director but ignores its own problems and the role those may play in hindering the executive. Since it doesn't take time to evaluate its own performance, its judgment of the executive can be fairly questioned.

Wrapping it up

Here is how the process played out in one organization; we've changed the name of the organization to protect confidentiality. The organization, FZT, is an environmental advocacy group with a staff of thirteen and an annual budget just under two million dollars. The executive has been with the organization for many years and is well-respected as an effective manager and a community leader. As you read the brief description, note how it actually combines the methods we've described in this booklet.

At FZT, the board chair conducts the evaluation of the executive director. The executive director fills out a self-evaluation form that contains goals from the previous year's evaluation. The goals are a combination of organizational performance and individual improvement goals. The chair then contacts a range of other board members and some staff to discuss the executive's performance. At their option they may also contact organizational partners, colleagues, or stakeholders who may have some special experience or perspective on the executive director's performance that year. The entire board is encouraged to contact the chair if they have anything they'd like to add.

The chair then fills out the supervisor's portion of the evaluation and meets with the executive to review it. During that meeting goals and objectives are identified for the following year and salary is negotiated on a preliminary basis.

The evaluation is then presented to the full board in closed session and the salary negotiation is ratified or amended.

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This booklet has covered a lot of ground. You've learned what to consider when planning to assess the director, the pros and cons of various approaches, how to conduct three different types of evaluation, how to hold and document the evaluation meeting, what to think about when compensating the executive, and typical problems to avoid.

If there is only one thing you take away, it is that your board must systematically provide formal feedback of some sort to the executive. To a large degree, the performance of your executive director and the performance of the organization are one in the same. The executive needs your input to deliver the policies, priorities, and plans you have set.

Done well, the performance evaluation is a powerful dialog that helps executive and board move closer to their shared goal—turning the organization's vision into reality.

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¹ Carver, John. "Monitoring: Relaxing about the Present...So We Can Get on with the Future!," Carmel, Indiana: Carver Governance Design, Inc., monograph, 1989. p.5.

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³ BoardSource, Nonprofit Governance Index 2007. Washington, D.C.: BoardSource, 2007, p 18.

⁴ Adapted from *The Nonprofit Board Book: Strategies for Organizational Success*. Anthes, Earl, et al. West Memphis, AK: Independent Community Consultants, 1983. page 113.

⁵ See page 11 of Strong Partners for a sample "dashboard."

⁶ Occasionally, the chief executive is also a member of the board. Clearly, in these cases the executive director needs to recuse himself or herself from the evaluation process (and compensation, if it is part of the discussion).

⁷ It should be noted that some board consultants advise basing the evaluation of the executive only on data collected through monitoring activities that are reported according to the policy demands of the board. Others recommend collecting a broad base of opinions.

⁸ A typical problem—one that shows up in numerous survey questionnaires – is the inclusion of more than one item in a question. Consider, for example, the question on "How satisfied are you that the executive director has developed appropriate goals and strategies to advance the vision and mission?" The question contains four evaluative items that could exist in 24 combinations: goals, strategies vision, and mission. A thoughtful respondent cannot answer this question honestly. And a thoughtful board can't really use the information. Better would be to ask one question about each item, or to ask a single, more general question, "How satisfied are you that the executive director has advanced the cause of the organization?"

⁹ Writers on leadership—notably Peter Drucker—have advised that it is better to spend time playing to strengths than to focus on repairing weaknesses.

¹⁰ Temkin, Terrie, "Evaluating the Executive Director: Part 2 – Making Executive Director Evaluations Effective," <http://www.uwkc.org/nonprofit/governance/edeval/Evaluating%20the%20Executive%20Director%20Part%202.pdf>

¹¹ "Annual Evaluation of the Executive Director" by Board Café referenced at <http://www.uwkc.org/nonprofit/governance/edeval/Annual%20Evaluation%20of%20the%20Executive%20Director.pdf>

¹² Adapted from Masaoka, Jan. *The Best of the Board Café: Hands-on Solutions for Nonprofit Boards*. St. Paul, MN: Fieldstone Alliance Inc., 2003, p 61.

¹³ Ibid, p 62.

¹⁴ Portions of this list adapted from Vogel, Brian, and Charles Quatt. "Determining Executive Compensation," Washington, DC: National Center for Nonprofit Boards, 1995. <http://www.tgci.com/magazine/Determining%20Executive%20Compensation.pdf>.

¹⁵ Some tips are adapted from Temkin, Terrie, "Evaluating The Executive Director: Part 1—Why Evaluations of the Executive Director Don't Work," October, 2002. Available at <http://www.uwkc.org/nonprofit/governance/edeval/Evaluating%20the%20Executive%20Director%20Part%201.pdf>

About the Author

VINCENT HYMAN, series editor, is an award-winning writer, editor, and publisher. After leading the development of the nonprofit publishing center at Amherst H. Wilder Foundation and the publishing program of Fieldstone Alliance, Inc., he founded Vincent Hyman Editorial Services, with expertise in nonprofit management, foundation effectiveness, policy, marketing, and related issues. He is editor of scores of books, coauthor of *Coping with Cutbacks: The Non-profit Guide to Success When Times Are Tight*, author of numerous web and print articles, and has three decades of experience in writing, editing, and organizational communications.



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MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

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MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT

February 2021

IN THIS ISSUE

- What is a CDD?
- What is the Stormwater Management System
- CDD Organization

VISIT OUR WEBSITE

<https://www.moodyrivercdd.net/>
for meeting schedule, agenda,
minutes, etc.

MEET YOUR BOARD OF SUPERVISORS

CHRIS JENNER

Chair
Seat 1

WILLIAM KEELER

Assistant Secretary
Seat 2

ROBERT GELTNER

Assistant Secretary
Seat 3

JOHN TECKORIUS

Supervisor Elect
Seat 4

VACANT

Supervisor Elect
Seat 5

DEAR RESIDENT,

You are receiving this newsletter as our records indicate that you are a resident of Moody River Estates and we would like to take this opportunity to introduce you to the Moody River Estates Community Development District (CDD) and what it does for you.

WHAT IS A CDD?

A CDD is a local unit of special purpose government that is established pursuant to Chapter 190 of the Florida Statutes and by local County Ordinance. The CDD was established by County Ordinance in November 2004. The CDD is governed by a five (5)-member elected Board of Supervisors (the "Board") [see the side margin for names and titles]. Additionally, as a small local unit of special purpose government, the CDD hires professional administrative consultants to serve part time in what would typically be a full-time capacity in a larger unit of government. These specific consultants provide Management/Accounting, Legal and Engineering services.

CDDs are very common in this area. There are currently over 575 active CDDs throughout Florida. The original developer established the Moody River Estates CDD with an initial purpose of issuing tax exempt revenue bonds to finance the community's basic infrastructure during development. During the development of the community and, as infrastructure was completed, the CDD acquired potable water and sewer facilities, which was, in turn, conveyed to Lee County Utilities. It also acquired, operates and maintains, the storm water management system, which includes the lakes, wetland/preserves and the interconnecting pipes and control structures.

The CDD collects non ad valorem assessments that are a part of your County property tax bill each year, to offset the annual repayment obligation of the bonds and to also fund the ongoing operations and maintenance of the aforementioned infrastructure the CDDs continue to own and operate. The CDDs ownership and operation responsibilities for the infrastructure will continue in perpetuity.

For more information on how Community Development Districts are created and operate, you may view Chapter 190, under the Florida Statutes section, at www.leg.state.fl.us/statutes/index.

DID YOU KNOW?

The CDD encompasses approximately 320 acres.

The CDD owns and operations 21 stormwater lakes encompassing 39.98 acres and 25 wetland/preserves encompassing 47.48 acres.

The CDD owns and operates the primary drainage pipe and control structure system which connects the aforementioned lakes and wetlands and serves to receive, store, treat and convey stormwater runoff during storm events.

The CDD is governed by a five (5) member Board of Supervisors. The members of the Board are resident of the Moody River Estates Community Development District.

WHAT IS THE STORMWATER MANAGEMENT SYSTEM?



The CDDs storm water management system is comprised of 21 lakes, totaling 39.38 acres, and 25 wetland/preserves, totaling 47.48 acres, the interconnecting pipe work, between the lakes and wetland/preserves, and the control structures.

The storm water management system is maintained to meet very strict permit requirements through the use of licensed contractors, who specialize in lake and wetland/preserve maintenance. The lakes are constantly monitored and treated as needed, on a bi-weekly basis. In this regard, the CDD has a 20-foot lake maintenance easement (LME) around the perimeter of every lake to provide for access by the maintenance contractors. If you live on one of the community's lakes, please be sure to keep this easement (generally the first 20' along the immediate edge of the lake) free of obstructions (fences, excessive amounts of shrubs and trees and other fixed structures). The wetland/preserves are reviewed and maintained to be free of state recognized exotic and invasive vegetation on a semiannual basis.

Lake bank erosion can be a very serious issue for a community as the cost of restoring lake banks, can be significant. The planted littoral shelf areas, installed and maintained by the CDD, help to protect against the negative influences of storm water run-off and wave action, which can erode exposed lake banks.

LAKE BANK RESTORATION PROGRAM

Visit our website: <https://www.moodyrivercdd.net/>. Our lake/wetland exhibit map can be found on this page.

This year the District will be focusing on continued required restoration projects. Restoration required to Lakes 8,15-19.

Storm water lakes fluctuate between the dry and wet seasons with the lowest water levels typically being realized in April and May and which can be 1 foot, or more, lower than the normal lake level or Control Elevation. When, for water quality purposes, a storm water lake includes a planted littoral shelf then there is an area along the perimeter of the lake that has a flat or up to a 10:1 sloped area to 2 feet below the Control Elevation. This area is intended to support the installation and management of beneficial aquatic plants. As indicated earlier, the beneficial aquatic plants are an effective means of erosion control along exposed lake banks, as their root zones will hold and stabilize the soil and minimize negative effects normally associated with water run-off, especially during times of low water levels, as well as natural wave action. An equally important benefit of the aquatic plants includes their ability to passively improve the water quality, through their absorption of fertilizers, chemicals and other impurities that run-off of lawns, golf courses and roadways during storm events. Additional benefits include providing habitat for fish and birds as well aesthetic benefits, particularly during the seasonal blooming periods.

YOUR CDD STAFF

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YOU CAN HELP KEEP OUR STORMWATER SYSTEM CLEAN

By ensuring that your landscaper does not:

- Fertilize between June 1st and September 30th (the rainy season). With the heavy rains of summer, most of the fertilizer during this period will find its way directly into the lakes and can lead to excessive algae blooms.
- Dump or blow grass clippings into the lake, wetland or conservation areas. As grass clippings decompose, they release high levels of phosphorous and nitrogen (key nutrients in fertilizer) which leads to algae blooms and water quality degradation).
- Damage or remove beneficial aquatic plants along the edge of lake. These plants stabilize the lake banks and absorb fertilizer run off thus improving the water quality in the lakes.
- The catch basins and associated pipe work lead directly to the lakes, so please take the bags home with you.
- Dump or discharge any other foreign items or fluids into the lake or roadside gutter or catch basin system.
- See attached Best Management Practices provided by Lee County or visit www.fertilizesmart.com.

If you should observe anyone exercising one of the aforementioned “do not’s” or if you should have any questions regarding the CDD, please contact the District Manager’s office at (239) 498-9020.

CDD ORGANIZATION

The Moody River Estates Community Development District is organized similar to other local governments in Florida, in that the governing body is comprised of a five-member board, known as the Board of Supervisors. The Board establishes the policies of the District in accordance with Florida Law. The Board, by law, must hire a District Manager and District Counsel. The Board, through advertised Requests for Qualifications, ranks and selects a District Engineer to perform the engineering needs of the District. The District Manager and the District Counsel administer the operations of the District and implement the Board’s policies and contracts. Community Development Districts are not unlike other forms of local government, such as cities and counties; however, similar to other special taxing districts their powers are limited solely to the provision of infrastructure and services for master planned developments.

CLUBHOUSE AT MOODY RIVER ESTATES

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YOUR HOA

KW PROPERTY MANAGEMENT & CONSULTING

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Garnet Dasher

Property Manager

Katie Scott

Administrative Assistant



MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

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Hopping Green & Sams

Attorneys and Counselors

MEMORANDUM

TO: District Managers

FROM: Hopping Green & Sams

DATE: December 2020

RE: Section 448.095, *Florida Statutes* / E-Verify Requirements

As you may be aware, the Florida Legislature recently enacted Section 448.095, *Florida Statutes*, which, generally speaking, requires that all employers verify employment eligibility using the United States Department of Homeland Security's "E-Verify" system. Specifically, Section 448.095(2)(a) provides:

"Beginning January 1, 2021, every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system."

Section 448.095(1), F.S., defines "public employer" to be any "regional, county, local, or municipal government . . . that employs persons who perform labor or services for that employer in exchange for salary, wages, or other remuneration or that enters or attempts to enter into a contract with a contractor." Because all CDDs and stewardship districts (together, "Special Districts") enter into contracts with contractors (and many Special Districts have employees), all Special Districts are subject to the new E-Verify requirements.

As a District Manager, there are two steps that need to be taken:

1. Enroll your Special Districts on the E-Verify system, at: <https://www.e-verify.gov/>. An E-Verify enrollment checklist is available at <https://www.e-verify.gov/employers/enrolling-in-e-verify/enrollment-checklist>. In order to enroll, all Special Districts must enter into a memorandum of understanding ("MOU") which must be executed by the chairperson of each board. Under the MOU, the responsibilities of the Special Districts include provision of contact information, display of notices to prospective employees, completion of an E-Verify tutorial, familiarization with the E-Verify User Manual, and other obligations. Samples of the MOU and E-Verify User Manual are attached here.
2. On a going forward basis, include the following contract provision in Special District contracts:

E-VERIFY REQUIREMENTS

The Contractor shall comply with and perform all applicable provisions of Section 448.095, *Florida Statutes*. Accordingly, beginning January 1, 2021, to the extent required by Florida Statute, Contractor shall register with and use the United States Department of Homeland Security's E-Verify system to verify the work authorization status of all newly hired employees. The District may terminate this Agreement immediately for cause if there is a good faith belief that the Contractor has knowingly violated Section 448.091, Florida Statutes.

If the Contractor anticipates entering into agreements with a subcontractor for the Work, Contractor will not enter into the subcontractor agreement without first receiving an affidavit from the subcontractor regarding compliance with Section 448.095, *Florida Statutes*, and stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of such affidavit for the duration of the agreement and provide a copy to the District upon request.

In the event that the District has a good faith belief that a subcontractor has knowingly violated Section 448.095, *Florida Statutes*, but the Contractor has otherwise complied with its obligations hereunder, the District shall promptly notify the Contractor. The Contractor agrees to immediately terminate the agreement with the subcontractor upon notice from the District. Further, absent such notification from the District, the Contractor or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated s. 448.09(1), Florida Statutes, shall promptly terminate its agreement with such person or entity.

By entering into this Agreement, the Contractor represents that no public employer has terminated a contract with the Contractor under Section 448.095(2)(c), *Florida Statutes*, within the year immediately preceding the date of this Agreement.

Please let us know if you have any questions regarding the new law. We appreciate your attention to this matter, and can be reached at 850-222-7500.



Company ID Number: _____

THE E-VERIFY MEMORANDUM OF UNDERSTANDING FOR EMPLOYERS

ARTICLE I PURPOSE AND AUTHORITY

The parties to this agreement are the Department of Homeland Security (DHS) and the _____ (Employer). The purpose of this agreement is to set forth terms and conditions which the Employer will follow while participating in E-Verify.

E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of Form I-9, Employment Eligibility Verification (Form I-9). This Memorandum of Understanding (MOU) explains certain features of the E-Verify program and describes specific responsibilities of the Employer, the Social Security Administration (SSA), and DHS.

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. § 1324a note). The Federal Acquisition Regulation (FAR) Subpart 22.18, "Employment Eligibility Verification" and Executive Order 12989, as amended, provide authority for Federal contractors and subcontractors (Federal contractor) to use E-Verify to verify the employment eligibility of certain employees working on Federal contracts.

ARTICLE II RESPONSIBILITIES

A. RESPONSIBILITIES OF THE EMPLOYER

1. The Employer agrees to display the following notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system:
 - a. Notice of E-Verify Participation
 - b. Notice of Right to Work
2. The Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Employer representatives to be contacted about E-Verify. The Employer also agrees to keep such information current by providing updated information to SSA and DHS whenever the representatives' contact information changes.
3. The Employer agrees to grant E-Verify access only to current employees who need E-Verify access. Employers must promptly terminate an employee's E-Verify access if the

employee is separated from the company or no longer needs access to E-Verify.

4. The Employer agrees to become familiar with and comply with the most recent version of the E-Verify User Manual.

5. The Employer agrees that any Employer Representative who will create E-Verify cases will complete the E-Verify Tutorial before that individual creates any cases.

a. The Employer agrees that all Employer representatives will take the refresher tutorials when prompted by E-Verify in order to continue using E-Verify. Failure to complete a refresher tutorial will prevent the Employer Representative from continued use of E-Verify.

6. The Employer agrees to comply with current Form I-9 procedures, with two exceptions:

a. If an employee presents a "List B" identity document, the Employer agrees to only accept "List B" documents that contain a photo. (List B documents identified in 8 C.F.R. § 274a.2(b)(1)(B)) can be presented during the Form I-9 process to establish identity.) If an employee objects to the photo requirement for religious reasons, the Employer should contact E-Verify at 888-464-4218.

b. If an employee presents a DHS Form I-551 (Permanent Resident Card), Form I-766 (Employment Authorization Document), or U.S. Passport or Passport Card to complete Form I-9, the Employer agrees to make a photocopy of the document and to retain the photocopy with the employee's Form I-9. The Employer will use the photocopy to verify the photo and to assist DHS with its review of photo mismatches that employees contest. DHS may in the future designate other documents that activate the photo screening tool.

Note: Subject only to the exceptions noted previously in this paragraph, employees still retain the right to present any List A, or List B and List C, document(s) to complete the Form I-9.

7. The Employer agrees to record the case verification number on the employee's Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.

8. The Employer agrees that, although it participates in E-Verify, the Employer has a responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees, or from other requirements of applicable regulations or laws, including the obligation to comply with the antidiscrimination requirements of section 274B of the INA with respect to Form I-9 procedures.

a. The following modified requirements are the only exceptions to an Employer's obligation to not employ unauthorized workers and comply with the anti-discrimination provision of the INA: (1) List B identity documents must have photos, as described in paragraph 6 above; (2) When an Employer confirms the identity and employment eligibility of newly hired employee using E-Verify procedures, the Employer establishes a rebuttable presumption that it has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act (INA) with respect to the hiring of that employee; (3) If the Employer receives a final nonconfirmation for an employee, but continues to employ that person, the Employer must notify DHS and the Employer is subject to a civil money penalty between \$550 and \$1,100 for each failure to notify DHS of continued employment

following a final nonconfirmation; (4) If the Employer continues to employ an employee after receiving a final nonconfirmation, then the Employer is subject to a rebuttable presumption that it has knowingly employed an unauthorized alien in violation of section 274A(a)(1)(A); and (5) no E-Verify participant is civilly or criminally liable under any law for any action taken in good faith based on information provided through the E-Verify.

b. DHS reserves the right to conduct Form I-9 compliance inspections, as well as any other enforcement or compliance activity authorized by law, including site visits, to ensure proper use of E-Verify.

9. The Employer is strictly prohibited from creating an E-Verify case before the employee has been hired, meaning that a firm offer of employment was extended and accepted and Form I-9 was completed. The Employer agrees to create an E-Verify case for new employees within three Employer business days after each employee has been hired (after both Sections 1 and 2 of Form I-9 have been completed), and to complete as many steps of the E-Verify process as are necessary according to the E-Verify User Manual. If E-Verify is temporarily unavailable, the three-day time period will be extended until it is again operational in order to accommodate the Employer's attempting, in good faith, to make inquiries during the period of unavailability.

10. The Employer agrees not to use E-Verify for pre-employment screening of job applicants, in support of any unlawful employment practice, or for any other use that this MOU or the E-Verify User Manual does not authorize.

11. The Employer must use E-Verify for all new employees. The Employer will not verify selectively and will not verify employees hired before the effective date of this MOU. Employers who are Federal contractors may qualify for exceptions to this requirement as described in Article II.B of this MOU.

12. The Employer agrees to follow appropriate procedures (see Article III below) regarding tentative nonconfirmations. The Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Employer agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer agrees to provide written referral instructions to employees and instruct affected employees to bring the English copy of the letter to the SSA. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending. Further, when employees contest a tentative nonconfirmation based upon a photo mismatch, the Employer must take additional steps (see Article III.B. below) to contact DHS with information necessary to resolve the challenge.

13. The Employer agrees not to take any adverse action against an employee based upon the employee's perceived employment eligibility status while SSA or DHS is processing the verification request unless the Employer obtains knowledge (as defined in 8 C.F.R. § 274a.1(l)) that the employee is not work authorized. The Employer understands that an initial inability of the SSA or DHS automated verification system to verify work authorization, a tentative nonconfirmation, a case in continuance (indicating the need for additional time for the government to resolve a case), or the finding of a photo mismatch, does not establish, and should not be interpreted as, evidence that the employee is not work authorized. In any of such cases, the employee must be provided a full and fair opportunity to contest the finding, and if he or she does so, the employee

may not be terminated or suffer any adverse employment consequences based upon the employee's perceived employment eligibility status (including denying, reducing, or extending work hours, delaying or preventing training, requiring an employee to work in poorer conditions, withholding pay, refusing to assign the employee to a Federal contract or other assignment, or otherwise assuming that he or she is unauthorized to work) until and unless secondary verification by SSA or DHS has been completed and a final nonconfirmation has been issued. If the employee does not choose to contest a tentative nonconfirmation or a photo mismatch or if a secondary verification is completed and a final nonconfirmation is issued, then the Employer can find the employee is not work authorized and terminate the employee's employment. Employers or employees with questions about a final nonconfirmation may call E-Verify at 1-888-464-4218 (customer service) or 1-888-897-7781 (worker hotline).

14. The Employer agrees to comply with Title VII of the Civil Rights Act of 1964 and section 274B of the INA as applicable by not discriminating unlawfully against any individual in hiring, firing, employment eligibility verification, or recruitment or referral practices because of his or her national origin or citizenship status, or by committing discriminatory documentary practices. The Employer understands that such illegal practices can include selective verification or use of E-Verify except as provided in part D below, or discharging or refusing to hire employees because they appear or sound "foreign" or have received tentative nonconfirmations. The Employer further understands that any violation of the immigration-related unfair employment practices provisions in section 274B of the INA could subject the Employer to civil penalties, back pay awards, and other sanctions, and violations of Title VII could subject the Employer to back pay awards, compensatory and punitive damages. Violations of either section 274B of the INA or Title VII may also lead to the termination of its participation in E-Verify. If the Employer has any questions relating to the anti-discrimination provision, it should contact the Immigrant and Employee Rights Section, Civil Rights Division, U.S. Department of Justice at 1-800-255-8155 or 1-800-237-2515 (TTY) or go to <https://www.justice.gov/ier>.

15. The Employer agrees that it will use the information it receives from E-Verify only to confirm the employment eligibility of employees as authorized by this MOU. The Employer agrees that it will safeguard this information, and means of access to it (such as PINS and passwords), to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the Employer who are authorized to perform the Employer's responsibilities under this MOU, except for such dissemination as may be authorized in advance by SSA or DHS for legitimate purposes.

16. The Employer agrees to notify DHS immediately in the event of a breach of personal information. Breaches are defined as loss of control or unauthorized access to E-Verify personal data. All suspected or confirmed breaches should be reported by calling 1-888-464-4218 or via email at E-Verify@dhs.gov. Please use "Privacy Incident – Password" in the subject line of your email when sending a breach report to E-Verify.

17. The Employer acknowledges that the information it receives from SSA is governed by the Privacy Act (5 U.S.C. § 552a(i)(1) and (3)) and the Social Security Act (42 U.S.C. 1306(a)). Any person who obtains this information under false pretenses or uses it for any purpose other than as provided for in this MOU may be subject to criminal penalties.

18. The Employer agrees to cooperate with DHS and SSA in their compliance monitoring and evaluation of E-Verify, which includes permitting DHS, SSA, their contractors and

other agents, upon reasonable notice, to review Forms I-9 and other employment records and to interview it and its employees regarding the Employer's use of E-Verify, and to respond in a prompt and accurate manner to DHS requests for information relating to their participation in E-Verify.

19. The Employer shall not make any false or unauthorized claims or references about its participation in E-Verify on its website, in advertising materials, or other media. The Employer shall not describe its services as federally-approved, federally-certified, or federally-recognized, or use language with a similar intent on its website or other materials provided to the public. Entering into this MOU does not mean that E-Verify endorses or authorizes your E-Verify services and any claim to that effect is false.

20. The Employer shall not state in its website or other public documents that any language used therein has been provided or approved by DHS, USCIS or the Verification Division, without first obtaining the prior written consent of DHS.

21. The Employer agrees that E-Verify trademarks and logos may be used only under license by DHS/USCIS (see [M-795 \(Web\)](#)) and, other than pursuant to the specific terms of such license, may not be used in any manner that might imply that the Employer's services, products, websites, or publications are sponsored by, endorsed by, licensed by, or affiliated with DHS, USCIS, or E-Verify.

22. The Employer understands that if it uses E-Verify procedures for any purpose other than as authorized by this MOU, the Employer may be subject to appropriate legal action and termination of its participation in E-Verify according to this MOU.

B. RESPONSIBILITIES OF FEDERAL CONTRACTORS

1. If the Employer is a Federal contractor with the FAR E-Verify clause subject to the employment verification terms in Subpart 22.18 of the FAR, it will become familiar with and comply with the most current version of the E-Verify User Manual for Federal Contractors as well as the E-Verify Supplemental Guide for Federal Contractors.

2. In addition to the responsibilities of every employer outlined in this MOU, the Employer understands that if it is a Federal contractor subject to the employment verification terms in Subpart 22.18 of the FAR it must verify the employment eligibility of any "employee assigned to the contract" (as defined in FAR 22.1801). Once an employee has been verified through E-Verify by the Employer, the Employer may not create a second case for the employee through E-Verify.

a. An Employer that is not enrolled in E-Verify as a Federal contractor at the time of a contract award must enroll as a Federal contractor in the E-Verify program within 30 calendar days of contract award and, within 90 days of enrollment, begin to verify employment eligibility of new hires using E-Verify. The Employer must verify those employees who are working in the United States, whether or not they are assigned to the contract. Once the Employer begins verifying new hires, such verification of new hires must be initiated within three business days after the hire date. Once enrolled in E-Verify as a Federal contractor, the Employer must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.

b. Employers enrolled in E-Verify as a Federal contractor for 90 days or more at the time of a contract award must use E-Verify to begin verification of employment

eligibility for new hires of the Employer who are working in the United States, whether or not assigned to the contract, within three business days after the date of hire. If the Employer is enrolled in E-Verify as a Federal contractor for 90 calendar days or less at the time of contract award, the Employer must, within 90 days of enrollment, begin to use E-Verify to initiate verification of new hires of the contractor who are working in the United States, whether or not assigned to the contract. Such verification of new hires must be initiated within three business days after the date of hire. An Employer enrolled as a Federal contractor in E-Verify must begin verification of each employee assigned to the contract within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever is later.

c. Federal contractors that are institutions of higher education (as defined at 20 U.S.C. 1001(a)), state or local governments, governments of Federally recognized Indian tribes, or sureties performing under a takeover agreement entered into with a Federal agency under a performance bond may choose to only verify new and existing employees assigned to the Federal contract. Such Federal contractors may, however, elect to verify all new hires, and/or all existing employees hired after November 6, 1986. Employers in this category must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.

d. Upon enrollment, Employers who are Federal contractors may elect to verify employment eligibility of all existing employees working in the United States who were hired after November 6, 1986, instead of verifying only those employees assigned to a covered Federal contract. After enrollment, Employers must elect to verify existing staff following DHS procedures and begin E-Verify verification of all existing employees within 180 days after the election.

e. The Employer may use a previously completed Form I-9 as the basis for creating an E-Verify case for an employee assigned to a contract as long as:

- i. That Form I-9 is complete (including the SSN) and complies with Article II.A.6,
- ii. The employee's work authorization has not expired, and
- iii. The Employer has reviewed the Form I-9 information either in person or in communications with the employee to ensure that the employee's Section 1, Form I-9 attestation has not changed (including, but not limited to, a lawful permanent resident alien having become a naturalized U.S. citizen).

f. The Employer shall complete a new Form I-9 consistent with Article II.A.6 or update the previous Form I-9 to provide the necessary information if:

- i. The Employer cannot determine that Form I-9 complies with Article II.A.6,
- ii. The employee's basis for work authorization as attested in Section 1 has expired or changed, or
- iii. The Form I-9 contains no SSN or is otherwise incomplete.

Note: If Section 1 of Form I-9 is otherwise valid and up-to-date and the form otherwise complies with Article II.C.5, but reflects documentation (such as a U.S. passport or Form I-551) that expired after completing Form I-9, the Employer shall

not require the production of additional documentation, or use the photo screening tool described in Article II.A.5, subject to any additional or superseding instructions that may be provided on this subject in the E-Verify User Manual.

g. The Employer agrees not to require a second verification using E-Verify of any assigned employee who has previously been verified as a newly hired employee under this MOU or to authorize verification of any existing employee by any Employer that is not a Federal contractor based on this Article.

3. The Employer understands that if it is a Federal contractor, its compliance with this MOU is a performance requirement under the terms of the Federal contract or subcontract, and the Employer consents to the release of information relating to compliance with its verification responsibilities under this MOU to contracting officers or other officials authorized to review the Employer's compliance with Federal contracting requirements.

C. RESPONSIBILITIES OF SSA

1. SSA agrees to allow DHS to compare data provided by the Employer against SSA's database. SSA sends DHS confirmation that the data sent either matches or does not match the information in SSA's database.

2. SSA agrees to safeguard the information the Employer provides through E-Verify procedures. SSA also agrees to limit access to such information, as is appropriate by law, to individuals responsible for the verification of Social Security numbers or responsible for evaluation of E-Verify or such other persons or entities who may be authorized by SSA as governed by the Privacy Act (5 U.S.C. § 552a), the Social Security Act (42 U.S.C. 1306(a)), and SSA regulations (20 CFR Part 401).

3. SSA agrees to provide case results from its database within three Federal Government work days of the initial inquiry. E-Verify provides the information to the Employer.

4. SSA agrees to update SSA records as necessary if the employee who contests the SSA tentative nonconfirmation visits an SSA field office and provides the required evidence. If the employee visits an SSA field office within the eight Federal Government work days from the date of referral to SSA, SSA agrees to update SSA records, if appropriate, within the eight-day period unless SSA determines that more than eight days may be necessary. In such cases, SSA will provide additional instructions to the employee. If the employee does not visit SSA in the time allowed, E-Verify may provide a final nonconfirmation to the employer.

Note: If an Employer experiences technical problems, or has a policy question, the employer should contact E-Verify at 1-888-464-4218.

D. RESPONSIBILITIES OF DHS

1. DHS agrees to provide the Employer with selected data from DHS databases to enable the Employer to conduct, to the extent authorized by this MOU:

- a. Automated verification checks on alien employees by electronic means, and
- b. Photo verification checks (when available) on employees.

2. DHS agrees to assist the Employer with operational problems associated with the Employer's participation in E-Verify. DHS agrees to provide the Employer names, titles, addresses, and telephone numbers of DHS representatives to be contacted during the E-Verify process.
3. DHS agrees to provide to the Employer with access to E-Verify training materials as well as an E-Verify User Manual that contain instructions on E-Verify policies, procedures, and requirements for both SSA and DHS, including restrictions on the use of E-Verify.
4. DHS agrees to train Employers on all important changes made to E-Verify through the use of mandatory refresher tutorials and updates to the E-Verify User Manual. Even without changes to E-Verify, DHS reserves the right to require employers to take mandatory refresher tutorials.
5. DHS agrees to provide to the Employer a notice, which indicates the Employer's participation in E-Verify. DHS also agrees to provide to the Employer anti-discrimination notices issued by the Immigrant and Employee Rights Section, Civil Rights Division, U.S. Department of Justice.
6. DHS agrees to issue each of the Employer's E-Verify users a unique user identification number and password that permits them to log in to E-Verify.
7. DHS agrees to safeguard the information the Employer provides, and to limit access to such information to individuals responsible for the verification process, for evaluation of E-Verify, or to such other persons or entities as may be authorized by applicable law. Information will be used only to verify the accuracy of Social Security numbers and employment eligibility, to enforce the INA and Federal criminal laws, and to administer Federal contracting requirements.
8. DHS agrees to provide a means of automated verification that provides (in conjunction with SSA verification procedures) confirmation or tentative nonconfirmation of employees' employment eligibility within three Federal Government work days of the initial inquiry.
9. DHS agrees to provide a means of secondary verification (including updating DHS records) for employees who contest DHS tentative nonconfirmations and photo mismatch tentative nonconfirmations. This provides final confirmation or nonconfirmation of the employees' employment eligibility within 10 Federal Government work days of the date of referral to DHS, unless DHS determines that more than 10 days may be necessary. In such cases, DHS will provide additional verification instructions.

ARTICLE III

REFERRAL OF INDIVIDUALS TO SSA AND DHS

A. REFERRAL TO SSA

1. If the Employer receives a tentative nonconfirmation issued by SSA, the Employer must print the notice as directed by E-Verify. The Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Employer also agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer agrees to provide written referral instructions to employees and instruct affected employees to bring the English copy of

the letter to the SSA. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending.

2. The Employer agrees to obtain the employee's response about whether he or she will contest the tentative nonconfirmation as soon as possible after the Employer receives the tentative nonconfirmation. Only the employee may determine whether he or she will contest the tentative nonconfirmation.

3. After a tentative nonconfirmation, the Employer will refer employees to SSA field offices only as directed by E-Verify. The Employer must record the case verification number, review the employee information submitted to E-Verify to identify any errors, and find out whether the employee contests the tentative nonconfirmation. The Employer will transmit the Social Security number, or any other corrected employee information that SSA requests, to SSA for verification again if this review indicates a need to do so.

4. The Employer will instruct the employee to visit an SSA office within eight Federal Government work days. SSA will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary.

5. While waiting for case results, the Employer agrees to check the E-Verify system regularly for case updates.

6. The Employer agrees not to ask the employee to obtain a printout from the Social Security Administration number database (the Numident) or other written verification of the SSN from the SSA.

B. REFERRAL TO DHS

1. If the Employer receives a tentative nonconfirmation issued by DHS, the Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Employer also agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending.

2. The Employer agrees to obtain the employee's response about whether he or she will contest the tentative nonconfirmation as soon as possible after the Employer receives the tentative nonconfirmation. Only the employee may determine whether he or she will contest the tentative nonconfirmation.

3. The Employer agrees to refer individuals to DHS only when the employee chooses to contest a tentative nonconfirmation.

4. If the employee contests a tentative nonconfirmation issued by DHS, the Employer will instruct the employee to contact DHS through its toll-free hotline (as found on the referral letter) within eight Federal Government work days.

5. If the Employer finds a photo mismatch, the Employer must provide the photo mismatch tentative nonconfirmation notice and follow the instructions outlined in paragraph 1 of this section for tentative nonconfirmations, generally.

6. The Employer agrees that if an employee contests a tentative nonconfirmation based upon a photo mismatch, the Employer will send a copy of the employee's Form I-551, Form I-766, U.S. Passport, or passport card to DHS for review by:

- a. Scanning and uploading the document, or
- b. Sending a photocopy of the document by express mail (furnished and paid for by the employer).

7. The Employer understands that if it cannot determine whether there is a photo match/mismatch, the Employer must forward the employee's documentation to DHS as described in the preceding paragraph. The Employer agrees to resolve the case as specified by the DHS representative who will determine the photo match or mismatch.

8. DHS will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary.

9. While waiting for case results, the Employer agrees to check the E-Verify system regularly for case updates.

ARTICLE IV SERVICE PROVISIONS

A. NO SERVICE FEES

1. SSA and DHS will not charge the Employer for verification services performed under this MOU. The Employer is responsible for providing equipment needed to make inquiries. To access E-Verify, an Employer will need a personal computer with Internet access.

ARTICLE V MODIFICATION AND TERMINATION

A. MODIFICATION

1. This MOU is effective upon the signature of all parties and shall continue in effect for as long as the SSA and DHS operates the E-Verify program unless modified in writing by the mutual consent of all parties.

2. Any and all E-Verify system enhancements by DHS or SSA, including but not limited to E-Verify checking against additional data sources and instituting new verification policies or procedures, will be covered under this MOU and will not cause the need for a supplemental MOU that outlines these changes.

B. TERMINATION

1. The Employer may terminate this MOU and its participation in E-Verify at any time upon 30 days prior written notice to the other parties.

2. Notwithstanding Article V, part A of this MOU, DHS may terminate this MOU, and thereby the Employer's participation in E-Verify, with or without notice at any time if deemed necessary because of the requirements of law or policy, or upon a determination by SSA or DHS that there has been a breach of system integrity or security by the Employer, or a failure on the part of the Employer to comply with established E-Verify procedures and/or legal requirements. The Employer understands that if it is a Federal contractor, termination of this MOU by any party for any reason may negatively affect the

performance of its contractual responsibilities. Similarly, the Employer understands that if it is in a state where E-Verify is mandatory, termination of this by any party MOU may negatively affect the Employer's business.

3. An Employer that is a Federal contractor may terminate this MOU when the Federal contract that requires its participation in E-Verify is terminated or completed. In such cases, the Federal contractor must provide written notice to DHS. If an Employer that is a Federal contractor fails to provide such notice, then that Employer will remain an E-Verify participant, will remain bound by the terms of this MOU that apply to non-Federal contractor participants, and will be required to use the E-Verify procedures to verify the employment eligibility of all newly hired employees.

4. The Employer agrees that E-Verify is not liable for any losses, financial or otherwise, if the Employer is terminated from E-Verify.

ARTICLE VI PARTIES

A. Some or all SSA and DHS responsibilities under this MOU may be performed by contractor(s), and SSA and DHS may adjust verification responsibilities between each other as necessary. By separate agreement with DHS, SSA has agreed to perform its responsibilities as described in this MOU.

B. Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees, or against the Employer, its agents, officers, or employees.

C. The Employer may not assign, directly or indirectly, whether by operation of law, change of control or merger, all or any part of its rights or obligations under this MOU without the prior written consent of DHS, which consent shall not be unreasonably withheld or delayed. Any attempt to sublicense, assign, or transfer any of the rights, duties, or obligations herein is void.

D. Each party shall be solely responsible for defending any claim or action against it arising out of or related to E-Verify or this MOU, whether civil or criminal, and for any liability wherefrom, including (but not limited to) any dispute between the Employer and any other person or entity regarding the applicability of Section 403(d) of IIRIRA to any action taken or allegedly taken by the Employer.

E. The Employer understands that its participation in E-Verify is not confidential information and may be disclosed as authorized or required by law and DHS or SSA policy, including but not limited to, Congressional oversight, E-Verify publicity and media inquiries, determinations of compliance with Federal contractual requirements, and responses to inquiries under the Freedom of Information Act (FOIA).

F. The individuals whose signatures appear below represent that they are authorized to enter into this MOU on behalf of the Employer and DHS respectively. The Employer understands that any inaccurate statement, representation, data or other information provided to DHS may subject the Employer, its subcontractors, its employees, or its representatives to: (1) prosecution for false statements pursuant to 18 U.S.C. 1001 and/or; (2) immediate termination of its MOU and/or; (3) possible debarment or suspension.

G. The foregoing constitutes the full agreement on this subject between DHS and the

Employer.

To be accepted as an E-Verify participant, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify at 1-888-464-4218.

Approved by:

E-Verify Employer	
Name (Please Type or Print)	Title
Signature	Date
Department of Homeland Security – Verification Division	
Name (Please Type or Print)	Title
Signature	Date

Information Required for E-Verify	
Information relating to your Company:	
Company Name:	
Company Facility Address:	
Company Alternate Address:	
County or Parish:	

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

13

**MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT
FINANCIAL STATEMENTS
UNAUDITED
DECEMBER 31, 2020**

**MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT
BALANCE SHEET
DECEMBER 31, 2020**

	Major Funds		Total
	General	Debt Service Series 2017 A1 & A2	Governmental Funds
ASSETS			
Cash - SunTrust	\$ 808,542	\$ -	\$ 808,542
Investments			
Revenue 2017A1 & A2	-	115,568	115,568
Reserve 2017A1*	-	271,930	271,930
Reserve 2017A2*	-	82,803	82,803
Reserve sub 2017A1 & A2*	-	103,731	103,731
COI	-	4,825	4,825
Prepayment 2017A2	-	676	676
Due from other funds			
General	-	511,680	511,680
Total assets	<u>\$ 808,542</u>	<u>\$ 1,091,213</u>	<u>\$ 1,899,755</u>
LIABILITIES AND FUND BALANCES			
Liabilities:			
Due to other funds			
Debt service	\$ 511,680	\$ -	\$ 511,680
Total liabilities	<u>511,680</u>	<u>-</u>	<u>511,680</u>
Fund Balances:			
Restricted for:			
Debt service	-	1,091,213	1,091,213
Unassigned	296,862	-	296,862
Total fund balances	<u>296,862</u>	<u>1,091,213</u>	<u>1,388,075</u>
Total liabilities and fund balances	<u>\$ 808,542</u>	<u>\$ 1,091,213</u>	<u>\$ 1,899,755</u>

*These Reserve Accounts are specifically for the noted Debt Service Funds and may not be used for any other purpose."

**MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT
STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCES
GENERAL FUND
FOR THE PERIOD ENDED DECEMBER 31, 2020**

	Current Month	Year to Date	Budget	% of Budget
REVENUES				
Assessment levy	\$ 183,097	\$ 246,057	\$ 289,252	85%
Interest and miscellaneous	4	6	-	N/A
Total revenues	<u>183,101</u>	<u>246,063</u>	<u>289,252</u>	85%
EXPENDITURES				
Professional & admin				
Supervisor	-	-	6,459	0%
Management	3,733	11,201	44,802	25%
Accounting services	729	2,186	8,742	25%
Audit	-	-	5,800	0%
Assessment roll services	1,073	3,219	12,875	25%
Arbitrage rebate calculations	-	-	1,200	0%
Dissemination agent	83	250	1,000	25%
Trustee	3,709	3,709	3,709	100%
Legal - general counsel	156	156	12,000	1%
Engineering	-	-	4,000	0%
Postage	-	51	1,250	4%
Telephone	42	125	500	25%
Insurance	-	6,503	6,500	100%
Printing & binding	92	275	1,100	25%
Legal advertising	-	371	1,200	31%
Other current charges	53	162	750	22%
Website	-	-	750	0%
ADA website compliance	-	-	210	0%
Annual district filing fee	-	175	175	100%
Total professional & admin	<u>9,670</u>	<u>28,383</u>	<u>113,022</u>	25%
Water management				
Other contractual	-	5,550	110,000	5%
Utilities	3,691	7,340	39,500	19%
Aquascaping	-	-	5,000	0%
Total water management	<u>3,691</u>	<u>12,890</u>	<u>154,500</u>	8%
Other fees and charges				
Property appraiser	777	777	844	92%
Tax collector	183	365	1,266	29%
Total other fees and charges	<u>960</u>	<u>1,142</u>	<u>2,110</u>	54%
Total expenditures	<u>14,321</u>	<u>42,415</u>	<u>269,632</u>	16%
Excess/(deficiency) of revenues over/(under) expenditures	168,780	203,648	19,620	
Fund balance - beginning	<u>128,082</u>	<u>93,214</u>	<u>86,355</u>	
Fund balance - ending	<u>\$ 296,862</u>	<u>\$ 296,862</u>	<u>\$ 105,975</u>	

**MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT
STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCES
DEBT SERVICE FUND SERIES 2017A-1 and 2017A-2
FOR THE PERIOD ENDED DECEMBER 31, 2020**

	Current Month	Year to Date	Budget	% of Budget
REVENUES				
Assessment levy	\$ 381,320	\$ 512,441	\$ 603,651	85%
Interest	4	11	-	N/A
Total revenues	<u>381,324</u>	<u>512,452</u>	<u>603,651</u>	85%
EXPENDITURES				
Principal	-	-	330,000	0%
Principal prepayment	-	5,000	-	N/A
Interest	-	139,150	278,300	50%
Total expenditures	<u>-</u>	<u>144,150</u>	<u>608,300</u>	24%
Other fees and charges				
Tax collector	<u>382</u>	<u>762</u>	<u>-</u>	N/A
Total other fees and charges	<u>382</u>	<u>762</u>	<u>-</u>	N/A
Total expenditures	<u>382</u>	<u>144,912</u>	<u>608,300</u>	N/A
Excess/(deficiency) of revenues over/(under) expenditures	380,942	367,540	(4,649)	
Fund balance - beginning	<u>710,271</u>	<u>723,673</u>	<u>720,250</u>	
Fund balance - ending	<u>\$ 1,091,213</u>	<u>\$ 1,091,213</u>	<u>\$ 715,601</u>	

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

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DRAFT
MINUTES OF MEETING
MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

The Board of Supervisors of the Moody River Estates Community Development District held Virtual Public Hearings and Regular Meeting on August 20, 2020 at 1:00 p.m., via Zoom, at <https://us02web.zoom.us/j/81956146368> and 1-929-205-6099, Meeting ID 819 5614 6368.

Present at the meeting were:

Chris Jenner	Chair
Elizabeth Keeler	Vice Chair
William Keeler	Assistant Secretary
Paul Hoffman	Assistant Secretary
Robert Geltner	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant District Manager
Tammie Smith	Operations Manager
Mike Eckert	Hopping Green & Sams, P.A. (HG&S)
Wes Kayne	District Engineer
Racquel McIntosh	Grau & Associates
Terri Silva	HOA President

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mrs. Adams called the meeting to order at 1:02 p.m. All Supervisors were present. In consideration of the COVID-19 pandemic, this meeting was being held virtually, via Zoom, and telephonically, as permitted under the Florida Governor's Executive Orders, allowing local governmental public meetings to occur by means of communication media technology, including virtually and telephonically. The meeting was advertised to be held virtually and telephonically and the meeting agenda was posted on the District's website.

SECOND ORDER OF BUSINESS

Public Comments (*agenda items*)

There being no public comments, the next item followed.

THIRD ORDER OF BUSINESS**Presentation of Audited Financial Report
for the Fiscal Year Ended September 30,
2019, Prepared by Grau & Associates**

Ms. McIntosh presented the Audited Financial Report for Fiscal Year Ended September 30, 2019 and described the information that could be found on each page. This was a clean, unqualified audit with no findings or instances of noncompliance.

Mr. Geltner submitted questions regarding Page 18, Note 6, Long Term Liabilities, and redeeming the 2017 bonds prior to maturity, and asked if the District could reposition its investments to receive a higher rate of return, given the current financial conditions. Mr. Adams explained that the District renegotiated debt in 2017 and it included a 10-year no call provision. The bonds could be redeemed prior to maturity but only if certain events, as outlined in the Bond Indenture, occur. Mr. Geltner asked that the investments are reconsidered on an annual basis to ensure the District receives a higher rate of return, despite the District being confined to invest public funds in money markets and treasury backed investments, as high risk investments are not recommended.

FOURTH ORDER OF BUSINESS**Consideration of Resolution 2020-06,
Hereby Accepting the Audited Financial
Report for the Fiscal Year Ended
September 30, 2019**

Mr. Adams presented Resolution 2020-06.

**On MOTION by Ms. Keeler and seconded by Mr. Keeler, with all in favor,
Resolution 2020-06, Accepting the Audited Financial Report for the Fiscal Year
Ended September 30, 2019, was adopted.**

FIFTH ORDER OF BUSINESS**Public Hearing on Adoption of Fiscal Year
2020/2021 Budget****A. Proof/Affidavit of Publication**

The affidavit of publication was provided for informational purposes.

**B. Consideration of Resolution 2020-07, Relating to the Annual Appropriations and
Adopting the Budget for the Fiscal Year Beginning October 1, 2020, and Ending**

September 30, 2021; Authorizing Budget Amendments; and Providing an Effective Date

As directed, assessment levels remained the same across the board, as in prior years, with the exception of the East Property, which increased slightly. Mr. Adams stated that, at the direction of District Counsel, he emailed a revised assessment table to the Board, with the added column "Maximum Assessments". The mailed notices showed a slightly larger increase to avoid having to notice and hold public hearings for slight annual increases.

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

No members of the public spoke.

On MOTION by Mr. Geltner and seconded by Mr. Jenner, with all in favor, the Public Hearing was closed.

Mr. Adams presented Resolution 2020-07.

On MOTION by Mr. Jenner and seconded by Mr. Keeler, with all in favor, Resolution 2020-07, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2020, and Ending September 30, 2021; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

SIXTH ORDER OF BUSINESS

Public Hearing to Hear Comments and Objections on the Imposition of Maintenance and Operation Assessments to Fund the Budget for Fiscal Year 2020/2021, Pursuant to Florida Law

A. Proof/Affidavit of Publication

The affidavit of publication was provided for informational purposes.

B. Mailed Notice(s) to Property Owners

A copy of the Mailed Notice was included for informational purposes.

C. Consideration of Resolution 2020-08, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2020/2021; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date

Mr. Adams stated that a revised version of Resolution 2020-08 was emailed to the Board, as Section 2 of Resolution 2020-08, was revised to reference the column that was added to the assessment table.

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

No members of the public spoke.

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

Mr. Adams presented Resolution 2020-08.

On MOTION by Ms. Keeler and seconded by Mr. Keeler, with all in favor, Resolution 2020-08, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2020/2021; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date, was adopted.

SEVENTH ORDER OF BUSINESS

Update: Moody River Estates Community Association, Inc., Request to Participate in Lawsuit Against Developers

Mr. Eckert stated that HOA's Counsel responded and, after reviewing the various agreements that the District entered into with the Developer, the HOA was no longer asking the District to join in the lawsuit or consider this at this time.

EIGHTH ORDER OF BUSINESS

Consideration of Resolution 2020-09, Designating Dates, Times and Locations for Regular Meetings of the Board of Supervisors of the District for Fiscal Year 2020/2021 and Providing for an Effective Date

Mrs. Adams presented Resolution 2020-09.

On MOTION by Mr. Geltner and seconded by Mr. Jenner, with all in favor, Resolution 2020-09, Designating Dates, Times and Locations for Regular Meetings of the Board of Supervisors of the District for Fiscal Year 2020/2021 and Providing for an Effective Date, was adopted.

NINTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of June 30, 2020

Mrs. Adams presented the Unaudited Financial Statements as of June 30, 2020. The Financial Highlights Report was provided to the Board prior to the meeting. Next year the Board should discuss whether to continue with the unbudgeted expense of mailing the annual newsletter, which caused the "Postage" line item to exceed budget, or consider reverting back to posting it on the CDD website and having the HOA e-blast it to residents. She reviewed the water management related projects that were placed on hold due to impending weather conditions and noted that costs would appear on next month's financial statements. Mrs. Adams introduced Ms. Tammie Smith, the new District Operations Manager. The Unaudited Financial Statements were accepted.

TENTH ORDER OF BUSINESS

Approval of May 21, 2020 Virtual Public Meeting Minutes

Mrs. Adams presented the May 21, 2020 Virtual Public Meeting Minutes.

On MOTION by Mr. Keeler and seconded by Ms. Keeler, with all in favor, the May 21, 2020 Virtual Public Meeting Minutes, as presented, were approved.

- **Action Items**

Items 43, 44, 46, 47, 39 were completed.

Item 46: Regarding meetings with SOLitude's on-site technicians, Mr. Hoffman stated that the technician he observed appeared to be doing a good job. Mrs. Adams would have SOLitude notify Mr. Hoffman and Mr. Geltner when aeration and fountain technicians would be on site to perform repairs or conduct inspections.

Mrs. Adams would confirm whether the fountain lights at Lake #15 were repaired.

Item 47: Management was unable to comply with Mr. Geltner's request to provide real-time revenue collection data to the Board.

ELEVENTH ORDER OF BUSINESS

Staff Reports

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

Mr. Eckert reported the following:

➤ The Governor's Executive Order allowing virtual and telephonic meetings was extended to October 1, 2020.

➤ As the Florida Legislature's Spring Session would deal with the second part of Amendment 12, which would be to end elected officials as lobbyists for other people going in front of any other government, Board Members who represent people that should have development approval from local, state and federal government boards contact him, so he can provide the information and requirements for Amendment 12

B. District Engineer: *Barraco & Associates, Inc.*

There being no report, the next item followed.

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

- NEXT MEETING DATE: October 15, 2020 at 1:00 P.M.

- QUORUM CHECK

All Supervisors confirmed their attendance at the October 15, 2020 meeting.

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

Mrs. Adams presented proposals to cut down a tree in the conservation area that the Arborist deemed healthy but was evidently hit by lightning or to trim the branches that extend over Mr. Geltner's property posing a potential threat of property damage in a storm event. Mr. Eckert stated he advised Mrs. Adams to have Mr. Geltner file Form 8B - Memorandum of Voting Conflict and refrain from any discussion or voting on this matter and suggested having the tree trimmed to avoid potential disputes. Mrs. Adams asked for direction regarding protocol, as

homeowners typically are responsible for trimming overhanging trees. Mr. Adams agreed with Mr. Eckert's position and explained protocol, which is that the District is responsible for addressing trees along the edge of a preserve that threaten to cause property damage to homeowners' property but homeowners are responsible when there is no threat of damage. Mr. Geltner filed Form 8B and abstained from discussion and voting on this matter.

On MOTION by Mr. Hoffman and seconded by Mr. Keeler, with Mr. Hoffman, Mr. Keeler, Ms. Keeler and Mr. Jenner in favor and Mr. Geltner abstaining, authorizing Staff to proceed with the Lumberjacks Inc. Tree Service proposal to trim the limbs threatening Mr. Geltner's property, in a not-to-exceed amount of \$550, was approved. [Motion passed 4-0]

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

The above items were included for informational purposes.

TWELFTH ORDER OF BUSINESS

Public Comments (*non-agenda items*)

There being no public comments, the next item followed.

THIRTEENTH ORDER OF BUSINESS

Supervisor's Requests

There being no Supervisors' requests, the next item followed.

FOURTEENTH ORDER OF BUSINESS

Adjournment

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

On MOTION by Mr. Geltner and seconded by Mr. Hoffman, with all in favor, the meeting adjourned at 1:54 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

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Secretary/Assistant Secretary

Chair/Vice Chair

MOODY RIVER ESTATES CDD
August 20, 2020 Meeting for October 15, 2020 Meeting

ACTION ITEMS

DATE ADDED		
1.	01.18.18	Moving forward, any additional signs added to the conservation areas. It was requested to add the District's website address to those signs. STATUS: ONGOING
2.	05.10.18	Per Mr. Geltner, District Counsel to research the feasibility of using solar energy to augment or replace electrical usage. As Of 01.10.19 District Counsel will continue to monitor/study. As Of 03.14.19 Now looking into including the use of batteries. STATUS: ONGOING
45.	05.21.20	Management to include on the next in person agenda for discussion Mr. Geltner's proposed Resolution to add Staff Performance Review Policy to the Internal Controls Policy, STATUS: ONGOING
48.	05.21.20	Management to include in the agenda at the next available in person meeting; discussing Mr. Geltner's Issues List e-mailed to Management and deferred at the last meeting. STATUS: ONGOING
49.	08.20.20	Mrs. Adams to coordinate SOLitude contacting Mr. Hoffman and Mr. Geltner the dates when aeration and fountain technicians will be onsite to perform any type of repairs or inspections. STATUS: COMPLETED (subsequent to 08.20.20 meeting)
50.	08.20.20	Mrs. Adams to confirm the fountain lights at Lake #15 were repaired. STATUS: COMPLETED (subsequent to 08.20.20 meeting)

MOODY RIVER ESTATES CDD
August 20, 2020 Meeting for October 15, 2020 Meeting

ONGOING ACTION ITEMS

DATE ADDED

- | | | |
|----|-----------------|--|
| 5. | 08.16.18 | Board to monitor all project schedules provided by Mrs. Adams, such as the lake bank restoration 2019/2020 project schedule, fountain pumps and motor replacement schedule and aerator schedule. TRANSFERRED TO ONGOING LIST 05.09.19 |
| | | |
| 9. | 10.10.18 | Mrs. Adams tentatively scheduling littoral plantings at WL2-A for the end of November. TRANSFERRED TO ONGOING LIST 05.21.20 COMPLETED (subsequent to 08.20.20 meeting) |

MOODY RIVER ESTATES CDD
August 20, 2020 Meeting for October 15, 2020 Meeting

COMPLETED ITEMS
In Order of Date Moved to Completed

DATE ADDED		
3.	08.16.18	Mrs. Adams to include the aquatic bid specification package with the bid submittals and Consideration of Award of Contract Memorandum, going forward; and, provide the bid specification package to the Board. STATUS: COMPLETED 05.21.20
41.	01.09.20	Mrs. Adams to retrieve a December 16, 2019 email forwarded by Ms. Sandy with edits from the October 17, 2019 meeting minutes. STATUS: COMPLETED 05.21.20
42.	01.09.20	Mrs. Adams to schedule the lake bank restoration projects for the lakes in the District. STATUS: COMPLETED 05.21.20
39.	10.17.19	Per Ms. Sandy, Management to include a Conservation Liability Discussion item on the next agenda. STATUS: COMPLETED 08.20.20
43.	05.21.20	Mr. Eckert to discuss strategy of CDD involvement in lawsuit with HOA Counsel and update the Board. STATUS: COMPLETED 08.20.20
44.	05.21.20	Mr. Adams to send Board Members the link to the Supervisor's of Election website. STATUS: COMPLETED 08.20.20
46.	05.21.20	Mrs. Adams to coordinate SOLitude contacting Mr. Hoffman and Mr. Geltner the dates technicians will be onsite. STATUS: COMPLETED 08.20.20
47.	05.21.20	Mr. Adams to provide the Board real time revenue collection data. UPDATE: Management unable to provide. STATUS: COMPLETED 08.20.20

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

15C

MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT		
BOARD OF SUPERVISORS FISCAL YEAR 2020/2021 MEETING SCHEDULE		
LOCATION		
<i>Clubhouse at Moody River Estates, 3050 Moody River Blvd., North Fort Myers, Florida 33903</i>		
DATE	POTENTIAL DISCUSSION/FOCUS	TIME
October 15, 2020 CANCELED	Regular Meeting	1:00 PM
January 14, 2021 CANCELED	Regular Meeting	6:00 PM
February 11, 2021	Regular Meeting	6:00 PM
<i>The Best Western, 13021 N. Cleveland Avenue, Fort Myers, FL 33903</i>		
March 11, 2021	Regular Meeting	6:00 PM
May 20, 2021	Regular Meeting	1:00 PM
June 17, 2021	Regular Meeting	1:00 PM
August 19, 2021	Public Hearing & Regular Meeting	1:00 PM

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

15D



Wrathell, Hunt and Associates, LLC

TO: Moody River Estates Board of Supervisors

FROM: Cleo Adams – Assistant District Manager

DATE: January 14, 2021

SUBJECT: Monthly Status Report – Field Operations

Lake Maintenance: Solitude Lake Management continues to treat on a monthly basis, as necessary. As requested, Staff sends the HOA notification in advance of their schedules. Staff continues to provide Supervisor Geltner and Supervisor Hoffman of the Technician's name/number so that they can observe Solitude's treatment program. January treatment dates – 8th & 22nd.

Bank Stabilization Program: Staff reviewed the lakes on Tuesday, July 2nd for the required Bank Restoration projects, which included Lakes 6, 8, 9, 13, 18, 16, 17 & 19.

The 2020 bank restoration projects were completed for a cost of \$51,125.00 (Completed in September – delays due to Tropical Storm). These restoration projects were specific to Lakes 9 & 13. The littoral planting project was delayed due to budget constraints; however, it will be scheduled when summer rains commence. Cost for littorals \$2250.00, to include Spikerush, Pickerelweed and Arrowhead.

2021 Bank Restoration Projects: Lakes 8, 18 & a rework of Lake 7 - Cost \$55,248.00 against a budget of \$38,800.00, leaving a shortfall of \$16,448.00; however, recognizing your lake/wetland contract of \$33,300.00, leaving a positive balance of \$16,700.00 to cover the additional expense.

Lake #7: Staff has reviewed areas of the lake banks and has determined there are areas that require addressing. The cost includes removal of existing sod where erosion has occurred along lake's edge and install fill dirt to restore erosion areas. Tampen new fill dirt and install erosion fabric. Sod will be replaced upon completion - \$6,388.00.

Lake #5: Although this project is in compliance, Staff obtained cost associated to revisit this project to have the geo-tube cut and finish grade of 900 linear feet of existing, for aesthetic purposes. Cost \$5,700.00. This project will be scheduled when all other bank restorations have been resolved, as outlined on the attached spreadsheet.



Wrathell, Hunt and Associates, LLC

SFWMD: As a reminder, the District was notified in May 2020 that SFWMD conducted a field review and noted that we are in compliance, as we continue to restore the lake banks throughout.

Wetland Maintenance: Semi-annual maintenance of the wetlands were completed during the month of September. Maintenance of U-4 will be scheduled during the month of May. Maintenance includes removal of Brazilian peppers, Australian pines, downy rose myrtle and all other exotic or invasive plant materials as identified on the latest Florida Exotic Pest Council's list of Category I and II invasive and exotic species, as maybe updated from time to time.

Berm Compliance: The annual inspection to review District owned perimeter berms will be scheduled in the Spring – February/March time frame. Last year, Staff conducted this review with Supervisor Bill Keeler. Staff identified one area of concern located on Olde Banyan Blvd. which required raising of existing irrigation boxes, installing three yards of fill dirt, and 150 sq. ft of floritam sod. Cost \$1,404.00.

Note: Board should consider appointing one Supervisor to join Staff for this review.

Fountain & Aeration Repairs:

Fountain #10: Replacement – 5 HP Pump/Motor/Cable - \$3900.00.

Aeration #10: Replacement – Cabinet/Compressor/Exhaust Fan - \$796.00



Wrathell, Hunt and Associates, LLC

TO: Moody River Estates Board of Supervisors

FROM: Tammie Smith - Operations Manager

DATE: February 11, 2021

SUBJECT: Status Report – Field Operations

Lake Maintenance: Solitude continues to conduct lake treatments as required on a monthly basis. Treatment dates are scheduled for February 1st and 19th.

Lake Review: Staff conducted Lake reviews during the months of December, January and February, over all the lakes presented minimal concerns and appear to be maintained.

On December 2nd, staff observed Alligator Weed as well as Torpedo Grass at Lakes # 1- # 3, and at the NE end of Lake # 14.

On January 5th at Lake # 5 staff also observed submerged overgrown Torpedo Grass on both sides of the jetty.

During a review last week on February 2nd staff noted very low water levels at Lakes # 16 through # 21. Also observed, water shooting up like a geyser in the fountain at Lake # 15.

This information has been provided to Solitude for their review and treatment, these issues have been resolved.

Next Lake reviews are scheduled for March 5th, April 7th, & May 3rd.

MOODY RIVER ESTATES CDD

Key Activity Dates

Jan-21

Description	Reference	Submit To	Due Date	Date
Pond Maintenance	SOP	N/A	Conducted every other week, at minimum to the site to insure the success of the Aquatic Weed Control Program.	2 visits per month subject to change due to weather
Aeration &Fountain Inspection Review and Reporting	SOP	N/A	Bi-Annual Inspection completed October 29th.The next scheduled review will be sometime in April.	Apr-21
Wetland Maintenance	SOP	N/A	Bi-Annual Inspection and treatement schedule March/September yearly - U-4 (treated in May) Avoided during nesting season of the Bald Eagle (October/November thru April/May; depending on nest activity).	March/May/September
Proposed Budget	189.016, 189.418 & 200.065	Due to local governing authority (county or municipality)	Due to local governing authority (county or municipality) by June 15th each year.	6/15/2021
Annual Financial Audit	190.008/218.32 &39	Florida Department of Financial Services	45 days after the completion of the Annual Financial Audit but no more than 9 months after end of Fiscal Year	6/30/2021
Assessment Roll Certification	Local County requirement.	Local County Tax Collector	For most counties, submission and certification of the annual assessment roll is due by September 15th each year.	9/15/2021
Adopted Budget	189.016, 189.418 & 200.065	Due to local governing authority (county or municipality)	Due to local governing authority (county or municipality) by October 1st each year.	9/15/2021
Insurance Renewal	SOP	N/A	Bind Insurance for upcoming Fiscal Year with an effective of October 1st thru September 30th	10/1/2021

Qualified Public Depositor Annual Report to CFO	280.17	Department of Financial Services- Division of Treasury - Collateral Management.	By November 30 of each year, file annual report for the period ending September 30th.	11/30/2021
Fiscal Year Annual District Filing Fee and Update Form	190, 189.064 & 189.018 & Chapter 73C-24, F.A.C.	Florida department of Economic Opportunity (Special District Accountability Program)	Annual filing fee of \$175 is paid to the Florida department of Economic Opportunity. The filing of the Update Form is required to verify the status of the Special District and to update any changes (including changes to the registered agent). Filing Fee invoice and Update Form is mailed out by the State on October 1st of each year. The fee and form are due and must be postmarked by the following December 3rd.	12/3/2021

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

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Moody River Estates Community Development District
Meeting of 5-21-2020

For use during Supervisor Comments of Robert Geltner

E-Mailed to Management 5-20-2020

	ISSUE	MANAGEMENT COMMENTS	ACTION
	<p>Remind everyone that this is only opportunity for supervisors to talk with other supervisors.</p> <p>All those in attendance at this meeting are reminded, that supervisors are prohibited from discussing district business with other board members either one-on-one, by text, or, by E-Mail, other than at a duly called meeting of the board.</p> <p>Therefore, the only way that board members may become aware of other supervisors' opinions or conduct board business, that is communicate with one another, is through their interactions at these board meetings.</p>		
	<p>For the record, mention number of residents attending meeting.</p> <p>It is noted for the record that there are</p> <hr/> <p>people in attendance other than the board and professional staff.</p>		
1	<u>SOLITUDE AGREEMENT FOR POND MAINTENANCE</u>		
	Are all supervisors receiving Solitude e-mails with webinars, etc.?		
	Does Solitude contract (Agreement for Pond Maintenance Services) price include Solitude requirement to meet with management or board at least once a year?		
	<p>Does Solitude contract require Solitude to notify management in advance so that one supervisor can be designated to monitor Solitude activities?</p> <p>Fountains/Aeration Sep & Mar</p> <p>Uplands May & Oct</p> <p>Ponds 26 bi-weekly visits per year</p>		
	Does Solitude contract require Solitude to notify management of any other issues it observes, for example, need for additional work, replacement of pumps, fountains or other equipment, violations of any law, rule, regulation permit, etc.? See Section 6 of Agreement.)		
	In "Detailed Specifications" page 2 section 1, how does one determine whether things are being done using "sound aesthetic management", is there an objective standard or is this merely subjective?		
	Since the Agreement was first prepared, has there been no changes that might require the agreement or the detailed specifications to be		

	modified?		
	<u>OTHER ISSUES</u>		
2	Suggest CDD (perhaps together with HOA) retain a volunteer or commercial vendor to have a drone produce video evidence of condition of lakes, wetlands, uplands, conservation areas, fuel load in those areas, condition of shoreline, dead trees, missing vegetative buffers, etc.		
3	Internal controls policy, proposed amendments		
	Submit Motion to require periodic Management evaluation, establish board committee to prepare evaluation criteria and rating form or use one provided as starter form		
4	Vegetative Buffer Management: Follow-up work needed to lakes 5 & 15 (and possibly other lakes) where shore-sox, geo tubes, or similar material was installed but shoreline sodding was never completed leaving shoreline bare and aesthetically unpleasing. Are there other alternative erosion control solutions: riprap, bulkheads, coconut logs, etc. that might be appropriate to prevent erosion?		
5	Question regarding what is needed to complete cleaning and painting of entrance “bridge” panels facing lakes 1 and 3. This can only be accomplished reasonably at the end of dry season and before the rainy season while water levels are at the lowest levels. Note: There are several volunteers, including me willing to donate paint, generator, power washer and time to accomplish this project.		
6	Copy of 2020/2021 Assessment/Lien roll		
7	Copy of voter file (1,131 eligible voters)		
8	Copy of Bond Indenture		
9	Copy of “Deep Lake Management Plan”? Is CDD in compliance?		
10	Status of Lee County easement work Hancock Bridge Parkway at Moody Road (areas missing re-sodding)		
11	Reference to Minutes 1/9/2020 lines 121-136 relating to removal of excess “fuel” from conservation areas. What plans, if any, do management have related to removing fuel to decrease fire threat to homes adjacent to wetlands/uplands/ conservation areas? Shouldn’t this be something to be taken care of during early months of year before wild fire season of April-May-June?		
12	Bear observed in conservation area. Does CDD have duty to modify signage to warn residents not to allow attractants in or near their homes which might attract bears?		
13	Question regarding Legend on CDD Maintenance Map showing “Green” color as HOA owned/CDD maintained? Is the map accurate as to which parcels of land are HOA owned?		
14	Was there a Newsletter produced in February 2020? Was it posted on CDD website?		
	Reserve the right to add additional items at time of meeting.		