

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, June 28, 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:

Rip Ripley	Board Supervisor, Vice Chairman
Julie Guill	Board Supervisor, Assistant Secretary
Tom Hatcher	Board Supervisor, Assistant Secretary
Bob Collins	Board Supervisor, Assistant Secretary <i>(joined the Board after being sworn in)</i>

Also present were:

Scott Brizendine	District Manager, Rizzetta & Company, Inc.
Robbie Cox	Financial Consultant, Rizzetta & Company, Inc.
Jere Earlywine	District Counsel, Hopping, Green & Sams, P.A.
Jamie Scarola	District Engineer, Scarola Associates Engineering
Mindy Anderson	Club Manager
Alex Murphy	Asst. Club Manager
Kristy Owens	District Coordinator
Lt. Wagner	Hillsborough County Sheriff's Office
Audience	

FIRST ORDER OF BUSINESS

Call to Order

Mr. Brizendine called the meeting to order and conducted roll call confirming a quorum for the meeting. He asked and received permission from the Board to go out of order on the agenda to allow the guest presenters to go first.

SECOND ORDER OF BUSINESS

**Consideration of Adjusting O & M
Methodology**

Mr. Brizendine stated that he had been approached from a member of the Board regarding the possibility of revising the way that assessments are shared amongst the property owners for certain items that are included in the operations and maintenance budget. He distributed a spread sheet showing the impact such a revision would have on property owners in the community based on the proposed budget for next year and asked Mr. Earlywine and Mr. Cox to discuss the details.

Mr. Earlywine explained that the current methodology is the same for both the debt service and operations and maintenance assessments and are based on what is called an equivalent assessment unit ("EAU"), which takes into account the size of the lot and the benefit that each unit derives from the assessment. The proposed assessment would break out certain expenses and assess them on what is called a flat assessment or equally across all of the property. The revision for those expenses could be justified in a court of law by showing that all property types enjoy the same benefit from the services being considered; whereas other expenses such as stormwater maintenance would continue to be assessed on an EAU basis. Mr. Earlywine reviewed the process, which the Board would be required to follow to facilitate making a revision to assessment methodology according to Florida Statutes, explaining that a public hearing would have to be scheduled, a notice published in the local newspaper, and notices mailed out to all property owners informing them of the public hearing and the proposed changes to the methodology. The Board would then sit as an equalizing Board and after hearing any public testimony on the matter vote to either keep the existing methodology or set the new one.

Mr. Cox reviewed the various assessment levels based on the 2012/2013 proposed budget under the current methodology and the assessment levels based on the alternative methodology. He stated that the alternative method is a blended form of the EAU and flat unit methodologies as discussed by Mr. Earlywine. Mr. Cox responded to a question from the Board, stating that most districts use the same methodology for the debt service and operations and maintenance. The standard in the statute is lot front footage, but there are some districts that utilize a flat assessment for the operations and maintenance. Concern was expressed with the drop in assessments that would be paid by the developer under the proposed revision and a request made that the expenses associated with the clubhouse be divided equally. Mr. Earlywine stated that the Board has a lot of discretion in setting the assessment levels. Mr. Cox emphasized that there really is no right or wrong methodology, the key is establishing a reasonable justification for the decision. The board indicated that it would like to hold off on making the decision until after the November election to afford the new Board the opportunity to weigh in on the matter.

The Board opened the floor up to public comments and Mr. Cox and Mr. Earlywine responded to questions regarding the experience that Rizzetta has in establishing the EAU methodology and how they are set, how the revision would impact the budget, and why the Board is considering making a change. It was explained that the relative values set in establishing the EAU depend on the varying lot sizes within each community. Comments were entertained both in favor and against the proposed change.

On a Motion by Mr. Hatcher, seconded by Mr. Ripley, with all in favor, the Board of Supervisors tabled action on revising the operation and maintenance assessments for Harbor Bay Community Development District.

Further discussion ensued on the process and a recommendation made that a public workshop be held prior to making any decision on the revised methodology.

THIRD ORDER OF BUSINESS

Audience Comments on Agenda Items

There were no audience comments on other agenda items at this time.

FOURTH ORDER OF BUSINESS

**Discussion with Hillsborough County
Sherriff's Office Regarding Golf Cart Use**

Mr. Brizendine and Mr. Earlywine provided a brief synopsis of prior discussions that have been held relating to concerns with the use of golf carts on community streets and attempts that were made to garner assistance from the HOA to enforce the law by the issuance of fines, since the District does not have policing authority. It was noted that the HOA met last night and voted not to participate in the regulation of golf carts on the streets.

Lieutenant Wagner spoke regarding concerns with issuing citations for vehicles parked illegally on the street, explaining that with increases in the number of family members in one home owning vehicles, it is difficult to pinpoint who violated the law. He stated that the sheriff's office would prefer that HOA's handle this type of issue by sending out letters and issuing fines for repeat offenders. Lieutenant Wagner stated that the Sheriff's Office can enforce laws by issuing citations for speeding and illegal vehicles (such as golf carts) on community streets, but with the community's relatively low crime rate, officers do not patrol the area as often as other areas. He explained that with cutbacks in the number of officers in the County, most officers don't have time to drive around looking for violations; they tend to spend the vast majority of their time responding to calls. He noted that there are some districts that hire officers specifically to monitor activity within their community. A brief discussion ensued regarding concerns with the use of golf carts on community streets. It was noted that it is illegal to operate golf carts on county streets, unless a District has petitioned the county and been approved as a golf cart community. However, there are vehicles known as LSV's that look like golf carts, but are actually registered vehicles, with working lights, horns, etc. that can be operated on the streets by a licensed driver. It was further noted that Harbor Bay streets were not designed to safely accommodate golf carts so petitioning to become a golf cart community would not be a viable option.

Lieutenant Wagner explained that officers can not write citations for non-moving violations that they do not witness themselves, so other than speaking with a violator there is little that they can do if they are called and the golf cart or vehicle is no longer in use. He encouraged the community to utilize the HOA to assist with the enforcement of these types of violations, emphasizing the need to follow-up with the fines, etc. for those individuals who consistently violate the rules. A member of the HOA Board confirmed that the HOA does have a fining committee, but has not issued any fines that he is aware of. It was decided to send out a newsletter reminding residents that it is illegal to drive golf carts on the streets and encouraging them to contact law enforcement when observed. A recommendation was made that the article contain verbiage explaining the differences between golf carts and LSVs.

FIFTH ORDER OF BUSINESS

**Consideration of Appointing a
Replacement Supervisor**

Mr. Brizendine stated that at the last meeting the Board accepted the resignation of Mr. Stone, whose seat (4) was to expire in November. He stated that behind tab one are the resumes from the individuals meeting the qualifications that Mr. Stone requested be met in order to be considered as a candidate to fill the vacant seat, including having qualified for the upcoming election.

Mr. Brizendine stated that all three candidates have strong well rounded backgrounds and would be assets to the Board. He explained that there is no set procedure that must be followed in selecting a candidate, so the Board could ask those candidates in attendance questions or merely make a nomination. Mr. Ripley made a motion that Bob Collins be appointed as the Board Supervisor.

On a Motion by Mr. Ripley, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors appointed Bob Collins as Board Supervisor for Harbor Bay Community Development District.

Ms. Guill thanked Mr. Cribbs for expressing his willingness to serve on the Board. Mr. Ripley stated that his reason for selecting Mr. Collins is because of Mr. Collins' extensive legal experience that would be beneficial to the Board, in light of the seawall litigation.

Mr. Brizendine, a Notary in the State of Florida, administered the oath of office to Mr. Collins. Mr. Collins raised his right hand and swore and affirmed to the oath as read. Mr. Brizendine provided an overview of his responsibilities as a Board Supervisor, as well as explaining the Form 1 that needs to be filed annually with the Supervisor of Elections, and the Sunshine law that must be adhered to. He stated that all District records should be kept separate from personal records to avoid having them become part of a public records search. It was also noted that the same would apply to email. Mr. Earlywine added that, in addition to the Sunshine Laws and Public Records laws, Mr. Collins is also now subject to Florida's Ethics Laws governing Public Officers. Among other things, Mr. Collins must declare a "conflict of interest" per the ethics guidelines, should a matter come before the Board that Mr. Collins has a financial interest in.

SIXTH ORDER OF BUSINESS

Consideration of Minutes from the Board Supervisors' Meeting Held on May 24, 2012

Mr. Ripley sought confirmation from the District Engineer relating to discussions regarding needed inspections to the south end of the pool. Mr. Scarola confirmed that the minutes should read "south end of the pool shell". It was noted that the last sentence on page seven should be "Mr. Ripley" rather than "Mr. Hatcher". Mr. Brizendine stated that he would ensure that the corrections are made.

On a Motion by Ms. Guill, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors approved the minutes from the Board of Supervisors' meeting held on May 24, 2012 as amended for Harbor Bay Community Development District.

SEVENTH ORDER OF BUSINESS

Consideration of Operation and Maintenance Expenditures for May 2012

Mr. Ripley requested that Staff research why the District is reimbursing Bricklemeyer's office for insurance.

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 May 1-31, 2012 (\$350,094.09) for Harbor Bay Community Development District.

EIGHTH ORDER OF BUSINESS

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

There were no questions regarding any of the expenditures.

On a Motion by Mr. Hatcher, seconded by Mr. Ripley, with all in favor, the Board of Supervisors approved the Operation and Maintenance Expenditures paid during the period of May 1-31, 2012 (\$58,394.74) for the Mira Bay Amenity Center, for Harbor Bay Community Development District.

NINTH ORDER OF BUSINESS

**Consideration of Resolution 2012-05,
Realigning Officers**

Mr. Brizendine stated that, as the Board is aware, Mr. Stone served as the Chairman of the Board and his resignation leaves that position vacant. He stated that currently Mr. Ripley serves as Vice Chairman and the remaining Supervisors as Assistant Secretaries. Mr. Bill Rizzetta currently serves as Treasurer, Shawn Wildermuth as Assistant Treasurer, Pete Williams as Secretary and Matt Huber and himself as Assistant Secretaries for signatory purposes. He recommended that those positions remain as is and asked for a nomination for Chairman.

On a Motion by Ms. Guill, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors appointed Rip Ripley as Chairman for Harbor Bay Community Development District.

Mr. Brizendine stated that with that appointment the office of the Vice Chair needs to be filled.

On a Motion by Ms. Guill, seconded by Mr. Ripley, with all in favor, the Board of Supervisors appointed Tom Hatcher as Vice Chairman for Harbor Bay Community Development District.

A brief discussion ensued regarding whether it would be appropriate to appoint Mr. Collins as the board liaison in regards to the seawall litigation. Mr. Earlywine stated that while a formal resolution is not needed, he would be glad to provide one next month if desired. It was decided to make a temporary motion now and do a formal resolution next month.

On a Motion by Mr. Ripley, seconded by Ms. Guill, with all in favor, the Board of Supervisors authorized Bob Collins to serve as Board Liaison for the seawall litigation with the limited purposes of participating in the mediations and staying abreast of the ongoing litigation for Harbor Bay Community Development District.

Mr. Brizendine asked for a motion formerly approving Resolution 2012-05.

On a Motion by Ms. Guill, seconded by Mr. Ripley, with all in favor, the Board of Supervisors approved Resolution 2012-05, appointing Rip Ripley as Chairman, Tom Hatcher as Vice Chairman, Bill Rizzetta as Treasurer, Shawn Wildermuth as Assistant Treasurer, Pete Williams as Secretary and Julie Guill, Paul Stumpf, Bob Collins, Matt Huber and Scott Brizendine as Assistant Secretaries for Harbor Bay Community Development District.

TENTH ORDER OF BUSINESS

**Consideration of Resolution 2012-06,
Adopting a Policy for Retention of
Clubhouse Records**

Mr. Earlywine provided a brief synopsis of prior discussions relating to Ms. Guill's request to limit the amount of personal information about residents that can be obtained from a District record's request. He explained that Resolution 2012-06 amends the prior records retention policy, which called for the indefinite retention of all records, to allow for the disposal of records collected by the District from residents and patrons of the amenity services according to guidelines established in section 257.36 (5) of Florida Statutes. The resolution also authorizes Staff to revise the forms to maximize the District's ability to take advantage of the exemptions that are available under the Florida Sunshine law regarding certain types of information. It also notifies residents of the potential risk that certain of their information could become subject to disclosure in response to a public records request. Mr. Earlywine stated that the obvious allowable exemptions are social security and credit card numbers, but there are also exemptions that protect information on children and records that are designated for emergency contact use only. He reviewed the revised forms that will be used by clubhouse staff. A brief discussion ensued regarding whether the Board wanted to give management the authority to use its discretion in keeping forms containing information that is still pertinent to the District beyond the mandatory five year retention period.

On a Motion by Ms. Guill, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors adopted Resolution 2012-06, as amended on the record to require the District to dispose of amenity records within the time frames set forth by Florida law, provided however that the District may retain the amenity records for a longer time period where doing so is in the best interest of the District as determined by the District Manager, for Harbor Bay Community Development District.

ELEVENTH ORDER OF BUSINESS

**Consideration of Proposal for Monitoring
Pool Shell Level**

Mr. Scarola reviewed the proposal from GeoPoint to monitor the pool shell at the south end of the pool, stating that the initial set up fee to establish the benchmarks using the 10 drains is \$300 and the fee for each reading thereafter is \$175. He stated that they provided two options; six quarterly readings at a total cost of \$1,350 or 3 readings for a total cost of \$825.

Mr. Scarola recommended that the Board go with the quarterly program. He also indicated that whichever option the Board chooses to go with should be noted on the signed proposal before returning it to the vendor.

On a Motion by Mr. Ripley, seconded by Mr. Collins, with all in favor, the Board of Supervisors approved the proposal from Geo Point to set up and complete six quarterly measurements of the south end of the pool shell at a cost of \$1,350 for Harbor Bay Community Development District.

TWELFTH ORDER OF BUSINESS

Review of District's Cash Flow Analysis

Mr. Brizendine reviewed the cash flow analysis for the end of May, stating that the District has collected \$3,321,336 of the assessments, with an outstanding balance of \$103,582. He noted that all of the assessments that were owed from prior years have been paid and the remaining balance is for current assessments that have not been paid to date. Mr. Brizendine stated that the District has \$74,199 in the operating account and \$1,145,269 in the reserve account and estimated that the balance at the end of the fiscal year would be \$86,744. Mr. Ripley stated that he was optimistic that the estimate of the cash balance at the end of the fiscal year was low given that legal costs should be at a minimum level until the trial begins. However, it is apparent that Newland will need to be contacted regarding their willingness to prepay their assessments again this year. He authorized Mr. Brizendine to initiate discussions with them on this matter.

THIRTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel
No report.

B. District Engineer
No report.

C. Club Manager – Mindy Anderson
Ms. Murphy informed the Board that the summer camp program is going well and has generated approximately \$16,000 of revenue with an average of 20 campers enrolled. The swim programs have generated \$7,900 in revenue thus far this year. She reported on the success of other programs as well, noting a new product line that is being introduced in the spa. She informed the Board of upcoming events.

Ms. Anderson stated that utilization of the amenity services has increased substantially. Mr. Collins stated that he is hearing from residents that the pool is overcrowded and they feel there are a large number of non-residents using the facilities. He indicated that the situation has gotten to the point where some residents no longer want to use the pool. A brief discussion ensued regarding coming up with a means to get this situation under control and ensure that residents are given first priority. It was noted that the policy allows for five guests per household. The Board asked that management and staff work together to resolve the issue.

D. District Coordinator- Kristy Owens
No report.

E. District Manager

Mr. Brizendine inquired when the Board would like to schedule the next budget workshop. He noted that the public hearing on the budget is scheduled for August 23rd.

On a Motion by Ms. Guill, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors authorized Staff to submit the required advertisements to hold a budget workshop on August 2, 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 there is a rumor that Greenbriar Landscaping is pulling out of the area effective July 1st. A representative from the SeaCrest HOA, Neal Lee, stated that they are merging with Girard Landscaping and the same personnel will be on site. Mr. Brizendine stated that he has been unable to reach Greenbriar to discuss the District's contract to maintain the area within Sea Crest and he is concerned with whether or not there is a contractor that will be maintaining the property after the first of July. Mr. Earlywine confirmed that the contract does contain a clause stating that it is non-assignable without the Board's consent. A brief discussion ensued regarding what options are available to the District.

On a Motion by Mr. Hatcher, seconded by Ms. Guill, with all in favor, the Board of Supervisors authorized Staff to investigate the circumstances surrounding the Greenbriar contract and work with the Chairman to take any appropriate measures to ensure that landscape maintenance continues prior to the next Board meeting for Harbor Bay Community Development District.

Mr. Brizendine informed the Board that 12 companies picked up bid packages in response to the RFP for landscaping services and eleven of them attended the mandatory pre-bid meeting. He reviewed the process that would be followed in distributing the bids and summary that will be prepared by Mr. Toborg prior to the workshop. It was noted that the final decision would not be made until the July 26th meeting.

FOURTEENTH ORDER OF BUSINESS

**Supervisor Requests & Audience
Comments**

Audience Comments

Audience comments were entertained regarding a possible solution to the unauthorized guests at the pool that might be available by programming the gates with specific times to be locked and scheduling staff accordingly, the lack of monitoring attendance at special functions, appreciation for the parking questionnaire that was distributed and a suggestion made that certain curbs be painted yellow, concerns with the proposed modification to the assessment methodology, the need to hold new owner orientations, landscaping and maintenance concerns and continued frustration with the condition of and the lack of lighting at the basketball courts.

Supervisor Requests

Mr. Hatcher emphasized that the Board is not considering making a change to the assessments at this time, merely responding to a request that was made. The intent of the Board is to continue to do research, hold at least one workshop on the matter, and wait until after the November elections before even getting into the formal public hearing process if it is deemed in the District's best interest to proceed.

Ms. Guill spoke regarding the fact that the majority of residents support the staff and are glad to be asked to show their access cards, etc. She stated that they support the staff and their efforts to provide a positive experience for the patrons of the amenity center, as well as maintain the facility. She encouraged the staff to contact the Board if they feel additional support is needed.

Mr. Ripley encouraged anyone with items that they would like to see included on the District's list of Capital projects being considered for the next fiscal year to attend the workshop on August 2nd and be part of the process of deciding which items can realistically be funded.

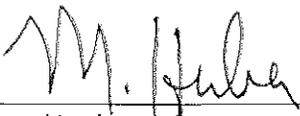
Mr. Collins provided a brief summary of his legal experience and experience managing law firms. He stated that he is honored to be asked to act as the board liaison on the seawall litigation and will fill the role to the best of his ability, researching the details of the case and scrutinizing invoices, etc. on behalf of the District. He emphasized that the Board has final say in how the case proceeds and whether or not it is best to go to trial or settle.

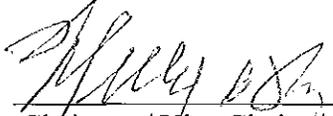
Mr. Collins also noted that he was amazed with the lack of attendance at the last budget workshop. A brief discussion ensued regarding the District information that is available on the website and the best way to obtain information on the District if someone is computer illiterate. Mr. Brizendine stated that meeting dates are posted in the community, and Ms. Owens has copies of the agendas, which could be reviewed upon request as long as it remains in her office. He stated that he would gladly answer any questions a resident might have and provided his contact information.

FIFTEENTH ORDER OF BUSINESS

Adjournment

On a Motion by Mr. Ripley, seconded by Mr. Collins, with all in favor, the Board adjourned the meeting 7:55 p.m. for Harbor Bay Community Development District.


Secretary/Assistant Secretary


Chairman/ Vice Chairman