

**LELY COMMUNITY DEVELOPMENT DISTRICT
NAPLES, FLORIDA
REGULAR MEETING OF THE BOARD OF SUPERVISORS
December 19, 2018**

The regular meeting of the Lely Community Development District Board of Directors was held on Wednesday, December 19, 2018 at 1:30 p.m. at the LCDD Maintenance Building, Naples, Florida.

SUPERVISORS PRESENT:

Gerry Campkin, Chairman
William Lee, Vice Chairman
Harold Ousley, Treasurer
Kenneth Drum, Secretary
Anne Marie Bularzik, Supervisor, Assistant Secretary

ALSO PRESENT:

Neil Dorrill, Dorrill Management Group, Assistant Secretary
Kevin Carter, Operations Manager
Tony Pires, District Counsel
Freddy Bowers, Director of Community Patrol
Ron ***Kaye, Turnover Committee

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.

ROLL CALL

All Board members were in attendance at the meeting.

APPROVAL OF AGENDA

With the addition of items 7A, Robin Memorial Cross; 7B, Contract for Lighting; 7C Update on Radar Gun; 7D , ADA Update, and 7E, 2019 Workshop Schedule. **the Agenda was approved on a MOTION by Mr. Drum and a second by Mr. Campkin.**

Lely Community Development District – Minutes

December 19, 2018

Page 2

OATH OF OFFICE/ELECTION OF OFFICERS

Dr. Bularzik and Mr. Lee were then sworn in as Supervisors of the Lely CDD.

The paperwork from Dr. Bularzik and Mr. Lee was previously received and will be transmitted to the Secretary of State.

Mr. Ousley moved the following slate of officers: Mr. Campkin, Chairman, Mr. Lee, Vice-Chairman, Mr. Ousley, Treasurer, Mr. Drum, Secretary, and Dr. Bularzik, Assistant Secretary. Mr. Dorrill will also serve as Assistant Secretary. The Motion was seconded by Mr. Drum and unanimously approved by the Board.

Mr. Dorrill will also provide Dr. Bularzik with her CDD email address.

Dr. Bularzik also asked that she be referred to by that title in the minutes

APPROVAL OF NOVEMBER 2018 MINUTES

On Page 3, Mr. Lee noted that the numbers were correct.

On Page 4, under Item D, in the second line Pelican Marsh should be stricken, as it will take place at the Classics.

On Page 5, in the 11th line from the bottom, “Mr. Pires” should read “Mr. Drum”.

On Page 6, in the 7th line from the bottom, the first line should read “the governor and the cabinet”.

Starting on the 4th line from the bottom on that page, the sentences should read, “The study that Stantec did was completely wrong. Mr. Pires wanted to meet with Mr. Lee,”, indicating that these were two different concepts.

On a MOTION by Mr. Ousley and a second by Mr. Drum, the minutes were then unanimously approved as amended.

MANAGER’S REPORT

A. November Community Patrol Summary

There were a total of 34 incident reports in the community, with six specific loitering complaints noted, and four trespassing in rear yards and adjacent golf course parcels, all of whom were non-residents. There were 12 incidents of property damage and related maintenance issues, none of which were too serious. One of them involved mail boxes that were vandalized.

There were 13 traffic related reports in the community, including accidents and complaints related to speeding.

In reply to Dr. Bularzik’s question, Mr. Bowers explained that OOD stood for officer on duty.

Lely Community Development District – Minutes

December 19, 2018

Page 3

Dr. Bularzik also noted that a laptop fell off a car roof and was eventually returned to the owner.

B. Master Turnover

Mr. Ron Kaye reported that they had the initial meetings of the Turnover Committee, and they are in the process of reviewing potential candidates from law, engineering and accounting firms to handle the residents' side of the turnover. They are having another meeting in two weeks. In response to Mr. Campkin's question, it was indicated that the LCDD is not represented on this committee, but they can add one more member to the committee from the LCDD.

Mr. Drum noted that at turnover the old documents will have to be amended, and he wondered how that would be done. He also asked when the election of a new Board would take place. Mr. Kaye indicated that there is a list of items that will be done. They will also be working with Stock who maintains the documents so they can review them before they get into the turnover.

A brief discussion was held regarding what the documents said about elections and how the voting would take place, what had already been changed, and what would have to be changed in those documents at turnover.

Mr. Drum also noted that the Master Association would meet once a year, and wondered if this new group would be mandated to meet quarterly, as he did not think that an annual meeting would be sufficient. He suggested that a schedule be worked out and an agenda provided to the residents as well.

Mr. Drum also noted that certain functions were duplicated by the LCCD and the Master Association. While the CDD Board has not yet discussed this, at some point they would like to be able to suggest some of the areas of duplication and assume some of those responsibilities in full. Mr. Drum also noted that the Vesta Company has a three year contract, and was advised that it is cancelable within 30 days. Mr. Drum felt that Vesta needed to be overseen so the budget can be maintained, and he questioned the need for a management company. He suggested that after turnover, some discussions should be held as to whether they should be retained.

Mr. Ousley expressed his concern about the \$500,000 that is set aside for their reserve, and wanted to make sure that remains in reserves. Mr. Kaye noted that they were in the midst of trying to get documents, County records and all other details so that the committee can start functioning to determine the turnover activities. Mr. Ousley felt that needed to be verified so that there would be no confusion about that money. Mr. Lee agreed that it was important to

Lely Community Development District – Minutes

December 19, 2018

Page 4

get the information on what money has been spent and for what reason. Mr. Drum also expressed concern about that. Mr. Kaye reiterated that they were in the very early stages, but he appreciated their concerns.

Mr. Lee asked Mr. Pires about the money that the County holds when a turnover is done, and once it is properly completed the money is turned back to the developer. Mr. Pires noted that the County does hold this money until all the inspections are done to make sure that the infrastructure is in place, according to the County's approved plans and specifications.

(Overtalk) The County Commission will listen to the community when they say that the improvements are not yet finished,

Mr. Pires summarized the discussion, noting that there were a couple of questions on this issue. One is the different functions between the Master Association and the LCDD Board, and the discussions that need to take place on that. As it relates to having a Board member on the Turnover Committee, he or she could serve as a liaison between the two, as opposed to being a voting member of the committee. Mr. Pires felt that this would be an excellent way to monitor the situation.

As far as what happens with the Master Association documents, Mr. Pires felt it important to ensure that there are changes in those documents that adversely affect the District and its ability to perform functions. Additionally, they could attempt to put duties on the District without the District even knowing about it, which is something he has seen happen in the past. Dr. Bularzik added that the first meeting that was held on the turnover issue was at the Vesta office with Chris Hagan, and the Vesta representative indicated that he didn't even know what all the documents were. He was going through them at that point, and added that many of the agreements were handshake deals.

In response to a question regarding bank accounts being public records, Mr. Pires indicated that the only time a private organization's records become public records would be if they enter into an arrangement with a governmental body to do an essential function. At this point, the committee is very much in the information gathering stage.

The Board agreed that they would prefer to have a designated liaison on the Turnover Committee, and after a brief discussion, Mr. Campkin agreed to serve in this capacity. Mr. Pires briefly reminded him of the discussion restrictions under the Sunshine Law in this regard.

At this point a MOTION was made by Mr. Ousley and seconded by Mr. Drum to turn the Chairman's gavel over to Mr. Campkin and was unanimously approved.

Lely Community Development District - Minutes

December 19, 2018

Page 5

Mr. Kaye advised the Board that he would be sending his notes taken at this meeting to Mr. Hagan later in the day.

Mr. Pires clarified for Dr. Bularzik that the minutes she receives from the Turnover Committee, even though she views them as a member of the President's Council, could at some point be construed as public record as the line could get crossed. Dr. Bularzik agreed that she would let Mr. Kaye take care of it in the future.

Mr. Dorrill asked if the Turnover Committee had been recognized by the developer, and Mrs. Bularzik indicated that the developer had attended the last presidents meeting and did a presentation on the issues, and at that point is when the nine people were appointed, according to their areas of expertise, to sit on the Turnover Committee. However, she added that it is not being called a committee in the formal sense yet.

Mr. Ousley asked who owned Vesta, and Mr. Lee indicated that they were out of Jacksonville, but he did not know who owned it.

C. Senior PGA Event

This three day event is scheduled to occur in about six weeks, and in anticipation of this item, Mr. Carter represented the manager recently at a briefing, and the handouts from that meeting had been provided to the Board members.

The first schedule dealt with an emergency evacuation plan in the event of inclement weather and lightning. The next schedule was a master site plan that showed the areas of specific importance, including the locations of four armed sheriff's deputies.

Mr. Dorrill explained the parking logistics, which involved moving attendees from an off-site parking area by bus to Lely. Limited VIP parking will be available, and the players and caddies will be accommodated at the country club itself. Octagon, a professional management company, is handling this event.

Mr. Campkin noted that as it is being held in February, there will be upward of 11,000 people in the community at that time, and he expressed concern about how the management company would handle the additional influx of people without impacting the residents too greatly. Mr. Kaye, who was representing the Classics at the meeting, noted that they would not be blocking roadways, and parking for spectators will be at the far end of Rattlesnake Hammock Road, where they will be bused from. Security people will be located at all of the major intersections, as well as at every road intersection within the club community, so that ingress and egress will be controlled.

Lely Community Development District – Minutes

December 19, 2018

Page 6

One meeting has already been held with all of the HOA presidents and the Board of the golf course, and quite a bit of information has been shared. A second meeting is planned where the details of the site plans will be gone over. While there are no plans in place to provide stickers to the residents, an extra measure has been taken whereby the parking area at the Players Club will be designated for members of that club only by IDs being checked at the entrance. While the event is taking place, a phone number will be provided to report any problems,, which can then be handled by a deputy or security personnel. Golf course access will be given only to people with passes, and snow fences will be installed along particular areas to help enforce this. If anyone wishes to volunteer to help with the event, they can sign up on the event website.

D. Lely CDD Landscape Restoration Plan

Photo shopped panoramics were provided to the Board to give them an idea of what several of the boulevard segments would look like after restoration with the canopy, hardwood and palms that are proposed.

A resident of Ole has requested through Dr. Bularzik a design overview of the affected neighborhoods, and as there are so many of these neighborhoods, Mr. Dorrill suggested that a community workshop be scheduled to share the plans.

The two general themes proposed by Mrs. Goetz included the Board's request for native, cold and drought hardy and insect resistant plants and trees. Additionally, those that are less susceptible to hurricane winds were requested, so there are no live oaks included in the plans. Dr. Bularzik suggested that half an hour before one of the regular meetings the public could be invited to see what the landscape plans are. Mr. Dorrill agreed, and indicated that they can do a power point program and/or use storyboards to show what the roadways will look like. This may be arranged for the February meeting.

Mr. Drum asked if the plans contemplated removing some of the Queen Palms that were located between the sidewalk and shrubbery, as he felt that they did not look good at all. Mr. Dorrill advised that the goal was to remove the Queens as part of the specification due to their various susceptibilities. They will be replaced with Foxtail or Bismarck Palms.

Mr. Drum also suggested that while there are several Royal Poinciana trees in downtown Naples, it appeared to him that they required a lot of maintenance. Mr. Carter agreed that systematic pruning of these trees would have to be done, but that they are quite beautiful when they bloom in the late spring. Mrs. Goetz will be asked about these trees.

Mr. Dorrill added that if any resident who would like to see the plans before the scheduled meeting, he would be glad to share them.

Lely Community Development District – Minutes

December 19, 2018

Page 7

An advertized workshop will be schedule at 1:00 before the regular February meeting with Mrs. Goetz for the residents. Mr. Pires added that the Sunshine Workshop can be done in March, and short segments of the information on the rules can be done over the next few months rather than at one specific meeting.

Dr. Bularzik will send out a message to the members of the Presidents Council advising them of the workshop to be held in February.

ATTORNEY'S REPORT

A. UPS Agreement

Mr. Pires has been working with Mr. Carter on this issue, and UPS did not agree with the protection and insurance being built into the agreement, and declined to execute it.

B. County Memo on Stormwater Utility

Mr. Dorrill and Mr. Pires met on November 19 with the County Attorney, a gentleman representing the commercial interests, the Chamber and the head of the Stormwater Utility Program to talk about the concerns of the CDDs. The County is not budging from the program, Indicating that it has to be funded somehow, and if not through an assessment, people are going to have to fund it through an ad valorem tax.

Many of Mr. Pires' clients are saying that it should be done through taxes, as they would then not have to worry about the exemption process. Mr. Pires felt that the County may not discipline itself if it was just ad valorem taxes, but the assessment would be funds dedicated to the stormwater utility. Mr. Pires felt that it was an unproductive meeting, and when he was asked at the meeting what he wanted for his clients, he advised that it was total exemption, as the residents of Lely take care of more County road water than the roads they travel on.

One of the Commissioners asked the Productivity Committee to look at this program for three funding options, and that committee met on December 13th. Before they met, Mr. Pires was able to get a list of the members, and sent them copies of the letters from Lely that were not provided to them by the County. While Mr. Pires felt that this committee was comprised of a good group of people, the focus continues to be on a stormwater utility fee.

Mr. Pires will share the power point program given at the December meeting with the Board who can share it with the community, and advised that another meeting will be held on January 10th. He also noted that only one other member of the public was present at the meeting besides himself, and he urged the committee to post their agenda materials as this is a huge issue.

Lely Community Development District- Minutes

December 19, 2018

Page 8

The focus of the funding, however, continues to be relatively narrow, but Mr. Pires will continue to attend these meetings and argue his position for the District. Mr. Lee indicated that he would attend that meeting as well.

At this point Mr. Drum asked about Board member attendance at meetings when they are there in their capacity as a member of their HOA, and other Board members may also be in attendance. As it relates to the Sunshine Law, he wondered if this would be inappropriate if the subject under discussion could possibly come up at a meeting, and Mr. Pires indicated only if it was reasonably foreseeable that it would come before the Board. Mr. Drum added that they were duly elected to their HOA Boards, so when they attend these meetings they are functioning in that capacity.

It seemed to Mr. Drum that it would be unreasonable to expect him to resign from an HOA board if something could possibly be discussed at the LCDD meeting. He asked that if this situation came up at a meeting that they were attending, if it would solve the Sunshine Law issue by recusing himself from the LCDD Board discussion. Mr. Pires noted that the recusal would not cure anything; if there is a violation of the Sunshine Law, it would occur at the moment a discussion with more than two LCDD Board members present was had. He did not feel that the First Amendment would trump that, and felt that it had probably already been litigated, but what he can look at is if it's made clear and articulated that the Board members are in their capacities as an association officer at that meeting, then that may be a way to address it. He will do further research on that for the Board members. Alternatives would be for one person to leave the meeting, or for the two CDD Board members to have no interaction or dialogue.

As it relates to the Presidents Committee being addressed by the Turnover Committee at the next meeting, with Mr. Campkin attending as the CDD liaison for the Turnover Committee and Dr. Bularzik attending as an association president, it would only be problematic if some issue involving CDD interests should arise. Mr. Pires noted that he does not give guidance to his clients to challenge a criminal statute under the guise of First Amendment rights, as there may be reasonable regulations as to speech when you are talking as a public official. But setting that aside, when the Sunshine Law presentation is made, it will be noted that the main issue is you do not have interaction. If there is no interaction, it may not qualify as a meeting. It is a slippery slope, however, and he does not want any of the Board members to have to stand before a judge on this issue.

FINANCIALS

The first month of the fiscal year financials were provided to the Board, which was the month ending October 31st. While there was not a lot of detail for the Board at this point, a few items were pointed out by Mr. Dorrill.

The CDDs total cash position at that time, and before any new money was received was \$2,440,000, which is considered the lowest cash position of the fiscal year. \$1,400,000 of that money was in the capital reserves. The income statement did not show the first distribution from the tax collector, which will be seen the following month. No revenue was shown on this financial statement except for interest earnings and a small amount of miscellaneous revenue. Mr. Dorrill felt that there must have been a change in the statute as it relates to the property appraiser's fee, as \$33,000 was budgeted for his costs. Rather than returning his unused revenue from the prior year, that amount was shown as a credit back to the costs for the year. His invoice this year was for \$5,140, which is his total adjusted fee for the entire year. That extra \$28,000 will track through and carry forward as found money. Historically, any unused funds he had at the end of the year had to be remitted back to the County.

The total actual expenditures for the first month were \$216,000 against a budget of almost \$272,000, which is \$56,000 under budget for the first month. There are some capital fleet purchases that are scheduled for January, so that amount will catch up and even out.

Additionally, some of the insurance premiums will be prepaid at that time as well.

Mr. Lee pointed out the pension fund for \$5,000, and Mr. Dorrill indicated that this amount will either sit there unused, or by budget amendment, be moved into some other category. Mr. Lee asked how much was received from the County to date for their first two payments, and Mr. Dorrill indicated that he would call his office and get that information for him.

Dr. Bularzik asked why the personnel wages were so low, and Mr. Dorrill advised her that this was probably due to pay periods. In response to Mr. Ousley's question about the amount of interest income had accrued so far this year, Mr. Dorrill indicated that he would have to get that number for him, but last year they earned almost \$40,000 in interest as opposed to a budget of about \$5,000.

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

SUPERVISORS' REQUESTS

A. Memorial Cross

Robin *** passed away in a traffic accident early in the year outside of Mustang Island and Lely

Lely Community Development District – Minutes

December 19, 2018

Page 10

Island Estates. Her Husband is going to take the cross down on the anniversary of her death, as he felt that it had served its purpose. A rock with her name on it will be placed low to the ground which will not cause any issue with landscaping.

Dr. Bularzik thanked Mr. Carter and his team as they have been very respectful of the cross and took care of it during the year.

B. LED Lighting Conversion Contract

The preliminary contract has been received, and will be turned over to Mr. Pires for approval. Mr. Pires indicated that he has already made some revisions to the engineer's agreement which is for \$10,360, and if the Board approves it subject to Mr. Pires' revisions, the project could then begin. **On a MOTION by Mr. Campkin and a second by Mr. Ousley, the agreement was unanimously approved by the Board.**

C. Radar Gun

Mr. Bowers noted that the radar gun has been a great help with traffic safety. They contact the Sheriff's Department if there are some areas of speeding, and they are working hard at the high school to get those drivers to drive more slowly. He added that it's a great tool to get people to slow down.

D. Update on ADA Issue

Mr. Carter spoke with the consultant the previous Monday, and was advised that they were in the process of updating the District website. There is some remediation of PDF files that needs to be done, and they are determining what the Statute requires for the website versus what is presently on it.

E. Traffic Committee

Dr. Bularzik reported that the Traffic Committee will be meeting sometime in January , and will be doing more speeding reports. Mr. Carter and Mr. Bowers will be advised of when the meeting will be held.

F. Workshop Schedule

A copy of the workshop schedule was provided to the Board, which had previously discussed doing the Sunshine Law workshop in January, Landscaping in February, Law Enforcement in March, Transportation in April, the Budget in May, and Hurricane Preparedness in June.

Lely Community Development District – Minutes
December 19, 2018
Page 11

Mr. Pires noted that he will do reports on the Rules and Regulations in segments , and possibly have two workshops in one or two of the scheduled months when time permits. Mr. Lee noted that adjustments to the schedule can be made.

PUBLIC COMMENT

Russ **** asked what the purpose of the radar gun is, and what happens when someone is caught speeding. Mr. Lee explained that they no longer have the special duty Sheriff's Department patrol at Lely, but now they are advised when certain cars are seen to be speeding, and they will come out to Lely to patrol certain areas. The principal at the high school has also been asked to speak to the students.

(Mr. Lee's comments were inaudible)

A brief discussion was held about the radar machines that can be set up on the roadside to advise drivers of their speed. Dr. Bularzik will provide this information to the gentleman who asked about it. Additionally, arrangements can be made to have Mr. Bowers visit some of the neighborhoods with the radar gun to remind people about speeding.

As it relates to the PGA event, Mr. Dorrill noted that if necessary, the planners would like to use the southeast corner of the Lely parking lot for some of their equipment, and they will be asked to sign an agreement similar to the one that was prepared for UPS.

ADJOURNMENT

Mr. Dorrill reminded the Board that the January meeting would be held on the 16^h, and **the meeting was then adjourned on a MOTION by Mr. Ousley and a second by Mr. Campkin at 3:05 p.m.**