

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, August 28, 2008 at 9:48 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	Board Supervisor, Chairman
Ben Gelston	Board Supervisor, Vice Chairman
Laura Ackerman	Board Supervisor, Assistant Secretary
Ed Stone	Board Supervisor, Assistant Secretary

Also present were:

Tina Wells	District Manager, Rizzetta & Company, Inc.
Biff Craine	District Counsel, Bricklemyer Smolker & Bolves
Jamie Scarola	District Engineer, Scarola Associates Engineering Design & Land Consultants, P.A.
Jim Vrouhas	Resident Services Manager
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 Resignation of a Board Supervisor (Diana Hilton)

Ms. Wells stated that the first item on the agenda was the consideration of the resignation of Diana Hilton as a Board Supervisor. Mr. Craine stated that he had a resignation letter from Diana Hilton. He stated that last Thursday it had come to his attention that Ms. Hilton had received a gift in the form of a trip to Korea that was financed by Mr. Lee Te Kim who was one of the bidders for the Landscape Maintenance contract. Mr. Craine stated that Supervisor Hilton had not disclosed this on a Form 9 as required under the State ethics laws. He stated that he spoke to Ms. Hilton regarding the issue and she agreed to tender her resignation. Mr. Craine stated that he had re-evaluated the bidding process that was used to award the landscape contract to see if there was a possible impact. He stated that he took Ms. Hilton's score sheet out of the rankings and ranked the bidders on the remaining score sheets from Mr. Jones, Mr. Gelston, and Ms. Ackerman.

Mr. Craine stated that Mr. Kim still came out as the highest ranked bidder. He stated that there was no direct impact on the bid evaluation results. Mr. Craine stated that Ms. Hilton would file a Form 9. Mr. Craine stated that he would also recommend the Board find no irregularities in regard to the award of the landscape maintenance contract based on the re-evaluation of the score sheets.

Ms. Wells asked if the Board had any questions. There were none. She asked for a motion to accept Diana Hilton's letter of resignation.

On a Motion by Mr. Jones, seconded by Ms. Ackerman, with all in favor, the Board accepted Diana Hilton's resignation as a Board Supervisor for Harbor Bay Community Development District.

Discussion ensued regarding the re-evaluation. Ms. Wells asked for a motion for the Board to accept the re-evaluation of the bid selection.

On a Motion by Mr. Jones, seconded by Mr. Stone, with three in favor and one opposed (Ms. Ackerman) the Board accepted the re-evaluation of the bid selection (showing no direct impact on the bid evaluation results) for Harbor Bay Community Development District.

THIRD ORDER OF BUSINESS

Consideration of a Board Supervisor Replacement

Mr. Craine stated that the vacant seat was scheduled to be a property owner's seat through 2010. He stated that the Board could appoint a representative from Newland Communities to fill the seat through 2010. Mr. Craine recommended that Mr. Gelston or Mr. Jones move into that seat and the term for the remaining vacant seat would only be two and a half months.

On a Motion by Mr. Gelston, seconded by Ms. Ackerman, with all in favor, the Board appointed Mr. Jones' to Seat 2 extending his term to 2010 for Harbor Bay Community Development District.

FOURTH ORDER OF BUSINESS

Resignation of Scott Jones from Seat 4

Mr. Jones verbally announced his resignation from Seat 4 and he stated he would also resign formally in writing.

On a Motion by Ms. Ackerman, seconded by Mr. Stone, with all in favor, the Board accepted Scott Jones' resignation from Seat 4 for Harbor Bay Community Development District.

Discussion ensued. Ms. Wells asked for a motion to appoint Mr. Jones as Chairman.

On a Motion by Mr. Gelston, seconded by Mr. Stone, with all in favor, the Board appointed Scott Jones as Chairman of the Board for Harbor Bay Community Development District.

Ms. Wells asked the Board if they had any nominations to fill the vacant seat. The Board stated that they would like to table this item.

FIFTH ORDER OF BUSINESS

Consideration of Minutes of the Board of Supervisors' Meeting held on July 15, 2008

Ms. Wells stated that the next item on the agenda was the consideration of the minutes of the Board of Supervisors' meeting held on July 15, 2008. She asked if there were any additions, deletions or corrections. Ms. Ackerman stated that on page 4, the motion box should state "*as amended with credits*". She stated that on page 8, better clarification was needed on the street tree trimming program. Ms. Ackerman asked that the sentence in the motion box read "with a one time funding by Newland Communities *and any future tree trimming program to be authorized by the Board*". Mr. Jones stated that on page 4, Seventh Order of Business, the first sentence should state "*Ms. Wells*" instead of Mr. Jones. Mr. Scarola stated that on page 2, Third Order of Business, second paragraph, 13th line, eight linear feet, should read "*eighty*" linear feet. Mr. Stone stated that on page 3, Fifth Order of Business, that Seat 3 should read "*Seat 4*". He stated that on page 10, third paragraph, second line, that the sentence should say "*the Seacrest area has been inspected but the two inlets in Isle Bay were in mitigation areas and would not be trimmed*". Mr. Jones stated that in the next paragraph, the first sentence should read "*Mr. Terrell*" instead of Rick Terrell. Ms. Wells asked if there were any other additions, deletions or comments. There were none.

On a Motion by Mr. Jones, seconded by Mr. Stone, with all in favor, the Board approved the Minutes of the Board of Supervisors' meeting held on July 15, 2008 (as amended) for Harbor Bay Community Development District.

Ms. Wells stated that she had a correction to the meeting minutes from November 18, 2003. She stated that District Counsel was aware of the issue. Ms. Wells stated that it was brought to her attention that an incorrect statement was made on Page 3, first paragraph, sixth line, "in comparison, Scarola and Associates constructed the District Seawall". She asked for the Board to make a motion to correct the meeting minutes. A discussion ensued. Mr. Craine stated that he didn't think it was necessary to physically correct the minutes and that a motion from the Board stating that is was a factually inaccurate statement should be sufficient.

On a Motion by Mr. Jones, seconded by Mr. Gelston, with all in favor, the Board acknowledged that the November 18, 2003 Meeting Minutes reflecting that Scarola & Associates constructed the District Seawall is inaccurate for Harbor Bay Community Development District.

SIXTH ORDER OF BUSINESS

Consideration of the Operation and Maintenance Expenditures for July and August 2008

Ms. Wells stated that the next item on the agenda was the consideration of the Operation and Maintenance Expenditures for July and August 2008.

She stated that the expenditures for the period of June 1–30, 2008 totaled \$238,230.80 and the expenditures for the period of July 1-31, 2008 totaled \$143,414.65. She asked the Board if they had any questions. Ms. Ackerman stated that Donald Hawkins was issued a check in the July expenditures for June when he wasn't present at the meeting. She stated that in the July expenditures there was an invoice from Mr. Kim for hand watering and that it states that the water bill should be divided between the District (60%) and Terrabrook (40%) for the cost of the rental truck and use of trucks for watering. Ms. Ackerman asked if all of the hand watering was being billed to the District as she did not see the 60-40 split. A brief discussion ensued. Ms. Wells stated that she would follow-up on this item. Ms. Wells asked if there were any other questions for the August expenditures. Ms. Ackerman asked why annuals were approved by Mr. Jones and not brought before the Board, since they were over the \$5,000.00 threshold. Mr. Jones stated that he was told the cost would be \$4,600.00 and apparently there were other costs added in. Ms. Wells stated that she would follow-up with Mr. Kim. A brief discussion ensued. Ms. Wells suggested formalizing with a Resolution that the Chairman cannot approve anything over \$5,000.00 without Board approval unless there is an emergency. Ms. Ackerman asked about the credits that were due the District. Ms. Wells gave an update. She asked if the Board had any further questions. There were none.

On a Motion by Mr. Stone, seconded by Mr. Jones, with all in favor, the Board approved the Operation and Maintenance Expenditures for July (\$238,230.80) and August 2008 (\$142,414.65) (pending follow-up on the Mr. Kim invoices for hand watering and annuals) for Harbor Bay Community Development District.

SEVENTH ORDER OF BUSINESS

**Public Hearing on the Fiscal Year
2008/2009 Final Budget**

Ms. Wells stated that the next item on the agenda was the Public Hearing for the Fiscal Year 2008/2009 Final Budget. She asked for a motion to open the Public Hearing.

On a Motion by Mr. Jones, seconded by Ms. Ackerman, with all in favor, the Board opened the Public Hearing on the Fiscal Year 2008/2009 Final Budget for Harbor Bay Community Development District.

Ms. Wells reviewed the budget process and presented the budget to the Board and audience members. She stated that in May the Board had adopted a total general fund budget of \$3,259,221. Ms. Wells stated that the budget is comprised of two parts. She stated that the total for the administrative costs was \$480,957. Ms. Wells reviewed the line items of the budget. She stated the total for the Field Operations costs was \$2,778,246. Ms. Wells explained that there were two numbers that make up the CDD fees, Operation and Maintenance and Debt Service for the infrastructure. She stated that the total for the Debt Service fund was \$1,719,923.

Ms. Wells stated that she would review the results from the budget workshop that was held. She stated that as a result of the budget workshop, they were able to lower the budget to \$2,817,175. Ms. Wells reviewed the budget line items. She asked the Board if they had any comments or questions.

Mr. Jones stated that as a result of the budget workshop the proposed budget had been decreased. Discussion ensued.

Ms. Wells asked if there were any audience comments. The Board entertained audience questions and comments.

(Ms. Ackerman left the meeting in progress)

On a Motion by Mr. Jones, seconded by Mr. Gelston, with all in favor, the Board closed the Public Hearing on the Fiscal Year 2008/2009 Final Budget for Harbor Bay Community Development District.

EIGHTH ORDER OF BUSINESS

**Consideration of Resolution 2008-05,
Adopting the Fiscal Year 2008/2009
Final Budget**

Ms. Wells stated that the next item on the agenda was the consideration of Resolution 2008-05, Adopting the Fiscal Year 2008/2009 Final Budget. She asked if there were any questions. Mr. Jones stated that the Board should consider comments made regarding the HOA budget. He stated that the District is considering giving the HOA \$90,000 less than they did the previous year. Discussion ensued. Ms. Wells asked for a motion to adopt the budget as presented.

On a Motion by Mr. Jones, seconded by Mr. Stone, with all in favor, the Board approved Resolution 2008-05, Adopting the Fiscal Year 2008/2009 Final Budget (\$2,817,175) for Harbor Bay Community Development District.

(The Board took a short recess)

(The Board reconvened with all previously present still in attendance)

NINTH ORDER OF BUSINESS

Discussion Regarding Basketball Lighting

Ms. Wells stated that the next item on the agenda was the discussion regarding the basketball lighting. She stated that she had received three proposals from Mr. Stone. Ms. Wells stated that the first proposal was from Stewart Tennis Courts for a total of \$17,450, the second was from Welch Tennis Courts and totaled \$15,200, and the third was from Beachem Brothers with a total of \$31,600. Mr. Stone reviewed the proposals for the Board. A discussion ensued. Mr. Gelston stated that the proposals needed to show the same scope of work so they could be accurately compared. Mr. Gelston suggested having all three vendors re-propose with the electrical work included. Discussion ensued. The Board decided to table this item until the September meeting.

TENTH ORDER OF BUSINESS

**Discussion Regarding Tennis Court
Resurface**

Ms. Wells stated that the next item on the agenda was the discussion regarding the Tennis Court Resurface. Mr. Stone stated that the Tennis Courts had been resurfaced by Welch Tennis Courts for a cost of \$18,000 and the work was unsatisfactory. He recommended that the Board withhold final payment until the work is brought up to the standard that is set forth in the contract. The Board agreed with Mr. Stone.

ELEVENTH ORDER OF BUSINESS

Discussion Regarding Seawall FAQ Sheet

Ms. Wells stated that the next item on the agenda was the discussion regarding the Seawall FAQ Sheet. She distributed the Seawall FAQ Sheet that Mr. Craine had prepared. Ms. Wells recommended posting the FAQ Sheet on the intranet for the residents. Mr. Craine reviewed the FAQ Sheet for the Board. A brief discussion ensued regarding a time frame. Mr. Jones asked Mr. Craine if he could add a vague time frame. Discussion ensued.

On a Motion by Mr. Gelston, seconded by Mr. Jones, with all in favor, the Board approved the Seawall FAQ Sheet to be distributed to residents (as amended) for Harbor Bay Community Development District.

TWELFTH ORDER OF BUSINESS

**Discussion Regarding Proximity Card
FAQ Sheet**

Ms. Wells stated that the next item on the agenda was the discussion regarding the Proximity Card. A discussion ensued. Mr. Gelston stated that it was his understanding that the HOA set the fees but not the rules for access. Mr. Vrouhas suggested that the resident children be issued photo ID's. Discussion ensued regarding visitor access. The Board decided they needed a better definition of a "visitor". The Board decided they could approve questions #1, 2, 3, 5, 6, and 7. Mr. Gelston suggested the Board revisit the Proximity Card FAQ potential policy changes at the next meeting. Mr. Gelston stated that he would like Ms. Wells to review the revised FAQ Sheet with the current policy. Discussion ensued.

On a Motion by Mr. Gelston, seconded by Mr. Jones, with all in favor, the Board approved the Proximity Card FAQ Sheet (as presented with the removal of questions #4, 8, 9 and 10) for Harbor Bay Community Development District.

THIRTEENTH ORDER OF BUSINESS

**Discussion the Proximity Card Acquisition
Process**

Ms. Wells stated that the next item on the agenda was the discussion on the Proximity Card Acquisition Process. The Board decided to table this item until the next meeting.

FOURTEENTH ORDER OF BUSINESS

Request for Visitor Access

Ms. Wells stated that the next item on the agenda was the request for Visitor Access. The Board decided to table this item until the next meeting.

FIFTEENTH ORDER OF BUSINESS

Discussion on Resident Turnover Questions

Ms. Wells stated that the next item on the agenda was the discussion on resident turnover questions. She stated that she had a list of questions from a group of residents that she had been working on. The Board asked that Ms. Wells work with District Engineer and District Counsel on this item and that she present it at the next meeting.

SIXTEENTH ORDER OF BUSINESS

Consideration of Fountain Proposals

Ms. Wells stated that the next item on the agenda was the consideration of the Fountain Proposals. She stated that she had three fountain proposals and distributed them to the Board. A discussion ensued regarding the condition of the present fountains. Mr. Vrouhas reviewed his findings for the Board. Mr. Vrouhas and Mr. Stone reviewed the proposals for the Board. Mr. Stone recommended storing a spare motor on site. Mr. Vrouhas stated that Aquagenix's proposal offered a standard three year warranty. Discussion ensued. Mr. Gelston asked for a motion to authorize the developer to pay for and install the fountains with the District reimbursing Newland. Ms. Wells stated that she would work with Newland to make sure that the maintenance is within budget.

On a Motion by Mr. Gelston, seconded by Mr. Jones, with all in favor, the Board authorized Newland Communities to pay for and install the fountains (with reimbursement from the District) for Harbor Bay Community Development District.

SEVENTEENTH ORDER OF BUSINESS

**Consideration of Resolution 2008-06,
Setting Fiscal Year 2008/2009 Meeting
Schedule**

Ms. Wells stated that the next item on the agenda was the consideration of Resolution 2008-06, Setting the Fiscal Year 2008/2009 Meeting Schedule. She stated that the Board currently meets the third Tuesday of the month at 9:00 a.m. with some quarterly evening meetings. Ms. Wells recommended keeping the schedule the same with evening meetings in October, January, April and July at 6:30 p.m.

On a Motion by Mr. Jones, seconded by Mr. Stone, with all in favor, the Board approved Resolution 2008-06, Setting the Fiscal year 2008/2009 Meeting Schedule, as discussed, for Harbor Bay Community Development District.

EIGHTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

Mr. Craine gave an update on the seawall litigation. He reviewed the pertinent court due dates with the Board. Mr. Craine stated that he had received a proposal for soils work from HSA. Mr. Craine stated the total estimated cost was \$9,605.00. He asked for a motion to approve the proposal with a not-to-exceed amount of \$10,000. Mr. Craine stated that a construction consultant needed to be retained at a charge of \$150 an hour. He stated that his name was Matthew Mashalit and he was with Misner Marine. Mr. Craine stated that he had his resume for the Board to review. He asked for the Board to approve both items. Discussion ensued.

On a Motion by Mr. Jones, seconded by Mr. Stone, with all in favor, the Board authorized District Counsel to proceed with the HSA proposal (with a not-to-exceed amount of \$10,000) and to retain the services of Matthew Mashalit (with a not-to-exceed \$150.00 an hour) for Harbor Bay Community Development District.

Mr. Craine stated that the Board had previously discussed granting an easement over one of the ponds. He stated that he has been working with District Counsel on this issue and asked Mr. Scarola to update the Board.

B. District Engineer

Mr. Scarola gave the Board an update on the easement issue. He stated that the north side of the wetland conservation area is owned by Terrabrook. Mr. Scarola recommended granting the easement from the District to Mira Bay, LLC (this is not the commercial developer of the Village Pod; not the Master Developer) and require them to maintain the pipe structures and the wetland system. He stated that they should be the Operations and Maintenance entity for the purpose of the SWFWMD permit and be responsible for all regulatory compliance. Discussion ensued. Mr. Craine stated that he would need a motion for the Chairman to accept the Deed from Terrabrook on behalf of the Board.

On a Motion by Mr. Jones, seconded by Mr. Gelston, the Board accepted the Deed for the remainder of the wetland conservation area from to Terrabrook for Harbor Bay Community Development District.

Discussion ensued.

On a Motion by Mr. Gelston, seconded by Mr. Stone, with all in favor, the Board authorized the Chairman to execute the Easement on behalf of the Board (once presented in its final form and pending Crossland is current on their CDD assessments and HOA fees) for Harbor Bay Community Development District.

C. District Manager

Ms. Wells stated that the next regular meeting would be held on September 16,

2008 at 9:00 a.m.

Mr. Vrouhas stated that there was a leaking water main that needs to be repaired. He stated that it is located in the parking lot of the back side of the Fitness Center. Discussion ensued. Ms. Wells stated that it has been previously repaired and that the District had received an estimate for replacement in the amount of \$1,800 about six months ago. It was stated that it should be checked to see if it was under warranty before any action was taken.

NINETEENTH ORDER OF BUSINESS

**Supervisor Requests and Audience
Comments**

Ms. Wells stated that the next item on the agenda was Supervisor Requests and Audience Comments. She asked if there were any supervisor requests. There were none.

Ms. Wells asked if there were any audience comments. A resident asked how the basketball lighting was going to be controlled. Discussion ensued.

Adam Heath, a representative for the Tony Williams residence stated he was working on the conditions that the Board requested for the pool set back. Discussion ensued. The Board asked Mr. Heath to review the Board's comments and concerns from the last meeting and then return back to them with an updated proposal.

Ms. Wells asked if there were any other audience comments. There were none.

TWENTIETH ORDER OF BUSINESS

Adjournment

Ms. Wells stated that there were no other agenda items to come before the Board. She asked for a motion to adjourn the meeting.

On a Motion by Mr. Gelston, seconded by Mr. Jones, with all in favor, the Board adjourned the Board of Supervisors' Meeting at 1:45 p.m. for Harbor Bay Community Development District.



Secretary / Assistant Secretary



Chairman / Vice Chairman