

**MINUTES OF MEETING
TERN BAY COMMUNITY DEVELOPMENT DISTRICT**

The Regular Board Meeting of the Tern Bay Community Development District's Board of Supervisors was held on **Thursday, November 4, 2010**, at **9:00 a.m.**, at the **office of Charlotte Engineering and Surveying, 1700 El Jobean Road, Port Charlotte, Florida 33948**.

Present and constituting a quorum were:

Matt Morris	Chairman
Richard Brylanski	Assistant Secretary
Mark Gillis	Assistant Secretary

Also present were:

James Ward	District Manager
Joe Menen	District Engineer
Scott Clark	District Counsel (Telephonic)
Bill Riley	CAS Asset Management
Ceil Fillenworth	Resident
Tom Fillenworth	Resident
Kathleen Karlen	Resident
Bill Karlen	Resident

FIRST ORDER OF BUSINESS

Call to Order /Roll Call

Mr. Ward called the meeting to order at 9:08 a.m. and noted, upon Roll Call, the members of the Board present constituted a quorum.

SECOND ORDER OF BUSINESS

Administration of Oath of Office for the Newly Elected Supervisors from the Landowners Meeting Held Prior to the Regular Meeting

Mr. Ward: We have three members who were elected at the Landowners Meeting just prior to today's meeting; they include Neale Montgomery and Rick Brylanski, who will serve four-year terms, and Mr. Gillis who will serve a two-year term. I'm going to administer the oath of office to the two members that are with us today. For the record, I am a notary in the State of Florida and authorized to administer this oath.

Mr. Ward administered the oath of office to Rich Brylanski and Mark Gillis, the two Board members present.

Mr. Ward: I'm going to provide to you an original copy of your oath of office. I'll ask that you sign it, print your name, return it to me, and I will notarize it and make it a part of the public record for you. I know you both hold existing positions, so there's no reason for you to file your Form 1. I usually carry that on the agenda in case we elect a new member.

THIRD ORDER OF BUSINESS

**Consideration of Resolution 2011-4,
Canvassing and Certifying the
Results of the November 4, 2010,
Landowners Election**

Mr. Ward: In Section 1, the three seats that are vacant, Mark Gillis will fill seat one; Neale Montgomery will fill seat two; and Rick Brylanski will fill seat three. Neale and Rick will show 31 votes and Mr. Gillis will show 30 votes. In Section 2, Ms. Montgomery and Mr. Brylanski will serve the four-year terms, and Mr. Gillis will serve the two-year term. With those inclusions, the resolution is in order and recommended for your consideration.

Mr. Clark: Jim, I just noticed on the second clause, if you would change the date on the signature copy to November 4, 2010.

Mr. Ward: I did that already on the one I had with me.

Mr. Clark: Thanks.

On MOTION by Mr. Gillis and seconded by Mr. Morris with all in favor, Resolution 2011-4 was approved.

FOURTH ORDER OF BUSINESS

**Consideration of Appointment of
an Individual to fill in the Unexpired
Term for Seat 4 (Term Expires
November 4, 2012)**

Mr. Ward: I have not had a chance to talk to the bondholders or anyone else involved in the project. You're certainly welcome to appoint anyone or we can just continue this item until the next meeting. It's your choice.

Mr. Brylanski: I'd be curious to see what the bondholders have to say.

Mr. Ward: We'll continue this item.

FIFTH ORDER OF BUSINESS**Consideration of Resolution 2011-5
Re-designating the Officers of the
Tern Bay Community Development
District**

Mr. Ward: I have included in your agenda package the resolution. I left the names of the individuals you appointed at your last meeting to fill all those seats. If that is acceptable to you, just a motion to approve the resolution would be in order, or you may reorganize yourselves if you deem it appropriate.

On MOTION by Mr. Brylanski and seconded by Mr. Gillis with all in favor, Resolution 2011-5 was approved.

SIXTH ORDER OF BUSINESS**Consideration of Minutes**

Mr. Ward: This item is consideration of a number of sets of minutes, and we can approve these individually. If you have any additions corrections or deletions, it would appropriate at this time to so indicate. Otherwise, a motion for their approval would be in order.

a. October 1, 2009, Regular Meeting

On MOTION by Mr. Gillis and seconded by Mr. Morris with all in favor, the Regular Meeting Minutes of October 1, 2009, were approved.

b. August 5, 2010, Regular Meeting

On MOTION by Mr. Brylanski and seconded by Mr. Gillis with all in favor, the Regular Meeting Minutes of August 5, 2010, were approved.

c. August 25, 2010, Regular Meeting

On MOTION by Mr. Brylanski and seconded by Mr. Gillis with all in favor, the Regular Meeting Minutes of August 25, 2010, were approved.

d. September 2, 2010, Regular Meeting Continued from August 25, 2010, meeting

On MOTION by Mr. Morris and seconded by Mr. Gillis with all in favor, the Regular Meeting Minutes of September 2, 2010 continued from August 25, 2010 were approved.

e. October 7, 2010, Regular Meeting

On MOTION by Mr. Brylanski and seconded by Mr. Gillis with all in favor, the Regular Meeting Minutes of October 7, 2010, were approved.

SEVENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel - Scott Clark

Mr. Clark. Let me just update the Board on the litigation matters we have pending. In the foreclosure action, we still are in a holding pattern regarding the scheduling of the sale. My understanding is that the bondholders continue to be in some negotiations regarding the potential sale of the property, and they've not given us instructions to proceed with a foreclosure sale at this point. I did report a couple meetings ago that the Tarpon IV parties had filed an appeal of the Court's action in entering judgment and ordering the sale of the property.

It appears to me at this point they have missed a couple of the filing deadlines in connection with an appeal, and I'm going to proceed to try to get the appeal dismissed based on that. My experience shows that if they file something and they show up late and beg forgiveness, they'll probably be given the chance to remedy the missed deadline, but we're going to try to do that anyway. So, if nothing else, just to get them to put up or shut up and get the action over with.

Secondly, I reported in the last meeting that the Ryangolf litigation that's been pending now for about three years has suddenly woken up again. What happened with that is the Court, on its own motion, set the matter for trial just to clear the docket of old cases that are sitting around. I think the plaintiff, Ryangolf was surprised by that and not prepared for that. It was our view that the case was not proper to be set for trial; the reason is that Ryangolf included Tern Bay, LLC, as a party of that action but has never served them, so the Court was persuaded that we were correct and struck the matter from the trial docket.

We've had some conversations with the Ryangolf attorney, because we believe that it's pretty clear in the record that the District received an invoice for a certain amount of money for District improvements, and the District made a final payment. The District received a written signoff by Ryangolf, saying it was the final payment, and we don't think that there's really an issue and wondered why they wanted to waste our time and The Court's time with it. The Ryangolf attorney is convinced that the CDD Board at that time back in 2007 took an action approving a little over \$100,000 and that money is still owed.

We have looked at the minutes and the materials that they've submitted and don't see that's the case. We're going to now file the summary judgment motion that we were going to file a while back, and ask the Court to determine that Ryangolf received and accepted final payment under the contract, accepted it as a final payment as a waiver of any further claims. So we're working on that motion and getting ready to submit it, so you can get that case over with.

A part from that, I don't have anything else to report, unless the Board has questions for me.

Mr. Ward: Any questions for Scott?

Mr. Brylanski: None here.

Mr. Morris: None.

Mr. Ward: Any questions from the audience for Scott?

B. District Engineer

Mr. Ward: Joe, do you have anything?

Mr. Menen: Nothing to report.

C. District Manager**I. Consideration of Field Management Report**

Mr. Ward: Bill did you have anything?

Mr. Riley: The new landscaper started this week and made some good progress already. I think it will improve quite a bit there. The only other thing, there were some items that we discussed previously, some punch list items which have been contracted; they're supposed to start today, but owing to the weather, that'll be done next week: some sandbags, fixing some of the wells, equipment, things like that. The only other thing is negotiating with the lake maintenance contractor on additional spraying for the storm water structures.

As far as the sod, I met with the landscapers, and they feel that there's areas we can bring back and fertilize now, and then a couple weeks do weed treatments on quite a few areas they'll clean up and it will start to grow back in without having to do an actual replacement at any additional cost. There are some areas we think we can bring a lot of it back; and we'll need to do some sod, but not nearly as much as there is right now.

Mr. Ward: Any questions from the Board for Bill? Any questions from the audience?

II. Consideration of Resolution 2011-6

Mr. Ward: The only other item I had for you, I emailed to you yesterday, Resolution 2011-6, which amends Resolution 2010-6, a resolution that we approved in August with respect to your non-ad valorem assessments. All this resolution is doing is amending the billing date and the due date for only the off-roll Assessment pieces. In the original resolution, we had four billing and due dates for the General Fund Assessment, which is the operation, and then two billing and due dates on the debt service pieces.

I looked at that recently, simply because Rizzetta had not done the billing and I have to do that, and it doesn't make any sense to me to bill six times during the year for assessments that we know we probably are not going to get anyway. There is one owner that owns four or six lots that's out of the country, which is always problematic billing. So the resolution simply amends the billing and due dates for all of the off-roll Assessments to a bill date on or before November 15, and a due date on or before December 15, 2010, If you have any questions, I'd be glad to answer them. Otherwise, staff is recommending the approval of the resolution.

On MOTION by Mr. Morris and seconded by Mr. Brylanski with all in favor, Resolution 2011-6 was approved.

EIGHTH ORDER OF BUSINESS**Supervisor Requests, Audience Comments**

Mr. Morris: I just had a quick question on the assessments for the four lots for the guy that received them. Is that something that we should put on the roll, since it's only four or five lots?

Mr. Ward: Personally, I would like to put all of those on the roll. Scott had recommended in August that we treat those as a class and leave those all as an off-roll billing, so we'll do that for this year and see what happens, then I think we'll end up dealing with that next year.

Mr. Morris: Has that guy paid the assessments in the past?

Mr. Ward: I just received these rolls from Rizzetta, and I'm still going through them. It doesn't appear from the records I have so far that any of the off-roll Assessments have been paid, either for debt service or operations, for at least three years now. These owners are actually the new owners that took tax deeds within the last year as the certificate holders from the '06 taxes. As I indicated to you in the email, these international billings are problematic from the Property Appraiser's roll, because they don't seem to get there, but we'll see what happens when we mail these; they're going to Singapore.

Mr. Gillis: I was wondering about the status of Lennar renting some of the apartments.

Mr. Ward: I don't know anything.

Mr. Riley: Last I heard, they're moving forward.

Mr. Gillis: But there's none rented now?

Mr. Riley: Not now, no. They're supposed to go in there, clean up the landscape on the homes, sod and cut down landscape that's overgrown, clean them up. As they rent each one, they'll start making improvements.

Mr. Ward: About a month ago I had talked to Lennar who indicated they had gotten through all of the legal issues they had with a project that is in a state that this one is in and are

now in a position to move forward to lease them, but I hadn't heard as to exactly when they were going to do the leasings.

Mr. Gillis: How many units are we talking about, do you know?

Mr. Riley: I think it's 32.

Mr. Ward: There are 29, 30 units, somewhere in that range.

Mr. Riley: Yes.

Mr. Ward: Any other questions from the Board? Any questions from the audience?

Ms. Fillenworth: They aren't paying anything; they haven't paid anything for three years, all these people who own the lots., does that go on in perpetuity.

Mr. Ward: So those are the lots that, we have a foreclosure judgment and can proceed that the bondholders ask us to hold on. I don't know what's occurred in the past since I was on the Board and not the manager; that was the manager's role to do that. I'll probably learn relatively quickly in the next month once these bills go out and get calls from these property owners. I won't get a call from the guy in Singapore, I'm sure, but the rest of them I'm sure will start calling in. I'll have a better handle on what's going on with those lots.

Mr. Fillenworth At that time, do you have a choice of bringing everything up?

Mr. Ward: I don't know the answer to that question. I need to talk to Scott to see how will need to handle that. They obviously can pay the current year that we're billing for, which is the fiscal year 2011 that we're in. I'm not sure how we'll have to deal with the prior year's assessments. I'll discuss that with Scott, the bondholders and see.

Mr. Clark: They could pay the current year's O&M if they want to, but if they try to pay simply a current year debt service, we would reject that and send it back to them.

Mr. Ward: Any other questions from the audience?

Mr. Gillis: I'd like to get a copy of both of those exhibits, (referring to the maps showing the land uses) if I could or if you could email them to me, that would be great.

Mr. Riley: If you want to wait, I can probably make them.

Mr. Gillis: Thank you.

Mr. Ward: Any other questions from the Board, in the audience? A motion to adjourn would be in order.

A MOTION by Mr. Gillis and seconded by Mr. Brylanski with all in favor, to adjourn the meeting at 9:30 a.m. was approved.



James P. Ward, Secretary



Matthew Morris, Chairman

OATH OR AFFIRMATION OF OFFICE

I, RICHARD BYLANSKI a citizen of the State of Florida and of the United States of America, and being an officer of the **Tern Bay Community Development District** and a recipient of public funds as such officer, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida, and will faithfully, honestly and impartially discharge the duties devolving upon me as a member of the Board of Supervisors of the **Tern Bay Community Development District**, Charlotte County, Florida.

Signature 

Printed Name: RICHARD BYLANSKI

STATE OF FLORIDA
COUNTY OF CHARLOTTE

Sworn to (or affirmed) before me this 4TH day of NOVEMBER 2010, by _____, whose signature appears hereinabove, who is personally known to me or who produced _____ as identification.


NOTARY PUBLIC
STATE OF FLORIDA

Print Name: 
My Commission Expires: _____

OATH OR AFFIRMATION OF OFFICE

I, MARK J. GILLIS, a citizen of the State of Florida and of the United States of America, and being an officer of the **Tern Bay Community Development District** and a recipient of public funds as such officer, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida, and will faithfully, honestly and impartially discharge the duties devolving upon me as a member of the Board of Supervisors of the **Tern Bay Community Development District**, Charlotte County, Florida.

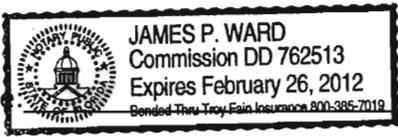
Mark J. Gillis
Signature

Printed Name: Mark J. Gillis

STATE OF FLORIDA
COUNTY OF CHARLOTTE

Sworn to (or affirmed) before me this 4th day of NOVEMBER 2010, by _____, whose signature appears hereinabove, who is personally known to me or who produced _____ as identification.

James P. Ward
NOTARY PUBLIC
STATE OF FLORIDA



Print Name _____
My Commission Expires: _____