

**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 of the Board of Supervisors of Harbor Bay Community Development District was held on **Thursday, March 22, 2012 at 5:35 p.m.** at the MiraBay Clubhouse, located at 107 Manns Harbor Drive, Apollo Beach, Florida 33752.

Present and constituting a quorum were:

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

Also present were:

Scott Brizendine	<b>District Manager, Rizzetta &amp; Company, Inc.</b>
Jere Earlywine	<b>District Counsel, Hopping, Green &amp; Sams, P.A.</b>
Jamie Scarola	<b>District Engineer, Scarola &amp; Assoc. Engineering</b>
Alex Murphy	<b>Club Manager</b>
Kristy Owens	<b>District Coordinator</b>
Ed Norstrem	<b>Mirabay Dragonboat Club</b>
Audience	

**FIRST ORDER OF BUSINESS**

**Call to Order**

Mr. Brizendine called the meeting to order and conducted roll call

**SECOND ORDER OF BUSINESS**

**Audience Comments on Agenda Items**

Mr. Norstrem inquired on the status of the license agreement for the Dragonboat Club and Mr. Earlywine stated that a draft has been prepared and is out for comment. He stated that the agreement addresses use of the District's boat lift to store the boat. Mr. Norstrem stated that Clubhouse Management will be presenting a request to hold a Dragonboat Festival and while the local club will not be sponsoring the event, he did want to let the Board know that he highly endorses it.

A question was raised regarding the status of the seawall litigation and Mr. Stone stated that the Board is planning to hold a workshop to discuss this matter in early April.

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**THIRD ORDER OF BUSINESS**

**Consideration of Minutes from the Board Supervisors' Meeting Held on February 9, 2012**

Mr. Brizendine reviewed the revisions that were requested by Mr. Stumpf and asked if the Board was comfortable with those changes or had any other comments. There were none.

On a Motion by Ms. Guill, seconded by Mr. Ripley, with all in favor, the Board of Supervisors approved the minutes from the Board of Supervisors' meeting held on February 9, 2012 as amended for Harbor Bay Community Development District.

**FOURTH ORDER OF BUSINESS**

**Consideration of Minutes from the Board Supervisors' Meeting Held on February 23, 2012**

Mr. Brizendine reviewed the revisions that were requested by Mr. Stumpf and asked if the Board was comfortable with those changes or had any other comments. Ms. Guill stated that the Dragon boats will be using the lagoon and not the canal as stated on page two. Mr. Brizendine stated that he would have that correction made.

On a Motion by Mr. Stumpf, seconded by Mr. Stone, with all in favor, the Board of Supervisors approved the minutes from the Board of Supervisors' meeting held on February 23, 2012 as amended for Harbor Bay Community Development District.

**FIFTH ORDER OF BUSINESS**

**Consideration of Operation and Maintenance Expenditures for February 2012**

There were no questions regarding any of the expenditures included in the report.

On a Motion by Mr. Stumpf, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors approved the Operation and Maintenance Expenditures paid during the period of February 1-29, 2012 (\$347,271.55) for Harbor Bay Community Development District.

**SIXTH ORDER OF BUSINESS**

**Consideration of Operations and Maintenance Expenditures for February 2012 – Mira Bay Amenity Center**

There were no questions regarding any of the expenditures included in the report.

On a Motion by Ms. Guill, seconded by Mr. Stumpf, with all in favor, the Board of Supervisors approved the Operation and Maintenance Expenditures paid during the period of February 1-29, 2012 (\$42,959.22) for the Mira Bay Amenity Center, for Harbor Bay Community Development District.

**SEVENTH ORDER OF BUSINESS**

**Consideration of any Matters Relating to  
Litigation**

It was stated that there were none other than the workshop that was mentioned earlier.

**EIGHTH ORDER OF BUSINESS**

**Review of District's Cash Flow Analysis**

Mr. Brizendine briefly reviewed the cash flow report for the Board, stating that the report reflects activity through February 29, 2012. He explained that the District has collected assessments in the amount of \$2,983,894. The District has \$59,858 in the general fund account and \$1,770,491 in the investment account, with an accounts receivable balance of \$462,216. Mr. Brizendine stated that based on current trends of collecting \$66,522 a month and expenditures of \$314,615, he is projecting that the District will only have approximately \$31,930 at the end of the fiscal year, which is down substantially from last months projection. He explained that this is a result of higher than expected legal costs last month. Mr. Stumpf emphasized the need to closely monitor expenses to ensure that the District does not run out of funds.

Mr. Brizendine provided a comparison of various line items in the budget for both the General Fund and Enterprise Fund that appear at this time to be trending towards being over budget for the year. He provided an explanation of the unplanned expenses that are impacting the line items as well as predicting that some of the accounts would fall back in line as the year progresses. A brief discussion ensued.

**NINTH ORDER OF BUSINESS**

**Consideration of Proposal to Replace  
Street Lights Ballasts and Bulbs**

Mr. Brizendine reviewed a proposal to replace ten ballasts and lamps throughout the community at a cost of \$2,500. He stated that normally he would just approve this type of expense, but wanted to bring it to the Board's attention since it does appear that this line item is one of the ones that will be over budget.

On a Motion by Mr. Stone, seconded by Mr. Stumpf, with all in favor, the Board of Supervisors approved the proposal to replace the street light ballasts and bulbs at a cost of \$2,500 for Harbor Bay Community Development District.

**TENTH ORDER OF BUSINESS**

**Staff Reports**

A. District Counsel

Mr. Earlywine stated that he was approached by the new owner of the Crossland property to request a change in the payment schedule for the assessments. He stated that they would like to make their payments on April 1<sup>st</sup>, June 15<sup>th</sup>, August 1<sup>st</sup>, and September 15<sup>th</sup>. He noted that this schedule should work for the O & M payments, but may need to be adjusted for the debt service payments to ensure that the payment to the bond holders is made on time.

On a Motion by Mr. Ripley, seconded by Mr. Stone, with all in favor, the Board of Supervisors authorized District Counsel to modify the agreement relating to assessments for NW Mirabay, LLC in order to allow assessments to be paid on a quarterly schedule beginning April 1, subject to any changes necessary to ensure that debt service payments are timely made, for Harbor Bay Community Development District.

A brief discussion ensued regarding whether the Density Agreement, etc. with the former owner would be impacted as part of the sale. Mr. Earlywine stated that he would research the matter and report back to the Board.

Mr. Earlywine stated that he was contacted last week regarding construction of a sidewalk and movement of a bench that was not authorized by the Board and he issued a cease and desist letter. He explained that the letter was not intended to indicate that the project could not be completed, but rather that a particular procedure be followed. Specifically, third parties should not construct improvements on CDD property without the CDD's consent, and instead, any third party desiring to have improvements made to CDD property should first make that request to the CDD Board, just as Newland recently did with respect to certain entry monuments. Ms. Guill stated that she would like to see Sea Crest keep the benches and emphasized that it is not an issue of not wanting the benches, but rather a lack of process. She read a motion that she had prepared into the record and Mr. Ripley seconded it.

Mr. Stumpf expressed concern with not seeing the motion prior to the meeting as the Board previously adopted a policy that items would not be presented during a meeting without being provided to the Board 72 hours prior to the meeting. He also questioned why the motion needs to be so restrictive and in his opinion adversarial. He asked for clarification on the number of benches involved and the requirement to attain permits when none were needed. Further discussion ensued regarding whether or not the bench was installed legally. It was stated that the intent was not to have the benches removed but to ensure that Florida Statutes are followed relating to the placement of the bench, In this instance, no prior Board authorization was given for this project.

Mr. Scarola stated that the bench was placed in a road right-of-way and generally that would require a right-of-way use permit as its location places it in a different category from benches located in other areas. The current location raises safety concerns. He stated that Hillsborough County would be the primary reviewing authority but would most likely refer to DOT guidelines. Mr. Scarola recommended that verbiage be added to the motion relating to ensuring that the installation of the bench also meet Clear Recovery Standards for traffic and Pedestrian safety. Mr. Brizendine recommended that the number of benches be removed from the motion so that it just reads all benches. Ms. Guill amended her motion and Mr. Ripley amended his second to include the statements from District Engineer and District Manager.

Mr. Stumpf asked that the last sentence be removed from the motion and Ms. Guill stated that it was included after review by District Counsel and District Engineer and she would not amend that section.

On a Motion by Ms. Guill, seconded by Mr. Ripley, with four in favor and one against (Paul Stumpf), the Board of Supervisors mandated that the following conditions be met in order for the Seacrest HOA to be granted authority from the Harbor Bay Community Development District for the benches to remain in place: The Seacrest HOA has 10 days to acquire all permits and or exemptions, including but not limited to the Hillsborough County Public Works Department and Clear Recovery Standards for Traffic and Pedestrian Safety and to the satisfaction of the District Manager, District Engineer, District Counsel, and Board ADA liaison. Furthermore, to retain their own engineer who will sign off on and certify that the moved bench meets 2012 ADA guidelines, also to the satisfaction of the above. Seacrest HOA should also be responsible for District expenses associated with drafting a license agreement between the entity and the Harbor Bay CDD. This would all be at their expense, not the District's. Furthermore, they should agree to reimburse the District for any and all legal expenses associated with the unauthorized construction and placement of this bench and the resulting ramifications. If these conditions are not met by the end of this period, we authorize the District Manager to have all benches removed and placed in a Sea Crest common area as Mr. Brizendine, District Manager, had previously directed.

Mr. Stumpf sought an answer to his question about the motion being provided at the last minute. Mr. Brizendine stated that he was just provided a copy of the motion himself and therefore could not comment on why it was not provided to the Board in advance.

B. District Engineer

Mr. Scarola stated that the ADA project and pool repairs are substantially completed. He stated that there are a couple of check list items that need to be worked out for the ADA projects and a 60 day extension was granted for the pool lifts by the DOJ. He noted that the District's lifts are still in permitting with Hillsborough County.

Mr. Stone presented a brief slide show documenting the location and nature of the various repairs that were made to the pool, as well as the finished product. He reviewed the timeline for the project and thanked Newland for painting the mushroom and the pool slide after the repairs were made. Mr. Stone stated that the repairs were completed ahead of schedule, but did cost slightly more than anticipated. He stated that it was a true team effort and thanked Ms. Owens for coordinating the timing with the seven independent contractors that were involved with the project. He invited everyone to attend the grand re-opening on April 1<sup>st</sup>.

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A brief discussion ensued regarding the additional costs involved and the pool slide pump that blew a gasket. Mr. Stone stated that the gasket should be replaced prior to April first. It was stated that next year the Board would be looking at the resurfacing project. Ms. Guill publicly thanked Mr. Stone for all his hard work on the pools.

C. Club Manager – Alex Murphy

Ms. Murphy presented a proposal for a Dragonboat Festival that Newland and the Lifestyle team would like to hold on May 19, 2012. She explained that Pan Am Dragon boats approached them about the event and explained that they are fully insured and would be handling everything regarding the races themselves, including collection of fees. She stated that the fees would be minimal for residents wishing to participate. Ms. Murphy stated Newland has granted authorization to use the lagoon and Shell Cove for the event. She stated that staff would be contacting food and beverage vendors as well as arranging to have bounce houses etc. at the event to make it more of a family event. She explained that the income from the sale of beer and wine should cover most of the associated expenses with the balance coming out of the event planning fund. Additional security would be added and anticipates using community volunteers to assist with parking. Ms. Murphy asked for authorization to leave the gate open the day of the event and for permission to posts signs and banners regarding the event. Mr. Earlywine recommended that all contracts with vendors etc. be subject to review by District Counsel.

On a Motion by Mr. Stone, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors authorized Clubhouse Staff to work with Newland and the Lifestyle Team to hold a Dragon Boat Festival on May 19, 2012 with all contracts associated with the event being subject to review by District Counsel for Harbor Bay Community Development District.

D. Operations Manager

Mr. Brizendine stated that he spoke with Mr. Toborg regarding the inspection that was completed on February 24<sup>th</sup> and explained that Mr. Toborg has not received the responses from the landscaper to date. He stated that once received the report, responses and proposals would be disseminated to the Board.

Mr. Brizendine stated that they are still working with Amerritt on the landscape map and just received an invoice in the amount of \$400 to make a few necessary changes to the ownership map before the landscaping map is completed.

On a Motion by Ms Guill, seconded by Mr. Stone, with all in favor, the Board of Supervisors approved the additional expenditure of \$400.00 to Amerritt to update the Ownership and landscape maps for Harbor Bay Community Development District.

A brief discussion ensued regarding the bid package that is scheduled to be presented at the April meeting. A request was made to have the material distributed to the Board prior to meeting. Mr. Brizendine stated that he would make every effort to ensure that that occurs.

E. District Coordinator- Kristy Owens  
No report.

F. District Manager  
Mr. Brizendine provided a brief update on the status of reimbursements for water bills, stating that the total amount that the District is looking to collect is \$30,041.94. He stated that he would be working with Newland regarding a payment arrangement as the total is substantially more than what was anticipated.

Mr. Brizendine stated that he was contacted by a resident regarding the possibility of bringing back the rovers due to the increasing number of incidents of thefts and prowlers in the community. He clarified that the resident was looking for off-duty officers to handle the patrols. A brief discussion ensued regarding what this would cost the District. It was noted that there is no money within this year's budget to cover the expense, but costs could be obtained for consideration in next year's.

On a Motion by Mr. Ripley, seconded by Ms. Guill, with all in favor, the Board of Supervisors authorized District Management to research the costs to have off-duty officers patrol the community for Harbor Bay Community Development District.

## ELEVENTH ORDER OF BUSINESS

## Supervisor Requests & Audience Comments

### Audience Comments

Audience comments were entertained regarding issues with members of the audience being able to hear Board comments, the timing of the sea wall trial, concerns with ADA compliance issues such as the benches, the portion of expenses associated with bringing everything to code that was funded by Newland, and why a police officer was in attendance. It was stated that a meeting would be scheduled sometime the first of April with Litigation Counsel to respond to resident questions regarding the sea wall litigation. Mr. Earlywine reviewed the procedures for requesting information on the case, clarified that audience members can not yield their three minutes to another member of the audience, and verified that there was no formal litigation involving the benches – only a letter had been sent. Mr. Stumpf recommended that the audience member seeking information on the portion of ADA compliance issues funded by Newland refer to the report that was posted on the website.

**Supervisor Requests**

Mr. Stumpf requested that he be provided with a copy of the presentation on the pool, as well as the motion that was made relating to the benches. A brief discussion ensued regarding the means by which the Seacrest HOA would be notified of the Boards' actions. Mr. Brizendine stated that he would be making the requested revisions to the motion in the morning and would then distribute a copy to the Board, legal Counsel, the HOA President and Manager.

**TWELFTH ORDER OF BUSINESS**

**Adjournment**

On a Motion by Mr. Stone, seconded by Ms. Guill, with all in favor, the Board adjourned the meeting at 7:05 p.m. for Harbor Bay Community Development District.



Secretary/Assistant Secretary



Chairman/ Vice Chairman