

**MINUTES OF 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 Tuesday, September 15, 2015, 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:

Mike Hendershot	Chairman
David Herring	Vice Chairman
Doug Ballinger	Assistant Secretary
Alan Refkin	Assistant Secretary
David Herring	Vice Chairman

Board members absent:

Burnie Donoho

Staff present:

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

Audience present:

Approximately - 14 Residents

1. Call to Order & Roll Call

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

2. Consideration of Minutes

a) August 17, 2015 Emergency Meeting

On Motion was made by Mr. Hendershot and seconded by Mr. Ballinger to adopt the Minutes as described above, and with all in favor the motion was approved.

Mr. Ward opened the meeting to questions from the audience.

An audience member asked where he could get a copy of the Minutes. Mr. Ward stated that they are posted on the District's website at www.miromarlakescdd.org.

An audience member inquired as to how the Notices went out, because he did not receive one. Mr. Ward reported that he mailed approximately 1,200 of the letters out using the addresses from the Property Appraiser's rolls, and had less than a couple dozen returned.

An audience member stated that he received the Notice and he tried to pay it off in 2010 but when he called the office number in Naples, the number was disconnected. He further stated that when he got the new form with the Fort Lauderdale address he tried calling and it was disconnected. Mr. Ward stated if an owner is desirous of paying off the capital portion of the assessment, Alice Carlson with AJC & Associates website contains a link to do so. He also indicated that the number in Ft. Lauderdale is his cell number, and that number is a fully functional working number.

3 Public Hearings - Fiscal Year 2016 Budget

Consideration of Resolution 2015-10, Adopting the Annual Appropriation and Budget for the Fiscal Year 2016

I. Public Comment and Testimony

On Motion was made by Mr. Herring and seconded by Mr. Refkin to open the Public Hearing, and with all in favor the motion was approved.

Mr. Ward stated that the Fiscal Year 2016 budget is composed of essentially an Operating Budget (General Fund) that handles the general, administrative, and operating responsibilities of the District primarily related to the operation and maintenance of the water management system and landscaping improvements. In this particular budget, the District has been involved in litigation with an adjoining property owner, and that litigation is generally the primary result of the increase in the assessments that are in the budget from last year to this year. Mr. Ward stated that in mid-August the District successfully concluded that litigation; however, there are a number of responsibilities under the settlement agreement that will most likely keep the assessment amount somewhat constant for the next two fiscal years until the requirements under the Settlement Agreement are accomplished.

Mr. Ward explained that the other parts of the District budget include the capital assessments related to two series of bonds. He stated that those assessments have actually decreased over the last couple of years related to refinancing the

bonds at substantively lower interest rates than when the bonds were issued. Mr. Ward explained that owners are able to pre-pay the capital piece of the debt assessment, with the most advantageous times to do that being just prior to the November payment and just prior to the May payment. He stated that he gets a lot of questions about whether it is appropriate to pay the bonds off. He stated that generally speaking the bonds are amortized like a mortgage on a single family home.

Mr. Ward stated that very few people pay off their assessments, and the ones that do pay them off are usually for reasons such as:

1) "We're going to own our home for more than seven to ten years", which is generally the break-even point; or

2) "Our homes are going to go to our children or grandchildren and we want to leave it debt-free without assessments on it".

Mr. Ward explained that he also hears, "I don't want to pay them off because, as a matter of law, the assessments transfer to future property owners."

Mr. Ward described the two ways to pre-pay the assessment, should owners choose to do that:

a) Alice Carlson of AJC & Associates website www.cddfllorida2.com where individual property can be looked up and pre-paid directly from the website;

b) Contact Mr. Ward's office and he will help owners through the process. He stated his phone and email are listed on the Notices.

Phone: 954-658-4900 and email: ward9490@comcast.net

Error! Bookmark not defined.An audience member asked if there is a pre-payment penalty. Mr. Ward stated there is no pre-payment penalty.

An audience member inquired if adding units decreases the assessment. Mr. Ward explained that whether the land has a house on it or is vacant, the same rate is paid.

An audience member commented that there were some problems with aerators in the ponds and it took a year before they were fixed. He explained that they were told the reason it took so long was because there was no money in the budget for it. He inquired if going forward this now will be included in the budget. Mr. Ward stated that, yes, the District is now properly budgeted with sufficient funds to repair and/or replace the entire aerator system.

An audience member asked if the detailed budget is available on the website, and Mr. Ward answered affirmatively. The audience member asked if the

settlement agreement is a public document. Mr. Ward said yes, and if he receives a phone or email request for it, he will be glad to send it.

An audience member asked if the Northbrook construction gate is going to be attached to the CDD. It was explained that it is still within the CDD boundaries.

An audience member asked if that commercial property would then be paying rates to the CDD. Mr. Ward answered yes, anything that is in the boundaries of the District does pay an assessment on the property.

An audience member asked Mr. Ward to explain the settlement agreement. Mr. Ward summarized that the litigation revolved around a permit that Alico West Fund requested from the South Florida Water Management District (SFWMD). The settlement agreement that the District entered into with Alico essentially permits Alico to construct their water management system as they have designed it with some additional water control structures and are required to be added and to add other items in order to ensure that the construction of their water management system does not adversely affect the District's water management system. In addition, there are some obligations that both Alico and Miromar Lakes CDD have on a going forward basis in order to work cooperatively with respect to the maintenance of Lakes 5 and 6 to make sure that the operating of that system is consistent with the District's SFWMD operating permits.

In response to an audience member's question, Mr. Ward reported that the litigation has cost the District approximately \$150,000 year-to-date and will probably rise to \$200,000. He said \$250,000 to \$300,000 was budgeted for next year, mostly to pay the settlement costs. The balance of the funds will be used for capital and operating requirements under the settlement agreement.

An audience member asked if there was a provision in the budget to restore/reduce the fish population in the lake. Lengthy discussion ensued regarding the lake. Mr. Ward explained that much time has been spent on this issue. He stated that there had been on-going dialogue to remove the grass carp from and to have a significant littoral shelf re-planting process in the lakes. However, the removal efforts to find a vendor who can remove them has been impossible to find at this point.

An audience member asked if the Notices, in addition to mailing per legal requirement, could be sent out via email since Miromar Master Association has a fairly complete list. Mr. Ward stated that if the developer agrees, it can be done.

Mr. Ward stated that he has not received any written comments or questions regarding the Fiscal Year 2016 Budget.

On Motion was made by Mr. Refkin and seconded by Mr. Ballinger to close the Public Hearing, and with all in favor the motion was approved.

II. Board Comment and Consideration

Dr. Herring stated that the Board Members are residents of this District and some Board Members have more than one property in Miromar Lakes. He stated that the increase in fees affects the Board Members the same as all other property owners. He stated that the Board spends numerous hours at the meetings trying to minimize the impact, avoid litigation, and at the same time keeping Miromar the development that it is. He stated that, for the most part, there is great communication with the developer. **Error! Bookmark not defined.** He explained that the current litigation came out of the blue and there was no way to predict that the District would be involved in that, but the Board was charged with protecting the function that the District has in maintaining the water quality for the entire community.

Mr. Refkin commented that the Board went out of our way to make the settlement and we were very proactive. He explained that the initial projections on the legal costs was about half a million dollars. So this litigation is about \$350k below our initial estimates.

Mr. Ballinger said that the Board had to scramble to find the money to pay for the litigation because there is not money sitting around doing nothing; there is no excess and every nickel has been budgeted for.

On Motion was made by Mr. Ballinger and seconded by Mr. Hendershot to adopt Resolution 2015-10 as described above, and with all in favor the motion was approved.

4. Consideration of Resolution 2015-11 Imposing Special Assessments; Adopting An Assessment Roll; Approving the General Fund Special Assessment Methodology **Error! Bookmark not defined.**

I. Public Comment and Testimony

On Motion was made by Dr. Herring and seconded by Mr. Refkin to open the Public Hearing, and with all in favor the motion was approved.

Mr. Ward explained that this Resolution simply puts in place the legal mechanism to allow the assessment to move forward for next year based on the now adopted budget.

On Motion was made by Mr. Refkin and seconded by Mr. Ballinger to close the Public Hearing, and with all in favor the motion was approved.

II. Board Comment and Consideration

There was no Board comment. **Error! Bookmark not defined.**

On Motion was made by Dr. Herring and seconded by Mr. Ballinger to adopt Resolution 2015-11 as described above, and with all in favor the motion was approved.

5. Consideration of Resolution 2015-12 Establishing an Operations and Maintenance Cap Rate for Notice Purposes Only

Mr. Ward explained that this Resolution prevents the District from going over an Assessment Rate of \$739**Error! Bookmark not defined.**.98, which is 10% over the existing rate, at any time in the future without sending individual mailed notices.

On Motion was made by Mr. Ballinger and seconded by Mr. Hendershot to adopt Resolution 2015-12 as described above, and with all in favor the motion was approved. Error! Bookmark not defined.

6. Consideration of Resolution 2015-13 Designating the Dates, Times, and Locations for Fiscal Year 2016 Regular Meetings of the Board of Supervisors

Mr. Ward stated that the meetings are set for the second Thursday of each month at 2:00 p.m. at the Beach Clubhouse. He explained that the Board can change that, and generally speaking it historically has been changed only once a year (in June or July due to vacation schedules).

On Motion was made by Mr. Refkin and seconded by Dr. Herring to adopt Resolution 2015-13 as described above, and with all in favor the motion was approved. Error! Bookmark not defined.

7. Consideration of Resolution 2015-14 Amending the General Fund Budget for Fiscal Year 2015

Mr. Ward stated that this Resolution amends the budget to deal with the incurred costs with respect to the litigation.

On Motion was made by Mr. Hendershot and seconded by Mr. Refkin to adopt Resolution 2015-14 as described above, and with all in favor the motion was approved. Error! Bookmark not defined.

8. Consideration of Request by Miromar Development Corporation to transfer approximately 5,600 l.f. of existing lake shoreline located on the east side of Lake 1A back to the developer in exchange for a completed lake located in the Phase III Peninsula development

Mr. Ward stated that this request is a continuation of the item discussed at the August meeting.

Mr. Charlie Krebs, District Engineer, reported that he prepared the memorandum based on discussions at the last meeting. He stated that he broke down the original (2005) cost of the lake purchase price to a sq. ft. basis so that an accurate comparison could be made. Mr. Krebs stated that the Exhibit shows where the lake is located. He stated that the shoreline value based on the 2005 numbers is \$7,151.84 for the 5,600 sq. ft. and if the same numbers are used to approximate a value of the lake that Miromar wishes to transfer for the 5,600 sq. ft, it is \$50,611.20.

Lengthy discussion ensued regarding the proposed transfer, the titles, and permit compliance with County and State regulations. Mr. Krebs explained that the developer provides a package which includes the permits and agency certifications that show the work has been completed per the permits. He said that the package then comes before the Board to consider for approval. Mr. Ward stated that the staff reviews the title work and operating requirements to ensure that it is within the permits that were issued by the regulatory agencies.

Dr. Herring asked if this is done with or without expense to the CDD.

Mr. Ward explained that we do have expenses, however they have not been many of these occurring, and generally have been relatively minimal.

Dr. Herring said there is a difference between relatively minimal and zero, which it should be. He further commented that the cost to the CDD should be figured out and the developer should pay said costs.

Mr. Refkin stated that he spoke to Jim about this.

Mr. Ward agreed that minimal and zero are definitely different, however, we have to treat residents and the developer exactly the same. Since the District is attempting to get compliance from residents and from the developer and ensure that the assets are transferred and that they are operated fairly. Mr. Ward said that if the expenses get out of hand in the future, an overall fee schedule may need to be developed for everyone to operate under, but at this time it may be most appropriate to hold off for a few more months.

Mr. Refkin stated that Miromar charges residents for any requested change and makes them post a bond, and that the District should be able to do the same. He further stated that the Board does not want to do anything that would affect the residents,

wherein Miromar would then ask for reimbursement of expenses for anything like a transfer of property, etc.

Dr. Herring requested a breakdown of the costs of the transfer.

Mr. Ward stated that a cost breakdown could easily be done.

An audience member asked if the transfer did not take place, would the new "lake to be" end up eventually being CDD property. Mr. Ward said that at some point it will. Discussion ensued regarding whether the transfer itself is a good idea since the CDD would inherit it anyway. He stated that the CDD would most likely eventually receive that lake, but there is no guarantee.

Dr. Herring stated that the best way to answer that, is that most likely we would have, but there are no guarantee's we would.

Mr. Ward stated that in the legal sense your Counsel will tell you it is considered an exchange, but in reality the District is giving up 2-3 ft of property on a lake bank in exchange for a larger lake. He stated that this is a normal thing that occurs within CDD's.

Dr. Herring stated that at the last meeting the Board also discussed these things, but this is the way the District has acquired more and more of these lakes in the past. He stated that this lake empties right into Lake Como, and that it has a drain that goes into water owned by the District. He stated that if the District does not take that lake, the Homeowners Association will take over the lake, and one way or another the District will be paying for the maintenance of that lake, whether it is CDD or Homeowners.

Discussion took place regarding bond capital, and Mr. Ward stated that any developer or resident can request that the Board consider additional financing. He explained that it is not going to happen in terms of assessing existing residents for any new construction that is going on; if it happens it would only be on vacant land.

On Motion was made by Mr. Refkin and seconded by Dr. Herring to approve the transfer of approximately 5,600 l.f. of existing lake shoreline located on the east side of Lake 1A back to the developer in exchange for a completed lake located in the Phase III Peninsula development as described above, and with all in favor the motion was approved. Error! Bookmark not defined.

7. Staff Reports

- a) District Attorney
Nothing further to report
- b) District Engineer

Nothing further to report

c) Asset Manager

Mr. Bernard reported that he called Lee County and put them on notice that once the water main is finished they are responsible for re-sodding that area once the irrigation is restored.

d) District Manager

Mr. Ward advised that there is a provision in the Settlement Agreement that an Operating Agreement be in place between Alico and Miromar Lakes CDD. He said that discussions with Alico at the staff level were started yesterday, and it was a productive meeting. He stated that discussions will continue, and as agreements begin to unfold the Board will be kept well up to speed on that. Mr. Ward reported there was a relatively lengthy discussion of whether or not it would be an extension of the existing lake use agreement. He stated that he is not personally in favor of that, and will try to limit the interlocal agreement to issues specifically related to this District and the Alico operation of Lakes 5 and 6.


8. Supervisor's Requests

Nothing to request.


9. Adjournment

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

The meeting was adjourned at 3:35 p.m.



James P. Ward, Secretary



Michael Hendershot, Chairman