

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, December 15, 2011 at 5:52 p.m.** at the MiraBay Clubhouse, located at 107 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.
Steve Medendorp	Litigation Counsel, Medendorp & Bolves, P.A.
Brian Bolves	Litigation Counsel, Medendorp & Bolves, P.A.
Audience	

Joining the Meeting after the recess were:

Jamie Scarola	District Engineer, Scarola & Assoc. Engineering
Karla Carusone	Club Manager
Kristy Owens	District Coordinator

FIRST ORDER OF BUSINESS

Call to Order

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

SECOND ORDER OF BUSINESS

Shade Meeting with Litigation Counsel

Mr. Earlywine announced that the Board would be moving into the shade session and that attending the meeting would be the five Board Supervisors, Scott Brizendine, Brian Bolves, Steven Medendorp and himself, as well as a court reporter. He stated that the meeting was advertised according to Florida statutes and estimated that the meeting would last approximately 60 minutes. He asked that all individuals not scheduled to attend the meeting leave the room at this time.

HARBOR BAY COMMUNITY DEVELOPMENT DISTRICT

December 15, 2011 - Minutes of Meeting

Page 2

Mr. Brizendine called for a recess of the regular meeting at 5:54 p.m.

Mr. Brizendine reconvened the meeting at 7:32 p.m., with all those in attendance prior to the recess rejoining the meeting. Mr. Scarola joined the meeting at this time.

THIRD ORDER OF BUSINESS

Audience Comments on Agenda Items

There were no audience comments put forward on agenda items.

FOURTH ORDER OF BUSINESS

Consideration of the Minutes of the Audit Committee Meeting held on November 17, 2011

Mr. Brizendine stated that he did not receive any comments prior to the meeting and asked if there were any to be discussed at this time.

On a Motion by Mr. Ripley, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors approved the minutes of the Audit Committee meeting held on November 17, 2011 as presented for Harbor Bay Community Development District.

FIFTH ORDER OF BUSINESS

Consideration of the Minutes of the Board of Supervisor's Meeting held on November 17, 2011

Mr. Brizendine stated that he did not receive any comments prior to the meeting and asked if there were any to be discussed at this time. Mr. Stumpf sought clarification on the WTS payments that were not paid for the last two months of the prior fiscal year. Mr. Brizendine stated that he would research the matter further with the staff accountant.

On a Motion by Mr. Stone, seconded by Mr. Stumpf, with all in favor, the Board of Supervisors approved the minutes of the Board of Supervisors' meeting held on November 17, 2011 as presented for Harbor Bay Community Development District.

SIXTH ORDER OF BUSINESS

Consideration of Operation and Maintenance Expenditures for November 2011

Mr. Stumpf inquired whether the invoice for mulching that was approved in July was accrued and would be part of last year's actual expenses. He expressed concern as to why the two Oaks on Ibisview and two Sylvester Palms at the end of Islebay Drive were replaced given that since January 2011 there was a directive from the Management Company to submit tissue samples to determine why the palms died. It was noted that the Chairman and District Manager had approved the proposal prior to cause of death being attained.

On a Motion by Mr. Stone, seconded by Ms. Guill, with four in favor and one against (Paul Stumpf), the Board of Supervisors approved the Operation and Maintenance Expenditures paid during the period of November 1-30, 2011 (\$215,373.59) for Harbor Bay Community Development District.

SEVENTH ORDER OF BUSINESS

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

No questions were put forward regarding any of the invoices presented.

On a Motion by Mr. Ripley, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors approved the Operation and Maintenance Expenditures paid during the period of November 1-30, 2011 (\$49,045.54) for the Mira Bay Amenity Center, for Harbor Bay Community Development District.

EIGHTH ORDER OF BUSINESS

**Consideration of any Matters Relating to
Litigation**

Mr. Earlywine provided a brief update on the status of the seawall litigation, stating that depositions and expert witness reports are due by January 30th, a mediation session is scheduled for January 21st and the trial is scheduled for March 19th.

NINTH ORDER OF BUSINESS

**Consideration of Recommendation of
Audit Committee Regarding Selection of
an Auditing Firm**

Mr. Brizendine stated that prior to this meeting the Audit Committee met to review and evaluate the proposals received for auditing services. He stated that the Committee ranked the firms as follows: McDirmit Davis 93 points, Barzana 89 points, Grau 87 points, and CRI 79 points. Based on the ranking the Committee is recommending that McDirmit Davis be awarded the contract.

On a Motion by Mr. Stone, seconded by Mr. Stumpf, with all in favor, the Board of Supervisors approved the recommendation of the Audit Committee to accept the scoring as presented and to enter into contract negotiations with McDirmit Davis for auditing services for the next three years for Harbor Bay Community Development District.

TENTH ORDER OF BUSINESS

Review of District's Cash Flow Report

Mr. Brizendine presented the cash flow report stating that it reflects actual expenditures and cash receipts through October. He stated that currently, the District has \$290,359 in its cash and investment accounts and that the next installment from Crosland is due the end of the month. A brief discussion ensued regarding the best way to reflect or address the \$159,000 shortfall from the previous year. It was decided to show the adjustment in the budgeted amount for the current year.

ELEVENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

Mr. Earlywine reviewed the map relating to the property conveyances that he has been working on with Newland, explaining that they are still not able to convey the mitigation tracks as there is a consent order relating to trimming that has occurred in the area. He confirmed that the areas being conveyed were represented in blue on the map and the pending areas are in yellow. Mr. Earlywine asked if there were any questions regarding the Easement Agreement, Warranty Bill of Sale, and the Engineering Certificate for the tracks that are being conveyed at this time. He confirmed that there are no hold harmless agreements for these tracks.

On a Motion by Ms. Guill, seconded by Mr. Stumpf, with all in favor, the Board of Supervisors approved the Easement Agreement and Warranty Bill of Sale, accepted the Engineer's Certificate and authorized District Counsel to take the necessary action to complete the acquisition of the storm water drains for Harbor Bay Community Development District.

Mr. Earlywine provided a brief update on the District's attempt to complete the property due diligence, stating that Newland has offered to have their surveyor update the map and will be providing the cost for an O & E Report and for a title company update. He stated that Newland's counsel is swamped right now with end of year closings, but do understand the urgency of the request.

B. District Engineer

Mr. Scarola distributed a copy of a handout provided by RGA relating to the ADA Compliance requirements indicating where the District stands to date. The RGA Report indicated that they are on scheduled and ensured the Board that everything would be completed prior to the March deadline. He confirmed that there are no surprises to this point and initial pricing of the pool lifts has been received.

Mr. Scarola stated that at the last meeting he was asked to work with Ms. Owens to determine whether it would be more cost efficient to install traffic calming devices at the exit gates than it would be to keep repairing them. He stated that there was also some discussion about conducting traffic studies along community streets where speeding is an ongoing concern. Mr. Scarola stated that he spoke with Hillsborough County regarding the matter and they do have a procedure in place whereas Districts can request that traffic calming devices be installed. However it is a self-funded program, which means that all of the costs would be borne by the District. He reviewed the estimated costs provided by the County, as well as, the process that must be followed. Mr. Scarola stated that based on the projected costs, the decision was made to repair the gate.

A brief discussion ensued regarding the criteria that must be met before a request could go before the Board of Commissioners, stating that the District would either need to be able to show that 85% of the drivers drive 37 mph or higher in the areas where the District is looking to install the calming devices or it could demonstrate that the capacity limits on the roadways have been met. Otherwise the request would be thrown out before ever getting to the Board and the District would not be able to initiate another petition for three years. No Board action was taken at this time regarding whether to proceed or not. It was noted that the final decision to install any speed calming devices would be up to the County Board of Commissioners.

Mr. Scarola informed the Board that he had been contacted by an individual leading a “grass roots” effort to dredge the entry channels. The individual would like to make a presentation to the Board and ask that it consider making a donation to the cause. District Counsel recommended that he be advised of the facts before rendering an opinion on how involved the District can become. Following a brief discussion, the Board decided to invite the individual to make his presentation during the January meeting.

C. Mira Bay Club Manager – Karla Carusone

Ms. Carusone reminded the Board of the holiday hours for the clubhouse and asked for permission to hold the Pirate Fest in Landings Park. She explained that they will be bringing a pirate ship on site and that location works best for the ship. Ms. Carusone stated that she will need to apply for a special license to serve beer and wine in the park for the day at a cost of \$100. She stated that residents will purchase advanced tickets to the event and will not be allowed to bring private coolers, etc. with them. She spoke briefly regarding the children’s parade which will be starting at the clubhouse this year and ending at the park prior to the other event. A brief discussion ensued regarding liability concerns. District Counsel asked that a contract be entered into addressing proof of insurance, etc.

<p>On a Motion by Ms. Guill, seconded by Mr. Stone, with all in favor, the Board of Supervisors authorized the Clubhouse Manager to hold the Pirate Fest in Landings Park and apply for the special license to serve beer and wine at the event for Harbor Bay pending review of the contract by District Counsel and Management for Harbor Bay Community Development District.</p>

D. District Coordinator- Kristy Owens

Mr. Stone made a presentation regarding projects relating to the pool, such as selection of the firm to resurface the pools, costs to resurface the pool and complete the GPR testing and possible soil borings that may be needed to ascertain the extent of the damages that will need to be repaired. Estimated costs to make any known repairs and the timing of the project were also included in the presentation. An in depth discussion ensued regarding concerns with the number of unknown scenarios and costs that could be associated with the planned projects.

It was noted that the District did not budget enough funds to cover the projected costs and it may be necessary to hold off another year on the resurfacing portion of the project even though recent inspections by the Health Department point to the need to have it done sooner than later. It was stated that the GPR testing results would be back prior to the January meeting and it would make sense to base the final decision on the test results, which gives the Board three options right now: 1) do nothing and hope the repairs hold 2) Drain the pool and do the GPR testing and soil borings to determine the extent of damages and hold off on doing the complete resurfacing until a later date 3) Try to do everything at once.

On a Motion by Ms. Guill, seconded by Mr. Stumpf, with all in favor, the Board of Supervisors approved a not-to-exceed amount of \$5,000 for the GPR testing and soil borings with the goal of having the data back by the January meeting for Harbor Bay Community Development District.

Mr. Stone stated that the fence has been installed by the lift station and it came in below budget. He recommended that Mr. Kim be asked to install some landscaping on the Mirabay side at a future date.

E. District Manager

Mr. Brizendine provided a breakdown of the costs associated with the landscape bid protest, stating that there were legal fees in the amount of \$68,111.46 and the settlement amount of \$6,000.

Mr. Brizendine stated that he was informed that SWFWMD would be sending the reimbursement check for the ET System this week.

Mr. Brizendine stated that the water account for the property on Islebay has been closed and the reimbursement request forwarded to Newland.

Mr. Brizendine stated that litigation counsel has asked for another shade session to be held on January 26th at 5:30 p.m. Mr. Earlywine stated that it should last approximately a half hour to an hour and noted that the meeting would be attended by litigation counsel, the Board, Scott Brizendine, a court reporter, and himself. Mr. Brizendine asked for a motion to authorize him to submit the required advertisement for the meeting.

On a Motion by Mr. Stone, seconded by Mr. Stumpf, with all in favor, the Board of Supervisors authorized District Management to submit the required advertisement to hold a shade meeting on January 26, 2012 at 5:30 p.m. for Harbor Bay Community Development District.

TWELFTH ORDER OF BUSINESS

**Supervisor Requests & Audience
Comments**

Mr. Stumpf inquired as to the status of the door closers for the restrooms at the tennis courts as they are being left open on a regular basis. Ms. Owens stated that the door closers have been ordered. A brief discussion ensued.

Audience Comments

A request was made that an exception be made that requires a barcode sticker be applied to one of her vehicles as it is a rare vehicle. The Board was not willing to make an exception to the policy, but did recommend that the resident show the proximity card at the visitor's gate as she will not be required to provide all of the information that she would need to otherwise.

A brief discussion was held regarding why the contract with Greenbriar was not included in the bid protest. It was noted that the contract was not included as it is a separate issue and includes costs to maintain areas that were not in the original contract.

A resident expressed his frustration with the lack of lighting at the basketball courts and the fact that installation of the lights always seems to be put on the back burner.

A request was made to have a whaler installed along the seawall at 5607, 5609, 5611 and 5613 Skimmer, as well as questions raised regarding the conveyances from Newland, any capital spending cap that exists for the Chairman and Management, the timing of the replacement of the two palms in Sea Crest, and the reimbursement of landscape maintenance costs to the Seacrest HOA. The resident requested that the last two items be included on the next agenda. It was noted that management has a \$5,000 cap; however, the Chairman and management together do not have one. A brief discussion ensued.

Further comments were entertained regarding the bid protest, the replacement of the palms and the need to have a checks and balance system in place, allowing residents to vote on the question of the speed bumps, and how items get voted on. A brief discussion ensued regarding the matter and the fact that car dealerships have a hand held barcode. Ms. Owens stated that she would prefer that the proximity cards not be utilized to allow access into the community as most of them are not turned back in when residents move, etc.

THIRTEENTH ORDER OF BUSINESS

Adjournment

On a Motion by Mr. Stone, seconded by Mr. Stumpf, with all in favor, the Board adjourned the meeting at 9:35 p.m. for Harbor Bay Community Development District.


Secretary/Assistant Secretary


Chairman/ Vice Chairman