

**MINUTES OF MEETING
MIROMAR LAKES
COMMUNITY DEVELOPMENT DISTRICT**

The Regular Meeting of the Board of Supervisors of Miromar Lakes Community Development District was held on Thursday, September 13, 2018, at 2:00 p.m. at the Beach Clubhouse, located at 18061 Miromar Lakes Parkway, Miromar Lakes, Florida 33913.

Present and constituting a quorum:

Mr. Doug Ballinger	Vice Chairman
Mr. Alan Refkin	Assistant Secretary
Mr. Michael Weber	Assistant Secretary
Mr. Burnett Donoho	Assistant Secretary

Absent:

Dr. David Herring	Chairman
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Also present were:

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

Audience:

Approximately 7-10 Audience members were in attendance: (all residents names are not included with the minutes, if a resident did not identify themselves or the audio file did not pick up the name, the name is not recorded in these minutes)

Mr. Mike Risso	Resident
Mr. Tim Byal	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 all members of the Board were present at roll call with the exception of Supervisor Herring.

SECOND ORDER OF BUSINESS

Consideration of Minutes

Mr. Ward called for any additions, corrections or deletions to the July 12, 2018 Minutes. Changes indicated were an incorrect meeting date and on Page 5 "a wave of lawsuits" should be deleted, Mr. Urbancic would not have made that comment.. He called for a motion to accept as amended.

On MOTION made by Mr. Refkin, seconded by Mr. Donoho, and with all in favor, the Minutes of the July 12, 2018 as amended were approved.

THIRD ORDER OF BUSINESS

Public Hearings

a) Fiscal Year 2019 Budget

Mr. Ward asked the Board to open the Public Hearing.

On MOTION made by Mr. Refkin, seconded by Mr. Donoho, and with all in favor, the Public Hearing was opened.

Mr. Ward asked if any of the public had questions or comments related to the Fiscal Year 2019 Budget.

Mr. Michael Risoasked if the Board had heard anything from the Master Association in terms of the impact on the Master Association fees from the landscape budget transfer.

Mr. Ward asked Mr. Byal to answer the question.

Mr. Byal responded the Master Association was not at a point where they understood the directive. He said conceptually, they were comfortable that the actual maintenance obligation, which would be transferred, would be at or below the proposed budget amount of \$617, primarily because Estate contractor was a lower bidder than the contractor proposed.

Mr. Byal continued that the capital portion that was \$150,000 would no longer exist because the HOA maintained sufficient reserves in order to accomplish that within its working capital funds. It would not be an operating cost assessment for the owners. He explained that the reason the discussion evolved was the CDD needed to have a large million dollar assessment for future hurricanes. When this need went away, then the HOA was responsible and had insurance coverage and substantial reserves.

Mr. Donohostated fortunately the District was under what had been budgeted for Hurricane Irma.

Mr. Byal said there were differences in the denominator, and there were more units in the CDD than there were in the HOA; but he said he did not see at the end of the day, the direct change between the landscape with the CDD and the landscape with the HOA being a significant impact.

Mr. Rissostated he didn't think the Board had ever approved the concept of the capital reserve.

Mr. Ward asked for clarification.

Mr. Risso said Mr. Byal was referring to the fact that with the transfer of the budget over to the Master HOA, the CDD no longer had to put up a million dollar capital reserve, but that was never approved by the Board anyway.

Mr. Ballinger and Mr. Refkin said that was correct, since that concept was replaced with the agreement with the Master HOA to undertake the maintenance of the landscaping

It was commented that in the bigger scope of understanding, the benefit of the redistribution of the landscape responsibility back to the HOA was part of that equation.

The point was made that on the CDD budget side, the off roll lots of developers, still being paid for, subsidized a portion of that landscape budget, and by handing it over to the Master HOA, the developer no longer has that responsibility.

Mr. Ballinger said the Fiscal Year started October 1 with this budget, but the Master HOA did not take over until January 1.

A resident asked when residents would see this transition reflected. Would it be in 2019?

Mr. Ward responded that in the current budget, there was a reduction for January 1, 2019 to September 30, 2020. He said in their HOA fee, when Miromar Development sends out new bills, whatever change there was would be seen for January 1. He said the District was maintaining in the budget through December 31, 2018, and the HOA would begin on January 1, 2019.

Mr. Mervis asked if it would be the same approach for the storm sewer cleaning.

Mr. Ward responded the storm sewer cleaning would remain with the CDD, so there is no change in the maintenance of the water management system. He said there was a rule coming up at another Public Hearing later that day which had nothing to do with the Homeowners' Association.

Mr. Mervis asked who would have responsibility for cleaning the storm sewers after January 1, 2019.

Mr. Ward responded if we could, we would talk about that during the public hearing on the Rule for the operation of the Water Management System.

Mr. Burlis asked about reimbursement for rebuilding the shorelines and who was responsible for that.

Mr. Ward said the CDD's position was that they would not be reimbursing anyone for storm related damage, the CDD will continue to repair storm related damage to facilities owned by the CDD, but the CDD has taken the position that it will not reimburse Homeowner's Associations for storm related damage.

Mr. Burlis asked what if the residents had not made the repairs.

Mr. Ward replied the CDD would have repaired that which was owned by the CDD.

Mr. Burlis asked why this wasn't communicated.

Mr. Ward responded he was not sure the District was aware homeowners had made repairs. He said they were aware of some.

Mr. Burlis asked how that allowed the District to not reimburse the homeowners.

Mr. Ward said he did not think it was the District's responsibility to make this clear to the homeowners.

Mr. Burlis said his homeowners' group reached out to the CDD, and no one responded to their messages.

Mr. Ward said he was not aware of any messages, but the bottom line was the District Board had indicated it was not going to reimburse any HOAs for storm related damages that were not taken on.

Mr. Burlis asked would the District not reimburse even if the Board had been approached about the damage and did not respond.

Mr. Ward said again he was not aware that the CDD did not respond to anything.

Mr. Burlis said let's just say it was hypothetical, and they were contacted.

Mr. Ward responded it was not a hypothetical question. The answer to his question was the CDD Board had indicated that it was not going to reimburse any Association for storm related damage that it picked up if that facility was owned by the CDD. He said it shouldn't have been done to begin with. He stated he was not aware and had not been advised. He added he did not know that the Board was aware of it either.

Mr. Refkin stated in the CDD minutes and during discussions, it was made really clear by Mr. Ward and the Board that the CDD would go in and fix the things that had not been fixed at that time.

Mr. Burlis asked what time period this was.

Mr. Refkin said a recent time period, and at past minutes show that topic had been a discussion of the CDD for some time.

Mr. Burlis asked what the time was.

Mr. Refkin suggested he go back in the minutes and look as he did not know the exact dates.

Mr. Ward stated he had just been advised that the CDD did not even own the Castelli Water Management System at the time of the storm last year. He said that was homeowner owned. He said after it was repaired, the District assumed responsibility for its operation and

maintenance. He said the position of the Board has been that if it was a private facility at the time, they would not do any repairs.

Mr. Krebs said it was his understanding that Castelli and Ana Capri and the shore line was still owned by the residents during the storm event and was transferred to the CDD afterwards.

Mr. Burlis asked what was meant by owned by the homeowners.

Mr. Krebs responded the Homeowner Association or the homeowners owned that shoreline up to the water's edge, so any improvements would have been the homeowners' responsibility to maintain and operate.

Mr. Burlis asked if it was something that he owned that had been transferred.

Mr. Krebs responded negatively and that from the water level down had been transferred. The developer still owned from control out in the main lake which was 18 down, so they transferred from that control line down to the CDD. He said what is from control up is owned and maintained by the HOA or the homeowner, however it was set up. The lake maintenance easement that was recorded as part of a plat that went along the shoreline, which allowed the owner of the lake at the time, the developer, to have access to maintain the lake shorelines from control up, was owned and maintained by the homeowner or the association, unless it had been transferred to the CDD. So only from 18 down had been transferred to the CDD that he was aware of.

Mr. Ward called for further questions, and hearing none, called for a motion to close the Public Hearing.

Mr. Weber stated that he wanted to comment on the landscaping item, and that if the CDD was going to continue to service the landscaping costs for the upcoming year, it would have cost about \$768,000 which included improvements of \$150,000. If you take into consideration the point Mr. Byal made that the \$150,000.00 the Master HOA would be able to fund that from existing reserves, then the Master HOA would only be paying \$617,000 because the capital improvement were being paid for by the reserve, so it was not an expense. He said then if the appropriate number of units for the HOA and the District was divided, the variance was \$88.04 in additional cost per unit. However, it was valuable to point out that a reserve would not have to be established for the CDD in the upcoming year and would not accrue the cost of the capital improvements and would benefit from the economies of scale of the Master Association that the CDD had not been able to obtain because of the magnitude of the Master Association. He said that was a number that could not be defined yet until all the contracts were renegotiated. He said there were other less numeric facts like the difficulty for the CDD to address things quickly because it needed to adhere to a budget. He said the CDD was a government agency and had to be careful how the money was spent whereas the Master Association had more flexibility. He said as a resident he was interested in that number, and it was a significantly important fact to the residents in the community.

Mr. Risso respectively disagreed with the analysis of \$150,000 capital because that was going to come out of the capital reserves of the Master Association. He said when that capital came out of the reserves, the \$150,000 would not be there for the residents. So although it did not get

accounted for as an expense, it was definitely part of the residents' fund that was spent, so the analysis was not correct.

Mr. Weber responded it depended how that figure was looked at. It was not something that residents would be charged for in the upcoming year in the tax bill or Master Association dues.

Mr. Weber responded at some point in time when \$150,000 was needed, it would not be in the reserve account, and the residents would be asked for the money. So he pointed out if they did not pay for it now, they would pay for it later.

Mr. Weber said if Mr. Weber analysis was used it was a difference of \$172.14.

Mr. Risso asked why that would not be material.

Mr. Weber said he was not saying that it wasn't material, but was saying it was important everyone knew what the numbers were. He pointed out there were also a number of factors that a number could not be put on. He said while all these are "concrete" numbers that could be identified, other benefits could not be identified, like the economies a scale, and the size of that number was not known yet.

Mr. Risso responded that the Board was making decisions now that were going to impact residents later. He said that was the discussion point. He said the Board, which was made up of residents, was making decisions to transfer budget money over to the Master Association. He said there had to be some balancing between those two bodies because both of them were coming to residents for the money. He said as decisions were being made by the Board, they needed to be cognizant of the impact on the other side.

Mr. Weber responded that was why he had brought up the discussion.

Mr. Risso said he was not sure he understood the analysis and was it that the \$172 was not material or just that it is \$172.

Mr. Weber responded no, that he was trying to be transparent which was very important and this information had been asked of him and others. He said he was not saying if it was good or bad, but personally, he did not have a problem with it because he felt the number was going to be less at the end of the day.

Mr. Ballinger said if you take into consideration the necessity if the District was still doing the landscaping and that reserve, it was upsetting to everybody. He said Tim Byal came up with the proposal to do the change, and it answered some problems and in itself lessened the impact of the fees that were being paid.

Mr. Urbancic noted that the Board was not bound to the arrangement in perpetuity; so if in a year or two, it was not working and not yielding the benefits expected, then it could be changed.

A resident (name not of record) stated that residents were delaying or using the reserve to counteract the \$172 and lowering it to \$88. So the real number was \$172, and they were using some "stashed cash" to pay it now, and then build the reserve back up again.

Mr. Weber noted that when the transition occurred, the reserves became the ownership of the residents. The current balance in the reserves was \$5 million. However, if the \$150,000 was ever needed, the impact down the road would be more than adequate.

Mr. Ward called for further questions, and hearing none, called for a motion to close the Public Hearing.

On MOTION made by Mr. Ballinger, seconded by Mr. Donoho, and with all in favor, the Public Hearing was closed.

Mr. Ward asked if there were any questions from the Board on the budget. Hearing none, he called for a motion to adopt Resolution 2018-9 which adopted the Budget for Fiscal Year 2019 beginning on October 1, 2018 and ending on September 30, 2019.

On MOTION made by Mr. Refkin, seconded by Mr. Ballinger, and with all in favor, Resolution 2018-9 was adopted.

b) Fiscal Year 2019 Imposing Special Assessments; Adopting an Assessment Roll; and Approving the General Fund Special Assessment Methodology

Mr. Ward said this Public Hearing imposed the Special Assessments which was the amount of the General Fund Assessment, approved an Assessment Roll and permitted the Board to certify that to the property appraiser in Lee County, and it adopted the General Fund Special Assessment Methodology. He called for a motion to open the second Public Hearing.

On MOTION made by Mr. Ballinger, seconded by Mr. Refkin, and with all in favor, the Public Hearing was opened.

Mr. Ward called for questions from the public, and hearing none, called for a motion to close the Public Hearing.

On MOTION made by Mr. Donoho, seconded by Mr. Refkin, and with all in favor, the Public Hearing was closed.

Mr. Ward said Resolution 2018-10 was in order and recommended for the Board's consideration.

Mr. Ballinger said there were several misspellings and questions about the Storm Water Management rules and policies, and asked if we should discuss those now, or later in the Agenda

Mr. Ward said we would get to that item next on the Agenda, and called for a motion to adopt Resolution 2018-10.

Mr. Weber pointed out that this item was the assessment for the upcoming year of \$526.69, which was what would be on the tax roll, and last year it had been over \$700.00.

On MOTION made by Mr. Refkin, seconded by Mr. Weber, and with all in favor, Resolution 2018-10 was adopted.

FOURTH ORDER OF BUSINESS

Public Hearing

Mr. Ward stated this Public Hearing was related to the adoption of Rule 1 regarding the operations and maintenance of the District's Storm Water Management System.

Mr. Urbancic explained Rule 1 was broken into sections. The first was the lake maintenance responsibility and the CDD would be responsible from control elevation down. He pointed out a map which showed the drainage basins and the control levels for various lakes, which showed the owner maintenance responsibility control up and District control down. He said that applied to lakes owned or operated by the District, and there may be some out there that we do not own, but this rule applies to facilities owned by the CDD. He explained the District would also be responsible for littoral plants in certain littoral zones in accordance with the permits.

He said if an owner failed to fulfill his responsibility under these rules, essentially the Board had the right to acquire corrective action. He said if corrective action had to be taken, the Board would have the right to charge the owners for costs. The second portion of the Rule was drainage directly into the lakes, which was drainage into the recreational lake. The Rule stated no drainage directly into the recreational lake. He said water would drain into the streets and then out, and this would also control gutters and downspouts into the lake. He said the District would first ascertain if any South Florida Water Management District permitting was necessary. If not, he said the District would give some controls to make sure the work was done right and not create unnecessary erosion. He said there were riprap installation and maintenance guidelines.

Mr. Urbancic continued that maintenance of inlets and storm drains, some of which had not yet been transferred to the District, were addressed. He said there were procedures in the Rule for that to happen.

Mr. Krebs said there were two permits that governed, the Army Corps of Engineers permit, which covered the Wetlands and the recreational lake, and the South Florida Water Management District Permit, which covered the whole Water Management System. He said these were the two main governing bodies which tell the District how to maintain and keep things in order. He said the other process concerned new constructions or repairs, and residents still would have to go through the County to do any type of site permitting. He said the County would issue dock and shore permits.

Mr. Krebs explained the recreational lakes could go up to 65 percent, all the internal water management lakes along the golf course and inside communities were still held at the 20 percent of shoreline that could be riprapped by County ordinance. The procedure for installing riprap was contained in the Rule. He said much of the Water Management System was transferred with bond money and certain

communities were not yet transferred. He said there was a list of communities and roadways that the Board felt needed to be transferred and guidelines on how to do so.

Mr. Krebs noted that Section 6A read "As of the date of these rules, now storm drains and inlets in every neighborhood or condominium within the District have been turned over to the District." He asked if a list was being maintained of which ones have or have not been transferred. He said it would also be good to know the status of the different drains around the community.

Mr. Weber asked if there is a list that is being maintained of which facilities are being maintained by the CDD and which are not being maintained by the CDD.

Mr. Krebs stated that the requisitions had been gone through when the District went through the bond transfers and identified the communities to which the CDD had given money for improvements. He said that list had been prepared, and he would email it to Mr. Ward to distribute.

Mr. Ward said he did have a list that identified the ones that had not been transferred. Secondly, he said the plan was that if the rule was adopted by the Board this way, then staff would begin to notify those associations that had those particular issues, and inform them of what they would need to do to get that turned over to the District.

Mr. Weber stated that a month ago scuba divers were in the neighborhood going into the storm drains and cleaning them, and asked if this would be done on an annual basis.

Mr. Ward said in the future it would be done, but there would still be some storm drains owned by the Master Association, so it would be a coordinated effort between the Master Association and the District.

On MOTION made by Mr. Ballinger, seconded by Mr. Refkin, and with all in favor, the Public Hearing was opened.

Mr. Ward asked for questions on the rule itself.

An audience member (unidentified) said basically next year all the sewers would be done.

Mr. Ward responded all of the sewers had been done this year in association with the Master Association, and next year we will do the same thing, except for those associations that have not turned over the system to the District.

An audience member (unidentified) was asked how the residents would know if the storm drains had been turned over to the District.

Mr. Ward responded that there was a list being kept and residents will be notified if they were on the list of people not having been turned over.

It was said that this actually related back to the landscaping. The Surface Water Management System was really the primary obligation and responsibility of the District. He said there were disparate pieces which made it difficult to manage properly; and at the same time, there was attention on landscape issues and things that were a distraction. However, the big picture and concept was for the District to

put its arms around all the elements of the Surface Water Management System and get all the pieces that had not been turned over and properly manage the system. He said now with this focus, a good job can be done for the community. He applauded the efforts to put controls around this system.

An audience member (unidentified) asked how a non HOA resident could access the list online. Mr. Ward responded he would put it online on the District's web site.

An audience member (unidentified) asked if it would be fair to assume with storm drain cleaning on a regular basis that there would not be any street overflow. The response was when everything is in place, it should function on an equal basis.

An audience member (unidentified) stated if your property was on the end, the backups would be higher on your end. He asked if this was a design flaw.

Mr. Krebs responded that the roads themselves are part of water management system, so anything over a 5 year storm, roads are supposed to have water in them. He explained it depended how much rain there was over what time period. He said a five year storm is 5 ½ inches in 24 hours. If you get 5 ½ inches in three hours, that water is going to stay just that much farther. He said hopefully the cleaning of the drains would help this issue. A discussion ensued on this point.

It was pointed out that it was discovered that the maintenance needed to be done holistically. The CDD was doing its job, but all the other drains that were not being attended to were the problem. He said all the drain pipes were tested, and the impacted pipes were the ones not being maintained by the CDD. The conclusion was if the whole system was not maintained, it would fail.

An audience member responded that it sounded like the problem had been resolved, but he did not hear that from the engineer.

Mr. Krebs responded he would never say the roads would not back up. He said there would be a storm event which would occur that would leave enough water on the roads to back it up.

It was asked if this was a design flaw.

Mr. Krebs said this was not a design flaw as the whole community had been designed according to South Florida Water Management System requirements. He said so many factors play into road flooding that you cannot say it will never happen again. He said each time a community was added, the lakes were sized for the additional volume for that area. He said control structures were modified to accommodate that additional area.

The comment was made that the result of the flooding problem which occurred was that the unmaintained connection pipes were discovered, and the problem was solved.

Mr. Krebs continued that the water must be discharged at a certain rate, and because of that the water has to stay on the golf course side, for instance, for a certain amount of time so it could be treated. Then, after it is treated, it flows into the recreational lake which then goes into the slough by the weir. He said there were many factors and requirements which must be met to make sure the water meets South Florida Water Management quality standards.

The question was asked if it was 18 feet where the weir was.

Mr. Krebs responded that everything that was in Basin 6 was 18 ngbd. He said recently agencies have been using nabd, which was roughly 1.2 feet lower. He said 18 ngbd was the control level. He said it was different on the other side of the community.

It was pointed out that the gradual 4 to 1 slope up from the lake belonged to the homeowner, and the reality was the water would be about 3 to 6 feet up the slope. When that water receded, it would cause a great deal of erosion.

Mr. Krebs stated the control elevation was based on the mean high water, the average high water elevation. He said property lines ended at control. He said the CDD would own from the control line down, and in addition, there was a 20 foot maintenance easement which went around which allowed access.

The question was asked why the number was 18 and not 20, or why not where the water got higher.

Mr. Krebs responded because 18 was the property line.

Mr. Ballinger commented that following Hurricanes Harvey and Irma, he did not know of any houses in the community that flooded, so something was working, even though it took a little while for the water to recede. He said it was going to work better because of the maintenance which had been done.

A question was asked about Navonna, and if it was 65% or 20% and could install riprap.

Mr. Krebs responded it was 65%. He said the 20% was restricted to the standalone lakes which had no connection to the recreational lake.

It was asked if the percentage included the common areas, and Mr. Krebs responded it did. He said the rule was not specific to a community, it was the entire lakeshore. It was 65% from Alico down to Verona Lago.

The question was asked if property around where riprap had been installed would experience accelerated erosion. Mr. Krebs responded he did not necessarily agree with that.

Mr. Krebs said the County was trying to control hardened shore line.

The question was asked if a homeowner wanted to install riprap, would he petition the Board to do so, and would it be allowed as long as the property fit the percentage rule. He asked if the other homeowners would have a say.

Mr. Krebs responded it would be up to the Master Association how that would work.

The comment was made that the CDD was the first step in the process, and it was decided that the process should be reviewed. Also, it was mentioned that the area being riprapped belonged to the CDD.

Mr. Ballinger asked who would keep track of the 65%. Mr. Krebs said right now Mr. Krebs was, and he kept a spreadsheet of the information.

Mr. Ward said another issue was the CDD did not know where all the homes were with riprap. He said many times the homeowner did not get the proper permits, and the Board was not equipped to police the entire community. He said the homeowner associations would have to take the lead on this. A discussion of this issue ensued.

Mr. Ballinger stated the reason the Board was trying to get the rules on paper was to answer questions people have. He said the Board will have the authority to assess and correct any problems that occur. He pointed out the homeowner, homeowner associations, and the CDD had joint responsibility.

Mr. Ward called for further questions, and hearing none, called for a motion to close the Public Hearing.

On MOTION made by Mr. Donoho, seconded by Mr. Ballinger, and with all in favor, the Public Hearing was closed.

He said the final action was to approve Resolution 2018-12, which would adopt the Storm Water Rule. He asked for further discussion.

Mr. Ballinger said there were several items which needed correction. He said on Page 4, the word following should be corrected; Page 5, 65% of those portion, add an s; Page 5, the word following; Section 6 shall be responsible for "the or their or its" operation and maintenance. He said Page 6 was well written. Mr. Krebs said he would recommend the resolution be accepted with those changes.

On MOTION made by Mr. Donoho, seconded by Mr. Ballinger, and with all in favor, Resolution 2018-12 with corrections was adopted.

FIFTH ORDER OF BUSINESS

Consideration of Resolution 2018-11

Mr. Ward stated this Resolution set the dates, time and location for regular meetings in Fiscal Year 2019. They would be the same as this year which was the second Thursday of every month at 2:00 p.m. at the Beach Clubhouse. He said this would set in place a procedure to allow advertising once at the beginning of the year. He said they could still add or take away meetings. He called for a motion.

On MOTION made by Mr. Ballinger, seconded by Mr. Donoho, and with all in favor, Resolution 2018-11 was adopted.

SIXTH ORDER OF BUSINESS

Staff Reports

- a) District Attorney
Mr. Cusmano reported on landscaping that would be done by next week.
- b) District Engineer – No report.
- c) District Manager – No report.

SEVENTH ORDER OF BUSINESS

**Supervisors' Requests and Audience
Comments**

There were no supervisors' requests and no audience comments.

EIGHTH ORDER OF BUSINESS

Adjournment

Mr. Ward adjourned the meeting at 3:22 p.m.

**On MOTION made by Mr. Ballinger, seconded by Mr. Refkin, and with
all in favor, the meeting was adjourned.**



James P. Ward, Secretary

Miromar Lakes Community Development District


Doug Ballinger, Vice Chairman