

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

A Special Meeting of the Mediterra South Community Development District's Board of Supervisors was held on **Wednesday, March 18, 2015 at 11:30 a.m., in the Board Room at The Club at Mediterra, 15755 Corso Mediterra Circle, Naples, Florida 34110.**

Present and constituting a quorum were:

Ken Nails	Chair
Bill Rowe	Vice Chair
Ken Tarr	Assistant Secretary
Dallas Luby	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Crismond	Operations Manager
Andrew Tilton	District Engineer
Jonathan Johnson (<i>via telephone</i>)	District Counsel
Alyssa Cameron	Hopping Green and Sams
Bill Kurth	LakeMasters Aquatic Weed Control, Inc.
Andy Nott	LakeMasters Aquatic Weed Control, Inc.
Brian Neary	Mediterra North CDD Chair
Greg Pick	MCA
Henry Thiele	MCA President
Sue Lass	Resident
Mary Loftus	Resident

*****DUE TO TECHNICAL DIFFICULTIES, AUDIO WAS NOT AVAILABLE -
MINUTES TRANSCRIBED FROM THE MEETING NOTES*****

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Nails called the meeting to order at 11:30 a.m., and noted, for the record, that Supervisors Nails, Rowe, Luby and Tarr were present, in person. Supervisor Bishko was not present.

SECOND ORDER OF BUSINESS

Public Comments

Mr. Nails requested public comments. He explained that residents will be called upon to speak to specific agenda items throughout the meeting.

There being no public comments, the next item followed.

THIRD ORDER OF BUSINESS

Discussion: Aeration Dissolved Oxygen Level Guarantee, Realistic Expectation for Seasonal Variations in Dissolved Oxygen Levels and the Benefits of Aeration Both Short-Term and Long-Term

Mr. Adams reported that, when the fish kill occurred in September 24, 2014, readings revealed dissolved oxygen (DO) levels of 3 parts per million (ppm), in Lake 63. He recalled that, at the last meeting, Mr. Gary Loser, a resident, discussed the aeration proposal included in the January 15, 2014 agenda, and noted that it indicated that LakeMasters Aquatic Weed Control, Inc. (LakeMasters), will guarantee 5 ppm DO and he read that “the lake experts will guarantee, in writing, that our aeration systems will keep the bottom DO above 5 ppm, as mandated by the Clean Water Act of 1972”.

LakeMasters advised Staff that recent oxygen readings in the seven lakes, where aeration was installed last year, all exceeded 5 ppm. The readings were taken approximately 6” above the muck and 1’ below the surface.

Mr. Bill Kurth, of LakeMasters, indicated that, even though the guarantee was a manufacturer guarantee and not specifically LakeMasters’ guarantee, LakeMasters will take whatever steps are necessary to modify the systems, at their cost, should the DO levels drop below 5 ppm.

Ms. Crismond mentioned that testing during the known extreme time should occur to determine if modifications are necessary. This would be during late summer, overcast conditions and decomposing plant material in all systems installed last year, including Lakes 2, 11, 11B, 13, 17 and 22.

Mr. Adams presented the lake aeration proposal for Fiscal Year 2015, which includes installing aeration in Lakes 22, 24, 25, 39, 46, 47, 49, 57 and 59.

On MOTION by Mr. Tarr and seconded by Mr. Luby, with all in favor, the LakeMasters Aquatic Weed Control, Inc., proposal for aeration in nine lakes, in a not-to-exceed amount of \$54,835.50, was approved.

Discussion ensued regarding fountains in Lake E3, it was noted that, annually, the District should have proof of insurance on file and review the hold harmless clause with the master community association (MCA).

FOURTH ORDER OF BUSINESS

Update: Aquatic Plant Reduction Project for East Side of Livingston

An update regarding the aquatic plant reduction project on the east side of Livingston was provided by Staff and LakeMasters. It was noted that the work was still ongoing and anticipated to be completed by the end of the week. LakeMasters agreed to clean all of the lakes of floating debris, resulting from the removal project. Staff will insure that LakeMasters performs routine maintenance, per their contract, to keep spikerush from growing in the removal areas through routine maintenance under their contract.

FIFTH ORDER OF BUSINESS

Discussion: Aquatic Plant Reduction and Annual Canna Lilly Cut Back and Cleanup for West Side of Livingston (*to be provided under separate cover*)

Discussion ensued regarding aquatic plant reduction and annual canna lily cut back and cleanup on the west side of Livingston.

The Board agreed to add Lake 22 and include the LakeMasters proposal for golden canna trimming in nine lakes, during early December, in a not-to-exceed amount of \$28,200, to the Fiscal Year 2016 budget.

Mr. Adams presented the results of his and Ms Crismond's recent review of the lakes on the west side of Livingston that are candidates for aquatic plant reduction; Lakes 50, 52, 59 and 62 were identified. A proposal for treatment and removal was provided by LakeMasters in the amount of \$29,400. Discussion ensued regarding spikerush reduction.

On MOTION by Mr. Rowe and seconded by Mr. Luby, with all in favor, the LakeMasters Aquatic Weed Control, Inc. proposal for spike rush trimming on Lakes 50, 52, 59 and 62, in a not-to-exceed amount of \$29,400, was approved.

SIXTH ORDER OF BUSINESS

Discussion: Mediterra North Easement Access and Use Agreement with The Club for Irrigation Water Withdrawals

Mr. Adams noted that the agreement was between the Mediterra North CDD and The Club, as Lake 34 is physically within the boundaries and jurisdiction of the Mediterra North CDD. It was noted that withdrawals from this lake would include direct and indirect withdrawals from five other area lakes that are either directly connected by pipe work or are close enough to be affected through porous soil conditions. He further reviewed the purpose of the request and that The Club will be operating under very strict permit requirements; should The Club create any adverse impacts they will be required to abate those impacts, under the permit, while the Mediterra North CDD has the right to suspend or cancel the access and use agreement, under those same conditions. It was further noted that The Club Engineer’s usage modeling, which had to accompany the permit application to the South Florida Water Management District (SFWMD), indicated that there would only be .10’ of vertical water loss over a 90-day period while also assuming no rain recovery or recharge from a well.

A Board Member noted that, even though the agreement would not have included the Mediterra South CDD, the Board should have been advised. Mr. Adams agreed.

SEVENTH ORDER OF BUSINESS

Discussion: Potential Benefits of RFQ for District Management Services

This item was deferred to the next meeting.

EIGHTH ORDER OF BUSINESS

Approval of Minutes

A. October 15, 2014 Regular Meeting (*deferred from January 21, 2015 Regular Meeting*)

Mr. Nails presented the October 15, 2014 Regular Meeting Minutes and asked for any additions, deletions or corrections.

On MOTION by Mr. Rowe and seconded by Mr. Luby, with all in favor, the October 15, 2014 Regular Meeting Minutes, as presented, were approved.

B. January 21, 2015 Regular Meeting

Mr. Nails presented the January 21, 2015 Regular Meeting Minutes and asked for any additions, deletions or corrections.

On MOTION by Mr. Rowe and seconded by Mr. Luby, with all in favor, the January 21, 2015 Regular Meeting Minutes, as presented, were approved.

*****TRANSCRIPTION FROM AUDIO COMMENCED*****

NINTH ORDER OF BUSINESS

Other Business

Mr. Tarr indicated that Mr. Jack Gaskins heads the Special District Accountability Program and sent communication to all special district registered agents, in October, 2014. Mr. Tarr contacted Mr. Gaskins and revealed that he did not know who the District's registered agent was. He noted that it was not unusual for the registered agent to receive communication but not distribute it to the Board Members; therefore, Mr. Gaskins recommended that the Board require its registered agent, Mr. Wrathell, to submit all official communications received to the Board. Mr. Tarr referred to the upcoming CDD website requirements and was concerned that, beginning October 1, 2015, his name, address and email address must be listed on the website. Noting that he uses his personal email address for CDD business, Mr. Tarr suggested that all Board Members establish CDD email addresses, since the email addresses will be listed on the website, and voiced agreement that the registered agent should be required to forward all official communications to the Board.

Mr. Johnson stated that it is the Board's discretion whether to require the registered agent to forward all communication received to the Board Members. He speculated that Management uses discretion regarding what to forward and noted that the registered agent might receive annual forms, etc., which, typically, are of no interest to the Board; however, those items could be forwarded if the Board Members wish.

Regarding the new CDD website requirements, Mr. Johnson noted that the information was included in his “end of session” wrap-up when the legislation was passed last year. He confirmed that the new requirements become effective October 1, 2015. Mr. Johnson advised that CDD email addresses can be created for Board Members.

Mr. Johnson provided a history of the legislation and how it filtered down the CDD level. He voiced his opinion that, at the time the executive order was issued, the Governor’s staff did not realize the scope, given that there are over 1,500 special districts in Florida; ultimately, the process concluded with a “whimper” rather than the “bang” anticipated, as the Governor’s staff closed the review and moved on to other matters. Mr. Johnson pointed out that the review never got to the CDD level; therefore, he felt that the District should not see anything further with regard to implementation of the executive order by the Governor’s staff. He explained that a summary will be posted and reiterated that the review never reached the CDD level.

Mr. Tarr stated that people in the CDD business speak highly of Mr. Johnson and voiced his appreciation to him.

The Board directed Management, as the registered agent, to forward all official communication received to the Board Members. Mr. Adams acknowledged the new requirement.

Regarding CDD email addresses for Board Members, Mr. Adams anticipated implementing them when the websites are modified to comply with the new requirements. This item will be discussed during the May meeting.

TENTH ORDER OF BUSINESS

Staff Reports

A. Attorney

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

B. Engineer

Regarding the pond matter, Mr. Tilton stated that he was encouraged that the methods implemented by Mr. Adams are the same type of methods being promoted, across the region, for healthy stormwater ponds. He stated that Mr. Adams has done a good job and modified his approach, as necessary, which is beneficial to the District having healthier stormwater ponds. Mr. Tilton pointed out that these are stormwater ponds and not lakes, as they do not meet the regulatory criteria for lakes. He noted that aeration and aquatic plants help the stormwater ponds function better without introducing a lot of chemicals.

Mr. Rowe indicated that he will forward the rainfall information to Mr. Adams for dissemination to the Board. He recalled that there has been more rain this year than last year.

C. Manager

**i. Approval of Unaudited Financial Statements as of November 30, 2014
(deferred from January 21, 2015 Regular Meeting)**

Mr. Nails presented the Unaudited Financial Statements as of November 30, 2014.

Mr. Tarr pointed out that, it is the middle of March and the Board is reviewing the November Unaudited Financial Statements. He questioned when the Board will pay for the assessment roll preparation and arbitrage rebate calculation.

Mr. Adams advised that the assessment roll preparation was paid in December, 2014. He must research the status of payment for the arbitrage calculation.

On MOTION by Mr. Luby and seconded by Mr. Rowe, with all in favor, the Approval of Unaudited Financial Statements as of November 30, 2014, were approved.

Mr. Tarr stated that he researched other CDDs to ascertain the assessment roll preparation and arbitrage rebate calculation fees that other CDDs pay. He distributed a handout of the information that he collected and indicated that the information should not be construed as an audit of every CDD. Mr. Tarr pointed out that AJC Associates, Inc. (AJC), prepares the assessment rolls for 16 CDDs managed by Mr. Adams' firm. He discovered that Mediterra North and South CDDs pay a fee of \$28.38, per unit, to AJC, while another CDD pays \$9.09 per unit and another CDD pays \$2.02 per unit. Mr. Tarr voiced his opinion that, prior to the District engaging AJC again, the Board should understand the pricing; he wants to review a document from AJC detailing all 16 CDDs and how AJC determines the fee charged per door.

Mr. Tarr indicated that the Mediterra North and South CDDs paid \$7,200 for the arbitrage rebate calculation but believed that the Districts did not receive the arbitrage letter from the auditor for several years; he believed that the last letter was provided in 2013. He noted that another CDD only pays \$1,000 for the same service. Mr. Tarr located the company Arbitrage Compliance Specialists (ACS), which has 1,500 municipal clients and works on over 17,000 debt issues. He stated that ACS charges only \$500, per bond, for an ongoing arbitrage rebate calculation. Mr. Tarr contacted ACS and was told that the fees for this service are now competitive because the liability is less, due to \$0 interest rates, which lessens the opportunity

for issues. He recommended that the District contact ACS to determine if an annual arbitrage rebate calculation is necessary and, if so, to possibly hire ACS at a lower rate.

Mr. Adams explained that the Mediterra CDDs' arbitrage rebate calculation process is more complicated than other CDDs because bonds were issued as "mixed", with Mediterra South as the lead. Mr. Tarr reiterated his opinion that the District should consult ACS.

This item will be included for discussion at the next meeting.

Mr. Adams indicated that the assessment roll preparation costs are contracted between the District and AJC; it does not involve Management, was not selected by Management and has been in place for years. He recalled that the Board revisited the matter a few years ago. Mr. Adams advised that trying to calculate the costs, on a per-unit basis, can be skewed because a base amount is charged and then costs are incurred for each group of 500 additional folio numbers. He pointed out that the Mediterra CDDs have the lowest density of units compared to the others mentioned by Mr. Tarr.

Mr. Tarr reiterated his opinion that this should be reviewed prior to executing another contract with AJC. Mr. Adams indicated that the contract automatically renews, annually; he will forward the contract to the Board and add this item to the May agenda. Mr. Tarr questioned if AJC has the same fee structure for all CDDs. Mr. Adams offered and Mr. Tarr requested copies of the contracts between AJC and Management's other CDDs.

Ms. Crismond reported that the pine straw project was underway and should be completed by April 7, 2015. She indicated that the interconnect pipe inspections will be completed this week.

Mr. Adams advised that the cost would be \$6,000 to inspect the pipes in both Districts.

ii. CDD Insurance

Mr. Tarr indicated that he reviewed the Rules of Procedure, regarding bonding, when Mr. Wrathell was appointed Treasurer and subsequently reviewed District Counsel's changes to the District's Rules of Procedure. He stated that Mr. Johnson liberalized the fidelity aspect of coverage for the Secretary and Treasurer. Mr. Tarr noted that, according to the minutes of that meeting, Mr. Adams expressed confidence that the insurance was in place; however, Mr. Tarr found that it was not and asked Mr. Adams to identify when the coverage was in place. He contended that the District has Rules of Procedure but does not have an internal audit procedure to ensure compliance with the Rules of Procedure. Mr. Tarr suggested that the District could form a governance committee to perform the audit, so that the Board is not involved. He stated

that, unless the coverage was acquired, the District is still not in compliance with the Rules of Procedure.

Mr. Tarr alleged that other Rules of Procedure were not being followed and asked Mr. Johnson to comment about whether some rules are necessary and whether there is a state imposed penalty if the District does not follow one of its Rules of Procedure.

In response to Mr. Nails' question, Mr. Tarr stated that the District's Rules of Procedure specify that "the Secretary of the Board and the Treasurer must have either a fidelity bond or alternate insurance, as we agreed to in 2013". Mr. Tarr asked if the Board is responsible to ensure that the CDD's Rules of Procedure are being followed.

Mr. Johnson felt that it is "good governance" to ensure that everyone is following the Rules of Procedure. He noted that the District has rules or provisions beyond the statute requirements, this being one of those rules. Mr. Johnson noted the language adopted in 2013 but explained that management firms were switching to typical crime policies for coverage, as fidelity bonds were not readily available. He advised that it might be necessary for the District to revise the language in its Rules of Procedure to address being an additional insured, versus a certificate holder. Mr. Johnson confirmed that there is no state penalty for not complying with the rule. He felt that, since the rule exists in the CDD's Rules of Procedure, it would be appropriate to ensure that the requirement is being met or decide that the requirement is not necessary and change the rule.

Mr. Nails asked if Mr. Johnson meant that, if the District has the rule, it should have a crime coverage policy, which is broader than a fidelity policy, and that the CDD should be an additional insured on the crime policy.

Mr. Johnson believed that the District's Rules of Procedure were broad enough to allow for a crime policy with the CDD as an additional insured. He voiced his understanding that Management would be able to maintain the CDD as a certificate holder, as opposed to an additional insured. Mr. Johnson believed that Management's current coverage would provide the District with recourse against Management, should someone abscond with District funds. He discussed information received from Management's insurance agent and advised that, had the situation been known when the Rules of Procedure were revised, he would have modified the language to state "certificate holder or additional insured", provided there was a crime policy in place, which there was.

Mr. Tarr discussed language in a policy with Hartford and stated that the purpose of it would be to have recourse against the insurance company and not against Management; he preferred to collect from the insurance company, as he was unsure of Management's financial capability. Mr. Tarr wanted "clean" coverage. He read from the certificate provided by Mr. Adams and stated that he was not "comforted" by a certificate.

Discussion ensued regarding whether the CDD could be named as an additional insured. Mr. Tarr suggested that the CDD take out the coverage. Mr. Adams indicated that the CDD is named as a third-party insured on Management's crime policy and, in addition, additional third-party fidelity policies are being taken out in the names of the Mediterra South and Mediterra North CDDs. Mr. Adams stated that the proposal is ready for execution by Mr. Wrathell.

Mr. Tarr asked if it was fair to say that, for some time, Management has not "lived up" to the rule in the Rules of Procedure. He stated that he is not trying to put Mr. Adams on the spot but it appeared that Management did not.

Mr. Adams replied no, not specifically to the language in the Rules of Procedure; however, by intent and whether the District was ultimately covered, Management did comply.

Mr. Tarr referred to Rule 1.2 in the Rules of Procedure and voiced his belief that the issue of recordkeeping is in flux and that opinions about electronic recordkeeping vary. He stated that Mr. Adams does a good job of keeping the Board informed; however, he is troubled by Rule 1.2, which states "Unless otherwise designated by the Board, the official District Office shall be the District Manager's office, identified by the District Manager". Mr. Tarr noted that Mr. Adams has an office in Bonita Springs, in Lee County. He continued reading Rule 1.2, stating "If the District's Manager's office is not located within the county in which the District is located, the Board shall designate a local records office within such county, which shall, at a minimum, contain but not be limited to the following documents:...". Mr. Tarr pointed out that Management does not have an office in the county and questioned why the requirement is necessary.

Mr. Adams pointed out that, technically the requirement is met. He noted that the District Engineer's office is within the county; however, it is further away than Management's office in Lee County. Mr. Adams stated that, if the Board prefers, the District Engineer's office could be the designated registered office.

Mr. Tarr asked Mr. Johnson to eliminate the rule requiring the registered office to be in the same county as the District, if possible. Mr. Johnson noted that this particular rule is required by statute and cannot be modified.

Mr. Tilton confirmed that his office can be the designated registered office of the District. Mr. Tarr discussed the insurance costs.

Mr. Tarr referred to the District’s policy with Florida Insurance Alliance (FIA) and stated that he searched the name through the Florida Office of Insurance Regulation and found no record of the company. He researched FIA’s website and found that it lacked information except that it is “a consortium of small to mid-sized Florida public entities that decided to take control of their insurance needs”. Mr. Tarr read additional information about FIA and stated that he did not understand and questioned where the “office” is.

In response to a question, Mr. Adams advised that the Florida League of Cities is another large insurance carrier for municipalities, CDDs, etc.

The Board requested that Mr. Adams contact the Insurance Agent and provide a report at the next meeting regarding FIA and how they are structured.

iii. NEXT MEETING DATE: May 20, 2015 at 11:30 A.M.

The next meeting will be held on May 20, 2015 at 11:30 a.m., at this location.

ELEVENTH ORDER OF BUSINESS

Supervisors’ Requests

Mr. Luby asked about the situation with Mr. Gary Loser, a resident. He referred to an email from Mr. Loser related to the three-minute public comments limitation, where Mr. Loser stated that it was not enough time and he would contact his lawyer and sue the District.

Mr. Adams indicated that he met with Mr. Loser on Monday and reviewed the electronic record of proceedings for both Mediterra North CDD and Mediterra South CDD. He felt that Mr. Loser was pleased with the information received but still has significant concerns regarding the statutory requirement for “prompt” recording of meeting minutes and availability to the public, in draft form, prior to the Board’s ability to make final edits and approve them. Mr. Adams noted District Counsel’s opinion that, to the extent that, during the normal course of business, if the audio recording is transcribed and in draft form, when a request is received, the draft minutes could be provided, provided it is clearly marked as a draft and noting that there may be material changes prior to final adoption by the Board. Per District Counsel, if the draft

summary transcription is not available at the time of the request, the digital audio recording and Staff's meeting notes can be provided as an alternative.

Mr. Adams indicated that Mr. Loser still has a "bone of contention" and is "hanging his hat" on an Attorney General opinion related to a college and the way in which it "intranscribed" its minutes for public meetings.

Mr. Adams noted that the Board might wish to continue, following the advice of District Counsel; however, it is the Board's decision.

Mr. Nails surmised that District Counsel gave an opinion that Mr. Loser disagrees with; the Board is acting on District Counsel's opinion. He noted that the three-minute rule was adopted, consistent with the law.

Mr. Luby asked what the matter is costing the CDD. Mr. Adams indicated that his time was not charged and he was unsure how much time District Counsel spent. Mr. Luby asked that the costs be monitored, in case it becomes a frivolous lawsuit.

Mr. Johnson confirmed that the Board is properly recording its meeting minutes. He felt that the term "prompt recording", in the statute is influenced by how often the Board meets and takes action on the minutes; for example if the Board met more frequently, the minutes would need to be transcribed more quickly but, as the Board meets on a quarterly basis, the current timing is acceptable.

Mr. Tarr stated that many of Management's districts meet on a monthly basis and voiced his opinion that this means that Management has the capability to transcribe the minutes more quickly than it is doing for the Mediterra CDDs. He questioned "what it would take to move us up in the queue".

Mr. Adams reminded Mr. Tarr that Management's manpower matches the client's meeting schedule; for instance, if CDDs that meet quarterly suddenly started meeting monthly, it would significantly impact staff and could require additional staff.

Mr. Tarr suggested that, if the turnaround time for meeting minutes is Mr. Loser's only issue and Management could prepare meeting minutes within two weeks, it could prevent a lawsuit; he asked why the District would not require it.

Mr. Luby questioned why a nearly instantaneous audio of the meeting is not satisfactory to Mr. Loser. Mr. Nails pointed out that District Counsel advised that providing the audio of the meeting is consistent with the requirements. Mr. Tarr indicated that he has listened to the audio

and voiced his opinion that forcing someone to listen to an entire meeting, when the person only wants to review a single point, is “transparency”, under the Sunshine Law.

Mr. Tarr motioned to require Management to transcribe the meeting minutes within one month. Motion failed due to lack of a second.

Mr. Tarr recalled that, in June, 2012, Mr. Adams prepared the Mediterra COE Noncompliance Area Semi Annual Wetland Monitoring Report and asked if a report was prepared since then. Mr. Adams stated that it was the closeout report to close out the monitoring requirement of the permit. Mr. Tarr asked Mr. Adams to confirm his statement. Mr. Adams will confirm the information.

Mr. Adams advised that Mr. Bishko felt that the Board should meet sooner than the scheduled May 20, 2015 meeting date. Mr. Nails asked the reason. Mr. Adams indicated that Mr. Bishko did not elaborate on the reason. The Board did not favor meeting earlier than May 20, 2015.

On MOTION by Mr. Tarr and seconded by Mr. Luby, with all in favor, designating Johnson Engineering, Inc., 2350 Stanford Court, Naples, FL 34112, as the office of record of the District, was approved.


TWELFTH ORDER OF BUSINESS Adjournment

There being nothing further to discuss, the meeting adjourned.

On MOTION by Mr. Luby and seconded by Mr. Rowe, with all in favor, the meeting adjourned at approximately 1:30 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair