

**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, June 13, 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:

**Michael Hendershot
David Herring
Burnett Donoho
Alan Refkin**

**Chairman
Vice Chairman
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, with the exception of Supervisor Ballinger.

SECOND ORDER OF BUSINESS

Consideration of Minutes

a) May 9, 2013 Regular Meeting

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

Mr. Hendershot indicated a statement in the minutes pertaining to the developer owning no roadways needed to be clarified.

Mr. Elgin recalled the conversation and believed the reference was to the roadway tracts that were conveyed to the Master Association; the developer currently owned roadways that had not been transferred to the Master Association. Once developments were completed, the roadways were eventually transferred to the Master Association.

On MOTION made by Mr. Donoho and seconded by Mr. Hendershot, with all in favor, the regular meeting minutes of May 9, 2013, were approved as presented and clarified.

THIRD ORDER OF BUSINESS

Consideration of Resolution 2013-3, Approving the Proposed Budget for Fiscal Year 2014 and setting the Public Hearing for the September 12, 2013, at 2:00 p.m. at the Offices of MIromar Development Corporation, 10801 Corkscrew Road, Suite 305, Estero, Florida 33928

Mr. Ward reviewed the budget as reflected in the agenda package.

Mr. Hendershot asked if the \$30,000 for Asset Management was CGA.

Mr. Ward affirmed it was CGA, stating anything labeled asset management was CGA.

Mr. Donoho asked about the aeration system line item: \$500 to \$1,500.

Mr. Ward replied this pertained to the electric service on the aeration system that came in between a few hundred or a little more each year, so he budgeted the same amount as in the previous year. In the prior year it was close to \$1,500, so he thought it best to let it remain at \$1,500 for another year, and if it stayed closer to \$500, he would drop it back down to that level for FY 2015.

Mr. Hendershot asked what monument was painted?

Mr. Elgin replied it was one of the I-75 monuments that sat on CDD property.

Dr. Herring asked if the monuments on CDD property belonged to the CDD?

Mr. Hendershot believed there was an easement right for the developer for those constructs that sat on CDD property.

Dr. Herring asked if the CDD was responsible for its maintenance.

Mr. Ward assumed there was a bill of sale for the monuments situated on CDD property that transferred the asset to the CDD, so the CDD would be responsible for its operation and maintenance.

Mr. Donoho asked if the CDD had to do any more work in the coming year related to grass carp, including cost.

Mr. Elgin answered no, and he understood once the CDD got into year four and beyond, a replenishment program would be brought before the Board for consideration. If no benefit was determined at that time, the grass carp would not be replenished. The determination would be made based on the natural maintenance of the aquatic system.

Dr. Donoho asked if the cost to repaint the monument should have been brought to the Board for approval.

Mr. Ward replied it was considered routine maintenance, and the cost was of an amount that would not normally come before the Board for approval.

Dr. Donoho asked if there was a threshold as to the amount an item cost that determined if it had to come to the Board for approval.

Mr. Ward responded there was a statutory threshold amount, which he thought was over \$250,000, but all the CDD's major contracts, CGA, the lake, and landscaping came before the Board. Generally, routine maintenance, such as for pumps, replacing plants, buying mulch, would not be brought to the Board for approval. The Board was free to establish a policy as to thresholds they wished enforced.

Dr. Donoho expressed concern over non-budgeted items and thought those should be brought to the Board's attention prior to the work being done.

Mr. Refkin suggested setting a threshold for non-budgeted items.

Mr. Ward pointed out there was a threshold in the authorizing resolution of \$10,000.

Dr. Donoho preferred to find out about the unbudgeted items before the work took place or closer the time that it had taken place rather than much later.

Mr. Urbansic commented on the authorizing resolution in the budget that set the authority, as under Florida Statute Chapter 190, whereby, Mr. Ward had an obligation to maintain the District's assets. The Board could set parameters on how this should be done, and the resolution would be in the Board's next agenda packet for the budget meeting, so they should read it thoroughly to ensure the intent was satisfactory, as it guided Mr. Ward.

Mr. Ward stated the monument painting fell under the CDD's repairs and maintenance budget, though it was not a specifically budgeted item. When I took over the CDD, I noticed that the District had big line items for budget purposes, and I prefer to provide the Board with more detail, as such, I began detailing out in your financials where

the dollars are going. That provides the Board with better information during the year. He resumed his presentation.

Mr. Hendershot noticed the cash balance acted as a reserve and wondered at the average amount most CDD's kept in reserve.

Mr. Ward remarked in a CDD the size of the District, with the particular amount of landscaping, he thought the reserve should be in the range of three percent of the overall budget amount. There were no legal guidelines for establishing a reserve.

Mr. Elgin stated the alternative was a special assessment, which the CDD should try to avoid.

Mr. Ward agreed, noting the disadvantage of a low reserve was if a catastrophic event occurred, such as a hurricane, there would be insufficient funds to do immediate repairs. Though the CDD was insured, the destruction of landscaping and debris removal, and roadway damages were not insurable events.

Mr. Hendershot wondered if the Board should consider increasing the reserve, as he thought the timing might be right to increase the monthly fees to residents.

Mr. Ward suggested the Board not increase the reserves for 2014, but as a part of the overall asset program the Board would look over the next few years and value the District's assets, in which replacement costs would be allowed. At that time, a determination could be made if there was a need to increase the Districts reserves.

Mr. Hendershot asked if the berm landscaping maintenance of \$300,000 was the CDD's share of the County's bill.

Mr. Ward sought clarification he meant the Ben Hill Griffin landscaping.

Mr. Hendershot affirmed it was, stating on page two it showed public area landscaping as \$300,000.

Mr. Ward said the figure for Ben Hill Griffin was \$45,000, public area landscaping referred to District landscaping, and the CDD paid a proportionate share of the Ben Hill Griffin landscaping. The District did pay a share of the County program, and he was unsure of the total cost of that program, and in the current fiscal year it was \$41,000 and he budgeted \$45,000. He resumed his presentation.

Mr. Hendershot inquired as to the District's bonds and why the fees and charges were so much higher, as reflected on page six, going up from \$396,000 to \$618,000, as he thought the District absorbed the costs in connection to the bond refinancing.

Mr. Ward affirmed the District had absorbed the cost in the refinancing. He would look into the matter further. The assessments on the 2012 bonds had gone down since the 2008. He resumed his presentation.

Mr. Hendershot asked about the debt service drop in FY 2014 and 2015, as it appeared to be a constant interest for the same number of bonds and debts.

Mr. Ward responded, if you look at the total debt service schedule, we always say, it as relatively constant, so you will see changes in debt service each year. The amount of principal and interest does change each year, thus, the concept is that it remained relatively constant, not exactly constant.

Mr. Hendershot asked who comes up with that schedule.

Mr. Ward replied, when the bonds were issued, the underwriters applied a program that calculated the principal and interest on a yearly basis to keep it relative constant over fiscal years. When there is a prepayment, he asked them to update the amortization schedule for the District. He resumed his presentation.

Mr. Hendershot asked what caused a variation from year to year in terms of the total assessment by neighborhood if it was on a square foot basis, wondering if that was a neighborhood's share of the total budget for that line item.

Mr. Ward answered, as it applied to the debt service, this was not true; the District's operating assessment stayed the same for all units, for larger products, the level of assessment would be more than for smaller products.

Mr. Hendershot added certain bonds applied to some neighborhoods and not others and questioned if it would remain constant for neighborhoods that were built out.

Mr. Ward said they would not, as the assessment would be based on the interest due on the bonds of a particular year, and that number was recalculated each year based on the principal and interest due.

Mr. Donhoo asked if bonds were arbitrarily assigned to neighbors.

Mr. Byal answered no, bonds were secured by the particular real estate and did not cross over. Bonds were issued over a specific geographical location, and subsequent bonds were issued on mutually exclusive pieces of property.

Mr. Ward commented developers within a neighborhood paid the same special assessment as other unit owners in that neighborhood.

Mr. Hendershot thought there was a special developer discount.

Mr. Ward said no, developers paid the same assessment, but as they did not send the payment through the Lee County tax system, the discount they received was small for not using the County's collection process.

Mr. Ward noted the public hearing for the budget was scheduled for September 12, 2013, and approving the proposed budget now did not bind the Board to anything reflected in the backup, but it did set the maximum amount for the total budget. Line items could be moved around in the interim, but there could no increase in the overall budget.

On MOTION made by Mr. Hendershot and seconded by Mr. Refkin, with all in favor of approving Resolution 2013-3.

FOURTH ORDER OF BUSINESS

Consideration of the Acceptance of the Lakes, Drainage, Easements and Ingress/Egress areas for the Ownership, Operation and Maintenance of the Water Management System in the Miromar Lakes Unit XIII – Peninsula, Phase Three Plat

Mr. Elgin reviewed the subject item as reflected in the backup, stating the Board's motion to approve was to authorize the Chairman as the CDD's signatory.

Mr. Hendershot asked if by accepting the dedication was the CDD accepting any expense; if so, should additions be made to the budget from a maintenance perspective.

Mr. Byal answered yes, whatever it took to maintain those new expansions to the lake, to the extent that this led to any changes in the operation costs. He did not perceive there being a significant amount of maintenance in the first 12 months, as the acreage was not significant.

Mr. Hendershot asked if there would be any more dredging or channel cutting in the subject area with heavy equipment.

Mr. Elgin said they had some heavy equipment left to come in to pull the plugs at a number of locations and that would be it. He continued that the subject item represented what would become a common practice for the Board, one the developer previously carried all of the representation of the CDD. The full resident Board would now be a part of that process.

Mr. Hendershot asked about the timing on the transfer.

Mr. Elgin responded the plat would be recorded, then a quit claim deed would be drafted between the developer counsel and the CDD counsel to name the tracts on the plat, and a title search would be done to ensure the titles were clean. The quitclaim deed would then be recorded and the transfer completed at that time. He believed by fall 2013 they should have a cleanup package completed.

<p>On MOTION made by Mr. Donoho and seconded by Mr. Hendershot, with all in favor of accepting the Lakes, Drainage, Easements and Ingress/Egress areas for the Ownership, Operation and Maintenance of the Water Management System in the Miromar Lakes Unit XIII – Peninsula, Phase Three Plat and authorizing the Chairman to be the signatory on behalf of the CDD.</p>

FIFTH ORDER OF BUSINESS**Staff Reports****a. Attorney**

Mr. Urbancic distributed copies of a law recently passed that had not been vetoed by the Governor, so it would become law, and it was the extension of the Sunshine law. He went on to review the contents of the handout. The law had a delayed effect to October to give government entities a chance to adopt reasonable rules and procedures to deal with the law. In essence, the law gave members of the public a right to speak in Board meetings; previously they only had the right to attend but not speak unless invited to. The law gave members of the public the right to speak on agenda items prior to the Board taking action.

Mr. Urbancic commented the law was unlikely to change how the CDD conducted its meetings, as it already allowed for members of the public to speak.

Mr. Ward concurred, he preferred to allow members of the public to speak prior to the Board taking action on every agenda item.

Mr. Hendershot asked if it increased the CDD's notice requirements.

Mr. Urbancic indicated it would not increase noticing requirements, it increased the right of the public to have input prior to the Board's acting on agenda items.

b. Development Manager

I. Status Report by Calvin, Giordano & Associates (CGA) Relative to the Transition of the Asset Management Services on October 1, 2013

Mr. Ward stated Mr. Keller would be available to attend Board meetings to give updates and comment on his field of work.

Mr. Keller stated he had the opportunity to tour the community and was very impressed. They reviewed, executed and returned the contracts discussed previously with no substantive modifications. He indicated they already interviewed a number of candidates for the onsite manager, and by July they committed to having several of those candidates interviewed and would bring the Board the top three for consideration.

Mr. Hendershot wondered if the Board wished to get involved in the interview process and look at all the candidates or let CGA select the top three and present them to the Board.

Mr. Refkin thought it better for the Board not to micromanage and get involved in the initial selection process.

The Board concurred.

c. Engineer

Mr. Krebs stated he had nothing to report at the present time.

Mr. Hendershot asked what was the status on the NPDES.

Mr. Krebs replied the last time he spoke to Dave, they had to get the legal authority worked out, which he discussed with Mr. Urbancic. Mr. Ward would add a budget number and they were waiting on Mr. Urbancic.

Mr. Ward commented, as he had seen no information to date, he had not added a budget number, but he would as soon as he received the document.

Mr. Krebs believed they would have the figures ready within a week and forward those to Mr. Ward via email.

d. Manager

I. Updated Board Agenda Schedule for the Balance of FY 2013

Mr. Ward sought a Board consensus for the dates of the remaining meetings for FY 2013. One meeting was needed to deal with the CDD's expired auditing contract and he was in the process of rebidding. He would have that information ready in the next month. Another meeting could be scheduled to go over the budget prior to the September 12 public hearing if the Board desired a meeting for that purpose. He received a Board consensus for a July meeting only on July 11, 2013.

II. Financial Statements for the Period Ending April 30, 2013

None

SIXTH ORDER OF BUSINESS

**Supervisor's Requests/Audience
Comments**

Mr. Hendershot remarked there were references in the minutes about resident requests for things to be done on CDD assets, but most of the feedback came through meetings with association heads. He wondered if there was a way for Mr. Keller to have those interactions summarized and a part of his report to the Board, so the Board remained aware of residents' concerns.

Mr. Elgin believed, as everyone was aware of my email and cell phone number, that during the transition they should ask all their questions, including how to communicate with the asset manager, Mr. Ward, etc. They would devise a new protocol by which the Board would be kept updated on happenings in the CDD, including residents' concerns. They were going to copy some of the discussions held with community representatives to Mr. Elgin, but some announcement would have to be released to the residents about CGA being the CDD's new asset manager. He asked the Board for their input as to the content of the notice to the public to contain.

Dr. Herring felt residents would have questions and would go through Mr. Keller, and Mr. Keller had to make a determination if the matter should be forwarded for discussion to

the HOA, developer or CDD. The issues determined to be CDD matters should be communicated to the Board.

Mr. Hendershot concurred, stating the finer details of the issue did not always have to be communicated, but at the very least the Board should know what the issue was, and this added value and responsibility to the Board in its communications with the residents.

Mr. Elgin said the CDD needed to do a better job keeping in touch with residents' issues, recommending that some documents in an educational form should be sent to the residents to educate them on the CDD.

Mr. Refkin asked which entity was responsible for replenishing sand at eroded lake shorelines.

Mr. Elgin replied the bulk of the beach maintenance was a Master Association project. The CDD repaired washouts.

Mr. Refkin asked how the beach differed from the shoreline, if everything was deeded to the CDD.

Mr. Elgin said the CDD did not own the beach but had easement access rights within the beach for lake maintenance.

Mr. Refkin asked if anyone looked at erosion on the shoreline, made an assessment and relayed the information to the responsible entity.

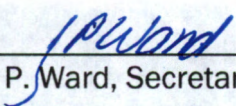
Mr. Elgin indicated they looked at erosion, reiterating they considered it as part of the beach maintenance program, which was not part of the CDDs maintenance program.

Mr. Refkin asked whose responsibility was it to address exposure of such structures as pipes at certain elevations due to erosion.

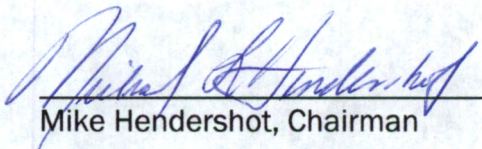
Mr. Elgin believed that would be the homeowner's responsibility, which began at the line of the control elevation up. The source of the erosion determined who was responsible for correcting the matter, and it was dealt with on a case-by-case basis.

SEVENTH ORDER OF BUSINESS**Adjournment**

On MOTION by Mr. Refkin, seconded by Mr. Hendershot, with all in favor of adjourning at 3:16 p.m.
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James P. Ward, Secretary



Mike Hendershot, Chairman