

**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, April 9, 2015, at 2:00 p.m., at the Beach Clubhouse, 18061 Miromar Lakes Parkway, Miromar Lakes, Florida 33913.

Present and constituting a quorum were:

Mike Hendershot	Chairman
Doug Ballinger	Assistant Secretary
Alan Refkin	Assistant Secretary

Staff present:

James P. Ward	District Manager
Greg Urbancic	District Counsel
Charlie Krebs	District Engineer
Bruce Bernard	Calvin Giordano & Associates
Paul Cusmano	Calvin Giordano & Associates

Audience present:

Tim Byal	Miromar Development
Mike Elgin	Miromar Development
Mr. Bond	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Ward called the meeting to order at 2:00 p.m., noting that the record should reflect that all members of the Board were present at roll call with the exception of Supervisors Donoho and Herring.

SECOND ORDER OF BUSINESS

Consideration of Minutes

a. March 12, 2015, Regular Meeting

Mr. Hendershot referred to page 13, line four, stating the accommodation was made on the developer, Miromar Lakes' behalf, not on the District's behalf, as stated in the minutes. Dr. Hendershot should be changed to Mr. Hendershot.

On MOTION by Mr. Refkin and seconded by Mr. Ballinger, with all in favor of approving the March 12, 2015, Regular Meeting minutes as amended.

THIRD ORDER OF BUSINESS

Staff Reports

a. Attorney

Mr. Urbancic stated a few Board meetings prior, the Board approved conservation easements for the District's Hendry County panther land, as well as the onsite preserve areas. He gave the Board an update, stating those agreements were executed by Mr. Hendershot and turned into the South Florida Water Management District (SFWMD), noting the process was that the SFWMD was the beneficiary, but third party rights were given to the Army Corps of Engineers. The latter could not be the grantee of an easement. He said they came back and wanted a slightly different form of the easement, stating, in substance it was basically the same, but it appeared to him that the SFWMD finally gave the form to an attorney, and he/she cleaned it up and improved it. He was satisfied with the form, unless the Board had any questions.

He updated the Board as to some Center Place items, noting two Board members attended the zoning hearing on April 8, 2015. On a vote of two to one, with two Commissioners being absent, they approved the zoning, so it was now a case of waiting to see what happened next. He distributed copies of a letter from Center Place received earlier in the present week from the law firm representing Center Place; he asked the Board to take a minute to review it. He noted the reason the letter was generated due to public records request, where they had been reading all of the Board's minutes, including the discussion regarding the Board's positions on Center Place in tremendous detail.

The letter was an offshoot of the contents of those minutes they reviewed, and he had been called about what the letter stated, which was asking the Board to drop its position on Center Place within the next ten days, and they would not seek to recover any fees and cost. The Center Place lawyers reiterated to him they would speak with their client about possibly meeting with the Board and staff regarding Center Place and some type of resolution that would be in the CDD's interest. He indicated the lawyer said his position to

his client would be not to speak until the District dismissed its pending petition. He was delivering the letter to the Board as information, and the Board could see in the letter Center Place's position was that they believed that Miromar was the one taking shortcuts with respect to its storm water management and permitting, and thus responsible for some of the bad things happening out there.

Mr. Hendershot asked how the Board felt about the case after the previous day's hearing as to the District still proceeding with the challenge to the SFWMD permit.

Mr. Urbancic stated he was unsure if the zoning changed anything, but Mr. Hendershot's question was a good one that led into the next email he received earlier on April 9 about the scheduling of the hearing for the District's and other matters. There had been some dispute over when the hearing would be scheduled, and the judge mandated an earlier date than some parties originally thought. He indicated mid to late August was the target. Responding to Mr. Hendershot's question, he did not know if anything had changed, but in light of the letters and the other evidence the Board witnessed, the Board could evaluate and give direction on how to proceed.

Mr. Hendershot asked if this would push the discovery schedules forward more as well.

Mr. Urbancic answered no, thinking there would be a sort of a dual track discovery, both on the challenge to the Miromar petition, where the District Board, staff and he were being deposed, He said if any members of the Board had questions, Glenn Smith had been engaged from Greenspoon Marder to represent the CDD's interest in the subject matter.

Mr. Hendershot asked if there were issues with the District's counsel coordinating with Miromar's counsel to ensure that both entities recognized the same issues.

Mr. Urbancic believed Miromar held a meeting earlier on April 9, at which District staff was present.

Mr. Krebs affirmed there was.

Mr. Urbancic thought at the meeting the two counsels were to get together at corporate headquarters and try to figure each party's current position, and where they were likely to head.

Mr. Hendershot asked if the people to be deposed would receive the benefit of that meeting at some point prior to the deposition.

Mr. Urbancic replied he was unsure that the Board would want the benefit of that meeting.

Mr. Hendershot believed there was still a prep that arguably should be done.

Mr. Urbancic thought there was no issue with the Board, as individuals, having a phone call with Glenn Smith and just talking to him about it.

Mr. Ward concurred.

Mr. Urbancic thought that was a positive step.

Mr. Hendershot clarified he was not referring to anything that might be privileged or strategic, but only in terms of positions going forward on issues.

Mr. Refkin asked about the position taken by the District's Attorney.

Mr. Hendershot responded that he sent him a copy of the letter, and they called him within 30 seconds asking for clarification on the letter. Thus, there had been no real response, but he had not been present at the meeting, so he did not know what the offshoot was

Mr. Hendershot questioned if the deposition on the 5th was the CDD's challenge to their water permit.

Mr. Urbancic answered no, the District representatives are being deposed on their challenge to Miromar's. He moved his discussion to Porto Romano Lot 31, reminding the Board of their previous discussion about the encroachment. There had been some very good developments in that particular matter. He understood the property owner relocated the air conditioning pad to the other side of the home, and they provided a survey to the District showing that the last surveyor was not exactly correct in his measurements.

Mr. Krebs affirmed the survey was received showing the placement of the new AC pad was an improvement.

Mr. Byal stated the same issue occurred on the other side of the same street that had not been previously detected, and both issues were corrected at the same time.

Mr. Ward commented on the Greenspoon Marder issue, stating at the last Board meeting there had been a lengthy discussion on how the District would pay those legal bills. He indicated District staff worked out a deal with the attorney to represent the District that the CDD would pay them no more than \$100,000 in the current fiscal year, and any additional monies the District owed would be assessed going forward.

Mr. Ballinger asked if Center Place was aware of the Board's last meeting minutes.

Mr. Ward replied that Center Place had yet to request the last Board meeting minutes as a matter of public record, but he felt sure they would shortly, and the minutes would soon be posted on the District's website.

Mr. Urbancic believed it was the February 2015 minutes that were currently posted on the District's website that led to Center Place's request for District minutes, but he felt sure they had not seen the March 2015 minutes.

Mr. Hendershot asked if there was an issue in the minutes.

Mr. Ballinger responded there was considerable Board and staff discussion at the February meeting about the District not having enough money, etc.

Mr. Hendershot saw no problem with Center Place being aware of that.

Mr. Urbancic added that, in response to Center Place's public records request for District information, that amounted to about 900 pages of documents.

Mr. Krebs mentioned a water quality meeting in March that was attended by District staff and Bill Kurth of Lake Masters, representatives of FGCU, and the developer at which they discussed the existing water quality of the lake and the plans moving forward.

Mr. Hendershot inquired as to the plans.

b. District Engineer

No report

c. Asset Manager

Mr. Bernard gave a brief summary of his report contained in the Board's package, stating the NPDES report for the District's storm water system had been filed with Lee County for this year. The contractor, MRI began work on March 15 to clean out the structures and get everything working, and it was within the budget. He also noted all concerned entities had been invited to the water quality meeting mentioned by Mr. Krebs previously, stating the meeting was attended by Mr. Elgin on the Developer's behalf, Mr. Krebs, Mr. Cusmano, Mr. Kurth and he were there for District, and three persons from FGCU. All options were discussed, including lake quality and testing.

The FGCU representatives felt sure the lake quality would return with proper care, but the biggest issue discussed was the grass carp removal, and everyone was of the same opinion that their numbers should be reduced. He indicated, for mitigation purposes, grass

needed to be planted back in the lake, and grass and other plantings would clear up the water by filtering the water as it went through.

Mr. Hendershot thought the method of removing the carp from the lake would be determined by the amount to be removed.

Mr. Bernard mentioned they were waiting to hear from Florida Fish & Wild Life Conservation (FWC), and it looked as though 40 to 50 percent of the carp would have to be removed.

Mr. Hendershot wished to confirm that the permit for the removal had been filed.

Mr. Bernard affirmed the permit for the taking was already filed, and they were waiting for the permit to be issued. With 40 to 50 percent removal, that would be about 2,500 to 3,000 carp coming out of the lake; there were 7,600 put in originally, and the FWC figured there were about 6,500 left in the lake.

Mr. Hendershot inquired if everyone was essentially on the same page as to the science to prevent entities challenging each other.

Mr. Bernard believed everyone who attended the water quality meeting basically agreed to continue testing, and there would be designated test areas along the lake banks to determine how much of the plant material was still alive. Without erecting barriers around the plant materials to prevent the carp eating them, there was no way of knowing what plants would come back. He noted one area identified as a test site was along the weir on the south side of the lake and around the corner up to lake six; it would be a narrow area a few feet off the bank, and they would put a vinyl coated chicken wire fence with PVC stakes. The intent was to see if the plants grew back in the fenced area, see which ones grew back to know which plants and how much had to be replanted.

Mr. Hendershot asked if FGCU would help, such as with the labor.

Mr. Bernard affirmed FGCU would do the plant study, and provide some of the labor to the extent they could for the District. The plan was for all the parties involved to meet quarterly, so everyone stayed on the same page. He said with FGCU, the developer and the District doing their testing, it should accumulate sufficient data in three to four months, and when the carp population was lowered, a determination could be made on how best to proceed. Everyone was on the same page when the water quality meeting concluded.

He indicated the biggest issue was the decision on how best to remove the carp. There was a consensus to do commercial spear fishing, and a channel was identified where the carp were first released off lake six by the construction where chum could be put in to lure the carp back to that area, block it off and begin their removal. They would have to find commercial spear fisherman.

Mr. Hendershot suggested having the FGCU students do the fishing, possibly holding a tournament and reward them.

Mr. Krebs recalled a gentleman from FGCU said that if student labor was used, there might be people inexperienced in fishing, increasing the possibility of accidents.

Mr. Bernard noted they did not discourage FGCU from using the students, and if they wished to do the fishing as an activity they could, but they could not be relied on to remove 3,000 carp from the lake. Mr. Kurth contacted a few commercial spear fishermen, and they said they were not interested.

Mr. Refkin asked if the carp were edible.

Mr. Bernard responded they were the fish used to make Gefilte fish.

Mr. Cusmano mentioned already contacting a temple about the fish, and they were discussing using the carp, as they had trouble finding carp in Florida.

Mr. Bernard added the District had to get approved disposal from the FWC. He thought it might be possible to use swim-in nets where the fish could not swim out, stating Lake Masters could purchase one such net and put in the lake to test if it worked. If it worked, nets could be put into the lake with chum to lure the carp, and if 50 fish a day were removed, it would take a month or two to remove the desired number of fish from the lake. He restated the suggestion to hold a fishing tournament in the community, have the event run by one of the local fishing clubs and offer a monetary prize.

Mr. Elgin remarked they explored numerous methods to remove the fish, and they would continue to do so.

Mr. Hendershot asked if any residents were present at the meeting.

Mr. Bernard answered no. A report on the meeting dialog would be prepared, what was discussed, future plans, etc., and he would provide the report to the Board for their next meeting. The report could then be posted on the District's website for everyone to see what would be happening henceforth.

d. District Manager

I. Financial statements for the period ending February 28, 2015

No discussion

FOURTH ORDER OF BUSINESS

**Supervisor's Requests/Audience
Comments**

Mr. Refkin complimented Mr. Urbancic for doing a great job on the legal side.

Mr. Bond, a resident, discussed various removal methods for the carp, including the use of nets, spear fishing, shock, noting commercial fishermen used larger nets in offshore fishing. A combination of methods might yield more success.

Mr. Ballinger asked where lake six was located.

Mr. Krebs they were talking about the channel north of Bellini.

Mr. Bond commented that it seemed one party in all the various disputes had significantly more money than the other parties involved, and this was obvious in the things said in the letter sent to the District. He asked if there was any affordable science to set up monitoring stations, so whichever entity was responsible for any impacts had to pay to correct them, and he doubted the SFWMD wished to get into those disputes.

Mr. Hendershot sought clarification Mr. Bond was referring to water quality testing or fines testing.

Mr. Bond replied if the fines got in the lakes, all the parties would wish to prove or disprove where the fines came from, and if there was some science to set up monitoring to make determining which party was at fault as foolproof as possible. This might be preferable to spending hundreds of thousands of dollars in litigation that might not solve anything.

Mr. Urbancic thought District staff had some ideas as to what Center Place could do to mitigate and take preventative measures, but they believed, based upon the feedback from different experts, that there was not the same issue that the District believed there was. This was what the dispute was about.

Mr. Krebs commented if the fines were released, there would be no question as to where they came from, as Miromar Lakes was not built on the fines but on natural ground. Thus, if the fines material got into the lake, everyone would know the source.

Mr. Ballinger said, as there were a number of Miromar representatives present, and he desired additional information about the golf condominiums.

Mr. Hendershot clarified some of the residents were concerned that in the developer's planned development where the old portable clubhouse used to be at the golf course, that strip of land was insufficient space to build what was currently planned. They wished to know if to accommodate the plan, a good portion or all of that lake would be filled in.

Mr. Byal responded that was not the case, as there had been some runoff and loss of material in that lake over the last ten or 12 years since it was originally constructed. Mr. Elgin was currently going through that permitting process, and they hoped to reestablish the original coordinates. This was going to be to the magnitude of five to ten feet, plus or minus, and it would be normal maintenance.

Mr. Refkin questioned if the CDD owned that lake.

Mr. Byal affirmed the CDD did own that lake.

Mr. Refkin asked if the lake was to be filled in to any degree, where did the developers and the District's boundaries begin and end, and if only five to ten feet were being filled in, could that be CDD property.

Mr. Byal stated he did not think the legal description of the original conveyance and what was physically present onsite matched up. Hence their recreating the original conveyance.

Mr. Refkin asked if the developer would send the information to Mr. Urbancic prior to doing any work.

Mr. Elgin affirmed if there were any significant changes or effects to CDD property, the developer would have to bring that before the Board for review, and they were now going through the planning exercise of existing condition survey, laying out the lot lines, etc.

Mr. Byal explained some of the reasons for the action the developer was now taking was due to the presence of a temporary drainage slab, so the intention was always to have a collection point and a structured drainage that the developer would install and convey once they figured out where the appropriate easements went. These were the normal types of improvements to expect, it was just that the subject property needed to age a little. He said there was a depth challenge in how deep of a single-family unit they planned to have, as

they wished to build 12 single-family villas. Because of the depth issue, Mr. Elgin might later present to the Board the possibility of doing a riprap edge to reduce the lake slope, but such actions were still to be determined.

Mr. Elgin said the developer was at the initial stages of discussing the options with the county staff.

Mr. Hendershot asked at what stage was the riprap permit.

Mr. Krebs replied Mr. Elgin supplied him with all the information, but he had yet to send it to the county, but he spoke with county staff the past Monday to let them know he would try to get it in, but the zone hearing caused a delay. He indicated the process of getting the riprap permit into the county was all up to him, and he was working on submitting it to the county, noting it could be send it in electronically.

Mr. Ballinger asked if the single-family villas would be one or two stories.

Mr. Byal replied, generally, it had to be two stories in order to get the desired square footage, but they would be individual, detached villa units. Due to the developer's concerns about traffic along that road to the golf club, they were going to have a shared entry for every two units, so there would be six entries into a common courtyard with opposing side entry garages. They felt this would be a better solution to having 12 individual driveways backing out into the road into golf course traffic. He indicated the asphalt road would be replaced with brick paver entrances and a guard gate at the front of the community that could be accessed by members of the golf club and residents of the villa neighborhood.

FIFTH ORDER OF BUSINESS

Adjournment

On MOTION by Dr. Ballinger, seconded by Mr. Refkin, with all in favor of adjourning at 2:37 p.m.


James F. Ward, Secretary


Mike Hendershot, Chairman