

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 continued meeting of the Board of Supervisors of Harbor Bay Community Development District was held on **Thursday, February 9, 2012 at 1:40 p.m.** at the MiraBay Clubhouse, located at 107 Manns Harbor Drive, Apollo Beach, Florida 33752.

Present and constituting a quorum were:

Ed Stone	<b>Board Supervisor, Chairman</b>
Rip Ripley	<b>Board Supervisor, Vice Chairman</b>
Julie Guill	<b>Board Supervisor, Assistant Secretary</b>
Tom Hatcher	<b>Board Supervisor, Assistant Secretary</b>
Paul Stumpf	<b>Board Supervisor, Assistant Secretary</b>

Also present were:

Scott Brizendine	<b>District Manager, Rizzetta &amp; Company, Inc.</b>
Katie Buchanan	<b>District Counsel, Hopping, Green &amp; Sams, P.A.</b>
Steve Medendorp	<b>Litigation Counsel, Bricklemyer, Smolker &amp; Bolves, P.A.</b>
Brian Bolves	<b>Litigation Counsel, Bricklemyer, Smolker &amp; Bolves, P.A.</b>
Court Reporter	

Joining the meeting after the shade session were:

Jamie Scarola	<b>District Engineer, Scarola &amp; Assoc. Engineering</b>
Alex Murphy	<b>Amenity Management</b>
Kristy Owens	<b>District Coordinator</b>
Bill Henry	<b>Representative, RGA</b>
David Click	<b>Representative, RGA</b>
Audience	

**FIRST ORDER OF BUSINESS**

**Call to Order**

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

**SECOND ORDER OF BUSINESS**

**Shade Meeting**

Mr. Brizendine stated that the next item on the agenda was the shade meeting. He stated that the five members of the Board, litigation counsel (Steve Medendorp and Brian Bolves), Katie Buchanan (who is filling in for Jere Earlywine for District Counsel), himself and a court reporter would be attending the meeting. He explained that in addition to announcing the change in representatives for District Counsel at the meeting, a note was placed on the door informing interested parties that Ms. Buchanan is filling in for Mr. Earlywine as required under Florida Statutes given that Mr. Earlywine was named in the required meeting notice. Mr. Brizendine asked if there were any other announcements to make. Hearing none he called for a recess at 1:42 p.m.

Mr. Brizendine reconvened the meeting at 1:43 p.m. to announce that Brian Bolves and Steve Medendorp would be representing litigation counsel during the shade session and that the session was estimated to last approximately one hour.

*(Mr. Brizendine recessed the meeting at 1:44 p.m. The meeting reconvened at 2:30 p.m with all Board members, District Management, and District Counsel still in attendance. Jamie Scarola, Alex Murphy, Kristy Owens, and members of the general audience also joined the meeting.)*

Mr. Brizendine asked that all private conversations be taken out of the room so that all those interested in discussions regarding the limited agenda items can be heard. He stated that there is another meeting scheduled immediately following this one and the Board is looking to stay on task and finish in a timely manner.

**THIRD ORDER OF BUSINESS**

**Audience Comments on Agenda Items**

A member of the audience requested that the Board speak loudly and clearly so that those in attendance can hear what is being discussed. The resident also reported that a report was discussed at a recent Seacrest meeting that he attended indicating that it may be less expensive to let the palms die and replace them than it is to treat them with the OTC injections. He recommended that the Board consider this in reviewing the proposal to treat the palms in Seacrest.

**FOURTH ORDER OF BUSINESS**

**Consideration of any Matters Relating to Litigation**

Ms. Buchanan stated that during the shade session Litigation Counsel recommended that the Board take formal action on two proposals. The first being a proposal dated January 31, 2012 in the amount of \$1,000,000.00 inclusive of legal fees from Woodruff & Son and St. Paul Fire & Marine Ins. Co. to resolve the claims against them. She stated that Litigation Counsel is recommending this proposal be rejected.

On a Motion by Mr. Stone, seconded by Mr. Ripley, with all in favor, the Board of Supervisors' rejected the proposal from Woodruff & Son and St. Paul Fire & Marine Insurance Company to resolve the claims against them in the amount of \$1,000,000 inclusive of all legal fees and costs for Harbor Bay Community Development District.

Ms. Buchanan stated that Litigation Counsel has requested that the Board consider authorizing them to prepare a proposal from the District for settlement of all claims against Woodruff & Sons in the amount of \$17,500,000.00 exclusive of attorney fees and litigation costs. She recommended that the proposal be subject to review by the Chairman prior to submission.

On a Motion by Mr. Ripley, seconded by Ms. Guill, with all in favor, the Board of Supervisors, authorized Litigation Counsel to prepare a proposal from the District for settlement of all claims against Woodruff & Sons in the amount of \$17,500,000.00 exclusive of attorney fees and litigation costs subject to review by the Chairman prior to submission for Harbor Bay Community Development District.

**FIFTH ORDER OF BUSINESS**

**Review of Pool Boring Test Results**

Mr. Scarola reviewed the draft report provided by HSA relating to the borings that were made in the pool, stating that he was able to be present during the testing. He confirmed that five borings were made and provided a map showing the locations. Mr. Scarola stated that the news was basically good, in that the report indicates that the anomalies observed are related to dissimilar or varying depths of materials used during construction. He stated that the report also indicates that the tests did not show any voids or evidence of erosion issues under the pool, with the exception of the pool drain area that is mostly related to the water flow out of the area. Therefore, ground remediation under the pool is not necessary.

**SIXTH ORDER OF BUSINESS**

**Further Discussion on Pool Repairs and Resurfacing Projects**

Mr. Stone reviewed the pictures of the five different borings and the scope of work that was provided by Pinellas Pools for each of the individual areas in need of repair. He stated that the proposals to make these repairs, pressure test all the existing plumbing, grout the tile, under drains and underwater lights, anchor the hand and grab rails, and patch the core blister totals \$16,240 and they are available to start almost immediately with the process taking approximately three to four weeks. Mr. Stone stated that this amount is in the budget and he recommended that the Board approve the project. He stated that refinishing the pool could be included in next year's budget. A brief discussion ensued regarding individual repairs, resurfacing costs, and warranties. Mr. Stone stated that Pinellas Pools is providing a one year warranty on the repairs and an unlimited warranty once the mar cite has been replaced. A question was raised regarding whether the pool company that installed the pool has been contacted regarding the existence of a warranty. Mr. Stone stated that the firm has not responded to the Boards requests, but he doubts whether any warranty would still be in force based on when it was built. He stated that he would not recommend considering any type of legal action against them.

A request was made to obtain pricing on the costs to refill the pool. Mr. Brizendine stated that he received a proposal from Hawkins for the chemical start up of the pool at just over \$2,000, but he did not bring it with him today as he intends to review the cost with them. He stated that he would bring it to the next meeting.

Mr. Stone responded to questions regarding repairs to the mushroom and the slide, stating that the mushroom needs to be patched and repainted and the slide involves opening up the joints and resealing them to reduce the water loss when the water travels back to the pool. Mr. Stumpf expressed his preference of doing the repairs this year and the resurfacing next year even though it means refilling the pool twice based on the desire to stay within budget and not have residents paying in arrears given that the District was over budget last year. Mr. Ripley stated that the District did not spend more than it budgeted last year; it was a matter of not receiving the funds that were assessed until after the fiscal year closed. It was noted that the funds have been received and the District came out slightly ahead in the process.

On a Motion by Mr. Ripley, seconded by Mr. Stumpf, with all in favor, the Board of Supervisors' approved the proposals totaling \$16,240 from Pinellas Pool to make the necessary repairs as described for Harbor Bay Community Development District.

**SEVENTH ORDER OF BUSINESS**

**Consideration of Resolution 2012-02,  
Establishing a Policy Relating to  
Disbursement of Funds**

Ms. Buchanan confirmed that District Counsel has requested that this item be tabled until the next regular meeting.

**EIGHTH ORDER OF BUSINESS**

**Staff Reports**

A. District Counsel  
No report.

B. District Engineer  
Mr. Brizendine distribute copies of the report provided by RGA to interested individuals. Mr. Scarola asked that Mr. Click review the report and associated proposals with the Board. Mr. Click stated that a pre-bid meeting was held with five contractors to complete the work throughout the community with three of them actually submitting bids for the project. South Shore Development submitted a bid of \$27,850, Custom Modular Solutions \$28,440, and CT Earl \$35,695 all of which include a provision to move irrigation lines if needed during the construction. He assured the Board that should this be necessary, they would be informed prior to completion of the work. Mr. Click stated that his firm is recommending that the Board accept the proposal from Custom Modular Solutions, even though it is \$590 higher than the lowest bidder, based on their experience on ADA related projects.

Mr. Click then reviewed the types and costs of pool lifts from three firms that were asked to submit proposals, stating that based on the size of the pool; two lifts will be needed. He stated that he would not recommend going with the system that is operated with water as supplying water to the lift generally creates other ADA issues and tripping hazards.

The recommendation was made to go with Peninsular Aquatics at a cost of \$9,690. Mr. Click stated that the Board approved a budget of \$49,000 to complete the ADA related projects and the proposals came in approximately \$10,000 under budget. A brief discussion ensued regarding purchasing covers for the lifts to protect them from the elements and deter children from playing on the them. It was stated that Staff would need to be trained on the proper way to operate the lifts and secure the covers. Mr. Brizendine stated that he has been working with Peninsular Aquatics in other communities and they have been very helpful with those matters. He stated that they are also working on signage that could be posted by the lifts explaining operating procedures. Ms. Guill recommended that the Board approve the purchase of two covers at a cost of \$316 each. A brief discussion ensued regarding maintenance of the chair lifts. It was stated that maintenance contracts are available if the Board is interested and they do come with a one year warranty for labor and a three year manufacturer's warranty.

Mr. Click confirmed that there is not a need to install a lift at the kiddie pool. He also confirmed that it is not necessary to provide a roll in area as one of the means for handicapped access and based on comments from Staff the decision was to go with the two chair lifts. Portable lifts were considered as well, but the latest requirements have deemed that they are no longer acceptable unless installing the permanent lifts creates an undue hardship on the District. Mr. Click explained that the lifts are semi-permanent in that they can be removed in case of a hurricane or deck repairs, but they are not easily moved.

Mr. Click stated that at the time the construction documents were prepared there was a listing of items that would be handled in-house. He stated that Rizzetta Staff has been addressing a number of those issues, including the spacing of the fitness center equipment and they will be continuing to work with them on those items. It was stated that the District is on track to meet the March 15<sup>th</sup> deadline.

On a Motion by Ms. Guill, seconded by Mr. Stone, with all in favor, the Board of Supervisors' approved the proposals from Custom Modular Solutions and Peninsular Aquatics, as well as the purchase of two lift covers at a total cost of \$38,765 for Harbor Bay Community Development District.

C. Mira Bay Club Manager – Alex Murphy

Ms. Murphy provided a brief update on the status of the installation of the new floor and fitness equipment, stating everything will be installed according to the ADA outline. The center will be closed from February 20<sup>th</sup>-22<sup>nd</sup> and reopen on the 23<sup>rd</sup> with a grand opening with all trainers and Staff on hand. She stated that Fit Rev, the company that is supplying the flooring is going to purchase the old equipment, so there will be some revenue coming back to the District. Ms. Murphy stated that while the center is closed the nail room will be converted into another treatment room and the current massage room will become a personal training office and stretching room.

Ms. Murphy presented a proposal from Welch Tennis to replace the windscreens at a cost of \$4,500 that would include the logos. She stated that they are at least four years old and may even be the original ones. A brief discussion ensued regarding whether there was money in the budget for this expense. Mr. Brizendine stated that he thought this was included in the list of capital improvement items approved during the budget process, but that he would need to verify it. Mr. Ripley emphasized that the expenditures discussed last month were approved during the budget process and were not random purchases. A brief discussion ensued regarding varying interpretations on the question of whether or not approval of an item as a budgetary expense constitutes approval of the actual expenditure. It was noted that this matter would be addressed at the next meeting.

D. Field Operations Manager

Mr. Brizendine stated that Mr. Toborg would be in attendance at the next meeting to present the first draft of the scope of services for the Landscaping RFP.

Mr. Brizendine stated that at the last meeting there was discussion regarding the OTC injections in Seacrest. He stated that based on a review of the contract with Greenbriar, Mr. Toborg obtained a proposal for this service for the 10 palms in question. Following a brief discussion, it was decided to table this item until next month.

Mr. Brizendine stated that Greenbriar contacted Mr. Toborg and offered to aerate the Bermuda Grass located on CDD property within Seacrest at no cost while they are doing the HOA property. The Board granted approval for the project.

E. District Coordinator- Kristy Owens

Ms. Owens stated that the icemaker at the Outfitters is broken and the cost to repair the existing machine is more than the cost to replace it (\$2,350) with a new one (\$2,450). A brief discussion ensued regarding whether it was a necessary item and where funding would come from. It was decided to table the matter until next month.

F. District Manager

No report.

**FOURTEENTH ORDER OF BUSINESS**

**Supervisor Requests & Audience  
Comments**

**Audience Comments**

Resident comments were entertained regarding the need to continue with communication, a request was made to determine who owns the boundary wall so that it can be repaired, the possibility of having maintenance staff make the repair, the need to have the palm trees that died in Seacrest replaced before beginning the OTC injections, and concerns with the condition of the perimeter of the pond.

Mr. Brizendine stated that the question of who owns the boundary wall will be determined as part of the ongoing A& E study and that the District should not expend its public funds on private property. It was stated that an estimate was obtained on the cost to make the repairs and it is an expensive project due to the need to replace the whole panel to maintain the wind resistant qualities.

Another resident informed the Board that his neighbor's Fox Tale Palms have been invaded by bores and recommended that the District keep an eye on this infestation for its own palms. He also commented on the number of Midge Flies around his home. It was stated that there is nothing that can be done about them.

**Supervisor Requests**

There were no Supervisor requests put forward.

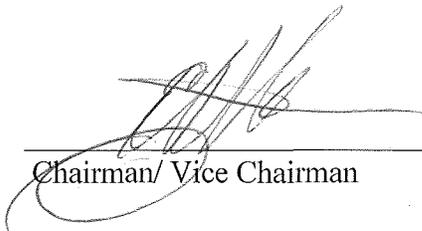
**NINTH ORDER OF BUSINESS**

**Adjournment**

On a Motion by Mr. Stone, seconded by Mr. Ripley, with all in favor, the Board adjourned the meeting at 4:10 p.m. for Harbor Bay Community Development District.



Secretary/Assistant Secretary



Chairman/ Vice Chairman