

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, May 26, 2011 at 5:32 p.m.** 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>

Joining the Meeting after the recess were:

Jamie Scarola	<b>District Engineer, Scarola Associates Eng.</b>
Karla Gibson	<b>Club Manager</b>
Kristy Owens	<b>District Coordinator</b>
John Toborg	<b>Field Operations Manager, Rizzetta &amp; Co.</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 with Litigation Counsel**

Mr. Earlywine announced that the Board would be moving into the shade meeting and that attending the meeting would be the five Board Supervisors, Scott Brizendine, Brian Bolves, Steven Medendorp and himself. He estimated that the meeting would last approximately 60 minutes.

*Mr. Brizendine called for a recess of the regular meeting at 5:33 p.m.*

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*Mr. Brizendine reconvened the meeting at 7:12 p.m., with all those in attendance at the onset of the meeting still in attendance. Jamie Scarola, John Toborg, Karla Gibson, Kristy Owens and members of the general audience joined the meeting.*

Mr. Earlywine stated that litigation counsel has requested that another shade meeting be held on June 23, 2011 at 5:30 p.m., at 700 Manns Harbor Drive, Apollo Beach, Florida 33752, to discuss the results of the mediation that is scheduled for June 21<sup>st</sup>. He stated that the five Board Supervisors, Scott Brizendine, Brian Bolves, Steven Medendorp and himself along with a court recorder would be attending the shade meeting. He asked for a motion from the Board to set the meeting and authorize Staff to notice it.

<p>On a Motion by Mr. Stone, seconded by Ms. Guill, with all in favor, the Board of Supervisors authorized Staff to schedule and place the required notice of a shade meeting on June 23, 2011 at 5:30 p.m., at 107 Manns Harbor Drive, Apollo Beach, Florida 33752, for Harbor Bay Community Development District.</p>
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### THIRD ORDER OF BUSINESS

#### Audience Comments on Agenda Items

There were no audience comments put forward on agenda items.

Ms. Guill recommended that a time limit of ten minutes be placed on each of the remaining agenda items; with the Board deciding at that time whether to continue discussion or table the item. The Board concurred.

### FOURTH ORDER OF BUSINESS

#### Presentation of Arborist Report

Mr. Stumpf spoke regarding the arborist report that was included in the agenda packet and reviewed the summary of concerns and recommendations made by Master Arborist, Richard Bailey. He provided a brief overview of steps that have been taken to date to ensure that the best practices are being followed and opined that more can be done to protect the palms and other landscaping within the community. He recommended that an arborist be retained by the District to complete four inspections a year at an annual cost of approximately \$3,840, or less than the cost of replacing one palm. Mr. Stumpf made a motion to authorize the hiring of a master arborist and/or horticulturist on a quarterly basis to advise District Management on the best way to manage the District's landscape at a cost of approximately \$3,840. The motion died for lack of a second.

Mr. Toborg clarified the fertilizations that are currently being utilized throughout the District as they vary slightly from those stated in Mr. Stumpf's presentation. He explained that Hillsborough County has restricted the use of phosphate and nitrogen during the rainy season effective July 10, 2011 and Mr. Kim will be adhering to the new regulations.

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**FIFTH ORDER OF BUSINESS**

**Consideration of the Minutes of the Board of Supervisors' Meeting held on April 28, 2011**

Mr. Brizendine thanked the Board for its input on the minutes prior to the meeting and reviewed the requested changes.

A brief discussion ensued regarding the section relating to a Supervisor's request for copies of moisture readings taken as they relate to proposals for hand watering and the appropriateness of the request. An opinion was expressed that this micromanages the professionals working for the District and may be outside the scope of the Board's responsibilities. It was stated that the moisture readings and hand watering proposals are a matter of public record and as such can be obtained by anyone upon request. Mr. Stone requested that copies of the documents discussed be sent to Mr. Stumpf on an ongoing basis.

On a Motion by Mr. Stumpf, seconded by Mr. Ripley, with all in favor, the Board of Supervisors approved the minutes of the Board of Supervisors' meeting held on April 28, 2011 as amended for Harbor Bay Community Development District.

**SIXTH ORDER OF BUSINESS**

**Consideration of Operation and Maintenance Expenditures for April 2011**

No questions were put forward regarding any of the invoices presented.

On a Motion by Mr. Stone, seconded by Ms. Guill, with all in favor, the Board of Supervisors approved the Operation and Maintenance Expenditures paid during the period of April 1-30, 2011 (\$161,803.43) as discussed for Harbor Bay Community Development District.

**SEVENTH ORDER OF BUSINESS**

**Consideration of Operations and Maintenance Expenditures for April 2011 – Mira Bay Amenity Center**

No questions were put forward regarding any of the invoices presented.

On a Motion by Mr. Stumpf, seconded by Mr. Stone, with all in favor, the Board of Supervisors approved the Operation and Maintenance Expenditures paid during the period of April 1-30, 2011 (\$70,317.15) for the Mira Bay Amenity Center, for Harbor Bay Community Development District.

Mr. Stumpf inquired as to whether Mr. Huber had forwarded the copy of the Hawkins' invoice to Mr. Brizendine, that he felt might be incorrectly billed to the District. Mr. Brizendine confirmed that he had received the invoice and was still working on the matter.

**EIGHTH ORDER OF BUSINESS**

**Continued Discussions on Bid Protest / Sea Crest Landscape Maintenance**

Mr. Brizendine stated that this item was going to be tabled for another month on the advice of District Counsel. Mr. Earlywine stated that, by way of update, he has had several discussions with counsel for Greenbriar, had received a written communication from Greenbriar regarding the bid protest, and was in the process of speaking with the Supervisors on an individual basis to discuss that communication.

**NINTH ORDER OF BUSINESS**

**Consideration of Revised Rules, Fees and Pool Policies**

Mr. Brizendine stated that the Board was provided with copies of proposed rates and changes to the existing rules and pool policies. Mr. Earlywine stated that the rates would be approved next month at a public hearing, but Staff is looking for direction regarding the rental of the meeting room. A brief discussion ensued regarding the possibility of renting a portion of the room at a sliding fee (between \$150 to \$200), to encourage local small businesses to utilize the clubhouse and bring in additional income. It was noted that renting out the small area would preclude the possibility of renting the entire room during that period. The Board indicated that it would be in favor of this proposal.

Further discussion ensued regarding the pool policies relating to use of the waterslide and whether there is a recommended height requirement that needs to be adhered to and therefore included in the policies, as well as, whether or not the District is required to have Staff at the top of the slide whenever it is open. It was noted that should the research indicate the need to revise the current policy, it would be brought back to the Board.

Discussions were held regarding the draft pool policies. A request was made to clarify the visitor proximity card and visitor pass requirements, along with the requirement that a resident be present with the guests at all times.

On a Motion by Mr. Stumpf, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors approved the revised pool policies as discussed for Harbor Bay Community Development District.

**TENTH ORDER OF BUSINESS**

**Consideration of Request to Adopt a Policy Prohibiting Dog Owners from Utilizing the Areas between the Street and the Sidewalk as a Dog Park**

Mr. Brizendine stated that this item was tabled from the last meeting and questioned whether it really required any Board action, given that any policy adopted would be relatively unenforceable. The Board indicated its agreement with this sentiment. However, the possibility of requiring individuals walking their dogs to attach a bag to the leash was put forward.

It was stated that this might be an HOA matter and not a District one.

**ELEVENTH ORDER OF BUSINESS**

**Consideration of Proposals to Reduce  
Pump Noise at Pool**

Ms. Gibson stated that other Districts have built a cover out of pressure treated plywood and insulated it to enclose the pool pump and reduce the noise to below acceptable DBA readings. A brief discussion ensued and a request made to obtain pricing.

**TWELFTH ORDER OF BUSINESS**

**District Counsel Report**

Mr. Earlywine stated that he spoke with the Trustee regarding the Crossland payments and explained that, after having difficulty attempting to identify the bondholders in interest, and given the limited amount at issue, the Trustee had decided not to take a position on whether the bondholders were willing to allow the District to accept the payments on a revised schedule. That said, Mr. Earlywine suggested that an agreement be put in place with Crossland that would protect the District in the event the Trustee and/or bondholders did later raise an objection. Mr. Earlywine stated that he would prepare a draft of the agreement for the next meeting.

Mr. Earlywine stated that Newland Properties has been waiting for the survey to be completed in order to move forward with the property conveyance. He stated that the survey has been received by Newland's counsel and he anticipated that it would be forwarded to the District shortly.

Mr. Earlywine provided a brief update on some of the legislative changes relating to CDDs that were recently passed, including laws relating to revenue caps, growth management, financial accountability, etc.

**THIRTEENTH ORDER OF BUSINESS**

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

Mr. Brizendine stated that the analysis was provided to the Board earlier. He reviewed the analysis of the District's funds as of April 30, 2011, the status of collections, the projected costs for the remainder of the fiscal year, and the balance at the end of the year. He stated that based on current monthly spending the District may not have enough funds to meet the expenses for the first three months of the next fiscal year as that revenue does not start to arrive until the end of November. Mr. Brizendine stated that this depends largely on the status of payments from Crossland and he will continue to monitor the situation.

Mr. Stumpf requested that an excel copy of the file be forwarded to him for review.

**FOURTEENTH ORDER OF BUSINESS**

**Presentation of Fiscal Year 2011/2012  
Proposed Budget**

Mr. Brizendine provided a brief overview of the budget process that requires the proposed budget to be presented on or before June 15, 2011 and a public hearing to finalize the budget be held not less than 60 days after the approval of the proposed budget.

Mr. Brizendine explained that he made some minor revisions to the budget format this year, adding additional line items where applicable and moving some items from the enterprise fund to the general fund as deemed appropriate. Mr. Brizendine reviewed the proposed general fund budget totaling \$3,449,547 and the proposed enterprise fund budget totaling \$702,570, explaining the basis for the projected costs on various line items in each budget. He stated that based on the proposed budget, the District is looking at an approximate increase in the assessment levels of 10%. He recommended that at least one and possibly two budget workshops be held to not only provide an opportunity for the Board to fine tune the budget, but to allow residents the opportunity to provide input prior to the public hearing as well.

A brief discussion ensued regarding the timing for holding the public hearing and the workshops. Mr. Earlywine stated that since Hillsborough County does not send out a TRIM notice it would be possible for the Board to either increase or decrease the budget during the workshops, providing they allowed sufficient time for the mailed notices to be sent out to residents 20 days prior to the public hearing. Mr. Brizendine recommended that the public hearing be held in conjunction with the regular meeting scheduled on August 25, 2011.

On a Motion by Ms. Guill, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors approved Resolution 2011-04, approving the proposed budgets for Fiscal Year 2011/2012, setting the public hearing on August 25, 2011 at 5:30 p.m. at the Mirabay Clubhouse, located at 107 Manns Harbor Drive, Apollo Beach, Florida 33572 and authorizing Staff to submit the budget to the County for Harbor Bay Community Development District.

On a Motion by Mr. Stone, seconded by Mr. Ripley, with all in favor, the Board of Supervisors authorized Staff to submit the required notifications to hold budget workshops on June 16, 2011 at 5:30 p.m. and July 21, 2011 at 6:30 with both workshops being held at the Mirabay Clubhouse, located at 107 Manns Harbor Drive, Apollo Beach, Florida 33572 for Harbor Bay Community Development District.

A brief discussion ensued regarding whether the Board should also consider scheduling another workshop to discuss the results of the ADA inspection once RGA has submitted its' report. It was decided to hold off until the report has been received to determine whether a workshop would be appropriate.

FIFTEENTH ORDER OF BUSINESS

Staff Reports

A. District Engineer

Mr. Scarola updated the status of the latest SWFWMD inspections, stating that he expects them to be certified for another two years. He stated that the District should consider replacing the filters before the next round of inspections.

Mr. Scarola stated that there is a meeting with RGA next week to discuss their recommendations relating to ADA compliance.

B. Mira Bay Club Manager – Karla Gibson

Ms. Gibson introduced Ms. Alex Murphy the new Lifestyle Manager. Ms. Murphy provided a brief update on recent events and planned events over the Memorial weekend.

Ms. Gibson informed the Board that the District should consider replacing the elliptical and bikes. She stated that additional Staff has been hired for the summer and she is in the process of gathering information to update the point of sale system for the Café that would speed up the service.

C. Field Operations Manager – John Toborg

Mr. Toborg informed the Board that he spoke with Ballenger regarding adjusting the clocks by the Tennis Pavilion and Ibis View, so that the irrigation runs for less time but for three intervals a day. This should limit the amount of run off that occurs and provide a more soaking watering. He stated that unfortunately this did not occur and the systems were turned on manually. He asked that hand watering policy include an enforcement statement to address any future failures to follow the current policy. Mr. Earlywine recommended that an interim action be taken until the policy can be modified. A brief discussion ensued.

On a Motion by Ms. Guill, seconded by Mr. Ripley, with all in favor, the Board of Supervisors authorized Staff to send a letter to Le Te Kim Landscaping regarding adjusting the timers to irrigate three times a day for a shorter period of time for Harbor Bay Community Development District.

A brief discussion ensued regarding the proposals that were submitted for Board approval. Due to the number of proposals, Mr. Toborg recommended that the Board concentrate on the cul-de-sacs and Manns Harbor Bridge areas. Mr. Brizendine recommended that the Board authorize he and Mr. Toborg to review the remaining proposals and decide which ones should be approved based on need and budget considerations. He stated that he would bring back any that he was uncomfortable approving. The following Board actions were taken:

On a Motion by Ms. Guill, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors authorized a not-to-exceed amount of \$1,000 to replace plants in four cul-de-sacs for Harbor Bay Community Development District.

On a Motion by Mr. Ripley, seconded by Ms. Guill, with all in favor, the Board of Supervisors authorized District Staff to review and approve the remaining proposals to determine their appropriateness as discussed for Harbor Bay Community Development District.

It was decided not to address the replacement of two Royal Palms within Seacrest at this time.

- D. District Coordinator- Kristy Owens  
Mr. Brizendine stated that the revised Greeter Policy has been approved by US Security and emailed out to the Board. He stated that the main change was placing orange cones to direct traffic to the open lane when a gate is down. Mr. Earlywine stated that he would like to see language included addressing that issue of the roads within the community being public roads.

A brief discussion ensued regarding the possibility of using proximity cards for temporary access to the pools and the gates as opposed to issuing decals to summer residents that may be using a rental car. It was stated that those individuals can enter through the visitor gate. This item was tabled until next month.

- E. District Manager  
Mr. Brizendine informed the Board that as of April 15, 2011 there were 1,073 registered voters residing within the District. He explained that he is required to announce this information every year by June 1<sup>st</sup> as the number of eligible voters impacts the District's ability to participate in the general elections process rather than under Landowner guidelines.

Mr. Brizendine reminded the Board that the next meeting is scheduled for June 23<sup>rd</sup> and will include the public hearing on the rules and regulations, as well as the requested shade meeting.

**SIXTEENTH ORDER OF BUSINESS**

**Supervisor Requests & Audience  
Comments**

Ms. Guill inquired as to whether the wall on the west side of Anchor Cove is CDD property. Mr. Toborg stated that he does show it as CDD property. He stated that he would check out the area to see if the concern is something that Mr. Kim could handle.

Mr. Stumpf stated that there are thirty four lights that have burnt out at the entrance / exit to the community and eleven of them have been out for several weeks. He asked if there were a

specific number of lights that had to be out before a call could be placed to address the issue.

It was stated that that used to be the case as special equipment had to be rented, but might not need to be any longer as the company now has its own equipment. The Board asked that Staff research the cost, so that the Board could determine whether to establish a minimum number be out before placing the call and that the lights that are currently out be replaced as soon as possible.

**Audience Comments**

There were no audience comments put forth.

**SEVENTEENTH ORDER OF BUSINESS**

**Adjournment**

On a Motion by Mr. Hatcher, seconded by Mr. Ripley, with all in favor, the Board adjourned the meeting at 9:12 p.m. for Harbor Bay Community Development District.

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Secretary/Assistant Secretary

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Chairman/ Vice Chairman