

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

The Board of Supervisors of the Moody River Estates Community Development District held Multiple Public Hearings and a Regular Meeting on August 19, 2021 at 1:00 p.m., at the Clubhouse at Moody River Estates, 3050 Moody River Blvd., North Fort Myers, Florida 33903.

**Present were:**

John Teckorius	Chair
Robert Geltner	Vice Chair
Chris Jenner	Assistant Secretary
Edward Pike	Assistant Secretary
Julie Canoura (via telephone)	Assistant Secretary

**Also present were:**

Chuck Adams	District Manager
Cleo Adams	Assistant District Manager
Shane Willis	Operations Manager
Mike Eckert	District Counsel
Wes Kayne	District Engineer
Neil Mathes	Barraco & Associates
Carl Barraco	Barraco & Associates
Tony Grau (via phone)	Grau & Associates
Susan Garling	HOA President
Terri Silva	Resident/HOA Vice President Board
David Pride	Resident
Susan Martin	Resident
Rick Doran	Resident

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mrs. Adams called the meeting to order at 1:00 p.m. Supervisors Teckorius, Geltner, Jenner and Pike were present, in person. Supervisor Canoura was attending via telephone.

Mr. Geltner reminded everyone that Board meetings and workshops are the only opportunity for Board Members to discuss CDD business or interact with each other. He informed homeowners that they would have two opportunities during the meeting to make comments and encouraged them to attend these meeting.

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

**August 19, 2021**

**Public Comments (3 minutes - agenda items)**

Resident David Pride asked for approval to plant a palm tree behind his residence to replace the 6' high weeds at the corner section of the preserve. The site plan location was identified. Mrs. Adams stated that, per the contract, evasive species are treated twice a year. She would issue a work order, as the next scheduled treatment would be in September. Regarding whether a tree can be planted, she would advise or present a proposal at the next meeting.

It was noted that the document behind Tab 9 was not on the agenda and was inadvertently placed in the agenda package.

Regarding the Ninth Order of Business, resident and HOA Board Vice President Terri Silva read and highlighted portions of the "Draft 5-Proposed Resolution related to Moody River Estates East July 25, 2021" handout Mr. Geltner prepared and expressed her opinion that certain language was incorrect and should be retracted. She asked if this was an official document.

**THIRD ORDER OF BUSINESS**

**Presentation of Audited Financial Report for the Fiscal Year Ended September 30, 2020, Prepared by Grau & Associates**

Mr. Grau presented the Audited Financial Report for the Fiscal Year Ended September 30, 2020 and highlighted the pertinent information in the Report. There were no findings, recommendations or instances of noncompliance, it was an unmodified opinion, known as a clean audit.

Mr. Geltner posed questions regarding calculations, using unassigned fund balance for working capital and FDIC protection on mutual funds. Mr. Grau explained how his firm arrived at the amounts in the Financial Highlights section.

In response to requests, the Fiscal Year 2022 budget would have 25% above the unassigned funds designated as "working capital".

Board Members were to be provided with information on the percentage of return on investments over last year.

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

**August 19, 2021**

**Consideration of Resolution 2021-07,  
Hereby Accepting the Audited Financial  
Report for the Fiscal Year Ended  
September 30, 2020**

Mrs. Adams presented Resolution 2021-07. Mr. Geltner requested amending Resolution 2021-07 to change certain paragraphs and include verbiage he read and handed out during the meeting. The following changes would be made to Resolution 2021-07:

Item "2": Change number from "2" to "3"

Insert the following new Item:

"2. The purpose of this acceptance is solely to comply with all applicable laws and not to be interpreted as an acceptance of the outcome of the audit or as an opinion as to the effectiveness or accuracy of the independent auditor's report, or the reasonableness of the audit procedures used by the auditor, or the effectiveness of the internal controls utilized by the MRE CDD Manager, or the existence or non-existence of material weaknesses/deficiencies in the MRE CDD internal controls, or presence or absence of materials misstatements or compliance with any MRE CDD internal controls by MRE CDD management."

**On MOTION by Mr. Geltner and seconded by Mr. Jenner, with all in favor, Resolution 2021-07, as amended, Hereby Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2020, was adopted.**

**FIFTH ORDER OF BUSINESS**

**Public Hearing on Adoption of Fiscal Year  
2021/2022 Budget**

**A. Proof/Affidavit of Publication**

The affidavit of publication was included for informational purposes.

**B. Consideration of Resolution 2021-08, Relating to the Annual Appropriations and Adopting the Budgets for the Fiscal Year Beginning October 1, 2021, and Ending September 30, 2022; Authorizing Budget Amendments; and Providing an Effective Date**

Mrs. Adams presented Resolution 2021-08.

Mr. Geltner asked about items in the Resolution and Mailed Notice. Mr. Adams stated that the Resolution provision in Section 3B is typical and allows the District Manager to implement an expenditure, if necessary, such as in emergency situations. The two Public Hearings referenced in the Mailed Notice would occur today, during the Fifth and Sixth Orders of Business.

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

No members of the public spoke.

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

Mr. Geltner was having difficulty reconciling assessment revenues reflected in the proposed Fiscal Year 2022 budget, Mr. Adams stated that he would research and provide an answer at the next meeting.

Mr. Teckorius asked if it would be beneficial if the CDD accepts the East units stormwater system and, if so, would the CDD be able to raise rates on the 69 lots. Mr. Eckert discussed the Settlement Agreement. Since it is worth researching because their current system is different than in 2012 and including the maximum cap amounts in the next Mailed Notice, this would be included on the May 2022 agenda for approval during the Fiscal Year 2023 budget discussions.

The following change would be made to the Fiscal Year 2022 budget:

Page 1, "Other contractual": Breakdown the category by items and costs as defined on Page 4.

**On MOTION by Mr. Teckorius and seconded by Mr. Geltner, with all in favor, Resolution 2021-08, Relating to the Annual Appropriations and Adopting the Budgets for the Fiscal Year Beginning October 1, 2021, and Ending September 30, 2022, as amended; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.**

**Public Hearing to Hear Comments and Objections on the Imposition of Maintenance and Operation Assessments to Fund the Budget for Fiscal Year 2021/2022, Pursuant to Florida Law**

- A. Proof/Affidavit of Publication**
- B. Mailed/Notice(s) to Property Owners**

These items were included for informational purposes.

- C. Consideration of Resolution 2021-09, Making a Determination of Benefit and Imposition Special Assessments for Fiscal Year 2021/2022; 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. Geltner requested including language regarding the approved Resolution and debt assessment information in the Mailed Notice to Property Owners.

At the Board's direction, for inclusion on the May 2022 agenda for approval during the Fiscal Year 2023 budget discussions, Mr. Eckert would provide language explaining the 2017 Bond debt assessment for the next time assessments increase and Mailed Notices are needed. He stated that the Notices typically only include information required by Florida Statutes.

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

Resident Susan Morton asked about the amount of the assessment increase and if it is associated with improving the community. As it was not, she asked if expenditures had to do with acquiring new property on the east side of Moody Road. Mr. Adams explained that the CDD allocated funding for a feasibility study. Ms. Morton asked the Board to clarify if they are thinking about purchasing the land and, if so, why.

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

Mr. Eckert stated that the feasibility study would be discussed later in the meeting.

Mrs. Adams presented Resolution 2021-09.

The following change would be made to Resolution 2021-09:

Page 1, last WHEREAS clause: After “service”, insert “pursuant to Resolution 2021-08 adopted on August 19, 2021”

**On MOTION by Mr. Geltner and seconded by Mr. Teckorius, with all in favor, Resolution 2021-09 as amended, Making a Determination of Benefit and Imposition Special Assessments for Fiscal Year 2021/2022; 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**

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

Mr. Kayne reported the following:

- Currently completing preparation of the Lake Bank Maintenance Limited Review Development Order (LDO) package in anticipation of submittal by the end of business tomorrow. The initial County review is expected to take three to four weeks. This is the first time doing this for a maintenance permit and relied on the original LDO plans for the lake bank sections and limits; he did not expect a lot of comments.
- Addresses were received for Moody North residences along the north and west that abut the canal and have potential encroachments and breaches on their swale or berm.
- A representative inspected the area on June 30, 2021 and found several conflicts between the permit plans and the rear yard conditions. The County and SFWMD permit plans were provided to Mr. Adams, along with concerns from the site observation that are non-compliant with the permit. The issues were mostly comprised of areas with the swale filled or different types of improvements, such as brick paver walkways, landscaping and some areas where the berm was re-graded slightly so it no longer captures storm water on site, as the permit requires.

A Board Member was concerned about current real estate transactions, not notifying homeowners of these issues and the CDD’s liability.

Mr. Teckorius wanted the violation letter to the homeowners to include Barraco and Associates' contact information. Mr. Kayne stated it would take about two or three weeks to inspect the entire community, by neighborhood, write all the observations and prepare reports and exhibits, depending on their current schedule, which is six to eight weeks out for certain items. Mrs. Adams confirmed that fund balance would be used to cover the costs.

Discussion ensued regarding the advantage of alerting the entire community that compliance issues were identified with the North and that the CDD is in the process of evaluating the South and Central areas, along with an HOA e-blast to homeowners indicating that the CDD is surveying the entire stormwater management system, swales and berms and violation notices may be forthcoming, which would require them to respond.

A Board Member asked if the CDD might be culpable in a lawsuit towards a real estate transaction that happens in North were the CDD has known about this issue but has not alerted the property owner or made disclosures to the purchaser. Mr. Eckert felt that the CDD is fine as long as it is taking reasonable action and coming up with an orderly way to address the issue. Ms. Canoura suggested notifying homeowners in violation whose homes are up for sale that they need to provide their Real Estate Agent a Property Disclosure Form.

A Board Member stated he wanted the District Engineer, not someone else's Engineer, doing the inspection, identifying solutions and notifying homeowners of non-compliance issues; he agreed that homeowners should complete a Non-Disclosure form and that the CDD should send community-wide notifications. Mr. Geltner felt that the CDD should pursue recovering pro-rated Engineering costs from homeowners who are in violation. Mr. Teckorius felt that the survey is for the benefit of the CDD, as its entire stormwater system has never been surveyed to ensure that the systems and lake banks are in order. He was in support of homeowners in violation being responsible for the repairs and notifying the CDD when the repairs are completed. The monuments will be inspected at another time.

HOA President Susan Garling suggested an HOA e-blast to the community informing homeowners that the District Engineer is inspecting the stormwater system and for the District Engineer to mail individual, friendly letters to homeowners who are in violation, with helpful information about how they should proceed to become compliant. She strongly suggested holding a Town Hall Meeting with the District Engineer presenting his report. She discussed

pieces within the Declaration that are going to affect and may impact those surrounding homeowners' property. Mr. Kayne would code those residences with significant impacts.

Mr. Eckert agreed with the suggestion of working with the HOA on an HOA e-blast to homeowners indicating that the District Engineer is inspecting the stormwater system community-wide and identifying non-compliance areas as well as potential solutions for specific issues. The Board consensus was for Mr. Eckert and Mr. Kayne to work on letters to homeowners with identified specific issues and send out within 10 days; certified receipt was not necessary at this time.

Mr. Kayne confirmed that the lots at Moody North, abutting the canal, were all inspected and documented. The \$6,500 for perimeter berm review, with exhibits, was approved at the last meeting and the \$5,000 lake bank review to do the observations, with exhibits, is to commence Spring of 2022 when water recedes and would include the lots that abut the lakes.

**On MOTION by Mr. Teckorius and seconded by Mr. Geltner, with all in favor, engaging Barraco & Associates to perform a survey of the District's entire Stormwater Management System at Moody River Estates Property, South, Central and North Lake 21, for \$6,500, with a not-to-exceed amount of \$10,000, was approved.**

It was clarified that Ms. Garling and Mr. Eckert will work on the e-blast and Mr. Geltner was designated to review it before it is sent to the community; Mrs. Adams should be copied.

Mr. Teckorius asked for the District Engineer and WHA Staff to conduct semi-annual regular inspections of all CDD property and systems. He discussed his conversation with Anchor Marine representatives regarding permits and asked for Barraco & Associates to inspect and certify its work at Lakes 5 and 8, following CDD requirements. Mr. Eckert stated that Supervisors are elected officials of the CDD, not a government employee. Mrs. Adams confirmed that the contractor will not be paid until County Representatives approve the work. Mr. Kayne was asked to send copies of all Barraco & Associates' drawings of Lakes 1 through 21 that were sent to the South Florida Water Management District (SFWMD) to Mr. Teckorius and copy Mrs. Adams.

**Discussion: Storm Drainage System**

- A. Listing of Addresses Inspected for Encroachments into Storm Drainage System**
- B. Discussion: Sample Letter Regarding Swale Damage in CDD Easement**

This item was presented in conjunction with the Seventh Order of Business.

**NINTH ORDER OF BUSINESS**

**Consideration of MIA Firms to Perform  
Real Estate Analysis/Feasibility Study**

- A. Greg Stuart, Stuart Urban Design**
- B. Kinsey Associates**
- C. LandQwest Commercial**

Mr. Eckert stated Lee County charges a \$1,500 fee to process the Resolution granting recreational power to the CDD, which is needed if they want to build recreational trails in the forest preserves at Central, South or North.

Ms. Canoura asked for the reason to do this when the CDD does not own the property. She recommended all communication cease with the owner until Mr. Eckert engages a title company to determine what the person owns and plans to do with the boat slips, as instructed by the County Representative. Mr. Eckert explained the process. The Board needs to decide what would be done with the property and obtain an appraisal.

Mr. Geltner discussed various plans for the Moody East land and suggested sending a letter and the survey to all homeowners to educate them on the history of Moody River East. He prepared Draft #5 and provided notes of a phone call with a principal representative from Moody Development. He asked if confidential information could be redacted from the public record. Mr. Eckert replied no. Discussion ensued regarding receiving offers to purchase property, owner clarification that the property belonged to Moody East and contacting the owner threatening lawsuits.

Mr. Teckorius motioned to proceed with the \$1,500 expense. The motion failed for lack of second.

Mr. Geltner motioned for Mr. Eckert to obtain an appraisal and approve cost for recreation powers. There was no second.

Discussion ensued regarding the title search providing information, needing an appraisal to determine what is on the Development Order and 125 boat slips that may be in the Trust.

Mr. Geltner withdrew his motion for Mr. Eckert to obtain an appraisal.

**On MOTION by Mr. Geltner and seconded by Mr. Teckorius, with Mr. Geltner, Mr. Teckorius, Mr. Pike and Ms. Canoura, in favor, and Mr. Jenner dissenting, authorizing Mr. Eckert to send a letter to Mr. Madden to obtain information about selling property to the CDD, was approved. [Motion passed 4-1]**

**The meeting recessed and reconvened shortly thereafter.**

**TENTH ORDER OF BUSINESS**

**Continued Discussion: Signage for Conservation Areas**

Mr. Willis was asked for downed signs in the preserve, near the basketball courts to be repaired. Mr. Teckorius stated he would send Mrs. Adams paperwork to determine if the CDD is still required to post "Caution do not feed the alligators" signs at all the lakes, as it was required to do prior to the CDD opening. Mrs. Adams stated this issue has been discussed at length and will be added to the next agenda; however, the insurance carrier advised that the CDD is not required to have signage.

This item was deferred to the next meeting.

**ELEVENTH ORDER OF BUSINESS**

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

Ms. Canoura would invite Mr. Holderby to give a presentation at the next workshop. This item was deferred to the next meeting.

**TWELFTH ORDER OF BUSINESS**

**Acceptance of Unaudited Financial Statements as of June 30, 2021**

Mr. Teckorius presented the Unaudited Financial Statements as of June 30, 2021. The Financials Highlight Report was distributed.

**On MOTION by Mr. Teckorius and seconded by Mr. Geltner, with all in favor, the Unaudited Financial Statements as of June 30, 2021, were accepted.**

Mr. Teckorius presented the June 17, 2021 Regular Meeting Minutes.

The following changes were made:

Line 84: Change "Ferrier" to "Farrior" and "Quality" to "Colonial"

Line 115: Insert "on" after "information"

Line 128: Delete "on"

Regarding Line 147, Mr. Adams to follow up on emailing Resolution 2008-05 to the Board, which provided that the Board has taken affirmative action by accepting transfer of the stormwater permit.

Line 191: Change "recreation fund" to "feasibility study"

Mrs. Adams stated that the District Engineer reviewed and made changes to the draft minutes before they were included in the agenda package.

Line 229: Change "firms" to firm's"

Line 233: Delete "Although" and insert "outflow" after "the"

Line 234: Insert "not" after "determined"

Regarding Line 338, it was noted that proposals from Southern State Fencing and Carter Fence were obtained to repair the fence.

Line 420: Change "Walker" to "Wachter"

Line 486: Change "Moody" to "Mood"

Line 298: Insert Mr. Teckorius' statement read into the minutes.

Line 508: Change "were doing" to "exist"

**On MOTION by Mr. Geltner and seconded by Mr. Jenner, with all in favor, the August 19, 2021 Regular Meeting Minutes, as amended, were approved.**

- **Action Items**

Mr. Eckert submitted his list of completed action items to Mrs. Adams, in case he had to leave the meeting early.

Items 1, 64, 75, 81, 89, 92 and 94 were completed.

Item 74 was revised to clarify that a proposal was being obtained to determine what would be required to remove invasive fish from CDD lakes.

**FOURTEENTH ORDER OF BUSINESS**

**Staff Reports**

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

- **Consideration of Rate Increase**

This item was presented at the last meeting.

There was nothing further to report.

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

- **UPCOMING WORKSHOP/MEETING DATES:**

- A. October 7, 2021 Workshop**

- B. October 21, 2021 at 1:00 P.M.**

- **QUORUM CHECK**

The next workshop will be held October 7, 2021 at 11:00 a.m.

All Supervisors confirmed their in-person attendance at the October 21, 2021 regular meeting.

Mr. Geltner asked the Board to consider rescheduling the June 16, 2022 meeting to a later date, as he will be out of the country.

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

- **Monthly Status Report - Field Operations**

The Report was included for informational purposes.

Mrs. Adams reported the following:

➤ The Lake 5 lake bank restoration project was not yet completed due to high water levels.

➤ As a result of Mr. Geltner's street flooding observations, Mrs. Adams presented M.R.I. Inspection LLC (MRI) Estimate #2911 to clean out the interconnecting pipes that run between Lakes 9 through 12 that are identified as 100% blocked. While inspecting the CDD outfall structure, MRI removed the sand bags from Moody Road, which is a County road. The only time interconnecting pipes are inspected is when flooding issues arise.

On MOTION by Mr. Geltner and seconded by Mr. Teckorius, with all in favor, M.R.I. Inspection LLC Estimate #2911 to pump out and remove sediment at Interconnecting Pipes 1, 3, 8, 7 and 6 that run between Lakes 9 through 12, to establish optimal flow, in a not-to-exceed amount of \$3,350, was approved.

- **Key Activity Dates**

The August 2021 Key Activity Dates Report was included for informational purposes.

**FIFTEENTH ORDER OF BUSINESS****Public Comments (*non-agenda items*)**

Resident Rick Doran reported the following information and asked the Board to address certain issues:

- Boat slips and borings: Charlie assured him that the Development Permit allowed for the 100 permitted boat slips and 20' to 25' floating docks that were transferred to another entity can be transferred back to the CDD.
- He believed that East Moody was never inspected by Engineers representing the membership after its construction or during assessment of the facilities, which led him to discuss designation of the operations and maintenance (O&M) of the storm drains.
- He offered to provide the Board with early communications between Attorneys, Grady and Madden, prior to its completion. Meritage's intention was to ensure all O&M operations were transferred to Moody River CDD. There was no further discussion with Attorney Madden when his letter succinctly stated that any modifications that were done to fulfill the Court Order for the drainage systems was that it is the responsibility of the homeowners and never the CDD. As a result, the modifications to O&M, insurance, permitting and boat ramps related to the facility that was built, is the obligation of the Moody River HOA.
- He hoped the Board would require Management to make available day-to-day operation reports and financial accounting records and statements, as they are engaged at the will of the Supervisors, which should alleviate Mr. Geltner's concerns. Mrs. Adams stated Management does not provide these types of reports to any of its clients.
- He expressed his personal unhappiness with how Management monitors the CDD's operations, as his email, photographs and timeline sent to the Chair and Mr. Adams was not distributed to the Board. When asked about Staff evaluations, Mr. Teckorius stated they were performed last year; he would provide a copy to Mr. Doran.

➤ He noted the District's 30 to 40 lake banks and the repair to Lake #2 collapsed and is now in worse condition. He asked if the Board received a field operations report about the collapse and failure of the system, which he believed was the same as the system the Board is now discussing putting in Lake #5.

Mr. Teckorius stated that the CDD put the HOA on notice that the CDD cannot monitor the lake banks due to the excessive growth of vegetation around the perimeter. He asked for correction of the June 17, 2021 meeting minutes to include his statement of putting the HOA on notice. He stated that he is aware of all the lake banks defects and continuous deterioration of the lakes, fencing and not mediating to the proper issuance and specification that were originally designed, which is why they are requesting the District Engineer request issuance of a LDO for all the lakes.

**Ms. Canoura left the meeting at 4:42 p.m.**

**SIXTEENTH ORDER OF BUSINESS****Supervisor's Requests**

Mr. Pike had an issue with the Board receiving handouts at the last minute. The Board choose to establish a policy.

Mr. Jenner asked Mrs. Adams to instruct CDD contractors to notify Jon, with the HOA Management Company, on Friday morning before noon, when they plan to be on site the following week.

- **Supervisor Teckorius**

- I. Correction of Membership Fees for Using CDD Amenities, Not Open to Public for Free**

To clarify Ms. Canoura's statement and concerns about crowds when the boat ramp is installed, Mr. Teckorius stated that, although it may be open to the public, to enter, they will be required to pay a fee.

- II. Discussed Possibility of Zoom Meetings for CDD. Are they Legal?**

To clarify Ms. Canoura's question regarding if it is legal to hold CDD meetings via Zoom, Mr. Teckorius stated it was; however, he preferred not to, as it would require a volunteer to run and control the equipment and the audience. A Board Member thought it may be a good idea, in order to be more transparent. It was noted that resident Dave Herring ran Zoom meetings for the HOA.

A Board Member suggested having the workshop minutes transcribed. Ms. Garling would ask the HOA to ask their Management Company if the audio workshop minutes can be transcribed and if there is an additional charge for that service.

**SEVENTEENTH ORDER OF BUSINESS**

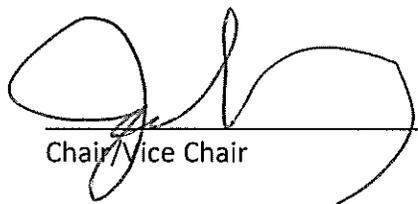
**Adjournment**

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

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

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

*Julie Carnaud*  
  
Secretary/Assistant Secretary

  
Chair/Vice Chair