

**MINUTES OF MEETING
MEDITERRA SOUTH
COMMUNITY DEVELOPMENT DISTRICT**

A Regular Meeting of the Mediterra South Community Development District's Board of Supervisors was held on **Wednesday, October 16, 2013 at 11:30 a.m.**, in the **Bella Vita Room at the Mediterra Sports Club, 15735 Corso Mediterra Circle, Naples, Florida 34110.**

Present and constituting a quorum were:

Kenneth Nails	Chair
Kenneth Tarr (<i>via telephone</i>)	Vice Chair
Bill Rowe	Assistant Secretary
Michael Bishko (<i>via telephone</i>)	Assistant Secretary
Dallas Luby	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Assistant Regional Manager
Dave Robson	District Engineer
Jonathan Johnson (<i>via telephone</i>)	District Counsel
Thomas Philpot (<i>via telephone</i>)	Hopping Green & Sams
Frank Godshall	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 11:30 a.m., and noted, for the record, that Supervisors Nails, Rowe and Luby were present, in person. Supervisors Tarr and Bishko were attending via telephone.

SECOND ORDER OF BUSINESS

Public Comments

Mr. Nails asked if anyone from the public wished to speak. He explained that the public may speak now regarding any matters and will also be given the opportunity to speak on agenda items, as they are discussed during the meeting.

THIRD ORDER OF BUSINESS

Discussion: New "Opportunity to Be Heard" Legislation

- **Consideration of Resolution 2014-1, Providing for the Public’s Opportunity to Be Heard; Designating Public Comment Periods; Designating a Procedure to Identify Individuals Seeking to Be Heard; Addressing Public Decorum; Addressing Exceptions; And Providing for Severability and an Effective Date**

*****This item, previously the Fifth Order of Business, was presented out of order.*****

Mr. Thomas Philpot, of Hopping, Green & Sams, reviewed the memorandum and Resolution 2014-1, located behind Tab 5. He stated that the purpose of Resolution 2014-1 is to adopt a public comment policy that is consistent with the recently passed legislation guaranteeing the public the opportunity to be heard at a board or commission meeting. Mr. Philpot advised that the public has the opportunity to speak at the beginning regarding items on the agenda or added to the agenda; furthermore, the Board is obligated to offer opportunity for the public to speak before decisions are made on agenda items. He indicated that the resolution also outlines the procedures that will assist the Board in taking public comments from large groups.

Mr. Philpot presented Resolution 2014-1 for the Board’s consideration.

Mr. Frank Godshall, a resident, questioned what is new within the legislation. He asked if it is safe to assume that all of the information contained in the memorandum and resolution represents changes or if some is duplication and/or clarification of earlier rules.

Mr. Adams advised that the Board is discussing the “Opportunity to Be Heard” legislation and Resolution 2014-1, not the item related to updating the Rules of Procedure.

On MOTION by Mr. Bishko and seconded by Mr. Rowe, with all in favor, Resolution 2014-1, Providing for the Public’s Opportunity to Be Heard; Designating Public Comment Periods; Designating a Procedure to Identify Individuals Seeking to Be Heard; Addressing Public Decorum; Addressing Exceptions; And Providing for Severability and an Effective Date, was adopted.

FOURTH ORDER OF BUSINESS

Consideration of Publication of Notices of Rule Development and Rulemaking Relating to Updated Rules of Procedure

- A. **Memorandum Regarding Updated Provisions**
- B. **Updated Rules of Procedure**
- C. **Notice of Rule Development**

D. Notice of Rulemaking

******This item, previously the Sixth Order of Business, was presented out of order.******

Mr. Philpot reviewed the memorandum regarding the updated provisions in the District's Rules of Procedure, which District Counsel is recommending. He stated that the memorandum outlines the various changes, whether legislatively driven or recommended by District Counsel, as a matter of efficiency with operations. Mr. Philpot indicated that the memorandum includes information regarding the opportunity for public comment, designating a single Board Member to attend mediation. Also included are provisions for competitive solicitation, to be consistent with legislation, which requires the Board to open bids from a competitive solicitation at a public meeting.

Mr. Philpot advised that he can provide a redline copy of the Updated Rules of Procedure, if the Board wishes to see the line-by-line changes to better understand what changed. He stated that the action before the Board today is to set a public hearing, designate that the Board will undertake rulemaking in January, 2014, and authorize Staff to advertise the public notices required for the public hearing; today's action does not adopt the changes.

Mr. Bishko pointed out that the requirement to open bids at a public meeting could cause delays. He asked if this means that the bids must be opened at a Board meeting, as opposed to the current procedure, in which the District Manager opens the bids, provides the Board with an analysis and the Board makes a decision at the meeting.

Mr. Philpot indicated that, when the bids are opened, as part of a competitive solicitation, at a meeting, pursuant to the rule, it would be the first opportunity the Board has to review the bids; it would be at the Board's discretion whether to discuss and/or take action on the bids at the same meeting. He acknowledged that more time might be required to review and compare the bids and make a decision.

Mr. Johnson advised that the legislature requires that the bids be opened in a public session; however, it does not require it to be a Board meeting. The legislation simply means that the bid opening must be advertised, which can be accomplished in conjunction with the advertisement for bids. Mr. Johnson stated that the public would have the opportunity to be present at the bid opening. He noted that this requirement only applies to contracts that are required to be publicly bid; those contracts under the statutory limit are not required to follow this procedure.

Mr. Bishko referred to the "In-State Vendor Preferences" provision and asked if it means that the District must give out-of-state vendors the ability to bid on contracts.

Mr. Adams indicated that bids over the statutory threshold are advertised in the newspaper so that contractors have the opportunity to bid. He did not anticipate much out-of-state interest in contracts for services such as lake and wetland maintenance; contractors might be based out-of-state but would likely have a local office. Mr. Adams advised that Management already holds public bid openings; it is part of the bid advertisement.

Noting that the bids will not be opened at a meeting of the Supervisors and the Supervisors are required to oversee the process, Mr. Tarr questioned if a Supervisor should be present, at the bid opening, in order to document that bids were opened in public. Mr. Tarr asked District Counsel to comment on the procedure to ensure that the bid openings are conducted correctly. Mr. Philpot advised that a Board Member could be present, the Board could require Management to provide a written statement verifying that they complied with the law in advertising and opening the bids or District Counsel could review the advertisements and participate in the bid opening by telephone; the decision is up to the Board.

Mr. Tarr felt that it would be most cost effective for a Supervisor to attend the bid openings.

Mr. Adams stated that Board Members are welcome to participate in bid openings. He advised that Management prepares a bid analysis, which confirms advertisement and specifies the number of participants at the pre-bid meeting, the number of submittals and the date of the bid opening; the information is already in written form and part of the District's record. Mr. Adams indicated that Management would be happy to complete an affidavit, if the Board wishes.

Mr. Nails pointed out the information contained in the recommendation memorandum related to awarding the lake and wetland maintenance contract. Mr. Nails suggested that any additional, necessary statements be included in Management's memorandum. Mr. Adams indicated that a copy of the affidavit of publication could also be attached to the memorandum. Mr. Tarr was agreeable to these suggestions.

Mr. Godshall asked about the section on establishing a quorum and noted that some sections of the Rules indicated that the only votes that count are the ones from those present, in person, while other sections discuss allowing those on the telephone to vote but the people present in person are still the only votes that count.

Mr. Nails summarized that Mr. Godshall’s question is whether the legislation changes the voting procedures from the Board’s current procedure.

Mr. Philpot stated that the law still requires three (3) Board Members to be present, in person, to establish a quorum. He noted that clarification was provided on how Board Members who are present via telephone or electronic media can participate. Mr. Philpot stated that, while unique circumstances can arise, the fundamentals of how the Board operates are very much the same.

Mr. Nails asked if, today, with three (3) present, in person, and two (2) attending by telephone, every Board Members’ vote is counted, regardless of whether they are present in person or by telephone. Mr. Philpot replied affirmatively; all five (5) Board Members are eligible to vote.

Mr. Bishko felt that Mr. Philpot’s explanation was not consistent with the first item contained under “Minor Changes”, on Page 3 of the memorandum, which states “...approval or disapproval of Board action is based upon an affirmative vote of a majority of members present, rather than a majority of members voting.” Mr. Philpot clarified that the statement means the majority of those present, whether in person or by telephone. Mr. Bishko voiced his opinion that the term “present” implies “physical presence”. Mr. Nails summarized that the Rules go on to state that a person participating by teleconference or video conference is entitled to vote and take all other action, as though physically present.

On MOTION by Mr. Luby and seconded by Mr. Bishko, with all in favor, setting the Public Hearing on the Updated Rules of Procedure for the next meeting and authorizing Staff to advertise, accordingly, were approved.

FIFTH ORDER OF BUSINESS

Continued Discussion: Landscape Maintenance of CDD Owned Lake Banks - CDD Subject to MCA/DRC Guidelines as it Pertains to Medici Lake Bank

******This item, previously the Third Order of Business, was presented out of order.******

Mr. Nails recalled questions, at the last meeting, regarding whether the District is subject to the requirements of the Mediterra Community Association (MCA), as they relate to the Medici lake bank.

Mr. Tarr noted that he provided Mr. Adams with a memo on this matter. Mr. Adams stated that, if Mr. Tarr was absent, he intended on reading the statement into the record. Mr. Tarr indicated that the memo is very long; there is no need to read it into the record.

Mr. Tarr advised that other lake banks have the same construct as Medici. In reviewing the previous minutes, Mr. Tarr voiced his opinion that the Board concluded that Medici was a unique situation; however, other landscaped lake banks and berms in Mediterra exist. He does not want this matter to appear that he or the Medici HOA is trying to have this matter treated with extraordinary measures.

Mr. Nails recalled that, at the last meeting, District Counsel suggested that all of the lake banks being discussed were not subject to MCA rules and the only question remaining was whether Medici was different, as a result of the transfer situation.

Mr. Johnson indicated that they reviewed the deeds and transfers and they contain nothing that would require the District to do anything differently with Medici; when the District assumes property, it is not subject to any preexisting community association covenants, declarations or other restrictions.

Noting discussion at the last meeting and Mr. Johnson's conclusion, Mr. Bishko voiced his opinion that residents would expect that the areas previously maintained by the MCA would continue to be maintained at the same level. Mr. Bishko felt that the question is who maintains the areas, the CDD or the MCA, and wondered who will be blamed if the areas are not maintained to the same level.

Mr. Luby questioned why Mr. Bishko believes that the lake bank landscaping will die in those areas, while it is not dying in other areas.

Mr. Bishko stated that he does not know if the landscaping is dying; however, discussions seem to indicate that the Medici area has unique plantings and, if true, someone should be responsible for maintaining it in its current form.

Mr. Tarr informed Mr. Luby that this involves two (2) different constructs. The first are native preserves, which are not irrigated or touched, other than to remove exotic and invasive plants. He indicated that Mediterra has beautiful plantings because of the way it is designed and every home and lot owner is required to maintain to the high water mark. Mr. Tarr stated that, prior to the change in regime at the MCA, they viewed themselves as landowners and maintained to the high water mark. He pointed out that this area is irrigated and someone must maintain the irrigation system, as well, and, furthermore, the plants were never natives, they were all created.

Mr. Tarr advised that the MCA is in a campaign to bring Mediterra back to the landscape palette that it was when it was new; everything is being done to enhance property values and no one is suggesting that anything be done to the preserves. He believes that the District is being stuck with maintaining landscaped features.

Mr. Nails reiterated that District Counsel determined that the District owns the land and is responsible for maintenance. He thought that the only remaining question was whether the District can maintain it consistent with a preserve or if they must follow the MCA requirements and maintain the Medici area differently. Mr. Nails pointed out that District Counsel advised that the District can maintain Medici consistent with a preserve, unless it wants to maintain it differently.

Mr. Tarr contended that District Counsel stated that the District can maintain it more, the same or less; the term "preserve" was not used by District Counsel. Mr. Nails clarified that the District can maintain the area any way that it wants.

Mr. Luby referred to Pages 9 and 10, of the August 29, 2013 minutes, where the Board voted to pay the MCA \$6,135 to landscape that area; the Board voted and it was fully approved so the issue should be over.

Mr. Tarr stated that the approval did not mention maintaining the irrigation system. Mr. Luby asked Mr. Tarr if he voted against this at the last meeting. Mr. Tarr reiterated that the approval had nothing to do with irrigation and asked what the plants will look like if the irrigation is turned off. Mr. Luby felt that it would be an HOA problem. Mr. Luby asked if Mr. Tarr believes that the Board should consider whether to irrigate the areas.

Mr. Tarr stated that the planted, man-made features were irrigated and would not have lasted if not irrigated; however, no one thought to include irrigation in the proposal that was approved. Noting that the District owns the property, Mr. Tarr voiced his belief that the District must be good Mediterra citizens and, while he is not suggesting that the District create a botanical garden, he believes that the District took responsibility and must maintain these areas of beauty. Mr. Tarr asked if any Supervisors walked around the lake adjacent to the entrance of Mediterra that the MCA is maintaining.

Mr. Bishko replied affirmatively. Mr. Rowe stated that it can be seen and both sides are well done. Mr. Tarr stated that this makes his point that Mediterra should have a consistent standard of how the lake banks look and are maintained. Mr. Tarr reiterated that this issue is not about the Medici neighborhood's lake bank; it relates to the future of Mediterra.

Mr. Nails recalled that, at the last meeting, the Board approved paying the MCA for landscape maintenance of CDD owned lake banks consistent with how the MCA is currently maintaining them. He believes that this means that the MCA will be maintaining the lake banks the same as they currently are.

Mr. Tarr advised Mr. Nails that he is absolutely wrong; the MCA was specific and there was nothing about irrigation maintenance in the proposal. Mr. Bishko asked about plant maintenance. Mr. Tarr indicated that the MCA will do nothing other than weeding; the proposal specifically excludes plant replacement.

Mr. Adams confirmed that the proposal excluded plant replacement, as it is a capital expense item. He stated that, while irrigation was not specifically addressed, the understanding and intent is that the MCA is willing to continue with the maintenance program, as they had always done in those areas, for the amount contained in the proposal.

Mr. Tarr voiced his opinion that Mr. Adams' information needs to be clarified because the District does not want to discover problems in the spring, related to the irrigation system or that the MCA never agreed to check the irrigation system. Mr. Tarr contended that the proposal was for the MCA to perform the most minimal maintenance possible.

Mr. Adams stated that, as the areas were broken down, they touched lightly on the maintenance activity for that area. He noted that some areas require weekly mowing because it contains upgraded turf that is irrigated. Mr. Adams believes that, if an area was irrigated previously, the intent is to continue maintaining it, as it was always done, with the only difference being that the District will reimburse the MCA for the work.

Mr. Tarr asked that Staff verify this information specifically, as it relates to irrigation of all of the areas that the District is now responsible for. Mr. Adams indicated that he requested a more defined scope and the MCA is working on it.

Mr. Nails asked Mr. Tarr if this satisfies him. Mr. Tarr stated that the Board has still not considered that the MCA is on a program to restore the community and is having the original landscape architect review the property. Mr. Tarr feels that it would be beneficial to have the architect review the District's lake banks, as well, and give an opinion, so that the District can maintain the same level of landscaping, including screening and beauty, as they have enjoyed over the last 12 years.

Mr. Bishko voiced his belief that the MCA does not care about the decorative plantings that fall within the CDD's ownership and asked what happens if no one maintains it and the

areas deteriorate. He asked if residents will blame the Board. Mr. Bishko believes that the MCA should be maintaining the areas.

Mr. Nails pointed out that the agreement is for the MCA to maintain the areas to the same extent that they have been and asked Mr. Bishko what more he wants from the MCA.

Mr. Tarr asked that the Board discuss plant replacement and noted that the berm has dead plants; he wants to know who will replace them. Mr. Nails stated that the MCA does not currently replace plants in those areas and asked if Mr. Tarr wants the District to replace them, which would mean that he wants the District to do more than the MCA. Mr. Tarr indicated that the MCA is replacing plants on the property that they own and contended that Mr. Nails' statement is factually incorrect. Mr. Luby pointed out that the MCA is not going to do anything differently than they are doing right now on the Medici property; the only difference is that they will be charging the District \$6,135 to do the work, along with maintaining other areas. Mr. Tarr insisted that, in the past, the MCA would identify dead plants, on the Medici and other lake banks, and replace them.

Mr. Nails asked Mr. Tarr what he would have the CDD do.

Mr. Tarr stated that "the CDD should do what is consistent with what the MCA is doing to maintain the quality of the landscaping in Mediterra." He noted that no one on the Board or Staff is an arborist or landscape architect and advised that the MCA had the original landscape architect review the property. Mr. Tarr stated that the Board should have the landscape architect review the District's lake banks, the next time he is on site, to determine what needs to be done to keep them at the same level, consistent with everything in Mediterra.

Mr. Rowe indicated that the MCA has replaced plants throughout Mediterra. In his opinion, the plant replacement was already done; there is nothing to do right now.

Mr. Tarr stated that the plants in Medici are not doing as well as in other areas.

On MOTION by Mr. Tarr and seconded by Mr. Bishko, with Mr. Tarr and Mr. Bishko in favor and Mr. Nails, Mr. Rowe and Mr. Luby dissenting, coordinating with the MCA to review CDD lake banks for plant replacement to maintain the lake banks to their originally intended level or consistent with the level of the MCA's property, was not approved. (Motion failed 2-3)

Mr. Tarr commented that the Board should reflect and, if the plants die, something will need to be done. Mr. Tarr warned the three (3) Board members that voted against his motion that residents will not be pleased that they did not look at the situation.

Mr. Nails advised that the Board can review this matter at a future date, if necessary.

SIXTH ORDER OF BUSINESS

Update: Activities Related to Potential Misuse of CDD Bond Funds for Construction of Irrigation Facilities - Counsel Letter Summary of Issues/Impediments In Pursuing

******This item, previously the Fourth Order of Business, was presented out of order.******

Mr. Nails stated that this matter deals with the suggestion of litigation because bond funds were allegedly used for construction of irrigation facilities, which was inappropriate. He recalled that Mr. Bishko asked District Counsel to provide a written outline of the impediments to pursuing litigation.

Mr. Johnson confirmed that a write up was provided to the Board and Mr. Adams regarding the impediments to litigating the matter; the information was not included in the agenda or broadly disseminated. Mr. Nails noted that the information is directed to Mediterra South and asked if the information will be forwarded to Mediterra North. Mr. Adams indicated that it can be provided to Mediterra North, if the Board wishes. Mr. Johnson concurred, noting that Mediterra North did not ask for it and the Mediterra South Board did not previously ask him to provide it to the North Board. Mr. Nails asked Mr. Godshall if Mediterra North commenced a review of the documents. Mr. Godshall indicated that, as of the last meeting, they had not; he will not know the status until the Mediterra North meeting this afternoon. Mr. Adams advised that Mediterra North has not requested the documents needed for review.

On MOTION by Mr. Luby and seconded by Mr. Bishko, with all in favor, providing District Counsel's report to the Mediterra North Board, was approved.

SEVENTH ORDER OF BUSINESS

Consideration of Award of Lake and Wetland Maintenance Contract

Ms. Crismond advised that, of the five (5) contractors submitting bids, Aquagenix and LakeMasters have a strong presence in the area and are qualified to handle a property the size of Mediterra. She disclosed that she had problems with Aquagenix, in the past, and fired them from other Districts; however, Management and the Board have not been pleased with LakeMasters' work in Mediterra. Ms. Crismond believes that the important aspect for each company is their key personnel. She feels that, over the past year, LakeMasters got behind in overseeing their technicians and addressing issues. Ms. Crismond stressed that, if the District changes contractors, it should insist that the contractor's best foreman and technicians are assigned to Mediterra.

Mr. Nails pointed out that the District can cancel its current contract, without cause, with 30 days notice. With that in mind, he noted that the District could contract with LakeMasters but put them on notice that they will be given until next spring to correct the issues and concerns; otherwise, they will be terminated.

Mr. Bishko asked Management's preference of staying with LakeMasters or hiring Aquagenix.

Mr. Adams indicated that Management refrained from making a recommendation because the contractors are similar. He advised that, if the Board selects Aquagenix, he must discuss the District's requirements regarding who is assigned to supervise; Aquagenix's prior downfalls were related to who was overseeing those particular projects. Mr. Adams felt that Aquagenix is capable of completing the work. He noted that the District enjoyed a good relationship with LakeMasters for a very long time. LakeMasters is a growing company and reorganization of supervision may be creating "growing pains", resulting in a decline in the level of service. Mr. Adams indicated that LakeMasters quickly took action to address the District's concerns.

Mr. Johnson asked if this item was advertised as an invitation to bid or was it a request for proposals (RFP) with various categories to be scored. He explained that, under an invitation to bid, the District is obligated to select the most responsive, responsible low bidder. Mr. Johnson acknowledged that the District would reject the Woods & Wetlands bid for failure to respond and could waive the minor irregularities for all of the other bidders, with regard to their failure to submit financial information. He advised that, depending on how the bid was constructed, there may be an argument that the District is obligated to select the lowest of the remaining bidders.

Mr. Adams indicated that the provision is to select the lowest responsible, responsive bidder that, in the Board's opinion, would best serve the interests of the District. He believes that the well documented recent issues with LakeMasters would be sufficient to consider Aquagenix and justify the 1.5% difference in the bids. Mr. Adams noted that, if necessary, the Board could reject all of the bids and authorize staff to negotiate with a particular contractor.

Regarding whether Mr. Adams' approach is feasible, Mr. Johnson indicated that, if the language includes that option, it would be okay.

Mr. Nails asked what percentage of the work that LakeMasters has not finished is attributable to the high water levels this year. Mr. Adams discussed the damage to grass, inability to spray and the condition of the submersed vegetation, as a result of the high water levels. Mr. Nails reiterated his question. Ms. Crismond estimated that 25% of the damage is related to the high water levels. Mr. Nails pointed out that certain chemicals must be used sparingly due to the potential for other damage, which could be part of the problem. Ms. Crismond confirmed that the submersed vegetation is "out of control" due to the high water levels lasting so long. Ms. Crismond advised that LakeMasters fell behind in treating the torpedo grass.

Mr. Godshall recalled Mr. Adams and Ms. Crismond indicating that they must have a serious conversation with Aquagenix regarding supervision, should the Board select Aquagenix and noted that LakeMasters lacked in their supervision this year. Mr. Adams concurred, voicing his belief that a change in supervisors was LakeMasters' biggest problem. Mr. Godshall felt that the conversation regarding supervision is the same, regardless of which contractor is selected.

On MOTION by Mr. Nails and seconded by Mr. Rowe, with all in favor, awarding the Lake and Wetland Maintenance Contract to LakeMasters for \$127,248, for a term of two (2) years, with the understanding that the Board will consider cancelling the contract if performance is not better than it was in the past nine (9) months, was approved.

EIGHTH ORDER OF BUSINESS

Discussion: District Manager's Fee for Assessment Roll Services

Mr. Adams indicated that he compared the AJC Associates, Inc. (AJC), and District Manager's fee schedules for assessment roll services and advised that their fees are similar; if the

Board wishes, the District Manager will provide those services for the same cost as AJC. He noted that AJC has worked with Mediterra since its inception, is very well established in Southwest Florida and has a working relationship with local developers and builders. Mr. Adams pointed out that AJC offers a self-help website for residents, which the District Manager does not.

Mr. Tarr questioned why residents were not made aware of the AJC self-help website. Mr. Adams indicated that the website address is provided if someone calls requesting information about their assessments. Discussion ensued regarding including this information in the upcoming newsletter.

NINTH ORDER OF BUSINESS**Discussion: Newsletter Draft**

Mr. Nails indicated that he received and heard numerous comments from both CDDs regarding mentioning specific Supervisors for particular projects. The observation was made that all Supervisors contribute; therefore, individual Supervisors should not be commented on in the newsletter. For example, it was suggested that the newsletter comment "Resident and CDD Member Ken Tarr is to be thanked for his research in spearheading the important effort." be eliminated.

Aside from whether the comment is true, Mr. Rowe agreed that such comments are inappropriate; it should not be the Boards' place to single out individual Board Members, as they work as a group. Mr. Nails noted that a Supervisor's unusual efforts can be mentioned in the meeting minutes. Mr. Luby agreed.

Mr. Godshall advised that the Mediterra North Board has not discussed this; however, he believes they will agree with him that all Supervisors contribute and it is not good policy to single one (1) Supervisor out.

Mr. Tarr indicated that he did not put his name in the newsletter; he was complimented and flattered that someone noted it. Mr. Tarr stated that he does not care if his name is in the newsletter; however, he reminded the Board that it took him a lot of effort to convince the Board to authorize the inspections and cleanout. Mr. Tarr wanted it noted, on the record, that the Board was not a "friendly Board to him" when he started campaigning for the inspections two (2) years ago. He reiterated that he wants his comment noted on the record. Mr. Tarr further stated, for the record, that he was complimented and it was a wonderful thing; he greatly appreciated it.

Mr. Tarr asked if Mr. Irwin Teich's name will be removed from the newsletter. Mr. Nails indicated that he did not recommend removing it; Mr. Teich is not a Board Member, he is a resident.

TENTH ORDER OF BUSINESS

Update: Lake Maintenance Activities Report (LakeMasters)

Ms. Crismond had nothing further to discuss.

ELEVENTH ORDER OF BUSINESS

Approval of August 29, 2013 Public Hearing and Regular Meeting Minutes

Mr. Nails presented the August 29, 2013 Public Hearing and Regular Meeting Minutes and asked for any additions, deletions or corrections.

Mr. Nails indicated that communication was received from Mediterra concerning the issue of grass clippings in the ponds, which was discussed at the last meeting. Mediterra advised that they will speak to their people and work to eliminate any disconnect between policy and field practices. Mr. Nails recommended attaching the letter received to the August, 29, 2013 minutes, as that is when the Board's discussion occurred. Mr. Bishko questioned if receiving the letter and including it with the meeting minutes constitutes appropriate action by the Board, demonstrating that the District followed through on its responsibilities, with regard to the Florida Statutes. Mr. Tarr stated that he further researched the matter and, under F.S. 403.413, this is a violation, its penalties are more severe and can be considered up to a third degree felony.

Mr. Bishko reiterated his question whether the inclusion of this letter, in the District's files, is evidence of the District taking appropriate steps, consistent with what the Statutes require. Mr. Johnson indicated that he would like to review a copy of the letter and follow up with the Board; he cannot answer Mr. Bishko's question today, without reviewing the letter.

Mr. Nails voiced his opinion that the letter can be an attachment to the minutes.

The following changes were made:

Line 137: Insert "relating to drain boxes and related piping"

Mr. Bishko commented on the benefit of the "Action Items" list and complimented Management's Staff for compiling the information.

The following changes were made:

Line 719: Change "15433" to "15429"

Line 250: Change “built” to “built: Medici and Bello Lago”

Line 251: Insert “property” after the first “the”

Lines 251 and 252: Change “LandMar” to “Landmark”

Line 258: Change “and is not a buffer” to “is a buffer, not a natural preserve”

Line 328: Change “is the same” to “is not the same”

On MOTION by Mr. Rowe and seconded by Mr. Luby, with all in favor, the August 29, 2013 Public Hearing and Regular Meeting Minutes, as amended, with the letter attached, were approved.

TWELFTH ORDER OF BUSINESS

Other Business

Mr. Nails asked for public comments. Mr. Godshall had no comments.

Mr. Luby noted that Mediterra North is also concerned about the potential dispute with Bonita Bay Group. Mr. Luby indicated that the Mediterra South’s meeting minutes reflect the Board’s discussion on the subject and proposed that the District share its minutes with Mediterra North. Mr. Adams advised that the District’s approved meeting minutes are available to the Mediterra North Board, as they are posted on the District’s website; the minutes are public record. Mr. Luby stated that he wants the Mediterra North Board to have access to today’s discussion. Mr. Adams confirmed that he will highlight the information at Mediterra North’s meeting today.

Mr. Rowe indicated that he will meet with Mr. Tom Wallace and present the proposal for the legal aspects of the two (2) fountains that The Club wants put into the lakes. Mr. Rowe noted that everyone should realize that it unlikely that this will occur for another year or so because of the costs, various unknowns and remodeling at The Club. Mr. Adams voiced his understanding that Mr. Philpot was working on a draft and is awaiting the proposal, to be included as an exhibit, to provide further clarity within the Consent to Use Agreement. Mr. Adams asked Mr. Philpot to forward the draft agreement to him and Mr. Rowe.

Mr. Bishko asked that the next agenda include a discussion item on the arbitrage calculations, including what they mean and what the District’s responsibilities are, as well as receiving them on a timelier basis.

Mr. Tarr noted that the last arbitrage calculations, provided by Mr. Adams, were one (1) year out of date. Mr. Tarr pointed out that the District paid for arbitrage calculations in April, 2013 and asked if it was completed. Mr. Adams indicated that he will forward the information to the Board. Mr. Tarr asked Mr. Adams if his response means that the arbitrage calculations were completed in April, 2013 but were not sent. Mr. Adams stated “correct”.

Mr. Rowe indicated that 80.7” of rain was received, through the end of the third quarter, equating to a 46% increase over 2012 and approximately 25” more than the previous year. In response to a question regarding average rainfall, Mr. Rowe voiced his understanding that 54” is average.

Mr. Bishko asked the status of Action Item 6; Mr. Tilton’s review and evaluation of the construction plans for the lakes and golf course construction plans and his judgment regarding whether the District’s pipes crossed the golf course’s pipes.

Mr. Robson indicated that Mr. Tilton is away; however, he will confer with him upon his return, to determine the status, and, if work has not commenced, he will initiate the review.

Mr. Bishko asked the status of Action Item 10; District Counsel’s preparation of appropriate documents for indemnification and insurance to allow the MCA’s request for an individual to enter the CDD Preserve for deer population reduction purposes.

Mr. Johnson advised that this was not completed; he made contact with the MCA several times to obtain the information about the individual but the MCA has not provided the necessary information.

Mr. Bishko asked the status of Action Item 12 regarding presentation of proposals for different plans that would better solve the erosion problems. Mr. Adams recalled discussion about installing Bacopa; he will provided photographs of the plant at the January meeting. Mr. Adams advised that the plant is working well in other communities to provide erosion control without interfering with lake views.

THIRTEEN ORDER OF BUSINESS

Staff Reports

A. Attorney

Mr. Johnson had nothing additional to report and the next item followed.

B. Engineer

There being nothing additional to report, the next item followed.

C. Manager

i. Approval of Unaudited Financial Statements as of August 31, 2013

Mr. Adams presented the Unaudited Financial Statements as of August 31, 2013. He reported that assessment collections were at 100%. Expenses were at 65%, with one (1) month remaining in the fiscal year, not including the once-per-year lake planting project, which occurred in September and will bring expenses in line with the budget.

On MOTION by Mr. Luby and seconded by Mr. Bishko, with all in favor, the Unaudited Financial Statements as of August 31, 2013, were approved.

ii. NEXT MEETING: January 15, 2014 at 11:30 A.M. (*The Club at Mediterra, 15755 Corso Mediterra Circle*)

The next meeting will be held on January 15, 2014 at 11:30 a.m., at The Club at Mediterra.

FOURTEENTH ORDER OF BUSINESS

Supervisors' Requests

There being no Supervisors' requests, the next item followed.

FIFTEENTH ORDER OF BUSINESS

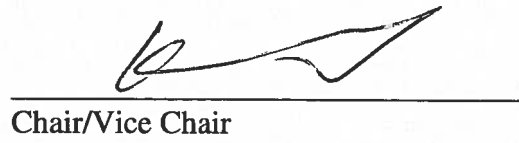
Adjournment

There being no further business to discuss, the meeting adjourned.

On MOTION by Mr. Luby and seconded by Mr. Rowe, with all in favor, the meeting adjourned at 1:00 p.m.



Secretary/Assistant Secretary



Chair/Vice Chair

ACTION ITEMS:

1. **ACTION ITEM:** Mr. Adams to forward copies of the April, 2013 dissemination and arbitrage rebate calculation reports to the Board.
2. **ACTION ITEM:** Regarding proceeding with cleaning pipes that had debris but were not cleaned, Mr. Adams indicated that the pipes will be monitored and inspected on a three (3) to five (5)-year cycle.
3. **ACTION ITEM:** Ms. Crismond will contact the residents with erosion issues that must be addressed.
4. **AGENDA ITEMS:** Mr. Johnson to review a copy of the response letter received regarding grass clippings dumped into the ponds and Mr. Bishko's question of whether attaching this letter and inclusion of it, in the District's files, is evidence of the District taking appropriate steps, consistent with what the Statutes require. Mr. Johnson to follow up with the Board, as he cannot answer Mr. Bishko's question, without reviewing the letter.
5. **ACTION ITEM:** Mr. Johnson directed to obtain ownership documents from Mr. Adams and review all of the berms, particularly, the berm in Medici, and report his findings at the next meeting. Mr. Johnson to review Medici, to ensure that there is no requirement for the District to maintain it differently than the other preserves. If the level of maintenance is the same as for other preserves, the District Manager is to notify the Medici HOA. The Board authorized District Counsel review the documents and provide an opinion.
6. **ACTION ITEM:** Mr. Tilton to review and evaluate the construction plans for the lakes and the golf course construction plans and make a judgment regarding whether the District's pipes crossed the golf course's pipes. Mr. Tilton was away but Mr. Robson indicated that he will confer with him upon his return, to determine the status, and, if work has not commenced, Mr. Robson will initiate the review.
7. **ACTION ITEM:** District Counsel's legal memorandum of the issues impeding the District from continuing pursuit of recovering funds related to the potential misuse of CDD funds for irrigation facilities, detailing the reasons the Board did not pursue litigation and setting forth the pros and cons considered by the Board, to be provided to Mediterra North's Board.
8. **ACTION ITEM:** Mr. Adams to provide Management's fee for assessment roll preparation at the October meeting.
9. **ACTION ITEM:** District Counsel to prepare an agreement with The Club at Mediterra to allow placement of fountains within the proposed two (2) lakes, along with a potential floating green, in the lake, and lighting the fountains, if desired.

10. **ACTION ITEM:** District Counsel to prepare appropriate documents for indemnification and insurance to allow the MCA's request for an individual to enter the CDD Preserve for deer population reduction purposes. Per Mr. Johnson, this was not completed; he made contact with the MCA several times to obtain the information about the individual but the documents remain pending, as the MCA has not provided the necessary information.
11. **ACTION ITEM:** Mr. Adams to provide the draft newsletter to the Board, for their review, prior to distribution.
12. **ACTION ITEM:** Mr. Bishko requested that proposals for different plants that would better solve the erosion problem be presented. Mr. Adams recalled discussion about installing Bacopa and photographs of the plant will be provided at the January meeting.
13. **ACTION ITEM:** Ms. Crismond directed, by Mr. Bishko, to review the lake bank erosion at his brother's home at 15433 Milan Way, as the lake maintenance audit comments are not correct.
14. **ACTION ITEM:** Mr. Johnson to present documents, at the October meeting, regarding legislative changes related to how the District will conduct its future meetings.
15. **ACTION ITEM:** District Management to include any additional, necessary statements in Management's recommendation memorandums related to bids, along with attaching a copy of the affidavit of publication.
16. **ACTION ITEM:** Information regarding the AJC Associates, Inc., "self-help" website to be included in the upcoming newsletter.
17. **ACTION ITEM:** Mr. Adams to highlight the information regarding the potential dispute with Bonita Bay Group to the Mediterra North Board at today's meeting.
18. **ACTION ITEM:** Mr. Rowe to meet with Mr. Tom Wallace and present the proposal for the legal aspects of the two (2) fountains that The Club wants put into the lakes. Mr. Philpot to forward the draft agreement to Mr. Adams and Mr. Rowe, once the proposal is received.
19. **ACTION ITEM:** Mr. Bishko asked that the next agenda include a discussion item on the arbitrage calculations, including what they mean and what the District's responsibilities are, as well as receiving them on a timelier basis.