

**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, December 10, 2020, at 2:00 P.M. at the Beach Clubhouse, 18061 Miromar Lakes Parkway, Miromar Lakes, Florida 33913.

**Present and constituting a quorum:**

|                |                     |
|----------------|---------------------|
| Doug Ballinger | Vice Chairman       |
| Alan Refkin    | Assistant Secretary |
| Michael Weber  | Assistant Secretary |
| Mary LeFevre   | Assistant Secretary |

**Absent:**

|                   |          |
|-------------------|----------|
| Dr. David Herring | Chairman |
|-------------------|----------|

**Also present were:**

|               |                   |
|---------------|-------------------|
| James P. Ward | District Manager  |
| Greg Urbancic | District Attorney |
| Bruce Bernard | Asset Manager     |
| Charlie Krebs | District Engineer |

**Audience:**

Erin Dougherty

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 2:05 p.m. He conducted roll call; all Members of the Board were present with the exception of Supervisor David Herring, constituting a quorum.

Mr. Ward indicated Dr. Herring has sold his home in Miromar Lakes; therefore, he would not be attending today's meeting and would submit his resignation letter sometime soon as Dr. Herring was now in North Carolina.

*Mr. Ward: For the record Ms. Mary LeFevre took her seat and the Oath of Office prescribed by the State and her term was effective as of November 16, 2020. For the record, also, I am a Notary in the State of*

*Florida and authorized to administer this Oath. It is slightly different than the one you took when you did your State Oaths. He administered the Oath of Office to Ms. Mary LeFevre. He asked Ms. LeFevre to sign the Oath and return it to himself for notarization and to be made a part of the public record.*

Ms. LeFevre thanked the Board.

**SECOND ORDER OF BUSINESS**

**Consideration of Minutes**

**November 12, 2020 – Regular Meeting**

Mr. Ward asked if there were any corrections or additions to the November 12, 2020 Minutes.

*Mr. Weber: On page 3 and 4 where it says Mr. Ballinger, it should say Mr. Weber.*

*Mr. Ballinger: Under Mr. Bernard, the last sentence there, it says “we will just” – the word should be “add” that to last week’s list. I’m on page 4.*

*Mr. Weber: Under attendance, I know Tim was here last meeting, so was Erin Dougherty.*

Mr. Ward indicated he would make the changes. He asked if there were any additional changes; hearing none, he called for a motion.

**On MOTION made by Mr. Michael Weber, seconded by Mr. Doug Ballinger, and with all in favor, the November 12, 2020 Regular Meeting Minutes were approved as amended.**

**THIRD ORDER OF BUSINESS**

**Staff Reports**

**I. District Attorney**

No report.

**II. District Engineer**

No report.

**III. District Manager**

**a) Financial Statements for period ending November 30, 2020 (unaudited)**

*Mr. Ward: I have nothing for you unless you have any questions on your financials. I did separate out the fund balance for the operations on the balance sheet for you, so you will see that on a going forward basis. Any questions?*

*Mr. Weber: We were having a discussion earlier and Mary was asking what the cap balance is, and I said we don't get the balance sheet, we just get the interest statement for the account. So, the question was, any chance of seeing a monthly balance sheet for the general fund?*

*Mr. Ward: If you look on page 1 that is the balance sheet. The far left column is the general fund and then you see your two debt service funds, the 2012 and the 2015. Account groups and governmental sector are just a way to accumulate your long-term debt balances.*

*Ms. LeFevre: The beginning balance is \$260,000 dollars. That is the carryover from last year? On page 2 general funds.*

*Mr. Ward: Yes, that would be the September 30, 2020 balance also. It is cash. In a general fund you will see the cash balance was actually \$703,000 dollars. That was on page 1. Your fund balance just allocates that number out to its appropriate line item, so \$260,000 is what we call unappropriated or unaudited fund balance. It's just cash that's not reserved for other operations. \$50,000 and \$45,000 were what we reserved from the prior year for the drainage system and disaster relief, and \$25,000 was the – this is the November 30 number, the November 30 results from operations.*

*Ms. LeFevre: So, what you're saying to me is that the assets of \$703,000 dollars which was allotted to certain things, certain debt, the reserves, whatever else, and presently there is \$260,000 dollars which is in cash on site to spend.*

*Mr. Ward: Correct.*

*Mr. Doug Ballinger: The \$100,000 reserve thing. That's not the \$50,000 and the \$45,000.*

*Mr. Ward: Yes. It was \$95,000 which is what we reserved in the budget from 2020. We call it unassigned in the governmental world. It doesn't mean you have to use it for that, but I separated it out for you because you wanted to see it.*

*Mr. Doug Ballinger: Okay, so that is the \$100,000 that we currently have been asking questions about?*

*Mr. Ward: Correct.*

#### **IV. Asset Manager**

##### **a) Operations Report November 2020**

Mr. Bruce Bernard reported the new properties in Bergamo, and Cortina were being cleaned in preparation of the District taking over maintenance. He stated toad collection continued. He indicated he obtained a weekly report from Scott's Animal Service which he relayed to Heather with Miromar Lakes which indicated how many toads were collected in each development. He noted there were not many large toads, only medium and small toads.

*Mr. Alan Refkin: Is that information on our CDD website? It might be a good idea because I get asked by my neighbors and everybody else what's going on over here, and I tell them what I*

*know, which is not very much, just what I hear from you. It might be good. I don't know if anybody looks at this site, but it might be good if we can direct somebody and say like "Here's what we are doing about it" and "Here it is on the site." It really shows that we are doing something. It really shows we are proactive. I think the residents should probably be informed about all the great things you are doing in regard to this toad situation.*

*Mr. Ward: I will post it on our website and leave it up to the homeowner's association to do what is appropriate.*

*Mr. Mike Weber: I doubt the Master Association is interested in putting anything about cane toads on their website.*

Discussion ensued regarding the Master Association paying 50% of the cane toad cost, and it being an excellent idea to show the residents how their money was being spent. Mr. Ward indicated he would place this information on the CDD website.

Mr. Bernard indicated midge fly treatment began two weeks ago and would continue every two weeks for the next two to three months in an effort to break the midge fly life cycle. He indicated insect-larvae-eating fish were being stocked in certain lakes. He stated 20,000, 2-inch to 3-inch fish, were being distributed between two lakes on November 16, 2020. He explained these fish would be effective next season. Discussion ensued regarding potential fish sizes, the fish eating only insect larvae and not grass, and the fish having normal life cycles.

Mr. Bernard reported lake bank restoration would start next month in Valencia, and some non-residential lake banks. He noted this would include riprap repair at Volterra as well.

*Mr. Doug Ballinger: Is there anything in your plans for Ravenna?*

*Mr. Bernard: Ravenna has not been turned over to the CDD.*

*Mr. Doug Ballinger: If they had been turned over then there would have been turned over there would be plans.*

Mr. Bernard explained he walked Ravenna, and notation was made of repairs which needed to be done, but until it became CDD property the CDD would not be responsible for these repairs.

*Mr. Doug Ballinger: I go by there in my boat fishing a lot, and it appeared to me that what they put the riprap in is drooping in two different areas.*

*Mr. Bernard: More than that.*

*Mr. Doug Ballinger: Is that because it was improperly installed? Because it seems like it's falling down.*

*Mr. Bernard: What you are seeing is the black paper underneath the riprap. He explained it was the same damage seen on a lot of the riprap but was not as bad as hurricane damage.*

*Mr. Doug Ballinger: So, in conclusion you would say that since the residents haven't turned it over, then it is not our responsibility.*

*Mr. Bernard: It's not my decision. I'm just saying I looked at it and once I'm given the okay to go by the District Manager, I will make repairs as needed.*

*Mr. Mike Weber: Why wouldn't we want Ravenna to repair all that before it was turned over and given to us and we have to pay for it?*

*Mr. Bernard: Why didn't we have Bellini repair all theirs before they were turned over? It was not my decision.*

*Mr. Ward: If you recall, what happened a few years ago, is while in litigation with Alico, we received all of these South Florida Water Management District "we don't like you" letters and we are going to fine you for whatever, and because of that we took the position that irrespective of whether or not it had been turned over to the District or not, we went and fixed them because the District is the permit holder and the one that is obligated to maintain a portion of the system, so that is the position that we took at that point in time. Subsequent to that we have encouraged associations, condo or homeowner's association, to turn over their drainage systems to the District and we have not really enforced any kind of procedure that they've got to go out and fix all of this stuff beforehand simply because the District has a great desire to have it fixed because of the permit issues that we have here. So, we have been doing it as needed to the extent that they have been doing them. Since the South Florida fiasco, we have had one that has been turned over that was actually in relatively good shape. The Ravenna folks are in discussions with Greg and I now about turning over their system. Frankly, at this point we have not come to any agreement whatsoever on the paperwork necessary, due to we have not discussed the issue of how deteriorated these lake banks are. I would say, for the moment, we probably should just put together what we think the cost of that would be and maybe we evaluate it in terms of whatever they want to do, but at this point I don't think they are going to want to turn over their facilities to us. We will see.*

*Mr. Alan Refkin: I think it is pretty hard to ask them with fixing this thing up and turning it over to us because we spent quite a bit of money over at Bellini and fixing that up, at a substantial cost, but so did we also fix up the areas in Sienna, and all those areas which weren't riprap and were a whole other issue there. So, this Board has a history, which I support, I like, of fixing these things once and then if the homeowners have a problem after that, but we have addressed these things. So, because we fixed up Sienna, because we fixed up all these other areas, I don't think it's entirely fair that we just ask Ravenna and say, "except for you." And Bellini was a mess. That cost us a lot of money.*

*Mr. Ward: I haven't pushed the issue with Ravenna or anybody for them to go out and fix things because I think Alan has an extremely valid point, and that is what we have been doing, and from an overall perspective for this community. Having those within the confines of the District for operations and maintenance, even if we take them on because of these problems, is a good thing for the overall operation of the drainage system. I haven't really pushed it, and I probably would not push it on Ravenna honestly, unless you tell me otherwise to do so. As I said with Ravenna specifically, we are just miles apart on any agreement to turn over those facilities, just from a paper perspective at this point. I don't know what they are going to do, but clearly, I*

*have no intention of coming back to you and asking you to fix this at the moment with it not being turned over to us. I think we just let it be and see where we need to go.*

*Mr. Mike Weber: I just wonder if Ravenna has any recourse as it was three years ago, they put the riprap in and if it's all sliding into the lake already, you would think they could go back to whoever installed it and say, excuse me but – It's not like it's been 10 or 20 years.*

Mr. Bernard stated Ravenna was not as bad as Bella Lago and other places. He explained it was mostly the top of the riprap; the underwater portion did not look bad. He explained why the riprap was shifting in Ravenna due to rock sizes.

*Mr. Doug Ballinger: Am I correct in assuming Ravenna paid for all that in the first place?*

*Mr. Ward: I don't know when they turned over from the developer, but whatever is there, this District did not pay for it.*

*Mr. Bernard: I think, if I'm not mistaken, that was done while the builder was still there.*

*Mr. Doug Ballinger: The boat traffic is not supposed to be within, is it 100 feet?*

*Mr. Mike Weber: Yeah, it was 100 feet, 200 feet, proceeding.*

*Mr. Doug Ballinger: One of the residents asked me who puts those markers up and I actually just told her I thought Julie Wilson was on the Lake Use Committee and I referred her to call Judy Wilson to find out who actually puts those up.*

Mr. Ward asked speakers to put their names to record before speaking.

*Mr. Erin Dougherty: (Response was also indecipherable.)*

*Mr. Doug Ballinger: I think that they would be ready for that to happen because of the problem it is causing. She said that they were getting closer and closer with the water ski and everything. It might need some buoys to keep them away.*

*Mr. Weber: Part of the problem of course is that the ski boats out there (indcipherable), now there is surfing behind the boats because they have surf wedges on them. All those things were made to make as big a wave as possible. These boats, especially the newer ones, can throw massive waves and even if you are out in the middle of the lake it can make a big wave come into shore, and if you are closer it is that much stronger. It's not a boat like ours. Those ski boats have serious wake behind them.*

*Mr. Doug Ballinger: I'm trying to find out who it is that she should call. The lake use committee or should she be talking to you guys?*

*Mr. Erin Dougherty: She should direct (indcipherable 29:41).*

*Mr. Bernard: I will have our inspections by MRI on the drainage system for the third year Phase III, in the back area peninsula, and they will be starting in there in about 3 to 4 weeks. So, we will have the whole system cleaned and next year start new. That's the cheapest area so far.*

*Mr. Weber: South Florida Water Management District will fine us if we don't maintain the shoreline properly. Does that include even shoreline that has not been turned over to the CDD? It doesn't matter if it is CDD property or not?*

*Mr. Ward: Charlie, those areas that are under construction, are they under a construction permit in the name of the District or the name of the developer?*

*Mr. Krebs: The name of the developer.*

*Mr. Ward: So, the answer is no to your question. They would be subject to that construction permit which is in the name of the developer and we would not be a party to that. We get it once it transfers from construction to operations.*

Mr. Weber asked about Ravenna.

*Mr. Ward: Ravenna is in an operations phase, so that's one of the reasons I would like this to happen with Ravenna, but at the moment the difficulties are rather monumental with them.*

*Mr. Weber: What I am just trying to clarify is does it actually matter who is responsible for that shoreline. Does the entire responsibility fall under the CDD because that is the shoreline regardless of whether it has been turned over or not?*

*Mr. Ward: The regulatory agency has clearly, with the findings we were subjected to with the Alico litigation, taken that position. We are the permit holder for that system and irrespective of who owns the underlying title to it, if they have some desire to come ding us for that, they will fine us.*

*Mr. Weber: So, that being said, then that makes a lot of sense then as to why we wouldn't necessarily want to have the particular neighborhood pay for getting the shoreline up to where it is supposed to be because the fact is, we are ultimately responsible anyway regardless of whether they fix it or not.*

*Mr. Ward: Correct.*

*Mr. Greg Urbancic: Charlie, do you know if there is a separate permit for Ravenna?*

*Mr. Krebs: There is a separate application that was filed, and it is that application number that they will use if there is an issue with the water management system. They may come after the CDD first, but then we just have to say that's the HOAs responsibility and that would point them toward the HOA.*

*Mr. Urbancic: So, presumably if we took over that, if we ever reach that point, that responsibility would ultimately be transferred as part of that?*

*Mr. Krebs: Right. We will file another transfer application to transfer the permit away from the HOA over to the CDD.*

*Mr. Ward: That was slightly different from what I was thinking.*

*Mr. Refkin: We only have so much riprap we can put in Miromar right?*

*Mr. Krebs: Correct. 65% of the shoreline.*

*Mr. Refkin: So, now when Capri gets built, they are going to put, I assume, riprap in there in some portions there right?*

*Mr. Krebs: I believe so, yes.*

*Mr. Refkin: So, they will increase then the allocation for all of Miromar because of that?*

*Mr. Krebs: By virtue of the fact that they are increasing the linear footage of the lake shoreline, the available linear footage of lake shoreline increases that we can riprap, but the percentage stays the same.*

*Mr. Refkin: If that's the case, we are eventually, at some time, some year in the future, going to be responsible for all of that riprap. Right?*

*Mr. Krebs: If the Board elects to, yes.*

*Mr. Refkin: If that's the case then, they have certain constraints on putting in that riprap. I know that in previous construction the riprap wasn't put in in such a way that corresponded to rules and regulations that they were supposed to. They were too steep or whatever, and that just happened because nobody from the CDD and Miromar were there when it was constructed, yet we inherited that, and we have to fix it.*

*Mr. Bernard: Charlie, if I'm not mistaken, those slopes and riprap are permitted by Collier County, inspected by them and approved by them for site development permits.*

*Mr. Krebs: Bruce is correct. The riprap that gets put in with Capri or any of the other land developer improvements, those are all governed by Lee County and South Florida when they pull their respective permits, and they are closed out by those agencies when we do the CC. The big issue comes when the residents install it without getting a permit because they go and hire a landscape contractor who comes in and just dumps some rock on there ground and then five years later it's an issue. It's usually the resident installed riprap that comes back as a bigger issue than what the developer installs.*

*Mr. Refkin: Okay, so not Capri so much, but the homes they are building on the lake over there.*

*Mr. Krebs: So, Capri is all going to be multifamily, so I would expect whatever hardened shoreline they put in is going to be based on their approved permits and I wouldn't expect them to extend it beyond that.*



*Mr. Refkin: But the other homes may or may not put it in and those are the ones we may or may not have an issue with.*

*Mr. Krebs: Right. I wouldn't expect any of the homes up along the beaches, where the beaches have already been finalized and graded, because that would be a monumental expense to try to regrade the finished beaches, but some of the homes where you had sod that went all the way out to the water, those are the ones that you usually see the people come back after the fact because their neighbor put it in and his neighbor put it in, that they go and put their own riprap in to match what the Joneses have done on either side.*

*Mr. Ballinger: Is it a legal situation with Ravenna? I don't understand. If it is not money what is it?*

*Mr. Ward: Apparently the Ravenna's condo documents require 100% consent of all owners to transfer property owned by the association to another entity, which would be the lake of course. Their attorneys have asked us to use the condemnation powers in Chapter 190 in order to alleviate that particular problem of condemnation. So, in Florida, just so you know, condemnation is used by all sorts of governments. It was heavily used in the 90s for a lot of development activities. The State clamped down on the use of the condemnation powers, and for CDD's specifically there is a provision that if we are going to use those condemnation powers, we have to get the approval of the local government. The Ravenna attorneys are trying to sidestep the issue by using a provision in their homeowner's association, Chapter 718, to just say that's the power that's being used. Both Greg and I are both saying we are going to recommend that we in any way, shape or form have anybody think that you all are using condemnation powers to take this kind of property. It really does not meet the intent of the Statute whatsoever. It sets a bad public perception of who you are in terms of wanting to use something and we are clearly not going to recommend that. That's put a major halt on the issue of the transfer as they are going to need 100% approval.*

*Mr. Urbancic: Just to give you the picture of this – these portions they are trying to transfer are part of the common elements, so every owner owns an undivided interest in those common elements. Their documents are very light, almost nonexistent, on what you do to transfer common elements, and that's a pretty significant type of transfer. If you are going to transfer a common element where everyone has an interest, as Jim said, they are trying to rely on a provision for law that says that the transfers being made to a condemning authority, which sort of implies that there is some threat of condemnation, so we are a little bit hesitant to go down that road because as Jim said, you could have an owner claim that he didn't necessarily consent to that. That's why we are being a little bit cautious, just because of the vagueness of the documents and the significance of what this action is attempting to do. I just wanted to add that.*

*Mr. Ballinger: What are we recommending that would be done for Ravenna, so it would be acceptable to us?*

*Mr. Ward: They need to get 100% consent of their owners to do the transfer. Who was the one we did a few months ago Greg?*

*Mr. Urbancic: Bellini. Bellini went and got a vote and got unanimous approval to get it done.*

Mr. Ward: So, apparently Ravenna doesn't want to do that which is, as I said, I clearly am not going to recommend we be used as a condemning authority.

Mr. Bruce Bernard: Should we get an estimate on the cost of what the repair would be so we can go back to Ravenna and say this is what the repairs are going to cost you if you don't -

Mr. Ward: If you want to get the cost just so we have it that's fine. I'm not sure I really want to make that number a threat to Ravenna.

Mr. Ballinger: In the Bellini situation, when they saw what it was going to cost them, then they became more agreeable. Discussion ensued regarding obtaining an estimate regarding the cost of Ravenna's repairs.

Mr. Bernard indicated he would get the cost estimate and give it to Jim.

Mr. Ward indicated he received an email from Dr. Herring which he read into the record: "Dear Jim, I hereby resign my position as Supervisor of the Miromar Lakes CDD as I am no longer a resident in the community, and I have become a registered voter in North Carolina. I will miss everyone involved and hope you find a worthy replacement (with a sense of humor as a prerequisite). Sincerely, David S. Herring." Mr. Ward asked for a motion to accept the resignation into the record.

On MOTION made by Mr. Alan Refkin, seconded by Mr. Doug Ballinger, and with all in favor, the Resignation was accepted into the record.

**FOURTH ORDER OF BUSINESS**

**Supervisor's Requests and Audience Comments**

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

**FIFTH ORDER OF BUSINESS**

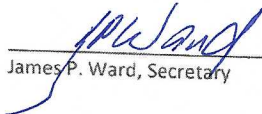
**Adjournment**

Mr. Ward adjourned the meeting at 2:50 p.m.

On MOTION made by Mr. Alan Refkin, seconded by Ms. Mary LeFevre, and with all in favor, the meeting was adjourned.

ATTEST:

Miromar Lakes Community Development District:

  
James P. Ward, Secretary

  
Alan Refkin, Chairman