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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 the Harbor Bay Community Development District was held on **Thursday, June 25, 2009 at 9:30 a.m.**, at the Mira Bay Clubhouse, the Lagoon Room, located at 107 Manns Harbor Drive, Apollo Beach, Florida 33572.

Present and constituting a quorum were:

Scott Jones	<b>Board Supervisor, Chairman</b>
Laura Ackerman	<b>Board Supervisor, Vice Chairman</b>
Ed Stone	<b>Board Supervisor, Assistant Secretary</b>
Tom Hatcher	<b>Board Supervisor, Assistant Secretary</b>
Rip Ripley	<b>Board Supervisor, Assistant Secretary</b>

Also present were:

Tina Wells	<b>District Manager, Rizzetta &amp; Company, Inc.</b>
Eric Dailey	<b>Associate Director of District Management Services, Rizzetta &amp; Company, Inc.</b>
Biff Craine	<b>District Counsel, Bricklemyer Smolker &amp; Bolves</b>
Jaime Scarola	<b>District Engineer, Scarola Associates Engineer</b>
Scott Smith	<b>Community Association Manager, Rizzetta &amp; Company, Inc.</b>
Karla Gibson	<b>Representative, WTS</b>
Debra Dremann	<b>Vice President &amp; General Manager, Newland Communities</b>
Barbara Johnson	<b>Representative, Newland Communities</b>
Audience	

**FIRST ORDER OF BUSINESS**

**Call to Order**

Ms. Wells called the meeting to order and read the roll call.

**SECOND ORDER OF BUSINESS**

**Consideration of the Minutes of the  
Board of Supervisors' Meeting held  
on May 19, 2009**

It was stated that on page one, under the roll call, Vaike O'Grady's name which is spelled, "Viake" should be "Vaike".

It was also stated that Vaike O'Grady's title which states, "CDD Financial Analyst", should be, "Marketing Director".

On a Motion by Mr. Stone, seconded by Mr. Jones, with all in favor, the Board approved the Minutes of the Board of Supervisors' Meeting held on May 19, 2009, as amended, for Harbor Bay Community Development District.

**THIRD ORDER OF BUSINESS**

**Consideration of Operation and Maintenance Expenditures for June 2009**

On a Motion by Mr. Ripley, seconded by Mr. Hatcher, with all in favor, the Board approved the Operation and Maintenance Expenditures for June, 2009 totaling \$215,468.95 for Harbor Bay Community Development District.

**FOURTH ORDER OF BUSINESS**

**Continued Public Hearing on the Updated Rules of Procedure**

On a Motion by Ms. Ackerman, seconded by Mr. Stone, with all in favor, the Board opened the Public Hearing on the Updated Rules of Procedure for Harbor Bay Community Development District.

Mr. Craine stated that due to recent changes made in the last Legislature Executive Session and House Bill 821 that related to certain District issues, he felt it would be better to continue the Public Hearing one more month. He stated that this would ensure sufficient time for the Board and himself to incorporate these changes, if necessary, into the Uniform Rules of Procedure. Mr. Craine briefly reviewed the updates for the Board for informational purposes.

On a Motion by Ms. Ackerman, seconded by Mr. Stone, with all in favor, the Board continued the Public Hearing on the Updated Rules of Procedure to August 27, 2009 at 9:00 a.m. at the Mira Bay Clubhouse, the Lagoon Room, located at 107 Manns Harbor Drive, Apollo Beach, Florida 33572 for Harbor Bay Community Development District.

**FIFTH ORDER OF BUSINESS**

**Consideration of Hand-watering Proposals from Lee Te Kim for July, August, and September, 2009**

The Board decided to table the September Hand-watering proposal to the August meeting.

On a Motion by Mr. Stone, seconded by Mr. Ripley, with all in favor, the Board approved the Hand-watering proposals for July and August with a not to exceed amount of \$5,500 per month for Harbor Bay Community Development District.

**SIXTH ORDER OF BUSINESS**

**Consideration of Mulch Proposals  
from Lee Te Kim**

On a Motion by Mr. Stone, seconded by Ms. Ackerman, with all in favor, the Board approved the mulch proposal from Lee Te Kim with a not to exceed amount of \$6,000, with location placement subject to Mr. Smith's approval for Harbor Bay Community Development District.

**SEVENTH ORDER OF BUSINESS**

**Consideration of Fountain  
Maintenance Proposal from  
Architectural Fountains**

On a Motion by Mr. Stone, seconded by Mr. Hatcher, with all in favor, the Board approved the fountain maintenance proposal from Architectural Fountains in the amount of \$3,200 for annual maintenance for Harbor Bay Community Development District.

Mr. Smith mentioned that the north fountain had been struck by lightning and that he had a proposal for the repair in the amount of \$3,178. Discussion ensued regarding whether or not this request should be submitted to Insurance along with other areas that may have been struck by lightning. It was also discussed that Mr. Smith will research possible lightening rods to prevent future strikes.

On a Motion by Mr. Ripley, seconded by Mr. Stone, with all in favor, the Board approved the proposal from Architectural Fountains in the amount of \$3,178 for repairs to the north fountain for Harbor Bay Community Development District.

**EIGHTH ORDER OF BUSINESS**

**Consideration of Approval for  
District Counsel Invoices**

Ms. Wells stated that for the current fiscal year, District Counsel invoices are exceeding the Budget for the Sea Wall construction litigation. She stated that in the invoices listed as miscellaneous, were the fees for the experts that are hired for the litigation through District Counsel's office. Ms. Wells presented the May Invoice for April in the amount of \$115,205.21 and the June invoice for May in the amount of \$ 38,819.60. She stated that between those bills, a total of \$23,521.26 was used for expert fees. Ms. Wells asked the Board if they wished to pay anything in addition to that. It was mentioned that the upcoming mediator fees would be approximately \$3,000.

On a Motion by Mr. Hatcher, seconded by Ms. Ackerman, with all in favor, the Board approved District Staff to pay the total of the expert fees plus 10% of the remaining outstanding bills for Harbor Bay Community Development District

**NINTH ORDER OF BUSINESS**

**Consideration of Letter Confirming  
Termination of HOA**

Ms. Wells reviewed the actions that had been taken last month with regards to the termination contract between the District and the HOA.

*(District Counsel and Chairman left the meeting to converse with the HOA Counsel regarding the Consideration of Letter Confirming Termination of HOA)*

**TENTH ORDER OF BUSINESS**

**Consideration of Balibay Proposal and License Agreement**

Ms. Johnson of Newland Communities presented a draft agreement between the District and the Developer that would allow for Newland to make the modifications and repairs to the cul-de-sac at the end of Balibay Drive. She stated that the agreement provides permission to the Developer to make these modifications at their cost. Ms. Johnson also presented the plans for the modifications as an attachment to the agreement.

On a Motion by Mr. Hatcher, seconded by Mr. Stone, with all in favor, the Board approved the Balibay Proposal and License Agreement for Harbor Bay Community Development District

**ELEVENTH ORDER OF BUSINESS**

**Discussion Regarding Dedication of Lift Station within Mirabay to the County (under separate cover)**

Ms. Wells stated that a lift station within the District is required to be conveyed to the County. She stated that the lift station was deeded to the District by Special Warranty Deed from the Developer in order for the District to convey it to the County.

On a Motion by Mr. Ripley, seconded by Mr. Hatcher, with all in favor, the Board approved conveying the lift station within the District to the County for Harbor Bay Community Development District

**TWELFTH ORDER OF BUSINESS**

**Staff Reports**

A. District Engineer

Not Present. Ms. Wells presented Mr. Scarola's updates previously in the meeting.

1. Ms. Wells distributed Mr. Scarola's update regarding the Rip Rap Maintenance plan. It was stated that Mr. Scarola would have more updates for the July meeting. Mr. Stone stated that he would follow up with Mr. Scarola to see if there is anything that needs to be added to his proposed plan.

*(District Counsel and Chairman joined the meeting in progress at 11:00 a.m.)*

**THIRTEENTH ORDER OF BUSINESS**

**Continued Consideration of Letter Confirming Termination of HOA**

Mr. Craine stated that at this point in time, the Board should accept the assignment of the WTS contract, including all addendums, after the HOA has signed the one year contract, as amended, with all the agreed upon changes to be included in the addendums.

On a Motion by Mr. Hatcher, seconded by Mr. Ripley, with all in favor, the Board authorized the Chairman to execute the assignment and assumption agreement for Harbor Bay Community Development District

Ms. Wells presented the proposal for the staffing matrix to share employees with the HOA. It was stated that the District would have a contract with Rizzetta & Company for their portion and that the HOA would have a separate contract for their portion.

On a Motion by Mr. Hatcher, seconded by Mr. Stone, with all in favor, the Board approved the proposal from Rizzetta & Company and the HOA, as presented, in the amount of \$119,845 annually, authorized staff to draft the agreement based on the proposal, and authorized the Chairman to execute the agreement for Harbor Bay Community Development District

**FOURTEENTH ORDER OF BUSINESS**

**Continued Staff Reports**

B. District Counsel

1. Mr. Craine stated that with regards to the sea wall litigation, the period of mediation is still ongoing and has been extended for 90 days. He stated that there is still approximately 45 days left for the mediation period.
2. Mr. Craine reported that the Landscape contract is subject to an auto renewal. He stated that a 30 day notice to terminate would need to be submitted by July 1, 2009 to prevent the renewal.

C. Community Association Manager

*Mr. Craine left meeting in progress at 11:22 a.m.*

2. Mr. Smith presented the Board with the revised Basketball Court lighting options based on previous feedback on the modified specifications. It was decided that approaching the Fiscal Year end, the District has limited funding that should be held for contractual and day to day expenses. It was discussed that the Basketball Court lighting has been a requested item for an extended period of time and has been budgeted for previously.

On a Motion by Mr. Stone, seconded by Ms. Ackerman, with all in favor, the Board authorized the Chairman to submit a written request to the Developer to loan the funding for all costs involved in lighting both Basketball Courts and to include card access, with a not to exceed amount of \$41,200, to be paid no later than January 31, 2010 for Harbor Bay Community Development District

D. District Manager  
No Report

**FIFTEENTH ORDER OF BUSINESS**

**Supervisor Requests and Audience  
Comments**

There were no Supervisor requests.

The Following Audience comments were discussed:


1. A resident thanked Mr. Ripley for his efforts on the Board.
2. A resident inquired about the Board's authority with regards to approving the expensive legal bills.
3. A resident stated that he supports and understands only a portion of the bonds but would like clarification on why the larger lots pay higher District fees.
4. A resident expressed that he thought the District and HOA Attorneys had conversed prior to the meeting.
5. A resident asked if Staff could look into lightning rods to help prevent lightning strikes in the community.
6. Mr. Stumpf commented on the Basketball Court lighting, landscaping, and the financials.
7. Mr. Stumpf commented on completing the Balibay Landscaping repairs.
8. A resident expressed that a few residents, including herself, would like to see the Clubhouse furniture replaced because it's falling apart.

**SIXTEENTH ORDER OF BUSINESS**

**Adjournment**

On a Motion by Mr. Stone, seconded by Ms. Ackerman, with all in favor, the Board adjourned the meeting at 12:05 p.m. for Harbor Bay Community Development District.

  
Secretary / Assistant Secretary

  
Chairman / Vice Chairman