

**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, May 17, 2017 at 9:00 a.m.**, at **The Sports Club at Mediterra (Bella Vita Room), 15735 Corso Mediterra Circle, Naples, Florida 34110.**

Present and constituting a quorum were:

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| Robert Greenberg | Chair |
| Ken Tarr | Vice Chair |
| Mike Bishko | Assistant Secretary |
| John Henry (<i>via telephone</i>) | Assistant Secretary/Assistant Treasurer |
| Dallas Luby (<i>via telephone</i>) | Assistant Secretary |

Also present were:

| | |
|---|----------------------------|
| Chuck Adams | District Manager |
| Cleo Adams | Assistant Regional Manager |
| Andrew Tilton | District Engineer |
| Jonathan Johnson (<i>via telephone</i>) | District Counsel |
| Greg Pick | MCA General Manager |
| Tony Grau (<i>via telephone</i>) | Grau & Associates |

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 9:04 a.m., and noted, for the record, that Supervisors Greenberg, Tarr and Bishko were present, in person. Supervisors Luby and Henry were attending via telephone.

SECOND ORDER OF BUSINESS

Chairman's Opening Remarks

There being no Chairman's opening remarks, the next item followed.

THIRD ORDER OF BUSINESS

Public Comments [3 minutes per person]

There being no public comments, the next item followed.

FOURTH ORDER OF BUSINESS

**Presentation of Audited Financial Report
for Fiscal Year Ended September 30,
2016, Prepared by Grau & Associates**

Mr. Grau stated that the “Independent Auditor’s Report”, on Pages 1 and 2, was a clean or unmodified opinion. The “Changes in Net Position”, on Page 4, reflected a decrease in “Revenues” of approximately \$400,000, as a result of a decrease in debt service assessments levied for Fiscal Year 2016. “Long-term debt activity”, on Page 20, showed that bonds were paid down by approximately \$435,000. The “Independent Auditor’s Report on Internal Control Over Financial Reporting and on Compliance and Other Matters”, on Pages 25 and 26, the “Independent Auditor’s Report on Compliance With the Requirements of Section 218.415, Florida Statutes”, on Page 27, the “Management Letter”, on Page 28, and the “Report to Management”, on Page 29, reflected no current or prior year findings.

Mr. Bishko asked what affect Governmental Accounting Standards Board (GASB) Statement No. 72, *Fair Value Measurement and Application*, had on the District. Mr. Grau referred to Page 18 and stated that the “Fair Value Measurement” determined how the value on the balance sheet was derived. The District’s investments, which were basically Money Market accounts, were shown as amortized costs and were not required to be placed in a tier in the three-tiered fair value hierarchy.

Mr. Tarr stated that the District was responsible for the replacement of plant material; therefore, “NOTE 11 – MAINTENANCE SERVICE AGREEMENT”, on Page 22, was inaccurate because the Mediterra Community Association (MCA) did not agree to provide free plant material. At Mr. Greenberg’s suggestion, the verbiage would be changed to: “The Association shall provide routine landscape maintenance services; provided, however, installation of additional plant material of any kind shall be at the District’s cost.”

Regarding “NOTE 12 – RISK MANAGEMENT”, which stated that there were no settled claims during the past three years, Mr. Tarr recalled that, last year, Mr. Grau’s associate agreed to strike the word “settled”, as it implied to the reader that there may be claims being negotiated. Mr. Greenberg stated if there were settled claims, it would infer that a deductible was paid, and the word settled should be struck.

On Page 9, under “Major Funds”, “General”, Mr. Greenberg asked what the \$30,634, under “for subsequent years’ expenditures”, was earmarked for. Mr. Adams replied use of fund

balance to keep assessments down. Mr. Greenberg stated that the \$146,584, under “Unassigned”, represented unassigned funds that the Board, in accordance with its powers, duties and obligations, was free to spend. Mr. Adams concurred.

FIFTH ORDER OF BUSINESS

Consideration of Resolution 2017-7, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2016

Mr. Greenberg presented Resolution 2017-7 for the Board’s consideration.

On MOTION by Mr. Tarr and seconded by Mr. Bishko, with all in favor, Resolution 2017-7, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2016, as amended, was adopted.

SIXTH ORDER OF BUSINESS

Update: Merger Proceedings

Mr. Johnson stated that the petition was filed with the State and advance copies were provided to the City of Bonita Springs and Collier County, as required by Statute. The City Attorney would schedule the matter before the City Commission, in June. Mr. Johnson corresponded with the Collier County Attorney, who expected to place a consent resolution waiving the County’s right to an optional hearing at an upcoming council meeting. Updates would be provided.

Mr. Luby inquired about the expected completion date of the merger. Mr. Johnson stated probably during the first quarter of 2018.

Mr. Greenberg asked Mr. Johnson to notify the Board if the City scheduled a public hearing and if it would benefit the District to advise the City that the County was adding the petition to its consent calendar, once it was scheduled. Mr. Johnson would notify the City.

▪ **Discussion: Wildfire Resilience and Preserve Management Plan**

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

Mr. Greenberg criticized receiving the information yesterday, or the day before, as it did not allow sufficient time to study the plan, in depth. Service providers and the District Manager must ensure that this did not occur again.

Referring to the map, Mr. Tilton stated that the paths were the same as before, with two additional, based on discussion, at the last meeting. Path lengths were tabulated and included in the cost estimate. Several contractors provided estimates; however, bidding the project may result in lower pricing. Both the Mediterra North and South CDDs were anticipated to be completed at the same time. If the work was performed in phases, unit prices may increase.

In response to a question from Mr. Henry, Mr. Greenberg stated that the total estimate was approximately \$146,000. Mr. Luby felt that the price was low. Mr. Tilton stated that the estimate was based on several contractors that his firm worked with, on other projects, where vegetation was removed. One contractor provided a lineal price on some portions and a per acre price on others. Mr. Bishko asked which colored lines the quote applied to. Mr. Tilton stated that the quote applied to all areas, as far as fire breaks, remission zones and fuel reductions. Mr. Greenberg clarified that the estimate was \$148,700. \$150,000 would be budgeted.

Mr. Luby asked about annual maintenance requirements. Mr. Tilton stated that some maintenance would be performed every two to five years and some would be annual. \$50,000 was estimated for annual maintenance and, depending on the speed of re-growth, the cost would be \$75,000 to \$100,000 for the two to five-year range.

Mr. Tarr inquired about the difference between a Fire Break Type 1 and a Fire Break Type 2. Mr. Tilton stated that a Fire Break Type 1 had vegetation removal beyond the fire break, for the first 30', with fuel reduction on one side. A Fire Break Type 2 had fuel reduction on both sides. Mr. Tarr stated that the trail was to be 14' wide; however, the report stated that it would not be 14' wide. Mr. Tilton stated it was determined that 10' to 12' would be adequate.

Discussion ensued regarding the potential for someone to ignite a forest fire if the preserve had walking paths. Mr. Tarr suggested contacting the Florida Forest Service (FFS) for that information.

Mr. Greenberg asked how the area marked "WB" would be crossed. Mr. Tilton stated that, in the plan, future trails could be shown as "future." Mr. Tarr asked which cost estimate item would have the least impact. Home Ignition Zones, or HIZs, were discussed, which were the highest fire risk. Residents could be educated about what would occur on CDD property and homeowners' property. The HIZs were the smaller areas behind houses.

Discussion ensued regarding signage. Mr. Henry felt that entry should be restricted until the trails became an amenity. Mr. Greenberg stated that a legal opinion could be obtained from

District Counsel regarding the District’s obligations, signage and liability when the District proceeded with fuel reduction and establishing fire trails.

Discussion ensued regarding future path locations and the golf course. Mr. Greenberg recommended that the paths be shown on the map as “future”, with a note that the locations may change. In case the decision was not to cross the wooden bridge, Mr. Tilton suggested adding two potential locations to the plan.

On MOTION by Mr. Bishko and seconded by Mr. Tarr, with all in favor, the Preserve Management Plan, to be amended as discussed, and authorization for the District Engineer to submit the Plan, subject to approval by the Mediterra North CDD, were approved.

Mr. Tilton stated that, once the amendments were made, updated copies of the Plan would be provided to Mr. Adams, for dissemination.

Mr. Greenberg wanted to include the probable costs to the proposed Fiscal Year 2018 budget, with a 10% surplus. This would be discussed during the Fiscal Year 2018 budget deliberations.

SEVENTH ORDER OF BUSINESS

Consideration of Resolution 2017-8, Approving the District’s Proposed Budgets for Fiscal Year 2017/2018 and Setting a Public Hearing Thereon Pursuant to Florida Law and Providing an Effective Date

Mr. Adams presented Resolution 2017-8 for the Board’s consideration. On Page 1, of the proposed Fiscal Year 2018 budget, “Dissemination agent” and “Assessment roll preparation” decreased. Line items decreased or increased based on actuals and projections for Fiscal Year 2018, most notably, “Aquascaping/Cutbacks/Pipe Cleanout” decreased from \$100,000 to \$50,000, “Electricity” increased from \$13,000 to \$22,500, to accommodate additional aeration units, and the 2018 Debt Service payment against the Florida Community Bank loan. No monies were included for the fuel reduction program. Utilizing \$30,550 of fund balance was proposed to keep assessments at about the same level. Approximately \$100,000 could be allocated toward

the fire break program without having an effect on assessments. Mr. Bishko felt that the minor assessment increase could be directly attributed to the fire break program.

Discussion ensued regarding whether mailed notices of an assessment increase would be required. Mr. Adams stated, if assessments increased above \$502.60, in Fiscal Year 2018, separate mailed notices would be required. Mr. Tarr stated that assessments were continually reduced and a schedule reflecting assessment amounts, over the years, would be helpful, if the Board decided to increase them. Mr. Greenberg would tie the increase to the fire program, show assessments for the last five to seven years and show the effect the program would have on assessments based on the estimate provided. Mr. Tarr stated that the information should be included in a letter. Mr. Adams stated the consensus was to program Fire Breaks 1 and 2 into the budget but not use fund balance to offset the cost and be prepared to send a notice to increase assessments. The program would be completed in phases so the cost would be \$80 per household. Mr. Adams suggested programming the entire amount as a real expense, for Fiscal Year 2018, offset by 50% from fund balance. The assessment amount would be collected in Fiscal Years 2018 and 2019 and the money collected in Fiscal Year 2019 would be an increase to fund balance, to recover the amount expensed, in full. The assessment amount would be \$577.71, per household, or 15%, for two years. Reductions would occur in the third year. The mailed notice would include a narrative paragraph and be sent at least 30 days prior to the Public Hearing.

Mr. Greenberg requested a chart reflecting past assessments. He would prepare a letter to homeowners and request Board input and wanted to include information regarding the plan to reduce the fuel load. Mr. Adams suggested posting the map on the District website and providing a link in the letter.

Mr. Henry noted significant reductions in expenditures and asked if the Board was comfortable with the Fiscal Year 2017 projections for the combined budget. Mr. Adams stated that, under "Professional & admin", \$60,000 was projected for "Legal", for the remainder of Fiscal Year 2017, most of which was attributable to the merger. Mr. Henry asked if unused funds would roll over to Fiscal Year 2018. Mr. Adams stated that the amounts were programmed to provide a realistic view of the fund balance, at Fiscal Year 2017 year end. If the funds were not utilized, fund balance would increase and would be available in Fiscal Year 2018. Under "Engineering", \$20,000 was projected for the remainder of Fiscal Year 2017, for

Firewise, the Distinctive Homes project, Lucarno and the merger. An extra \$80,000 was projected under “Water management”, “Contractual Services”, bringing the total for Fiscal Year 2017 to \$165,809; however, a large portion was related to spikerush cleanout, in Lakes 71 and 72, which was not anticipated for Fiscal Year 2018.

On MOTION by Mr. Henry and seconded by Mr. Bishko, with all in favor, Resolution 2017-8, Approving the District’s Proposed Budgets for Fiscal Year 2017/2018, as amended, pending approval by the Mediterra North CDD, and Setting a Public Hearing Thereon for Wednesday, August 16, 2017 at 2:00 p.m., at this location, and Providing an Effective Date, was adopted.

EIGHTH ORDER OF BUSINESS

Discussion: Distinctive Residential Project Design Review

Mr. Greenberg stated that Distinctive Homes owns the property known as the Pig Farm, consisting of 17 acres on the east side of Livingston. 27 single-family homes would be built, with two stormwater management ponds that would be connected to the Mediterra stormwater management system. Distinctive Homes requested an easement from the MCA. The MCA performed a site visit and, prior to granting the easement, Mr. Greenberg established, with the MCA Board’s concurrence, a series of requirements for Distinctive Homes. Distinctive Homes must include adequate buffering on their side, a review of the buffering on the MCA’s side and completion of a maintenance plan, into the future, which would include a post-closing obligation, once construction commenced. Distinctive Homes agreed to the requirements and documents were prepared for Mr. Greenberg’s signature. Mr. Greenberg instructed Mr. Adams to ask the District Engineer to review the stormwater permit and make recommendations to the CDD Board. As a result, Distinctive Homes pulled the stormwater management permit and submitted it under another name. The District Engineer monitored the permit and reported his findings before the easement was executed, on behalf of the MCA. No issues were identified and Mr. Greenberg indicated he would execute the easement, as President of the MCA.

Mr. Tilton stated that, from a water management district standpoint, Distinctive Homes followed all the rules and regulations but questioned whether there was something in the Easement Agreement to allow the CDD to address the issue, if something in Distinctive Homes’

pond was transmitted downstream, to the District’s ponds. Mr. Greenberg asked if the issue was addressed, legally. Mr. Pick stated that there was a “Hold Harmless” clause. Mr. Johnson would review the agreement and email a response to Mr. Greenberg.

Mr. Greenberg asked if the South Florida Water Management District (SFWMD) would become involved, if Distinctive Homes violated their permit. Mr. Tilton stated that many agencies may become involved, depending on what was discharged into the water. Once the discharge reached CDD property, the CDD, as the owner, would have some liability; however, the CDD would have recourse as the receivers of the discharge. Mr. Greenberg asked if the biggest risk to the District was construction debris. Mr. Tilton replied usually. Mr. Tarr asked if a future pipe inspection would be required due to construction debris coming downstream. Mr. Tilton did not anticipate large construction debris; however, cleaners or paint, in liquid form, may enter the pipe system. Mr. Greenberg asked if water would only enter the CDD’s ponds if it rose above a certain height. Mr. Tilton replied correct; it is called a control elevation. Further discussion ensued.

On MOTION by Mr. Greenberg and seconded by Mr. Henry, with all in favor, in concurrence with the MCA’s request to enter into an Easement Agreement with Distinctive Homes, authorization for the Chair to execute the Agreement, pending confirmation by District Counsel of a sufficient Hold Harmless provision, in the event of future discharge that may impact the District’s water quality, was approved.

NINTH ORDER OF BUSINESS

Discussion: Wildfire Resilience and Preserve Management Plan

This item was discussed following the Sixth Order of Business.

▪ **Discussion: Water Moccasin Population Concerns**

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

Mr. Greenberg was approached by residents claiming that there was an abundance of water moccasins and wanted the Board to reintroduce alligators into the ponds. Research was conducted and it was found that alligators are not predators of water moccasins. The water

moccasin population was concentrated because of the low level of lake water. No further action would be taken.

Mr. Tarr stated that the CDD did not remove alligators from the ponds. Mr. Adams stated that, over the years, a trapper may have removed an alligator that lost its fear of man but not lately. Homeowners may call the trapper and request a response. Alligators were not natural predators of moccasins; they were natural predators of baby alligators. Moccasins cannot be trapped; they would be located and removed, one by one, at \$325 per hour.

Mr. Luby recalled an MCA memo indicating that water moccasins were the result of alligator reduction in the ponds and asked if residents could be provided with the correct information. Mr. Greenberg stated that an article would be placed in the MCA Chronicle.

Mr. Adams stated that the ecologist advised that, during rainy season, when the preserves have water, the water moccasins would migrate back to the preserves.

TENTH ORDER OF BUSINESS**Discussion: Lakes 71 and 72 Retaining Walls**

Mr. Greenberg stated that the lake banks were cleaned and London Bay repaired and repainted the walls. An Engineering Report indicated that the cost was \$70,000. The scope was changed, reducing the cost to \$45,000 or \$46,000. The repairs were made and the two walls were painted. With regard to ownership, the HOA's attorney felt that the wall was CDD property. Mr. Greenberg asked the District Engineer to present the survey to the Board. Mr. Tilton had a map showing that the wall meanders; it was on the property line, on the homeowner's side of the property line, and a portion may be on the lake boundary line. Mr. Greenberg sent a notice to London Bay's in-house counsel and Lucarno HOA's counsel, provided the information and District Counsel's contact information, to try to resolve the issue. The CDD's issue was that it does not maintain retaining walls; however, part of the retaining walls lies on the property line or on the District's side of the lake boundary. Mr. Greenberg disseminated an email from Mr. Steve Adamczyk, Lucarno HOA Attorney. Mr. Tilton stated that, in the field, at each of the lot lines is 1" diameter dot of white paint, which is the actual property corner; when walking along the wall, the dot moved back and forth. Mr. Greenberg felt that this was the Developer's issue; the Developer improperly built it on CDD property. There was a Development Agreement between Long Bay Partners and LB Mediterra, in conjunction

with the sale of the lots to LB Lucarno, which required ponds to be constructed, lots to be finished and walls to be built. From that Agreement, it appeared that LB Lucarno owned the wall, as the Developer, because it was installed by Bonita Bay, as part of the sale of the property. The retaining walls were necessary to create buildable lots. Technically, the wall should have been transferred to LB Lucarno. At some point, the ponds were turned over to the CDD. Upon reviewing the documents, the lake boundary line was in the wrong place because the retaining wall should have remained with Lucarno. Mr. Johnson agreed with the summation. Mr. Greenberg stated that the survey showed part of the wall on the CDD side and another part on someone else's side. Mr. Greenberg asked if the CDD could abandon the wall. Mr. Johnson stated that a statutory process must be followed, which would entail consideration at a public meeting, adopting a resolution, etc. If the Board chose to proceed, the abandonment could be accomplished at the next meeting. Mr. Greenberg asked if the property would revert to the prior owner. Mr. Johnson would research and provide an answer.

Mr. Greenberg suggested directing Mr. Johnson to begin addressing the issue, legally, with the understanding that, under no circumstances would the CDD take control or responsibility for the wall. Lucarno and London Bay must resolve the issue or the CDD would proceed with the abandonment process. Mr. Bishko stated that the consequences of abandonment must be known.

This item would be addressed at the next meeting.

ELEVENTH ORDER OF BUSINESS**Discussion: Water Moccasin Population Concerns**

This item was discussed following the Ninth Order of Business.

TWELFTH ORDER OF BUSINESS**Consideration of Form of Auditor RFP and Board Sitting as the Auditor Selection Committee**

Mr. Adams stated that, at the Board's request, a standard form of Auditor Request for Proposals (RFP) was included in the agenda. He asked the Board to vote to serve as the Auditor Selection Committee and approve and authorize the distribution of the Auditor RFP to auditors that Staff was familiar with and any that the Board requested. Mr. Bishko stated that the issue

was cost. Mr. Adams stated that, statutorily, various elements must be considered. The RFP would be distributed to five or six qualified firms.

Mr. Tarr recalled Mr. Adams stating that he anticipated some savings and asked why he made the statement. Mr. Adams stated that there were two new firms and several of his clients who were engaging auditors for the first time received significantly lower pricing.

On MOTION by Mr. Bishko and seconded by Mr. Tarr, with all in favor, the form of Auditor RFP, the CDD Board sitting as the Auditor Selection Committee and authorizing Staff to distribute the RFP to familiar audit firms, were approved.

THIRTEENTH ORDER OF BUSINESS

Approval of April 19, 2017 Regular Meeting

Mr. Greenberg presented the April 19, 2017 Regular Meeting Minutes and asked for any additions, deletions or corrections. Mr. Tarr previously submitted edits.

On MOTION by Mr. Greenberg and seconded by Mr. Tarr, with all in favor, the April 19, 2017 Regular Meeting Minutes, as amended, were approved.

FOURTEENTH ORDER OF BUSINESS

Action Items

Items 2, 3, 5, 6, 7, 9, 10, 11, 13, 14, 17, 18 and 21 were completed.

Regarding Item 7, Mr. Adams asked if Mr. Johnson contacted Caminetto’s Attorney. Mr. Johnson replied affirmatively. Mr. Adams stated that Mr. Daniel Ledbetter contacted him for a better understanding of the District’s position. Mr. Adams explained to Mr. Ledbetter that the District was seeking reimbursement for the aerators in Lakes 75 and 76 because fountains were installed without advance CDD approval and without an agreement. Mr. Adams felt that Mr. Ledbetter would provide payment but could not confirm. Mr. Ledbetter asked if the ponds were programmed in the District’s aerator completion project. Mr. Adams indicated that they were, originally; however, the ponds were later removed from the project and no funding was received. This item would be placed on the next agenda.

Regarding Item 9, Mr. Luby would attend the June 21 Board Meeting, in person. Staff would poll the Board to ensure a quorum and, if necessary, the meeting date would be changed.

Referring to Item 15, Mr. Adams stated that a proposal for an inspection and evaluation to determine the load rating was provided by Bridging Solutions. Building Department public records did not provide the load capacity of the wooden cart path bridges on the golf course. The proposal was approximately \$12,000. The bridges were noted on the plans to be provided to the Fire Departments and the FFS. The FFS representative indicated that the bridges would be avoided.

FIFTEENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of March 31, 2017

Mr. Greenberg presented the Unaudited Financial Statements as of March 31, 2017.

On MOTION by Mr. Bishko and seconded by Mr. Tarr, with all in favor, the Unaudited Financial Statements as of March 31, 2017, were approved.

SIXTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

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

For the record, Mr. Tarr asked if all required documents were in the District files. Mr. Adams replied affirmatively.

B. District Engineer

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

C. District Manager

- **635 Registered Voters in District as of April 15, 2017**

There were 635 registered voters residing within the District as of April 15, 2017.

- **Next Meeting Date: Wednesday, June 21, 2017 at 9:00 A.M.**

The next meeting will be held on June 21, 2017 at 9:00 a.m., at this location.

D. Operations Manager

Mrs. Adams would continue to provide updates regarding the aeration installation. The annual audit would be performed in June.

Mr. Adams discussed a proposal from EarthBalance for planting CDD lake banks, also known as the orphan lake banks. Two options were provided, one using 4" plant material, for \$5,800, and another using 1-gallon material, for \$11,000. 3-gallon Bromeliads were in both proposals. In response to a question from Mr. Greenberg, Mr. Adams stated that funds were available under "Aquascaping". Mr. Adams recommended Option 1. Discussion ensued regarding the survival rate. Mr. Adams stated that the plants would not be installed until the rainy season.

On MOTION by Mr. Bishko and seconded by Mr. Greenberg, with all in favor, the EarthBalance proposal for Lakeside Bed Planting, Option 1 - Planting 4" Option, in the amount of \$5,811.60, was approved.

SEVENTEENTH ORDER OF BUSINESS Supervisors' Requests

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

EIGHTEENTH ORDER OF BUSINESS Public Comments

There being no public comments, the next item followed.

NINTEENTH ORDER OF BUSINESS Adjournment

There being nothing further to discuss, the meeting adjourned.

On MOTION by Mr. Tarr and seconded by Mr. Henry, with all in favor, the meeting adjourned at 11:22 a.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair