

**LELY COMMUNITY DEVELOPMENT DISTRICT
NAPLES, FLORIDA
REGULAR MEETING OF THE BOARD OF SUPERVISORS
November 14, 2018**

The regular meeting of the Lely Community Development District Board of Directors was held on Wednesday, November 14, 2018 at 1:30 p.m. at the LCDD Maintenance Building, Naples, Florida.

SUPERVISORS PRESENT: William Lee, Chairman
Gerry Campkin, Vice Chairman
Harold Ousley, Treasurer
Kenneth Drum, Secretary (Via Speakerphone)
Anne Marie Bularzik, Supervisor-Elect

ALSO PRESENT: Neil Dorrill, Dorrill Management Group
Kevin Carter, Operations Manager
Tony Pires, District Counsel
Freddy Bowers, Director of Community Patrol

INVOCATION/PLEDGE OF ALLEGIANCE

Mr. Dorrill offered an invocation, and the Pledge was recited in unison.

A Public Comment

No public comment was received at this time.

B. Recognition of Anne Marie Bularzik, Supervisor-Elect

Mr. Lee welcomed Mrs. Bularzik as the newest Board member, and indicated that she would be sworn in at the December meeting and will be provided with some paperwork to fill out.

Mr. Pires advised that as a member-elect of the Board, she is required to follow the Sunshine Law from this time forward, which means no discussion of LCDD business outside of the regular meetings. Additionally, any emails related to LCDD business Mrs. Bularzik receives in her capacity of a member-elect of the Board, should be treated as if she were a Board member, and she should forward them to Mr. Dorrill as the custodian of District records. A special email account will be set up for her where CDD business emails can be sent.

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ROLL CALL

On a MOTION by Mr. Ousley and a second by Mr. Campkin, the Board unanimously approved Mr. Drum’s participation in the meeting via speakerphone.

All other Board members were in attendance at the meeting.

APPROVAL OF AGENDA

With the addition of items 7A, Planter; 7B, Photographs; 7C, Master Update; 7D, LED Light Conversations and 7E, information on Board and CDD responsibilities in newsletter, **the Agenda was approved on a MOTION by Mr. Ousley and a second by Mr. Campkin.**

APPROVAL OF OCTOBER MINUTES

As it relates to the Workshop Minutes, on page 1 in the second paragraph, the first word should be “the”.

Where “Mrs. Trinity” was noted in the transcript, it should read “Mrs. Scott”.

With those corrections, the workshop Minutes were unanimously approved on a MOTION by Mr. Ousley and a second by Mr. Campkin.

As it relates to the Regular Meeting Minutes, on Page six in the fifth line under Financials, “CS” should read “CSA”.

On Page 7, in the second paragraph from the top, the sentence with the asterisks should read, “had to work on all the irrigation heads”,

In Item C on that page, the gentleman’s full name is Philippi Gabart.

With those corrections, the regular meeting Minutes were unanimously approved on a MOTION by Mr. Ousley and a second by Mr. Campkin.

MANAGER’S REPORT

A. October Community Patrol

This was a very busy month for the Community Patrol, with 41 actual incidents including trespassing and fishing, all three of which were non-residents. There was a rash of vandalism in the community, with mailboxes and other property damage. There were seven incidents at the guard gate, and four reports of suspicious individuals or vehicles. There were 13 traffic assists, two resident medical assists, and a third one where the sheriff was asked to do a wellness check on an individual, who turned out to be just an early morning walker.

In response to Mr. Dorrill’s question about the letter sent to the Sheriff’s Office regarding reinstatement of their off-duty personnel at Lely, the Sheriff advised that he does not

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anticipate that happening anytime soon.

Mr. Ousley commented on a broken pipe that caused some pooling of water in the roadway, and complemented Mr. Carter on his excellent skills in conducting traffic.

B. Holiday Bonus

Mr. Lee had asked that this item be added to the agenda, and suggested that bonuses be given as follows: Kevin Carter, \$6,000, Mr. Pires, \$800, the Manager, \$3,000, and the workers \$200 to \$1,000 and the security patrol would be \$200 to \$1,000 depending upon the number of years of service. Mr. Dorrill noted that these items were budgeted, and **on a MOTION by Mr. Ousley and a second by Mr. Campkin, the Board unanimously approved the holiday bonuses as noted above. ***Please check this, difficult to hear Mr. Lee, are these amount correct?**

C. Landscape Concept Plans

Some of the concept plans have been received, and a refinement of them is expected in order to put it out to bid. Mrs. Goetz provided copies of some of the actual product types for the Board, including a combination of hurricane and drought tolerant native palms along with some feature palms and Sylvester Palms. Also included are hardwood canopy trees, which include mahoganies, which Mr. Dorrill is not fond of as they are very brittle, as well as gumbo limbo, black olives and live oaks.

Second storey trees, or shrubs, include native Florida hollies and silver buttonwoods among others, and then some flowering trees that are popular with people coming to Florida from the north. Mr. Dorrill felt that there is a nice variety of flowering trees included.

Schematics were shown as to how the groupings would be placed along the various street segments that the Board had spoken to her about.

Mr. Dorrill asked for the Board members' impressions, and Mr. Campkin found it difficult to visualize how the finished product would look. Mr. Dorrill indicated that her computer program has the ability to generate a panoramic photograph which can depict the plantings in place before anything is done. The Board felt that this was an excellent idea, as there were some concerns about the canopy trees, and other palms were felt to be a better choice, for instance, Foxtail Palms. Mr. Drum noted that the live oaks at Bay Colony have roots that push up the sidewalks, so they may not be the best choice. He added that the best advice would be not to use trees that had root systems. (Comments by Mrs. Bularzik and Mr. Lee were inaudible)

Mr. Dorrill wrote down the Board's ideas, and he will pass them on to Mrs. Goetz and ask her to make some adjustments to the plan. He added that the trees were 30 to 50 feet apart and

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appear to be avoiding street lights. They also appear to be 15 feet on the back of the curb, but he will double check that. He will also have Mrs. Goetz prepare the panoramic visuals, and advise her of the concerns about certain trees and to present some alternatives to include the Foxtail Palms. Mr. Pires suggested that a check be done to see if the County has changed any of their planting requirements as it relates to line-of-sight issues as well as distances from utility lines. Mr. Dorrill will make sure they have that information and will check to see if right-of-way permits need to be amended, and what the LDC requirements may be.

Mr. Dorrill will get this information as soon as possible as he realizes the Board is anxious to move this project forward.

D. Chubb Senior PGA Event

The women golfers are at the golf course this week ending the LPGA Championship, and in two weeks the Shark Shootout will begin. The Senior Tour event is scheduled to be held at Pelican Marsh on February 11th through the 17th at the Classics. There are some logistics that will have to be worked out, such as parking and buses bringing attendees in. Mr. Dorrill suggested that they reach out to the tournament managers to address these issues.

On a MOTION by Mr. Ousley and a second by Mr. Campkin, the Board unanimously approved the Manager's report.

ATTORNEY'S REPORT

A. Defeo vs. Lely CDD

The Board was provided copies of the correspondence with the final order of dismissal with the ADA case by Mrs. Defeo. At this point the Board's vendor or the management company they are using must remediate, renovate and audit as appropriate to make sure the District stays in compliance. Mr. Dorrill indicated that the recommended firm has been engaged, and the settlement amount has been paid to the attorney's trust account. They will follow up with the vendor in order to make the design changes and determine the ongoing maintenance costs. They will also audit the amount of materials presently on the site to see if they can reduce the number of archived documents to avoid the conversion costs.

B. UPS License Agreement

Mr. Carter received a one page agreement from UPS and after looking at it, Mr. Pires was not comfortable with it. It is a template that has been used several times in the past and it gives UPS the opportunity to use specific areas, and those need to be delineated so there are no

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questions about exactly where they are, and that it be made clear that no stacking or storing of materials outside the pod can take place. The license fee was filled in by Mr. Pires, and they will determine how many golf carts will be used, and the date of November 15th will be inserted as the starting date, and January 31st will be filled in as the ending date of the agreement. The insurance requirements and hold harmless clause are also included in the agreement, and the certificate of insurance will also have to be provided to Mr. Pires.

Mr. Dorrill will provide some cones to delineate the area for UPS dropoff, and he asked if the security cameras will cover this area. Mr. Carter indicated that they will cover the drop off area as well to make sure that no boxes are left outside of the pod.

Mr. Ousley suggested that a small sign be installed indicating that the speed limit is 15 miles per hour as they leave the premises, and Mr. Pires indicated that this could be added to the agreement, although it is not the District's roadway. Mr. Campkin expressed his concern about the way the golf carts move in and out of the communities faster than they should, and Mr. Pires indicated that the District's authority only extends to what rights UPS is given to utilize the District's property. If the road is a County road, it is the County's responsibility to make sure that they are operating a vehicle properly on it. When they are on the District's property, District rules must be followed.

Mr. Campkin was not convinced that this would work, and Mr. Drum noted that you cannot insure something that is not yours in order for it to be legal, but he wondered if they could include in the contract that they must provide proof of insurance, and if some damage occurred they would be responsible to fix it in an expeditious manner. Mr. Pires indicated the agreement referred to activities engaged in on CDD property, and no license is granted for them to enter any other communities.

Mr. Pires understood that, but asked if they could insert in the contract that they are responsible for all damage to private properties. Mr. Pires indicated that they could say that, but he was not sure of how enforceable that would be. This could lead to a situation where a neighborhood that may suffer some damage may come back to the Board indicating that they were looking to the District to protect them from damages.

Mr. Pires suggested that what they might do is indicate that they are required to provide proof of insurance to all the gated communities, either as they approach the guard house or to all the areas where they are delivering. In this way the associations will have a document in hand that they can use in the event of some damage occurring, and he has no problem including that in the agreement. Mr. Dorrill added that they would then have that information as a matter of record in the event there was damage to one of these communities.

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On a MOTION by Mr., Ousley and a second by Mr. Campkin, the Board then unanimously approved the agreement as written by Mr. Pires with the additional insurance and hold harmless information to be provided by UPS.

Mr. Pires noted that he appreciated the Board's concerns, but that there was never any guarantee on these types of things.

C. Collier County Stormwater Utility

Mr. Dorrill and Mr. Pires were invited to have a meeting the following Monday with County staff who decided to take charge of the stormwater utility program. Ostensibly this meeting is to obtain information from Mr. Dorrill and Mr. Pires as to gated communities and self contained stormwater systems and/or those that take County water, such as Lely and Pelican Marsh.

It is Mr. Pires' belief that Lely takes care of all the water in its system, which runs a short distance into the County system. They also take all the runoff from the County roads, so the County does not have to do any treatment, and they should not be charging anyone within Lely Resort with this fee if they are going to go forward with the program.

Secondly, if they are going to have a program where an individual can apply for an exemption or a credit, they should not have it applicable to anyone who resides in a community like Lely. Right now, the individual homeowner would have to apply separately for an enhanced credit, which involves hiring a surveyor among other things, which very few people will do to save \$120 a year.

Mr. Pires felt that everyone should be exempt in these communities, and no one should have to apply for an individual exemption.

Mr. Pires also noted that at the County Commission Board meeting this item was raised again, and the County Board referred it to the County Productivity Committee, and directed staff to Come back in February with three alternatives.

Mr. Ousley asked that the fact that Lely is a state entity, if the State not have superiority over the County. Mr. Pires noted that they are a creature of the statute established by the rule of the governor of the cabinet, but they are a local government, and the County would have the ability to impose special assessments on property within the District. Mr. Pires felt that the approach should be that the County should not consider charging a district such as Lely.

The study that Stantec did was completely wrong, and Mr. Pires wanted to meet with Mr. Lee and Mr. Dorrill and Mr. Carter, hopefully after Thanksgiving, so he could fully understand the history and what the transition concepts were.

Mrs. Bularzik noted that there would be a meeting with some of the Vesta representatives and

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she planned on being there, and they are looking to have the President's Committee present and have some people step up to serve on the turnover committee. Mr. Pires asked if she could let him know after Thanksgiving what occurred at the meeting, as that again feeds into what the Master and the CDD are responsible for.

FINANCIALS

The preliminary, unaudited year end financials were provided to the Board, and they showed almost \$2,500,000 in cash. About \$600,000 of that is what Mr. Dorrill historically has called the reserve for cash flow, as the Board operates for almost two months before a distribution of new money is received from the tax collector. The balance of that first operating item would be the contingency reserve, which is the District's source of funds for emergencies.

The \$1,500,000 that is shown as reserves and maintained in a separate account is the capital reserve, established years ago to enable the District to pay cash for replacement of vehicles and equipment, and in this case, a major source for the landscape work Lely is undertaking.

There was only \$58,000 in accounts payable at year's end.

Mr. Lee asked about an item titled Construction in Progress for \$30,000, and Mr. Dorrill felt that this was one of the large pumps that was either repaired or rebuilt, but he will follow up on that.

The revenue side showed that 96 percent of the non ad valorem revenue was received, the difference being from those residents who opted to pay early and take the discount.

The interest income item is a function of the new banking agreement, which brought that line item to \$35,000 over budget in interest earning revenue. Additionally, a record was set this spring at the auction of surplus property, where \$10,000 was budgeted and almost \$38,000 was realized.

Looking over all of the cost centers, Mr. Dorrill noted that Mr. Carter did a very good job maintaining costs. The electric street lighting which was almost \$12,000 over budget due to repairs and replacements following the hurricane, was the only cost center that was significantly over budget. Roadway services no longer has street sweeping services to pay for, as the County has taken that over.

Total expenses for the year in all categories came to \$213,000 under budget, a great deal of which had to do with lapsed salaries in the present competitive labor market. Lely is fully staffed at this point, and Mr. Carter was commended for his work.

Mr. Ousley asked if the Master HOA was going to complete the work they were obligated to do before the roadways were turned over to the CDD, and Mr. Dorrill felt that they had shown

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good faith in that regard, as the settlement agreement did not obligate them to use all of the settlement funds on lake bank restoration. However, they are doing that, and they finished a large project at Tiger Island Estates earlier this summer that went very well.

Mr. Ousley asked if it would be possible to have the Master Association attend the CDD meeting in January, and Mr. Dorrill suggested that they follow the lead of the new supervisor, in her role as the head of the Presidents Council. If she thought that it would be meaningful to use this forum to share that information, he would defer to her. Mr. Dorrill appreciated the amount of concern the Board has as it relates to the Master HOA issues.

(Mrs. Bularzik's comment was inaudible.)

Mr. Pires indicated that the turnover committee would have to be noticed of the public meeting, minutes would have to be taken, and made accessible to the public. That would be the case only if there were two Board members together. Mr. Dorrill suggested that this be placed on the Agenda for the December meeting, at which point they will have the benefit of any information that comes forward from the meeting this week, and if at that time the Board wished to appoint a representative for the CDD on all matters pertaining to the turnover, that could be done.

Mr. Lee asked if Mr. Dorrill had the opportunity to check with Mrs. Carlson on the rate the Signature Club is paying, and Mr. Dorrill indicated that he had not, but he will as soon as he can, Mr. Dorrill will check on the number of equivalent dwelling units they are paying for that parcel, that has 72 total units.

On a MOTION by Mr. Campkin and a second by Mr. Ousley, the Financials were then unanimously accepted by the Board.

SUPERVISORS' REQUESTS

A. Planter at Entrance

Mr. Carter indicated that they did find the company that installed the original planter, Precast by Design, and they got a quote to replace it for \$3,690. The vendor did have the original cast and are in the process of recreating it. This very large, heavy planter was damaged by the hurricane, and a claim has been made for it. Mr. Dorrill suggested that they may want to amend the claim to reflect the high value of this item, and Mr. Carter will look into that.

B. Photographs

As there will be a Sunshine law workshop in January, a professional photographer will be set up to attend that meeting as everyone will be present and the Board picture can be updated, and

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some additional photographs can be taken for the annual newsletter. Dee at Dorrill Management will be contacted to make these arrangements.

A screen and projector will be available for the power point presentation on the Sunshine Law to be presented by Mr. Pires.

C. LED Light Conversion

Mr. Lee suggested that this conversion should take place, as the lighting system at Lely is 30 years old. The lights they have already converted have not had to have any repair work.

(Mr. Lee's comments were inaudible)

There is roughly \$230,000 that came in that could be used for this project, and some additional landscaping work the following year. (inaudible section.)

Mr. Dorrill suggested that this item be put on the December meeting agenda for approval, and Mr. Pires can prepare an engineering agreement and have the electrical engineer provide some plans and specifications in order to put this conversion project out for bid.

D. Officers

Mr. Ousley nominated the following slate for officers: Mr. Campkin, Chairman; Mr. Ousley, Vice-Chairman and Treasurer; Mr. Drum, Secretary, and Mr. Dorrill, Assistant Secretary along with Mrs. Bularzik. Mr. Dorrill will prepare the Resolutions and the new officers will be voted on at the December meeting.

ADJOURNMENT

Mr. Dorrill reminded the Board that the December meeting would be held on the 19^h, and **the meeting was then adjourned on a MOTION by Mr. Campkin and a second by Mr. Ousley at 2:50 p.m.**