

**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 Regular Meeting on April 24, 2019 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
Rollin Crawford	Assistant Secretary
Sandra Varnum	Assistant Secretary
Phil Douglas	Assistant Secretary

Present for Brooks II CDD were:

Joseph Bartoletti	Chair
James Strecansky	Vice Chair
Ray Pierce	Assistant Secretary
Kenneth Gould	Assistant Secretary
Jack Meeker	Assistant Secretary

Also present were:

Chuck Adams	District Manager
Cleo Adams	Assistant Regional Manager
Jason Olson	Assistant Regional Manager
Dan H. Cox	District Counsel
Brent Burford	District Engineer
Ray Komray	Resident
Kim Becker	Resident
Tim Miller	Resident
Nick Batos	Resident
Hal Korbee	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 1:00 p.m. For Brooks of Bonita Springs, Supervisors Douglas, Merritt, Varnum, Ward and Crawford were present, in person. For Brooks of Bonita Springs II, Supervisors Bartoletti, Strecansky, Pierce, Davidson and Meeker were present, in person.

SECOND ORDER OF BUSINESS

Public Comments (*agenda items only*)

Mr. Ray Komray, a resident, read the following remarks into the record:

“As an 18-year resident of the Brooks residing previously in the Light House Bay and for the last 14 years at Copperleaf, I recognize the value and the importance to the entire Brooks community of the “park and pickleball” property next to the commons club. This property has been well managed under your guidance and the daily supervision of the Commons Club. This property is outside of any individual community, as well as, individual ownership either in a direct or indirect fashion. Any future change in ownership must provide for ongoing and equal access to all members of the Brooks communities. This property should therefore be considered a shared asset within the Brooks just as much as all the roads and other community properties are viewed. If there is a transfer of ownership from CDD, I would strongly urge the Board to respectfully consider these recommendations:

1. The ownership of this property should be transferred in kind without any net money exchange to a newly created entity with equal membership between the four Brooks communities.
2. The entity would be responsible for the maintenance, up keep and use of the facilities.
3. A board would be created that would be equally represented by the four communities
4. Each of the four communities would pay equally for the ongoing costs of the property, including additional improvements. Ideally, this would continue under the proven capable supervision of the commons club.
5. The issues of potential taxes would need to be addressed and hopefully handled to minimize cost thru any appropriate means such as creating a foundation with a 501 C7 classification providing an Estero Benefit.

I strongly believe that these recommendations will enable an ongoing and future use for the Brooks and prevent unnecessary division within our four communities. This property is a great asset that must be maintained for the benefit of all Brooks’ residents.

Thank you for your consideration.”

Ms. Kim Becker, a resident, stated there is more to what Mr. Komray just related. With regard to the possibility of transferring ownership of the CDD Park, she asked that the transfer only be completed if the Supervisors stipulate an equal 25% share to all four communities.

With the uneven number of door-fronts in each community, it could create a David and Goliath situation where the Park is not used as an equal asset.

Mr. Tim Miller, a resident and Lighthouse Bay Master Association member, stated he previously addressed the Boards about the proposition with respect to satisfying and settling a dispute between the Brooks of Bonita Springs (BOBS) CDD and Lighthouse Bay related to the care and maintenance of the lake banks. He thanked Mr. Cox for his participation and stated that Lighthouse Bay has provided an appropriate settlement document, which is the sum of all events that occurred. He supports the agreement of the BOBS CDD, with respect to the proposal of settlement, and solicited the Boards approval.

BROOKS OF BONITA SPRINGS ITEM

THIRD ORDER OF BUSINESS

**Discussion/Consideration: Proposed
Settlement Agreement between The
Harbour Club at Lighthouse Bay, Inc., and
Brooks of Bonita Springs CDD**

Mr. Merritt presented the Proposed Settlement Agreement between The Harbour Club at Lighthouse Bay, Inc., and Brooks of Bonita Springs CDD. Mr. Cox stated, after receiving direction from the Boards, he attempted to negotiate a lesser dollar amount payment of approximately \$20,000, which was countered with \$90,000. He did not think the complaint was sufficient and the Districts would end up expending a considerable amount of funds; there would be a hearing and a motion to dismiss, once District Counsel showed that a proper forum would be the South Florida Water Management District (SFWMD), which would have adopted an administrative process. In light of that, the Districts would save time and money by agreeing to the agreement. In response to a Board Member's request for an explanation, Mr. Cox stated that the lakes at Lighthouse Bay were platted differently than any of the other lakes within the District, which caused erosion issues and the District would have to go on private property to make repairs, which is costly. The dispute was with the surveys that were done; some lake banks are within areas that could be repaired by the Districts and some of them extend out. In the agreement the Districts would be granted access onto the property to perform maintenance. The Districts have the authority, responsibility and willingness to repair the lake banks with the understanding that access must first be provided. Mr. Merritt asked Staff if there was anything in the agreement that they were uncomfortable with, specifically, as to the

time frame. Mr. Adams stated that the time frame would require Management to adjust scheduling that was planned for next year. Mr. Cox stated, as part of the agreement, the Districts would evaluate all the lakes and Lighthouse Bay would submit a priorities list. The older lakes would have more damage and be remediated first. Mr. Adams stated that the cost would be programmed into the budget each year for a three-year period.

On MOTION for Brooks of Bonita Springs by Mr. Douglas and seconded by Mr. Crawford, with all in favor, the Settlement Agreement between The Harbour Club at Lighthouse Bay, Inc., and Brooks of Bonita Springs CDD, was approved.

A Board Member asked why the Brooks of Bonita Springs II (BOBSII) CDD was not included in the agreement, since the CDDs have a joint budget, and it is the responsibility of the CDDs to maintain the lakes. He asked if the CDDs had not performed their duty to protect the lake banks in Lighthouse Bay. Mr. Cox stated the Boards identified that there was a dispute over responsibility but, rather than fight about it, came to an agreement to settle. In response to a question, Mr. Adams stated that the only impact to CDD II would be a change in the ponds that would be treated in Fiscal Year 2020; some of the lake banks in Copperleaf would not be repaired as planned because of this shift. There would be a shift away from Spring Run in order to do the few Lighthouse Bay ponds mentioned in the agreement and then work would return to the priority schedule of those that remain between Lighthouse Bay and Spring Run, with the District Engineer determining which ones have priority. As to whether the CDDs would be impacted, Mr. Adams replied no, they would all be treated as one system, no longer excluding Lighthouse Bay, because the Districts have ownership and access rights issues, which were being disputed but are now resolved with approval of the agreement. The cost of \$30,000 per year, for three years, would be paid out of the BOBS CDD, not the BOBSII CDD. BOBSII CDD's remaining lakes in Copperleaf are being repaired as part of the 2019 schedule. Discussion ensued regarding the settlement agreement, the priority schedule/list, Lighthouse Bay, Spring Run and budgeting.

JOINT BOARD ITEMS

FOURTH ORDER OF BUSINESS

Update: Hurricane Irma Recovery

Mr. Adams stated he was expecting a check in excess of \$100,000 from the Federal Emergency Management Agency (FEMA) any day and would divulge the amount, upon receipt.

Mr. Adams summarized that the District already identified certain lakes as a priority and would fit Lighthouse Bay within the calendar in accordance to the agreement; funding for the repairs would be drawn from the reserves. He requested permission to add one item to the agenda involving an individual property owner in Cedar Glen.

On MOTION for Brooks of Bonita Springs and seconded, with all in favor, amending the agenda to include an item involving a Cedar Glen resident, was approved.

▪ **Presentation: Cedar Glen Resident Cypress Tree Encroachment**

This item was an addition to the agenda.

Mr. Nick Batos, a resident, presented a slideshow and reported the following:

- Mr. Batos' neighbors, Mr. and Mrs. Wilson, who are currently in Canada, asked him to present photographs depicting the evolution of their property and to appeal to the Boards to have the four cypress trees removed.
- The Wilsons have resided in Cedar Glen since 1998. At that time, the preserves/wetlands west of their home was not yet developed and there was nothing in place.
- Over time, the preserves were planted and now four bald cypress trees have extended their roots by 30' from the wetlands onto their property, encroaching under their pool deck.
- So far, the Wilsons have expended \$2,400 to protect their property. They are not asking to be reimbursed but would like the Districts to consider removing the four cypress trees in the hopes of preventing the roots from growing any further; their property is in jeopardy if the CDDs do not help.

Mr. Adams stated the District Engineer was alerted to the issue and added five slides to the PowerPoint presentation and advised of the District's options. Mr. Brent Burford, of Johnson Engineering, stated the area in question is in a conservation area that was given to the District and mitigation would be necessary to remove the trees. One option would be to remove the trees and install smaller shrubs and plant material but there would still be mitigation issues. As to the root barrier, it does not look sufficient to stop the roots from

encroaching into the Wilson's property. It was suggested that installing a stronger, concrete-reinforced barrier could help but to enter and remove the trees would require mitigation, even for removal with no replanting. The Boards and Staff discussed the other options, the trees, roots, the barriers and deferring this item to the next meeting. Mr. Bartoletti felt that the Landowner has a very good case. Mr. Adams stated that he was comfortable that remediation would not be an issue in the three months between meetings.

FIFTH ORDER OF BUSINESS

Discussion: CDD Park Facilities/Ownership Options

- **Possible Ways to Transfer Property to the Four Brooks Communities**
- **How to Value Property**

Mr. Cox asked if the Boards would want a non-profit organization to take title to the property or possibly a for-profit one, and noted that the Districts have unlimited options. Mr. Meeker questioned why the Boards are considering divesting from the property and changing it when it was previously bought to complete the purchase of The Commons Club from Bonita Bay. Mr. Bartoletti stated, over one year ago, certain residents asked the Boards to restrict access of the park land to those members of The Brooks that paid to establish those amenities because members of the public, outside of The Brooks' residency, were spotted on park land, and that would probably continue to occur. What is being proposed is a way to change the property to a private status but still retain access for all members of The Brooks by creating a not-for-profit organization, like Mr. Komray suggested which would achieve the private designation, while retaining the opportunity for all Brooks' members who paid to have access to it. Discussion ensued regarding deeding public property, controlling outside use of the park land, a 501(c)(7) designation, imminent domain and the 48 housing units that were not built. Mr. Bartoletti motioned to vote on the possibility of transferring the park, 3.73 acres to the four communities, on a non-profit basis, with the transfer price to be determined by the legal process necessary, at the lowest possible cost to the members who put the park in place. A Board Member asked to view the minutes prior to the next meeting, reflecting who voted for the transfer etc.

On MOTION for Brooks of Bonita Springs II by Mr. Bartoletti and seconded by Mr. Strecansky, with all in favor, to transfer the CDD Park, 3.73 acres, to the four Brooks communities, on a non-profit basis, under a 501(c)(7) designation, at the lowest transfer price that meets the legalities of the public body making that transfer, was approved.

Mr. Crawford made the same motion for BOBS CDD; the motion failed due to lack of a second.

SIXTH ORDER OF BUSINESS

Discussion: Lake Bank Erosion Start Date for Copperleaf and Spring Run

Mrs. Adams stated she did not have the start date yet. Mr. Bartoletti asked that enough notice be given so the Board Members and residents in the Copperleaf and Spring Run have a chance to advise the community of what is going on before the contractor begins to excavate certain areas. Mrs. Adams would email the dates to the Board Members.

SEVENTH ORDER OF BUSINESS

Discussion: Irrigation Design System – Water Usage Update and Recommendations by Zone or Controller

Mr. Adams provided the following Water Usage update:

- Approximately \$20,000 of irrigation repairs were made upon BrightView’s departure.
- Staff had to replenish landscape materials along fence and hedge lines and replace \$50,000 worth of Duranta throughout the center medians, so a lot of extra water is being used to irrigate and establish those plantings.
- The CDDs are in a much better position with GulfScapes managing the system and there is less reliance on Irrigation Design Group (IDG), which was costly.

Mr. Merritt commented that the annual flowers are more vibrant than ever before and he was very impressed with GulfScapes’ staff; he noticed that Management reduced the line item to \$75,000 in the proposed Fiscal Year 2020 budget.

EIGHTH ORDER OF BUSINESS

Discussion: Irrigation Flow Meter Work Order

This item was not addressed and is no longer needed on the agenda.

NINTH ORDER OF BUSINESS

Consideration of Resolutions Approving the Districts' Proposed Budgets for Fiscal Year 2019/2020 and Setting a Public Hearing Thereon Pursuant to Florida Law and Providing for an Effective Date

Mr. Adams presented the proposed Fiscal Year 2019/2020 budget and noted that the budget would be discussed in more detail and adjusted, as necessary, prior to adoption. Discussion ensued regarding the public hearing date and scheduling a meeting in June. Mr. Adams would email all Supervisors of potential meeting dates in June.

A. Resolution 2019-03, *Brooks of Bonita Springs Community Development District*

On MOTION for Brooks of Bonita Springs by Mr. Ward and seconded by Mr. Douglas, with all in favor, Resolution 2019-03, Approving the Districts' Proposed Budgets for Fiscal Year 2019/2020 and Setting a Public Hearing Thereon Pursuant to Florida Law for August 28, 2019 at 1:00 p.m., at The Commons Club at The Brooks Enrichment Center, 9930 Coconut Road, Bonita Springs, Florida 34135 and Providing for an Effective Date, was adopted.

B. Resolution 2019-04, *Brooks of Bonita Springs II Community Development District*

On MOTION for Brooks of Bonita Springs II by Mr. Bartoletti and seconded by Mr. Strecansky, with all in favor, Resolution 2019-04, Approving the Districts' Proposed Budgets for Fiscal Year 2019/2020 and Setting a Public Hearing Thereon Pursuant to Florida Law for August 28, 2019 at 1:00 p.m., at The Commons Club at The Brooks Enrichment Center, 9930 Coconut Road, Bonita Springs, Florida 34135, and Providing for an Effective Date, was adopted.

TENTH ORDER OF BUSINESS

Ratification of Shadow Wood Community Association, Inc., Consent to Use District Property

• Fiscal Year 2019 Fountain Specifications

Mr. Merritt presented the Consent to Use District Property Agreement between the BOBS CDD and Shadow Wood Community Association Inc., for ratification.

On MOTION for Brooks of Bonita Springs by Mr. Ward and seconded by Mr. Crawford, with all in favor, the Shadow Wood Community Association, Inc., Consent to Use District Property, was ratified.

ELEVENTH ORDER OF BUSINESS

**Acceptance of Unaudited Financial
Statements as of March 31, 2019**

Mr. Adams presented the Unaudited Financial Statements as of March 31, 2019. Mr. Bartoletti questioned a number of elevated line items under "Coconut Rd & Three Oaks Parkway" and "Coconut Road Park". Mr. Adams would review those items with Mrs. Adams to ensure that they are worded and coded properly.

On MOTION for Brooks of Bonita Springs by Mr. Douglas and seconded by Mr. Crawford, with all in favor, the Unaudited Financial Statements as of March 31, 2019, were accepted.

On MOTION for Brooks of Bonita Springs II by Mr. Bartoletti and seconded by Mr. Pierce, with all in favor, the Unaudited Financial Statements as of March 31, 2019, were accepted.

TWELFTH ORDER OF BUSINESS

**Approval of February 26, 2019 Joint Special
Meeting Minutes**

Mr. Merritt presented the February 26, 2019 Joint Special Meeting Minutes. The following changes were made:

Line 35 and throughout: Change "Heywisher" to "Hoescher"

Line 146: Change "Merrick" to "Merritt"

Lines 201 and 202: Change "ECOPS" to "BCOPS"

On MOTION for Brooks of Bonita Springs by Mr. Douglas and seconded by Mr. Crawford, with all in favor, the February 26, 2019 Joint Special Meeting Minutes, as amended, were approved.

On MOTION for Brooks of Bonita Springs II by Mr. Bartoletti and seconded by Mr. Pierce, with all in favor, the February 26, 2019 Joint Special Meeting Minutes, as amended, were approved.

THIRTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: *Dan Cox, Esquire*

Mrs. Adams called attention to Page 2 of the Operations Report regarding a situation with BrightView whereby payment was being withheld to cover costs related to correcting defective work and reported that BrightView agreed to owing for irrigation repairs but denied responsibility for other items.

Mr. Cox stated the initial amount withheld was \$115,000 and Mrs. Adams eventually approved payment of \$62,000, resulting in a remaining outstanding balance of \$58,000. BrightView sent a letter on March 13, which Mr. Cox responded to a few days later with the photo evidence of the damages, and BrightView's response was pending. As to the next course of action, Mr. Cox anticipated that BrightView would drop the matter of receiving payment of the balance and take a loss. Discussion ensued regarding the amounts spent to repair damages related to BrightView's defective work, etc.

Regarding the transfer, Mr. Cox stated that they were ready to be recorded; the outstanding communities were Lighthouse Bay and Ginger Point. Mr. Merritt would try to contact Ginger Point.

B. District Engineer: *Johnson Engineering, Inc.*

Mr. Burford would follow up with prices and the options for the conservation area.

C. District Manager: *Wrathell, Hunt and Associates, LLC*

Mr. Adams stated that he performed a final review of the draft audit and it would be presented at the June meeting.

i. Registered Voters in Districts as of April 15, 2019

- **Brooks of Bonita Springs: 2,081**
- **Brooks of Bonita Springs II: 1,374**

There were 2,081 registered voters residing within Brooks of Bonita Springs and 1,374 within Brooks of Bonita Springs II as of April 15, 2019. In response to a question regarding the

number of registered voters, Mr. Adams stated the Supervisor of Elections (SOE) is legally-required to provide this information annually.

ii. NEXT MEETING DATE: July 24, 2019 at 1:00 P.M.

A meeting may be scheduled for June; otherwise, the next meeting will be held on July 24, 2019 at 1:00 p.m.

D. Operations: *Wrathell, Hunt and Associates, LLC*

i. Landscape Maintenance Activities

Mrs. Adams stated that the Operations Report was submitted.

ii. Lake Maintenance Activities

Mr. Olson stated that, over the past few months, he had the opportunity to review the lakes in the communities to ensure that they are being maintained properly by SOLitude and remain in compliance, which is the case. Any minor issues that were identified were submitted to SOLitude and were subsequently rectified by the time a follow-up inquiry was made. Regarding landscape maintenance, Mr. Olson noted that, since GulfScapes took over the account, there was a marked improvement in the landscape. He continues to monitor this item at least twice per month. In response to a question regarding the outfalls, Mr. Olson stated, in touring the lakes, he checked the outfalls and everything was clear and in good condition. Mr. Merritt stated that the two outfalls on Via Coconut were overgrown with trees and vegetation. Mrs. Adams stated that the contractor cleaned the outfall two weeks ago. A Board Member asked if the concrete structures were the responsibility of the CDDs. Mrs. Adams stated that, although the area is not owned by the CDDs, years ago the Districts included it as part of the maintenance program, as they could not depend on others to maintain it.

FOURTEENTH ORDER OF BUSINESS

Supervisors' Requests

A Board Member asked when the next round of lake bank remediation would occur, once the Copperleaf, Spring Run and Lighthouse Bay projects are completed. Mr. Adams stated that all lake banks should be reviewed every few years and the budget should be reviewed so as to designate any surplus fund balance to future lake bank erosion repairs.

Mr. Merritt remarked that the littoral plantings were much more effective and dense several years ago, compared to the current plantings. Mr. Adams stated that some areas are as thick as always and, in other areas, there were some species of undesirable plant material that

was resistant to chemical treatment requiring a higher rate of the chemical treatment, which impacts the plants, particularly if they are treated regularly. Mrs. Adams stated more budget funds would be allotted to acquiring littoral plantings. Discussion ensued regarding the littoral shelf, compliance, the budget, restricted funding and continued excavation by various contractors.

FIFTEENTH ORDER OF BUSINESS

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

There being no public comments, the next item followed.

SIXTEENTH ORDER OF BUSINESS

Adjournment, *Brooks of Bonita Springs*

There being nothing further to discuss, the meeting adjourned.

On MOTION for Brooks of Bonita Springs by Mr. Douglas and seconded by Mr. Merritt, with all in favor, the meeting adjourned at 2:38 p.m.

On MOTION for Brooks of Bonita Springs II by Mr. Meeker and seconded by Mr. Bartoletti, with all in favor, the meeting adjourned at 2:38 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

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

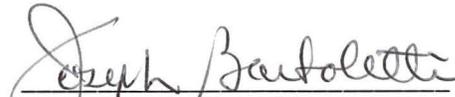
April 24, 2019


Secretary/Assistant Secretary


Chair/Vice Chair

FOR BROOKS OF BONITA SPRINGS II:


Secretary/Assistant Secretary


Chair/Vice Chair