

**MINUTES OF MEETING  
MIROMAR LAKES  
COMMUNITY DEVELOPMENT DISTRICT**

The Regular Meeting of the Board of Supervisors of Miromar Lakes Community Development District was held on Thursday, February 14, 2019, at 2:00 p.m. at the Beach Clubhouse, located at 18061 Miromar Lakes Parkway, Miromar Lakes, Florida 33913.

**Present and constituting a quorum:**

|                    |                     |
|--------------------|---------------------|
| Dr. David Herring  | Chairman            |
| Mr. Doug Ballinger | Vice Chairman       |
| Mr. Alan Refkin    | Assistant Secretary |
| Mr. Michael Weber  | Assistant Secretary |
| Ms. Mary LeFevre   | Assistant Secretary |

**Also present were:**

|               |                   |
|---------------|-------------------|
| James P. Ward | District Manager  |
| Greg Urbancic | District Counsel  |
| Charlie Krebs | District Engineer |
| Bruce Bernard | Asset Manager     |

**Audience:**

|                |                                 |
|----------------|---------------------------------|
| Mr. Tim Byal   | Miromar Development Corporation |
| Mr. Jack Hewes | Resident                        |

All resident's names were not included with the minutes. If a resident did not identify themselves or the audio file did not pick up the name, the name was not recorded in these minutes.

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

District Manager James P. Ward called the meeting to order at approximately 2:00 p.m. and all Members of the Board were present at roll call.

Chairman Dr. David Herring asked Mr. Jack Hewes to discuss the facts of his case. Mr. Hewes stated he forwarded all pertinent information to the Board Members. He reported boat traffic created a big wake onto his property which eroded the rip rap and Hurricane Irma had exacerbated the erosion. He stated he contacted the CDD and was referred to Bruce Bernard, who he believed walked the property; Mr. Bernard confirmed there was damage; however, indicated the east side of the lake would be refurbished first, as the damage was worse there. He indicated he asked Mr. Bernard if he were to front the money to fix the rip rap would he be able to be reimbursed once the Budget was replenished at the next tax season. He stated he contacted Dragonfly who referred him to Aim Engineering for a survey, which he obtained and the rest of the information, including receipts, was submitted in the packet provided to the Board.

Chairman Dr. Herring stated the CDD had a prioritized list of properties to be refurbished; Mr. Hewes property was on the list. He noted if the CDD had the money it would have made the repairs after Irma. He stated the level of repair would have been similar to that completed on similar properties and he wondered to what level Mr. Hewes property was repaired. He stated he believed Mr. Hewes should be reimbursed for the level of repair which would have been done; however, this could not be done until the CDD was reimbursed by FEMA.

Mr. Michael Weber stated he understood Mr. Hewes's concerns; however, a policy was written which indicated the CDD would not reimburse residents who took it upon themselves to make repairs. He noted if the CDD were to consider reimbursing Mr. Hewes, the CDD would then be obligated to also reimburse all other residents who asked for reimbursement. He wondered what the cost would be if this was the case and where the money would come from. He stated he was concerned residents may have paid a higher rate for repairs than the CDD would have paid. He noted the CDD would receive better rates than individual homeowners due to bulk repairs.

Mr. Alan Refkin indicated when this policy was set it was published via the CDD website. He noted, as a homeowner, he himself encountered the same situation in Sienna. He stated he followed proper procedure and worked with Miramar to make the repairs, rather than making the repairs himself and submitting a bill, which certainly would have been quicker. He explained he contacted his HOA to determine the proper process. He agreed with Mr. Weber; if you reimbursed one resident it was only fair to reimburse all residents. He noted it was fiscally irresponsible to grant reimbursement if the CDD was required to pay a higher rate for repairs as a result. He noted proper procedure was published online and all residents should be required to follow procedure.

Discussion ensued regarding the repair list, homes with more damage having priority, was it reasonable to make those lower on the list wait, homeowners desiring to fix property sooner, the list of residents who completed repairs independently, rules, policy and procedures pertaining to repair of property, policy enabling residents to be treated fairly and equally without exception, changing policy retroactively, possible cost of reimbursements, not knowing how much FEMA might grant the CDD, FEMA money allocated for completion of needed repairs, FEMA money not allocated for reimbursement, FEMA money not being guaranteed, waiting to see what came in from FEMA prior to approving or denying current reimbursement requests, and still needing to make repairs if FEMA money was not granted.

Mr. Ward noted procedure could be changed and rules amended to allow residents to make repairs and be reimbursed if said residents followed a certain procedure going forward if the Board so desired.

A Board Member 17:28 stated the FEMA money had nothing to do with this issue; FEMA money would be used to complete restoration of hurricane damage. He indicated the issue was whether the CDD would enforce current policy or change policy to allow reimbursement. He noted if the CDD allowed reimbursement three things needed to be identified: the total cost, how soon the reimbursements needed to be paid, and would a special assessment be needed. He stated if policy were changed to allow reimbursement next year's assessment would inevitably be raised.

Discussion ensued regarding giving notice to all residents regarding the new reimbursement policy, the prioritized list of required repairs, possibly tabling this item, the difficulties with retroactively allowing reimbursement, the CDD refusing reimbursement of repairs which were not up to CDD Engineering

standards, not knowing which residents completed what repairs, the cost of sending notice through the mail, website postings and email blasts, and not having all resident's email addresses.

Mr. Jack Hewes stated he appreciated the time the CDD was investing in consideration of his issue. He asked, as a homeowner, where should he have gone to understand the procedural steps required to have his rip rap repaired. He suggested limiting the reimbursement population to residents who had already brought the issue before the CDD. He indicated his first step was to call the tax office which referred him to the Miramar CDD and Mr. Bruce Bernard. He stated Mr. Bernard told him there was a \$1.3 million dollar CDD budget, of which roughly \$400,000 dollars was dedicated towards shore repair; however, his property would not be repaired until after the east shore repairs were completed. He explained he believed it was a reasonable request to ask the CDD for reimbursement seeing as he had been informed there was a large budget for repairs.

Mr. Refkin stated Mr. Hewes should have asked if reimbursement were possible prior to making repairs on his own; he should have obtained permission. Mr. Hewes indicated he spoke with Bruce Bernard, Dragonfly, and Aim Engineering. He stated he followed a logical line of reasoning to get to this point. He noted there was no written policy that indicated he was incorrect. Mr. Refkin explained Mr. Hewes should have contacted the CDD to determine proper procedure; he should not have made the decision unilaterally to make repairs and bill the CDD. Mr. Hewes asked if Mr. Bernard was a representative of the Miromar Lakes CDD.

Mr. Ward reported he explained to Mr. Hewes, several months ago, that the CDD had a general policy which indicated it did not make reimbursements to individual homeowners. He stated Mr. Bernard absolutely understood this and would never imply otherwise. He indicated these were the facts and the question now was, what the Board would like to do going forward, and what the Board would like policy to be going forward.

Mr. Weber stated he felt the decision before the Board was whether to reimburse Mr. Hewes or not, keeping in mind if Mr. Hewes was reimbursed then all residents who made self repairs would need to be reimbursed. He stated he was torn.

Discussion ensued regarding the CDD not having any money to reimburse Mr. Hewes currently, and not knowing when funds would be available.

Mr. Ward stated he believed the Board needed to decide what it wished to do going forward and retroactively. He noted retroactively there was not a reasonable way for the CDD to ask the Community what repairs had been made in the past. He did not want to ask the Home Owner's Association to send out a blast email through the HOA regarding CDD related matters; this would cause difficulties. He explained the CDD did not have email addresses on file for all homeowners (for legal reasons); therefore, the only way to effectively communicate was through regular mail. He noted going forward it was a simple matter to amend policy rules. He explained amending policy rules retroactively, while possible, could have unknown negative repercussions, as it was impossible to know what repairs had been completed to what standards.

Mr. Weber suggested presenting this Item before the Miramar Master Association. He explained if presented at the Miramar Master Association, the information would be included in the minutes, which would be distributed to the homeowners throughout Miramar Lakes. He indicated a deadline for

submission of documentation for repairs performed during a certain time period could be established; any late submissions or any repairs performed outside of the time period could be null.

Mr. Bernard explained the CDD needed to be careful with the expenditure of public funds; the CDD would be required to verify what improvements were made to public infrastructure on a case by case basis, which would be difficult. He recommended requesting the information without necessarily promising to reimburse homeowners. He noted it would be good to have the information regardless, and the CDD might discover it would be easy and affordable to reimburse homeowners, or it might not.

Mr. Tim Byal stated these improvements were not on CDD property. He explained due to South Florida Water Management requirements the CDD began making improvements on private property. He noted while there was an easement for maintenance, it was not true CDD property. He indicated it would prove a slippery slope if the CDD began making improvements on private property.

Discussion ensued regarding making improvements/repairs on private property and the CDD wanting to be proactive in making repairs following the Hurricane.

Mr. Refkin explained there were some instances in which the CDD was unable to fix CDD problems and property without also fixing private property, as the two properties were attached. He gave examples of this type of situation.

Discussion ensued regarding the South Florida Water Management District indicating the CDD was responsible for certain repairs whether on CDD property or private property.

Mr. Byal lauded the CDD for being proactive in Hurricane damage repair; however, worried about repairing property it did not specifically own. Mr. Ward indicated in his years of experience this had never proved problematic; repairs to the water management system were necessary.

Mr. Ward stated he understood some of the Board wished the CDD to contain the retroactive issue. He stated he would need a month or two to think of a solution. He noted going forward he would have a policy written which would clearly indicate the CDD was not responsible for any repairs made by private landowners. He stated if the Board wished, a policy could be written which indicated the CDD would reimburse residents for repairs and established proper procedure.

David Herring asked if Mr. Ward had encountered a similar situation in his years' experience. Mr. Ward responded he had encountered a situation in which a District needed to repair hurricane damage; however, the District involved had sufficient reserves to cover repair costs. He stated he had never encountered a situation in which a CDD agreed to pay retroactively or actively for repairs made by private homeowners. He explained he did not approve of paying citizens for retroactive repairs, as it demonstrated poor use of public funds.

Mr. Bernard stated he believed the residents were unsure of how to communicate with the CDD, which was a problem. He stated he felt if Mr. Jack Hewes had been better able to contact the Board this entire situation may have been avoided. Mr. Ward stated Mr. Weber was helpful in this regard. Mr. Bernard asked Mr. Hewes if he had an HOA for his neighborhood. Mr. Hewes responded his neighborhood belonged to the Master Association. Mr. Ward stated he was willing to go before the various HOA's and voter rep meetings to explain who the CDD was, what the CDD did, and how to contact the CDD. He

explained sending out letters to individual homeowners was a fruitless endeavor. He stated if the Master Association wished it could post information regarding how to contact the CDD.

Mr. Hewes recommended the CDD only retroactively allow reimbursement to residents who had already made reimbursement requests. Mr. Ward stated the reimbursement requests received in the past were individual instances not related to Hurricane damage; therefore, in order to approve retroactive reimbursement for Mr. Hewes, the CDD would be required to contact the entire Community. Mr. Hewes stated even without the Hurricane, boat traffic caused significant erosion to the lake shore.

Mr. Ward stated he would attempt to determine a solution for the retroactive issue. He asked if the Board wished to create a policy which provided for reimbursement. Mr. Bernard stated he felt a policy which dealt with requests for reimbursement was necessary. Mr. Ward concurred.

Chairman Dr. Herring stated, as unfortunately Mr. Burnett Donoho was no longer with the Board he wished to ask Ms. Mary LeFevre to be instated to the Board. Mr. Ward noted he would make a record of Mr. Donoho resigning from the Board as of January 29, 2019. He stated the Board had the right to appoint an individual, by motion, to fill the unexpired term, which expired November 2020.

**On MOTION made by Dr. David Herring, seconded by Mr. Michael Weber, and with all in favor, Ms. Mary LeFevre was elected to fill the unexpired term vacated by Mr. Burnett Donoho to expire November 2020.**

Mr. Ward, as a Notary Public of the State of Florida, administered the Oath of Office to Ms. Mary LeFevre. Following Administration of the Oath, Mr. Ward asked Ms. LeFevre to sign a copy of the Oath and return the signed copy to him for notarization. Mr. Ward reviewed the Form 1 Statement of Financial Interest and explained Ms. LeFevre was required to submit Form 1 to the Supervisor of Elections in Lee County within 30 days of today's date lest she be penalized up to \$50 per day. He briefly reviewed the Sunshine Amendment, Code of Ethics, Membership Obligations and Responsibilities. He reported the Sunshine Amendment essentially stated no two public officials may do business outside of an open noticed public meeting, nor use staff or a member of the public to conduct business which may appear before the Board of Supervisors. He stated if there were any questions related to a matter which might be taken up at a future meeting, the best course of action was to call Mr. Ward or Mr. Urbancic, or hold said questions until a Board of Supervisors Meeting for discussion. He indicated a violation of the Sunshine Amendment/Code of Ethics was considered an ethics violation, and as such, the Directors and Officers Liability Insurance would not cover the violator for acts committed outside of a Board Member's scope and authority. He noted he had never known a Board Member to be charged with an ethics violation. He indicated a good rule of thumb was never to talk with other Board Members about District business outside of Board Meetings. He directed Ms. LeFevre to read through the information provided. He informed Ms. LeFevre she was required to vote on every matter before the Board, abstinence from a vote was not permitted.

## **SECOND ORDER OF BUSINESS**

### **Consideration of Minutes**

Mr. Ward stated the second order of business was consideration the January 10, 2019 Regular Meeting Minutes. He asked if there were any additions, corrections or deletions for the Minutes.

Chairman Dr. Herring stated he was present physically at the January 10, 2019 Meeting.

Doug Ballinger stated on page 3, the paragraph which discussed the issue with Mr. Hewes needed to be reworded as it would be difficult for outsiders to understand. Mr. Ward stated he would rewrite the paragraph and correct the spelling of Mr. Hewes's name.

There were no other additions, corrections or deletions for the January 10, 2019 Minutes.

**On MOTION made by Mr. Alan Refkin, seconded by Mr. Doug Ballinger, and with all in favor, the January 10, 2019 Meeting Minutes were approved.**

### **THIRD ORDER OF BUSINESS**

#### **Consideration of Agreement**

#### **Consideration of the Uniform Collection Interlocal Agreement with Lee County Property Appraiser.**

Mr. Ward explained, in Florida, Districts were required to follow Statute Chapter 197 procedure in order to include assessments on the annually issued property tax bills. He noted Statute Chapter 197 procedure included proper notice to the Public, a Public Hearing during which it was explained the District was using the Property Appraiser and Tax Collector to include the special assessments on the annual tax bills, a vote to approve this method of billing, following which the Property Appraiser and Tax Collector would offer an Agreement with the District in this regard. He noted the Property Appraiser and Tax Collector wished to update the Agreement; however, the Agreement remained consistent with the Statute and with the current District assessment process.

**On MOTION made by Mr. Michael Weber, seconded by Mr. Doug Ballinger, and with all in favor, the Uniform Collection Interlocal Agreement with Lee County Property Appraiser was approved.**

### **FOURTH ORDER OF BUSINESS**

#### **Consideration of Agreement**

#### **Consideration of the agreement amending Assessment Roll Services with AJC Associates.**

Mr. Ward explained this Item was an amendment to the agreement with AJC Associates. He reported in 2005 the Board entered into an agreement with Ms. Alice Carlson's firm to oversee the Assessment Rolls. He noted the Agreement was old and was not in conformance with current law. He stated Mr. Urbancic prepared an Amendment to the Services Agreement which brought the Agreement up to date and ensured the Agreement conformed to current law. He noted Ms. Carlson had signed the Agreement Amendment.

**On MOTION made by Ms. Mary LeFevre, seconded by Mr. Michael Weber, and with all in favor, the Agreement amending the Assessment Roll Services with AJC Associates was approved.**

**FIFTH ORDER OF BUSINESS**

**Staff Reports**

**a) Attorney**

District Attorney Greg Urbancic stated he prepared a package concerning Stormwater Transfer Documents and received comments from Miromar. He stated he would review the comments and make a presentation in this regard at the next meeting.

**b) Engineer**

Mr. Charlie Krebs stated he had no Report.

**c) Asset Manager**

Asset Manager Bruce Bernard reported capital improvements would begin at the end of February and hopefully would be completed by May.

**d) Manager**

Mr. Ward reported Budgets would begin in the next couple of months and would most likely be presented for discussion at the meeting in May

**FOURTH ORDER OF BUSINESS**

**Supervisor's Requests and Audience Comments**

There were no Supervisor's Requests and Audience Comments.

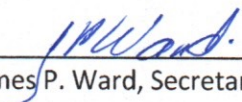
**FIFTH ORDER OF BUSINESS**


**Adjournment**

Mr. Ward adjourned the meeting at 3:09 p.m.

**On MOTION made by Mr. Alan Refkin, seconded by Mr. Doug Ballinger, and with all in favor, the meeting was adjourned.**

Miromar Lakes Community Development District

  
James P. Ward, Secretary

  
David Herring, Chairman

**OATH OR AFFIRMATION OF OFFICE**

I, Mary LeFevre, a citizen of the State of Florida and of the United States of America, and being an officer of the **Miromar Lakes Community Development District** and a recipient of public funds as such officer, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida, and will faithfully, honestly and impartially discharge the duties devolving upon me as a member of the Board of Supervisors of the **Miromar Lakes Community Development District**, Lee County, Florida.

Mary LeFevre  
Signature

Printed Name: MARY M LEFEVRE

STATE OF FLORIDA

COUNTY OF LEE

Sworn to (or affirmed) before me this 17 day of FEBRUARY, 2019, by MARY LeFevre, whose signature appears hereinabove, who is personally known to me or who produced \_\_\_\_\_ as identification.

James P. Ward  
NOTARY PUBLIC  
STATE OF FLORIDA

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

