

**MINUTES OF THE 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 Thursday, November 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:

Dr. David Herring	Chairman
Mr. Doug Ballinger	Vice Chairman
Mr. Alan Refkin	Assistant Secretary
Mr. Michael Weber	Assistant Secretary

Board members absent were:

Mr. Burnett Donoho	Assistant Secretary
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Staff present:

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

Audience:

Tim Byal	Miromar Development Corporation
Mike Rizzo	
Jerry Left	
Sheryl Parker	

1. Call to Order & Roll Call

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

2. Consideration of Minutes

a) October 12, 2017 Regular Meeting Minutes

Mr. Ward asked if there were any deletions, corrections or additions to the minutes. Mr. Ballinger pointed out there were two typographical errors, which were noted. Mr. Ward called for a motion for their approval.

Motion was made by Mr. Ballinger and seconded by Mr. Refkin to approve the minutes of the October 12, 2017 meeting with corrections, and with all in favor, the motion was approved.

3. Consideration of Agreement with Dex Bender Environmental Consulting

Mr. Ward stated that this agenda item is consideration of an agreement with Dex Bender Environmental Consulting. He said the part of the transfer of the Army Corps permit to the District last month requires the District to go through the process of permitting the riprap in the system. He noted that we discussed two consultants, an environmental consultant and an attorney who specializes in Army Corps permitting.. He said the Board could get the process started with the environmental consultant. He stated Dex Bender had done all of the environmental work on this project and was well renowned in the area for this type of work. He said, as such, he recommended the firm for consideration, the agreement provided by Dex Bender. He said the hourly rates were consistent with what he had seen from other environmental consultants. He added that this company had also done work for them in the past.

A discussion ensued concerning this consultant, and it was generally stated this company was good to work with.

Mr. Ward called for a motion.

Motion was made by Dr. Herring and seconded by Mr. Ballinger to accept the bid of Dex Bender Environmental Consulting as presented, and with all in favor, the motion was approved.

4. Staff Reports

a) District Attorney

Mr. Urbancic updated the Board concerning the Bellini and Ravenna transfer of lakes. He stated both communities wanted a transfer of their lakes. He stated he had worked with the developer, and a set of documents had been prepared which would come to the Board on a future agenda. He said there were still some details to be worked out.

Dr. Herring asked about the state of the lakes' shoreline following the hurricane. Mr. Urbancic responded that he did not know, but it would be determined. He said he had requested that the shorelines be in proper certified condition. He added that there were fountains which needed to be checked as well.

A discussion ensued concerning whether fountains were an asset. Mr. Byal pointed out that the fountains were part of the lakes and should be accepted. Mr. Refkin said he thought fountains were not an essential part of the water management system.

Mr. Ward responded to Dr. Herring's question concerning damage from the hurricane. He said Bellini, Isola Bella, and Verona Lago experienced significant hurricane damage, and it would cost a significant amount to repair the lake banks. He said these areas were all owned by the residents or whoever and had not been turned over to the CDD as was usual. He said that was what the CDD was in the process of doing now. Mr. Ward felt that these particular residents should not have to solve the hurricane damage problem. He said one of the lakes did have a fountain.

Dr. Herring asked Mr. Ward if it was his position that the CDD should take over the lakes and be responsible for restoration of the banks for those that had not been turned over yet. Mr. Ward responded affirmatively for those areas where there were residents living in the communities, which were Isola Bella, Bellini, and Verona Lago.

Dr. Herring asked if these communities had homeowner associations. Mr. Ward responded that he was not sure if they all did. Mr. Urbancic said Bellini and Ravenna, the ones he was working on, were condominiums.

Dr. Herring said at Caprini, where he resided, residents had their own Homeowner's Association as well. He said his community had incurred a great deal of storm damage that had to be repaired. He said he would not expect another community to be responsible for repairing that damage, and they were doing it themselves. He did not think the CDD should do these shoreline repairs.

Mr. Ballinger asked if the CDD was supposed to repair this damage whether the areas were owned or not owned. Mr. Ward responded affirmatively. Dr. Herring responded the issue was not presented that way. Mr. Ward stated it started a couple years ago. He said it came up with respect to the Alico litigation and some of the fines which would have resulted with South Florida. He said at that time, it was said that the CDD would take responsibility for the water management system and making repairs. He said over the years the CDD had consistently taken over the assets, and it was in the capital plan. He added these areas should have been turned over to the CDD years ago, but for some reason, it had not been done.

Mr. Weber said he had mentioned in the past that Volterra and Ana Capri have not been turned over to the CDD. He asked what needed to be done for this to occur. He pointed out that Bellini and Volterra were on the same peninsula, and the channel was still not turned over to the CDD. Mr. Weber was informed that Volterra would be approved along with Bellini.

Dr. Herring questioned what the developer would do if the CDD forgot to turn over a property.

Mr. Urbancic said Bellini and Ravenna, for whatever reason, had configured their condominiums and made their lakes part of the common element, and he was

having to sever them from the common element, which made the process less logical.

Mr. Urbancic said he did not need anything from the Board at this time, and this item would probably be on the next agenda.

Mr. Weber pointed out that fountains addressed the issue of noise abatement which had come up at the last Board meeting, and these fountains help with the noise from Ben Hill Griffin and I75. He said the conversation about fountains was important because if they were the HOA's responsibility, then the Board would know that if somebody wanted a fountain, who had to address it. If not, then it would be the CDD's decision what happened to the fountains. He said the point of who was responsible was relevant, and the Board needed to answer that question.

Mr. Urbancic stated he brought the issue of the fountains up because he knew the maintenance of them was usually an issue.

The Board looked at maps of the proposed areas and the existing fountains.

Mr. Ward said the CDD needed to take responsibility for the lakes in question. He said it was unfortunate that there had been a hurricane, but the lakes were a part of the Water Management District. He said what the Board did with the fountain was up to them.

Mr. Weber continued that now the Board was saying they were going to take over the maintenance of the lakes, but it should not be retroactive to pre-hurricane status. The CDD should not be reimbursing the unit owners in Bellini for the cost of repairing the shoreline. This was money that had already been spent, which again was the \$3,300 assessment.

Mr. Ward stated in his conversations with these residents, he did not know what had been spent. Mr. Weber responded about \$200,000. Mr. Ward said he would be surprised if they did not want to be reimbursed, but he had not had that discussion with the residents yet. He said his concern now was getting a significant piece of the water management district turned over to the district. He said petitioning the Board for repayment was a holistically different issue.

Mr. Weber said now would be the time to address the fountains, the hurricane damage and who's paying for it, and at what point would the Board be taking it over.

Mr. Ward said he would play devil's advocate and say the developer was going to argue that if whoever the builder was would have turned it over, we would have had the responsibility of maintaining it and taking on the cost of it. At the end of the day, The residents have been damaged by their own builder.

Dr. Herring said the Board would be opening a big can of worms because other communities that had already spent significant amounts of money might look at this and say, the CDD was taking care of Bellini which was not even part of the CD. He said

these residents would feel they were part of the CDD, had done their own reparation and maybe would want to be paid back.

It was pointed out that it could only be damage to the water management system.

Dr. Herring said it was still opening a can of worms, and he agreed with Mr. Weber that this needed to be settled. He said the transfer of that property had not been an issue until repairs had to be made.

Mr. Ward said nobody knew about it until then.

Mr. Refkin asked Mr. Ward how the Board could set the policy or establish the policy.

Mr. Ward responded as it related to the fountain, it was simple. The Board needed to tell him what they wanted to do.

Following discussion, it was noted that generally if a community wanted to add a fountain or any asset, the community would provide the initial capital, and then give it to the CDD for maintenance.

Dr. Herring asked if the fountains were costly to maintain. The response was affirmative.

Mr. Weber questioned if fountains should be part of the water management system. He stated in his mind, they were not, as fountains were decorative and noise abatement and were not necessary for water management.

Mr. Bernard said fountains were aesthetic but were also good for the water management system. He said fountains were big bubblers, and the cascading of the air into the system put more oxygen into the lake.

Mr. Weber said that basically they were not necessary, and the fact that fountains improved water quality was just a positive by product.

Mr. Refkin asked the Board to go back in the minutes to when the fountains were installed. He said the Board was told by the experts that fountains were aesthetic noise abatement. He said the amount of oxygen in the water, or the BOD rate, was not important in these lakes because there were no fish.

Mr. Byal commented that he did not see a difference between a fountain, the trees, and the berms. They were all part of the community and maybe a more holistic view was important. He said there needed to be an entity to maintain these elements in perpetuity. It could be the CDD or the HOA, but not the developer.

Dr. Herring stated it was for the developer as well. He said they were trying to sell houses, and when a person saw fountains and landscaping, it was favorable.

Mr. Byal continued that there should be a means by which the community could sustain all the assets that were produced.

Mr. Refkin commented that he agreed that the approach should not be fragmented, and there should be a policy and guidelines to follow. He said his issue personally was that not every community had a fountain, and so why should somebody outside of an HOA pay for a fountain in another community.

Mr. Byal stated he understood that, and Mr. Refkin had a point, but a more holistic approach needed to be taken. There were many communities that were not on the big lake, so should that cost be segregated from the people who do not live on it.

Mr. Refkin commented that people used the big lake for boating and aesthetics.

Mr. Byal responded that the Surface Water Management System was an interconnected system that everybody used in order to drain the property of the community. He said the Board could pick and choose how they wanted to do it, but all they would be doing was pushing cost around.

Mr. Weber agreed that it was a matter of shifting and who was going to pay for it. Ultimately, it was paid for by many upset people. The issues of the fountains were a little different. He illustrated if the CDD was going to take responsibility for the fountains, then each of the communities that did not have fountains might want fountains because they did not have to pay for them. If the fountains were the responsibility of the HOA, they might think twice about them because of the cost.

Mr. Ballinger asked if this issue would be decided today.

Mr. Ward said the fountains did not relate to the project of shoreline restoration, but it did relate to the Water Management System. He said the CDD was in the process of getting the properties in the name of the District and then taking on the balance of the restoration project.

Mr. Weber said he would move to approve Mr. Ward's request with clarification that it would be from this point forward and not retroactively. Mr. Ward responded that was fine, and the documents for this issue would be before them next week.

b) District Engineer – No report.

c) District Manager

Mr. Ward stated he had sent the Board members a document, which he noted was an ongoing document, which had been prepared two days ago. He said there was still much work to be done to evaluate what kind of hurricane damage there was throughout the community and what the cost would really be for repairs. He said at the moment the repair estimate was \$800,000. He said the cost of the restoration work was unknown to him, which included landscaping restoration. He said the figure did include the Water Management System. Mr. Ward stated he had chopped out the complete capital improvement budget for the current year, and it would take another \$375,000 in cash above the capital budget in order to fund just the \$800,000. He said that would take their cash balance down to roughly \$178,000, once the cleanup work was finished. He said this was an extremely low cash balance.

Mr. Refkin asked if the figure took into account the environmental attorneys.

Mr. Ward responded negatively.

Mr. Ward continued that the important point was that the Board were going into a budget year in a couple months in 2018 and there was still a great deal of landscaping work to pay for and the capital program for 2018 was now completely on hold. He said the key question was whether the CDD was going to have another assessment in order to finish the Hurricane Irma relief, restore some of the reserves, and then move on with the capital program. Or, did the Board want to try to keep the assessment level the same, which in his opinion would not be a financially sustainable choice, for the next three or four years.

Mr. Ballinger asked if there was a legal situation to do a special assessment mid-year.

Mr. Ward responded this could be done. He said the Board would have to go through the process of levying a special assessment, which required notification to all property owners, a public hearing, and Board approval. He added that a midyear assessment process was a little more difficult because the bill was done on the tax rolls in November. A midyear bill would have to be mailed out. He said the only other alternative would be to limp through the current year, spend the \$800,000, prepare the budget for Fiscal Year 2019, and then take a look at what it would truly cost and do a one-time special assessment in addition to the regular special assessment. He said they would go through that public hearing process and then go back to the regular assessment process beginning in fiscal year 2020.

Dr. Herring clarified that there were two figures: \$152,000 and \$146,000 for Bellini and Isola Bella. He asked if those figures were included in the \$800,000. Mr. Ward responded affirmatively. Dr. Herring asked if the Board had decided that they were, in fact, going to take ownership of these areas or was it still up for debate.

Mr. Ward said that had just been discussed, and he thought the Board had decided to do so.

Dr. Herring asked what the District was obliged to restore, and could some of the proposed changes in landscaping be accomplished. Mr. Ward responded that this could be done.

Mr. Ward said he would separate restoration into water management and landscaping. He said the CDD has no cost for landscaping restoration, and they did not have the funds to do any landscaping at this point.

Dr. Herring said then his question was answered, and all the CDD was obliged to do was clean up, not replace.

Mr. Bernard stated there was a little money for replacement in the \$800,000, and he would like to use that for critical areas. All agreed that was important. He continued that next month he would be coming to the Board with a proposal for replacing the landscape with different trees. He said the I75 Berm had an abundance of trees, approximately 1,200 trees. He said now that they had grown, they could be thinned out, and possibly used elsewhere. He said other berms were in the same category. He said he was also looking to install hedges that could not be seen through and for noise abatement.

Mr. Ward said in conclusion from a financial perspective there was an \$800,000 line item that they knew of at the moment plus whatever would be identified over the next month or two. He said when the Board went into the budget process, he thought it would be best to identify a long term plan that would be sustainable financially including building up the reserves, restoring the funding that was lost from Hurricane Irma and putting the capital program back in place. He said the Board should try to characterize the special assessment as a one-time assessment that helped to do those things he just mentioned. He suggested the Board continue with their ongoing regular capital program into the following year.

Mr. Refkin requested Mr. Ward to give them an idea of the amount of that assessment, possibly next month.

Mr. Ward said it might be a little early to that in December, but he would try. A comment was made that if it was \$500 for 1900 units, it would be nearly \$900,000. In the overall magnitude of the residences, that should not be a shocker to anybody. Mr. Ward said he was thinking the special assessment should be characterized as a one-time assessment and be done as part of the budget process for Fiscal Year 2020, put on the tax bill one time and collected that way as everyone liked to pay it that way.

Mr. Weber said his understanding was that there would not be an assessment from the Miromar Master Association. Mr. Byal confirmed this. He said there was a substantial fund that had been developed over time that allowed them the flexibility to handle a catastrophe like Hurricane Irma without the necessity of an assessment.

Mr. Weber said when the public meeting about the assessment took place, they should remember to point out that there would be no special assessment from the Master Association.

Dr. Herring asked if FEMA would be involved in this. Mr. Bernard answered that the FEMA application had been completed and the state approved it and kicked the application to the federal level for approval. He said if approval was given, FEMA would come and take a look at what they have and what had been done. He said they would only get paid for lands that were maintained by the CDD. He said they did not own any of the areas where there had been erosion; these were resident properties. He stated the Board could look for approximately \$300,000 to \$400,000 for reimbursement; FEMA reimbursed at 75%.

Mr. Weber clarified that FEMA would not recognize an easement interest. Mr. Ward said this was true. Mr. Weber pointed out that the two new lakes that the CDD was about to accept were easements and that would create an issue later. Mr. Ward responded that was true throughout the entire community as it was in most CDDs.

Mr. Bernard pointed out that an individual resident could apply for FEMA.

Mr. Ballinger asked if the Homeowner Association could apply for FEMA. Mr. Ward responded they could not unless it was in HOA's (inaudible).

Dr. Herring asked if the residents had to meet a threshold for what could be applied for and maybe the Board should let the homeowners' know that they were eligible to apply. Mr. Ward responded he wasn't sure how notification could be done.

Mr. Byal pointed out there was a different threshold for a governmental agency to try to obtain FEMA payments versus a private citizen. It was said that a governmental agency that had a public infrastructure asset would be reimbursed, and FEMA regulations also specifically addressed CDDs. Mr. Byal added it was difficult even for a CDD to get reimbursed.

Mr. Refkin complimented Mr. Bernard on the work that had been done on the berm.

An audience member, Ms. Parker, asked if getting reimbursed the \$300,000-\$400,000 amount from FEMA, would reduce the \$800,000. Mr. Ward said that would be a decision the Board would have to make sometime in the future. He said they had no significant funds and did not have enough money to even fund the restoration work related to this one hurricane. He added they would need to evaluate if the \$500,000 in the bank would be enough, but he did not think it would be. He said if the CDD got extra money from FEMA, the Board might evaluate putting that in the bank, so there would be more reserves.

Mr. Ward said as a result of the analysis that was completed two days ago, there was a requirement under state law that the CDD not expend more money than what was budgeted in the General Fund in any one fiscal year. He said there was also a requirement under the law that if the CDD did, within 60 days of the fiscal year end, the budget must be amended to ensure that it wasn't exceeded, otherwise there would be a

note in the audit. He added that \$130,000 had been spent in Hurricane Irma cleanup in the Fiscal Year that ended 9/30/2017, which put the CDD over their total expenditures that had been budgeted for Fiscal Year 2017. He said he had done a budget amendment, the third one for fiscal year 2017, that took \$130,000 out of cash and put it into the line items for Hurricane Reimbursement. This way the budget to actual in the audit will show the actual expenditures did not exceed the budgeted expenditures. He asked for a motion to adopt Resolution 2018-2.

Motion was made by Dr. Herring and seconded by Mr. Refkin to adopt Resolution 2018-2 as described above, and with all in favor, the motion was approved.

Mr. Ward thanked the Board for their patience on Hurricane Irma issues.

6. Supervisor's Requests and Audience Comment

Mr. Ward called for comments from the Board or the audience.

Dr. Herring stated that he had mistakenly taken a document home that he had signed at the last meeting that had approved the minutes, and he would bring it to him.

Mr. Left from the audience stated he had just come from a meeting where his board had passed a resolution authorizing a maintenance easement agreement. He said the board in the longer term wants to do a deed transfer of the bonds and were prepared to go to the owners, get their approval down the road, and get that transfer done. The Board thanked him.

Mr. Ward called for further comments from the audience.

Dr. Herring asked Mr. Byal to convey their appreciation to Margaret for the absolutely amazing job she had done and continued to do to bring the community back.

Ms. Parker from the audience stated the issue where she resided was where the water cut in and ripped the shoreline. She said a great job had been done the first time to rebuild it. Mr. Bernard explained that months ago was the first time the Parker's property had been repaired. He said a berm and sea wall had been put in, but shortly after, there had been a heavy rain, and it had to be fixed again. Then the hurricane did more damage at the same location. He explained to Ms. Parker that the worst areas were being fixed first. He said Ms. Parker's property still had its riprap, but some of the fill material and the sod had been pulled back. He pointed out that the waves just go over the sea wall and pull it back. He said there was a list, and when money was available, those areas would be repaired.

Ms. Parker commented that the community had spent a great deal of money repairing this issue the first time, and in her opinion, it was not truly done correctly. Mr.

Bernard told her that the repair work was an approved design that had gone to the County for permit. He said there were no warranties for an Act of God, and the damage was the same for many houses in her neighborhood. He added that without the hurricane, the damage would not have appeared.

Mr. Ward asked her what she was asking the Board to do. She responded she was asking the Board to make her berm safe, so she would not have that wash out anymore. Mr. Ward replied that unfortunately the Board would not be able to do anything until there was sufficient funding, which would be at least a year out.


Mr. Bernard told Ms. Parker that right now there were areas that needed some fill put in. She responded she could not get anyone to fill right now. Mr. Bernard said he would not have a problem getting fill in there, but the riprap would be repaired when the next phase of hurricane repairs were begun. He explained to her that because the repair had been recently done, the hurricane was able to do the damage. She asked if he felt the soil had now compacted enough, and he responded affirmatively.


7. Adjournment

Mr. Ward asked for a motion to adjourn.

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

The meeting was adjourned about 3:22 p.m.


James P. Ward, Secretary


Dr. David Herring, Chairman