

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, February 18, 2010 at 5:35 p.m.** at 700 Manns Harbor Drive, Apollo Beach, Florida 33752.

Present and constituting a quorum were:

Scott Jones	Board Supervisor, Chairman
Laura Ackerman	Board Supervisor, Vice Chair
Rip Ripley	Board Supervisor, Assistant Secretary
Tom Hatcher	Board Supervisor, Assistant Secretary
Ed Stone	Board Supervisor, Assistant Secretary

Also present were:

Jonathan Miller	District Manager, Rizzetta & Company, Inc.
John Toborg	Operations Manager, Rizzetta & Company, Inc.
Robert Cox	Director of Financial Consulting Services, Rizzetta & Company, Inc.
Jamie Scarola	District Engineer, Scarola Associates
Erika Johnson	Representative, WTS International
Karla Gibson	Representative, WTS International
Debra Dremann	Representative, Newland Communities
Ben Gelston	Representative, Newland Communities
Mercedes Tutich	Representative, Newland Communities
Biff Craine	District Counsel, Bricklemyer, Smolker, Bolves
Audience	

FIRST ORDER OF BUSINESS

Call to Order

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

SECOND ORDER OF BUSINESS

Consideration of Minutes of the Board of Supervisors' Meeting held on January 7, 2010

On a motion by Mr. Ripley, seconded by Mr. Stone, with all in favor, the Board approved the Minutes of the Board of Supervisors' Meeting held on January 7, 2010 as presented for Harbor Bay Community Development District.
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THIRD ORDER OF BUSINESS

**Consideration of Operations and
Maintenance Expenditures for January
and February 2010**

Mr. Miller stated that the January 2010 expenditures for the District totaled \$273,730.10. He asked if there were any questions. Ms. Ackerman questioned the bills regarding the bond refinancing. She also questioned why the flood insurance premium was higher for gate one than gate two. Mr. Miller stated he would need to look into the matter. He asked Mr. Scarola if he had any insight on the difference. Mr. Scarola stated that gate one may have more electrical than mechanical components. Ms. Ackerman then questioned the payment to Mr. Kim. She stated that it had never been approved. Mr. Miller stated that it was to be reimbursed by Newland and that they were paying for those expenditures.

Mr. Ripley suggested for the sake of brevity that Board members submit questions in writing to be returned at the next meeting. He suggested that questions could be submitted ahead of time. He also suggested that the O&M be distributed as a separate email attachment.

Mr. Miller asked if this was the general consensus of the Board. All Agreed. Mr. Miller proceeded to review the January Mirabay expenditures totaling \$55,917.89.

Ms. Ackerman questioned the Sprint bill under the CDD and enterprise fund. Mr. Miller explained that a portion of the bill was related to Bob, which was allocated to the general ledger. He stated that the balance was allocated to the enterprise fund. Ms. Ackerman stated she would like to see a serious effort put forth to change that plan. Ms. Ackerman then inquired regarding the SunTrust bank statements. She stated that the District was consistently incurring an imprinted check/deposit fee. She asked why there were two to three fees on each statement as well as an account analysis fee on every statement.

Mr. Miller stated that the District had a commercial grade checking account and that there were fees associated with that. He stated he could have the accounting staff provide a detail explanation.

Ms. Ackerman stated she would like to know what those fees were for and potentially move else where.

Mr. Ripley reiterated his suggestion for requests and questions to be submitted in writing.

Mr. Miller stated that the February 2010 expenditures totaled \$216,360.61. He asked if there were any questions regarding those expenditures. He reported that the palm tree replacement of \$3,600 was to replace the palm tree that had died. He also stated that the \$48,000 expense was derived from the balance due to the District insurance carrier as previously arranged.

Mr. Miller stated that the February Mirabay expenditures totaled \$42,329.62. He asked if there were any questions.

Ms. Ackerman stated that the first WTS expense looked wrong. Mr. Miller stated that he thought the mileage was for there and back.

Ms. Johnson stated she could answer her question since it was with WTS. She stated that the costs were split and that the amount needed to be corrected.

<p>On a motion by Mr. Jones, seconded by Mr. Stone, with all in favor, the Board approved the Operation and Maintenance Expenditures for January (\$273,730.10) and February (\$216,360.61) 2010 for the District and for January (\$55,917.89) and February (\$43,329.62) 2010 for the Mirabay Clubhouse for Harbor Bay Community Development District.</p>
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FOURTH ORDER OF BUSINESS

**Presentation of Community Management
Proposal by the MiraBay HOA**

Mrs. Dremann thanked the Board for allowing her to speak. She explained that due to the loss of Mr. Smith, both the CDD and HOA boards were looking for separate contracts to replace his position. She stated that a proposal from Rizzetta & Company, Inc. had been accepted to separate that management. She presented the proposal for the new role of Resident Services Specialist. She provided various reasons they felt the Resident Services Specialist role was beneficial and necessary to the community as a whole. Some examples provided included the current absence of an on site office presence, resident confusion over the difference of District and HOA management responsibilities, and having a single point of contact for all things MiraBay. She explained that the proposed job description included meeting with residents regarding problems, concerns, and suggestions and coordinating requests with both the HOA and CDD. Also, the position would review outstanding resident requests and develop a daily tracking system for all resident contacts as well as other duties. She explained that monthly responsibilities would include the preparation of activity reports and attending meetings. She stated there were two proposals. The first proposal was to open the new position with the Management Company for a 90-day trial period with the contract to be shared by both the District and the HOA. She stated that the second proposal was to expand the District's on site support ten hours, to be compensated by the Master HOA. She stated that there would be no increase in the District budget and requested that the Board choose one of the proposals with the contract to be approved at the March meeting, interviews to commence in April, and the new position to be implemented by May 1, 2010.

Mr. Jones inquired whether the 90-day trial period may dilute the pool of applicants and deter good candidates.

Mrs. Dremann stated that she had received strong feedback at the HOA meeting to include this term. She stated that they wanted to make sure it was working before they hired full time.

Discussion ensued. Mr. Ripley stated he would like to see the trial position be given to Kristy. He explained that her hours would be increased from 30 to 40 hours per week and that the position would be funded entirely by the District. He stated that the position would possess no authority and would be responsible for managing information only.

Mr. Miller stated that he would present the proposal to the staff and see if they were willing to do that. Further consideration of the item was tabled.

FIFTH ORDER OF BUSINESS

Discussion of Series 2001B Bond Refunding

Mr. Craine stated that the purpose of Resolution 2010-04 was to refund the series 2001 B Bonds, and extend the maturity date. He stated that key features were that it was being done completely transparent to the District and that the District would incur any costs in refinancing that debt. He stated that all associated costs would be borne by the developer. He stated that the debt would be extended to May 1, 2017.

Mr. Cox introduced himself to the Board and audience. He stated that the terms were still in negotiation and would be discussed in detail at the public hearing on April 22, 2010. He stated that at that point an interest rate had not been set, but for the purposes of the report, the target rate was 7.5%. He stated that all the impacted lands were owned by the developer or builders. He stated that the assessments on tax bills would not be affected. He stated that there were 554 units that were still encumbered by the B Bonds.

Mr. Ripley asked for confirmation that the developer was absorbing the increase in cost and that no homeowner would see a change.

Mr. Cox stated that was correct and asked if there were any other questions. There were none. Discussion ensued.

Mr. Jones asked if the bonds were typically paid off when the developer sold the lots and asked for confirmation that they were not assigned to the homeowners.

Mr. Craine stated that those bonds were not typically assigned unless the homeowner had agreed to accept it.

On a motion by Mr. Hatcher, seconded by Mr. Ripley, with all in favor, the Board approved Resolution 2010-04 as presented for Harbor Bay Community Development District.

On a motion by Ms. Ackerman, seconded by Mr. Stone, with all in favor, the Board approved Resolution 2010-05 as presented for Harbor Bay Community Development District.

Mr. Cox left the meeting in progress.

SIXTH ORDER OF BUSINESS

Proposed Restorations & Furniture Replacement

Mr. Gelston addressed the Board regarding the proposed restorations and furniture

replacements for the Lagoon Room and around the MiraBay club. He explained that approval of a License Agreement to perform the work was being sought as well. He requested that all furniture to be replaced be removed from the premises and or sold.

On a motion by Ms. Ackerman, seconded by Mr. Stone, with all in favor, the Board approved the proposed restorations and furniture replacements and the corresponding License Agreement as presented for Harbor Bay Community Development District.

SEVENTH ORDER OF BUSINESS

Rip Rap Repair Agreement

Mr. Miller stated that the next item to be considered was the scope of work related to the rock replacement and raising of the top elevation of certain portions of the rip rap wall around the Mirabay Lagoon.

Mr. Scarola distributed copies of a map pertaining to the scope of work. He stated that early last year it was requested that he look at the rip rap. He stated that he looked at areas that needed to be done which were outlined on the map. He stated that area number three found on the bottom right of the plan was the largest site. He stated that he was concerned with trying to protect the District in project managing the repairs. He stated that it would be best to have Mr. Kim repair the wall since he put it in.

Mr. Jones asked if the District could take on liability for managing a project that Newland Communities was funding

Mr. Scarola stated yes, there was liability associated with project managing the building.

Mr. Craine stated that it would be a one-time repair with no continuing responsibility for the District. He stated the District did not want to incur on going responsibilities. He explained that there would be a lag of reimbursement of funds and that the District would be required to obtain releases for work as it went along. He stated that after releases were obtained, they would get reimbursed from the Developer over a twenty-one day period.

Mr. Scarola stated that it was that area of oversight that worried him. He stated that project involved more liability.

Ms. Ackerman inquired about the forms residents would need to complete. She stated she had a problem with the CDD paying the bill. Discussion ensued.

It was moved by Mr. Stone and seconded by Mr. Ripley to table the item. Two were opposed, Mr. Jones and Mr. Hatcher, the motion carried.

On a motion by Mr. Stone, seconded by Mr. Ripley, with three in favor, and two opposed (Mr. Jones and Mr. Hatcher), the Board approved to table the consideration for Harbor Bay Community Development District.

EIGHTH ORDER OF BUSINESS

Staff Report: Operations Manager

Mr. Toborg addressed the Board and stated that a copy of the field inspection report had been previously sent. He stated that the report had been generated by three site visits. He stated that some items which required a decision were:

1. The berms at the front entrance. He stated that the junipers had died and proposals for redesign and costs were needed.
2. The village entrance columns. He stated that the sign panels were aged and that he would like to bring a proposal with actual village names. He stated the architectural foam banding was in rough shape as well. He stated he would like to bring back proposals to mend the foam banding and base as well as for painting. He suggested that beds be placed around the repaired columns to limit future damage to the bases.
3. He stated that the palms were in rough shape and had been communicating with Mr. Kim to have them replaced. He recommended that tissues samples be taken to ensure good palms and that every effort be taken to prevent disease.

Discussion ensued. Mr. Toborg stated that even with preventative measures taken, there was no guarantee the palms would be safe.

Mr. Toborg presented Addendum #3 containing all questions from bidders. It was the consensus of the Board to issue addendum Number #5.

Mr. Toborg left the meeting in progress.

NINTH ORDER OF BUSINESS

Outfitters Facility Plan of Action

Erika Johnson addressed the Board and thanked them for allowing her to present. She stated that she would be presenting an update on where they were on the Outfitters plan of action. She stated it was not a business plan because it was an amenity. She also thanked Newland who was funding the project. She reviewed various goals and plans to make the Outfitters a viable entity and provide a variety of programs and services.

TENTH ORDER OF BUSINESS

Staff Report: Jamie Scarola

Mr. Miller stated that the District had a budget of \$40,000 for the repairs of weep holes and that \$25,000 had been used thus far. Mr. Scarola stated there was a great deal of sediment behind the wall.

He wanted to inform the Board that Seacrest contacted him and that they were having erosion issues. He stated that he went out and looked at them with Julie. He stated that they both agreed there was nothing they would do about it.

Mr. Scarola left the meeting in progress.

ELEVENTH ORDER OF BUSINESS

Review of District Financials

Mr. Miller stated that the District's financials would be fine-tuned as time progressed. He reviewed the District's financial highlights.

TWELFTH ORDER OF BUSINESS

Review of Utility Expenses.

Mr. Miller provided a detailed review of the District's utility expenses for the month of January 2010. Ms Ackerman commented that the irrigation should be more consistent in relation to the sprinklers.

Mr. Jones stated that he loved the graphs, but asked if the Board was comfortable with not reviewing them in the Board meetings unless there were questions. The Board agreed.

THIRTEENTH ORDER OF BUSINESS

Draft Scope of Services for Amenity Management RFP

Mr. Miller addressed the Board regarding the draft scope of services. He stated that the purpose of the RFP was to obtain the most competitive price for the level of service that was desired in the community. He stated that provided in the agenda were two items, a general draft scope of services and the current contract with WTS. He stated that he was in need of clear direction on how the Board wanted to move forward. He stated that in order to change vendors, the District must notice the current contractor by March 1, 2010. Discussion ensued. It was the consensus of the Board to table the item until the next meeting.

FOURTEENTH ORDER OF BUSINESS

Renter Proximity Card & Barcode Fee Schedule

Mr. Miller addressed the Board regarding the proximity cards. He stated that they were very expensive with a cost of \$4,500 semi-annually to the District. He explained that renters obtained the cards at no cost. He stated that the proposal was being presented in order for the District to recoup its costs. He stated that the proposed fee for the cards was \$15, to be charged only to renters of the community. He stated that it was not something that needed to go before a public hearing.

Mr. Stone asked how the fee stacked up with actual costs to the District.

Mr. Miller stated that it was just under actual costs. Discussion ensued.

On a Motion by Mr. Ripley, seconded by Mr. Jones, with all in favor, the Board approved the Proximity Card and Barcode Fee schedule as presented for the Harbor Bay Community Development District.

FIFTEENTH ORDER OF BUSINESS

Revised Visitor Proximity Card Policy

Mr. Miller stated that this item was being placed on hold for further revisions.

The Board agreed to notify WTS that their contract would be canceled after June 30, 2010.

On a Motion by Ms. Ackerman, seconded by Mr. Ripley, with all in favor, the Board approved to notify WTS that their contract would be canceled after June 30, 2010 for the Harbor Bay Community Development District.

SIXTEENTH ORDER OF BUSINESS

Revised Visitor Proximity Card Policy

Mr. Craine addressed the Board and provided an update on the seawall litigation. His memorandum has been attached as Exhibit A to the minutes. He stated that the proceedings had moved forward with the depositions. He stated that the work previously authorized by HSA had come back with interesting results. He stated that there were multiple areas of unsuitable soil conditions. He stated that additional work would give further depths of identification of soils. He stated that the company would be mobilized on waterside and would like to give them the authorization while they were on the field.

On a Motion by Mr. Ripley, seconded by Mr. Stone, with all in favor, the Board approved to authorize the additional work needed as requested by District Counsel for the Harbor Bay Community Development District.

SEVENTEENTH ORDER OF BUSINESS

Adjournment

On a Motion by Mr. Jones, seconded by Mr. Stone, with four in favor, and one opposed (Ms. Ackerman), the Board continued the meeting to Friday, February 26, 2010, at 1:00 p.m. for the Harbor Bay Community Development District.


Secretary/Assistant Secretary


Chairman/ Vice Chairman

March 25, 2010

**HARBOR BAY COMMUNITY DEVELOPMENT DISTRICT
(DBA MIRABAY)**

**DISTRICT MANAGEMENT'S RESPONSE TO BOARD OF SUPERVISOR'S QUESTIONS
REGARDING OPERATION & MAINTENANCE EXPENDITURES FOR:**

1. The General Ledger
2. The Enterprise Fund (MiraBay Club Specific Expenditures)

*****All Board of Supervisor Questions Are Subsequently Attached*****

Response to Board Supervisor, Rip Ripley's Questions:

Question # 1:

The District Management Office has contacted TECO & PESCO Energy to audit the accounts. As part of this audit TECO will be conducting a field inspection of the lines for any breaks or leaks. Further answer pending response from service providers.

Question # 2:

The District was not charged the \$100 for the modem not being returned. The total amount paid to Brighthouse Networks was \$196.23. This amount is precisely \$100 lower than the amount shown on the original bill (\$296.23). The reason the District was not charged the \$100 fee was that this account has been reactivated. This account runs the proximity card reader & surveillance cameras at the Boat Lift. This account became delinquent in the transition from HOA to CDD management.

Response to Board Supervisor, Laura Ackerman's Questions:

Question # 1:

Part A - Very good catch. Upon receipt of your question, District Management re-reviewed the original agreement. This error has already been brought to the attention of the vendor (Lee Te Kim). A credit in the amount of \$500 will be issued on the next regular maintenance billing.

Part B - These are costs of the District, not the Developer. In an attempt to ease your concern about tracking these billings, I have created a new heading under the revenue section of the financial statements. This new heading is labeled "Developer Reimbursements". This heading will specifically track only those reimbursements received from the Developer for District related costs and improvements that the Developer has chosen to assist in funding.

Question # 2:

"Account Analysis Fees" is the bank's terminology of account service fees. Please keep in mind, the District's checking and savings accounts are not personal accounts. They are commercial grade accounts. These fees will include the ability to view account information online, conduct transactions online, check processing, etcetera. The account analysis fees charged each month are related to the number of transactions and financial activities performed during the corresponding month. A percentage of the account analysis fees are offset by interest earned in the account.

Jonathan Miller

From: Ripripley@aol.com
Sent: Monday, March 22, 2010 1:21 PM
To: Jonathan Miller
Subject: Questions for CDDmeeting

In To Jonathan Miller:
Re: Questions for CDD meeting

CDD:

Teco gas bill in the amount of \$153.07.

Shows twice as many therms used this year as last year for lighting. Inasmuch as we have not added any new lights and darkness comes at the same time, this seems very strange.

O& M. accounts:

Bright House account:

Why are we being charged for an non returned modem. Can we return this modem and be credited for the \$100?

Jonathan, the above are the only questions I have for this month. I assume that all questions, and answers should be sent to all board members and posted with the minutes

Thank you,
Rip Ripley

Jonathan Miller

From: Laura Ackerman [ackermanlaura@yahoo.com]
Sent: Monday, March 22, 2010 7:21 PM
To: Jonathan Miller
Subject: Re: Harbor Bay CDD_O&M Questions

Hey Jon,

Comment on O&M Expenses:

1. Lee Te Kim bill for \$5,650 to replace medjool tree.

Comments: First this was agreed to be paid by Newland. I have repeatedly said before and will say again, I do not want Newland expenditures run through the CDD. It seems very inappropriate and there is no way for BofD to verify that we were paid. Next, the proposal states the tree installation, watering and removal of dead tree would be \$5,150; removal of dead only would be \$500. So why was the sum (\$5,650) billed to us? It should have been only \$5,150.

2. Clubhouse, same as last month, would like to know what the "Account Analysis Fees" are. Ranges from \$18-22 on several occasions.

Thanks,
Laura

--- On Mon, 3/22/10, Jonathan Miller <JMiller@rizzetta.com> wrote:

From: Jonathan Miller <JMiller@rizzetta.com>
Subject: Harbor Bay CDD_O&M Questions
To: "Laura Ackerman" <ackermanlaura@yahoo.com>, "Ed Stone" <eastone5@verizon.net>, "Ripripley@aol.com" <Ripripley@aol.com>, "Tom & Mandy Hatcher" <tmhatcher@verizon.net>, "Scott Jones" <sjones@newlandcommunities.com>
Cc: "Samantha L. Carlson" <scarlson@rizzetta.com>
Date: Monday, March 22, 2010, 9:33 AM

Board,

In accordance with policy and procedure set up at the last board meeting, you requested a copy of the O&M expenditures be sent out ahead of time for your review and question formulation. This month's corresponding O&M was sent out last week. I have not heard anything from any one of you (I am sure you are all busy reviewing the landscape bids). Just wanted to follow up and see if you had any questions for me. Please let me know. I look forward to seeing all of you later this week.
Thanks

Jonathan Miller

District Manager

Rizzetta & Company, Inc.

3434 Colwell Avenue

Suite 200

Tampa, Florida 33614

Phone: 813.933.5571

Fax: 813.935.6212

Email: jmiller@rizzetta.com

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Jonathan Miller

From: Lee Kim [leetkim@hotmail.com]
Sent: Wednesday, March 24, 2010 4:04 PM
To: Jonathan Miller
Subject: RE: Harbor Bay CDD_Credit

Jonathan,

My error, will send a credit with our monthly billing. The invoice should have been for \$5,150.00. Anything else, please let me know.

Betsy McGhee
Lee Te Kim Lawncare & Nursery
5608 US HWY 41 N
Apollo Beach, FL 33572
(813)645-1769 - Phone
(813)645-7314 - Fax

From: JMiller@rizzetta.com
To: leetkim@hotmail.com
Date: Wed, 24 Mar 2010 06:27:12 -0700
Subject: Harbor Bay CDD_Credit

Betsy,

Please see the attached. By my record, the District should be receiving a credit back for the Majool replacement. If we wanted to just remove the majool it would cost \$500. To remove and replace it would cost \$5,150. Yet we were billed \$5,650. Can you review and respond to my inquiry. Thanks

Jonathan Miller
District Manager

Rizzetta & Company, Inc.
3434 Colwell Avenue
Suite 200
Tampa, Florida 33614

Phone: 813.933.5571
Fax: 813.935.6212

Email: jmiller@rizzetta.com

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