

**MINUTES OF MEETING
HARBOR BAY
COMMUNITY DEVELOPMENT DISTRICT**

The regular meeting of the Harbor Bay Community Development District Board of Supervisors was held on **Tuesday, November 18, 2003 at 9:15 a.m.** at the Mirabay Welcome Center, located at 205 Manns Harbor Drive, Apollo Beach, FL 33572.

Present and constituting a quorum were:

Steve Gamm	Board Supervisor, Chairman
Brenda Kunkel	Board Supervisor, Vice Chairman
Kathy Shelling	Board Supervisor, Assistant Secretary
Suzi Greene	Board Supervisor, Assistant Secretary
Susie Marler	Board Supervisor, Assistant Secretary

Also present were:

Pete Williams	District Manager, Rizzetta & Company, Inc.
Jonathan Johnson	District Counsel, Hopping Green & Sams, P.A.

FIRST ORDER OF BUSINESS

Call to Order

Mr. Williams called the meeting to order.

SECOND ORDER OF BUSINESS

**Consideration of Minutes of the
Board of Supervisors' Meeting
on October 21, 2003**

Mr. Williams stated that the first item is to consider the minutes of the Board of Supervisors' meetings held on October 21, 2003 (located behind tab 1). Mr. Williams asked if there were any additions, deletions or corrections to the minutes. Hearing and seeing none, he asked for a motion to approve.

On MOTION by Ms. Kunkel, seconded by Ms. Marler with all in favor, the Board approved the minutes of the Board of Supervisors' meetings on September 16, 2003 for Harbor Bay Community Development District.
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THIRD ORDER OF BUSINESS

**Consideration of Authorization
to Disburse District Funds 2004-02**

Mr. Williams stated that the next item on the agenda is the consideration of the Authorization to Disburse District Funds 2004-02 (located behind tab 2). He stated that the disbursement consists of invoices for standard contractual commitments and administrative fees. He asked if there were any questions. Mr. Gamm asked what type of insurance coverage that is provided by Auto Owners Insurance. Mr. Williams explained that the Auto Owners invoice pertains to the liability insurance coverage for the District. Auto Owners is only the name of the carrier. Mr. Williams further explained that the liability insurance coverage is paid in installments rather than a lump sum. He asked if there were any further questions. Hearing and seeing none, he asked for a motion to approve.

On MOTION by Ms. Greene, seconded by Ms. Kunkel, with all in favor, the Board approved the Authorization to Disburse District Funds 2004-02 for Harbor Bay Community Development District.

FOURTH ORDER OF BUSINESS

**Consideration of Series 2002
Construction Requisitions #174
through #189**

Mr. Williams stated that the next item on the agenda is the consideration of Series 2002 Construction Requisitions #174 through #189 (recap located behind tab 3). He asked if there were any questions. Hearing and seeing none, he asked for a motion to approve.

On MOTION by Ms. Greene, seconded by Mr. Gamm, with all in favor, the Board approved the Series 2002 Construction Requisitions #174 through #189 (with the removal of #188 and #189; correcting the amount for Mortensen Engineering) for Harbor Bay Community Development District.

FIFTH ORDER OF BUSINESS

**Consideration of Qualifications
for District Engineer**

Mr. Williams stated that the next item for discussion is the consideration of qualifications for District Engineer. He explained to the Board that due to the fact that Heidt and Associates is withdrawing from the District Engineer position, an advertisement was placed to obtain a replacement District Engineer. Three submittals for the position were received.

Mr. Williams stated that a proposal for Scarola Associates, Water Resources Engineering and WilsonMiller were received. He stated that upon review all three appear to be well qualified for the position; however, Water Resources Engineering does not possess any District-related experience. Scarola Associates was the former District Engineer for Harbor Bay. Mr. Williams explained that the firm of WilsonMiller has past District experience. In comparison, Scarola Associates constructed the District's seawall, which was one of the largest structural aspects of the District. Mr. Williams recommended that Scarola Associates be considered for the position of District Engineer due to their past experience with the construction of the Harbor Bay District and their successful completion of other District related projects. Mr. Gamm asked how the fee structure would be organized. Mr. Williams explained that if Scarola Associates was awarded the position, the Board would organize the fee structure. He recommended that the same engineering contract format that was utilized in the past be drafted by District Counsel for use with the new District Engineer. Mr. Williams asked if there were any questions. There were none, so he asked for a motion to approve.

On MOTION by Mr. Gamm, seconded by Ms. Kunkel, with all in favor, the Board awarded the position of District Engineer (and authorizing the Board to enter into fee negotiations with Scarola Associates) for Harbor Bay Community Development District.

SIXTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

Mr. Johnson stated that Florida Senate has been conducting studies regarding Community Development Districts. The result of the research is anticipated to involve legislative changes that may affect particularly the issue of Landowner elections and the final transition of the District to resident control. Mr. Johnson explained that one of the issues concerns the election process. He explained that when a District is established in an off year, the sixth year of the District also occurs in an off year. This affects when the actual transition to resident control occurs. The Supervisors of Elections in several counties have discussed their concerns regarding this issue. The issue up for debate is whether the election should be held in the off year or if the election should wait another year. The holding of the election after an additional year would extend the term that the developer controls the District. Mr. Johnson stated that he will update the Board of any statutory changes which may affect the District as soon they occur.

Mr. Johnson stated that he has been working with Mr. Williams concerning the drafting of alcohol policies for the District.

Mr. Williams distributed a draft of the alcohol policies to the Board. He explained that due to the fact that he is listed as the responsible party on the liquor license, he would like to have policies in place to avoid any potential problems that might occur. Mr. Williams reviewed the policies in detail. The policies in regards to alcohol consumption are as follows:

Individuals must be a minimum of 21 years old in order to be served alcohol. All patrons and guests must provide identification upon request from the club staff. Alcohol must be consumed on the premises. Alcohol beverages are prohibited within 12 feet of the pool. The club staff reserves the right to refuse serving alcohol to any intoxicated persons. The club staff reserves the right to ask intoxicated persons to leave the premises. The alcohol policies may be changed at any time by the discretion of the Board of Supervisors of the Harbor Bay Community Development District. There was a recommendation to have the policies concerning alcohol consumption posted on signage in the club. There was a discussion regarding whether employees of the club should be prohibited from drinking alcohol while on duty. Mr. Williams explained that although the policy of prohibiting staff from drinking while on duty is a commendable policy, it is under the jurisdiction of the developer who employs the staff whether to instill such a policy. Mr. Gamm recommended that a policy be drafted pertaining to prohibiting drinking alcohol in the vicinity of the dock or while operating any watercraft. There was a discussion concerning the District's ability to enforce policies on the waterways. Mr. Johnson explained that the District does not possess policing authority in terms of citing violations of policies or laws nor can the District arrest anyone in violation. Mr. Gamm stated that the liquor license does include a package provision which permits the sale of alcohol for consumption outside of the club. A discussion ensued regarding the possible consequences of selling alcohol for consumption outside of the club. Mr. Johnson stated that the Board be aware of the fact that Mr. William's name is listed on the liquor license, which is due to the fact that he was performing duties within his scope of his position as the District Manager. He recommended that a motion be approved by the Board recognizing Mr. Williams role in obtaining the liquor license for the District so as to release Mr. Williams from any potential liability that may occur. Mr. Williams asked if there were any questions. There were none, so he asked for a motion to approve.

<p>On MOTION by Mr. Gamm, seconded by Ms. Kunkel, with all in favor, the Board recognized that Mr. Williams has acted in the scope of his duties as a District Manager in obtaining the liquor license for the District and the Board approved that Mr. Williams be released from any liability pertaining to the liquor license that might occur for Harbor Bay Community</p>
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Development District.

There was a discussion regarding the immediate need for signage listing the pool policies. The pool is anticipated to be open to the public by December 4, 2003. Ms. Greene suggested that the Board review the pool and dock policies immediately so the adopted policies can be posted. Mr. Johnson suggested that the Board continue the meeting via phone due to the immediate availability of the pool. Ms. Greene distributed a draft of pool and dock to the Board. She reviewed each policy in detail. Mr. Williams recommended that the Board adopt specific operational times corresponding to seasonal changes rather than posting the operational hours as “dusk until dawn”. He explained that per his experience there tends to be confusion among residents and staff as to the exact hours this incorporates. Mr. Williams recommended to the Board that they adopt the pool and dock policies in draft format due to the immediate need for signage. Ms. Greene stated that the pool and dock policies and procedures have been reviewed by District Counsel; however, the policies concerning the Outfitters have been sent to District Counsel as of yet. Mr. Johnson recommended that the Board adopt the pool and dock policies pending final revision and clarification by District Staff. Mr. Williams asked if there were any further questions. There were none, so he asked for a motion to approve.

On MOTION by Mr. Gamm, seconded by Ms. Kunkel, with all in favor, the Board approved the pool and dock policies pending final revision and clarification by District Staff for Harbor Bay Community Development District.

B. District Engineer
Not present.

C. District Manager

Mr. Williams stated that there is an agreement for TECO pertaining to street lighting for Parcel 14B. It will include the placement of six Classic luminary lights along with 16-foot poles and construction of an underground electrical distribution system for Parcel 14B. Mr. Williams asked if there were any questions. There were none, so he asked for a motion to approve.

On MOTION by Mr. Gamm, seconded by Ms. Greene, with all in favor, the Board approved the TECO street lighting agreement for Parcel 14B for Harbor Bay Community Development District.

SEVENTH ORDER OF BUSINESS

**Supervisor Requests and
Audience Comments**

Mr. Williams stated that the next item on the agenda is Supervisor requests and audience comments. There were no audience members in attendance other than those noted at the beginning of the meeting. He asked if there were any Supervisor requests.

Ms. Kunkel stated that there was a recommendation by the marketing personnel to waive the club facility fees for employees of the Mirabay Realtor so that they can become more familiar with the facilities thereby allowing them to better market the community to potential buyers. There was a discussion whether the District has the authority to waive any club facility fees or whether this action needs to occur on behalf of the developer. Mr. Williams recommended that the Board be presented with an anticipated number of individuals employed by Mirabay Realtor that would be affected by this action. Mr. Johnson recommended that the issue be researched further and presented to the Board at the December 16, 2003 meeting.

Mr. Gamm stated that the developer will be providing documentation to the Board concerning several areas of land that are anticipated to be dedicated into the District. Mr. Johnson explained that currently the District and the developer have an agreement pertaining to the method that the portions of land will be incorporated into the District. The method of dedication may be in the form of a deed or an easement.

EIGHTH ORDER OF BUSINESS

Adjournment

Mr. Williams stated that there were no further agenda items to come before the Board and asked for a motion to adjourn.

On MOTION by Mr. Gamm, seconded by Ms. Kunkel, with all in favor, the Board adjourned the meeting for Harbor Bay Community Development District.

Williams
Secretary

Steve Gamm
Chair

Pete