

**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, April 26, 2012 at 5:35 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>
Paul Stumpf	<b>Board Supervisor, Assistant Secretary</b>
Tom Hatcher	<b>Board Supervisor, Assistant Secretary</b>

Also present were:

Scott Brizendine	<b>District Manager, Rizzetta &amp; Company, Inc.</b>
Jere Earlywine	<b>District Counsel, Hopping, Green &amp; Sams, P.A.</b>
Alex Murphy	<b>Club Manager</b>
Kristy Owens	<b>District Coordinator</b>
Audience	

**FIRST ORDER OF BUSINESS**

**Call to Order**

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

**SECOND ORDER OF BUSINESS**

**Audience Comments on Agenda Items**

A resident commented on the Sea Crest reimbursement request in the amount of \$26,235.08, inquiring as to what happened to the gentleman's agreement from 2007, where the HOA agreed to maintain the areas in question in exchange for installation of certain palms by Newland. It was understood that those common areas would be transferred to Sea Crest. He reviewed a brief history of the landscaping maintenance contracts for the Sea Crest HOA and events that led up to the current situation. He noted that the irrigation system links the HOA and CDD property, further indicating that the property was intended to belong to the Sea Crest HOA. The resident opined that the District should not reimburse the HOA for maintaining what it had agreed to maintain in 2007.

**THIRD ORDER OF BUSINESS**

**Consideration of Minutes from the Board Supervisors' Meeting Held on March 22, 2012**

Mr. Brizendine pointed out a correction on page four, noting that the word "not" would be removed from the last sentence of the third paragraph.

On a Motion by Mr. Stumpf, seconded by Mr. Stone, with all in favor, the Board of Supervisors approved the minutes from the Board of Supervisors' meeting held on March 22, 2012 as amended for Harbor Bay Community Development District.

**FOURTH ORDER OF BUSINESS**

**Consideration of Operation and Maintenance Expenditures for March 2012**

Mr. Ripley inquired about the invoice for painting the water slide and mushroom as it was his understanding that Newland offered to have the painting done. Mr. Brizendine stated that the District paid the invoice and Newland reimbursed the District for this expense.

On a Motion by Mr. Ripley, seconded by Ms. Guill, with all in favor, the Board of Supervisors approved the Operation and Maintenance Expenditures paid during the period of March 1-31, 2012 (\$341,869.57) for Harbor Bay Community Development District.

**FIFTH ORDER OF BUSINESS**

**Consideration of Operations and Maintenance Expenditures for March 2012 – Mira Bay Amenity Center**

There were no questions regarding any of the expenditures included in the report.

On a Motion by Mr. Stone, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors approved the Operation and Maintenance Expenditures paid during the period of March 1-31, 2012 (\$63,217.46) for the Mira Bay Amenity Center, for Harbor Bay Community Development District.

**SIXTH ORDER OF BUSINESS**

**Consideration of any Matters Relating to Litigation**

Mr. Brizendine stated that the litigation attorneys held an informational session on April 18<sup>th</sup> relating to the seawall litigation. Mr. Stone stated that Mr. Bolves was very candid regarding the issues during the meeting. He touched on a few of the salient points. Among other things, he reviewed the costs to fix the issues with the seawall. He also addressed the fact that the trial had been postponed because the defense produced on the eve of trial certain test results, embodied in numerous documents, that have necessitated extensive review by our team of experts. He stated that it appears that the testing that was completed benefits our case not theirs and our attorney is in the process of deposing the engineer in charge of conducting the test at this time. Mr. Stone stated that the trial will mostly likely be rescheduled to the end of the year or early next year.

**SEVENTH ORDER OF BUSINESS**

**Review of District's Cash Flow Analysis**

Mr. Brizendine apologized for technical difficulties that would not allow him to present the report as he normally does and stated that it would be posted on the website. He stated that through the end of March the District has collected \$3,010,648 of the \$3,449,547 assessed and has \$200,104 in its cash account and \$1,270,685 in its investment account. Mr. Brizendine stated that based on current spending trends he estimates that the District will have approximately \$117,213 at the end of the fiscal year. He confirmed that the excess monies that are anticipated to be spent over budget will be covered with funds carried over from previous years.

**EIGHTH ORDER OF BUSINESS**

**Consideration of Reimbursing Sea Crest  
for Landscape Maintenance of District  
Property**

Mr. Brizendine stated that the request for reimbursement from the Sea Crest HOA along with supporting documents is behind tab four. He noted that he distributed copies of other emails relating to the issue to members of the Board. A brief discussion ensued regarding why the HOA was paying to maintain the area in question. Mr. Ripley and Mr. Hatcher recounted their recollections of the reasons that Sea Crest maintained the property. It was not until it was discovered that the property had never been transferred to the HOA as intended, and Sea Crest declined to accept the transfer, that it became an issue. Neither felt that the District should reimburse the HOA for those costs based on the 2007 understanding. Mr. Stumpf stated that the documentation indicates that Sea Crest has been maintaining District property and should be reimbursed just as Newland has reimbursed the District for their irrigation that the District was paying in error.

Mr. Stumpf made a motion to approve reimbursing the Sea Crest HOA for the landscape maintenance costs, but it failed for lack of a second.

**NINTH ORDER OF BUSINESS**

**Staff Reports**

A. District Counsel

Mr. Earlywine stated that the benches have been removed from District property.

A brief discussion ensued regarding the RFP package for the landscape agreement. It was noted that the package should be available for the May meeting, which would still provide ample time to approve the contract prior to finalizing next year's budget. He stated that the documents are essentially complete but there are still a few questions regarding the map. A question was raised as to whether it might be wise to separate the District property within Sea Crest from the contract to provide the option of having one vendor handling all of the landscaping in Sea Crest.

B. District Engineer

Mr. Brizendine reported on behalf of Mr. Scarola that all of the work that was contracted through Custom Modular to bring the District into compliance with the new ADA requirements has been completed. However, Peninsular Aquatics is still waiting on the permits from Hillsborough County to install the pool lifts.

Mr. Brizendine stated that he confirmed that the lifts are at Peninsular Aquatics and he has reminded the vendor of the May deadline. A brief discussion ensued regarding the possibility of another extension being granted given the issue of obtaining permits. It was stated that nothing has been disseminated from the Department of Justice regarding any further extensions to this point. Mr. Earlywine stated that he would be attending a meeting regarding ADA compliance in May and would provide an update at the next meeting.

Mr. Brizendine stated that Mr. Scarola asked him to relay to the Board that he received correspondence from SWFWMD accepting the reports that were filed on the inspections of the drainage structures in 1B, 2B 3A, and parcel 7 showing that they are operating correctly.

Mr. Stumpf inquired if the SWFWMD watering variance required that a sign be posted at the front entrance of the community informing visitors/inspectors that the community has a variance. Mr. Brizendine stated that he would research the particulars for this variance but in other communities that he is aware of they are required to have the variance available at the on site office.

C. Club Manager – Alex Murphy

Ms. Murphy announced that Mindy Anderson has been hired to take over the Clubhouse management duties effective May 1<sup>st</sup>. She stated that she has ten years of experience with the YMCA.

Ms. Murphy presented the Board with a copy of revised guidelines and rental rates for the Lagoon Room, explaining that there have been fewer rentals than projected and many of the comments received from potential clients relate to the costs. She recommended that the rates be lowered. A brief discussion ensued and it was decided to table action on this matter until the May meeting to allow Staff the opportunity to review language from the last revised policy to determine if it would be necessary to hold another public hearing prior to Board approval.

D. Operations Manager

Not present.

E. District Coordinator- Kristy Owens

Ms. Owens spoke briefly on the option to rent the third room, stating that she felt this would be a good option for residents.

F. District Manager

Mr. Brizendine stated that he tentatively approved a three month payment plan proposed by Newland to reimburse the District for the water bills related to irrigation, which total over \$30,000. The Board indicated its approval of the payment plan. Mr. Brizendine noted that the District is in receipt of the reimbursement for painting the waterslide and mushroom as agreed upon by Newland.

Mr. Brizendine informed that Board that as of April 15, 2012 there were 1,118 registered voters residing within the District. He explained that this comes into play when determining the eligibility of the District to participate in the General Election process. He stated that seats four and five currently held by Mr. Stone and Mr. Hatcher are up for re-election as part of the November sixth election.

Mr. Brizendine stated that he intends to present the proposed budget for the next fiscal year at the May 24<sup>th</sup> meeting and inquired as to whether the Board would like to hold a workshop prior to this meeting or wait until after. It was decided to hold one both before and after.

On a Motion by Mr. Ripley, seconded by Mr. Stumpf, with all in favor, the Board of Supervisors authorized Staff to submit the required advertisement to hold a budget workshop on May 16, 2012 at 5:30 p.m. at the MiraBay Clubhouse, located at 107 Manns Harbor Drive, Apollo Beach, Florida 33752 for Harbor Bay Community Development District.

Mr. Brizendine stated that he was contacted by RGA regarding two invoices that they submitted relating to extenuating circumstances and their spending an additional 94.25 hours on the project totaling \$13,666.25. He stated that some of the work relates to the Sea Crest bench issue and that he and Ms. Guill negotiated with Mr. Henry to get the total down to \$5,000. A brief discussion ensued regarding whether authorization to perform the extra work was obtained prior to being completed and total costs for the project. Mr. Brizendine stated that he was not contacted regarding any of the extra work and provided a review of the budget for the project, the estimate provided by RGA (including lifts) and the portion that Newland agreed to reimburse the District related to 1991 guidelines. The general consensus was that RGA did a great job on the project and should be paid the \$5,000.

On a Motion by Mr. Stumpf, seconded by Mr. Ripley, with all in favor, the Board of Supervisors approved the additional payment of \$5,000 to RGA as discussed for Harbor Bay Community Development District.

Mr. Brizendine stated that he was approached by a couple of Board members regarding changing the date for the October meeting as they have a conflict for the week that the meeting would be held if scheduled per the existing schedule.

Mr. Brizendine explained that the actual meeting date would not be set for a few months but it would be worth considering based on the known conflicts. A brief discussion ensued regarding other conflicts that month and it was decided not to take any action at this time.

**TENTH ORDER OF BUSINESS**

**Supervisor Requests & Audience  
Comments**

**Audience Comments**

Audience comments were entertained regarding why the District would want to consider turning over portions of its property to any subdivision, a petition that was signed by approximately forty residents expressing concern with not having a representative from each subdivision sitting on the Board, the establishment of a pool committee made up of residents to oversee maintenance of the pool, and asking that the Board approve the spending limit motion made by Mr. Stumpf. Other comments were entertained regarding the budget process and the need to ensure that resident's personal information is protected during this election year so there is not a repeat of what occurred two year ago. A recommendation was made that the information be encrypted.

The President of the Sea Crest HOA expressed his disappointment that the Board did not approve the reimbursement for landscaping expenses for maintaining District property. He stated that he was unable to find any reference to any type of agreement from 2007 that indicated that Sea Crest should have been maintaining the area. He also expressed frustration over the bench issue and the lack of communication between the District and the HOA on the matter.

**Supervisor Requests**

A lengthy discussion ensued regarding the way the Sea Crest benches matter was handled by Mr. Stumpf; with opinions being stated that Mr. Stumpf owed the community an apology for the extra expense that his actions created for the District and that any communications relating to the matter should have been forwarded to District Management for resolution rather than any action being taken by an individual Board member. It was stated that even the Board appointed liaison was not given the authority to take actions without first seeking Board approval. Mr. Stumpf defended his actions and questioned why Sea Crest was not afforded the same option to merely reimburse the District for completing the necessary repairs to bring one of the benches into compliance the way Newland was for those items relating to the 1991 guidelines. It was agreed that better communication was needed throughout the process.

Mr. Stone spoke briefly on the success of the grand re-opening party of the pool, research that is in process relating to purchasing a PA system for the District, bringing sheriff patrols back to the community and a rash of break-ins in Bay Breeze. It was noted that the police were able to pull video footage of the last break-in, as well as fingerprints, and blood that was left at the scene.

Ms. Guill inquired as to the status of requests to establish a policy that would protect resident information from public records. Mr. Earlywine stated that he would bring a draft to the next meeting.

Mr. Hatcher responded to audience comments stating that the reasoning behind the decision to transfer District property to a subdivision relates to the desire to only have one contractor within an area, thus avoiding any finger pointing as to which one was responsible for any issues that might develop. This is why he recommended that the Board consider keeping the contract for those areas in Sea Crest separate from the remainder of the CDD contract.

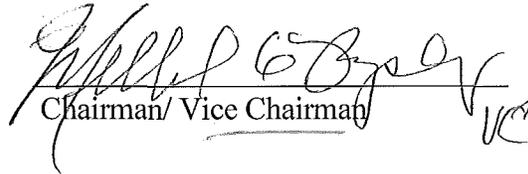
Mr. Hatcher also stated that Florida Statutes do not allow for election to the Board based solely on individual subdivisions.

**ELEVENTH ORDER OF BUSINESS**

**Adjournment**

On a Motion by Mr. Stone, seconded by Mr. Stumpf, with all in favor, the Board adjourned the meeting at 7:17 p.m. for Harbor Bay Community Development District.

  
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Secretary/Assistant Secretary

  
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Chairman/Vice Chairman