

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, December 2, 2010 at 5:30 p.m.** at 700 Manns Harbor Drive, Apollo Beach, Florida 33752.

Present and constituting a quorum were:

Ed Stone	Board Supervisor, Chairman
Rip Ripley	Board Supervisor, Vice Chair
Paul Stumpf	Board Supervisor, Assistant Secretary
Tom Hatcher	Board Supervisor, Assistant Secretary
Julie Guill	Board Supervisor, Assistant Secretary

Also present were:

Pete Williams	District Manager, Rizzetta & Company, Inc.
Keith Bricklemyer	District Counsel, Bricklemyer Smolker & Bolves
Karla Gibson	MiraBay Club Manager
John Toborg	Field Operations Mgr., Rizzetta & Company, Inc.
Audience	

FIRST ORDER OF BUSINESS

Call to Order

Mr. Williams called the meeting to order and conducted roll call. He then asked for the Board's indulgence in moving the consideration of legal counsel up on the agenda. Mr. Williams asked for approval to move this item immediately following the administering the Oath of Office and Designating Officers. The Board agreed, but no motion was taken.

SECOND ORDER OF BUSINESS

**Administer Oath of Office to Newly
Elected Board Supervisors**

Mr. Williams stated that he was a Notary Public for the State of Florida and that he was qualified to administer the Oath. Mr. Williams administered the Oath of Office to Rip Ripley, Julie Guill and Paul Stumpf as newly elected Board Supervisors.

THIRD ORDER OF BUSINESS

**Consideration of Resolution 2011-01,
Designating Officers**

Mr. Williams presented the Resolution 2011-01, Designating Officers for the Board. He explained that the Chairman was the presiding officer, and the Vice Chairman would act in the Chairman's stead in case of absence for approving and/or signing of documents. Mr. Williams then asked for a motion to appoint the Chairman. A brief discussion ensued regarding expenditures that can be paid without the Chairman's or vice Chairman's signature. Mr. Williams reviewed the circumstances that were approved by previous resolutions where this might occur and explained that those expenditures would still need to come before the Board for ratification.

On a Motion by Ms. Guill, seconded by Mr. Ripley, with Paul Stumpf against, the rest in favor, the Board approved the appointment of Ed Stone as Chairman of the Board of Supervisors for Harbor Bay Community Development District.

Mr. Williams then asked for a motion to appoint the Vice Chairman.

On a Motion by Mr. Stone, seconded by Mr. Hatcher, with all in favor, the Board approved the appointment of Rip Ripley as Vice Chairman of the Board of Supervisors for Harbor Bay Community Development District.

Mr. Williams then asked for a motion to appoint the Assistant Secretary. He stated that he would nominate the three additional Board Members, as well as Eric Dailey and Scott Brizendine from management for signatory purposes.

On a Motion by Mr. Ripley, seconded by Mr. Hatcher, with all in favor, the Board approved the appointment of Paul Stumpf, Tom Hatcher, Julie Guill, Eric Dailey and Scott Brizendine as Assistant Secretaries of the Board of Supervisors for Harbor Bay Community Development District.

Mr. Williams then asked for a motion to approve Resolution 2011-01, designating the officers of the Board of Supervisors.

On a Motion by Mr. Stone, seconded by Ms. Guill, with all in favor, the Board approved the ratification of Resolution 2011-01, Designating Officers of the Board of Supervisors for Harbor Bay Community Development District.

FOURTH ORDER OF BUSINESS

**Discussion & Consideration of Legal
Services – General Representation**

Mr. Williams presented the various law firms which had submitted letters of intent as provided in the agenda. He noted that there were representatives from all of the firms with the exception of Fowler White Boggs.

Mr. Williams then introduced each firm's representative: Jonathan Johnson with Hopping Green & Sams; Biff Craine with Petitt, Wolfe, Craine, Worrel, & Porter; Tracy Robin and John Vericker with Straley & Robin; and Keith Bricklemyer with Bricklemyer, Smolker, & Bolves. The various attorneys spoke on behalf of their individual firms and responded to Board questions. Mr. Bricklemyer stated that he would like to remove his firm from consideration, as he knew the Board had expressed the desire to have a separate law firm representing the District for general legal matters from the firm handling the Seawall Litigation. The Board requested that the various firm representatives leave the room while the Board discussed their options. It was stated that the Board could request that they leave but not mandate that they leave. The various representatives all agreed to wait outside until the Board reached a decision, with Mr. Bricklemyer being asked to remain. Following a brief discussion regarding the pros and cons of the various firms, the Board agreed to retain Hopping Green & Sams as the District's general representative.

On a Motion by Mr. Stumpf, seconded by Mr. Hatcher, with all in favor, the Board retaining the law firm of Hopping Green & Sams as general legal counsel for Harbor Bay Community Development District.

Mr. Williams asked whether Mr. Bricklemyer would like to address the Board regarding any pending business at this time and Mr. Bricklemyer indicated that he would prefer to do so. Mr. Bricklemyer reported to the Board that he had received an email from Mike Wiggins from Crosland concerning an outstanding debt by Mira Bay Village. Mr. Bricklemyer stated that Crosland is requesting that the Board accept an initial payment of \$25,000.00, with additional payments of \$25,000.00 made every 90 days thereafter until the debt is satisfied. It was stated that the debt relates to delinquent and current assessments. Discussion ensued (*email attached to Minutes as an exhibit*).

On a Motion by Ms. Guill, seconded by Mr. Stone, with all in favor, the Board approved the initial payment schedule of \$25,000.00; with additional payments of \$25,000.00 to be made every 90 days thereafter until the debt is expunged by Crosland for Harbor Bay Community Development District.

(Mr. Bricklemyer left the meeting).

Mr. Williams informed the representatives of each of the firms, submitting letters of intent, that the Board decided to enter into an agreement with Hopping, Green, & Sams, P.A. for general legal services for the District.

FIFTH ORDER OF BUSINESS

**Consideration of Minutes of the Board
Supervisors' Meeting held on
October 28, 2010**

Mr. Williams presented the Minutes for the Supervisors' Meeting held on October 28, 2010 for consideration, questions or changes. Mr. Ripley stated that there was a correction on the 14th Order of Business, under the District Manager, as it should read "will be held".

Ms. Guill stated that there was a correction required under District Coordinator as it should read Ms. Gibbons, not Ms. Owens. No other corrections or changes were presented.

On a Motion by Mr. Ripley, seconded by Mr. Stone, with all in favor, the Board approved the Minutes of the Board Supervisors' Meeting held on October 28, 2010 as amended for Harbor Bay Community Development District.

SIXTH ORDER OF BUSINESS

Audience Comments Regarding Agenda Items

Audience comments were entertained regarding a landscaping boundary issue discussed at a previous meeting and a change in signs relating to the leasing of the Crosland properties.

SEVENTH ORDER OF BUSINESS

Consideration of Operations and Maintenance Expenditures for Nov. 2010

Mr. Williams reviewed the Operations and Maintenance Expenditures for November 2010. He responded to an email question from Paul Stumpf, concerning the accredited nature of the financials. Mr. Williams suggested that Mr. Stumpf schedule a meeting with himself and the accounting staff to review Government Fund Accounting Statements, stating that they will not match on a monthly basis based on the timing of invoices and when they get paid. Mr. Williams stated that Rizzetta has begun to re-examine the financial summaries concerning cash flow, stating that currently these summaries do not match government accounting practices and there is a plan to re-design the summaries to provide assurances of current amounts and projections for future expenditures. A brief discussion ensued regarding placing the final audit on the website.

On a Motion by Mr. Stumpf, seconded by Mr. Ripley, with all in favor, the Board approved the Operation and Maintenance Expenditures for November 2010 (\$173,744.56) for Harbor Bay Community Development District.

EIGHTH ORDER OF BUSINESS

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

Mr. Williams reviewed the Operations and Maintenance Expenditures for November 2010 for the Mira Bay Amenity Center. A Board Member questioned the invoices from Ron's Communication Services for \$1,250.00. Mr. Stumpf mentioned that the minutes from the August 26th meeting stating that the Board approved a not-to-exceed amount of \$1,000 not \$1,000 per scanner. Mr. Williams recommended that the previous minutes be brought back for Board correction. He asked for a motion to approve the expenditures noting the correction of the not-to-exceed amount of \$1,000.00 per scanner, rendering the Ron's Communication Services Invoice appropriate.

On a Motion by Mr. Ripley, seconded by Ms. Guill, with all in favor, the Board approved the Operation and Maintenance Expenditures for November 2010 (\$60,417.10) for Harbor Bay Community Development District.

NINTH ORDER OF BUSINESS

**Consideration of CDD/Sea Crest HOA
Landscape Breakdown**

Mr. Toborg reviewed the current map showing the CDD / Sea Crest HOA landscape responsibilities breakdown, stating that initially a maintenance map was provided showing the CDD maintenance responsibility, for everything except the one parcel owned by the Sea Crest HOA (actual island at the front gates). However, an additional map was created after the land conveyances occurred indicating new areas of land transferred to the Sea Crest HOA that was used by vendors submitting bids for landscape maintenance services. Mr. Toborg explained that there was a bid protest and a subsequent reassignment of area responsibilities made following the settlement proposal. He presented the proposed changes to the maintenance contracts with Greenbrier and Lee Te Kim based on the agreement. Mr. Toborg asked for Board approval for a change order to Lee Te Kim's contract in the amount of \$10,900. Following a lengthy discussion, Mr. Johnson and Mr. Williams both recommended that the issue be tabled pending further clarity of land ownership and contract comparisons between the various parties. Mr. Stumpf asked Mr. Toborg to provide a better visual to depict, who owns the various parcels. Additionally, he requested a report of what was currently being maintained by each entity to provide for an overview to better describe the information. District Counsel was asked to follow-up on the land titles for the property in question and if necessary convey land to Sea Crest HOA as needed.

On a Motion by Mr. Stone, seconded by Ms. Guill, with all in favor, the Board tabled approval of Lee Te Kim's revised landscaping contract pending further clarity of land ownership and additional contract comparisons could be prepared for Harbor Bay Community Development District.

TENTH ORDER OF BUSINESS

**Consideration of Ballenger Irrigation
Monthly Well Maintenance Proposal**

Mr. Toborg presented the Ballenger Irrigation proposal for monthly pumping well maintenance, which would include monitoring monthly water usage in accordance with the ET system and SWFWMD requirements. Mr. Ripley stated that the Board had previously discussed having only the landscape contractor responsible for irrigation and it would be his preference to stay with that process. Mr. Toborg stated that Lee Te Kim does inspect the system weekly and does handle minor repairs, but basically just reports major issues. A lengthy discussion ensued. The Board was in favor of staying with Kim rather than initiating additional work with Ballenger. No Board action was taken on this matter.

ELEVENTH ORDER OF BUSINESS

**Consideration of Lee Te Kim Landscape
Proposal for Mulching**

Mr. Toborg reviewed the Lee Te Kim Landscape proposal for mulching that was presented last month. He stated that the contract calls for the mulch to be top dressed up to twice a year at the Board's discretion. Mr. Toborg confirmed that the mulch was not part of the contract price but was included in the bid pricing so that the District could budget for this expense. Discussion ensued concerning the areas to be mulched.

On a Motion by Mr. Ripley, seconded by Ms. Guill, with all in favor, the Board approved the Lee Te Kim Landscape Proposal for Mulching totaling \$26,950 for Harbor Bay Community Development District.

TWELFTH ORDER OF BUSINESS

**Consideration of Lee Te Kim Landscape
Proposal for Replacement Medjool Palms
in Pool Deck Area**

Mr. Toborg reviewed the Lee Te Kim Landscape proposal for replacement of two Medjool Palms and ground cover in the pool deck area totaling \$17,660. A brief discussion ensued regarding whether it might be better to hold off on planting new plants, the length of time for watering included in the proposal, and the need to track the history of tree removal so that it can be determined if they are repeat replacements. The Board reached a general consensus that it would be best to wait until Spring to replace the Medjool Palms.

Mr. Toborg informed the Board of issues with palms in the area and that Lee Te Kim has been injecting the palms at his cost every four months in an attempt to try and protect them. He stated that Mr. Kim is no longer going to be providing this service for free. A brief discussion ensued.

THIRTEENTH ORDER OF BUSINESS

Staff Reports

- A. District Counselor – Jonathan Johnson
Mr. Johnson expressed his gratitude to the Board for his firm's appointment. He also provided a brief legislative update on Chapter 190 issues, stating that he does not expect any fall back to the Districts due to the number of foreclosures as the issue is not District's failing, but land deals failing and the Districts are handling the issues appropriately. Mr. Johnson stated there may be a push to revive the tax payer's bill of rights that would prohibit governmental bodies from increasing a budget without a referendum. However, the last time this bill was introduced Community Development Districts were exempt. He stated that there might be some new requirements from the EPA that might impact how a District manages its stormwater systems, but nothing has been introduced yet.

- B. Mira Bay Club Manager – Karla Gibson
Ms. Gibson reported on the success of recent activities, as well as, reviewing upcoming ones; including a recently added New Year’s Eve party, which she thought would be limited to 50 people. She stated that based on the success of the rummage sale they would be planning another one for the Spring.

A brief discussion ensued regarding comments from residents regarding improvements at the café.

- C. District Coordinator – Kristy Owens
No report.

- D. District Manager
Mr. Williams announced the next meeting would be held on January 27, 2011 at 5:30 p.m., at the MiraBay Clubhouse, located at 107 Manns Harbor Drive, Apollo Beach, FL.

Mr. Williams also briefly presented the new District Manager, Scott Brizendine, and talked about his experience.

Mr. Williams asked the Board to consider dates for a Supervisors Workshop to provide a general overview as their role as public officials. Mr. Williams stated he would follow-up with an email to the supervisors on the available dates and time. Mr. Stumpf requested that the meeting with the accountants for Harbor Bay be held on that same date and time.

FOURTEENTH ORDER OF BUSINESS

**Supervisor Requests
& Audience Comments**

Julie Guill – None

Paul Stumpf – requested that in the future any proposals, change orders, etc, be presented with as much detailed information as possible. A brief discussion ensued.

Rip Ripley – Asked Mr. Johnson to review any options available to protect resident personal information obtained from the Data Access System from being part of a public records request..

Ed Stone – Expressed his welcome to all the new Board Members, stating that he looks forward to working with them.

Audience Comments

A question was addressed on the Crosland property along with a request that the Board consider getting a GIS system for mapping to aid in the various discussions, such as the landscape issues addressed earlier in the meeting. A Board representative of the Sea Crest HOA made comments hoping that headway is made to move forward on the landscape issues. Further discussion ensued.

Audience comments were entertained regarding Chapter 190 Statutes and the responsibility for maintaining street lights.

An audience member specifically addressed the issue of the mulch and asked the Board to reconsider its previous action in approving Lee Te Kim's proposal for mulch. He felt that additional proposals should be obtained to ascertain whether it could be installed for less money. Following a brief discussion, Mr. Williams asked the Board to rescind the previous motion concerning the mulch proposal from Lee Te Kim.

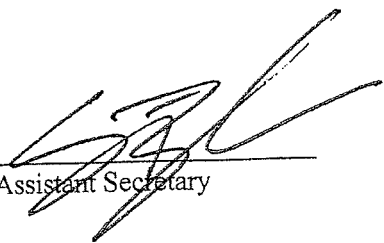
On a Motion by Mr. Stumpf, seconded by Mr. Hatcher, with all in favor, the Board rescinded the previous motion approving the mulch proposal from Lee Te Kim for Harbor Bay Community Development District.

On a Motion by Mr. Stumpf, seconded by Mr. Hatcher, with all in favor, the Board authorized the Chairman, Mr. Stone, to approve the mulch installation after comparison of bids from other providers are obtained by Mr. Toborg for Harbor Bay Community Development District.

FIFTEENTH ORDER OF BUSINESS

Adjournment

On a Motion by Mr. Stone, seconded by Ms. Guill, with all in favor, the Board adjourned the meeting at 8:25 p.m. for Harbor Bay Community Development District.



Secretary/Assistant Secretary



Chairman/ Vice Chairman

Pete Williams

To: Pete Williams
Subject: FW: Harbor Bay CDD

-----Original Message-----

From: Keith W. Bricklemyer [mailto:keithb@bsbfirm.com]
Sent: Monday, November 22, 2010 11:25 AM
To: 'Mike Wiggins'
Cc: 'Scott Jones'; Jonathan Miller; Bill Rizzetta
Subject: RE: Harbor Bay CDD

I will present this to the board at the 12/2 meeting and get back to you. thanks.

Keith W. Bricklemyer
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-----Original Message-----

From: Mike Wiggins [mailto:mwiggins@crosland.com]
Sent: Friday, November 19, 2010 3:44 PM
To: Keith W. Bricklemyer
Cc: drbrittain@trenam.com; Adam Ford; Perry Reader
Subject: Harbor Bay CDD

Keith,

Thanks for discussing the above issue with me on 11/5 and please relay the following information to the Board.

The owner of Mira Bay Village is currently prepared to pay \$25,000 immediately and successive \$25,000 payments each 90 days thereafter until the debt is satisfied. We are sorry this issue has arisen and will seek earnestly to cure the deficiency.

One of the issues that effect us as owner of the property is that due to market conditions we cannot obtain new financing. Part of the problem is because Newland, as successor to Terrabrook, has never fulfilled their contract warranty to remove the commercial component from the CDD indebtedness. They were to have done so in a reasonable timeframe but certainly 5 years after closing (this December) is not reasonable and precludes any meaningful capital event on the property.

That is our ongoing issue with Newland and unfortunately, we must seek redress of the matter soon. It has impacted valuations of the property and the ability to sell or refinance.

Please give me a call to discuss or let me in know what form you think this letter should be delivered on December 2nd. Thank you and have a nice Thanksgiving holiday,