

**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 **Tuesday, February 21, 2006 at 9:07 a.m.** at the Mira Bay Clubhouse, the Laguna Room, located at 107 Manns Harbor Drive, Apollo Beach, Florida 33572

Present and constituting a quorum were:

Chris Coughlin	<b>Board Supervisor, Chairman</b>
Scott Jones	<b>Board Supervisor, Vice Chairman</b>
Sally McFolling	<b>Board Supervisor, Assistant Secretary</b>
Julie Wisdom	<b>Board Supervisor, Assistant Secretary</b> <i>(joined the meeting in progress)</i>

Also present were:

Biff Craine	<b>District Counsel, Bricklemyer, Smolker &amp; Bolves, P.A.</b>
Jamie Scarola	<b>District Engineer, Scarola Assocs. Engineering Design &amp; Land Consultants, P.A.</b>
Kathy Harp	<b>Greenacres Properties, Inc.</b>
Erika Werkheiser	<b>Manager, Mira Bay Club</b>
Melissa Roy	<b>Assistant Club Manager, Mira Bay Club</b>
Tina Wells	<b>District Manager, Rizzetta &amp; Company, Inc.</b>
Pete Williams	<b>Representative, Rizzetta &amp; Company, Inc.</b>
Audience Members	

**FIRST ORDER OF BUSINESS**

**Call to Order**

Ms. Wells called the meeting to order at 9:02 a.m.

**SECOND ORDER OF BUSINESS**

**Consideration of the Minutes of the Board  
of Supervisor's Meeting on January 17,  
2006**

Ms. Wells stated that the next item on the agenda was consideration of the Minutes of the Board of Supervisors' meeting on January 17, 2006. She asked if there were any additions, deletions, or corrections. Mr. Scarola had revisions to the District Engineer section. He stated that Reuben Clarson was spelled incorrectly. He stated that it should be "Clarson" and not Carlson. Ms. Wells stated that the minutes would be revised to reflect the District Engineer's revisions. Ms. Wells asked for a motion to approve the Minutes, as revised.

On a Motion by Mr. Coughlin, seconded by Mr. Jones, with all in favor, the Board approved the Minutes of the Board of Supervisors' meeting on January 17, 2006, (as revised) for Harbor Bay Community Development District.

*(Ms. Wisdom joined the meeting in progress.)*

**THIRD ORDER OF BUSINESS**

**Administer Oath of Office to Newly  
Appointed Board Member**

Ms. Wells stated that the next item on the agenda was to administer the Oath of Office to Julie Wisdom. Ms. Wells stated that Ms. Wisdom was replacing Lisa Wrenn. Ms. Wells administered the Oath of Office to Ms. Wisdom. Ms. Wisdom swore and affirmed to the Oath.

**FOURTH ORDER OF BUSINESS**

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

Ms. Wells stated that the next item on the agenda was the consideration of the Operation and Maintenance Expenditures for December. She explained that the expenditures were for the period of January 1<sup>st</sup> – January 30<sup>th</sup>, totaling \$191,845.36. She asked if there were any questions. Hearing none, she asked for a motion to approve.

On a Motion by Mr. Coughlin, seconded by Ms. McFolling, with all in favor, the Board approved the Operation and Maintenance Expenditures for February, (\$191,845.36) for Harbor Bay Community Development District.

**FIFTH ORDER OF BUSINESS**

**Consideration of Operation and  
Maintenance Expenditures for January**

Ms. Wells stated that the next item on the agenda was the consideration of the Operation and Maintenance Expenditures for January. She explained that the expenditures were for the period of December 1<sup>st</sup> – December 31<sup>st</sup>, totaling \$511,761.44. She asked if there were any questions. Hearing none, she asked for a motion to approve.

On a Motion by Mr. Coughlin, seconded by Ms. McFolling, with all in favor, the Board approved the Operation and Maintenance Expenditures for January, (\$511,761.44) for Harbor Bay Community Development District.

**SIXTH ORDER OF BUSINESS**

**Consideration of Series 2002  
Construction Requisitions #388 - #395**

Ms. Wells stated the next item on the agenda was the consideration of Series 2002 Construction Requisitions #388 - #395. Ms. Wells stated that all of the requisitions have been approved and signed by the District Chairman and the District Engineer.

On a Motion by Mr. Coughlin, seconded by Mr. Jones, with all in favor, the Board approved the Series 2002 Construction Requisitions #388 - #395 for Harbor Bay Community Development District.

**SEVENTH ORDER OF BUSINESS**

**Consideration of Resolution 2006-01,  
Adopting Fiscal Year 2004/2005 Amended  
Budget**

Ms. Wells stated the next item on the agenda was the Consideration of Resolution 2006-01, Adopting Fiscal Year 2004/2005 Amended Budget. Ms. Wells stated that according to Florida Statute, the District is required to file an amended budget anytime revisions or contributions budget are made to a final budget. She stated that there were contributions to the Budget for Fiscal Year 2004/2005. She stated that the Resolution simply allows the District to file the amended budget with the county in accordance with Florida Statute. Mr. Williams stated that this is an Auditor's general rule that if a District over spends or under spends, the District must balance the budget. Mr. Williams stated that this is a governmental rule.

On a Motion by Mr. Coughlin, seconded by Ms. McFolling, with all in favor, the Board approved Resolution 2006-01, Adopting Fiscal Year 2004/2005 Amended Budget for Harbor Bay Community Development District.

**EIGHTH ORDER OF BUSINESS**

**Discussion of Heating the Pool**

Ms. Wells stated that the next item on the agenda was the discussion concerning heating the pool. She stated that Mr. Coughlin made a request to discuss the item with the Board. Mr. Coughlin stated that he met with the contractor to discuss a geo-thermal heating system for the pool. He stated that the initial cost would be more than a gas heating system but the operating costs would be less. Mr. Coughlin stated that if this type of system turns out to be costly, he would present an alternate gas system to the Board. He stated that the project should be complete by the time of the next board meeting.

**NINTH ORDER OF BUSINESS**

**Staff Reports**

A. District Counsel

Mr. Craine stated he was approached by Chris Coughlin to prepare a document in writing regarding a memo he received from a resident regarding privatizing Bay Estates roadway and installing an electronic gate. Mr. Craine distributed the memo dated February 20, 2006 to the Board members. He stated that creating an unreasonable obstruction of a public road is a violation of Florida Statute. He stated that this situation would be problematic. He stated that if the roadway were private and maintained privately, restrictive gating would not violate the above Statute. Mr. Craine stated that the District could have to agree to transfer ownership of the road to a private entity, such as another homeowner's association for that area, which would purchase the road and provide for all future maintenance. He stated that there are issues relating to the use of an exclusive gate system in MiraBay Club.

Mr. Craine concluded that it would be difficult to utilize a 24 hour manned gate, as it relates to expense issues. He stated that there are issues relating to the use of an exclusive gate system anywhere in MiraBay Club. Mr. Craine's conclusion was that it would be extremely difficult to do, require an unrestricted or a 24 hour manned gate, as it relates to expense issues. He stated that easement rights provided by the language of the plat would have to be acquired from the residents. Mr. Craine explained that another disadvantage is that FEMA will not clear debris off a private road after disasters. Mr. Craine stated that there are serious issues regarding the bond issue regarding the use of public purpose funds to construct a private roadway. The District's issuance of bonds could be classified as taxable item.

He stated that the greeter at the entrance to the community could ask visitors for their purpose and take tag numbers but that no one can be turned away. Mr. Williams stated that the District does not have the authority to turn people away on a public roadway. Mr. Williams explained that the purpose behind the greeters is to give a greater sense of vigilance and to add a certain aspect of awareness to the community but not to control or prevent crime. Mr. Craine asked that Ms. Wells incorporate Mr. Williams' statement regarding the purpose of a greeter on the website for residents to review. Mr. Williams stated that residents may have a different prospective of a greeters purpose.

Ms. Sandy Maclellan, a resident of Bay Estates, questioned the possibility of having a sensor on the gate. Mr. Craine stated that it would be more of a visual deterrent and that any mechanical mechanism, like the community greeters could not turn people away.

B. District Engineer

Mr. Scarola explained that he was following up regarding the February meeting which he did not attend. He stated this was with respect to the SWFWMD Inspection Report which pertains to the swale around the 27' easement around the lagoon and seawall, as well as, the Clarson report on the seawall berm erosion. He stated that the original Project Engineer, Heidt & Associates, Inc. should review the swale issue. Mr. Scarola stated that Reuben Clarson Consulting, Inc. should check for inconsistencies and make a recommendation regarding the seawall design and erosion activity. He explained that Reuben Clarson Consulting, Inc. previously inspected two seawall areas and noticed that they were approaching the design berm height.

Mr. Scarola stated that a recommendation of a not-to-exceed amount was needed for both firms performing the work directly for the District. He stated that the figure would be minimal at this point because it is not a design effort as of yet. Mr. Williams stated that is beneficial for each firm to work independently for the District and that Mr. Scarola has the authority to approve the inspections and review the facts leading to a design process. Mr. Scarola stated that the cost should be approximately \$2,000 for each firm.

Mr. Williams recommended that he figure be increased to \$5,000 for each firm so that there will not be a delay in approving any not-to-exceed amounts for the work of each firm until the next Board meeting.

On a Motion by Mr. Coughlin, seconded by Mr. Jones, with all in favor, the Board approved the Not-To-Exceed Amount of \$5,000 each payable to Reuben Clarson Consulting, Inc. and Heidt & Associates, Inc. for the evaluation and review of the seawall design and erosion activity as listed on the SWFWMD Inspection Report for Harbor Bay Community Development District.

C. District Manager

Ms. Wells stated that she distributed a list of non-resident user fees to the Board before the meeting. Mr. Williams stated before the facilities were made available to the public, the District went through the process of holding a public hearing to determine the rates for non-resident fees. Mr. Williams stated that statutorily, the District has the right to charge user rates for the facility. He stated the decision was made that non-residents will pay a user fee. He explained that the non-resident user fee should be based upon the fair average annual assessment that a resident of an average size home pays plus 15%. Mr. Williams stated that these fees are updated each year after the fiscal year operation and maintenance budget has been adopted.

Mr. Williams stated that a public hearing authorizes that this figure can change when the annual fiscal year budget is adopted. He explained that the debt service portion does not change, only the operation and maintenance fees can change. He stated that if a non-resident wanted to pay during the middle of the year, the fee would be pro-rated. Mr. Williams stated that this figure is based on an annual figure.

Mr. Coughlin asked that the Board make a motion that Staff members have complete use and access to the amenities. Mr. Coughlin said that this request runs with the title and position of the District Counsel, District Engineer and District Manager and not the person(s) who currently reside in those positions. Mr. Williams recommended that the motion be specified and amended to read that the three key individuals be approved to have access which can be periodically re-assigned but that it would be one person from each firm.

On a Motion by Mr. Coughlin, seconded by Mr. Jones, with all in favor, the Board approved that Tina Wells, District Manager, Biff Craine, District Counsel and Jamie Scarola, District Engineer have access and complete use to the amenities that are offered by the District for Harbor Bay Community Development District.

D. Property Manager

No Report.

**TENTH ORDER OF BUSINESS**

**Supervisor Requests and Audience Comments**

Ms. Wells stated that the next item on the agenda was the Supervisor Requests and Audience Comments. Ms. Wells stated that there were audience members present. Ms. Brennan, a resident stated her concern with educating the homeowners regarding the MiraBay Blvd. gate and access into the Community.

Mr. Williams stated a possible CDD Workshop would be beneficial for the District regarding educating homeowners. He stated that a workshop was held approximately two years ago.

Mr. Coughlin stated that the internet would also be a valuable tool for educating individuals regarding the Greeter's purpose with respect to what they can and can not do. Mr. Coughlin stated that this notification should be available by hard copy and via the internet.

Ms. Werkheiser stated that when individuals sign up for the "My Mira Bay" email account, they will soon be able to forward the address to their home or office email addresses.

Ms. Werkheiser explained that this is something that will be available before the summer. Ms. Wells stated that a "FAQ Sheet" will be prepared by the District Office and then forwarded to Erika Werkheiser, the Club Manager for posting at the Mira Bay Club.

Mr. Smith, a resident mentioned his concern with the privatization issue of the gated community. He stated that the residents should be educated with respect to the guard shack. Mr. Smith suggested that the gate's purpose should be announced to the community. He stated that by installing the gate it starts a premise that if one area is gated, another area should be gated.

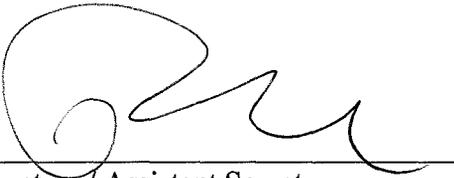
Ms. Wells asked if there were any Supervisor requests. Hearing none she asked for a motion to adjourn.

**ELEVENTH ORDER OF BUSINESS**

**Adjournment**

Ms. Wells stated that there were no further agenda items to come before the Board and asked for a motion to adjourn at 10:00 a.m.

On a Motion by Mr. Jones, seconded by Ms. McFolling, with all in favor, the Board adjourned the meeting for Harbor Bay Community Development District.

  
Secretary / Assistant Secretary

  
Chairman / Vice Chairman