

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, August 25, 2011 at 5:30 p.m.** at the MiraBay Clubhouse, located at 107 Manns Harbor Drive, Apollo Beach, Florida 33752.

Present and constituting a quorum were:

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| 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:

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| Scott Brizendine | District Manager, Rizzetta & Company, Inc. |
| Jere Earlywine | District Counsel, Hopping, Green & Sams, P.A. |
| Kristy Owens | District Coordinator |
| Karla Gibson | Club Manager |
| Bill Henry | Representative, RGA |
| David Click | Representative, RGA |
| Audience | |

FIRST ORDER OF BUSINESS

Call to Order

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

SECOND ORDER OF BUSINESS

Litigation Inquiry Protocol

Mr. Earlywine spoke regarding the understandable desire to obtain information or discuss the seawall litigation and the need to limit the information that is shared with the public as it impacts the District's ability to litigate the case. He stated that he has put together a protocol addressing the way that requests for information should be handled and asked that the Board approve it. He explained that the document was distributed to the Board prior to the meeting and that litigation counsel has approved the protocol as presented.

On a Motion by Mr. Stone, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors approved the Litigation Inquiry Protocol as presented for Harbor Bay Community Development District.

THIRD ORDER OF BUSINESS

RGA Presentation of the ADA Report

Mr. Click reviewed the ADA Report and cost breakdowns to bring the various items noted into compliance. Ms. Guill referred the Board to the attachment relating to budgetary expenditures. She stated that she is in the process of addressing the 1991 design standards with Newland and they have indicated their willingness to address those issues, but nothing has been finalized to date. She stated that the Wolf Creek playground has not been conveyed to the District to date and the benches in Seacrest actually belong to the Seacrest HOA, so neither of those upgrades would be a District expense. Ms. Guill stated that leaves approximately \$53,000 plus a 10% contingency costs or \$58,300 to be funded by the District. A brief discussion ensued.

On a Motion by Mr. Stone, seconded by Mr. Ripley, with all in favor, the Board of Supervisors accepted the report in substantial form and authorized Julie Guill with District Staff to continue working on this matter for Harbor Bay Community Development District.

FOURTH ORDER OF BUSINESS

Audience Comments on Agenda Items

There were no audience comments put forward on agenda items at this time.

FIFTH ORDER OF BUSINESS

Consideration of the Minutes of the Board of Supervisors' Meeting held on July 21, July 28, and August 3, 2011

On a Motion by Mr. Stone, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors approved the minutes of the Board of Supervisors' meeting held on July 21, 2011 as presented for Harbor Bay Community Development District.

Mr. Stumpf requested that the minutes from the meeting on July 28th be amended indicating that the District's portion of the E/T system will be paid with bond proceeds and the maps referenced on page five are the landscape maps.

On a Motion by Mr. Ripley, seconded by Mr. Stone, with all in favor, the Board of Supervisors approved the minutes of the Board of Supervisors' meeting held on July 28, 2011 as amended for Harbor Bay Community Development District.

Mr. Stumpf requested that the minutes from the meeting on August 3rd be revised to state that the letter sent to Le Te Kim read "include Area A" not "eliminate Area A".

On a Motion by Mr. Stumpf, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors approved the minutes of the Board of Supervisors' meeting held on August 3, 2011 as amended for Harbor Bay Community Development District.

SIXTH ORDER OF BUSINESS

**Consideration of Operation and
Maintenance Expenditures for July 2011**

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

On a Motion by Mr. Stumpf, seconded by Mr. Stone, with all in favor, the Board of Supervisors approved the Operation and Maintenance Expenditures paid during the period of July 1-31, 2011 (\$153,850.95) for Harbor Bay Community Development District.

SEVENTH ORDER OF BUSINESS

**Consideration of Operations and
Maintenance Expenditures for July 2011 –
Mira Bay Amenity Center**

Mr. Brizendine confirmed that a \$395.00 credit memo will be issued for the Hawkins invoice that was double billed in error.

On a Motion by Mr. Ripley, seconded by Mr. Stumpf, with all in favor, the Board of Supervisors approved the Operation and Maintenance Expenditures paid during the period of July 1-31, 2011 (\$65,738.77) for the Mira Bay Amenity Center, for Harbor Bay Community Development District.

EIGHTH ORDER OF BUSINESS

**Public Hearing on Fiscal Year 2011/2012
Final Budget**

On a Motion by Ms. Guill, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors opened the public hearing on the fiscal year 2011/2012 final budget for Harbor Bay Community Development District.

Mr. Brizendine presented the proposed budget totaling \$3,449,547, stating that it is based on discussions with the Board and residents during the two workshops that were held. He stated that as the Board is aware there is a potential that the District will run out of funds to meet its expenses in October given that the funds for fiscal year 2011/2012 will not be received until mid November early December. Based on this possibility, Rizzetta has reached out to the Bank of Tampa regarding opening a line of credit for the District and they have agreed to a \$1,000,000 line of credit at 6% interest. He stated that he would confirm that there are no fees associated with this line of credit. Mr. Brizendine stated he has included the interest payment of \$12,150 to the administrative costs in case it is needed. He explained that he has reached out to Newland to inquire about the possibility of paying their assessments early and to litigation counsel to determine if they would be willing to hold fees until the funding starts to come in from the assessments.

Following a brief discussion, it was decided to approve the line of credit as discussed in case other efforts to procure the funds are not successful. It was stated that drawing funds from the line of credit would require Board approval.

On a Motion by Mr. Ripley, seconded by Ms. Guill, with all in favor, the Board of Supervisors authorized District Staff to open a line of credit of up to \$1,000,000 with Bank of Tampa at 6% interest for Harbor Bay Community Development District.

A brief discussion ensued regarding the litigation costs included in the budget and the status of the bid protest. It was stated that while litigation counsel has estimated a cost of \$72,000 a month, the District has spent more than the budgeted amount this year and it is not known whether it will be necessary to proceed with litigation for the bid protest yet. It was further stated that should the costs come in less than projected, the funds could be used to offset a cash flow issue again next year.

Mr. Brizendine reviewed landscape costs that have been adjusted based on the current contract with Lee Te Kim and the terms of the proposed bid protest settlement. He reviewed the items that were moved from the Enterprise Fund to the General Fund, the ADA projected costs and other capital expenses. A brief discussion ensued regarding a major increase in the water bill due to three leaks that were discovered in the pool. Mr. Stone reviewed the details of the leaks discovered, the repairs, and concerns that there could be additional erosion issues under the pool. He recommended that ground penetrating radar testing be done to determine the extent of the damage under the pool and whether all that water is running away from the clubhouse or under it. He stated that the repairs made are not guaranteed and no one knows how long they will last. Mr. Brizendine stated that the auto fill valve has been turned off so that Staff can monitor the issue. It was stated that funding needs to be included in the budget to plan for a major repair, as well as the pool resurfacing.

On a Motion by Mr. Stumpf, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors authorized the Chairman to approve ground penetrating radar testing for the pool with a not-to-exceed amount of \$5,000 for Harbor Bay Community Development District.

Discussions were held regarding how much to budget for water next year. Mr. Brizendine stated that the budgeted amount is based on the average usage for the first six months and was then multiplied by twelve so it does not include the additional water usage from the pool leaks. Concerns were expressed that if the litigation costs are needed, there may not be enough funds in the budget to cover the pool repairs. Mr. Ripley recommended that the budget be increased by \$100,000 to ensure that the repairs can be made. Mr. Earlywine stated that the cap for the budget has already been set because the landowners were noticed at the lower figure. However, if needed a special assessment could be levied during the year. Recommendations were made about pulling the repair costs out of the capital improvement line item rather than doing the basketball courts lighting and access restrictions at the tennis courts this year.

The Board responded to audience comments regarding moving funding from the off-duty patrols and plans for lighting the basketball courts and restricting access to the tennis courts to repair the pool, continued litigation costs, the arborist report, the ADA compliance requirements, the possibility of seeking reimbursement from the water company for some of the sewer costs due to the pool leaks, issues with the contract for off-duty officers and general policy changes requiring background checks on vendors and staff, along with the need to communicate vandalism or crime concerns with the residents. Following further discussion by the Board, the following changes were made to the General Fund Budget: reducing litigation to \$864,000 and the ADA to \$65,000, removing the \$45,000 from the off-duty patrols and \$50,413 from the capital improvements to increase the reserve account to \$136,413 with the bottom line remaining the same. It was stated that the first priority would be repairing the pool, with the understanding that the items that were removed would be considered if pool repairs come in lower than anticipated.

A brief discussion ensued regarding the Enterprise Fund Budget totaling \$736,118. Ms. Gibson and Mr. Brizendine responded to Board questions regarding cell phone expenses. It was stated that the cell phone at the Guard House is being eliminated. The Board expressed satisfaction with the budget and no changes were requested.

Mr. Brizendine reviewed the debt service budgets and the assessment levels associated with the various budgets and street light costs. With no comments being heard, he asked for a motion to close the public hearing.

On a Motion by Mr. Stone, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors closed the public hearing on the fiscal year 2011/2012 final budget for Harbor Bay Community Development District.

Mr. Brizendine reviewed Resolution 2011-08, stating that it not only approves the budgets as discussed, but certifies that a proposed budget was presented to the Board prior to June 15th, a copy of the proposed budget submitted to Hillsborough County and a public hearing held prior to approval of the budget not less than 60 days after the budget was submitted to the County.

On a Motion by Ms. Guill, seconded by Mr. Stone, with all in favor, the Board of Supervisors approved Resolution 2011-08, adopting the fiscal year 2011/2012 final budget totaling \$5,482,193.95 for Harbor Bay Community Development District.

NINTH ORDER OF BUSINESS

Public Hearing on Assessments

On a Motion by Mr. Ripley, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors opened the public hearing on assessments for Harbor Bay Community Development District.

Mr. Earlywine sought and received confirmation from Mr. Brizendine that the public hearing was duly advertised as required under Florida law and that the benefit to the property is equal to or greater than the assessments being levied against it and the assessments were fairly allocated against the properties.

There were no comments from either the Board or members of the general audience regarding the proposed assessments that were reviewed by Mr. Brizendine.

On a Motion by Mr. Stumpf, seconded by Mr. Ripley, with all in favor, the Board of Supervisors closed the public hearing on assessments for Harbor Bay Community Development District.

Mr. Earlywine reviewed resolution 2011-09, for the benefit of the Board, stating that it states that it is in the best interest of the District to levy the assessments, it addresses the means by which the District will collect the assessments via the tax roll for platted lots and through a direct bill process on the unplatted property, as well as, the mechanisms in place to enforce the collection of those assessments should it become necessary. He touched briefly on the collection schedule for the unplatted lots, explaining that it is in keeping with what has been used in prior years.

On a Motion by Mr. Ripley, seconded by Mr. Stumpf, with all in favor, the Board of Supervisors approved Resolution 2011-09, imposing assessments and certifying the assessment roll for Harbor Bay Community Development District.

TENTH ORDER OF BUSINESS

**Consideration of Resolution 2011-10,
Setting the Meeting Schedule for Fiscal
Year 2011/2012**

A brief discussion was held regarding keeping the same meeting schedule as in the past, but adjusting the November and December dates that conflict with holidays. Mr. Brizendine read the revised dates into the record.

On a Motion by Mr. Stumpf, seconded by Mr. Ripley, with all in favor, the Board of Supervisors approved Resolution 2011-10, setting the meeting schedule for Fiscal Year 2011/2012 as the 4th Thursday of each month at 5:30 p.m. (with the exception of the November meeting which will be held on the 17th and the December meeting which will be held on the 15th) at the MiraBay Clubhouse, located at 107 Manns Harbor Drive, Apollo Beach, Florida 33752 for Harbor Bay Community Development District.

ELEVENTH ORDER OF BUSINESS

Staff Reports

- A. District Counsel
Mr. Earlywine stated that the Crosland agreement was executed and the first payment has been made.

Mr. Earlywine provided a brief update on the status of the Newland Property easement conveyance, stating that the conference call did occur and it appears that there will need to be an agreement put in place to address the monitoring requirements for the property being conveyed to the District

Mr. Earlywine stated that he addressed the status of the bid protest during the public hearing and he is hopeful that he will have something more to present to the Board at the continued meeting.

Mr. Earlywine also announced that he will be unable to attend the regular September meeting, but the firm would be represented by another attorney.

B. District Engineer
Not present.

C. Mira Bay Club Manager – Karla Gibson
Ms. Gibson reviewed her proposed holiday hours and sought approval from the Board. She asked that the clubhouse be closed on Thanksgiving, open from 9:00 a.m. to 3:00 p.m. on Christmas Eve, closed Christmas Day, open New Year's Eve from 9:00 a.m. to 4:00 p.m and New Year's Day from 12:00 p.m. to 4:00 p.m.

On a Motion by Mr. Stone, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors approved the holiday hours for the clubhouse as presented for Harbor Bay Community Development District.

D. Field Operations Manager – John Toborg
Mr. Brizendine apologized to the Board on behalf of Mr. Toborg, who was unable to attend tonight's meeting due to an emergency issue at another District. He stated that he distributed the July inspection report to the Board as the one included in the agenda packet was not a current report. Mr. Brizendine stated that the August inspection was rained out, but that another inspection would be completed shortly.

E. District Coordinator- Kristy Owens
Ms. Owens sought direction from the Board regarding whether or not the Board wanted U.S. Security to place the orange cones directing traffic at the exit gate as the outer gate is not working. She stated that the guards have no control over the inner gate and there have been issues with the gate getting stuck on top of vehicles trying to exit too quickly. It was stated that the revised policy provided to U.S Security only addresses the incoming gates and not the outgoing ones. The Board indicated that the same policy should apply to both sets of gates. Mr. Earlywine sought and received confirmation that the policy would not prohibit public access to the community.

A brief discussion was held regarding the need to replace the gate motors. The Board directed Ms. Owens to obtain proposals to replace all of the gate motors and work with Mr. Brizendine to have the repairs made as soon as possible.

F. District Manager

Mr. Brizendine touched briefly on the cash flow situation, explaining that the reason that the District is not showing collection of all of the assessments from last year relates to funds not yet received from Crossland.

Mr. Brizendine stated that litigation counsel is requesting a shade meeting be held on September 8th and asked for authorization from the Board to submit the required notification. Mr. Earlywine stated that the parameters for the meeting would be the same as previous shade meetings with attendance being restricted to the five Board Supervisors, Mr. Brizendine, himself, Steven Medendorp, Brian Bolves, and a court reporter. The meeting will last approximately one hour and would be followed by the continuation of this meeting where other matters could come before the Board.

On a Motion by Ms. Guill, seconded by Mr. Stone, with all in favor, the Board of Supervisors authorized Staff to schedule and place the required notice of a shade meeting on September 8, 2011 at 5:30 p.m., at 107 Manns Harbor Drive, Apollo Beach, Florida 33752, for Harbor Bay Community Development District.

TWELFTH ORDER OF BUSINESS

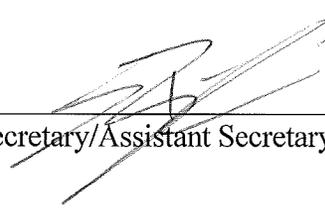
**Supervisor Requests & Audience
Comments**

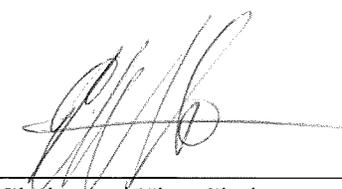
There were no Supervisor requests or audience comments put forward at this time.

THIRTEENTH ORDER OF BUSINESS

Continuance

On a Motion by Mr. Stumpf, seconded by Mr. Stone, with all in favor, the Board continued the meeting until September 8, 2011, at 5:30 p.m., at the MiraBay Clubhouse, located at 107 Manns Harbor Drive, Apollo Beach, Florida 33752 for Harbor Bay Community Development District.


Secretary/Assistant Secretary


Chairman/ Vice Chairman