

**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, September 22, 2011 at 5:30 p.m.** at the MiraBay Clubhouse, located 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>
Katie Buchanan	<b>District Counsel, Hopping, Green &amp; Sams, P.A.</b>
Jamie Scarola	<b>District Engineer, Scarola Associates Engineering</b>
Karla Gibson	<b>Club Manager</b>
Brett Sealy	<b>Investment Banker, MBS Capital Markets</b> <i>(joined the meeting in progress)</i>
Audience	

**FIRST ORDER OF BUSINESS**

**Call to Order**

Mr. Brizendine called the meeting to order and conducted the roll call.

**SECOND ORDER OF BUSINESS**

**Audience Comments on Agenda Items**

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

**THIRD ORDER OF BUSINESS**

**Consideration of the Minutes of the Board of Supervisors' Meeting held on August 9 & 25, 2011**

Mr. Brizendine presented revised sets of minutes, stating that they incorporate comments from District Counsel and Mr. Stumpf.

On a Motion by Mr. Hatcher, seconded by Mr. Stumpf, with all in favor, the Board of Supervisors approved the minutes of the Board of Supervisors' meeting held on August 9, 2011 as presented for Harbor Bay Community Development District.

Mr. Stumpf requested that the minutes from the meeting on August 25<sup>th</sup> be amended to include the amount of the credit that will be issued from Hawkins and that a typo on page seven be corrected.

On a Motion by Mr. Ripley, seconded by Mr. Stone, with all in favor, the Board of Supervisors approved the minutes of the Board of Supervisors' meeting held on August 25, 2011 as amended for Harbor Bay Community Development District.

**FOURTH ORDER OF BUSINESS**

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

Mr. Stumpf stated that he has an issue regarding approving the water bill in the amount of \$255.97 as it appears to belong to the welcome center. Mr. Brizendine reviewed discussions that have been held with Newland regarding this account, explaining that they have agreed to reimburse the District for all back invoices including the one in question. The account in the District's name has been closed and a new one set up by Newland. A brief discussion ensued.

On a Motion by Ms. Guill, seconded by Mr. Ripley, with four in favor and one against (Paul Stumpf), the Board of Supervisors approved the Operation and Maintenance Expenditures paid during the period of August 1-31, 2011 (\$297,091.93) for Harbor Bay Community Development District.

**FIFTH ORDER OF BUSINESS**

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

There were no questions regarding any of the invoices included in the report.

On a Motion by Mr. Stumpf, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors approved the Operation and Maintenance Expenditures paid during the period of August 1-31, 2011 (\$82,088.11) for the Mira Bay Amenity Center, for Harbor Bay Community Development District.

**SIXTH ORDER OF BUSINESS**

**Consideration of Series 2001 Requisition  
#226**

Mr. Brizendine explained that the requisition is to reimburse the general fund for a Ballenger invoice that was previously paid. He stated that at the time it was paid he was not aware that the Board had approved paying the District's share of the ET system out of construction funds.

A brief discussion ensued regarding additional requisitions that have been approved by the District Engineer and the need to ensure that the remaining balance is credited to the general fund in this fiscal year. Mr. Brizendine stated that the requisition for the balance has already been submitted.

On a Motion by Mr. Stumpf, seconded by Mr. Ripley, with all in favor, the Board of Supervisors approved the Series 2001 Requisition #226 for Harbor Bay Community Development District.

*(Mr. Sealy joined the meeting in progress)*

**SEVENTH ORDER OF BUSINESS**

**Presentation by MBS Capital Markets**

Mr. Sealy informed the Board of the recent internal changes made to Prager, Sealy & Company and the formation of MBS Capital Markets, explaining that the company has the same powers that it had as Prager Sealy and is the same land secured group; it just has a new name.

Mr. Sealy presented a proposal from his firm to refinance the Series 2001A bonds. He reviewed the current terms of the bonds and projected savings of 19.5% should interest rates remain favorable. Discussion ensued regarding the proposed reduction in the par amount of the bonds and the credit rating that the District could expect to see given the percentage of the community that is built out and the ongoing seawall litigation. Mr. Sealy stated that he needs further information regarding the litigation before obtaining the rating.

Mr. Sealy stated that his firm is paying the cost to research the options available to the District and asked that the Board take the necessary steps to name MBS as the investment Banker and authorize him to continue to explore options on behalf of the District.

On a Motion by Mr. Ripley, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors named MBS Capital Markets as the investment Banker, authorized District Counsel to work with MBS to prepare an agreement submission for credit rating, and authorized MBS Capital Markets to pursue refinancing the Series 2001A bonds for Harbor Bay Community Development District.

**EIGHTH ORDER OF BUSINESS**

**Discussion on Results of Temporary Pool Surface Repair**

Mr. Brizendine stated that the automatic fill valve has been turned off and maintenance staff has been monitoring the pool on a daily basis by reading the water meter and checking the water level in the pool and it appears that the temporary repairs are holding. Mr. Brizendine stated that they will continue to monitor until such time as a flow meter is installed or the major repairs are completed at the time the pool resurfacing is done. The Board recommended that Staff continue to monitor the pool every other day based on the consistency of the findings to date.

Mr. Brizendine confirmed that he has reached out to the County regarding the possibility of obtaining a reimbursement for the sewer charges associated with the pool leak. However, he needs to follow-up with them on this matter as the individual he spoke with was not authorized to issue the credit.

Mr. Scarola stated that he was brought into the issue to look into some of the equipment issues and as part of those discussions it came to light that this may be the 3<sup>rd</sup> incident of pool leaks and a question raised as to responsibility and whether there is an option to look at the pool installer for damages.

Ms. Buchanan explained that if this is a pattern, there is the possibility that this may be a construction related issue and the Board may want to ascertain whether or not the statute of limitations has passed to raise any complaints. She stated that she spoke with Bricklemyer, Smolker, and Bolves regarding this matter and obtained an estimate of \$2,500 to investigate and determine if the time frame to file a lawsuit against the contractor has passed. Mr. Scarola stated that subsurface issues are hard to evaluate and his recommendation is to keep an eye on it and to manage the problem reasonably as opposed to jumping in too deep or to quickly. However, he does not recommend that the District give up any rights that it may not be aware of. Ms. Buchanan emphasized that the \$2,500 would only ascertain if there is time to file a claim and not to evaluate the potential of success should the District decide to file a claim. A brief discussion ensued.

On a Motion by Mr. Ripley, seconded by Mr. Stumpf, with all in favor, the Board of Supervisors authorized a not-to-exceed amount of \$2,500 for Bricklemyer, Smolker, and Bolves to investigate the date when the statute of limitations clock starts to initiate any potential legal action relating to the pool for Harbor Bay Community Development District.

**NINTH ORDER OF BUSINESS**

**Presentation of the Over-budget Line-item Expense Variance Report**

Mr. Brizendine provided a brief overview of the report that he was asked to provide outlining the line item expense variations. He asked if there were any questions regarding the report and there were none.

**TENTH ORDER OF BUSINESS**

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

Mr. Brizendine reviewed the cash flow analysis outlining the status of collections, projected expenses and timing of collections to be received. He discussed the status of the line of credit process with the Bank of Tampa, stating that the process is going well and he is optimistic that the funds will be available when needed. A brief discussion ensued regarding obtaining a written commitment from Newland to pay their assessments early and when the loan would be repaid and anticipated interest rates. Mr. Brizendine confirmed that any expenses related to the current fiscal year would be accrued if payment is not processed prior to the end of the year.

**ELEVENTH ORDER OF BUSINESS**

**Staff Reports**

A. District Counsel

Ms. Buchanan provided a brief update on the status of the bid protest, stating that the contract with Greenbriar has been executed and the change order for Lee Te Kim has been processed. Mr. Brizendine confirmed that the settlement payment has been made to Greenbriar.

Ms. Buchanan confirmed that they are still waiting on additional information before the land conveyance from Newland can occur. Mr. Scarola stated that a conference call is scheduled next week to address the issues.

B. District Engineer

Mr. Scarola stated that his firm is working on a method to accomplish getting ADA compliance matters addressed and will be presenting them to the Board next month.

C. Mira Bay Club Manager – Karla Gibson

Ms. Gibson stated that the latest issue of the Lifestyle Guide is available on line and will be distributed in the St. Pete Times on October 1st.

D. Field Operations Manager – John Toborg

Mr. Brizendine stated that he would relay any questions regarding the Field Inspection Report to Mr. Toborg and presented a proposal that was submitted by Lee Te Kim. He stated that Mr. Toborg has not had the opportunity to review the proposal. The Board decided to table any action on the proposal until such time as Mr. Toborg has reviewed it.

A brief discussion ensued regarding the status of the landscape map and the bid specs for the upcoming RFP for landscaping. Mr. Brizendine stated that he would follow-up with Mr. Toborg on these matters.

Mr. Brizendine stated that he is still trying to work with Atlas regarding the curbing damage and has reached out to the insurance company for assistance. He inquired as to whether the Board would like to have the repairs made and then seek reimbursement or continue to press Atlas to have the repairs made. The preference was to have Atlas make the repairs.

E. District Coordinator- Kristy Owens

Mr. Brizendine stated that he was asked by Ms. Owens to present a proposal from Blast Services to clean the pool deck. Following a brief discussion, it was decided to wait until the resurfacing project is completed.

F. District Manager

Mr. Brizendine responded to questions regarding the pipe that was sticking out of the ground and the status of the gate motors. He stated that the pipe was removed by Newland and he would follow-up on the gate motors.

Mr. Brizendine presented the Fiscal Year 2009/2010 Financial Audit. He explained the requirement is that the audit must be submitted to the Auditor General by September 30<sup>th</sup>. It was noted that next year the audits will be due by June 30<sup>th</sup>. Mr. Brizendine asked that the Board accept the report and authorize Staff to submit it as required. He recommended that the Board review the audit and contact him regarding any questions and a brief discussion ensued.

On a Motion by Mr. Stumpf, seconded by Mr. Hatcher, with all in favor, the Board of Supervisors accepted the Fiscal Year 2009/2010 Financial Audit and authorized Staff to submit the report to the appropriate governmental entities as required under Florida Statutes for Harbor Bay Community Development District.

**TWELFTH ORDER OF BUSINESS**

**Supervisor Requests & Audience  
Comments**

A brief discussion ensued regarding establishing written procedures regarding issuing proximity cards and bar codes for vehicles to provide support to Staff and the draft of the maintenance log that was provided to the Board.

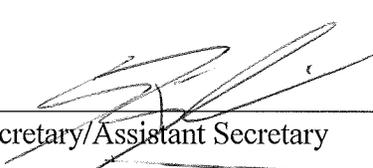
A resident requested that the Board ascertain the cost of the bond refinancing before proceeding. He also asked the information be provided to him regarding paying off the bond on his home.

Discussion was also held regarding ensuring that future landscape contracts contain language that spells out the penalties for poor performance, determining whether the District even has the base information that will be needed to determine when the clock for the Statute of Limitations on the pool will start prior to spending the \$2,500, and issues with barcodes on cars, vehicles parking for extended periods in Seacrest and who owns the boundary wall in Seacrest and is responsible for making the necessary repairs.

**THIRTEENTH ORDER OF BUSINESS**

**Adjournment**

On a Motion by Mr. Stone, seconded by Mr. Ripley, with all in favor, the Board adjourned the meeting at 6:57 p.m. for Harbor Bay Community Development District.

  
Secretary/Assistant Secretary

  
Chairman/Vice Chairman