

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, March 25, 2010 at 5:30 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.
Karla Gibson	Representative, WTS International
Kristy Owens	District Coordinator
Mercedes Tutich	Representative, Newland Communities
Tom Griggs	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' Meetings held on February 18th and 26th, 2010

On a motion by Mr. Stone, seconded by Mr. Hatcher, with all in favor, the Board approved the Minutes of the Board of Supervisors' Meetings held on February 18th and 26th, 2010 as amended for Harbor Bay Community Development District.

THIRD ORDER OF BUSINESS

**Consideration of Operations and
Maintenance Expenditures for March 2010**

On a motion by Mr. Ripley, seconded by Mr. Jones, with all in favor, the Board approved the Operation and Maintenance Expenditures for March (\$137,638.92) 2010 for the District and for March (\$49,516.90) 2010 for the Mirabay Clubhouse for Harbor Bay Community Development District.

Mr. Miller stated that according to previously adopted policy and procedure established by the BOS, the detailed O&M expenditures were sent the Board Members via email for their review. Each board member would then review the information and send via email all questions they had to the District Manager for answer. Mr. Miller stated that he had received questions from two of the five board members and answered each of their questions appropriately. Mr. Miller went on to say a copy of his response will be attached to the minutes as exhibits.

FOURTH ORDER OF BUSINESS

**Resolution 2010-07, Cancellation of
Public Hearing to Refund the Series
2001B Bonds**

On a motion by Ms. Ackerman, seconded by Mr. Hatcher, with all in favor, the Board approved Resolution 2010-07, Cancellation of Public Hearing to Refund the Series 2001B Bonds for Harbor Bay Community Development District.

FIFTH ORDER OF BUSINESS

**Resolution 2010-08, Revocation of the
Districts Intent to Refund the Series 2001B
Bonds**

On a motion by Mr. Stone, seconded by Mr. Hatcher, with all in favor, the Board approved Resolution 2010-08, Revocation of the Districts Intent to Refund the Series 2001B Bonds for Harbor Bay Community Development District.

SIXTH ORDER OF BUSINESS

**Resolution 2010-09, Appointment of
District's Representative in Small Claims
Court**

On a motion by Mr. Hatcher, seconded by Mr. Jones, with all in favor, the Board approved Resolution 2010-09, Appointment of District's Representative in Small Claims Court, in order to pursue the vendor, Superior Shade, for the installation of a shade sail pole that structurally failed to support its contractual obligation and intended use for Harbor Bay Community Development District.

SEVENTH ORDER OF BUSINESS

**Consideration of Amendment # 1 to the
Rizzetta Amenity Management Services
Agreement**

This matter was tabled through general board consensus.

Further discussion ensued regarding this business matter. Ms. Ackerman along with Mr. Ripley requested a fee schedule (per person) to be attached to the contract amendment. Ms. Ackerman also requested the addition of a termination date of the amendment be added; and discussed the idea of employee leasing with the other Board Supervisors. Ms. Ackerman agreed to collect this information herself as to avoid any misrepresentation of reported numbers by the current District Management Office.

EIGHTH ORDER OF BUSINESS

**Declaration of Exhausted Assets – Various
IT Equipment**

Mr. Miller stated the District was in possession of some old IT equipment that had been accumulating in the onsite management office. He presented a list and description of the equipment and stated that the District did not have any further need for it anymore and requested authorization to dispose of it.

On a motion by Mr. Jones, seconded by Ms. Ackerman, with all in favor, the Board authorized the District Manager to dispose of the necessary IT equipment that was no longer needed for Harbor Bay Community Development District.

NINTH ORDER OF BUSINESS

**Cornerstone Proposal for Lighthouse
Repair & Maintenance**

Mr. Miller presented a proposal from Cornerstone stating that it included cleaning and pressure washing the lighthouse, painting, trim banding replacement, window trim replacement, and stucco repair work in the amount of \$6,290.00. Mr. Miller stated he had spoken with the Developer, Newland Communities, about the repair project and they agreed to pick up 50% of the total cost, leaving the total cost of \$3,145 the responsibility of the District.

On a motion by Ms. Ackerman, seconded by Mr. Hatcher, with all in favor, the Board approved the proposal from Cornerstone in the amount of \$3,145 as discussed for Harbor Bay Community Development District.

TENTH ORDER OF BUSINESS

**Cornerstone Proposal for Various
Hardscape & Column Repair**

This matter was tabled through general board consensus.

Mr. Miller presented and explained the proposal; however, the Board decided to hold off on such repairs until a later date. The Board asked to review the proposal again late in the fiscal year or early next fiscal year as they would have a better idea of the district's financial position.

ELEVENTH ORDER OF BUSINESS

Landscape Material Replacement Proposals

Mr. Miller presented and explained each of the proposals stating they included annual replacement (\$3,482.50), Mirabay Boulevard Gate (\$2,950) and the Manns Harbor Drive Gate (\$650.00). Discussion ensued about the winter damaged plant material. Mr. Miller stated that the total replacement cost exceeded \$60,000; however the Developer, Newland Communities, agreed to take on the expense of such replacement and that it would be done over the next few weeks.

On a motion by Mr. Hatcher, seconded by Mr. Ripley, with all in favor, the Board approved the proposals from Lee Te Kim annual replacement (\$3,482.50), Mirabay Boulevard Gate (\$2,950) and the Manns Harbor Drive Gate (\$650.00) for Harbor Bay Community Development District.

TWELFTH ORDER OF BUSINESS

Landscape and Irrigation Maintenance Service RFP Bids

Mr. Miller stated that he received bids in response to the District's request for proposals for landscape & irrigation maintenance services from the following vendors: Buccaneer Landscape Management, Complete Landcare, Cornerstone Tree Farm, Davey Commercial Grounds Management, FieldStone Landscape Services, Greenbriar Landscape, Lee Te Kim Lawncare & Nursery, Landscape Maintenance Professionals, Luke Brothers, OneSource Landscape, Raymow, Scapes, Sunrise Landcare, The Budd Group, TruGreen Landcare and ValleyCrest Landscape Maintenance. Each of the Board Members took turns asking any questions they had to the bidders present. Further discussion ensued.

Mr. Ripley stated for the record that he was going to abstain from voting on the matter due to a close friendship he had with one of the landscape bidders (Lee Te Kim Lawncare & Nursery). Mr. Ripley went on to state that he would however discuss and comment on the discussion that would take place surrounding the matter.

Mr. Hatcher raised a concern over the mathematical formula used to evaluate the bids. He stated that utilizing the formula specified in the landscape RFP package, once a bidder more than doubled the lowest priced bidder, technically the higher bidder could be awarded negative points. Lengthy discussion ensued.

On a motion by Mr. Stone, seconded by Mr. Hatcher, with four in favor and one against (Ms. Ackerman), the Board approved to adjust the mathematical formula used to evaluate the bids on price criteria to the method previously approved by the Board so that the lowest possible points/score a bidder could receive in the price category could be zero, not negative for Harbor Bay Community Development District.

Ms. Ackerman explained that she voted against the motion as she felt the Board should follow the guidelines that were previously established and approved by the Board.

Mr. Miller addressed the Board and asked them to finalize their evaluation scoring sheets. He stated that Mr. Toborg, District Counsel, and himself would summate the total scores of each of the bidders based on the evaluation score sheets provided by the Board.

On a motion by Mr. Jones, seconded by Mr. Ripley, with all in favor, the Board approved to recess the meeting at 7:04 p.m. for a period of twenty minutes to allow District Counsel, District Manager and the Operations Manager to tally the ranking score sheets provided by the Board for Harbor Bay Community Development District.

On a motion by Mr. Stone, seconded by Mr. Jones, with all in favor, the Board approved to reconvene the meeting at 7:24 p.m. for Harbor Bay Community Development District.

(Upon reconvening the meeting, Mr. Miller announced that the summation of the Board of Supervisor score sheets by District Counsel and the District Management Office had not been completed and that more time was needed to finalize the scores and verify their accuracy. That said, Mr. Miller stated he would continue on with the District's other business matters until such time he had been given indication that such results were completed. Mr. Miller went on to state that he expected the results to be finalized shortly thereafter.)

THIRTEENTH ORDER OF BUSINESS

Draft of RFP Documents for Amenity Management Services

Mr Miller reviewed the 2nd draft of the Amenity Management Services RFP with the Board. Further discussion ensued. Mr. Hatcher stated that the approximate cost of the current amenity management services agreement with WTS was \$37,000 annually. He stated that many of the services provided by WTS were the result of Board and community direction. The associated costs for such services are directly paid for by the District and would continue regardless of who the amenity management services contractor was. Mr. Miller mentioned that since the dollar amount of the current amenity management agreement was not in excess of the bidding dollar threshold as defined in the Florida Statutes, this particular contract did not have to go through the public RFP process that was utilized for the Landscape & Irrigation Maintenance Services.

On a motion by Mr. Stone, seconded by Mr. Ripley, with four in favor and one against (Ms. Ackerman), the Board approved to cancel the previously directed public RFP process for Amenity Management Services and to renegotiate the existing contractual arrangement with the current amenity services provider, WTS for Harbor Bay Community Development District.

Ms. Ackerman explained that the Board previously agreed to the public that each one of the District's contracts were going to be rebid prior to the fiscal year 2010/2011 final budget being adopted.

Mr. Stone stated he would work with WTS on revising their current contract and bring it back before the Board for their final review and approval.

FOURTEENTH ORDER OF BUSINESS

Review of February 2010 Financials

Mr. Miller reviewed the District's financial position as of February 28, 2010 and answered various questions from the Board.

FIFTEENTH ORDER OF BUSINESS

Resolution 2010-06, Revision of Fiscal Year 2009/2010 Budget

Mr. Miller stated that the previously adopted total budget amount for fiscal year 2009/2010 was not increasing or decreasing. He went on to explain that the purpose for this resolution was to reallocate the budgeted general operating funds throughout various line items in the budget to better illustrate the District's true cost expenditure base. Mr. Miller stated that those line items in the budget where no funds would be expended or where there was a surplus of funds being projected would be reallocated to the District's capital reserve budgetary line item for transferring into the District's capital reserve account at fiscal year end should there be sufficient funds remaining.

On a motion by Mr. Ripley, seconded by Mr. Jones, with all in favor, the Board approved Resolution 2010-06, Revision of Fiscal Year 2009/2010 Budget for Harbor Bay Community Development District.

SIXTEENTH ORDER OF BUSINESS

Presentation of District Financial Forecast Analysis, February 2010

Mr. Miller reviewed and explained the District Financial Forecast Analysis as of February 28, 2010 stating that the intent of the report was to provide the Board with the District's projected cash position at the end of the fiscal year in an attempt to make more informed decisions on business matters impacting the District's financial accounts, and to aid in financial planning and budgeting. Mr. Miller answered various questions from the Board and the audience.

SEVENTEENTH ORDER OF BUSINESS

**Review of District Utility Reports –
February 2010**

Mr. Miller presented the utility reports for informational purposes only.

EIGHTEENTH ORDER OF BUSINESS

Mr. Miller announced that the scoring had been completed for the landscape services RFP; however he felt uncomfortable releasing the information at the current time due to the fact that he had not had a chance to review the final numbers yet. The Board agreed and asked Mr. Miller to review the final scoring after the meeting and requested to continue the meeting until the following day to publicly announce the winning bidder.

NINETEENTH ORDER OF BUSINESS

Staff Reports

A. District Engineer
Not present.

B. District Counsel

Mr. Craine explained that he had recently talked with First National Bank of Central Florida regarding their assessments. He explained that First National Bank of Central Florida was requesting another three month extension on paying the balance of their assessments. Discussion ensued on whether to foreclose on the delinquent assessments now or grant the 3 month extension. Mr. Craine recommended the Board agree with a three month extension with certain conditions on the basis that should the District proceed with foreclosure, it would be sometime before the complaint could be heard and decided upon in a court of law. If the three month extension would be granted, the bank would continue to pay \$25,000 per month for the next three months before the balance payment would be due. This would allow the District to be somewhat assured of some level of assessment (income) repayment from this property owner.

On a motion by Mr. Ripley, seconded by Mr. Hatcher, with all in favor, the Board authorized District Counsel to grant a three month extension to the bank only on the condition the bank agreed to put the balance of the delinquent assessments that would be due and payable at the end of that three month period into an escrow account or a bank note that could be called for Harbor Bay Community Development District.

C. District Manager

Mr. Miller announced that the next regularly scheduled meeting was April 22nd 2010.

TWENTIETH ORDER OF BUSINESS

**Supervisor Requests and Audience
Comments**

There were no Supervisor requests.

The Board entertained various public comments; however no board action was taken.

(Mr. Jones left the meeting in progress.)

TWENTY-FIRST ORDER OF BUSINESS

Continuance

On a motion by Mr. Stone, seconded by Ms. Ackerman, with all in favor, the Board continued the meeting at 9:17 p.m. to Friday, March 26, 2010 at 1:00 p.m. to be held at the MiraBay Club located at 107 Manns Harbor Drive, Apollo Beach, Florida 33572 for Harbor Bay Community Development District.



Secretary/Assistant Secretary



Chairman/ Vice Chairman

April 22, 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:

Prior to any repair work being taken on by Ballenger & Company, Inc., a proposal is submitted electronically to the District Management Office. Included in the proposal are the three "C's" you reference in your email question/concern. Going forward, the District Manager will include copies of the executed proposals & work orders that already contain this information along with the invoices. Additionally, The District Manager has already contacted Ballenger & Company, Inc. to insure this information be included on all future invoicing.

Question # 2:

The "Westlaw" item referenced on Brickelmeyer Bill # 82840 is for access to an online law research library. This is an item that is billed for on a user time basis. Access to this electronic library reduces the amount of time attorneys spend researching various legal matters. For example; various case precedents, case briefings, categorized case review, etcetera.

Jonathan Miller

From: Ripripley@aol.com
Sent: Thursday, April 15, 2010 3:01 PM
To: Jonathan Miller
Subject: Questions concerning O&M distributions for April.

Jonathan, below are my questions concerning April's O&M. distributions

1. Ballenger's bill for heat exchanger replacement does not give the three C's that all invoices should contain. The three C's are complaint, cause, and cure. Without these it is virtually impossible to understand the reason and justification for any bill. I have complained about this for several months and Scott had done a good job requiring the three C's. Please push this information's inclusion on all invoices for repairs or replacements.

2. Brickelmeyer Bill 82840: why are we billed for a Westlaw item?

April O&M for the amenity center. No questions.

Thank you,
rip