

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, October 28, 2010 at 5:30 p.m.** at 700 Manns Harbor Drive, Apollo Beach, Florida 33752.

Present and constituting a quorum were:

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

Also present were:

Jonathan Miller	District Manager, Rizzetta & Company, Inc.
John Toborg	Operations Manager, Rizzetta & Company, Inc.
Keith Bricklemyer	District Counsel, Bricklemyer Smolker & Bolves
Jamie Scarola	District Engineer, Scarola Associates Engineer
Mercedes Tutich	Representative, Newland Communities
Karla Gibson	MiraBay Club Manager
Kristy Owens	District Coordinator
Jonathan Liles	Representative, WTS
Audience	

FIRST ORDER OF BUSINESS

Call to Order

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

SECOND ORDER OF BUSINESS

General Audience Comments

The Board of Supervisors entertained various General Audience Member comments.

A resident stated that in the last few weeks several homeowners had complained about nails and shrapnel on Manns Harbor. She requested that the Board follow-up with the contractor or the street cleaning crew to resolve this issue. Her second comment concerned the proximity card. Apparently at the Homeowners' meeting they asked that the proximity card data base be removed to protect the homeowners.

The resident requested that the Board allow the HOA to take over the proximity card data base. It was stated that the company in charge of the proximity card data base had become lax and that there had been discussion of putting the HOA in charge of the data base. No Board action was taken.

THIRD ORDER OF BUSINESS

**Consideration of Minutes of the
Board of Supervisors' Meeting
held on September 23, 2010**

Ms. Ackerman pointed out that the address on page 3 was incorrect. It reads 6305 and should be 6505.

On a Motion by Mr. Jones, seconded by Ms. Ackerman, with all in favor, the Board approved the Minutes of the Board of Supervisors' Meeting held on September 23, 2010 for Harbor Bay Community Development District.

FOURTH ORDER OF BUSINESS

**Consideration of Operations and
Maintenance Expenditures for
October 2010**

Mr. Miller stated that it should be noted that in accordance to previous Policies and Procedures adopted by the Board, the Operation and Maintenance Expenditures were sent out ahead of this meeting for the Board's review. He stated that the District Manager's Office did not receive any questions or inquiries with regard to these expenditures.

On a Motion by Mr. Ripley, seconded by Mr. Stone, with all in favor, the Board approved the Operation and Maintenance Expenditures for October 2010 (\$231,943.43) for Harbor Bay Community Development District.

FIFTH ORDER OF BUSINESS

**Consideration of Operations and
Maintenance Expenditures for
October 2010 – Mira Bay Amenity Center**

Mr. Miller stated that it should be noted that in accordance to previous Policies and Procedures adopted by the Board the Operation and Maintenance Expenditures were sent out ahead of this meeting for the Board's review. He stated that the District Manager's Office did not receive any questions or inquiries with regard to these expenditures.

General discussion ensued.

Ms. Ackerman asked why the expense for the Prepaid ID Visor Mobile Bar Code readers was over \$2,000.00. She stated it was her understanding that the Board approved this expense in a not-to-exceed amount of \$1,000.00. Mr. Miller stated that it was his understanding that the original motion was "per gate". He stated that upon review if it is determined that the amount was exceeded, then he will bring the amount back before the Board for ratification.

On a Motion by Mr. Ripley, seconded by Mr. Jones, with all in favor, the Board approved the Operation and Maintenance Expenditures for October 2010 (\$82,580.82) for the Mirabay Clubhouse for Harbor Bay Community Development District.

SIXTH ORDER OF BUSINESS

**Review of District' Financial Cash Flow
Analysis September 2010**

Mr. Miller briefly reviewed the Cash Flow Analysis for September 2010. No formal Board action was taken.

SEVENTH ORDER OF BUSINESS

Presentation of FY 09-10 Budget

Mr. Miller stated that the District was in the new Fiscal Year of 2010-2011. He then proceeded to review the Fiscal Year 2009-2010 Budget on a general line-by line basis.

There was discussion concerning initiating the process of foreclosure against MiraBay LLC since several notices of intent have been ignored. It was stated that with the current real estate market, it was virtually impossible to get a hearing concerning foreclosure on properties.

On a Motion by Mr. Jones, seconded by Mr. Ripley, with all in favor, the Board approved to move forward with the foreclosure process against MiraBay LLC for Harbor Bay Community Development District.

EIGHTH ORDER OF BUSINESS

**Review of District Utility Report
September 2010**

Mr. Miller stated that the reports are fairly constant.

NINTH ORDER OF BUSINESS

**Consideration of Proposals for District
Legal Services – General Representation**

- A. Fowler White Boggs – no one present**
- B. Hopping Green & Sams – Wes Haber present**
- C. Pettitt Wolfe Craine Worrell Porter - Biff Craine present**
- D. Straley & Robin – no one present**
- E. Bricklemyer Smolker & Bolves - Keith Bricklemyer**

Mr. Miller assured the Board that even though Biff Craine had left Bricklemyer Smolker & Bolves, the District still has legal counsel through the firm and that Keith Bricklemyer was present at the meeting.

Mr. Miller explained that in anticipation of the Board's need for legal representation, he had solicited various proposals for legal services.

Mr. Haber presented the proposal from his firm, Hopping Green & Sams, for consideration and answered questions from the Board. He stated that Jonathan Johnson would be local counsel.

Mr. Craine presented the proposal from his firm for consideration and answered questions from the Board.

Mr. Bricklemyer presented the proposal from his firm for consideration and answered questions from the Board.

Mr. Miller stated that the benefit of choosing new legal representation at this meeting, rather than after the General Election, was the fact that there were several outstanding issues that would require legal representation to review. He stated that it would make sense to select legal counsel now, so that there would not be an added expense of having a second firm review the same issues after December's meeting.

After discussion of the merits of the various firms, the Board agreed to table the decision of new legal representation until the December meeting, when there would be a new incoming Board.

TENTH ORDER OF BUSINESS

**Update on CDD/Sea Crest HOA
Landscape Breakout**

Mr. Miller stated that District Staff is currently working with representatives from both landscape contractors as well as HOA Staff to finalize the landscape maintenance delineation. He stated that he anticipated that the matter would be resolved for the Board's review at the December meeting.

ELEVENTH ORDER OF BUSINESS

**Discussion Regarding Basketball Court
Usage**

Mr. Miller stated that the basketball court usage would be improved with lighting. He stated that TECO's proposal was not cost feasible, due to the need to add a transformer. A second proposal consisted of mounting eight out-door flood lights on the four corners of the court with the total cost being \$3,653.00. The lights would be on a set/lock-timer, with the hours to be determined by the Board. Discussion ensued concerning the height of the lights, the angle of the lights, and the posting of a sign for usage.

The Board decided to table the matter at this time due to cash flow and the matter will be brought back before the Board at the January 2011 meeting.

TWELFTH ORDER OF BUSINESS

**Discussion Regarding LCD TV and
Wallmount**

Mr. Miller stated that he had a request from Carla Gibson to add the purchase of a LCD TV for the Lagoon Room to the agenda for discussion. Ms. Gibson stated that she had been approached by a fitness focus group and that there was definite interest in the community for a LCD TV. General discussion ensued.

On a Motion by Mr. Ripley, seconded by Mr. Jones, with all in favor, the Board approved the purchase of a LCD TV and wallmount for the Lagoon Room for Harbor Bay Community Development District.

THIRTEENTH ORDER OF BUSINESS

**Discussion regarding Southwest Florida
Water Mangement District Cooperative
Funding Initiative Agreement for ET
Irrigation System Installation**

Mr. Miller stated that Ballenger and members of District Staff have been working with SWFWMD for a grant for an ET Irrigation System. This irrigation system will override the current restrictions set out by SWFWMD by the use of sensors to indicate the need for water. It will be a retro-fit to the current irrigation system in place at Harbor Bay. The reason for this system is to find an alternative way to increase the irrigation times and frequency without being in violation of SWFWMD policies. The community is currently on a rotary system, which throws a lot of water over a large area. This proposal for grant money was successful in receiving \$25,000.00. The total cost of the installation of the ET Irrigation System is \$50,000.00. The additional \$25,000.00 required is the responsibility of the District. Additional costs include a monthly set-up with Ballenger, which is wireless. Ballenger is absorbing this cost for the first year of installation. A benefit of this irrigation system is that the District can apply for a water variance which cannot mandate the current water restrictions at the time.

Mr. Miller stated that funding could be provided by the \$26,987.00 left over in the capital construction fund. Therefore, the \$25,000.00 which is required by the District would not be allocated from the District's general operating account.

On a Motion by Mr. Jones, seconded by Mr. Ripley, with all in favor, the Board authorized District Staff to finalize a contractual arrangement with SWFWMD to capture the Corporative Funding Initiative Grant pending District Counsel's review and approval for Harbor Bay Community Development District.

On a Motion by Ms. Ackerman, seconded by Mr. Hatcher, with all in favor, the Board approved the engagement of Ballenger & Company to proceed with the ET Irrigation Control System Installation for Harbor Bay Community Development District.

FOURTEENTH ORDER OF BUSINESS

Staff Reports

A. District Engineer

Mr. Scarola provided a brief update with regard to the Manns Harbor playground. He stated that Mr. Gregs had informed him that they were already in motion to move the equipment on the playground. He mentioned that in a discussion with Mr. Miller it was decided to wait until changes had been made to the playground before presenting an analysis. It was his understanding that the equipment was now moved, therefore, there were two issues to consider: 1) if there is still an issue, and 2) if it is still an issue, he was happy to look at it. However, he would be looking at it to see if it meets with designed standards and if it was applicable.

It was stated that several residents had expressed concern regarding the aiming and direction of the various equipment, which appears to have been taken care of, and second, the speed of vehicles on Manns Harbor Drive and the possibility of a child going around the fence and getting in the street. A question was asked as to whether there was any way to put something in place to slow down the drivers, such as speed bumps or speed registering solar power devices.

Further discussion ensued.

On a Motion by Mr. Ripley, seconded by Mr. Stone, with two in favor, three against the Board did not approve the motion to authorize Scarola Associates Engineering to investigate and to provide a professional opinion regarding playground safety for Harbor Bay Community Development District.

B. Operations Manager – John Toborg

Mr. Toborg provided everyone with the latest Field Inspection Report, with the most recent activity beginning on page 2. October is the month for fertilization and pesticide to be applied to the grounds. A plant rotation has been recommended for annuals by the suppliers. Mr. Toborg also discussed outstanding issues that need to be addressed. Mr. Toborg stated that page 27 contained items that the Board needed to address, such as the re-landscaping of the welcome center, mulch, replacement of the Sylvester Palm on Isle Bay and to adopt a new annual rotation schedule.

On a Motion by Ms. Ackerman, seconded by Mr. Hatcher, with all in favor the Board approved the annual rotation schedule for plants for Harbor Bay Community Development District.

On a Motion by Mr. Jones, seconded by Mr. Ripley, with all in favor the Board approved the replacement of the Sylvester Palm on Isle Bay for Harbor Bay Community Development District.

- C. District Counsel
Mr. Bricklemyer presented a brief updated Seawall Litigation Status Report.
- D. District Coordinator
Ms. Gibbons stated that the Happy Hour was well received, and they made just shy of \$200.00. Coming up was the wine tasting event and resort events held on the weekends. She also discussed the possibility of a New Years' Eve party.
- E. District Manager
Mr. Miller announced the next meeting would be held on December 2, 2010 at 5:30 p.m. He also announced the General Election will be held on November 2, 2010.

FIFTEENTH ORDER OF BUSINESS Supervisor Requests

Scott Jones – None

Laura Ackerman – None

Rip Ripley – None

Ed Stone - None


Mr. Hatcher stated that in his opinion the Board needs to make a decision concerning the proximity cards. He asked that District Counsel research the Sunshine Act and the Freedom of Information Act to determine what the Board can do, because he believed that the HOA fell under the same guidelines, but the data may need to be added to WPS. Discussion ensued concerning the fact that data may be publicly available and should be private. No formal Board action was taken.

Mr. Miller stated that there were three Board Members who were possibly leaving the Board pending the results of the upcoming elections. He extended his appreciation to them for their time and devotion in serving the District.

SIXTEENTH ORDER OF BUSINESS Adjournment

On a Motion by Mr. Jones, seconded by Ms. Ackerman, with all in favor, the Board adjourned the meeting at 8:03 p.m. for Harbor Bay Community Development District.


Secretary/Assistant Secretary


Chairman/ Vice Chairman