

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

The Regular Meeting of the Miromar Lakes Community Development District's Board of Supervisors was held on Thursday, February 9, 2017, at 2:00 p.m. at the Beach Clubhouse, 18061 Miromar Lakes Parkway, Miromar Lakes, Florida 33913.

**Board members present and constituting a quorum were:**

David Herring	Vice Chairman
Doug Ballinger	Assistant Secretary
Burnett Donoho	Assistant Secretary
Alan Refkin	Assistant Secretary

**Board members absent:**

Michael Hendershot	Chairman
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**Staff present:**

James Ward	District Manager
Greg Urbancic	District Counsel
Paul Cusmano	Calvin Giordano & Assoc.
Bruce Bernard	Calvin Giordano & Assoc.
Charlie Krebs	District Engineer
Elden McDirmit (via telephone)	McDirmitt Davis & Co.

**1. Call to Order & Roll Call**

Mr. Ward called the meeting to order at 2:00 p.m. A roll call determined that all members of the Board were present with the exception of the Chairperson, Mr. Hendershot.

**2. Consideration of Minutes**

a) December 8, 2016 Regular Meeting

Mr. Ward asked for any corrections or deletions to the minutes for this meeting, and reaffirmed that the audio file for these minutes was corrupted; therefore, these minutes were somewhat abbreviated.

**Motion was made by Dr. Herring and seconded by Mr. Refkin to approve the Minutes as described above, and with all in favor the motion was approved.**

**3. Consideration of acceptance of the Audited Financial Statements for the Fiscal Year ended September 30, 2016**

Mr. Ward said on the phone was Mr. Elden McDimit, a partner with the firm of McDimit Davis, who was responsible for the preparation of the Audited Financial Statements. He told the Board that Mr. McDimit would explain the audit to them, answer any questions they may have, and then they would accept it for purposes of inclusion in the record. He informed the Board that this statement had already been filed as a matter of law with the appropriate state regulatory agencies.

Mr. McDimit stated the District received an unmodified report, which was the best or cleanest opinion that could be scored. Beginning with Page 10 on the Statement of Revenue and Expenses, he highlighted the excess revenue over expenses of \$295,000, leaving a fund balance of about \$463,000, which was a very healthy fund balance. The debt service fund had excess expenditures over revenue of about \$192,000. The assessments were more than the debt service for that year, but it left \$2.3 million in the fund balance which again was healthy. On Page 12, the Budget, the expenditures did not exceed any appropriations, so they were in compliance. On Page 27, there began other audit reports that stated there were no material weaknesses, and the District was in compliance. He said there was a separate letter stating that there were no significant difficulties with the audit, no disagreement with management as regards the audit, and all proposed journal entries were posted and agreed to by management. He called for questions.

Mr. Ward commented that the fund balance they had moved in to the current fiscal year within their general fund put their cash balances up into the \$400,000 level; obviously, that was due to being able to enter into the settlement agreement with Alico.

**Motion was made by Mr. Donoho and seconded by Mr. Ballinger to accept the Audited Financial Statements as described above, and with all in favor the motion was approved.**

**4. Consideration of Resolution 2017-1 which replaces the Registered Agent and Registered office with the District Manager and the office of the District Manager**

Mr. Ward stated this resolution essentially updated the registered agent, registered office and office of record for the District. He said this was a particularly old statute that essentially was from the “olden” days before computers that required the establishment of these three different offices, which the state used to mail administrative notices. He added to streamline the process, the resolution changed the agent and office over to him and his office, and the office of record to Mr. Krebs office in Ft. Myers.

Mr. Ward said if there were no questions, a motion to adopt the resolution was in order.

**Motion was made by Mr. Refkin and seconded by Mr. Donoho to adopt Resolution 2017-1, as described above, and with all in favor the motion was approved.**

5. Consideration of Resolution 2017-2 Amending the General Fund Budget for Fiscal Year 2017

Mr. Ward stated this resolution amended the 2017 budget. He explained that over the past few months they had talked about making some changes, and in the original adopted budget, the manager was authorized to make changes up to and including \$10,000 but not over. Mr. Ward said they are making changes over that amount, he wanted to put on record a change in the adopted resolution, which then flows directly into the Audit for 2017.

Motion was made by Mr. Ballinger and seconded by Dr. Herring to adopt Resolution 2017-2 as described above, and with all in favor the motion was approved.

4. Staff Reports

a) District Attorney

Mr. Urbancic addressed the issue of the University Overlay Landscape MSTBU. He directed the Board's attention to a memo included in their agenda packets that described the history of the issue. He said they could see from the exhibits how much they paid on an annual basis into the District. There was also a landscaping agreement in effect since 2008. He said the Village had consented to continuation through December 31, 2017. He directed the Board to a map that was included which showed how the responsibility was divided with the county. The Board needed to consider what was to be done to possibly have this agreement dissolved or maybe propose a different solution.

Mr. Urbancic said he had prepared a draft resolution to consider, if desired, to deliver to Lee County and ask them to dissolve the agreement. He stated he had no idea what their response would be or if additional support would be needed from surrounding property owners to generate some movement. He said he had spoken to the assistant County Attorney, and he had asked the CDD to make their position known. Mr. Urbancic felt that this was the time to resolve this issue.

Mr. Krebs explained the map of the overlay. Mr. Ward added that in the current year they were paying \$52,000 out of a \$220,000 total budget for the MSTBU, and that included a credit they were supposedly getting as being part of the Overlay District. However, he added the District was maintaining the entire portion of Ben Hill Griffin at their own expense, and he did not see much benefit from being part of the Overlay District. Mr. Ward said it was important to remember they start their budget process in another month or two as does the County and the Village of Estero.

Mr. Ward stated that the resolution that Mr. Urbancic prepared indicated that the Board would like the County Commission to consider dissolving the MSTBU in its entirety. He said the MSTBU did not have a function, an advisory board, and the CDD had no clue how the funds were expended, which was \$50,000 in their

budget. Mr. Ward said this money would be a help going into the future in terms of any capital outlays that were necessary, and it codified the fact that they would keep in place the agreement that the CDD had with the County to maintain a portion of the road right of way. He said this resolution would get the County to maybe take some action before the 2018 Budget.

A Board member asked for clarification about the history that led to Miromar Lakes maintaining the center median. The response was that the CDD wanted it to be maintained at a higher level than it was being maintained, and the County said the CDD could maintain it however they wished, as long as they maintained it. It was added that in addition to that, they now charged the CDD \$50,000.

Mr. Krebs added that when Florida Gulf Coast University started, they didn't have sufficient funding for improvements, and so MSTBU was created to provide funding for the infrastructure. He stated MSTBU had long lived out its intended use as a means to provide capital funding for these road improvements. Mr. Krebs said they have been thinking about how to end this agreement for some time, and he applauded Mr. Urbancic's efforts. He said now was an appropriate time as Estero was going to cut off their piece of it.

Mr. Ward clarified the CDD basically paid 25% of the MSTBU budget, plus they maintained part of the area. He said he agreed that the MSTBU had clearly outlived its useful life. He added the key was that since they are one of the largest taxpayers within the MSTBU, they would be telling the County and the Village they wanted to dissolve MSTBU, but continue to maintain the area they have been maintaining. He said that would drop \$50,000 to their bottom line.

A discussion took place about how the money was being spent and who was spending the money. It was decided that extracting Miromar Lakes from that process that they did not control or understand would be a prudent move.

Mr. Ward said if there were no more questions, staff was recommending consideration of a resolution to transmit to the County to dissolve the District but continue with the agreement as it relates to the maintenance of the portion of Ben Hill Griffin that was currently in place.

**Motion was made by Dr. Herring and seconded by Mr. Ballinger to move forward with the MSTBU resolution described above, and with all in favor the motion was approved.**

- b) Engineer – No further report given.
- c) Asset Manager

Mr. Bernard reported that they have resubmitted a Rip Rap permit to the County. After the permit was issued, they would get the approval of Miromar and then the Rip Rap could be installed in Verona Lago.

Mr. Bernard reported that the new landscape company was working out well. He introduced Mike Connor from Calvin Giordano who was a Landscape Architect and would be giving a report to the landscape company of things that needed attention.

Mr. Ward asked Mr. Bernard to update the Board on the transition from the old landscape company to the new. Mr. Bernard stated that the transition was smooth; Estate Landscapers had done the things they were asked to do; and the new company has been responsive. He said when they find issues, they bring them to management.

MRI has completed the third phase of the drainage. He said next fiscal year they will start again with getting a total inventory and a report of how to phase in the next three years.

Mr. Bernard added that they had a meeting today with two homeowners' groups, Verona Lago and Sienna, to go over the erosion restoration, and when they heard the price, they were cheerful and eager to get it done.

d) Manager

Mr. Ward provided:

- I. Financial Statements for the period ending September 30, 2016 (Final with audit adjustments)
- II. Financial Statements for the period ending December 31, 2016

**5. Supervisor's Requests and Audience Comment**

Mr. Ward said a request had been made for an item to be placed on the agenda to give Miromar Development Corporation an opportunity to update the Board on construction.

It was reported that the area north of the construction access road was no longer overgrown. He said that near this area a road would be built that would end at a signal light at Gulf Coast Town Center. He said there would be a secured gate there. In addition, he said there would be two new neighborhoods developed in that area, which would be single family homes, 100% waterfront. He said they would be dedicating everything that was not in a neighborhood to the master association and doing this meant that it would not require Board signatures. He said they would finish all the development, and when it was done, they would carve out the water management, the berm, etc., and make bulk contributions to the District, should the District wish to accept them. He felt this would smooth the whole process.

One Board member commented on the noise for the homes near Ben Hill Griffin, and the response was there would be a berm constructed and current windows were more soundproof than older ones.

A question was asked of Mr. Krebs concerning how the canals affected the water table and the big lake. The response was that it would not affect it at all, and actually it was a benefit to the overall system because water storage area was increased. Mr. Krebs was the engineer for this project, and he stated the lakes were constructed with a plug in place, which allows settling, and after construction, this would be removed.

Mr. Krebs added that in the second phase the boatyard would have to be removed temporarily.

A discussion ensued about a part of the property that would be maintained by the County, how it might be an eyesore and what it might do to property values. It was decided that could be part of future plans.

The representative from Miromar Development reported that originally in Positano there were plans to build two midrise buildings, but this has been changed to build eight single family homes, which he felt would be a better solution for the community in terms of exposure and impact. He said they were in the approval process for this construction which would be called Sardinia.

He said they have a golf course renovation in their plans, which would begin in mid-April and should be completed by December. He stated this was being done with the intent to reduce the amount of unplayable turf. He said they have hired Drew Rogers as the new architect as he had a good reputation with other golf courses in the area.

He said another project they were working on was a southern access road to FGCU and university housing.

An audience member asked if the erosion restoration project included Tenway (?) and the response was affirmative.

## **6. Adjournment**

With no further comments or questions from the Board, Mr. Ward asked for a motion to adjourn.

**Motion was made by Mr. Herring and seconded by Mr. Donoho to adjourn the meeting, and with all in favor the motion was approved.**

The meeting was adjourned at 2:53 p.m.

Miromar Lakes Community Development District

  
James P. Ward, Secretary

  
David Herring, Vice Chairman