

MINUTES OF MEETING

Each person who decides to appeal any decision made by the Board with respect to any matter considered at the meeting is advised that the person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which such appeal is to be based.

HARBOR BAY COMMUNITY DEVELOPMENT DISTRICT

The regular meeting, public hearing, and shade session of the Board of Supervisors of Harbor Bay Community Development District was held on **Thursday, March 15, 2018 at 6:00 PM** at the MiraBay Clubhouse, located at 107 Manns Harbor Drive, Apollo Beach, Florida 33752.

Present and constituting a quorum were:

Paul Curley	Board Supervisor, Chairman
Joe McNeil	Board Supervisor, Vice Chairman <i>(via phone)</i>
Ned Carr	Board Supervisor, Assistant Secretary
Steve Lockom	Board Supervisor, Assistant Secretary
Tim Nargi	Board Supervisor, Assistant Secretary

Also present were:

Joseph Roethke	Regional District Manager; Rizzetta & Company
Michael Eckert	District Counsel; Hopping, Green & Sams PA
Jennings Cooksey	District Counsel; Hopping, Green & Sams PA <i>(via phone)</i>
Greg Woodcock	District Engineer; Cardno
Chris Gamache	District Engineer; Cardno
Elliot Moseley	Club Director
Ashley Adkins	Club Manager
Matt Davis	MPD Legal <i>(via phone)</i>
Ty Thompson	MPD Legal <i>(via phone)</i>
Andrew Salzman	Litigation Counsel; Unice Salzman Jensen PA
Staff Court Reporter	Anthem Reporting

Audience

FIRST ORDER OF BUSINESS

Call to Order and Pledge of Allegiance

The meeting was called to order and roll call performed, confirming that a quorum was present. The Pledge of Allegiance was conducted.

SECOND ORDER OF BUSINESS

Audience Comments on Agenda Items

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45 Mr. Curley discussed the order of items in the meeting agenda and reminded all those in
46 attendance of District procedures, advising that in terms of audience comments, each person
47 wishing to speak must submit a comment card and will be given three minutes to speak about any
48 subject unless more than nine cards are submitted, in which case each speaker will be given two
49 minutes. He explained that the Board probably will not respond to comments at this time but
50 encouraged residents to email suggestions prior to the meeting to facilitate adjustments to the
51 agenda.

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53 One resident had a question about a gate for Bay Estates Preserve and opening the café
54 during CDD meetings.

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56 **THIRD ORDER OF BUSINESS**

Seawall

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58 **i. Update on Design-Build Contract**

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60 Mr. Woodcock discussed proposals received for the design-build seawall contract. Two of
61 the three proposals were received just prior to the start of the meeting and have not yet been fully
62 evaluated. Mr. Woodcock suggested continuing this meeting one week to allow for time to review
63 the proposals. The Board discussed and asked several questions of the District Engineer and
64 requested specific items to be analyzed and summarized in a proposal comparison prior to a
65 continued meeting next week. Supervisors will send comments individually to the District Engineer
66 with their concerns after this meeting. The Board would like to continue this meeting to Thursday,
67 March 22, 2018 at 6:00 PM.

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ii. Update on Emergency Repairs

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71 Mr. Gamache provided an update to the Board on the status of emergency seawall repairs.
72 There were a number of issues with the proposal and contract which are still being sorted out. The
73 Board discussed waiting until next week's continued meeting to determine how to move forward
74 with the emergency repairs.

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76 **FOURTH ORDER OF BUSINESS**

Discussion of Envera Contract

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78 Mr. Curley discussed options for determining how to use the capital contributions being
79 provided by Envera. The Board then discussed this and other items related to the contract. District
80 Counsel provided a list of items related to this contract for the Board to review and discuss. The
81 Board directed District Counsel to continue negotiations with Envera's attorney and to bring any
82 updates back to the Board at next week's continued meeting.

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84 **FIFTH ORDER OF BUSINESS**

**Public Hearing to Consider Imposition of
Special Assessments (Litigation Expenses)**

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87 District Counsel asked, and Mr. Roethke confirmed, that proper notice was given in writing
88 to the landowners and by publication, in accordance with Chapters 170, 190, and 197, *Florida*
89 *Statutes*, for this public hearing.

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On a Motion by Mr. Curley, seconded by Mr. Lockom, with all in favor, the Board of Supervisors opened the Public Hearing to consider the imposition of special assessments for the Harbor Bay Community Development District.

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Mr. Eckert advised that this public hearing is being held to hear and consider public comment on the District's intent to impose a special assessment, for funding District Operations, including the Litigation Expenses, as identified in the Assessment Roll ("Assessments"). The District is precluded from obtaining bond financing for the capital improvement plan to repair, stabilize and maintain the District's master stormwater management system and retaining wall ("Master Project") because of the current litigation and needs to commit the resources to resolve the Litigation at the earliest possible date. The Assessments will defray approximately \$400,000 of the Estimated Costs ("Litigation Expenses"), exclusive of anticipated fees and costs of collection and enforcement and discounts for early payment.

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Mr. Eckert stated that:

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- The Assessment Roll used to allocate the Assessments among the benefitted properties is based off of the methodology included in Resolution 2016-03. Residential lots pay on a front footage basis, commercial property pays on an equal acreage basis and undeveloped property pays on an equal acreage basis.
- The provision of District operations, including defending the District from litigation ("Operations"), is a benefit to lands within the District and the Assessments are necessary to obtain funds for the Operations and to reconstruct Master Project at the earliest possible date and before further damages and increased reconstruction costs are incurred.
- It is appropriate and in the best interests of the District to proceed with the imposition of the Assessments to fund the Operations, including the Litigation Expenses.

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Mr. Eckert then asked the following questions of Mr. Roethke, which Mr. Roethke answered and will attest to:

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1. In your professional opinion, do the lands subject to the Assessments receive special benefits from the District's Operations? **YES**

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- 128 2. Is it your opinion that the special benefits the lands will receive, as set forth in
129 the assessment roll, will be equal to or in excess of the Assessments thereon
130 when allocated as set forth in the methodology? **YES**
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- 132 3. In your professional opinion, are the Assessments reasonably apportioned
133 among the lands within the District subject to the Assessments? **YES**
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- 135 4. In your professional opinion, is it reasonable, proper and just to assess the costs
136 of the Operations, including the Litigation Expenses, against the lands within the
137 District in accordance with your methodology, which results in the special
138 assessments set forth on the final assessment roll? **YES**
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- 140 5. Is it your opinion that it is in the best interests of the District that the
141 Assessments be paid and collected in accordance with the methodology and the
142 District's assessment resolutions? **YES**
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144 Mr. Eckert then asked for any comments or questions from the public, from affected
145 landowners, and also from the Board.
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- 148 • One resident read a comment on behalf of another resident who is angry that the
149 District has to fight a lawsuit from a group of residents but supports the Board's
150 decision to collect the assessment.
 - 151 • Another resident objected to the special assessment on the grounds that it does
152 not benefit his property.
 - 153 • Another resident asked how many special assessments there will be in the future.
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156 The Board confirmed it did not want to make any adjustments to the special assessment.
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158 Mr. Eckert then presented Resolution 2018-12, Seawall Litigation Assessment Levy
159 Resolution, to the Board for consideration. He read the full title into the record as, "**A
160 RESOLUTION OF THE BOARD OF SUPERVISORS OF THE HARBOR BAY
161 COMMUNITY DEVELOPMENT DISTRICT EQUALIZING, APPROVING,
162 CONFIRMING, AND IMPOSING SPECIAL ASSESSMENTS FOR DISTRICT EXPENSES
163 AND CERTIFYING AN ASSESSMENT ROLL; PROVIDING FOR THE RECORDING OF
164 AN ASSESSMENT NOTICE; PROVIDING FOR NO WAIVER OF CONTRACTUAL
165 OBLIGATIONS, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**"
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167 Mr. Eckert then briefly described the sections of the resolution as follows:
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- 169 • **Section 1** sets forth the Board's authority to adopt the resolution.
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- Section 2 makes certain findings based on the steps taken to date as well as the evidence presented at today’s hearing.
- Section 3 equalizes, approves, confirms and levies the special assessments on benefited lands within the District.
- Section 4 sets forth the method of collection, which shall initially be the direct method, and the terms of enforcement, penalties and interest.
- Section 5 certifies the Assessment Roll for collection.
- Section 6 provides that the District Manager may amend the assessment roll if updates are required after the date of this Resolution.
- Section 7 provides for the recording of an assessment notice in the public records of Hillsborough County.
- Sections 8, 9, 10 and 11 are self-explanatory and administrative in nature.

Board discussion ensued. Mr. Eckert asked for a motion to adopt the resolution.

On a Motion by Mr. Curley, seconded by Mr. Lockom, with four in favor and one (Mr. Nargi) opposed, the Board of Supervisors adopted Resolution 2018-12, Seawall Litigation Assessment Levy Resolution, for the Harbor Bay Community Development District.

On a Motion by Mr. Curley, seconded by Mr. Nargi, with all in favor, the Board of Supervisors closed the Public Hearing on consideration of the imposition of special assessments for the Harbor Bay Community Development District.

SIXTH ORDER OF BUSINESS

Lawyer/Client Session (Closed to the Public)

Mr. Curley introduced the lawyer/client session regarding pending litigation. Mr. Eckert then requested that the members of the public in the audience leave the room for the Board’s discussion, pursuant to sections 281.301 and 286.0113, *Florida Statutes*. The audience left the meeting at 7:12 PM.

(Mr. McNeil dropped off the call at 7:12 PM.)

(Confidential discussion minutes recorded separately from this document.)

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206 The confidential discussion ended at 7:47 PM and after a brief recess, the meeting publicly
207 reconvened at 7:51 PM.

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209 *(Mr. Davis joined the meeting at 7:51 PM.)*
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211 **SEVENTH ORDER OF BUSINESS** **Consideration and Appointment of District**
212 **Representative to Attend Scheduled**
213 **Mediation**
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215 Mr. Eckert suggested that the Board appoint a District representative to attend scheduled
216 mediation for the current litigation with the District.
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On a Motion by Mr. Nargi, seconded by Mr. Carr, with all in favor, the Board of Supervisors appointed Paul Curley to attend scheduled mediation on behalf of the District for the Harbor Bay Community Development District.

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219 *(Ty Thompson joined the meeting at 7:54 PM.)*
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221 **EIGHTH ORDER OF BUSINESS** **Seawall Upland Claims Consideration**
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- 223 i. Gao – 526 Islebay Drive
224 ii. Oliszewski – 5705 Sea Turtle Place
225 iii. Williams – 439 Mirabay Blvd.
226 iv. Bennett – 5611 Skimmer Drive
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228 The Board reviewed seawall upland claims from several residents.
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On a Motion by Mr. Curley, seconded by Mr. Lockom, with all in favor, the Board of Supervisors approved the upland claim for 526 Islebay Drive in the amount of \$12,000.00 for the Harbor Bay Community Development District.

230 On a Motion by Mr. Curley, seconded by Mr. Nargi, with all in favor, the Board of Supervisors approved the upland claim for 5705 Sea Turtle Place in the amount of \$52,398.00 for the Harbor Bay Community Development District.

231 On a Motion by Mr. Curley, seconded by Mr. Lockom, with all in favor, the Board of Supervisors approved the upland claim for 439 Mirabay Blvd. in the amount of \$18,567.00 for the Harbor Bay Community Development District.
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On a Motion by Mr. Curley, seconded by Mr. Nargi, with all in favor, the Board of Supervisors approved the upland claim for 5611 Skimmer Drive in the amount of \$52,398.00 for the Harbor Bay Community Development District.

(Mr. Gamache, Mr. Davis, and Mr. Thompson left the meeting at 7:56 PM.)

NINTH ORDER OF BUSINESS

Major Project Update

i. Pool Crack Repair/Resurfacing

Mr. Woodcock informed the Board that the geotechnical engineer is scheduled to be on site next week to investigate the pool crack A report will be provided to the Board after the inspection is complete.

ii. Pool Tower and Slide Project

Mr. Woodcock discussed possible penalties to the contractors for the pool tower and slide repairs due to delays with project completion. Mr. Woodcock did not recommend charging penalties to the contractors due to various issues throughout the project's duration. The Board agreed with that recommendation.

On a Motion by Mr. Nargi, seconded by Mr. Curley, with all in favor, the Board of Supervisors agreed to waive any penalties that could be assessed to contractors for delays with the pool slide/tower project for the Harbor Bay Community Development District.

TENTH ORDER OF BUSINESS

New Capital Project Update

i. Clubhouse Rails

Mr. Moseley presented a proposal for installation of a railing at the clubhouse entrance to the Board for consideration. The Board discussed code requirements for this railing. Mr. Woodcock will research the item for the Board.

On a Motion by Mr. Curley, seconded by Mr. Nargi, with all in favor, the Board of Supervisors approved the proposal from CDS Group for railing installations at a cost of \$9,642.00, pending confirmation by the District Engineer that the railing is a code requirement, for the Harbor Bay Community Development District.

ii. Sidewalk Repairs

Mr. Moseley presented a proposal for various sidewalk repairs throughout the community to the Board for consideration.

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On a Motion by Mr. Curley, seconded by Mr. Lockom, with all in favor, the Board of Supervisors authorized the Club Director to approve sidewalk repairs throughout the community for an amount not to exceed \$5,000.00 for the Harbor Bay Community Development District.

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iii. Playground Shade Structure

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Mr. Moseley presented several proposals for shade structure to the Board. The Board declined to approve this expenditure at this time.

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ELEVENTH ORDER OF BUSINESS

Seawall Legal Malpractice Claim

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The Board tabled discussion of this item.

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TWELFTH ORDER OF BUSINESS

Consideration of Web/Email Contract Proposals

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Mr. Roethke presented proposals for website and email services to the Board for consideration.

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On a Motion by Mr. Curley, seconded by Mr. Nargi, with all in favor, the Board of Supervisors authorized Staff to retain or change website/email service providers at a cost not to exceed \$3,700.00 annually for the Harbor Bay Community Development District.

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THIRTEENTH ORDER OF BUSINESS

Discussion of Reducing Costs of Ongoing Operations

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The Board reviewed suggestions from staff regarding reducing costs of ongoing operations within the District. Discussion ensued but the Board did not take any specific action on this topic.

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FOURTEENTH ORDER OF BUSINESS

Discussion Regarding Speed Bumps / Traffic Calming

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The Board reviewed information for potential installation of speed bumps or other traffic calming measures throughout the District. Mr. Curley asked that this item be tabled until staff can come up with a recommendation for what to install, where to install it, and how much the project will cost. Discussion ensued. This topic will be discussed further at the next regular meeting.

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FIFTEENTH ORDER OF BUSINESS

Newland Update

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i. Canal Dredging

Mr. Curley discussed an update from a call with Newland regarding canal dredging. Newland is willing to allow residents to dredge areas near their docks pending confirmation of any necessary permits being in place. Dredging decisions and approvals would be between residents and Newland and would not involve the CDD Board. Interested residents were directed to send emails to jroethke@rizzetta.com.

ii. Mangrove Planting

Mr. Curley informed the Board that Newland is open to mangrove planting but does not have plans to do this at the present time. Mr. Curley also provided several other updates on Newland items, including lagoon riprap repairs, landscaping enhancements, pressure washing, and mangrove trimming. The mangrove trimming will begin on March 19th.

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SIXTEENTH ORDER OF BUSINESS

Discussion of Cash & Net Worth Analysis

Mr. Lockom reviewed the cash and net worth analysis spreadsheet with the Board. Discussion ensued. Mr. Curley suggested the idea of the District putting together some sort of statement detailing potential future CDD assessments. Mr. Lockom will work on this for discussion at a future meeting.

SEVENTEENTH ORDER OF BUSINESS

Review of April 19, 2018 Tentative Agenda

Mr. Curley reviewed the tentative agenda with the rest of the Board.

EIGHTEENTH ORDER OF BUSINESS

Consent Agenda Items / Business Administration

- A. Consideration of Jan. 31, 2018 Continued Meeting Minutes
- B. Consideration of Feb. 8, 2018 Regular Meeting Minutes
- C. Consideration of January 2018 Operation & Maintenance Expenditures
- D. Consideration of January 2018 Reserve Fund O&M Expenditures
- E. Consideration of January 2018 MiraBay Club O&M Expenditures
- F. Consideration of January 2018 Evergreen Fund O&M Expenditures
- G. Consideration of February 2018 Operation & Maintenance Expenditures
- H. Consideration of February 2018 Reserve Fund O&M Expenditures
- I. Consideration of February 2018 MiraBay Club O&M Expenditures
- J. Consideration of February 2018 Evergreen Fund O&M Expenditures
- K. Consideration of Master Project Requisitions #62-65
- L. Consideration of Supplemental Project Requisitions (if any)
- M. Presentation of Monthly Staff Report: MiraBay Club Manager
- N. Presentation of Monthly Staff Report: Club Director

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- 346 **O. Dock and Lift Approvals**
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 - i. Zappacosta – 5216 Cove Sound Way
 - 348 ii. Taylor – 5713 Sea Trout Place
 - 349 iii. Parker – 537 Islebay Drive
 - 350 iv. Pagliuco – 5211 Brighton Shore Drive

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352 Ms. Adkins discussed price increases for some café food and drink items. Mr. Curley

353 discussed several invoices and would like District Staff to follow up on TECO deposit

354 information.

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On a Motion by Mr. Curley, seconded by Mr. Nargi, with all in favor, the Board of Supervisors approved all consent agenda items for the Harbor Bay Community Development District.

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357 **NINETEENTH ORDER OF BUSINESS** **Staff Reports**

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359 **A. District Counsel**

360 Mr. Eckert discussed legislative session updates with the Board.

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362 **B. District Engineer**

363 District Engineer had no additional information to present.

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365 **C. District Manager**

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367 Mr. Roethke reminded the Board that the next regularly scheduled meeting will be

368 held on Thursday, April 19, 2018 at 6:00 PM at the MiraBay Clubhouse.

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370 Mr. Roethke presented letters from US Bank notifying the District of increases to

371 annual trustees’ fees, which Mr. Roethke advised will be accounted for in the budget for

372 the next fiscal year.

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374 Mr. Roethke informed the Board that as of March 9, 2018, the District has collected

375 \$1,318,206.12 of the total \$1,595,610.91 special assessment. Only \$277,404.79 remains

376 outstanding; if not received, this amount will be added to the next fiscal year’s tax roll.

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378 **TWENTIETH ORDER OF BUSINESS** **Supervisor Requests**

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380 Mr. Carr discussed an issue with golf cart usage within the community.

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382 Mr. Curley informed the Board he is considering holding a monthly open forum for residents.

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384 **TWENTY-FIRST ORDER OF BUSINESS** **Audience Comments**

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A resident discussed an issue with pilings in restrictors in the canal.

Another resident discussed an issue with golf carts on District roadways.


TWENTY-SECOND ORDER OF BUSINESS Continuance

On a Motion by Mr. Nargi, seconded by Mr. Carr, with all in favor, at 9:13 PM the Board continued the meeting to 6:00 PM on Thursday, March 22, 2018 at the Admiral Pointe Clubhouse located at 5428 Admiral Pointe Drive, Apollo Beach, Florida 33572, for the Harbor Bay Community Development District.

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Secretary / Assistant Secretary



Chairman / Vice Chairman

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