

**MINUTES OF MEETING
BROOKS OF BONITA SPRINGS & BROOKS OF BONITA SPRINGS II
COMMUNITY DEVELOPMENT DISTRICTS**

The Boards of Supervisors of the Brooks of Bonita Springs & Brooks of Bonita Springs II Community Development Districts held a Joint Special Meeting on **Wednesday, April 9, 2014 at 1:00 p.m., at The Commons Club at The Brooks Enrichment Center, 9930 Coconut Road, Bonita Springs, Florida 34135.**

Present for Brooks CDD were:

James Merritt	Chair
Jim Ward	Vice Chair
Phil Douglas	Assistant Secretary
Bob Bonner	Assistant Secretary
Rollin Crawford	Assistant Secretary

Present for Brooks II CDD were:

Joseph Bartoletti	Chair
James Strecansky	Vice Chair
Jack Meeker	Assistant Secretary
Ray Pierce	Assistant Secretary
Gary Davidson	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Dave Robson	Johnson Engineering
Dan Cox	District Counsel
Joseph Archazki	General Manager – The Commons Club
Anura Karuna-Muni	Lee County

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 1:00 p.m., and noted, for the record, that all Supervisors were present, in person, for Brooks of Bonita Springs and Brooks of Bonita Springs II.

SECOND ORDER OF BUSINESS

Public Comments (*agenda items only*)

Mr. Merritt asked if any members of the public wished to address an item on the agenda. There being no public comments, the next item followed.

JOINT MEETING ITEMS

THIRD ORDER OF BUSINESS

Discussion: Survey

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

Mr. Merritt asked for Board Member comments with regard to the survey.

Mr. Bartoletti requested to include the 2014 Focus Group report in the survey discussion. He congratulated the writers of the report for amassing a great deal of information and putting it in proper context. Mr. Bartoletti stated that the report serves as a guide for the Supervisors to follow.

Mr. Bartoletti pointed out that The Commons Club identified the objective of providing services to the community that the individual communities may not offer or provide. Based on feedback from the survey and that he received, Mr. Bartoletti made a motion to amend the proposal for the bocce ball and pickleball courts to pickleball courts, only. He noted that all of the communities have the issue of limited space, whereas space is available in the park.

Mr. Bonner advised that the survey comment that stood out was that three of the four communities have bocce ball courts but the perception is that they are strictly for the benefit of Shadow Wood residents. Mr. Bonner indicated that there is no demand for additional courts; therefore, and he was in favor of pickleball only.

Based on the comments that were received, Mr. Davidson voiced his preference for a project for the entire park. He voiced his opinion that further study was necessary, in addition to advance planning with regard to time appropriation, reservations, management and maintenance, prior to committing funds to the project.

Mr. Bonner stated that he was very pleased with the survey results. He noted that the community has about 3,500 doors and 585 responses were received, with most being in favor of doing "something" with the property. Mr. Bonner felt that those who did not respond were either indifferent or unopposed.

Mr. Davidson clarified that he was referring to the theme of the comments, indicating that something must be done with the property but that an overall plan is necessary.

Mr. Davidson stated that some residents do not believe that no money will be saved or that the improvements will not cost anything; to some extent, they are correct because the Districts will be using \$250,000, which could be used to reduce their operating expenses or other maintenance programs.

Mr. Ward pointed out that less than 50% replied favorably. He also voiced surprise that the residents confused the CDD with The Commons Club. With regard to Mr. Davidson's comments, Mr. Ward advised that many residents feel that surplus funds should be returned to the residents, not spent just because their fees will not increase.

Mr. Ward observed that comments were received indicating that the CDD should not necessarily be providing amenities but should be providing for lakes, roads, plantings and infrastructure.

Mr. Pierce noted that the survey was inconclusive, since about half were in favor and half were against, or neutral; therefore, the decision will be based on the Boards' discussion about the "right thing to do".

Mr. Douglas stated that he drew the same conclusion as Mr. Pierce. He expressed a preference for a venue, in the community, for intercommunity bocce ball competition. With regard to the perception about the courts being for the benefit of Shadow Wood residents, Mr. Douglas voiced his opinion that the view is very narrow-minded.

Mr. Merritt stated that, anytime close to a majority of residents respond to a survey, it tells him something; normally, the negatives respond and the positives do not. With regard to The Commons Club providing duplicate amenities, Mr. Merritt expressed his understanding that The Commons Club is a "unifying element" that brings everyone together for athletics, cultural activities, etc., and he feels that the need is there. He pointed out that the amenities will do a lot to enhance the community, in the future, and continue the positive effort that The Commons Club has put forth, thus far, in terms of the utilization of the facility.

Mr. Crawford noted that the proposed amendment is to exclude the bocce ball courts and his attitude about the issue may change, depending upon the outcome; therefore, he suggested that Board Members focus their comments on the amendment.

Mr. Bartoletti clarified that he was attempting to focus the discussion on what provides the greatest benefit to the community, as a whole, and he feels that pickleball provides a greater benefit. He indicated that he is in possession of an affidavit, signed by a number of Copperleaf residents, supporting expansion of the pickleball facility because of increased usage, which is why he made a motion to modify the proposal.

Mr. Bonner stated that pickleball will serve the entire Brooks community, including those that do not belong to The Commons Club, and afford them the opportunity to mix with residents from the other gated communities. For that reason, he intended to make the same suggestion, in terms of eliminating bocce ball from the proposal and concentrating on pickleball, which is a fast growing sport. Mr. Bonner pointed out that no community in The Brooks has enough land available to build pickleball courts. In response to those who feel that the CDDs should be paying attention to the lakes and the roads, Mr. Bonner indicated that their charter includes parks and recreation facilities; however, residents may not be aware of that.

Mr. Crawford inquired about the effect on the total cost, if bocce is eliminated. Mr. Adams advised that pickleball is less expensive than bocce ball; therefore, the cost would be less if the Boards choose to construct six pickleball courts versus three of each.

Mr. Ward estimated the savings to be in the \$50,000 range.

Mr. Bartoletti noted that, since the last CDD meeting, Copperleaf passed a major renovation program and the bocce ball court facilities will be upgraded. He stated that the "traveling league", referred to by Mr. Douglas as "competition", consists of about 14 people, at most; they will have the ability to play on an acceptable court surface at Copperleaf, going forward. The needs of a traveling league can be accommodated and the need for competition between communities can be served.

Mr. Bartoletti stated that there are currently 380 bocce ball players in Copperleaf who play Monday through Thursday, from 3:00 p.m., to 7:00 p.m. There are days available to expand further and, if necessary, the times on the current days may be expanded, to encourage more play.

Mr. Bartoletti indicated that there is no pickleball in Copperleaf, which is why he is supporting the amendment.

On MOTION for Brooks of Bonita Springs by Mr. Bonner and seconded by Mr. Douglas, with Mr. Bonner, Mr. Ward and Mr. Crawford in favor and Mr. Douglas and Mr. Merritt dissenting, amending the plan for bocce ball and pickleball courts to pickleball courts, only, was approved. (Motion passed 3 – 2)

On MOTION for Brooks of Bonita Springs II by Mr. Bartoletti and seconded by Mr. Strecansky, with all in favor, amending the plan for bocce ball and pickleball courts to pickleball courts only, was approved.

Mr. Pierce stated that, after reviewing the survey results, it appears that everyone is a little confused about what the CDD does and what The Commons Club does. Mr. Pierce voiced his opinion that, if the Board Members proceed with this project, it will further “muddy the waters” because some amenities will be run by The Commons Club but the CDDs will be responsible for maintenance and upkeep. He pointed out that the issue of liability was not determined.

Mr. Crawford expressed agreement with Mr. Pierce and asked whether the Board Members considered a long-term approach, such as transferring the property to The Commons Club, in the future, which would consolidate the activities, ownership, responsibility and operation to one entity, rather than jointly.

Mr. Ward voiced a concern about whether the Board Members can rely on the survey results, after agreeing to eliminate the bocce ball courts, and whether the favorable response will change if bocce ball is not included. Mr. Bonner commented that there will be an increase on the affirmative side and a decrease on the negative side because many of the comments revolved around bocce ball.

In response to Mr. Crawford’s comments, Mr. Bonner advised that The Commons Club is exploring an additional category of membership. If the fees were nominal, it would make sense to merge the two properties, in the future, if 90% of the community were involved in pickleball, Rosie’s, etc. Mr. Bonner stated that pickleball is a growing sport and, hopefully, it will cause non members of The Commons Club to use property that they are paying for.

Discussion ensued regarding leasing back part of the property to The Commons Club.

Mr. Bartoletti stated that Mr. Crawford's proposal to determine whether it is viable for The Commons Club to purchase the property is the most logical to pursue further. Mr. Adams explained that the assets must be sold back to The Commons Club and the CDD would enter into a long-term lease agreement, where the CDD could lease the property and make improvements.

Mr. Merritt pointed out that The Commons Club was to present the proposal, to purchase the asset back, to its membership but there is no chance that it will pass; therefore, the Board Members must consider the value of the amenity and what to do with it, going forward. Mr. Bartoletti felt that the proposal might pass, if the appropriate financial study was performed.

Mr. Bonner voiced agreement that the proposal would not be accepted by The Commons Club members because their strategic planning has been completed and they are looking to expand the fitness area and Rosie's and make improvements to the Enrichment Center. Mr. Bonner did not see what The Commons Club would gain by purchasing the property and leasing it back to the District; he feels that ownership of the property is not an issue.

Mr. Davidson stated that he was glad that the focus group report was included in the discussion because it gave a perspective between the CDD project and what The Commons Club is trying to accomplish. He noted that, according to the study, the majority of the members felt that the social and sports activities were very comprehensive and more offerings were not necessary. Mr. Merritt pointed out that 48% of the respondents were in favor of the project.

Mr. Bonner clarified that the focus group did not discuss pickleball and it was not part of The Commons Club strategic planning. Mr. Davidson indicated that, percentagewise, 48% were in favor, out of 3,700 residents.

Mr. Douglas stated that there is a sentiment in The Commons Club that pickleball and bocce ball would be part of any expansion and he asked Mr. Archazki for confirmation. Mr. Archazki advised that The Commons Club wants the members to be more active at the club, especially outdoors, whether it be pickleball, bocce ball, using the green or filling the gazebo with furniture. They want residents to exercise outside.

Mr. Douglas observed that, if pickleball courts are installed in the park area, the community will be inundated by residents of The Brooks, as well as outside residents, wanting to play pickleball; therefore, the issue is how to control usage and access. Mr. Douglas questioned

the need for additional pickleball courts, in the park area, if The Commons Club is planning to install both pickleball and bocce ball.

Mr. Bartoletti indicated that management of the process has been his concern since last year because, once something is installed for which there is a demand, the issues of access and usage will exist.

With regard to the number of pickleball courts, Mr. Adams recalled that the plan provided for two phases, with two pods of three courts to be located on the peninsula, in consideration of the noise factor. An exercise path will continue through the area and loop back around.

Mr. Merritt motioned to proceed with Phase 1 of the plan to build three pickleball courts in the park area. Mr. Pierce seconded the motion. For Brooks II, the same motion was made by Mr. Bartoletti and seconded by Mr. Merritt.

Mr. Davidson voiced his opinion that taking a vote on whether to move forward and commit money was premature, until all mechanisms are in place.

Mr. Bonner agreed with Mr. Davidson to “take a step back”. He noted that the costs have not been determined; he would like to advise the community of the current status and obtain additional feedback, from residents, at the next CDD meeting.

Mr. Merritt suggested that CDD and The Commons Club staff members work together to devise a proposal. Mr. Bonner suggested that the proposal include the projected costs for the revised plan.

Mr. Adams recalled that a management plan, including costs, was previously provided to the Boards. He indicated that the majority of the management would be handled through administration at The Commons Club, for a nominal cost, with the exception of an annual court treatment by an outside contractor.

A motion was made to table the discussion.

Mr. Bartoletti suggested that the Chelsea reservation system be utilized to manage play.

Mr. Merritt volunteered to work with Staff and The Commons Club on a proposal.

Mr. Bartoletti requested a draft reservation program for the next meeting. Mr. Davidson agreed with Mr. Bartoletti and indicated that he saw no urgency to vote today or to have all of the information for the next meeting.

Mr. Crawford observed that the Board Members have been expressing their opinions regarding what they would like the staff to work on so that they are more informed for the next meeting. He pointed out that, if the Boards still have questions, the decision can be tabled again.

Mr. Merritt recalled that a motion was made to table the decision regarding the pickleball courts.

On MOTION for Brooks of Bonita Springs by Mr. Bonner and seconded by Mr. Crawford, with Mr. Bonner, Mr. Crawford, Mr. Ward and Mr. Douglas in favor and Mr. Merritt dissenting, tabling the decision to install pickleball courts, was approved. (Motion passed 4-1)

On MOTION for Brooks of Bonita Springs II by Mr. Bartoletti and seconded by Mr. Davidson, with all in favor, tabling the decision to install pickleball courts, was approved.

FOURTH ORDER OF BUSINESS

**The Commons Club at The Brooks 2014
Focus Group Report**

This item was discussed during the Third Order of Business.

FIFTH ORDER OF BUSINESS

**Consideration of Emergency Outfall
Agreement**

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

Mr. Adams recalled discussion, at the last meeting, regarding who will be the lead on the project, in terms of permitting and, ultimately, for the operation and maintenance (O&M) of the emergency outfall. It was indicated that the Board Members and Staff would be more comfortable with the county taking the lead, supported by Staff, since the outfall serves a larger geographical area than The Brooks, although The Brooks currently benefits the most by the operation of the emergency gate.

Mr. Adams stated that he had several discussions with the county regarding who should be in charge of O&M, downstream; Mr. Karuna-Muni reminded Mr. Adams that a letter was written to the Board of Commissioners in January, 2013, indicating that, as a part of moving the

project forward, the commitment was made that the Districts would assume responsibility for O&M, once the facility was constructed.

Mr. Adams pointed out that the Districts do not want to be the only entity assuming liability for how the gate is operated and how it may affect properties. He advised that he would like the county to consider including additional steps to the operational agreement, whereby, if the gate must be operated, there is some type of written communication with the county indicating that they concur that the Districts have met the operating requirements, that the Districts will proceed with opening the gate and how far it will be opened. There will be additional communication when it is time to close the gate.

Mr. Karuna-Muni noted that, as mentioned in the letter, the next step is to enter into an interlocal agreement between the CDDs and the county. Mr. Adams asked if Mr. Karuna-Muni saw any problem with his suggestion that both entities sign off before the gate is operated. Mr. Karuna-Muni saw no issue with the suggestion but advised that the interlocal agreement is negotiated by the county attorney's office.

Mr. Karuna-Muni stated that the gate operation must be performed in accordance with the permit; however, there is flexibility with regard to the schedule, in that, the gate may be operated to everyone's benefit.

Mr. Adams advised that the county is not included in the current operating agreement; it is South Florida Water Management District (SFWMD); their contact, Mr. Steve Nagle, gives the approval to operate the gates. Mr. Adams stated that he would like the same communication with the county, so that their joint interests are addressed.

Mr. Karuna-Muni advised that all parties must be in agreement that what is being done is in the permit.

Mr. Merritt expressed apprehension that, in the case of an immediate concern for the region, the Districts will not receive the attention needed within the necessary time frame, which is why the request was made for an addition to the operating agreement, so that the Districts have contacts at the SFWMD and the county levels who will provide reasonable responses. Mr. Karuna-Muni felt that this could be included in the interlocal agreement.

Mr. Merritt expressed that, if there is a performance issue with what was designed and installed, he does not want the Districts to be burdened with the cost to remediate the deficiency; the county or the state should be responsible for a deficiency in performance.

Mr. Karuna-Muni asked if Mr. Merritt was requesting some type of an extended warranty. Mr. Merritt replied, "whatever it takes; whatever it calls for."

Mr. Bonner inquired about potential liability, if damage occurs outside of The Brooks. He asked if the Districts are insured. Mr. Adams advised that the Districts have sovereign immunity limits.

Mr. Bartoletti asked what parties meet with the county attorney to develop the interlocal agreement. Mr. Karuna-Muni stated that the attorney sent a draft agreement to Mr. Cox. Mr. Adams pointed out that the agreement must be modified, based upon today's discussion. He indicated that Staff will move forward with drafting the agreement and the Districts will sign off on the application.

In response to a question from Mr. Merritt regarding timing, Mr. Karuna-Muni explained that this type of project is normally completed during the dry season because of the cost associated with a dewatering operation; therefore, the county is looking at November or December.

Mr. Merritt expressed his and the Boards' appreciation for the county's leadership and assistance with this project.

SIXTH ORDER OF BUSINESS

Other Business

Mr. Adams advised that a request was received for an adjustment to District Counsel's fees. He reviewed the primary adjustments to the fees and provided the schedules dated September 25, 2009 and March 4, 2014.

Mr. Adams noted that the flat fee for attendance at a Board Meeting increased from \$500 to \$600 and the hourly rate for work completed outside of a Board Meeting increased from \$175 to \$190. Rather than a specific "per mile" charge for travel, Mr. Cox provided a "catch all" rate.

Mr. Adams pointed out that Mr. Cox's rates have not increased in 3½ years.

Mr. Bonner inquired about the request for a Hold Harmless agreement. Mr. Adams explained that the Districts adopted a joint defense policy, to the extent that Staff has not acted

negligently or with malice. He confirmed that Mr. Cox and the Districts have insurance. Mr. Bonner asked why the Districts are not the second party and Mr. Cox is not the first party. Mr. Adams indicated that, when Mr. Cox is representing the Districts, the Districts are the first party.

On MOTION for Brooks of Bonita Springs by Mr. Bonner and seconded by Mr. Crawford, with all in favor, the fee adjustment requested by District Counsel was approved.

On MOTION for Brooks of Bonita Springs II by Mr. Bartoletti and seconded by Mr. Strecansky, with all in favor, the fee adjustment requested by District Counsel was approved.

Mr. Crawford reiterated a previous request to have the Districts' contracted employees go through an evaluation process, especially at times when a contract is renewed. He voiced his opinion that the evaluation process would have fully supported the changes to Mr. Cox's fees.

▪ **District Engineer Report**

******This item was an addition to the agenda.******

Mr. Robson reported that, on March 20, the Florida Department of Environmental Protection (FDEP) issued an assessment of the Year 1 Annual Report for the National Pollution Discharge Elimination System Permit (NPDES). He recalled that the Districts went through an audit, during the summer, and most of the items were addressed in the audit. Mr. Robson indicated that FDEP commented on two areas. Section 7C., with regard to illicit discharges and proactive inspections, states that the permittee is responsible for performing inspections and attending reporting training. Section 7E., states that the permittee is responsible for spill response and for attending reporting training. Mr. Robson advised that Staff addressed both comments by advising FDEP that LakeMasters will attend the Lee County training and become qualified to provide inspections.

Mr. Robson indicated that public education and outreach is part of the Districts' interlocal agreement with Lee County, with regard to the NPDES Permit and the FDEP has recognized that the county is the Districts' primary source. Mr. Robson explained to Lee County that very few residents attend CDD Board Meetings; however, the Supervisors are also active in their

neighborhood associations. The neighborhood association is the target for presenting information with regard to how the stormwater system works and what residents can do to prevent pollution from entering the system. Mr. Robson asked the Boards to advise the neighborhood associations that Lee County Natural Resources would like to give a 15 to 20 minute presentation explaining the watershed. If attendance is high, the numbers can be reported in the Districts' annual report and Lee County can report it as documentation that the Districts are satisfying their public education and outreach requirements.

Mr. Bonner suggested that Mr. Robson contact Mr. Archazki about placing this item on The Commons Club agenda. Mr. Robson provided the Board Members with the contact information for the NPDES Coordinator.

SEVENTH ORDER OF BUSINESS

Supervisors' Requests

Mr. Bartoletti reported that Spring Run advised him that there is a palm tree outside of the entrance to their community, on CDD property, that was planted but is still banded at the top.

Ms. Crismond explained that the band will pop by itself.

EIGHTH ORDER OF BUSINESS

Public Comments (*non-agenda items, only; four (4)-minute time limit*)

There being no public comments, the next item followed.

NINTH ORDER OF BUSINESS

Adjournment

There being nothing further to discuss, the meeting adjourned.

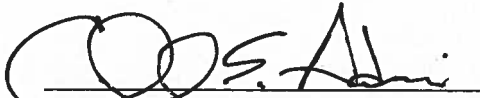
On MOTION for Brooks of Bonita Springs by Mr. Merritt and seconded by Mr. Douglas, with all in favor, the meeting adjourned at approximately 2:18 p.m.

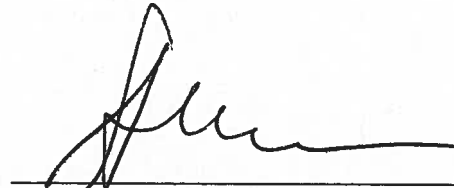
On MOTION for Brooks of Bonita Springs II by Mr. Bartoletti and seconded by Mr. Pierce, with all in favor, the meeting adjourned at approximately 2:18 p.m.

**BROOKS OF BONITA SPRINGS &
BROOKS OF BONITA SPRINGS II CDDS**

April 9, 2014

FOR BROOKS OF BONITA SPRINGS:


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BROOKS OF BONITA SPRINGS II:


Secretary/Assistant Secretary


Chair/Vice Chair