

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 continued meeting of the Board of Supervisors of Harbor Bay Community Development District was held on **Friday, March 4, 2011 at 9:00 a.m.** at 700 Manns Harbor Drive, Apollo Beach, Florida 33752.

Present and constituting a quorum were:

Ed Stone	Board Supervisor, Chairman
Rip Ripley	Board Supervisor, Vice Chairman
Julie Guill	Board Supervisor, Assistant Secretary
Paul Stumpf	Board Supervisor, Assistant Secretary
Tom Hatcher	Board Supervisor, Assistant Secretary

Also present were:

Scott Brizendine	District Manager, Rizzetta & Company, Inc.
Jere Earlywine	District Counsel, Hopping, Green & Sams, P.A.
Jamie Scarola	District Engineer, Scarola Associates Eng.
John Toborg	Field Operations Mgr., Rizzetta & Company, Inc.
Kristy Owens	District Coordinator
Dawn Turner	Representative, Newland Communities
Audience	

FIRST ORDER OF BUSINESS

Call to Order

Mr. Brizendine called the meeting to order and conducted roll call. He asked the Board's permission to allow Ms. Turner from Newland Communities to make a presentation to the Board. The Board granted its permission.

SECOND ORDER OF BUSINESS

Presentation – Request to Utilize Landing Park

Ms. Turner requested permission of the Board to utilize Landing Park on April 9, 2011 from 1:00 p.m. to 4:00 p.m. for a marketing event. She stated that Newland Communities would be willing to enter into an agreement with the District to protect its assets and would supply proof of insurance naming the District as an additionally insured, as well as hold harmless agreements for all of the parties involved in the event. A brief discussion ensued regarding the possibility of rescheduling the event to the 10th as the proposed date conflicts with the annual Mariner's Outing.

Additional discussion ensued regarding the form of the agreement that would be provided by Newland and whether alcohol would be served at the event. It was stated that alcohol would not be served.

On a Motion by Ms. Guill, seconded by Mr. Ripley, with all in favor, the Board approved Newland Communities request to hold the Land Sharks Beach Party at Landing Park on April 10, 2011 from 1:00 p.m. to 4:00 p.m. pending approval of the proposed agreement by District Staff and authorized the Chairman to execute the agreement once finalized for Harbor Bay Community Development District.

THIRD ORDER OF BUSINESS

Continued Discussion on OTC Injections

Mr. Brizendine provided a brief synopsis of discussions that have occurred regarding the OTC injections and a request that was made to clarify with Mr. Kim whether or not the injections are included in his contract. He stated that a meeting was held with Mr. Stone, Mr. Toborg and Mr. Kim to address this issue and Mr. Kim stated that the injections were included in his bid as part of the \$34,800 for pest control and are therefore part of his contract with the District. Mr. Toborg stated that Mr. Kim would be billing the District as the service is provided. A brief discussion ensued regarding whether it was necessary to rescind the previous motion approving the proposal for OTC injections totaling \$15,359.36. It was decided that it was not necessary to rescind the motion; however, Mr. Earlywine did recommend that the Board send a letter to Mr. Kim outlining the Boards' understanding of the discussion with Mr. Stone and Mr. Toborg regarding the OTC injections and request that he sign off on the letter indicating his agreement.

On a Motion by Mr. Stumpf, seconded by Mr. Stone, with all in favor, the Board authorized District Staff to send the letter to Mr. Kim and request that he sign off as discussed for Harbor Bay Community Development District.

A lengthy discussion ensued regarding the proper procedures for administering the OTC injections and the percentage of success the District has had given the loss of 12 trees out of the 412 palms being treated. Mr. Stumpf expressed his concern with the procedures being used by Mr. Kim. Conflicting opinions were put forward and recommendations made that the Board not try to micro-manage the landscaper. It was stated that until a standard of care for all of the palms throughout the community, including residents and the HOA, is established there will be issues with the palms.

Mr. Brizendine stated that Staff will review the injections that will be performed by Mr. Kim and document everything that is being done. He emphasized that this process only suppresses the disease and the District will continue to lose some palms. Should Staff feel that the issue needs to come back to the Board for further discussion it would be put back on the agenda.

FOURTH ORDER OF BUSINESS

Continued Discussion on Bid Protest/ Sea Crest Landscape maintenance

Mr. Brizendine stated that at the last meeting the Board directed Staff to draft a Settlement Agreement finalizing the verbal agreement that had been reached relating to the bid protest. He provided a brief synopsis of the events leading up to that request, stating that it appears that there has been some wavering on the verbal agreement that was reached, whereas Lee Te Kim would deduct \$3,500 from their contract for pond bank mowing in Sea Crest, that would become part of the Greenbriar contract.

A brief discussion ensued regarding the draft Settlement Agreement as well as the issue of who would be maintaining the CDD areas within Sea Crest other than the pond banks. It was stated that Lee Te Kim is maintaining parcel A at no charge and Greenbriar is maintaining parcels B and C as part of their contract with the HOA. Mr. Toborg said that Greenbriar has already submitted a proposal for the CDD areas, and Mr. Kim has been asked to prepare a proposal as well.

A form of the Settlement Agreement, whereby Kim would deduct \$3,500 from his contract for pond bank mowing within Sea Crest and Greenbriar would do that work under its own contract with the CDD, was presented and Staff indicated that it would be circulated to Mr. Kim and Greenbriar prior to the next Board meeting to determine whether the parties were in agreement with these particular terms. Mr. Earlywine suggested that the draft Settlement Agreement could be approved prior to the Board's selection of a landscaper for the additional Sea Crest areas.

On a Motion by Mr. Ripley, seconded by Mr. Stumpf, with all in favor, the tabled consideration of the Settlement Agreement and the landscape contract for areas A,B,C, and D until March 24, 2011 for Harbor Bay Community Development District.

FIFTH ORDER OF BUSINESS

Consideration Proposals for Pool Pump Replacement

Mr. Brizendine presented three proposals that were submitted to replace the pool motor along with opinions on the pros and cons of each option. Mr. Scarola provided his opinion on the various proposals and spoke regarding his experience and confidence with Mr. Lenley, who submitted one of the proposals. He provided a brief overview of the issue with the heater that led to removing the motor and pump assembly, explaining that when the heater system was changed out a couple of years ago, it changed the overall operating condition, which impacts the size of the motor, etc. that needs to be in place. He recommended that Symbion be contacted to discuss whether the issue could be a malfunctioning sensor in the heater assembly they installed. Mr. Brizendine stated that he spoke with a representative from Symbion who indicated that it is more likely to be a flow issue than a sensor issue, but that they would be willing to be present at the time the motor is replaced to test the heater and make any necessary repairs at that time. It was stated that the heater is still under warranty. Discussions ensued regarding the various options and concerns. Ms. Owens obtained a price of \$1,200 to reinstall the existing motor plus the costs of the two gaskets.

A request was made that Ms. Owens contact Mr. Hawkins and Mr. Lenley to discuss the conflicting opinions on whether sufficient flow could be obtained to reopen the pool if the heater assembly was turned off. The Board tabled action on this matter until after the shade meeting.

SIXTH ORDER OF BUSINESS Staff Reports

- A. District Counselor – Jere Earlywine
 No Report.

- B. District Engineer – Jamie Scarola
 Mr. Scarola provided a brief update on the status of obtaining proposals from firms with the expertise to complete the ADA compliance inspection. He stated that there is a very limited number of individuals to contact. Mr. Scarola stated that he has received one proposal and is still waiting for one additional one. He introduced Bill Henry, from RGA Architects, stating that he is one of the few individuals with the expertise to complete this project. He stated that they were able to drive around the property before Mr. Henry submitted his proposal. Mr. Henry spoke regarding his proposal, explaining that an actual scope of work can not be obtained at this point, but his recommendation would be to determine any areas that are in clear violation of the 1991 standards and then look at the revised laws and look at the practicality issue as far as whether or not it was reasonable to expect the District to make changes given all of the factors. Mr. Henry responded to Board questions regarding the requirements. It was decided to table this item until the March 24th meeting.

- C. Field Operations Manager – John Toborg
 Mr. Toborg informed the Board that he has asked Mr. Kim to hold off on the repairs that he had previously given them five days to complete as there is a tree which needs to be replaced in the area and the process of doing that project would re-damage the area in question.

- D. District Manager
 No report.

SEVENTH ORDER OF BUSINESS

**Supervisor Requests & Audience
Comments**

Mr. Ripley emphasized that there are great quantities of palm trees in the District that are owned by the HOA and private owners that the CDD doesn't have any control over. They represent a risk of spreading disease to the District's trees. He recommended that a discussion be held regarding establishing a policy to address this concern.

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Ms. Owns shared the information that she had obtained regarding the conflicting opinions regarding the old pool motor being able to maintain the required flow to re-open the pool without the heater being utilized. She explained that while both Mr. Hawkins' and Mr. Henley's tests indicate that re-installing the existing motor would meet the required flow, they both feel that it would just barely meet the standard and Mr. Hawkins indicated the motor starts to trend down after a while and may not be able to maintain the required flow on a consistent basis.

It was stated that the cost to test the motor would be the \$1,200 plus the cost of the gaskets to reinstall the motor. Following a brief discussion it was decided to move forward with the repairs given that the motor is barely meeting the necessary flow and they could be looking at replacing it eventually and there is no guarantee that the District could keep the pool open even without the heater assembly hooked up. Discussion was also held regarding the various options, the need to test the sensor as soon as the new motor is in place, as well as whether or not there is a leak. It was stated that the leak was determined to be occurring at the pump. Mr. Brizendine recommended that the Board replace the motor and go with either option 2 or 3 given the limited flow that the current motor is providing.

On a Motion by Mr. Stumpf, seconded by Mr. Hatcher, with a vote of two in favor (Mr. Stumpf and Mr. Hatcher) and three against (Mr. Stone, Ms. Guill, and Mr. Ripley), the Board failed to approve proposal #2 (\$11,450 recommended by Mr. Hawkins, who is the current pool maintenance provider) to replace the pool pump motor for Harbor Bay Community Development District.

On a Motion by Mr. Stone, seconded by Mr. Ripley, with a vote of three in favor (Mr. Stone, Ms. Guill, and Mr. Ripley) and two against (Mr. Stumpf and Mr. Hatcher), the Board approved proposal #3 to replace the pool pump motor (\$19,500 recommended by Mr. Lenley) for Harbor Bay Community Development District.

(The Board and Staff then announced the start of an attorney-client session in compliance with Florida Law, and recessed the regular meeting at 10:55 a.m. All individuals not mentioned in the shade meeting advertisement as attending the meeting left the room at this time. The Board reconvened its regular meeting at 12:40 p.m. with all Board Supervisors present at the onset of the meeting still in attendance.)

Mr. Earlywine stated that he had two follow-up items for the Board to consider in regards to the shade meeting: the first being that the meeting was continued until March 11, 2011 at 9:00 a.m. and the second being that Mr. Stone and Mr. Scarola would be representing the District at the mediation hearing. He asked for two motions relating to each of follow-up items. It was stated that the second item had been discussed and approved at a previous meeting two years ago.

On a Motion by Ms. Guill, seconded by Mr. Hatcher, with all in favor, the Board continued the shade meeting at 9:00 a.m. on March 11, 2011, at 700 Manns Harbor Drive, Apollo Beach, Florida 33752 for Harbor Bay Community Development District.

Audience Comments

Audience comments were entertained regarding when the qualifications for the Community Manager would be established and the position competitively bid given that the Board had promised to do this prior to finalizing the current year's budget and it was not done. Other comments were entertained regarding concerns with the Sea Crest issue still being unresolved and a desire to have Lee Te Kim handle all of the District's landscaping.

A representative of the Sea Crest HOA spoke regarding the issue and the desire to have one contractor maintain the area within the area, regardless if it is CDD or HOA property.

A resident put forward a request that the Board recognize that there is an effort being made within Mirabay to discredit management, such as WTS and the Club and Lee Te Kim that is being clothed as an effort to save money, but is really an effort to denigrate the reputation of the people doing the management. He asked that the Board keep this in mind as it makes its decisions.

A representative from the HOA stated that he would initiate the process of establishing some kind of policy regarding care and maintenance of palm trees.

EIGHTH ORDER OF BUSINESS Continuance

On a Motion by Mr. Stone, seconded by Mr. Hatcher, with all in favor, the Board continued the meeting until March 11, 2011 at 9:00 a.m., at 700 Manns Harbor Drive, Apollo Beach, Florida 33752 for Harbor Bay Community Development District.


Secretary/Assistant Secretary


Chairman/Vice Chairman