

1                                   **LELY COMMUNITY DEVELOPMENT DISTRICT**  
2                                   **NAPLES, FLORIDA**  
3                                   **REGULAR MEETING OF THE BOARD OF SUPERVISORS**  
4                                   **October 16, 2019**  
5

6   The regular meeting of the Lely Community Development District Board of Supervisors was held  
7   on Wednesday, October 16, 2019 at 1:30 p.m. at the LCDD Maintenance Building, Naples,  
8   Florida.

9  
10 **SUPERVISORS PRESENT:**               Gerry Campkin, Chairman  
11   William Lee, Vice Chairman  
12   Harold Ousley, Treasurer  
13   Kenneth Drum, Secretary  
14   Anne Marie Bularzik, Supervisor, Assistant Secretary  
15 **ALSO PRESENT:**                       Neil Dorrill, Dorrill Management  
16   Kevin Carter, Operations Manager  
17   Tony Pires, District Counsel  
18   Freddy Bowers, Director of Community Patrol  
19  
20

21 **ROLL CALL**

22 All Board members were in attendance at the meeting.  
23

24 **INVOCATION AND PLEDGE OF ALLEGIANCE**

25 Mr. Dorrill offered an invocation, and the Pledge of Allegiance was recited in unison.  
26

27 **PUBLIC COMMENT**

28 No Public Comment was received at this time.  
29

30 **APPROVAL OF AGENDA**

31 The following items were added to the agenda: 7A, LED Conversion; 7B, Status of Parking Lot  
32 Extension; 7C, Status of Arrow on Circle; 7D, Discussion of January 15 Roundup Workshop; 7E,  
33 Master Turnover Update, and 7F, October 13 Potable Water Leak.

34 **On a MOTION by Mr. Lee and a second by Mr. Drum, the Agenda was then unanimously**  
35 **approved as amended.**  
36

5 **On a MOTION and a second, Mr. Drum was unanimously approved to attend the November**  
6 **meeting via speakerphone.**

7 Mr. Pires then noted that they would make the motion again at the November meeting.  
8

9 **APPROVAL OF SEPTEMBER, 2019 MEETING MINUTES**

10 Page 2, Line 24, Dr. Bularzik indicated that she had seen the Sheriff’s Office vehicle in Lely  
11 rather than at the high school.

12 On Page 3, Line 13, the sentence should read, “Mr. Pires’ other comment was that a light pole  
13 before one of the signs....”.

14 On Page 4, Line 12, Mr. Dorrill rather than Mr. Pires made this statement.

15 On Page 6, Line 15, the words “to be legally effective” should be added after the word “and”.

16 On Page 7, Lines 32 and 33 should be corrected to read “The Rules workshop was scheduled for  
17 October 16, and there is a scheduled workshop with the University of Florida on Roundup on  
18 January 15<sup>th</sup>”.

19 **On a MOTION by Mr. Lee and a second by Mr. Ousley, the minutes as amended were**  
20 **unanimously approved by the Board.**

21  
22 **MANAGER’S REPORT**

23 Items B and D were addressed first as the Board’s Engineer, Terry Cole, was present for this  
24 purpose.  
25

26 B. Lake Bank Erosion

27 **On a MOTION by Dr. Bularzik and a second by Mr. Ousley, the Board unanimously approved**  
28 **the consideration of the acceptance of a bid from Lake and Wetland Management for lake**  
29 **bank erosion.**

30 Mr. Cole provided a memorandum he had prepared with Mr. Carter, summarizing the lake bank  
31 erosion based on the advertized bid. Only one bid was received, from Lake and Wetland  
32 Management, for \$282,130. Mr. Cole and Mr. Carter met with this company the previous week  
33 to review the bid. The specifications in the bid included Geotubes, which have proven to be  
34 very effective.

35 Lake and Wetland Management use the sock system, which was described as a 12 to 20 foot  
36 fabric that has been folded. An example of this sock was provided to the Board. The sock is  
37 staked along the lake bank and held with roping. The sand is pumped in from the lake or  
38 brought in by truck to fill the socks. The open end is up on the bank above the water’s edge.

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5 The Geotube is a closed system, typically with a ten foot or six foot diameter. They are filled  
6 and stacked on top of each other if there is deeper erosion. What is called the sacrificial bag is  
7 pumped full of sand, then cut and spread and covered with sod, and the two permanent tubes  
8 would remain.

9 In the sock system, there is just one fabric piece, and can be larger and longer if needed, and  
10 could accommodate the four to one slope along the lake bank. It remains in place, but is  
11 covered with sod. A benefit of this system as well is that it can be cut and planted easily, and as  
12 it is interwoven it will not be compromised. Cutting the Geotube can be done, but is not  
13 advised.

14 Additionally, the Geotube is black, while the sock system is either tan or green. When the  
15 water recedes, depending upon the season, the black tube may be exposed. The sock also  
16 allows plants to root through it. Typically the lakes do not recede until early November,  
17 although it was a month earlier this year due to weather patterns. With the sock, the grass can  
18 root and grow through it in the exposed areas. It is also easier to put littoral plantings in with  
19 the sock.

20 In response to Dr. Bularzik's questions, Mr. Cole noted that in his opinion both systems are  
21 equally effective, and the warranty on the sock system was 15 years. The original bid was  
22 \$282,130. After discussions with Mr. Cole and Mr. Carter, Lake and Wetland Management  
23 submitted a revised bid at \$236,590.

24 Mr. Pires asked Mr. Cole if language providing for alternatives could be outlined in the bid  
25 specifications, and whether, in his opinion, the sock method as proposed qualifies as an  
26 acceptable alternative to recommend to the Board under the bid specifications.

27 Mr. Cole noted that Specification 7.3.7 indicates an equal product, and states that the  
28 manufacturers' name, brand name and model number are used in these specifications for the  
29 sole purpose of establishing minimum requirement of level of quality, standards of  
30 performance and design required, and is in no way intended to prohibit the vending of other  
31 manufacturers' items of equal or similar material. An equal or similar product may be used  
32 provided the product is similar in quality, standards of performance and design, et cetera, to  
33 the items specified.

34 In his memo Mr. Cole stated that they discussed the repair method and found that it is similar  
35 to the Geotube method specified to repair the system. Mr. Cole will amend the memo to  
36 reference those technical specifications noted in 7.3.7.

37 The engineer's estimate was \$216,470, which is less than was received. It was also noted that  
38 the stakes they will be using that the ropes go through will be driven below the ground. They

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5 are not pressure treated, and will degrade over a 20 year period, and by that time the sod and  
6 sand will be integral with the rest of the vegetation along the bank.

7 Mr. Cole then indicated that it was his recommendation that this work be awarded to Lake and  
8 Wetland Management in the amount of \$236,590. The Geotube costs are similar.

9 Mr. Drum confirmed that this was the first time they would be using this product, and asked  
10 how many lakes are under the District's control. He was advised that there were 30 and asked  
11 if the Board should look at this product as an experiment, or if they would continue to use it  
12 consistently.

13 Mr. Cole reminded the Board that before Hurricane Irma they had done a comprehensive  
14 review of all the lakes, and they came up with an estimated cost of repair to the CDD of  
15 \$500,000 to \$600,000, and the same amounts for repair to the Master HOA. Staff is now in the  
16 process of completing an updated review of the lakes as the conditions changed after the  
17 hurricane.

18 The map showed with red dots where the coming year's proposed lakes were located, and they  
19 had identified on a priority basis which lakes should be done first.

20 Mr. Drum expressed his concern that if a problem occurred with this product, the Board may be  
21 taking on some responsibility to the Master. Mr. Cole indicated that the lakes in this phase of  
22 repairs are presently the responsibility of the CDD.

23 The Property Owner's Association is currently finishing Phase 2 of their repairs, on Lakes 4 and  
24 9 and up at Tiger Island, and they are using the Geotubes. Mr. Drum noted if they were to  
25 make an arrangement with the Master Association to take over some of their lakes, there could  
26 be two different systems being used in the lakes at Lely.

27 As it was the long term intention of the Board to take over the lakes, they agreed that they did  
28 not want to take them until they were repaired to a satisfactory condition for the CDD to  
29 accept. Mr. Ousley felt that it was important to make it clear that the Master lakes were going  
30 to be done to the CDD's specifications before they are taken over, and asked if the District  
31 would be setting a precedent if they fixed the blue lakes if the Master ran out of money. Mr.  
32 Lee did not think that they were going to run out of money, and the Board may not take over  
33 the blue lakes in any event.

34 The Board has reserves for this work, and Mr. Cole indicated that within the next few months  
35 he will come to the Board with some estimates of what future repairs will be on the yellow  
36 lakes. In response to Dr. Bularzik's question, Mr. Cole felt that the project should not be started  
37 until after the first of the year, and will probably take three months to complete. Depending on  
38 the sand in the lakes, they may or may not have to truck sand in.

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5 Mr. Ousley asked for clarification as to if the District repairs the yellow lakes, what obligation it  
6 would have to repair the blue lakes if they are not done to the District's expectations. Mr. Pires  
7 advised that the question would be which lakes the District is responsible for maintaining as  
8 part of the operating permit with the South Florida Water Management District.

9 If the current permittee is other than the CDD, that permittee has the responsibility. It may  
10 also be a question of whether or not the permit has been transferred to the CDD as the  
11 operating entity.

12 If the developer or one of its affiliates is still the operating entity and the permit has not been  
13 transferred to the CDD, then that original party has the responsibility. To summarize, if the  
14 District is the permittee, then it has the responsibility to maintain a particular lake, and as  
15 discussed previously, they would not take over any lake unless it meets the District's standards.  
16 Mr. Pires suggested that from the standpoint of the South Florida Water Management District,  
17 their concern is that the lakes are in compliance, and they want to have the operating permit  
18 transferred to the ultimate operating entity and cleaned up on their books. To the extent that  
19 the Master or the developer of a particular lake needs to be brought into compliance, he  
20 suggested that they be put on notice now to do so.

21 Mr. Cole noted that they have had discussions with the South Florida Water Management  
22 District for the past several years about many things, but not specifically about this issue, and  
23 they have not pushed lately on making sure the operating permits have been transferred.

24 Mr. Cole explained why the lake bank erosion projects had begun, when it was discovered at  
25 another CDD by the South Florida Water Management District that a lake bank had dropped  
26 more than nine inches, and that became the criteria for certification. This started the necessity  
27 of repairing the lake banks, and erosion can occur for many reasons over time. The danger in  
28 not fixing them is one of safety more than anything else.

29 Mr. Pires added that South Florida Water Management can cite you and issue a notice of  
30 noncompliance to you for a lake with more than a nine inch dropoff, and there can be great  
31 liability attached to that. If you have easement rights, you will share responsibility for  
32 compliance with the owner of the lake.

33 Mr. Drum asked if the lakes had been dredged in recent years, and if there was any need to  
34 check that, and Mr. Dorrill indicated that he had seen no evidence that they were getting  
35 eutrophic.

36 Mr. Carter was asked if he agreed with the sock method for lake bank erosion, and he indicated  
37 that he was in the meeting with Mr. Cole, and he agreed with everything he has said.

38 Mr. Ousley asked what kind of shape the blue lakes were in, and Mr. Cole indicated that based

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5 on the inspection they did on all the lakes a couple of years ago, probably \$500,000 in repairs  
6 were needed on them. They will be evaluated again, and before they are accepted by the CDD  
7 they would have to be up to the expected standards.

8 Mr. Ousley felt that the smart thing to do with the blue lakes would be to leave them alone.

9 **On a MOTION by Dr. Bularzik and a second by Mr. Lee, the Board unanimously approved**  
10 **going with Mr. Cole’s proposal received from Lake and Wetland Management to repair the**  
11 **lake bank erosion on the five lakes identified on the chart for the bid not to exceed \$236,590,**  
12 **using the stock system.**

13

14 D. Lely Development Corporation Policy

15 A second handout was provided to the Board members as a follow up from the Property  
16 Owner’s Association request to the Board to consider that certain lands be deeded to the CDD,  
17 and there are 16 different tracts. Mr. Carter and Mr. Cole went out and looked at some of  
18 these tracts, and then Mr. Pires, Mr. Dorrill, Mr. Carter and Mr. Cole met again the preceding  
19 week.

20 A summary was prepared for the Board of the discussions, and Mr. Cole briefly explained what  
21 the Master wished to deed to the CDD, and Mr. Cole added that there are only a few that Staff  
22 agrees with. The first four are currently being maintained by the CDD, and have been for  
23 several years. There are a series of box culverts in certain spots that provide for the water  
24 management in the areas. The Board discussed these areas, and Mr. Cole felt that the Board  
25 could continue to mow the grass in these areas, but there is no advantage for the CDD to own  
26 them, and he recommended no for these four parcels.

27 The next tract is right next to Palomino Village, a yellow lake that is right next to a parcel that  
28 the CDD already owns. Mr. Cole’s recommendation is for the CDD to accept that, and Mr. Pires  
29 suggested that they be asked to bring it up to CDD standards before it is accepted.

30 Mr. Cole then noted that there are other tracts that they want the District to take that are  
31 County pump stations or golf course areas, which the District has no interest in owning.

32 The next tract parcel included Lakes 18 and 44. It was Mr. Cole’s suggestion that they take the  
33 lakes only, and maintain the lake banks that are not adjacent to the golf course. The sidewalk  
34 will be maintained by the County. Mr. Cole will verify if there is an easement that the County  
35 has with the CDD when that sidewalk was put in.

36 The areas that are adjacent to the golf course would not be something that the CDD should be  
37 responsible for, and should be maintained by the golf course.

38 In between Lakes 18 and 44 there is a strip where the drainage pipe is located. The CDD has

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5 the responsibility for the drainage pipe, but should not be responsible for the maintenance of  
6 the land with its landscaping.

7 The next is Lake 43, and again, this would be only for the areas that are adjacent to the lots, but  
8 not the golf course. The CDD has been maintaining these lakes, primarily from the standpoint  
9 of lake treatment and spraying. Mr. Drum noted that they have had numerous bad experiences  
10 trying to get the golf course to do anything,

11 Dr. Bularzik asked if this was informational only, and Mr. Dorrill noted that they did want the  
12 Board to know that they received this request, and at some point action will be taken after due  
13 diligence and review. Staff will continue to evaluate the assets they believe to be in the public's  
14 interest.

15 Mr. Ousley suggested that the Palomino Lake, the Lely Resort Phase 9 Lake, and Tiger Island  
16 Tract C and Tiger Island Tract D Lakes should not be taken over by the District as it would not be  
17 advantageous to it. Mr. Campkin agreed.

18 Mr. Pires was asked about a maintenance agreement at another CDD whereby the District and  
19 the golf course shared maintenance responsibilities for lakes that were adjacent to the golf  
20 course on one side and developed tracts on the other. Mr. Cole asked if a sketch or legal  
21 description would be required to delineate this, and Mr. Pires suggested that there be a more  
22 detailed memo to the Board at the next Board meeting, outlining these various parcels. That  
23 way the Board can have it in their agenda pack and the public can be advised as well.

24 Additionally, Mr. Pires agreed that there should always be a legal description and sketch  
25 because it provides a level of certainty on what the responsibilities for each party are.

26 Mr. Drum was not comfortable with shared responsibilities with the golf club, as it is not an  
27 equity club where the members would own the lake bank.

28 Further discussion was held regarding any willingness the golf club may or may not have to  
29 contribute to the lake bank maintenance, and Mr. Pires pointed out that the District already  
30 holds a maintenance easement for these lakes, and if ownership does not affect the rights to  
31 that easement, it would give the District greater rights to prevent trespass or other issues with  
32 the lakes. However, by deeding a lake to the District, liability does fall on the CDD.

33 This topic will be readdressed at the next Board meeting, and Mr. Cole was thanked for his  
34 appearance.

35

36 **A. Community Patrol**

37 There were 57 reported incidents, including nineteen trespassing/no fishing situations, 17 of  
38 which were non residents. There were eight property damage or maintenance stand-bys

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5 and two loitering situations. There were 15 traffic assists and 4 assists with the EMS.

6

7 C. Street Scape Award Update

8 At the conclusion of the previous month's meeting staff was asked to check on the disease

9 susceptibility of Foxtail Palms and to check with the Agricultural Sciences division at the

10 University of Florida for some information. They were advised that while Foxtail Palms do

11 require regular fertilization, they are not susceptible in any great way to the Ganoderma

12 disease.

13 The recommended contract was with O'Donnell, whose references have been verified. This

14 was competitively bid, and the award price was \$319,905. Staff recommended the award of

15 the contract to O'Donnell.

16 Mr. Pires noted that certain contract language was asked by the Board to be inserted in the

17 contract regarding timely completion of the work.

18 **On a MOTION by Dr. Bularzik and a second by Mr. Lee, the Board unanimously approved the**

19 **Street Scape award to O'Donnell Landscaping in an amount not to exceed \$319,905.**

20 The initial step will be obtaining the County permit, which could take four to six weeks. The

21 Board will be kept in the loop as far as the time line of steps, such as when the contract is

22 signed and when the permit is applied for.

23

24 E. Update on Flashing Stop Sign at Lely Resort Boulevard and Wildflower Way

25 Mr. Carter advised that the County plans to leave the flashing light up until the end of the

26 season. No decision has been made as to whether it will be permanent or not. Mr. Lee noted

27 that if the flashing light becomes permanent, the CDD would have the responsibility to maintain

28 it. Mr. Pires agreed that in Florida, the simple rule is if you take on the duty, you incur the

29 possibility of liability.

30 Mr. Campkin noted that even with the flashing light people are still racing through the stop

31 sign, but he agreed that they will have to stay there awhile as the part time residents will be

32 coming back and will have to adjust to it as well. Mr. Campkin also noted that people from the

33 golf course are driving around in golf carts which are not street legal, and they are driving right

34 through this stop sign as well. He asked that they be advised of the dangers of these carts with

35 no lights or reflectors.

36 Dr. Bularzik noted that the arrow continues to point people in the wrong direction at Grand Lely

37 and there was a car again going the wrong way recently. Mr. Bowers indicated that this car

38 apparently was stalled in the roundabout.



5 **ATTORNEY’S REPORT**

6 A. Prestwick License Agreement

7 Mr. Pires has sent the agreement to Prestwick Place and is awaiting a response from them.  
8

9 B. Rules Workshops

10 Mr. Pires will coordinate the next rules workshop with Mr. Dorrill, which is tentatively  
11 scheduled for February. No workshops are scheduled in November or December.  
12

13 C. Communication Reminder/Sunshine Law

14 Mr. Pires reminded the Board about communications with Board members. If there is an issue  
15 that a Board member wishes to convey to another Board member that may not be a one way  
16 communication, then this information should be sent to Mr. Dorrill for distribution to the Board  
17 as custodian of the record.  
18

19 **FINANCIALS**

20 The 11<sup>th</sup> month financials showed an overall strong financial picture with \$3,770,000 in cash,  
21 \$1,427,000 of which was in the capital reserve. A payment was made into the reserves which  
22 will be reflected in the next fiscal year.

23 In terms of total current assets, there is construction in process, and they stand at \$3,800,000.  
24 In addition there is \$10,000,000 in fixed assets. In addition to the Lely Freedom Horses and  
25 monuments there is about \$9,000,000 in infrastructure owned by the District, primarily street  
26 lights and the master drainage system in the community. Total assets stood at slightly under  
27 \$14,000,000 as the District approaches the end of the year.

28 The income statement showed the third party agreements for cost sharing are all in effect,  
29 including the School Board, the Board of County Commissioners, Astor and the Arlington, which  
30 is billed through the CSA. CSA revenues are \$100,000 over budget, at a year-to-date amount of  
31 \$1,138,000.

32 Mr. Lee suggested that the discounts taken are higher than budgeted this year, and Mr. Dorrill  
33 agreed that they would increase that a bit for the coming fiscal year.

34 Mr. Dorrill noted that they are over budget in engineering fees, largely due to the acceleration  
35 of capital spending work that was done with the LED lighting conversion and Mr. Cole’s work on  
36 lake bank erosion. The landscape architect fees were also referenced in that line item.

37 There were some lapsed salaries during the year, but overall year-to-date the total operating  
38 expenses remain at \$104,000 below budget.

5 In response to Dr. Bularzik’s question, Mr. Dorrill noted that computer services was over budget  
6 due to the lawsuit the District was brought into in the ADA compliance issue. These costs were  
7 due to remediation on the website in order to meet the terms of the settlement.

8 **On a MOTION by Mr. Ousley and a second by Mr. Lee, the financials were then unanimously**  
9 **accepted by the Board.**

10 Mr. Dorrill noted that the line of credit has been closed with the bank and is noted on the  
11 books. At this point the Board will have the discretion of using some of the line of credit if  
12 necessary.  
13

#### 14 **SUPERVISORS’ REQUESTS**

##### 15 A. LED Conversion

16 The LED lights contract has been executed, the lights have been ordered, and installation  
17 should begin at the end of November. They hope to have the entire 800 light project  
18 completed by the end of February.  
19

##### 20 B. Parking Lot Expansion

21 The last update Mr. Carter had on this item was the survey was completed and it will next be  
22 going to the County to see what type of permitting was required. They are still in that process.  
23

##### 24 C. Arrow at Grand Lely Roundabout

25 Mr. Carter was advised by the County DOT that this was a good idea and made a lot of sense,  
26 but they have no action item on it.  
27

##### 28 D. Roundup Workshop

29 Dr. Bularzik asked if starting the workshop at 1:00 would leave enough time for the subject  
30 matter, and secondly, she felt it was going to be well attended and wondered if the room would  
31 be big enough. Mr. Dorrill noted that they have used the large meeting room at the regional  
32 library which is in Lely Resort and he will explore the possibility of holding the workshop there.  
33 The Players Club may also have available room.  
34

##### 35 E. Master Turnover Meeting

36 Dr. Bularzik noted that she was not present at this meeting, but Susan \*\*\*Vincadelli took notes  
37 which were provided to the Board members by Dr. Bularzik. She advised that Lely Resort has  
38 two different sections, one overseen by the CDD Board, and the CSA section, including Classics

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5 and Lakoya, among others, which is overseen by the Master Association, and that is what is  
6 going to be turned over. At this point, Stock is not sure when that is going to happen. They are  
7 now 99.8 percent sold out, but there is a remaining property which is not selling at this point.  
8 There is also a parcel at Stock Plaza that has not been developed.  
9 The turnover committee has no budget and cannot hire an attorney to look at these issues, and  
10 Mr. Lee felt that Stock is holding out, perhaps to see who will be taking over the lakes, and  
11 indicated that turnover may happen in 2020, but it may go into the following year.

12  
13 **F. Water Leak at Horse Monument**

14 Mr. Carter noted that the County had experienced a massive potable water leak the previous  
15 Sunday, and there was some damage to the landscaping, sidewalk and beach area at the  
16 monument. The County had the pipe repaired within a few days, and they are now replacing  
17 the sidewalk area and the other esthetics at no charge to the District.

18  
19 **PUBLIC COMMENT**

20 No comments were received from the public at this time.

21  
22 **ADJOURNMENT**

23 **On a MOTION by Dr. Bularzik and a second by Mr. Lee the meeting was adjourned at 3:01 pm.**

24  
25 **ACTION ITEMS**

- 26 **1. LAKE BANK EROSION**  
27 **2. STREET SCAPE UPDATE**