

**MINUTES OF MEETING**

**HARBOR BAY  
COMMUNITY DEVELOPMENT DISTRICT**

The regular meeting of the Harbor Bay Community Development District Board of Supervisors was held on **Tuesday, April 15, 2003 at 11:50 a.m.** at the Mirabay Welcome Center, located at 205 Manns Harbor Drive, Apollo Beach, FL 33572.

Present and constituting a quorum were:

Kathy Shelling	<b>Board Supervisor, Chairman</b>
Suzi Greene	<b>Board Supervisor, Assistant Secretary</b>
Brenda Kunkel	<b>Board Supervisor, Assistant Secretary</b>
Steve Gamm	<b>Board Supervisor, Vice Chairman</b>
Susie Marler	<b>Board Supervisor, Assistant Secretary</b>

Also present were:

Pete Williams	<b>District Manager, Rizzetta &amp; Company, Inc.</b>
Jonathan Johnson	<b>District Counsel, Hopping Green &amp; Sams, P.A.</b>
Toxey Hall	<b>District Engineer, Heidt &amp; Associates, Inc.</b>

**FIRST ORDER OF BUSINESS**

**Call to Order**

Mr. Williams called the meeting to order.

**SECOND ORDER OF BUSINESS**

**Consideration of Minutes of the  
Board of Supervisors' Meeting  
on March 18, 2003**

Mr. Williams stated that the first item is to consider the minutes of the Board of Supervisors' meeting held on March 18, 2003 (located behind tab 1). A Board member stated that on the minutes for March 18<sup>th</sup>, Ms. Marler was still listed as representing Leslie Land Corporation. Ms. Marler should be listed as a Board Supervisor for the District. Mr. Williams asked if there were any more additions, deletions or corrections to the minutes. Hearing and seeing none, Mr. Williams asked for a motion to approve.

On MOTION by Ms. Kunkel, seconded by Ms. Greene with all in favor, the Board approved the minutes of the Board of Supervisors' (with the above noted correction) meeting on March 18, 2003 for Harbor Bay Community Development District.

**THIRD ORDER OF BUSINESS**

**Consideration of Authorization  
to Disburse District Funds 2003-07**

Mr. Williams stated that the next item on the agenda is the consideration of Authorization to Disburse District Funds 2003-07 (located behind tab 2). He stated that the disbursement consists of invoices for standard contractual commitments with the addition of a landscaping service invoice. He asked if there were any questions. Hearing and seeing none, Mr. Williams asked for a motion to approve.

On MOTION by Ms. Greene, seconded by Ms. Kunkel, with all in favor, the Board approved the Authorization to Disburse District Funds 2003-07 for Harbor Bay Community Development District.

**FOURTH ORDER OF BUSINESS**

**Consideration of Construction  
Requisitions #54-#65 Series 2002**

Mr. Williams stated that the next item on the agenda is the consideration of Construction Requisitions #54-#65 Series 2002 (recap located behind tab 3). He stated that Construction Requisition #53 was voided. Mr. Williams stated that all requisitions have been certified by the District Engineer and approved by the Chairman. He asked if there were any questions. Hearing and seeing none, Mr. Williams asked for a motion to approve.

On MOTION by Ms. Shelling, seconded by Ms. Kunkel, with all in favor, the Board approved Construction Requisitions #54-#65 (Series 2002 ) for Harbor Bay Community Development District.

**FIFTH ORDER OF BUSINESS**

**Consideration of Resolution 2003-14,  
Redesignating Assistant Treasurer**

Mr. Williams stated that the next item on the agenda was the consideration of Resolution 2003-14, Redesignating Assistant Treasurer.

He explained that Chris Frederick, the former Chief Financial Officer has recently left the company, and the new Chief Financial Officer is Stacey Thomas who will act as Assistant Treasurer in Mr. Rizzetta's absence. Mr. Williams asked if there were any questions. Hearing and seeing none, he asked for a motion to approve.

On MOTION by Ms. Kunkel, seconded by Ms. Shelling, with all in favor, the Board adopted Resolution 2003-14, Redesignating the Assistant Treasurer for Harbor Bay Community Development District.

**SIXTH ORDER OF BUSINESS**

**Public Hearing on  
Recreation Facility Rules**

Mr. Williams stated that the next item on the agenda is the public hearing on recreation facility rules and rates. He asked for a motion to open the public hearing.

On MOTION by Ms. Kunkel, seconded by Ms. Greene, with all in favor, the Board opened the Public Hearing on Recreation Facility Rules for Harbor Bay Community Development District.

Mr. Williams stated to the Board that the proper notification in terms of advertising the recreation facility rules and the rate setting for non-resident user fees per Florida statutes was met. Mr. Williams stated that he provided the Board with the Recreation Facility Usage Rate Study. Mr. Williams explained to the Board that he will review the Recreation Facility Usage Rate Study in further detail allowing for Board comments and comments from the public. He explained that in the past month, the District reviewed comparisons of recreation facility rates for local city and county entities. Mr. Williams explained the Recreation Facility Rate Study that he distributed to the Board shows a comparison of recreation facility charges for similar community development districts. He recommended to the Board that the examples of FishHawk Ranch and Lake St. Charles be disregarded, due to current revisions needed in their fee schedules. Mr. Williams explained that there are Districts which charge daily non-resident fees and there are Districts that charge an annual fee (which is based upon the annual resident assessment along with a 15% additional surcharge.) He explained to the Board that county and city entities have the availability of assessing a rate based upon the entire community populace, whereas the District can only average the rate upon the resident base located within the District. Mr. Williams recommended to the Board that the recreation facility rate be charged annually and be based upon the average annual assessment rate with an additional overall surcharge of 15%. He stated that the total non-resident fee would be \$1,370.00 annually and can be prorated if needed. Ms. Greene asked the reason that the FishHawk Community Development District was restructuring their recreation facility rates. Mr. Williams explained that FishHawk District's rates were unusually high.

A discussion ensued regarding if there are state regulations regarding the setting of a fee schedule. Mr. Johnson stated that there are state law standards regarding the establishment of user fees (per statute 190.035), which states the fees must be just, equitable and uniform. He stated that there are also federal tax guidelines which mandate that because the District is a public entity, the fee structure must be reasonable and not discourage public use. Mr. Williams recommended to the Board the acceptance of an annual fee. Mr. Johnson also recommended a guest fee. There was a discussion in regards to assessing a guest fee. Mr. Williams explained that there is currently no guest fee. There was a discussion concerning annual fees that have been charged in the past at similar community development Districts. A Board member stated she agreed with the assessment of an annual fee, which could be updated annually based upon the assessments. She recommended that the assessments the residents are charged be the cap amount that could be charged as a non-resident fee. Mr. Williams stated that \$1,370.00 would be the annual non-resident user fee for this District, which was based upon the average assessments of the District and an additional 15% surcharge. Mr. Gamm asked what type of services the fee would cover. Mr. Williams stated that it includes access to the pool and the club facilities, but any additional programs (such as massage) would be an additional charge. A discussion ensued regarding the issue of possible overcrowding of the fitness facilities. A question was raised in regards to the extent of the public's access to the community, and issues such as use of the lagoon and boat ramp were raised.

Mr. Williams stated that there was a discussion in regards to the boat ramp being owned by the HOA, which would deem that area as private and release that area from public availability. He asked Mr. Hall if the lagoon was classified as a "navigable waterway", which would (per maritime laws) prohibit any restriction of access to the public. A question was raised regarding the boat lift access. Mr. Williams stated that more research is required to verify if the boat lift is deemed for public access. There was a discussion regarding the uniqueness of the community amenities versus other communities. Mr. Williams stated that there is no public audience present to provide testimony in regards to this issue. He asked for a motion to continue the public hearing to the next meeting in May.

On MOTION by Mr. Gamm, seconded by Ms. Shelling, with all in favor, the Board approved the Continuation of the Public Hearing on Recreation Facility Rules for Harbor Bay Community Development District.

**SEVENTH ORDER OF BUSINESS**

**Consideration of Property  
Management Agreement**

Mr. Williams stated that the next item on the agenda is the consideration of a property management agreement. Mr. Johnson explained that the District is considering entering into a property management agreement with the Property Owner's Association which would allow them to manage the facilities that the District will own and operate.

Mr. Johnson stated that a copy of an agreement has been sent to the developer. Mr. Johnson reminded the Board that revisions to the agreement will be enclosed in the agenda package for the next Board meeting. Mr. Williams asked if there were any questions. There were none.

**EIGHTH ORDER OF BUSINESS**

**Consideration of Developer  
Request for Boundary Amendment**

Mr. Williams stated that the next item on the agenda is the consideration of the developer request for a boundary amendment. Mr. Johnson explained that he received a request from the developer for the Board to consider starting the process of amending the boundaries. He stated that, based upon the facilities and services that the District has proposed to provide to the community, there are commercial and multi-family areas that are located on the fringe of the boundaries of the District, which should be considered for removal to allow these property owners to provide for their own storm water facilities. He explained that the process to amend boundaries must be processed first through the county, and by statute, the Board is required to be the petitioner. Mr. Johnson asked for the Board's permission to begin the process of filing the legal paperwork for amending the boundaries of the District. A Board member asked if the processing of the boundary agreement would affect the present lot and block sections. Mr. Johnson stated that it would not affect the present lot and block sections, but only the outer boundaries of the CDD. He asked for a motion to approve the processing of the boundary amendment.

On MOTION by Mr. Gamm, seconded by Ms. Kunkel, with all in favor, the Board approved the filing of the Boundary Amendment by District Counsel for Harbor Bay Community Development District.

**NINTH ORDER OF BUSINESS**

**Staff Reports**

A. District Counsel

Mr. Johnson stated that he and Rizzetta & Company, Inc. has received information from the Florida Department of Environmental Protection regarding water management district permitting requirements. He explained that the permitting requirements have been delegated to the local state governing authorities and states that if property is located within an urban service boundary, an additional MSSW permit should be filed. Mr. Johnson verified that the District was applicable for this additional permitting, and he will forward this information to Mr. Hall for completion and filing.

B. District Engineer

Mr. Hall stated that the paperwork for this MSSW permit has been completed in the past for both the state and federal government.

Mr. Williams stated that there were additional proposals and contracts that require consideration by the Board.

Mr. Gamm stated that the first proposal was for Duratek Precast Wall Corporation and pertains to the extension of a wall along the berm. He stated that the extension has been allocated in the budget. A motion was initiated to approve the wall extension.

On MOTION by Ms. Kunkel, seconded by Ms. Shelling, with all in favor, the Board approved the Proposal for Duratek Precast Wall Corporation for Harbor Bay Community Development District.

Mr. Gamm stated that the second proposal was for Biological Research Associates for the maintenance of the ponds for nuisance vegetation and algae removal. Mr. Williams recommended to the Board that a 30 day cancellation clause be included in the contract in order to ensure continuity of service for 30 days if the contract is terminated due to unsatisfactory performance. Mr. Williams asked if there were any questions. Hearing and seeing none, he asked for a motion to approve the proposal for Biological Research Associates.

On MOTION by Ms. Shelling, seconded by Ms. Marler, with all in favor, the Board approved the proposal for Biological Research Associates for Harbor Bay Community Development District.

Mr. Gamm stated that there was a change order pertaining to Parcel 7. He stated that it is to be constructed in phases. Mr. Gamm explained that the preliminary plat was approved and there is a change order to the existing contract with separate schedule values for parcel 7 with Kearney Development Company. Mr. Williams asked Mr. Gamm if he recommended splitting the phases of development. Mr. Gamm confirmed that he recommended the separating of the phases for the development of Parcel 7. Mr. Williams recommended to the Board that if Kearney Development Company does not keep the same unit pricing (and due to the amount of the contract) legally there may need to a bidding process.

Ms. Kunkel asked when the Kearney Development Company proposal was approved if a timeline of the construction would be available. Mr. Gamm affirmed there will be a timeline of construction once the contract is approved. There was a motion to approve.

On MOTION by Ms. Kunkel, seconded by Ms. Marler, with all in favor, the Board approved the Kearney Development Company, Inc. Change Order (\$556,000) for Harbor Bay Community Development District.

Mr. Gamm stated that the next proposal is for Architectural Fountains, Inc. which pertains to the fountains located in the entry. He stated that the fountains are ready for operation, which was delayed due to allowing time for the sand in the pond to sink before the pumps were operated. There was a motion to approve.

On MOTION by Ms. Kunkel, seconded by Ms. Greene, with all in favor, the Board approved the proposal for Architectural Fountains Inc. for Harbor Bay Community Development District.

Mr. Williams suggested to Mr. Gamm, that if Architectural Fountains Inc. has a maintenance service available, to present a proposal to the Board in the future for engagement of their maintenance services.

Mr. Gamm stated that the next change order is for Kim's Landscaping (for Newberg Irrigation to perform the work) pertaining to the addition of irrigation for Street J for CDD owned areas. Mr. Williams asked if there were any questions. Hearing and seeing none, he asked for a motion to approve.

On MOTION by Ms. Greene, seconded by Ms. Shelling, with all in favor, the Board approved the Change Order for Kim's Landscaping for Harbor Bay Community Development District.

Mr. Gamm stated that the final change order is for Kim's Landscaping pertaining to the Tennis Complex. He stated that the initial proposal was approved at the last Board meeting. Mr. Gamm stated that the change order pertains to the irrigation of the Tennis Complex. He explained that the irrigation was budgeted in the Phase II landscaping.

Mr. Gamm explained that Newberg Irrigation had initially submitted a proposal directly to the District, but Newberg Irrigation was asked to submit a proposal directly to Kim's Landscaping (who is currently performing the landscaping).

Mr. Gamm explained that to provide continuity of service, Newberg Irrigation was asked to submit their proposal to Kim's Landscaping by the District. He stated that the change order would add another well (6 wells have been permitted and this would be the third one installed) which would provide more pressure into the overall system and provide water back to the club and for Street J. Mr. Williams asked if there were any questions. Hearing and seeing none, he asked for a motion to approve.

On MOTION by Ms. Kunkel, seconded by Ms. Greene, with all in favor, the Board approved the Change Order for Kim's Landscaping for Harbor Bay Community Development District.

C. District Manager

Mr. Williams explained that the District will begin the budget process. He explained the steps of the budget process, beginning with the proposed budget and the submittal of the budget to the county 60 days prior to the holding of the public meeting to finalize the budget. He explained that there will be an alteration phase allowing for adjustments to be made before the budget is finalized. Mr. Williams stated that the public hearing will be held in July to allow for public comments. He recommended to the Board that the final budget is needed by July in order to have the assessments placed on the TRIM notices for Hillsborough County (which was not required in the past). Mr. Williams explained that the assessments once placed upon the TRIM notice cannot be raised; therefore, it is pertinent that the numbers are correct once submitted for placement on the TRIM notice.

Mr. Johnson reminded the Board that the meeting for July is the 22<sup>nd</sup> instead of the normally scheduled 15<sup>th</sup> in order to accommodate the budget schedule allowing for proper notification time.

**TENTH ORDER OF BUSINESS**

**Supervisor Requests and Audience Comments**

Mr. Williams stated that the next item on the agenda is Supervisor requests and audience comments. There were no audience members in attendance other than those noted at the beginning of the meeting. He asked if there were any Supervisor requests.

Ms. Shelling asked when the financial statements would be available. Mr. Williams stated that the financial statements are in progress and should be available in the next few days. Ms. Shelling asked what period that would encompass. Mr. Williams stated that it should be through March. He asked if there were any more Supervisor requests. There were none.

**ELEVENTH ORDER OF BUSINESS**

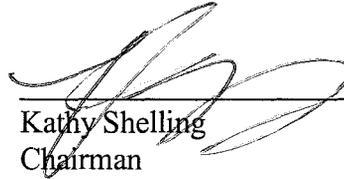
**Adjournment**

Mr. Williams stated that there were no further agenda items to come before the Board and asked for a motion to adjourn the meeting.

On MOTION by Ms. Marler, seconded by Ms. Greene, with all in favor, the Board adjourned the meeting for Harbor Bay Community Development District.



Pete Williams  
Secretary



Kathy Shelling  
Chairman