

**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, January 24, 2013 at 2:03 p.m.** at the MiraBay Clubhouse, located at 107 Manns Harbor Drive, Apollo Beach, Florida 33752.

Present and constituting a quorum were:

Rip Ripley	<b>Board Supervisor, Chairman</b>
Julie Guill	<b>Board Supervisor, Vice-Chairman</b>
Bob Collins	<b>Board Supervisor, Assistant Secretary</b>
Paul Stumpf	<b>Board Supervisor, Assistant Secretary</b>
Bob Cribbs	<b>Board Supervisor, Assistant Secretary</b>

Also present were:

Matthew Huber	<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 Associates Engineering</b>
Kristy Owens	<b>District Coordinator</b>

Audience members

**FIRST ORDER OF BUSINESS**

**Call to Order**

Mr. Huber called the meeting to order and conducted roll call confirming a quorum for the meeting.

**SECOND ORDER OF BUSINESS**

**Audience Comments on Agenda Items**

An Audience member stated that there is curb damage outside her home on Tortoise Place and she believes that it is the responsibility of the District to repair the damage. Mr. Scarola explained that ownership of the District is to the back of the sidewalk; however there are driveway connections that are created by the individual builders that the homeowner is responsible for. He stated that the curb damage in question is located on the driveway connection. Mr. Earlywine suggested the resident contact her homeowner's insurance carrier.

An Audience member asked for an update on the Seawall litigation. Mr. Earlywine stated that he would provide an update under Staff Reports.

**HARBOR BAY COMMUNITY DEVELOPMENT DISTRICT**

**January 24, 2013 - Minutes of Meeting**

**Page 2**

---

An Audience member stated the boat lift did not look as unsightly as was described in the previous meeting. He suggested that the Welcome Center be cleaned more than once per year.

An Audience member inquired as to why the agenda was changed to list Audience Comments before Supervisor Requests. She explained that residents are then forced to wait another month before responding to any business items or Supervisor requests. A discussion ensued.

An Audience member suggested that the Board use the playground on the other side of the community as an example to solve the mulching and drainage issues. He stated that basketball lights were budgeted in the past and suggested that the financial forecast should take into account historical information for a more accurate reflection of expenditures on a monthly basis. An Audience member stated that he believed it was inappropriate for the Board to suggest that residents will pay for the Seacrest litigation when the Board does not know what the outcome will be. He stated that the slide repairs should be a priority as it is a focal point for potential new residents when they visit the community. Mr. Earlywine explained that the intent of the comment that was made at the last meeting regarding residents paying for the Seacrest litigation was to address the practical reality of the lawsuit, namely that even if the Association prevails, the only way the District collects revenues is to levy special assessments on landowner properties.

An Audience member asked for an update on the installation of the basketball court lights and voiced his displeasure regarding the perceived inaction of the Board. Mr. Ripley explained that the work around the perimeter of the courts has been completed and that a full security program for the community is in progress. A discussion ensued.

An Audience member inquired about the community-wide email that was sent regarding the Seacrest litigation. He stated that the email indicated that the case was dismissed and inquired as to the accuracy of the information that was disseminated. Mr. Earlywine explained that there have been two complaints filed; the District filed a motion to dismiss the second complaint on the basis of sovereign immunity. He explained that presumably, in order to avoid that defense, the Plaintiff has since filed a motion to request that the court allow them to further amend their complaint and raise different theories.

An Audience member stated that the Board needs to stop the in-fighting with Seacrest and asked that the Board begin to listen to the community.

An Audience member stated that there will always be discord, but things can be resolved through discussion and reasonable resolutions.

An Audience member stated that the park sign at Wolf Creek Park was down for a number of months and that she and her husband have put it back up. She inquired as to how to make the builders accountable for cleaning up after themselves when they are done for the day.

**HARBOR BAY COMMUNITY DEVELOPMENT DISTRICT**

**January 24, 2013 - Minutes of Meeting**

**Page 3**

**THIRD ORDER OF BUSINESS**

**Consideration of Minutes from the board of Supervisors' Special Meetings held on December 19, 2012**

On a Motion by Mr. Stumpf, seconded by Mr. Ripley, with all in favor, the Board of Supervisors approved the minutes from the Board of Supervisors' special meetings held on December 19, 2012 for Harbor Bay Community Development District.

**FOURTH ORDER OF BUSINESS**

**Consideration of Minutes from the Board of Supervisors' Meeting Held on December 19, 2012**

Mr. Stumpf noted that the Seventeenth Order of Business on Page 6 should read: "Mr. Brizendine stated that the next regular meeting of the Board of Supervisors will be held on January 24, 2013, at 2:00 p.m. at the MiraBay Clubhouse located at 107 Manns Harbor Drive, Apollo Beach, Florida 33752."

On a Motion by Mr. Stumpf, seconded by Mr. Ripley, with all in favor, the Board of Supervisors approved the minutes from the Board of Supervisors' regular meeting held on December 19, 2012 as amended for Harbor Bay Community Development District.

**FIFTH ORDER OF BUSINESS**

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

Mr. Huber presented the expenditures to the Board for consideration. A question was raised regarding the Seacrest litigation expenditures and whether they are being held in separate accounts. Mr. Cribbs stated that Mr. Collins should be reviewing all legal invoices as the Board appointed legal liaison. He suggested that if any landscaping is lost due to frost that it be replaced by frost-resistant plants in the future.

On a Motion by Mr. Stumpf, seconded by Mr. Cribbs, with all in favor, the Board of Supervisors approved the Operation and Maintenance Expenditures paid during the period of December 1-31, 2012 (\$283,882.17) as amended for Harbor Bay Community Development District.

**SIXTH ORDER OF BUSINESS**

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

Mr. Huber presented the expenditures to the Board for consideration. A discussion ensued regarding long distance phone calls and which phones have long distance capabilities. Ms. Murphy confirmed that all long distance has been blocked except for the phones designated to management.

On a Motion by Mr. Stumpf, seconded by Ms. Guill, with all in favor, the Board of Supervisors approved the Operation and Maintenance Expenditures paid during the period of December 1-31, 2012 (\$48,588.88) for the Mira Bay Amenity Center, for Harbor Bay Community Development District.

**SEVENTH ORDER OF BUSINESS**

**Consideration of Green Synergies Proposal  
to Address Playground Drainage Issues  
and Install Mulch**

Mr. Huber recommended that the Board table this item to allow time for additional research on the matter.

**EIGHTH ORDER OF BUSINESS**

**Consideration of Waterslide Proposals**

Mr. Scarola updated the Board on his conversation with Slide Renu and what they have proposed. Mr. Huber noted that there is currently \$5,000.00 allocated in the budget for pool repairs and that the remaining balance would have to be taken from contingency. A discussion ensued.

On a Motion by Ms. Guill, seconded by Mr. Stumpf, with all in favor, the Board approved a not-to-exceed amount of \$13,000.00 for the waterslide repairs subject to final review of the Slide Renu contract by District Counsel and District Staff for Harbor Bay Community Development District.

**NINTH ORDER OF BUSINESS**

**Staff Reports**

A. District Counsel

Mr. Earlywine stated that the practices of Brian Bolves and Doug Manson have merged together but that it should not have any effect on the Seawall litigation. He then discussed various aspects of the transition. Mr. Earlywine asked the Board to authorize the transfer of the Seawall litigation matter to the new firm, Manson Bolves.

On a Motion by Mr. Collins, seconded by Mr. Ripley, with all in favor, the Board authorized the transfer of the Seawall litigation matter to Manson Bolves for Harbor Bay Community Development District.

**HARBOR BAY COMMUNITY DEVELOPMENT DISTRICT**

**January 24, 2013 - Minutes of Meeting**

**Page 5**

Mr. Earlywine updated the Board on the Seawall litigation. He stated that there had been a motion made by the Defendants to continue the trial for the purpose of allowing them to further review the expert rebuttal testimony that was presented in the case through discovery. Mr. Earlywine explained that as he understood it, the motion was denied in part and granted in part in that the case is still on the trial docket, but the Defendant was granted more time to review the evidence. He stated that litigation counsel expects that the trial will likely take place in mid to late February. At the request of litigation counsel, Mr. Earlywine recommended that a shade session be scheduled before the next regularly scheduled Board of Supervisors' meeting in light of the fact that there is a mediation among the insurance carriers scheduled for mid February. A discussion ensued.

On a Motion by Mr. Collins, seconded by Mr. Ripley, with all in favor, the Board set shade sessions for February 14, 2013 at 3:30 p.m. and March 6, 2013 at 3:30 p.m. for Harbor Bay Community Development District.

Mr. Earlywine reminded the Board that a Seawall litigation response policy was adopted in August of 2011. The policy stated that all inquiries or questions from residents to Supervisors relating to the Seawall litigation should be directed to Mr. Huber in order to better manage the flow of information. The Board elected to apply that policy to all litigation inquiries.

On a Motion by Mr. Cribbs, seconded by Mr. Stumpf, with all in favor, the Board authorized all litigation inquiries from residents to be directed to the District Manager for Harbor Bay Community Development District.

- B. District Engineer  
Mr. Earlywine stated that the painting project agreement with Elias Brothers should be finalized in the next day or two. Mr. Scarola stated that the retaining wall contract is also underway.
- C. Club Manager – Mindy Anderson  
Ms. Murphy updated the Board on programs and upcoming events. She stated that the full marketing plan will be presented at the February meeting.
- D. District Coordinator- Kristy Owens  
No report.
- E. District Manager  
Mr. Huber stated that the next regular meeting of the Board of Supervisors will be held on February 28, 2013, at 5:30 p.m. at the MiraBay Clubhouse located at 107 Manns Harbor Drive, Apollo Beach, Florida 33752.

Mr. Huber asked the Board's for direction on the financial forecasts and how they would like to see them presented going forward. A discussion ensued. The Board directed Mr. Huber to create the financial forecasts based on historical accounting in

order to predict monthly expenditures more accurately.

Mr. Cribbs asked for clarification on Audience comments and how they are entertained during the Board of Supervisors' meetings. He stated that it is his understanding that Audience comments at the beginning of the meeting are to be limited specifically to items that are on the agenda that particular day. The Audience comments at the end of the meeting are to entertain free-form comments regarding any topic, with a 3-minute time limit. Mr. Cribbs suggested that when an Audience member has items that will exceed the 3-minute time limit, that as a procedural issue he or she request approval for the additional time before they begin speaking. He stated that respect should be paramount during the course of the meetings and should be enforced by the District Manager and or the Chairman should someone conduct themselves in a disrespectful manner.

A question was raised regarding the park sign. Mr. Huber stated that he wanted to verify the wording as it relates to trespassing and also wanted to check with Hillsborough County regarding posting parameters. He noted that a Board would typically adopt a trespassing policy in order to have the ability to enforce it. A discussion ensued.

**TENTH ORDER OF BUSINESS**

**Audience Comments and Supervisors  
Requests**

A discussion ensued regarding how Audience comments should be entertained.

On a Motion by Mr. Ripley, seconded by Mr. Stumpf, with all in favor, the Board voted to change the agenda to list Supervisor comments at the end of the meeting followed by Audience comments (Supervisors may comment on Audience comments at any time) for Harbor Bay Community Development District.

**Audience Comments**

An Audience member stated that he uses the tennis courts regularly and there have been frequent incidents of vandalism. He asked the Board how to go about enforcing the patrons-only rule for use of the facilities. A Board member stated that they are working to get proximity card readers for the whole facility to curtail vandalism and to limit the amount of non-patrons that gain access to it.

An Audience member (Neighborhood Watch program coordinator) stated that he has spoken with the Hillsborough County Sheriff's Office regarding trespassing and was told that a member of the Board would need to be present to sign a trespass order in order for it to be enforced at the time the incident occurs. Mr. Huber stated that the Board could adopt a trespass resolution that would enable the Hillsborough County Sheriff's Office to enforce the no trespassing rules and arrest individuals that violate them without a member of the Board having to be present. The Audience member inquired about insurance coverage for Neighborhood Watch program members and those that administer the My MiraBay website, as well as the

**HARBOR BAY COMMUNITY DEVELOPMENT DISTRICT**

**January 24, 2013 - Minutes of Meeting**

**Page 7**

ability of the Neighborhood Watch to access the security video surveillance in real time. Mr. Earlywine stated that because the District and the Board are covered by a governmental insurance policy, he did not believe it to be likely that Neighborhood Watch members could be covered unless they were deputized in some way. Mr. Ripley requested further investigation into the matter.

An Audience member stated that Audience comments at the beginning of the meeting need to be limited to comments on agenda items only. He also suggested that if an agenda item is of particular interest to residents, that the Board should open the floor to Audience participation.

An Audience member stated that there are several Directory Assistance calls reflected on the monthly phone bills and recommended that the Board look into it as a means to save money.

An Audience member requested clarification on the email that was sent out to the community regarding the Seacrest litigation. He asked if any member of the Board had any involvement in creating the email. Ms. Guill noted that the Audience member was an active member of the Seacrest HOA Board. Mr. Earlywine stated that he cannot discuss or comment in response to the Audience member's question. He recommended that the Board also refrain from commenting in light of the fact that the Audience member sits on the Seacrest HOA Board. Mr. Earlywine suggested that the Audience member have his counsel contact him directly.

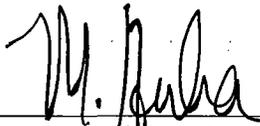
An Audience member stated that the email indicated that the judge dismissed the case. He asked if that statement was true. Mr. Earlywine stated that there was a complaint filed last fall and that a second complaint was filed approximately one week later. The District then filed a motion to dismiss based on the grounds of sovereign immunity. He stated that presumably, to avoid that defense, the Plaintiff has now filed a motion to amend their complaint. A discussion ensued.

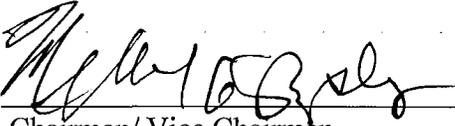
An Audience member asked if any member of the Board was involved in the content or publication of the email that was sent out to the community. Mr. Earlywine strongly urged the Board to not let the meetings become sidetracked with discussions about ongoing litigation.

**ELEVENTH ORDER OF BUSINESS**

**Adjournment**

On a Motion by Ms. Guill, seconded by Mr. Collins, with all in favor, the Board adjourned the meeting at 4:08 p.m. for Harbor Bay Community Development District.

  
Secretary/Assistant Secretary

  
Chairman/ Vice Chairman