

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

The Regular Meeting of the Miromar Lakes Community Development District's Board of Supervisors was held on Friday, April 27, 2018, at 12:00 p.m. at the Beach Clubhouse, 18061 Miromar Lakes Parkway, Miromar Lakes, Florida 33913.

Board members present and constituting a quorum:

Dr. David Herring	Chairman
Mr. Doug Ballinger	Vice Chairman
Mr. Alan Refkin	Assistant Secretary
Mr. Michael Weber	Assistant Secretary
Mr. Burnett Donoho	Assistant Secretary

Staff present:

James Ward	District Manager
Greg Urbancic (via phone)	District Counsel
Paul Cusmano	Calvin Giordano & Associates
Bruce Bernard	Calvin Giordano & Associates
Charlie Krebs	District Engineer

Audience:

Tim Byal	Miromar Development Corporation
Mike Rizzo	Resident

1. Call to Order & Roll Call

Mr. Ward called the meeting to order at 12:00 p.m. A roll call determined all members of the Board were present.

2. Consideration of Minutes

a) March 08, 2018 Regular Meeting Minutes

Mr. Ward stated the minutes had been distributed previously and asked if there were any deletions, corrections or additions to the minutes.

Mr. Ballinger asked for clarification of the amount of submitted bills of \$450, 000. Mr. Bernard responded this was correct. Mr. Ballinger asked Mr. Bernard about the statement on Page 6 which said, "...the weir needed to be

lowered.” Mr. Bernard responded the only way to lower the lake was to lower the weir. It was suggested this be reworded to say lower the lake level.

Mr. Ward called for a motion.

Motion was made by Mr. Refkin and seconded by Mr. Donoho to approve the minutes of the March 08, 2018, meeting with the correction noted above, and with all in favor, the motion was approved.

3. Consideration of Resolution 2018-4 Approving the Fiscal Year 2019 Budget and Setting the Date, Time, and Location for the Public Hearing for the Adoption of the Budget for Thursday, August 9, 2018, at 2:00 p.m. at the Beach Clubhouse, 18061 Miromar Lakes Parkway, Miromar Lakes, Florida 33913.

Mr. Ward said he would briefly go through the budget as it was similar to what had been seen in the past. He explained he would highlight the changes which had been made. Mr. Ward indicated as far as timing was concerned because of the assessment rate which was proposed, the maximum rate allowed to be levied before individual notices to all residents needed to be sent, or the cap rate, had been exceeded. He said the public hearing, pursuant to the resolution, had been scheduled for August 9, 2018, and by the 1st of July, he would send out the mailed notices. He pointed out this meant there would be three meetings prior to the mailing, so the budget must be ready by then.

Mr. Ward began with Page 3, Assessment Comparison, where he stated the rate was basically the same, \$730.70 per unit, which included capital expenditures for improvements. He said there had been savings in the landscape contract and the lake maintenance contract.

Mr. Ward called the Board’s attention to the Reserves for the General Fund and said at the end of the Fiscal Year, the Cash Balance was expected to drop to \$330,000 which was about \$200,000 less than it needed to be in order to fund the first three months of operations for next year. He explained he had added a \$200,000 operating reserve which would bring up the estimated cash balance to roughly \$530,000. He reminded the Board the reason the funding had gone down was due to Hurricane Irma.

Mr. Ward stated he had included a Disaster Relief Reserve funded at \$1 million, which would be an amount of money set aside to use for capital improvements or future disaster relief, whatever it was needed for. He said this amount would probably need to increase over time. With those two additions, the portion of the assessment related was \$652 per unit per year. The total assessment going into Fiscal Year 2019 for operations and to establish the two reserves would be \$1383.25 per unit on the tax bills for next year.

Dr. Herring asked if the figures included \$51,000 for the MSBU payment which had been made and would not have to be made in the future. Mr. Ward responded affirmatively, but only if the CDD was able to get out of the MSBU agreement; and if it happened before the Public Hearing, that figure could be reduced.

Mr. Weber asked if the District were to receive \$225,000 or more from FEMA, when that would occur. Mr. Bernard responded FEMA had indicated July or August to get notification, and then FEMA would pay the State, and the State would pay Miromar Lakes. Mr. Weber said he was pointing out that the additional \$200,000 would be compensated for by the check from FEMA.

Mr. Ward stated if the money from FEMA was not in hand before the Public Hearing, he would not recommend removing it from the budget.

Dr. Herring asked if the FEMA money would go into reserves, and Mr. Ward responded affirmatively. Dr. Herring concluded next year the assessment would be lower. Mr. Ward said the Board could lower the assessment or it could be added to the Disaster Relief Reserve; the Board could decide.

Mr. Ward was asked if this proposed the District would achieve the \$1 million reserve in one year, and he responded affirmatively.

It was then asked if there was a regulatory reason to fund the entire reserve in one year back to what it should be, or could it be done in two or three years. Mr. Ward responded there was no reserve. It was pointed out the District had functioned through the storm and succeeded. Mr. Ward responded they had, but barely. It was pointed out the Homeowners' Association collected a small amount each year, so no one bore the burden of a huge reserve, but it accumulated over a number of years.

Mr. Refkin asked Mr. Byal what percentage of all property did Miromar own, and he responded 20%. Mr. Refkin stated then 20% of this assessment would fall on Miromar.

Mr. Byal said in general he didn't know how equitable establishing this reserve in one year would be.

Mr. Ward responded he had not said it was a one year assessment but this would be a good start towards the necessary funds. He also said he thought a \$1 million reserve was relatively low. When asked what the reserve had been historically, Mr. Ward responded there had not been one. It was pointed out there had always been excess cash.

Mr. Ballinger stated he felt the proposed amount was reasonable, a reserve was necessary.

Mr. Refkin stated a good example of why a reserve needed to be maintained was the recent lawsuit. He said \$1 million was low compared to some other CDDs.

Mr. Ballinger reminded the Board of the “scramble” for money which had occurred because of the Center Place lawsuit. He said if this was a time when this could be done and be most understood, it should be done.

Mr. Byal asked if it would be \$1 million every year, and Mr. Ward responded he only proposed it for one year and it should be evaluated yearly.

Mr. Byal responded he did not disagree with the amount; he thought it should be accumulated over time.

A discussion of this item ensued. The amount to have in reserve, whether or not to have a reserve, and what would happen if there was no reserve were all topics discussed. Mr. Ward pointed out there were no laws governing reserve funds, and it was up to the CDD to decide how to handle this. Mr. Ward said the CDD, as a governmental agency, needed to preserve the health, safety and welfare of the community. This could not be done without money.

Dr. Herring commented he remembered at one time the CDD had accumulated a great deal of money and had not been receiving interest on it, and Mr. Ward responded this was before he was District Manager, but he had invested that money for the two series of bond funds, and it had begun receiving \$80,000 a year interest. He said that investment had come due, the rates had changed, and so they were no longer in that position. He said the District had received the \$80,000 of interest per year for the last five years.

Mr. Ward said there was only one question on the table which was what amount the Board wanted the reserve to be.

Mr. Refkin said ultimately a target was needed as to what the reserve should be, and Mr. Ward should be relied on to advise them. He said it was the Board’s responsibility to use their best judgment to determine the amount and the course of time for implementation. He said given the path they had been on, using a half million dollars at a crack, he didn’t want the Board to be in a position of not having the necessary funds. He added the Board historically had frugally handled the money of the residents.

Dr. Herring suggested this needed be explained to the residents.

Mr. Weber said as Mr. Ward handled a number of similar communities, he had access to the reserves of other communities. He asked what the range of percentages was for other communities, which would give the Board a basis for developing a target.

Mr. Ward said reserves were mostly thought about in terms of catastrophes like storms, and most of the districts he had dealt with in the past 40 years, the usual range was from \$2.5 to \$3.5 million.

Mr. Ballinger pointed out many storm related items had jumped over into this budget. He said it should not be that way.

Mr. Ward said this community was transitioning from a Developer who had taken on significant responsibility and paid for a significant part of the improvements on behalf of the CDD. He reported this was changing, which was understandable and happened in all districts he had managed. He explained the District and the HOA had to take on some of the additional responsibilities. He said the District had taken a step in that direction with the addition of a long term capital program, roughly in the amount of \$400,000 per year, to begin to restore some of the assets which had not been touched in 15 years. This was a good program. He emphasized during that time, there had been two major storm events and one major law suit, and now it was time to leave that \$400,000 in place and establish a reasonable reserve to deal with these "unforeseen" events. He stated he already knew he would not have the money to pay the bills in December. He said the figure could be whatever the Board decided, but it needed to be the beginning of a reasonable reserve. He added he did not think a million dollars was an unreasonable figure.

Mr. Bernard commented over \$100,000 had to be taken out of the operating budget for hurricane cleanup.

Mr. Refkin said if there had been a reasonable reserve, the CDD would not be put in this position.

It was stated if the necessary reserve was \$2 million, half of it would be funded in one year.

Mr. Bernard stated there was about \$5 million in assets, with landscaping being the biggest figure. Mr. Ward was asked if there was any insurance for this. He responded landscaping could not be insured unless it was attached to a building.

Mr. Ward stated reducing the \$1 million dollar figure would be fine.

It was suggested there be a basis for the figure, which could then be shared with residents and possibly Mr. Bernard's calculation could be used.

Mr. Refkin asked Mr. Ward to make a recommendation for what the reserve should be and how the figure was arrived at and the rationale behind it. Mr. Ward responded affirmatively.

Mr. Ballinger asked when this had to be decided and voted upon by the Board. Mr. Ward responded by the June meeting. He said the Public Hearing could be postponed until September, which would give an extra 30 days, which he would recommend.

The Board agreed to postpone the Public Hearing.

Mr. Ward said the reserve was the only big issue in the budget and everything else was the same as in prior years.

It was asked if the line items in the budget were adequate to handle the growth in responsibilities as more communities were built; for example, the Bellini shoreline, riprap,

Ana Capri. Could this be maintained at the same cost structure which had been in place before?

Mr. Bernard responded this new responsibility was in the budget, and it had not changed because he had rebid the maintenance.

Mr. Byal commented fixing riprap should be the homeowner's responsibility. He said the fact that the CDD had fixed riprap could be attributed as an Irma-related activity, and how things would be handled in the future was a Board decision.

Mr. Refkin stated the Board had said things would be standardized, and once it was standardized, the Board would step back.

Dr. Herring asked Mr. Byal what his expectations were for future responsibilities in the new sections.

Mr. Byal responded it would be the landscaping and maintenance of the berm along east side of the road.

Dr. Herring asked when this would be completed.

Mr. Refkin reminded the Board it was up to them to accept this new responsibility and when to do so.

Mr. Ward pointed out there were a reducing number of units coming into this community over the next few years, which translated at the current rate to \$1300 per unit times the number of units it reduced by. He said this was a pretty significant reduction and would be the biggest cost increase. The addition of the new properties could be estimated over time.

Mr. Refkin said the new berm alone would cost the residents \$80,000 a year. He said his point was the Board would have to account for it in this fiscal year if it was to be taken over in this year.

Mr. Ward commented there was pressure on the assessment rate, and it was not going to get better until the developer got the number of units down to whatever it should be. He said the developer was paying an amount as though there was maintenance being required, and this was a problem for Mr. Byal. He was sympathetic to this situation; however, his original thought process was as the CDD began to not need the reserve, that differential would be needed to deal with the increasing assessment as a result of more property coming in for maintenance and less units coming out of the mix. He said he did not think the \$1300 would go down a great deal over time. He said his thinking was in getting the reserve raised sooner gave a cushion to not have to raise rates dramatically as the number of units went down and more responsibility was taken on.

Motion was made by Mr. Refkin and seconded by Mr. Ballinger to adopt Resolution 2018-4 subject to changing the date of the Public Hearing to September 13, 2018, at 2:00 p.m., and with all in favor, the motion was approved.

4. Staff Reports

- a) District Attorney – No report.
- b) District Engineer

Mr. Krebs reported he had reviewed old requisitions to determine who owned and maintained drainage. He referred to a set of plans for Mediterranean Village Phase 1 and 2, which included Miromar Lakes Parkway out to the intersection for Isola Bella and south to the island. He went through the information the developer provided, and everything that was paid for by the CDD, excluding any of the potable water, sanitary sewer, because that had been transferred to Lee County Utilities. He said he had highlighted everything which could be quantified in the bill of sale, and between now and the next meeting, he would create a list, so Mr. Bernard and Mr. Cusmano would know exactly what had been paid for. He said there was an issue with the previous engineer's work as there was no back up information, but he would assume the same things had been paid for. He said the exceptions were Rovenna, Bella Vista, Tivoli, St. Moritz, Porto Romano, and San Marino were developed by someone else. For Porto Romano, all he had received was a bill of sale for the lakes; nothing for roadway drainage. Rovenna and Bellini were the same; nothing had been transferred to them. He said he would continue to go through and assess what had been turned over, what had not, and where it was located for the next Board meeting.

It was commented there were very few HOAs which had a grasp on what their responsibilities were. He said knowing this was essential, so the CDD's and the HOA's responsibilities could be determined.

Mr. Byal stated originally this was to be general education because a substantial amount was included in the bond offering, but the concept was the District was responsible for the surface water management system, which was his understanding of what the Board was created for. If this could not be controlled, then how could it be managed? He said he understood the engineering process, but why waste time if at the end, they would know what the CDD's responsibility was. He said either the whole system was managed or it was not.

Mr. Refkin asked who set that rule; Miromar Development and Mr. Byal saying the District should be managing all or none?

Mr. Byal responded if this was done piecemeal, and in a real life situation like Sienna where residents chose not to maintain the internal system, the only difference was the pipes under the ground in the road. If this was left to the neighborhoods, generally this would not be maintained; and so when the system failed, who would be responsible. The residents would be saying they thought it was the District's responsibility to make sure the system functioned properly and the houses did not flood and drained properly. He said he did not believe the District could manage whether a house flooded if it had not maintained it all.

Mr. Refkin brought up the issues in Siena and said the reason Siena had poor drainage was because when it was built, it drained back to the pond and not out to the street like Verona Lago, which had great drainage.

Mr. Byal said the CDD should not have touched that issue.

Mr. Refkin said it had been done for the benefit of the residents, and once it was completed, it would be given back to the residents to be maintained. He said the CDD had extended its arms beyond its obligations to many communities in order to standardize areas in Miromar.

Mr. Krebs said the reason for his research was so the CDD could see what it owned and needed to maintain, and if there were areas which needed to be transferred to the CDD and the Board wanted to accept them, they could be. He said his understanding was the CDD could not spend money on things they did not own.

Mr. Byal pointed out the District had the authority to function in a public utility easement. Mr. Krebs responded in his understanding if it was not in a bill of sale to the CDD, ownership was not theirs.

Mr. Byal said if a pipe in a public easement needed to be repaired, it was available to whoever needed to do so, and it was not a question of ownership.

Mr. Krebs said it was according to his understanding of Mr. Ward's instructions.

Mr. Ward responded this would have to be clarified.

Dr. Herring and Mr. Ward agreed the CDD either maintain the whole system or they do not. It was also brought up that whatever was decided in this issue, the neighborhoods needed to be informed.

c) Asset Manager

Mr. Bernard reported hurricane cleanup and repair of bank erosion was completed with the money the CDD had. He said a contractor had begun to clean the basins which the CDD was sure it owned. He said all the basins had been checked, and he knew what needed to be cleaned.

Mr. Refkin asked how Brightview was doing.

Mr. Bernard responded Brightview was doing better and had addressed issues which they had been asked to address. He said the median looked improved.

d) District Manager - No report.

5. Supervisor's Requests and Audience Comment

Mr. Ward called for comments from the Board or the audience.

Dr. Herring reported he and Mr. Byal had a meeting with Mr. Pendergrass about the taxes on the median. He said Mr. Byal was a great resource and representative of this community. Dr. Herring stated Mr. Byal had a good relationship with Mr. Pendergrass, and so a positive effect should be seen. He said Mr. Pendergrass agreed to bring up the issue with his staff, which he had done, and the end result was they were in favor of disbanding that unit as long as the CDD agreed to take over maintenance of the median. He added there were some potential paybacks for money the CDD had spent, but he was not hopeful for this.

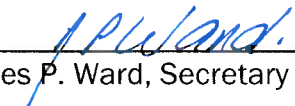
6. Adjournment

Mr. Ward asked for a motion to adjourn.

Motion was made by Mr. Ballinger and seconded by Mr. Refkin to adjourn the meeting, and with all in favor, the motion was approved.

The meeting was adjourned about 3:24 p.m.

Miromar Lakes Community Development District


James P. Ward, Secretary


Dr. David Herring, Chairman