

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

The Budget Hearing and regular meeting of the Lely Community Development District Board of Directors was held on Wednesday, August 15, 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

**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**

Mrs. Bularzik invited those present to attend a meeting at the Player's Club on October 10 at 1:30 where Commissioner Fiala and Mark Strain will be appearing to talk about developments on US 41.

In response to Mr. Campkin's question, Mr. Pires indicated that all the Board members can attend, but they cannot discuss anything together or react to another Board member's comments.

**ROLL CALL/APPROVAL OF AGENDA**

All Board members were in attendance, and **the Agenda was approved on a MOTION by Mr. Ousley and a second by Mr. Campkin with the addition of Item 4G, November meeting date; 7A, Trees and Shrubs; 7B, Master Association and 7C, Stormwater Meeting.**

**APPROVAL OF AUGUST MEETING MINUTES**

Mr. Pires suggested that immediately following the heading “Approval of Proposed 2018 General Fund Budget”, a line be inserted indicating that the Public Meeting and Public Hearing on the Budget was opened, and members of the Public were invited to comment. No public comment was forthcoming. The Public Hearing was then closed”.

On Page 3, under approval of the July Workshop and Regular Meeting Minutes, the gentleman’s name in the 8<sup>th</sup> line is Al Frost.

**On a MOTION by Mr. Ousley and a second by Mr. Drum, the Minutes were then unanimously approved as corrected.**

**MANAGER’S REPORT**

A. August Community Patrol

August was a busy month with 54 total incidents. In addition to the alligator, there were seven loitering or noise related incidents, eight trespassing fishing related interactions which were all nonresidents, a series of vandalism and/or property damage reports that involved District participation or referral to the Sheriff’s Department, 13 associated safety and community privacy gate issues, and five suspicious activities, the majority of which dealt with specific contractors or individuals who had a reason to be in Lely. Mr. Dorrill felt that what was important about that is that people are reporting these activities, which is a very good thing. There were 16 traffic assists and some associated speeding on Wildflower Way involving the Sheriff’s mobile speeding device.

B. Street Sign Paintings

Some proposals are being sought to paint black enamel community sign posts, and one was received for \$270 per post. As that is high, they are looking into Lykens and Community Specialties for bids as well. Mr. Dorrill further suggested that staff could be offered overtime pay to come in on a weekend and paint the posts.

Staff is sporadically working their way through the posts, as they are busy mowing, but Mr. Campkin noted that they cause damage to the paint on the poles when they are using the trimmers. Additionally there is quite a bit of corrosion on them that will have to be removed.

C. Radar Gun/Information Gathering

Mr. Carter advised that he and Mr. Bowers had spoken to the Sheriff’s Department about this, and they had no issues with Lely’s use of a radar gun. The Sheriff’s Department would not use

***Lely Community Development District – Minutes***

***September 19, 2018***

***Page 3***

any of the information gathered to make any decisions, however, but the hours of the day that speeding seems to be the worst can be reported to them for their attention. Mr. Bowers also provided some guidelines from the State to Mr. Lee as to what the District can and cannot do. There will be no photographs or license plate information taken, this is just for the purpose of documenting speeding times and advising both the Sheriff's Office and the high school as to certain times of the day when speeding is most prevalent.

**D. Website Design Proposal/ADA Lawsuit**

This item relates to Lely's inclusion in the Federal lawsuit related to the Americans with Disabilities Act. Staff had a conference call with the preferred consultant, and Mr. Dorrill will be following up with them and requesting a proposal. The total cost is probably going to be less than \$10,000 to remediate the website.

As part of that, Lely has a large amount of archived minutes and meeting agendas in the document portal. Mr. Dorrill felt that they should limit their exposure, but there are statutory requirements on what must be on the website. The amount of minutes and agendas can be limited, and an appropriate disclaimer inserted stating that the District Manager's office should be contacted for archived records. The Website design company will be hired to bring the District into compliance with the new Federal regulations.

The District is being represented by special counsel who was identified through other CDDs and contacted by the District's insurance company. There is a \$2,500 deductible. Mr. Dorrill received an email from a paralegal from the law firm of Roper and Roper the previous week to see if the District wished to schedule a shade meeting to discuss settlement, Mr. Pires advised that a closed door session has to be requested by counsel at a public meeting, so perhaps a closed door session could be held at the next Board meeting to discuss the settlement proposal, and then an open meeting afterwards to vote on the proposal.

Mr. Pires indicated that Roper and Roper does a very good job explaining the nature of the litigation, and they will arrange for the court reporter, and Mr. Pires will make sure that the notice is handled by them as well. As far as the timing for the next meeting, the workshop will be held from 1:00 to 1:30, and the regular meeting will begin at 1:30. The first item on the agenda will be the closed door session, and the next item on the agenda will be the action taken on decisions made in the closed door session once the regular meeting has reconvened. Mr. Dorrill will check with special counsel regarding the notice, and added that there will be an inconvenience to members of the public as they will have to leave the room when the closed door session is held. Alternatively, the Board could meet in Mr. Carter's office for this session.

***Lely Community Development District – Minutes***

***September 19, 2018***

***Page 4***

Mr. Drum noted that similar lawsuits are being filed throughout the country, and he asked how many of them would be tried. Mr. Pires noted that there is some discussion on how the CDD lawsuits are being addressed, which Mr. Roper will present to the Board. One insurance carrier is working on formal resolutions for several CDDs, but Mr. Pires was not aware of any suits against a CDD going to trial. This relates to only one plaintiff, and anyone could file a lawsuit if they are blind and disabled. This will be part of the conversation in the closed door session.

Mr. Pires explained that after the District was named in the lawsuit, there was a stipulated abatement of the case to provide an opportunity for the parties to attempt to come to a resolution. Otherwise, Federal Court is on a very fast process that accumulates fees very quickly. The insurance company retained Roper and Roper, who is handling this for many CDDs, to handle it for the District. Any concerns and questions the Board members have can be addressed at the closed door meeting with Mr. Roper, who will explain the pros and cons of the settlement agreement to them.

Mr. Drum asked if the District's agreement with their insurance company give them control of the case, and Mr. Pires advised that typically carriers have an obligation to defend, but they can, if this is in the District's policy, at some point say that the resolution is the appropriate one and that they will no longer pay.

One other consideration that the Board may hear is going forward, insurance carriers will provide this coverage in their policies, and will require website compliance and audits to make sure that those they insure are current. For clarification, Mr. Pires explained that this closed door session will be for the purpose of discussing litigation strategy and expenses, and a proposed settlement agreement.

**On a MOTION by Mr. Ousley and a second by Mr. Drum, the Board unanimously approved the closed door session to be held on the 17<sup>th</sup> of October at 1:30 p.m. to discuss litigation strategy and a proposed settlement agreement.**

After a brief discussion, the Board modified the Motion to read as follows:

**On a MOTION by Mr. Lee and a second by Mr. Drum, the Board unanimously agreed that if there is no workshop at 1:00, the closed door session would be held at 1:00 with the regular meeting to follow.**

Mr. Dorrill asked if it would be appropriate for the District Chair to sign the engagement letter he had received from the Roper law firm, and Mr. Pires asked that it be sent to him.

**A MOTION was made by Mr. Lee and seconded by Mr. Drum, to authorize the Chairman to sign the engagement letter from Roper and Roper if required to do so.**

***Lely Community Development District - Minutes***

***September 19, 2018***

***Page 5***

Mr. Drum then asked if Mr. Pires could represent the Board in this case, just to back up and observe the insurance company, and Mr. Pires indicated that this very unique area of law is what Mr. Roper is experienced in, and he has met Mr. Roper and is very impressed with him. Mr. Drum expressed concern over a settlement Mr. Roper may present that he does not feel is appropriate, and Mr. Pires assured him that very often attorneys will draft a settlement agreement for their client, and go back and forth with other attorneys to reach agreement. It would not be a problem if a Board member objected to something in the agreement, as the attorney will try to achieve the best results for them.

Again, this is a unique type of litigation and no damages are requested, but it is the first of a wave of lawsuits that will be coming on this issue. Mr. Pires assured Mr. Drum that he would be in the closed door session, and he had no problem with working with Mr. Dorrill, but he has seen Mr. Roper work for the best results for his client. He would tell the Board if he felt that Mr. Roper was doing anything less than that.

In response to Mr. Campkin's question, the lawsuit was first mentioned two meetings ago. Mr. Dorrill added that he would be more than happy to share a copy of the complaint with the Board.

**The MOTION was then unanimously approved.**

**E. Group Health Insurance Renewal/Employees**

The documents for this renewal were provided to the Board, and Mr. Dorrill advised the Board that the Blue Cross renewal was unacceptable at a 21.4 percent increase in the premium. The impact would be almost \$3,000 a month, or \$35,000 a year.

Mr. Carter met with Brown and Brown, their agent, to review a series of alternatives, and the Board was provided with a few to review that were somewhat comparable plans.

The plan they have settled on has a co-pay that will only go up 10 percent, from \$30 to \$40 for regular doctor visits, while specialists or urgent care will go up \$20, from \$65 to \$85. The prescription drug card benefits are up to \$15 for generic drugs. The monthly premium will from \$12,800 to \$14,140.

During the course of the year there have been some lapsed salaries, and while they have not specifically budgeted for an increase, Mr. Dorrill was very confident, based on year-to-date expenditures, that this would be affordable. Mr. Campkin noted that the new plan also had a significant increase at 10 percent. Mr. Dorrill agreed, but felt that it was better than the 20 percent increase with their current plan. The yearly difference between the old and new plans would be about \$18,000. There are 20 employees under this plan.

***Lely Community Development District – Minutes***

***September 19, 2018***

***Page 6***

Mr. Drum felt it was important not to change the insurance for the employees too much, and Mr. Dorrill indicated that the cost would be \$32,000 at 100 percent utilization if they were inclined to stay with the old policy, and he reminded the Board that every month he has a vacancy, that premium does not have to be paid. There is a 90 day probationary period before insurance kicks in for new employees. Mr. Ousley felt that good insurance is appreciated by the staff, and very important to them.

Year-to-date expenses are running about a quarter of a million dollars under budget, and that money is going to roll forward into the new year. CSA revenues are also going to be about \$90,000 over budget as well. Mr. Lee suggested that the Board could absorb either option, and it was up to them what they wanted to do.

After a brief discussion, the Board authorized Mr. Dorrill to speak with their agent again, and suggest United Health Care may be an alternate. He also advised the Board that some of these employees have been with the District for 25 years, and are very dedicated. However, they are ageing as well.

**On a MOTION by Mr. Ousley and a second by Mr. Drum, the Board unanimously agreed that they would like to stay with the existing plan at an improved rate, and gave Mr. Dorrill the latitude to negotiate.**

**F. Alligator Advisory Signs**

These signs are being worked on, and Municipal Signs will be sending Mr. Carter a proof before they are manufactured. Installation should begin within 30 days.

**G. November Meeting**

As the meeting normally would be the day before Thanksgiving, **on a MOTION by Mr. Drum and a second by Mr. Ousley the Board unanimously approved moving the meeting to Wednesday, November 14, a week earlier.**

**ATTORNEY'S REPORT**

**A. Postponement of Stormwater Utility Fee**

Mr. Pires noted that at the September 6th Collier County Commission meeting the Board postponed any consideration of the implementation of the stormwater utility fee for this year, and did not indicate when they would be coming back for further discussion on it. Mr. Pires noted in his argument that Stantec was doing the County no favors, and Commissioner Sanders

***Lely Community Development District – Minutes***

***September 19, 2018***

***Page 7***

agreed. Mr. Campkin congratulated him on this argument, and Mr. Pires indicated that this argument was a collaborative effort among himself, Mr. Dorrill, and Mr. Cole.

Mr. Dorrill added that they sent letters to some of their clients thanking them and suggesting appropriate courses of action for key stake holders like CDDs and their staff going forward.

The basic contention has been that the District supplies all of the drainage for all of the roads within this community, that serves several thousand units. In addition, water comes from Rattlesnake Hammock Road and other areas that are off Lely Resort, but the water moves through the community, and as a result, residents of this community should be totally exempt from any charge as opposed to chasing some credit every few years. He, too, thanked Mr. Pires for the excellent job he did.

Mr. Pires added that they included in the letter the hope that the credit process would be changed so that each Master Planned Community with a CDD that operates its own system would not have to apply for a separate credit, which is how the system works now.

Additionally, they were making blanket statements without backup data.

Mr. Dorrill added that the County has remedies other than creating a countywide stormwater utility fee to address problems in certain areas. Hopefully major communities and their professional staff will have an opportunity to reframe this issue going forward.

Pat Wager from the Classics suggested that information on meetings and other issues be sent out to HOA presidents so that everyone who lives here will know what the Lely CDD is trying to do for the benefit of the residents. Mr. Dorrill indicated that they are on record as requesting a meeting with the key County staff who are responsible to move this forward, and that it would be an excellent idea to communicate directly with the District residents following the meeting, which hopefully will be in the near future. Mrs. Wager added that the residents should be asked to do whatever they can to assist with this issue.

**B. Trespass Agreements within the County**

Mr. Carter indicated that he had received a notice before the meeting that all trespass agreements within the County have been rescinded. Mr. Dorrill and Mr. Pires will look at this after the meeting. Apparently one of the communities raised an issue with this and caused a problem, so the Sheriff's Department counsel advised them to drop the program.

**FINANCIALS**

The ten month financials were provided to the Board, and at the end of July the District had almost \$2,900,000 in cash, half of which is in the capital reserve, against \$28,000 in payables.

***Lely Community Development District- Minutes***

***September 19, 2018***

***Page 8***

The income statement showed the amount of ad valorem assessments received through June were at about 96 percent of the total budget, the difference being the discounts that are taken. The fourth quarter CSA payment was received in July at just over a quarter of a million dollars, which brings the final total for CSA revenues of \$1,010,120. Next year Mr. Dorrill would expect them to be within the \$260,000 range for each of the four quarters.

On the operations side, the only cost center that is over budget is street lighting, and that is only over by \$11,700.

Total operating expenses through the end of ten months was almost \$274,000 under budget, and a large portion of that is due to the lapsed salaries that were discussed earlier. Mr. Carter did a very good job in controlling costs throughout the course of the year as well.

Mr. Dorrill asked if the supplemental street sweeping program had been suspended, and was advised that this had not yet occurred, but Mr. Carter will make sure it gets done. Mr. Cole will be checked with to make sure the water management permit does not obligate the District to do that sweeping, but when the roads were turned over to the County, Mr. Dorrill was under the impression that they took over that obligation as well.

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

**SUPERVISORS' REQUESTS**

**A. Trees and Shrubs**

Mr. Campkin asked about the status of this replacement project, and Mr. Carter indicated that he had spoken to Mrs. Goetz a few weeks ago about the plans, but he has not seen anything yet. Mr. Carter will follow up with her or her new associate, Bill, and ask if they can have the project plans by the next meeting.

Mr. Campkin added that new palms cannot be planted in the old holes that trees were taken out of, and people should be advised of this.

**B. Master HOA Letter**

Mr. Ousley indicated that he is going to be a delegate because the letter was an attempt to usurp the authority of the CDD. In the interest of harmony, Mr. Ousley proposed that a workshop be held with the author of the letter who represents Stock. He noted that he will ask for a copy of the contract and a copy of his budget, and he also wanted to know if Stock had full authority over this. He would like this workshop to be held as soon as possible, and a letter should be written as Mr. Ousley would like to meet this man.

***Lely Community Development District – Minutes***

***September 19, 2018***

***Page 9***

The Master Association will be having a meeting on October 2 at 10:30 at the library.

**PUBLIC COMMENT**

Mrs. Bularzik's comments were inaudible, but Mr. Dorrill advised her that the District was tax exempt.

**ADJOURNMENT**

The next meeting is scheduled for October 17 at 1:00. **On a MOTION by Mr. Campkin and a second by Mr. Drum the meeting was adjourned at 3:00 p.m.**