

**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, October 14, 2021, at 2:00 p.m. at the Library in the Beach Clubhouse, 18061 Miromar Lakes Parkway, Miromar Lakes, Florida 33913.

Present and constituting a quorum:

Alan Refkin	Chairman
Michael Weber	Vice Chairman
Doug Ballinger	Assistant Secretary
Patrick Reidy	Assistant Secretary
Mary LeFevre	Assistant Secretary

Also present were:

James P. Ward	District Manager
Greg Urbancic	District Attorney
Charlie Krebs	District Engineer
Bruce Bernard	Asset Manager
Bill Reagan	FMS Bonds

Audience:

Frank Austenfeld (ph)	Resident
Ekin McCormick (ph)	HOA
Tim Byal	
Lisa Van Dien	

All resident's names were not included with the minutes. If a resident did not identify themselves or the audio file did not pick up the name, the name was not recorded in these minutes.

PORTIONS OF THIS MEETING WERE TRANSCRIBED VERBATIM. ALL VERBATIM PORTIONS WERE TRANSCRIBED IN *ITALICS*.

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

District Manager James P. Ward called the meeting to order at approximately 2:00 p.m. He conducted roll call; all Members of the Board were present, constituting a quorum.

SECOND ORDER OF BUSINESS

Consideration of Minutes

September 9, 2021 – Regular Meeting

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

Mr. Alan Refkin noted Bellavista should be one word, not "Bella Vista."

Mr. Ward asked if there were any additional corrections; hearing none, he called for a motion.

On MOTION made by Mr. Alan Refkin, seconded by Ms. Mary LeFevre, and with all in favor, the September 9, 2021, Regular Meeting Minutes were approved.

THIRD ORDER OF BUSINESS

Discussion of Special Assessment Bonds

Discussion of the refinancing of the District's Series 2012 Special Assessment Bonds. The Series 2012 Bonds are a refinance of the District's Series 2003 Capital Improvement Revenue Bonds. Mr. Bill Reagan with FMS Bonds will be at the meeting to review and present on the refinancing.

Mr. Ward indicated Bill Reagan was the underwriter on the original bonds done for this District, as well as the refinance bonds, and was present to discuss.

Mr. Bill Reagan stated the Series 2012 bonds had a call date of 05/01/2022. He noted the federal government allowed entities to call bonds 90 days before the call date; therefore, preparations could begin now. He noted currently rates were extremely attractive. He stated there would be no cost to the District until closing. He explained there were delegated award parameters which must be met prior to closing. He noted there was approximately \$7.5 million dollars in bonds outstanding. He stated there were two ways the refinancing of the bonds could be accomplished, one was to bid the refinance to the banks (preferred method), and the other was to bring the refinance into the market (secondary method). He noted the saving opportunities were substantial at a little over \$125,000 dollars annually, 13.5% savings per resident. He noted the minimum required savings was 5%; this refinance would offer 13.5% savings. He stated the maturity date would remain the same. He noted the only change would be a lower interest rate and cost savings. He indicated the District's debt service reserve account requirements would be lower through the finance and the excess debt service reserve account funds could be utilized to cover fees or be applied to lower the debt amount.

Mr. Reagan discussed the fees: the cost of issuance fees which were the fees incorporated by the District (buying counsel, disposal counsel, district manager, feasibility, allocation, consultants, legal counsel, bond counsel, etc.); and FMS Bonds fees (the banker fees) of 1.5%.

Mr. Refkin stated this was pretty much the industry standard.

Mr. Reagan concurred. He discussed the savings allocation chart and how this chart might change as the market changed until the rate could be locked in. He asked if there were any questions.

Ms. LeFevre asked if there were any downsides to this refinance.

Mr. Reagan responded in the negative; there was no money required up front. He noted when negotiations began with the banks and the rates were locked in the savings and costs would be clearly outlined before the District moved forward.

Mr. Refkin noted ultimately this was about saving money and conducting business in a fiduciary manner. He noted Mr. Reagan had done this for the District in the past. He thanked Mr. Reagan.

Mr. Weber asked if \$7.31 million dollars included all refinance costs.

Mr. Reagan responded in the affirmative.

Mr. Weber asked why is there a difference in the reserve fund on page 6 of \$380, 892.00 compared to \$380,000.00 on page 5.

Mr. Reagan indicated this was a typo which he would correct.

Discussion ensued regarding the debt service reserve account funds.

Mr. Reagan noted while currently this was written up as a bank refinance, if something happened and the banks were unwilling to refinance or the cost was too high, the refinance would be put out to bond market.

Mr. Ward stated a bond market refinance would cost a little more than a bank refinance; therefore, he asked for this to be presented as a bank refinance. He noted he understood there were a couple of banks in the market for these types of refinances.

Mr. Refkin noted this was an estimate only; the savings and costs could not be known until the refinance went out to bid.

Mr. Reagan concurred. He noted in February the rate could be locked in.

Mr. Patrick Reidy stated in ten years this would be paid off. He noted the 2015 bonds could be refinanced in 2025.

Mr. Reagan concurred.

Mr. Ward noted this District currently did not have bond counsel. He recommended Greenspoon Marder. He asked permission to retain a bond counsel. He stated he contacted Greenspoon Marder; however, Greenspoon had not provided a firm proposal yet. He stated he would bring the proposal before the Board next month for approval.

Mr. Reagan indicated he needed approval for the standard MSRB agreement.

Mr. Ward explained an MSRB standard agreement was required, and it was necessary to retain the underwriter (FMS Bonds) to enable the underwriter to move forward in the process. He asked the Board to retain FMS Bonds for this financing and authorize himself and Mr. Urbancic to review and approve the MSRB agreement.

On MOTION made by Ms. Mary LeFevre, seconded by Mr. Alan Refkin, and with all in favor, the retention of FMS Bonds was approved, and Mr. Jim Ward and Mr. Greg Urbancic were authorized to review and approve the MSRB agreement.

FOURTH ORDER OF BUSINESS**Consideration of Resolution 2022-1****Consideration of Resolution 2022-1, a Resolution of the Board of Supervisors of Miromar Lakes Community Development District establishing Policies and Procedures relating to the review of requests for encroachments into drainage or lake maintenance easements dedicated to the District**

Mr. Ward stated this was related to the rule in place regarding encroachments and lake maintenance easements (LME) establishing the basic procedures to evaluate encroachments. He stated attached to the resolution was an application and submittal guide. He stated on page 2 was the policy which indicated any encroachment into the LMEs beyond sodding and irrigation systems and boat docks needed to go through this procedure as this would enable the District to see what encroachments were made and ensure the encroachments were in accordance with reasonable standards identified by engineering. He noted the procedure would enable Staff to review and approve encroachments in between board meetings and these would be reported to the Board. He noted there was also an encroachment agreement attached to the policy which would be signed by all involved parties and recorded in public records.

Mr. Michael Weber asked about existing encroachments.

Mr. Ward responded Mr. Charlie Krebs created a map with the existing encroachments within the District and these would be tracked. He stated once this was completed it would be presented to the Board and approved to be included in the record. He explained this would enable the District to track all new encroachments which occurred pursuant to the new policy. He stated he did not think the map of the encroachments would be utilized to force changes to existing encroachments, but it would enable the District to at least keep track of existing versus new encroachments.

Mr. Weber stated he hoped that the District would work to accommodate encroachment applicants in any way possible, especially if applicants were willing to accommodate the needs of the District. He stated the applications should be considered in a "how do we say yes" fashion, not "how do we say no."

Mr. Ward agreed; this was the way it should work. He noted the rule and procedure were in place to ensure encroachments were done correctly for the homeowner as well as the District.

Mr. Refkin agreed with Mr. Weber.

Discussion ensued regarding rip rap installation encroachments and how the District would handle these; the policy and procedure hopefully ensuring rip rap installation was done correctly from the start so the District could take over maintenance; fencing encroachments; and landscape encroachments.

Mr. Refkin stated catching these installations early would better enable the District to ensure the installations were done correctly from the start which would prevent many previously encountered difficulties.

Mr. Weber asked how unreported encroachments could be identified.

Mr. Refkin noted in his opinion the only way this could be accomplished was if Miromar, the CDD, and the HOA, everyone, worked together and if the application process was as simple as possible for the homeowner. He stated he was encouraged Mr. Tim Byal was working with the CDD in this regard.

Mr. Urbancic stated one thing the CDD should do was integrate with the HOA's architectural review process. He noted a memorandum of understanding was sent to Miromar for consideration which was a simple operation request asking Miromar to make the CDD aware of certain things. He stated in both the stormwater rule and the new policy, the CDD technically required showing hardship.

Mr. Weber asked how many applications were expected to be seen over the course of a year.

Mr. Ward noted three were coming in this month.

Mr. Bruce Bernard noted approximately 10 requests were sent from Miromar to the District for review. He noted most were landscape issues in the easements.

Discussion ensued regarding different types of encroachments in side-yard drainage easements including fences, generators, AC units, pool cleaning systems; Miromar coordinating with the CDD for side-yard drainage easement encroachments; the County requiring CDD approval for permit issuance; and Miromar being aware of what was permitted within drainage easements.

Mr. Weber noted the document read that the encroachment applications would be signed by the Chairman of the Board. He asked how difficult it would be for the Board to review the applications during Board Meetings as opposed to just the Chair signing the application.

Mr. Refkin stated it would be good for the Board to be aware of the applications. He stated he had no issue with the Board reviewing the applications.

Mr. Ward stated the process indicated the applications would be reviewed and approved by Staff and then presented to the Board; however, if the Board wished to have the applications presented to the Board for a formal approval this was fine, but there would be some pushback when there were timing issues.

Mr. Charlie Krebs suggested allowing Staff to approve anything considered normal while anything considered unusual be presented to the Board for review.

Discussion ensued regarding whether the Board should review all applications.

Mr. Ward noted if the Board wished to review all applications, this could be done; however, Agendas were created three weeks ahead of Meetings, and any application submitted after the Agenda had been created would not be presented until the following month's meeting. He explained this could create a six to eight week waiting period for applicants. He stated as it was written, the applications could be approved at the Staff level, and the Chairman would sign the encroachment agreement, and the Board would be advised of the applications and approvals. He noted this was a much faster process for the residents. He stated it was difficult to put something on the Agenda quickly.

Ms. LeFevre stated if most of the encroachment applications were for plantings and such, she did not see how it could be considered an emergency.

Mr. Ward explained there were many steps involved in this process; applicants were required to present plans, go through a review process, pay fees, the applicant needed to be approved, and then the

encroachment agreement signed. He stated if the Board wished to review all applications prior to approval this could be done; however, it was important for the Board to understand this could cause delays to residents with respect to the process.

Mr. Refkin stated he felt having the entire Board review the applications was critical. He stated he liked the idea of the Board approving all applications.

Mr. Reidy stated he was concerned about the delays this could cause residents. He noted residents wished to get things done without delay, and this process already would take at least a month even without presentation to the Board for approval.

Discussion ensued regarding how to enable the Board to review the applications without unduly delaying residents.

Mr. Refkin asked Mr. Byal's opinion.

Mr. Byal stated this issue had been discussed thoroughly and Staff had a good understanding of what direction the Board wished to go.

Mr. Refkin agreed presenting the applications to the Board could cause a delay for some residents, but hopefully this would be the exception and not the rule. He stated the ability of the Board to look at something as a whole outweighed trying to accommodate a resident for an exception.

Mr. Reidy suggested allowing Chair Refkin to decide whether an application needed to come before the Board for review or whether it could just be approved.

Mr. Ward stated the encroachments were typically landscaping, rip rap repair, and side fencing.

Mr. Byal stated the worst encroachment was a dock.

Discussion ensued regarding docks and how docks impacted the shoreline.

Mr. Byal noted docks already required extensive approval through the architectural process. He stated if docks required CDD approval as well, it could take up to six months for homeowners to get dock approval.

Discussion continued regarding dock installation in Miromar Lakes.

Mr. Ward stated encroachments were typically landscaping, fencing, and rip rap installation or repair. He stated these were simple encroachments and he did not feel the Board necessarily needed to review these types of encroachment applications. He stated if a resident wished to encroach a pool deck and hot tub into the easement, or put a generator into an easement, Staff would say no; alternatively, if pushed by the homeowner, the application would come before the Board for consideration. He stated if the Board wished, the minor-type encroachment applications such as landscaping, or a 1-inch pool deck encroachment, etc., could be approved at the Staff level and sent to the Board. He noted if any application were bigger or more involved, said application could be presented to the Board for consideration. He stated this could help with timing for homeowners.

Mr. Refkin noted he would not sign anything without first speaking with Mr. Krebs, Mr. Bernard, Mr. Ward, and/or Mr. Urbancic to be sure he understood what was being signed. He stated if anything came to him which was not routine, he would ensure it was brought before the Board for consideration.

Ms. LeFevre noted the policy currently stated Staff would approve the applications. She asked if the policy could be adjusted to indicate the Chair would ultimately approve the applications.

Mr. Ward responded policy indicated Staff could approve but the Chair had to sign off on that approval.

Mr. Refkin noted non-routine types of encroachments included seawalls, fences, rip rap, etc.

Mr. Ward stated which types of encroachments were minor versus major could also be spelled out more clearly in the policy. He stated moving forward, if it were determined this minor versus major concept was not working, policy could be changed.

Mr. Refkin indicated Mr. Urbancic would need to help with this as well, especially in determining what was minor versus major.

Mr. Urbancic agreed and noted clarity could be put into the revision regarding what was considered a minor item, and anything which did not fall in the class of minor items would come before the Board for consideration. He noted if there was any uncertainty, the matter would be brought to the Board as well.

On MOTION made by Mr. Doug Ballinger, seconded by Mr. Pat Reidy, and with all in favor, Resolution 2022-1 was adopted subject to changes, and the Chair was authorized to sign.

FIFTH ORDER OF BUSINESS

Staff Reports

I. District Attorney

No report.

II. District Engineer

No report.

III. Asset Manager

a) Operations Report October 1, 2021

Mr. Bruce Bernard briefly discussed his Operations Report. He indicated the drainage contractor recently cleared a clogged drainage line and three basins.

Discussion ensued regarding flooding after the most recent rain event.

Mr. Bernard indicated the Water Quality Report was completed and sent in as required. He stated Solitude Lake Management would be conducting a quarterly report regarding the condition of the lakes. He displayed the first report from Solitude.

Mr. Refkin commented the lake report from Solitude was excellent.

Discussion ensued regarding the Solitude report and the numbering of the lakes/basins.

Mr. Bernard noted per NDPES requirements once a year illicit discharges were to be discussed. He noted this would be included on a Board Meeting Agenda. He stated a refresher course full of information was available on the CDD website which reviewed such things as water turbidity and what needed to be done in case of illicit discharge, appropriate phone numbers, Department of Environmental Protection summary of procedures for petroleum cleanup, etc.

IV. District Manager

a) Financial Statement for period ending September 30, 2021 (unaudited)

No report.

Mr. Reidy noted the financial statement for September showed about \$74,000 dollars going into cash which was approximately \$20,000 dollars less than anticipated.

A brief discussion ensued regarding the financial statement but was indecipherable.

SIXTH ORDER OF BUSINESS

Supervisor's Requests and Audience Comments

Mr. Ward asked if there were any Supervisor's requests; there were none.

Mr. Ward noted there were several audience members present which he believed were from London Bay Homes with respect to lots 11, 12 and 13. He asked if there were any questions or comments.

Ms. Lisa Van Dien asked how these lots would be handled. She noted she had been communicating with Mr. Ward for several months regarding these lots. She indicated she could not get certificates of occupancy for these homes until a resolution was reached regarding the encroaching fences. She stated these fences were the required pool safety barriers. She noted two of the homes were within 30 days of completion. She requested the encroaching fences be approved at the Staff level or be considered by the Board today.

Mr. Ward stated he would go through the procedures with London Bay as were just approved by the Board. He noted Staff had the ability to approve the encroachment application.

Mr. Reidy stated the Board Members received an email yesterday from Bob Bruns (ph).

Mr. Ward stated Mr. Bruns was a London Bay homeowner who was closing in 30 days.

Mr. Reidy noted Mr. Bruns' email indicated the CDD was requiring him to install a back fence (across his yard) and Mr. Bruns wanted to know if the CDD could do anything which would enable him not to install a back fence as this would disrupt his water view.

Mr. Krebs explained the fences were required by Lee County for safety purposes. He stated Lee County indicated taking the fence down to the control elevation was sufficient for rear protection. He stated if the fences were not brought down to the control elevation, a back fence enclosing in the pool area was required. He explained if the CDD did not approve the encroachment of the fence down to the control elevation waterline, then Mr. Bruns would be required to install the back fence across his yard enclosing in the pool space.

Discussion continued regarding the email from Mr. Bruns and why Mr. Bruns felt the CDD was requiring the back fence; the CDD's blanket statement that it was no longer going to permit any encroachments causing Mr. Bruns to send the email; and side fence encroachments always being approved in the past.

Mr. Reidy stated he felt the side fence encroachment should be approved.

Mr. Ballinger asked if gate installation was required with side fence encroachments.

Mr. Ward responded in the affirmative; a gate or removable fence was required. He noted a "removable" fence was a fence which was easy to lift and move for access. He stated he would provide Lisa with the rules adopted today once the rules were updated, and then London Bay would be required to submit the necessary documents, following which the documents would be reviewed right away.

Discussion continued regarding approval of this side fence encroachment with the addition of a gate or removable fence.

Mr. Ward noted side fencing, landscaping, and rip rap were standard minor encroachments which were easily and commonly approved but had to go through the proper procedure for approval as adopted by the Board. He stated he did not feel there would be any complications, difficulties, or delays in approving the London Bay side fence encroachments. He stated all three London Bay encroachment requests were the same: side fence encroachments. He asked if there were any additional audience questions or comments; there were none.

SEVENTH ORDER OF BUSINESS

Adjournment

Mr. Ward adjourned the meeting at 3:08 p.m.

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

ATTEST:

Miromar Lakes Community Development District


James P. Ward, Secretary


Alan Refkin, Chairman