
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 continued meeting of the Board of Supervisors of the Harbor Bay Community Development District was held on **Thursday, August 27, 2009 at 6:38 p.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:

Laura Ackerman	Board Supervisor, Vice Chairman
Ed Stone	Board Supervisor, Assistant Secretary
Tom Hatcher	Board Supervisor, Assistant Secretary
Rip Ripley	Board Supervisor, Assistant Secretary

Also present were:

Tina Wells	District Manager, Rizzetta & Company, Inc.
Biff Craine	District Counsel, Bricklemyer Smolker & Bolves
Jaime Scarola	District Engineer, Scarola Associates Engineer
Scott Smith	Community Association Manager, Rizzetta & Company, Inc.
Erika Werkheiser	Representative, WTS Representative
Karla Gibson	Representative, WTS Representative
Debra Dremann	Vice President & General Manager, Newland Communities
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 July 23, 2009

Ms. Wells explained that the version of the minutes found in the agenda packages had been amended. Changes made to the minutes included spelling corrections and adding the memorandum from District Counsel regarding the District's Sea Wall litigation as part of the official record. Corrected copies were handed out to the Board.

Ms. Wells asked if there were any other corrections. Two corrections were presented to the Board.

On a Motion by Mr. Stone, seconded by Ms. Ackerman, with all in favor, the Board approved the Minutes of the Board of Supervisors' Meeting held on July 23, 2009, as amended, for Harbor Bay Community Development District.

THIRD ORDER OF BUSINESS

Consideration of Operation and Maintenance Expenditures for Harbor Bay Community Development District and for MiraBay Club for August 2009

Ms. Wells explained that this month was the first month the Mirabay Club operations and maintenance expenditures were separated from the rest of the District's expenditures.

It was noted that the District had one backflow test that did not pass. District Management was questioned whether it had been corrected. Mr. Smith stated that the repair had been scheduled. Ms. Wells explained that during the repair the water supplying the backflow would be turned off for a period of four to six hours. She stated that proper notification would be given.

Ms. Wells asked if there were any further Board questions. There were none.

On a Motion by Mr. Stone, seconded by Mr. Ripley, with all in favor, the Board approved the Operation and Maintenance Expenditures for August, 2009 totaling \$141,407.50 and \$53,860.54 for Harbor Bay Community Development District and MiraBay Club, respectively, for Harbor Bay Community Development District.

FOURTH ORDER OF BUSINESS

Consideration of Resolution 2009-08, Adopting Fiscal Year 2009/2010 Final Budget

Ms. Wells stated that the Board had continued the Public Hearing from the July 23, 2009 meeting. A motion to re-open the public hearing on the final budget was made.

On a Motion by Mr. Stone, seconded by Ms. Ackerman, with all in favor, the Board approved to re-open the Public Hearing on the Final Budget for Harbor Bay Community Development District.

Ms. Wells explained that based on resident and Board input, the adoption of the final budget had been tabled. She stated that another budget workshop was held on August 17, 2009 and that District Management had made an effort to work with vendors on reducing the budget in any way. Discussion ensued regarding proposed operational and administrative cuts.

Mr. Ripley commented that he was pleased to see the Reserves line item had been increased, although he still felt that it was inadequate.

Erika with WTS addressed the Board and Audience and stated that they had presented the Board with four different options for the Budget. She reviewed the changes in each of the budgets

which pertained to cuts in the following areas: café hours, club house hours, administrative items, and raises.

An analysis was provided regarding projected service revenues. In summary, increases in operational revenue occurred in areas such as tennis services, food and beverage services, and program services. Decreases in operational revenues occurred in spa services. Projected service revenues reflected these trends.

Ms. Wells stated that the maximum budget amount that could be adopted was \$3,131,042, the amount adopted as the proposed budget and noticed to residents.

The floor was then opened for audience comments. Ms. Wells asked that each audience member state their name, their concern, and their possible solution. Comments were to be limited to three minutes.

1. Paul Brickman thanked the Board for volunteering their time to run the meetings. He stated that he was concerned about the proposed increases and decreases in the budget and the reduction in services. He felt that the District should maintain or increase assessments in order to keep the current level of services and keep the District the way it was. He was informed that the proposed increase in assessments on his size lot was \$289. He stated that in his opinion the increase was worth it to keep the community like it was.
2. Mark Zampetti addressed the Board and stated that he had been at the last couple meetings and had a good understanding of what was going on. He stated that the Board needed to move forward with adopting the Budget whether they like it or not. He explained that the District was looking at a \$300,000 increase mostly due to legal fees. He stated that he was disappointed that the basketball lights were placed back on the budget and that he didn't think the budgeted legal fee amount was enough. He felt that the District should keep the budget where it is and after the adoption process was complete, continue to look into where they can reduce their expenditures without impacting services.
3. Larry Greenfield expressed his concerns regarding the District's legal fees and their source.

Ms. Wells explained that initially, residents were instructed to contact District Counsel if they were directly affected by the sea wall litigation and had questions.

Mr. Greenfield inquired what percentage of the legal fees was related to independent access to legal counsel being charged to the District.

Mr. Craine explained that less than one percent of the legal fees occurred due to residents contacting their office regarding the sea wall litigation.

Mr. Greenfield also expressed his concern regarding the funding for security.

4. A resident stated that in a time of recession, where contractors are working for less, the District had a ten percent increase and noted that District contracts seem to get renewed without bidding them out.

Ms. Wells stated that the District Management Office would be bidding out all large contracts in the near future.

He also asked if District Counsel was willing to go on some sort of contingency, since there is no guarantee the District will win the sea wall litigation.

The Board informed him that District Counsel had already been approached with this question and the Board was awaiting their answer.

5. John addressed the Board and asked how other CDD fees have gone this year compared to Harbor Bay's.

It was explained that Tina had provided a report comparing such numbers and that budget increases tended to be at the state maximum rate of ten percent.

John also questioned why the Chairman was not present at the District's second most important meeting of the year.

Ms. Wells explained that she had spoken to the Chairman and that his absence was due to personal reasons.

6. Joe addressed the Board regarding the basketball lights and asked whether they would be put up. He suggested that the Board should not put up the basketball lights until it has been established who should use them.

It was recommended to table this item due to the District's current financial position. Ms. Wells explained that it was up to the Board. Discussion ensued. Ms. Wells stated that this item would be discussed later in the agenda.

7. Richard expressed his concern regarding the Reserve line item and asked if government documents require the District to have a Reserve.

Ms. Wells explained that it wasn't required, but that it was a good idea in light of the current economic times and the inability of the District to establish a line of credit due to the District's percentage of build-out. Mr. Craine explained that CDDs are not required to have reserves; however it had been established as a good practice. It was stated that the District did not have insurance to cover its major assets and therefore accumulating a reserve was necessary. Discussion ensued.

8. Fred Franco addressed the Board and thanked them for doing a terrific job. He asked the Board to keep the long-term Mirabay in mind and stated that any excess revenue should be applied towards the District's reserves for the long-term.

Ms. Wells stated on behalf of Chairman, Scott Jones, that placing excess funds into the District's reserves after the pending litigation was resolved had been discussed and planned.

9. Stacey Morman, as new resident stated that her family chose to move into the District due to its perceived security and safety. She urged the board to make cuts in unseen amenities and to uphold the District's perception. She also noted that several people have asked to advertise on the MiraBay website and asked the Board if possible revenue could be derived from the District's via advertising.

Mr. Smith introduced himself to Ms. Morman and stated that he would meet with her after the meeting to answer her questions.

10. A resident stated that he was disturbed by the absence of the Chairman. He also stated that the presentation of the budget to the residents was not satisfactory.
11. Bill stated that he wished to present feedback from the community obtained from surveys he had given to residents.

Ms. Wells stated that in the future the Board could look into placing the survey feedback into the agendas.

12. A resident addressed the Board and Audience and requested that the Board lower the Budget in light of the economy.
13. Justin stated that the gym amenity was very important to him and asked that the Board not cut the operational hours.
14. Sam urged the Board to be fiscally responsible and cut back on the Budget in ways supported by statistics and usage.
15. A resident questioned the amenities budget and the source of the increase.

It was explained that the increase was partly due to a rearrangement of items paid by the HOA and the items paid by the CDD and that the HOA was expected to go down as much as it went up for the CDD. Discussion ensued.

16. Paul stated that he was not satisfied with the presentation of the budget. He questioned the amount of the budget allocated for the entryways, stating that it was over-budgeted. He stated that the hand watering line-item had been under-budgeted. He noted that the District's electric bills went up from \$105,000 – \$143,000. He asked if any investigation had been done.

Ms. Wells stated that an investigation had been done. She asked if there were any more audience comments. There were none.

On a Motion by Mr. Stone, seconded by Ms. Ackerman, with all in favor, the Board approved to close the Public Hearing on the Final Budget for Harbor Bay Community Development District.

Ms. Wells stated that the next item on the agenda was to adopt Resolution 2009-08, Adopting the Fiscal Year 2009/2010 Final budget, which had been tabled from the previous meeting.

It was requested that the final budget be presented as discussed.

A motion was made by Mr. Ripley to adopt the budget as sent previously to the County.

On a Motion by Mr. Ripley, seconded by Mr. Hatcher, with three in favor, and one opposed, the Board approved Resolution 2009-08, Adopting the Fiscal Year 2009/2010 Final Budget with a total general fund of \$3,141,042 and a total debt service fund of \$8,092,991, together totaling \$11,234,033 for the Harbor Bay Community Development District.

FIFTH ORDER OF BUSINESS

Public Hearing on Levying Assessments

On a Motion by Mr. Stone, seconded by Ms. Ackerman, with all in favor, the Board reopened the Public Hearing on Levying Assessments for Harbor Bay Community Development District.

Ms. Wells explained that a public hearing regarding the levying of assessments was required by Florida statutes. She asked if there were any comments.

A resident asked what the levying process will be after the District submits the budget to the County. Discussion ensued.

A resident asked what the range of assessments was for the District's varying lots sizes. Ms. Wells stated that there was an 8% range. Ms. Wells asked if there were any other questions or comments. There were none.

On a Motion by Mr. Ripley, seconded by Mr. Stone, with all in favor, the Board closed the Public Hearing on Levying Assessments for Harbor Bay Community Development District.

On a Motion by Mr. Hatcher, seconded by Mr. Stone, with all in favor, the Board approved Resolution 2009-09, Imposing Special Assessments and Certifying an Assessment Roll for the Harbor Bay Community Development District.

SIXTH ORDER OF BUSINESS

Staff Reports -1

District Engineer

Mr. Scarola stated that the developer is ready to turn over parcels 21 and 23, the townhouse site associated with the 33 acres south of Manns Harbor Drive, for storm water operation and maintenance. He stated it was a typical procedure that required the District to sign a standard form from SWFWMD. He explained that once signed, SWFWMD will do their inspection to see if they

agree with the transfer of operations. If they do, they will issue a certification, and the surface water management system will become the District's to maintain. He stated that bi-annual reports would be required at that time. Mr. Scarola suggested that the board authorize District Counsel and himself to work with the developer to reach a point where they're satisfied that the District is ready for operations. Discussion ensued.

On a Motion by Mr. Hatcher, seconded by Ms. Ackerman, with all in favor, the Board authorized District Counsel and District Engineer to work with the Developer to make sure everything is in place to accommodate for the transfer of parcels 21 and 23, SWFWMD O&M for future maintenance for Harbor Bay Community Development District.

Mr. Scarola provided an update regarding the Sea Turtle Pond. He stated that Heck Construction had completed the repair work on August 18th. Mr. Smith stated that their work was holding very well and it seems to be repaired.

Mr. Scarola then updated the Board on the Playground shade sail. He stated that documentation from the installer indicated that excessive rain and wind compromise soil conditions and allow the weight of the structure to shift the footer. He stated that he spoke with District counsel and recommended to the Installer a letter.

Mr. Craine stated that he had already prepared the letter and had sent it to the Board Chairman for approval. He explained that the letter demanded for repairs.

On a Motion by Mr. Ripley, seconded by Mr. Hatcher, with all in favor, the Board authorized District Counsel to send the Installer a Demand Letter for the repairs of the playground structure for Harbor Bay Community Development District.

Mr. Scarola addressed the Board regarding Heidt and Associates, Inc. and their recent dissolution. He recommended that the District try to secure any information they may have pertaining to the District.

Mr. Scarola noted that the rip rap issue was still being worked on. He stated that District Counsel was collaborating with Developer's Counsel to discuss how to proceed.

Mr. Craine confirmed that the Board did not wish to take any additional liability for the rip-rap and that the District just wanted to facilitate the rip-rap repair and move on. The Board agreed with District Counsel. No action was taken.

Questions from the audience were then addressed to Mr. Scarola.

It was questioned what costs were associated with the transfer of the two parcels.

Mr. Scarola explained that the obligations were mostly associated with cutting, and mowing. He stated that there were also Wetland plantings that needed tending to. It was questioned whether Mr. Kim would increase the District's landscaping costs to include the upkeep of these parcels.

Ms. Wells stated that she would speak to Mr. Kim regarding the addition of the parcels.

An audience member questioned the rip rap proposal for the future. Mr. Scarola explained that since the majority of the wall lies on individual properties, individual property owners will be responsible for areas of the wall along their properties. He proposed areas of the wall which meander out into the lagoon be dealt with on a case by case basis if problems arise. Discussion ensued.

SEVENTH ORDER OF BUSINESS

Consideration of Proposals for Palm Tree Replacement at the End of Bay Estates

Ms. Wells explained that this item had been tabled from the last meeting due to the Board's request to review other proposals aside from Mr. Kim's.

Mr. Smith addressed the Board and provided a summary of the proposals submitted. Sunrise Landscaping provided a proposal in an amount of \$8,900 for the removal and replacement, Warren Trees was 8,500, and Mr. Kim provided a revised proposal which included watering for six weeks for \$5,150.

Ms. Wells asked if anyone provided a warranty. Mr. Smith stated that no one provided a warranty.

It was asked if the District could borrow a tree. Discussion ensued. The Board authorized District Staff to negotiate with the bidders on the price and quantity of trees as well as the option to loan a tree. Otherwise, District Staff was authorized to purchase a tree in an amount not to exceed \$5,150.

On a Motion by Mr. Ripley, seconded by Mr. Stone, with all in favor, the Board authorized District Staff to negotiate with the bidders on the option to loan a tree, otherwise an amount not to exceed \$5,150 was authorized for Harbor Bay Community Development District.

EIGHTH ORDER OF BUSINESS

Discussion Regarding Basketball Court Lighting Acceptance of Funds (tabled from previous meeting)

Ms. Wells suggested that the Board table this item until the budget is aligned at the next meeting. It was the consensus of the Board to table this item.

NINTH ORDER OF BUSINESS

Consideration of Financial Audit Report for Fiscal Year 2007-2008

Ms. Wells reviewed the Financial Audit Report and asked if there were any questions.

It was questioned if the report could be posted on the District's website. Ms. Wells stated that she would look into having it posted.

On a Motion by Ms. Ackerman, seconded by Mr. Stone, with all in favor, the Board accepted that Financial Audit Report for Fiscal Year 2007-2008 as presented for Harbor Bay Community Development District.

TENTH ORDER OF BUSINESS

Presentation of July, 2009 Financial Statements

Ms. Wells stated that per the Board's request the presentation of the Board's financial statements had been added to the agenda. She reviewed the financials and asked if there were any questions. There were none.

ELEVENTH ORDER OF BUSINESS

Consideration of Release of Liability and Indemnity Agreement with Mirabay HOA

Ms. Wells explained that the contract had already been approved by the HOA and run by the Board.

On a Motion by Mr. Stone, seconded by Ms. Ackerman, with all in favor, the Board approved the Release of Liability and Indemnity Agreement with Mirabay HOA as presented for Harbor Bay Community Development District.

TWELFTH ORDER OF BUSINESS

Continued Public Hearing on the Updated Rules of Procedure: Consideration of Resolution 2009-10, Adopting Updated Rules of Procedure

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

District Counsel passed out a Resolution that incorporates changes made to Chapter 190, Florida Statutes.

Mr. Craine reviewed the changes and recommended that the Resolution be approved in the September meeting.

On a Motion by Mr. Stone, seconded by Mr. Ackerman, with all in favor, the Board agreed to continue the Public Hearing on the Updated Rules of Procedure and consideration of Resolution 2009-10, Adopting Updated Rules of Procedure to Thursday September 24, 2009 at 9:00 am for Harbor Bay Community Development District.

THIRTEENTH ORDER OF BUSINESS

Staff Reports -2

District Counsel

1. Mr. Craine passed out a written monthly update on the sea wall litigation. He stated that the litigation was still in the mediation stage, which contains requirements for confidentiality.
2. Mr. Craine stated that he was working with the developer on memorandums of understanding regarding Harbor Bay Boat Captains.
3. Mr. Craine then provided a report regarding First National Bank's delinquent assessments. He stated that they received a letter from First National Bank questioning the assessment methodology that had been employed to reach their assessment. Mr. Craine stated that in response, he sent them a letter explaining the methodology. He stated that upon receipt of his letter, the bank called him. Mr. Craine discussed his conversation with them over the phone, which included a proposal.

Mr. Craine explained that First National Bank offered to make a quarterly payment in return for additional time to make the rest of their payments. Discussion ensued.

Mr. Craine stated that he would like to continue to pursue the three quarterly payments which are currently due. The Board agreed that he should get what he can. Discussion ensued.

Operations Manager

1. Mr. Smith stated that they were working with the irrigation company to establish watering variance.
2. He also stated that he was speaking with TECO to get an electrical audit and that they hoped to have the results in the October meeting.

District Manager

1. Ms. Wells updated the Board regarding the District's Action List and distributed copies to the Board.
2. She also distributed the monthly report from Mr. Kim.
3. She reminded the Board that the next Board meeting will be held on September 24, 2009 at 9:00 a.m.


Secretary / Assistant Secretary


Chairman / Vice Chairman