

**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, May 9, 2013, at 2:00 p.m., at the offices of Miromar Development Corporation, 10801 Corkscrew Road, Suite 305, Estero, Florida 33928.

Present and constituting a quorum were:

**Mike Hendershot
David Herring
Doug Ballinger
Burnett Donoho
Alan Refkin**

**Chairman
Vice Chairman
Assistant Secretary
Assistant Secretary
Assistant Secretary**

Also present were:

**James Ward
Greg Urbancic
Charlie Krebs
George Keller
Mike Elgin
Tim Byal**

**District Manager
District Counsel
District Engineer
Calvin Giordano & Associates
Miromar Development Corporation
Miromar Development Corporation**

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Ward called the meeting to order at 2:00 p.m. and the record reflected all members of the Board were present at roll call.

SECOND ORDER OF BUSINESS

Consideration of Minutes

a) April 11, 2013 Regular Meeting

Mr. Ward asked if there were any additions, corrections or deletions.

Mr. Donoho stated he had one correction on page four, stating his father was Dr. Donoho, but he was not. The record would be corrected accordingly.

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| <p>On MOTION made by Mr. Donoho and seconded by Mr. Refkin, with all in favor, the regular meeting minutes of April 11, 2013, were approved as presented.</p> |
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THIRD ORDER OF BUSINESS**Consideration of Agreement with Calvin, Giordano & Associates, Inc., (CGA) to Provide Field/Asset Management Services for the District**

Mr. Ward stated Mr. Urbancic and Mr. Keller of CGA discussed and negotiated the agreement provided in the backup; the agreement was not inconsistent with previous agreement for such services. He reviewed the general terms of the agreement, as indicated in the backup, highlighting the following:

- Page one - the term of the agreement would begin on October 1, 2013, the beginning of the District's fiscal year for the scope of services set forth in the backup
- The agreement could be terminated on 90 days notice for any reason by either of the two parties
- The agreement included insurance requirements for the contractor to hold in terms of the specific scope services identified in Exhibit A to the agreement, and the fee structure provided by the contractor
- There was a provision in the agreement permitting the District to either add or subtract services to the contract as needed
- The fee stated in the agreement was set at \$55,200 for fiscal year 2013; it would be a fixed fee contract for the first year, but CGA would report to the Board on a monthly basis as to number of hours by the type of service, so the Board could get a feel as number of hours needed for specific services, allowing them to adjustment the rate(s) either up or down in further years
- The agreement provided a method for the District to add more work to the contract, and anything under \$1,000, Mr. Ward had the authority to approve, and anything over \$1,000 a work authorization would be issued for presentation to the Board for consideration.

Mr. Donoho sought clarification on whether CGA's services would be provided at the \$100 an hour rate for additional work.

Mr. Hendershot stated the hourly rate to be used for additional work would be discussed when the District Manager met with the contractor to discuss the additional work.

Mr. Ward stated the additional work would be at the rate identified in the particular contract services. He did not anticipate the Board or him authorizing different types of work outside the scope already detailed in the contract. He stated those were the main issues contained in the agreement.

Mr. Urbancic stated there was one more service that was not included in the draft agreement in the backup that was discussed by Mr. Keller at the last Board meeting. That is, they would have the input in selecting the onsite manager and, unless the District waived it, they would provide three candidates for evaluation for the position. This was added to the last version, but he had no time to make copies for the Board, but this was a tweak Mr. Ward identified that should be included in the draft.

Dr. Herring asked about page four, section ten of the draft agreement, specifically the cost and expenses, requesting an explanation as to what was classified as additional cost and expenses the District might have to reimburse other than those stated in the agreement.

Mr. Hendershot replied it was third-party cost, and it might be good to add that qualifier.

Mr. Ward stated it was intended to be third party costs.

Dr. Herring wondered if this should be in writing, as the way it looked, any cost they had in performing the duties the District was paying the contractor for, they could submit the cost.

Mr. Urbancic indicated it had to be included in writing in advance by Mr. Ward and the District, so the Board had some control, but the issue of third party costs and what it was targeting could be made clearer.

Mr. Hendershot asked how that would be budgeted.

Mr. Ward responded he as in the process of preparing the District's budget, so for each of the line items for the subject vendor, there was the fixed cost for this contract, and then a small contingency in each of those items. He might have added \$5,000 for each kind of services or some number that would be discussed during budget time, but that was how it was done.

Mr. Henderstho asked if the third party cost under item nine, the \$1,000, was that individually by project or in aggregate.

Mr. Ward stated it was intended to be individually.

Mr. Hendershot stated, in theory, Mr. Ward could approve 20 projects, each at a cost of \$900 and not have to come to the Board for approval.

Mr. Ward stated if the Board wished to do an aggregate over a one-year period, that would be acceptable, but he suggested raising the number a little above \$1,000, but either approaches would be fine. It was intended to ensure that if something needed to be done between Board meetings, he would have some authorization to do that, so however the Board wished to deal with such situations, he would act accordingly.

Dr. Herring stated there should be some historic precedent in what the District had to spend in years past for such items, asking if anyone had kept track of such costs, such as what Mike Elgin or the developer charged the District under those two categories.

Mr. Ward stated no.

Dr. Herring asked what happened with the prior management when Cleo managed the District.

Mr. Hendershot stated no one had taken such action until now, as most of it had been done in house.

Mr. Ward stated Cleo would have done some of it, but he suspected, even at that time, a lot of it would have been done by either Mike or Tim at that point.

Mr. Hendershot thought the historic aspect was a good point, as when any agreement was executed, whether it was fee-based or cost plus-based, it was important to be comfortable, strictly on a fee basis, how many hours were estimated per activity. Since the Board did not really know the scope of work, the quantum of work involved to get to a given point. If 100 hours were allocated for activity A and it only took 60, the contractor would still get the benefit of the extra 40 hours, and some underage or overage was usually built into fee-based contract, and rewarding the contractor for coming in under budget.

He was unsure if there was a way for the contractor to begin work and have the District supplied with, for example, a quarterly history of activity for the Board to use those numbers to estimate the number of hours needed to complete the various tasks. He asked if the numbers in the backup reflected the best estimate to date.

Mr. Ward stated they did, noting in his previous discussions with the Board, he indicated 250 hours over one year for landscaping meant an average of 21 hours a month, five hours a week and thought the numbers were low to begin with. When he discussed the scope of services with CGA, he sought to protect the District more on the up side of the numbers shown rather than on the down side, to prevent the District seeing a large jump in cost.

Mr. Hendershot stated the District had some experience as to how much of a problem there was with the various assets, and it would be easier to guess.

Mr. Ward stated in year one, there would be a considerable amount of learning curve time CGA would have to put in on the project, and the amount of hours would exceed the budgeted amounts for the various line items.

Mr. Donoho suggested, to give some leeway, the \$1,000 per individual occurrence should be left as is, and allow for no more than a five percent increase for the fiscal year, which was about \$3,500.

Mr. Ward concurred.

Mr. Donoho felt this would give Mr. Ward leeway in not having to come back each time, while giving the Board the chance to decide where the funds needed to increase services exceeded the set annual amount allowed for such increases.

Mr. Hendershot clarified his focus was on the contract fee and how comfortable the Board was that the estimated amount was sufficient, as it was based on a number of hours per given activity over the contract life.

Mr. Byal questioned the asset management component, and what that scope was intended to cover.

Mr. Ward stated that component was for additional work that would be required above and beyond the specific contracted tasks.

Mr. Byal understood the need to fix a fee for those services the Board was sure of, and knew the asset monitoring was something the Board desired for the District, and it was an unknown number.

Mr. Ward explained the reason he added it into the contract, as there were many purchase orders the current contractor did, additional tasks that had to be done on a regular basis throughout the year. His thought when putting the agreement together was to include

a line item with a budgeted amount to cover those work elements outside the terms of the regular landscape contract or the aquatic contract.

Mr. Byal commented he did not think there had been that many tasks that fell out of the two above mentioned components to the scale of it being at the same level of all the work related to the lake management.

Mr. Ward indicated the current contractor did a considerable amount of work outside the regular scope of services in the existing contract: ordering plants, ordering mulch, fixing wells and pumps and irrigation systems. He saw many unlisted services coming through regularly, dealing with numerous vendors that were not under the terms of the two main contracts, and some entity needed to find the qualified vendor, negotiate the fee and get a purchase order for the work to be done. The inclusion of the added amount was intended to cover those kinds of services.

Mr. Hendershot felt the problem the Board had was the lack of historical data on the day-to-day work in the District Mr. Elgin's company was doing.

Mr. Byal concurred, stating maybe the Board could leave that portion of the agreement somewhat flexible and figure out what those costs might be estimated at over the course of the fiscal year, and in next year's budget they would have a better handle on those costs. Thus, the Board could budget an amount for contingency to cover anything not in the two main categories of services. Mr. Elgin was still likely to have some involvement, but he needed to not be in charge.

Mr. Donoho believed the Board would be more knowledgeable as to cost of increased services in six months.

Mr. Ballanger suggested revisiting the matter quarterly to see if there were any numbers out of line.

Mr. Byal wished to prevent the need to micromanage the subject services.

Mr. Donoho commented, since it was a learning process for the Board, it seemed a quarterly review was appropriate.

Mr. Ward stated one of the provisions of the contract CGA would provide was a monthly reporting of all their activities, and the report would include a summary of the hours versus the budget on the line items. He thought for the number of hours contained in the contract for the volume of work to be done, CGA was taking on considerable risk in getting

that work done. Whether it was called asset monitoring or landscape services, for \$65,000 annually, CGA was likely to spend more than the total hours than the whole value of the contract, but some flexibility was needed for overages. He pointed out, with the data gathered from the regular reports, the Board would be better able to assess real cost in 2015 when the contract was again up for renewal.

Mr. Hendershot observed if the Board was to assess the cost versus services quarterly, it could adjust the number of hours and/or renegotiate the fee to more realistically match the services provided. Though the contract contained the provision of monthly reporting, it did not include that the Board was obligated to revise the fee if the hours of service continuously exceed the contract's estimated hours.

Mr. Ward stated, as part of the reporting process, CGA was to identify goals, objectives, problems, solutions, hours required for each services, etc. to help the Board see where it needed to go in that regard. He believed CGA would be amenable to renegotiate at any appointed time, as they clearly communicated their desire to work for the District; they were like partners, and the contract contained sufficient flexibility to get the services and information the District needed.

Mr. Ballanger asked if CGA would be paid by the month.

Mr. Ward answered yes, an annual fee paid monthly; that is, the amount the District would be charged each month by CGA was \$65,200 divided by 12.

Mr. Ballanger asked what would happen if the District were paying CGA for services within some categories that the cost of the work was less than the budgeted amount, while they were exceeding the budgeted amount for other services.

Mr. Ward replied, the way the contract was structured, CGA would get the benefit of that on the downside, and the District would get the benefit of that on the upside. He reiterated CGA would provide the District with a reporting by category on a monthly basis on the number of hours spent, so the Board would know where those costs were, and those line items could be adjusted as needed.

General discussion on: landscape services and was Miromar managing the medians, contacting the contractor to ensuring they were properly maintained. Mike Elgin was currently in charge and CGA would take over that management.

Mr. Ward remarked, when looking at the subject level of detail in procurement bidding, prepared scope, prepared specs and negotiating, that was all contract work. He was sure some of the categories in the contract might be change as the year progressed, and the Board would have a better feel for what was done as contract administration versus what actual field operations.

Mr. Hendershot asked if CGA's software contemplated the firm providing the District with the use of that software based on the reporting CGA provided the Board. That is, would the District need new software to access CGA's information.

Mr. Keller responded, moving forward, if CGA saw some of the numbers in the contract did not accurately reflect reality, they would be willing to work with the District at any time to restructure it be more realistic. They would learn a lot in the first year, as they had been in the business for many years, though not as active in recent years, and part of their business plan was to be more active again, so this was a new venture for them with the District's property. Regarding the software, he did not think anything special was needed to do what they needed to do for the District, but if that became the case, they had their own data technology department. If they had to use any of their specialized software, they would not charge the District for that as an additional scope of service; rather it would be incorporated in the existing scope.

Mr. Hendershot noted the Board had a final product that allowed them the ability to drill down on a given asset to ascertain what agreements there were, the title, documents, etc., wondering if CGA's system would allow the District to continue doing that.

Mr. Ward stated this was a part of the GIS program previously discussed.

Dr. Donoho noticed that scope of service from the contract before the Board had not been removed, as the Board agreed at its previous meeting, referring to paragraph C, numbers two and four.

Mr. Ward stated the original intent was to have CGA begin to create the base maps necessary for the specific assets that were going to bid, so it was included in the contract in terms of the work that would be done for the specific contracts, but the pricing was in the other set of it. In fairness to CGA, the line items should be removed from the scope.

Mr. Hendershot asked if the District had Mr. Krebs do the GIS, would that be done after CGA developed the base of list of assets or would it be done in parallel.

Mr. Krebs indicated they already had the base map for the whole CDD, and the GIS would just be an information system the District administration, the Board and residents Board would use to track the assets.

Mr. Ward stated, in terms of the specific scope of services, he previously indicated to the Board it was impossible to figure out exactly where assets were located. The first step in the process was to create a real GIS map that specifically identified where the contracted began and ended in the field. He said this would get the District where it needed to be in the current fiscal year, whether the GIS was done by CGA or Mr. Krebs, and those had to be done within the context of the bidding process for the next fiscal year. In this way, the Board could see what assets were being maintained by particular vendors, and the vendors could bid on a real scope of services, they would be included as exhibits to the contracts.

There was a discussion by the Board about the GIS system.

He asked the Board if they were comfortable with the way the contract before them was written, including the changes discussed at the present meeting: five percent for overages for the entire year; changing the three and a half percent in item nine; the third party calls in item ten; clarify the selection of the field operations manager and remove the GIS from the scope of services.

Mr. Hendershot asked about the insurance provision that CGA was required to have and it covered the manager and the Board.

Mr. Ward replied the Board had its own insurance.

Mr. stated, though CGA stated they were willing to renegotiate during the contract time if needed, he wondered if that should be formally reflected in the contract.

On MOTION made by Mr. Donoho and seconded by Mr. Ballinger, with all in favor of approving the agreement with Calvin Giordano & Associates (CGA) to provide Field Asset Management Services to the District with the contract modifications as summarized above by Mr. Ward.

FOURTH ORDER OF BUSINESS

Staff Reports

- a. **Attorney**

Mr. Urbancic distributed for information purposes a document regarding the NPDES permit, noting Mr. Krebs, Mr. Elgin and he had staff meeting earlier in the day with David Robson met with NPDES portion. They were working on filing the monitoring report that was due, and the document before the Board was an excerpt from the full report, which was fairly substantial. He stated one of the things the District was required to do was come up with standard operating procedures of how retention areas, canals, lakes, etc. were inspected, and how the District addressed certain issues that were identified.

They created some standard operating procedures that were in line with other CDDs, and they were in the process of finalizing the report, so they could file it with the state and be in compliance. Later, they would be presenting the Board with an inter local agreement with the County and other government entities that were a part of the reporting, and a copy would be placed in the Board's next agenda packet for their review. He said in order for the document to be filed with the state, they needed the Chairman of the Board had to sign, on behalf of the District, the reporting process and get the Board's blessing for the Chairman to work with staff to this end.

Mr. Krebs stated one of the issues that came up was they needed Mr. Ward to supply them with the actual fiscal information that was used for the storm water management maintenance, whether it was a line item in the budget. The information needed was for fiscal years 2011/2012 and 2012/2013, and if that number changed, an explanation would be required.

Mr. Urbancic stated in the report, there would be numerous issues that did not apply to CDDs, one of them being enforcement rights, which the District did not have good enforcement rights, as the District was not a city or county. Most of report that applied to the District had to do with the engineers working for the District, and all that could be done was to supply their phone numbers for them to call the County and have them investigate, and this applied to most situations.

Mr. Hendershot asked what Alico Properties and the University did, as they bordered on the District.

Mr. Krebs stated that matter was brought up at the meeting, and it was said that the University would be forced to participate in the report. As Alico was not a government entity or agency, as they were still unincorporated Lee County, so it was viewed that they are taken

care of by the County. The CDD, by Florida Statute, was required to be a part of the NPDES though not every CDD did it, and the state had not gotten to the point where they were forcing every CDD to comply. He stated it might be a hindrance now, as the water quality issue increased in the County and, eventually, there would be limits on total, daily, maximum loads for the rivers, particularly Estero river. Having the CDD in this process would become more of an asset, as they would not have to provide even monitoring, and Lee County would be relied on, using their existing well points and their existing monitoring to provide that data.

Mr. Urbancic stated they were aware there would have to be some education that had to take place, most likely what would result from the report was NPDES would direct the CDDs they needed to educate their residents. This could be done via brochures passed out at closings or holding seminars once or twice a year to educate people on such things as discharge. Once the report was filed, then the full document could be distributed to the Board to peruse. He reiterated they needed the Board to approve the Chairman's signing off on the report by the engineers that would be filed with the state without them having to come back to the Board with the final document.

Mr. Urbancic stated the Chairman took on the responsibility for everything the Board did and, as there was a penalty for false reporting, they desired the Board's approval authorizing the Chairman to sign the report when it was completed and allow it to be filed.

Mr. Ward asked who would be filling out the report.

Mr. Krebs stated Dave Robston would fill out the bulk of the report with the engineering information they would supply him on the District, hence their meeting earlier in the day to decide which parts of the information would be provided by whom.

Mr. Ward asked if the District would get the same certification, so that who prepared the report that Mr. Hendershot would sign, the Board would know.

Mr. Hendershot asked about Dave Robson.

Mr. Krebs replied Mr. Robston was an engineer with Johnson Engineering. Ideally, they preferred to include the completed document in the Board's packet prior to its filing, but they doubted they would have sufficient time to do so.

On MOTION made by Mr. Donoho and seconded by Mr. Refkin, with all in favor of approving authorizing Chairman Hendershot's signing the final report drafted by the engineers for filing with the state.

Mr. Hendershot asked if the report tracked what other CDDs previously approved.

Mr. Krebs stated the responses were similar to what other communities were doing, noting every community was unique. For example, Miromar owned no roads, and those were privately maintained by the association or the master association, whereas other communities owned all the roads.

b. Development Manager

No report

c. Engineer

No report

d. Manager

I. Report on Number of Registered Voters as of April 15, 2013

Mr. Ward stated there was no significance for the subject anymore, as all Board members were elected to their posts by qualified electors in the District, and the law stopped the reporting requirement when that occurred. Each year, the Board would get the item on their agenda for its filing as a matter of record. There were 937 qualified electors residing within the District.

II. Updated Board Agenda Schedule for Balance of FY2013

Mr. Donoho stated for the months of July 11 and August no day was specified in the document.

Mr. Ward stated the specific date in August was the eighth. June, July and August would be the Board's budget months, and the audit contract was up and in the process of being bid, so the Board had to award the contract for the District's auditing services.

III. Financial Statement for the Period ending March 31, 2013

Mr. Hendershot noticed the lake bank management was 170 percent over budget already, and other current charges.

Mr. Ward stated the lake bank management this was a result of the removal of ficus trees on the lake bank a few in March.

Mr. Elgin stated there were a number of invoices paid to Lake Masters for a substantial amount of restoration or replacement of some of the aeration pumps in the systems as they went through and found them nonfunctioning. There were some removal of bulrushes that were native not exotic, but they had been quite aggressive in some of the lakes in Sienna, and other lakes at residents' requests where the issues had gotten beyond control. They were extra services they supplied that had not been anticipated in the budget.

Mr. Ward stated there was a coding error in other current charges he had to correct.

Mr. Elgin thought, moving forward as the new asset manager came on board, they would have to focus on the concerns expressed by residents at the association meetings he attended with other District staff. These included lake bank restoration and aquatic issues, along with the grass carp project the District did in 2013, as they were continued concerns. Despite the residential associations having the responsibility of their maintenance, the CDD was a participant in some of those restoration activities, so they should be looked at in the District's upcoming budget. A phased restoration plan would likely be the District's biggest projects in the next year.

Mr. Hendershot asked if Miromar would be doing any more dredging around the peninsula, in that area, to create more lakes.

Mr. Elgin stated his excavating contractor just left the site and only had to return to remove the plugs after the dewatering activities were complete, so most of their excavation on the peninsula project was complete.

Mr. Hendershot wondered why the District did not have the vendor do excavation like that, cutting a deeper channel going out to lake Majoric.

Mr. Elgin stated the work required different pieces of equipment, and it had to be done from a barge; the present excavators he was working with dug in either deep water or from dry land.

EIGHTH ORDER OF BUSINESS

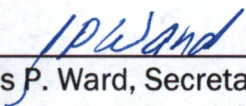
**Supervisor's Requests/Audience
Comments**

None

NINTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Hendershot,, seconded by Mr. Refkin, with all in favor of adjourning at 3:00 p.m.


James P. Ward, Secretary


Mike Hendershot, Chairman