

1 **LELY COMMUNITY DEVELOPMENT DISTRICT**
2 **NAPLES, FLORIDA**
3 **Regular Meeting of the Board of Supervisors**
4 **December 20, 2023**

5 The regular meeting of the Lely Community Development District Board of Supervisors
6 was held on Wednesday, December 20, 2023, at 1:30 p.m. at the LCDD Maintenance
7 Building, Naples, Florida.

8 **SUPERVISORS PRESENT**

9 William Lee, Chair

10 Gerry Campkin, Treasurer

11 Anne Marie Bularzik, Secretary

12 Kenneth Drum

13 **ALSO PRESENT**

14 Neil Dorrill, Manager, Dorrill Management Group

15 Kevin Carter, Operations Manager

16 Tony Pires, District Counsel

17 Freddie Bowers, Director of Community Patrol

18 Christopher Dorrill, Field Manager

19 **INVOCATION/PLEDGE OF ALLEGIANCE**

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

21 **PUBLIC COMMENT**

22 Mary Ellen Young – Past President of Ascot - Missed the deadline for the vacant
23 Director position and would like to be considered. Mr. Pires said there is no outline in
24 the statutes regarding this, the Board has great discretion in how they want to handle
25 this. Mr. Drum suggested extending the deadline. Further discussion was held until later
26 in the meeting.

1 **ROLL CALL/APPROVAL OF AGENDA**

2 All four members of the Board were present, establishing a quorum.

3 Dr. Bularzik went to the Lely Master meeting on Monday and added an update from this
4 meeting under Supervisor's Requests.

5 **The agenda was approved as amended to include Dr. Bularzik's email from**
6 **December 19th with attachments presented for further discussion on a MOTION**
7 **by Mr. Drum and a second by Mr. Campkin, with all in favor.**

8 **APPROVAL OF MINUTES NOVEMBER 2023**

9 The following changes were made to the November minutes:

10 Pg 5 line 29 - \$300 should be \$3,000

11 Pg 3 line 20 - quiet should be changed to quite

12 Pg 4 line 1 - Resort should be capitalized

13 **The minutes were approved as amended on a MOTION to by Dr. Bularzik with a**
14 **second by Mr. Campkin, with all in favor.**

15 **MANAGER'S REPORT**

16 **A. November Community Patrol**

17 In the month of November there were a total of 98 incident reports, noted to be nothing
18 unusual. Mr. Dorrill asked Mr. Bowers about the Birdwatchers. He said they have
19 diminished quite a bit as he has been pointing out to them that parking is clearly for the
20 Freedom Horses Monument only. Mr. Pires said that he has heard that the Audubon
21 Society has indicated that the District is a good birdwatching area. Mr. Bowers said they
22 now know not to trespass around the lakes. Mr. Lee said in years past people would
23 come from out of state.

24 Mr. Dorrill continued through the report, there were 200 traffic stops last month. There
25 were a total of 67 citations and warnings. There were two arrests. One was a drunk
26 driver the other was a driver without a license or with a suspended one. Dr. Bularzik
27 asked if car break-ins have decreased. Mr. Bowers said it has gotten better and that
28 90% of them were unlocked cars.

1 **B. Supervisor Vacancy**

2 Mr. Dorrill explained to Ms. Young what the requirements were for the position including
3 living in the District and being a registered voter in the County. Mr. Dorrill said he will
4 give her his email address and she can send him the material. Mr. Drum asked if the
5 extension would have to be re-noticed. Mr. Dorrill said it would be re-noticed by posting
6 it on the website and giving it to the President's Council. **The deadline was extended**
7 **to January 5th at 5pm on a MOTION by Mr. Drum with a second by Mr. Campkin.** It
8 should be noted that applicants need to appear in person at the January meeting to be
9 considered for the position.

10 **C. Reserve Transfer**

11 Mr. Dorrill presented a possible transfer from fund equity which is the year ending fund
12 balance in the operating account. He offered moving some of it into the reserve
13 account. At the end of the first month, the operating account had \$1.525 million in it
14 against \$100,000 in payables. The same rate of interest is earned whether the money is
15 in the operating account or in the reserve account. The rate of interest is in the 5%
16 range. Mr. Dorrill asked the board how much, if any, they would like him to transfer. Mr.
17 Drum asked about the cash flow requirements. At least 40-50% of total annual revenue
18 comes in November, \$2.7 million. That in addition to CSA revenue is the base level
19 funding required for operations. \$220,000 per month is what Mr. Drum believes to be
20 the average amount spent each month last year. The first quarter CSA payment has yet
21 to be received. They owe the District almost \$300,000 per quarter, \$1.1 million for the
22 year. Mr. Lee suggested having a million in the operating account. Mr. Drum said he is
23 in favor of what will pay the bills and lend to the cash flow. Dr. Bularzik said she was in
24 favor of Mr. Lee's proposal. Mr. Dorrill made a note that the fund equity position will be
25 revisited mid-year. Mr. Lee said that Mr. Phillips, the District Auditor, had stated that it
26 was wise to keep more in the operating account and not have to make a budget
27 amendment to transfer it again later. **On a MOTION by Mr. Lee and a second by Dr.**
28 **Bularzik \$1 million was approved to be kept in the operating account with the**
29 **remainder being moved to the reserve account, with 3 in favor and 1 opposed.**

30 **ATTORNEY'S REPORT**

31 This is a follow up to County's request to confirm that the pond at the corner of Grand
32 Lely Drive and Rattlesnake Hammock is not and will not be subject to the District's non-
33 ad-valorem assessments. Mr. Pires has drafted an affidavit that he will send to Mr. Lee
34 to sign after Mr. Dorrill verifies it. It says that Mr. Lee is familiar with the boundaries of
35 the CDD and the property described, in what will be an attached aerial photo and

1 sketch, is not within the boundaries of the Lely CDD. It states that as a result the Lely
2 CDD does not levy any non-ad-valorem assessments against the property and the
3 property is not subject to any past or present non-ad-valorem assessments or levies
4 imposed by the District. Until or unless the property is brought within the boundaries of
5 the District, the property is not subject to future non-ad-valorem assessments. No
6 motion was needed for Mr. Lee to sign this affidavit.

7 The first document in the stack Mr. Pires provided to the Board was the 558 demand
8 letter document that was attached to the Lely Masters chapter 558 demand on Stock
9 which was then provided to the District so it is now a public record. The second
10 document was the demand from Stock against the District. The third document dated
11 December 4, 2023, is the response by Stock to the Master's demand on Stock. Mr.
12 Pires internally circulated a draft response to Stock's demand upon the District. Mr.
13 Dorrill has looked at it, Mr. Pires needs to make a few more edits and then the response
14 will go out to stock tomorrow. He is not planning on having detailed conversations since
15 they are not yet in litigation and therefore unable to speak confidently, exempt, in a
16 board setting. Mr. Pires will call each board member individually to discuss. The Master
17 has three law firms now representing them: DeBoest for HOA law, Pavese handling
18 SFWMD, and the Becker Law Firm representing issues involving 558 demands. Two
19 entities and their attorneys are telling the District to perform certain tasks. As Mr. Pires
20 understands it, if the District goes ahead and performs the demanded task, the District
21 will have to impose assessments to cover those activities and those assessments would
22 be levied against all the property owners in the District and those covered by the CSA.
23 Mr. Dorrill said this is correct. Mr. Pires asked Mr. Lee to look at the drafted response
24 and call him with any suggested edits. Mr. Drum said he is concerned about these legal
25 matters and asked how this will get decided, if at all, asking if they can be dragged into
26 a settlement against their will. Mr. Pires said he would like to discuss this in their one-
27 on-one conversations. Mr. Pires said he does not know if a lawsuit will ensue and if one
28 ensues if the District will be a part of it.

29 This was an update on issues with compliance/non-compliance for the SFWMD. The
30 Master Association through their attorney has "nudged" SFWMD. Mr. Dorrill was
31 provided with a copy of the correspondence to SFWMD by the Pavese Law Firm on
32 behalf of the Master. They have had conversations with the outside council representing
33 the District in these matters that is very familiar with South Florida issues. This is going
34 back to the same issue as discussed in the past regarding SFWMD claiming that there
35 are areas that are the District's responsibility to maintain while the District says they
36 never took ownership of those areas and are not the responsible party. Mr. Dorrill said

1 the problem area preserve is the one located behind Ole. Mr. Dorrill said he informed
2 the SFWMD that in the 40 years of the District they have neither owner, nor improved,
3 nor operated to maintain any preserves.

4 The legislature in their session last spring adopted legislation regarding public officials.
5 Mr. Pires shared that in Florida, before the 1968 Constitution was adopted, the local
6 governments only had the powers the legislature gave them. As a result, the counties
7 and cities had to say "mother may I" to the legislature for permission. In the 68
8 Constitution, the voters decided to do a revision of the Florida Constitution providing
9 what is called home rule powers to counties and municipalities. Then the legislature
10 adopted legislation implementing that. Because of the growth in Florida, it was decided
11 that there needed to be more clarity and home rule power for local governments.

12 Mr. Pires shared that beginning January 1, 2024, the Board members will be required to
13 take an online ethics four-hour training course that has to be completed before
14 December 31, 2023. His recommendation is that anyone running for reelection
15 complete it by July 1, 2024. That way, they can file their completion document at the
16 time that they file for reelection. He shared that there are presently two websites that
17 offer the course, one is \$75 the other is \$79. They are online and the District will cover
18 the cost either directly or through reimbursement. The Florida Association of Special
19 Districts is putting together an online course that is anticipated to be no charge for their
20 members but will not be available until February. Mr. Campkin asked what would
21 happen if they did not complete it. Mr. Pires said they would probably fine you.

22 **FINANCIALS**

23 Financials as of October 31, the first month of the fiscal year, were presented. There
24 was \$4.7 million in cash on hand, \$1.5 in operating and \$3.2 million in reserves. There
25 were \$102,000 in payables. \$14,000 in non-ad-valorem assessments received early by
26 mortgages that have escrowed taxes and certain processors that pay them in advance
27 of receipt of the November tax bill. Interest earnings for the month were \$20,747.

28 **The financials were accepted as presented on a MOTION by Dr. Bularzik and a**
29 **second by Mr. Campkin.**

1 **SUPERVISORS' REQUESTS**

2 **A. Lely Master Meeting Updates**

3 Dr. Bularzik filled the board in on what happened at Monday's Lely Master Board
4 Meeting. At the meeting they indicated that they had not yet paid their first quarter CDD
5 bill because they were waiting to hear from Mr. Dorrill about why the Arlington and Aster
6 fees went up 12% and other areas didn't. Mr. Dorrill said that this was an issue they had
7 discussed the previous fiscal year. He said they were a little slow getting the bill to them
8 because he was down a staff member and had another one doing their own job in
9 addition to the vacant one. The reason is Arlington and Aster had their own amendment
10 to the CSA agreement that pro-rates services and benefits that they receive. They are
11 not paying for a full assessment. The benefits that they receive include both irrigation
12 water and drainage and water management only. The County's increase in irrigation
13 rates alone was 10% so while it is true certain cost centers may have gone up 12%, the
14 overall rate of assessment did not go up by 12%. Mr. Dorrill said that on the second
15 week of November, his office did provide Mr. Stuart Carter, the Master's manager from
16 Premier District Management, the invoice and worksheet that has been reviewed in
17 advance by the auditors to make sure it is accurate in accordance with the settlement
18 agreement. He said they should have all the backup information that they need to
19 understand the numbers. He sent another copy in response yesterday and asked Mr.
20 Stuart Carter to at least verify receipt of the documents. This confirmation has yet to be
21 received. Dr. Bularzik asked if there is a penalty for late payment and if so when that
22 would kick in. Mr. Dorrill said that he would have to investigate that. Susan, the Master
23 President, was also copied on Mr. Dorrill's email yesterday. Mr. Pires said the late fee
24 would be 8% from the date that they are past due. Mr. Dorrill said for the moment he
25 would not intend to charge late fees or discontinue service.

26 Dr. Bularzik shared that there is an informational meeting January 8th at 8am at the Ole
27 Movie Theater. They are going to be cleaning pipes and will be going through an
28 assessment of drainage systems that are supposedly responsible for. So far, they have
29 up with 15-20 areas that need to be cleaned.

30
31 Dr. Bularzik thanked Mr. Kevin Carter and the team for cleaning up the sand that was
32 being stored in a common area.

33
34 Following up about the 558 discussions, the Lely Master brought up Stock's
35 communication with the CDD at their meeting. Lely Master is going to be having an
36 executive Zoom session which is scheduled for January 12 at 1pm. They will be
37 following up with Lely Presidents about the changes in the Lely ARC document. That is
38 just informational, a date has not been set up yet.

1 There is a plan for signs to go up that say people cannot encroach on the preserve and
2 vice versa. Funds were approved for a company to go through and figure out how
3 many signs must be put up. Once the signs go up people cannot take them down. If
4 people do take the signs down, they will be in violation of the ordinance and can be
5 fined.

6
7 When you come out of the players' club and take a right at Grand Lely, at the corner of
8 Celeste after Saratoga, there is a light post with a corroded box. Mr. Carter will be
9 getting that fixed.

10
11 Th Pothole near the five horses when coming in on Lely Resort Blvd was discussed on
12 Monday. Mr. Carter and Mr. Bowers called Collier County immediately after Dr. Bularzik
13 informed them of this. Mr. Carter was told via email they would get right to work on it
14 and yesterday it was completely fixed. Dr. Bularzik said thank you to Mr. Carter, Mr.
15 Bowers, and Collier County for their work on this. Dr. Bularzik requested that Mr. Carter
16 contact Collier County and say thank you on the board's behalf.

17
18 Dr. Bularzik brought up the subject of orphan lots. She mentioned the road coming in off
19 Wildflower to Lely Master. The LCDD has an easement to use that road until it bends,
20 after that the CDD allegedly does not have an easement for the rest of the road. The
21 Master Association discussed putting up a no trespassing sign or a fence after the
22 bend. If they put up a fence, Mr. Carter would be unable to access the pump station if
23 there were a problem and that would be detrimental to the community. The County also
24 has a building across from that so they would be hindered by that obstruction or sign.
25 Mr. Dorrill said The Master will not be able to get a site improvement plan or permit to
26 put a fence across that road, so the District need not worry about that. Mr. Pires'
27 recollection is that the CDD does have an easement going all the way back to the pump
28 station. He is going to investigate this.

29
30 Orphan lots are ones that have no ownership, the Master Association is looking to see if
31 anyone wants to take possession of them. Gabe from the Master Association shared
32 that Stock turned over his control of the Master in March 2021. In late April/early May of
33 that year the Master got 15 quit claim deeds turning over property. One was the parcel
34 coming into the CDD, Wildflower up to the pump station. That is the one that started
35 discussion of transferring that parcel to the CDD. Gabe spoke to the board about these
36 lots using handouts. Mr. Campkin and Mr. Lee said they were not too interested in the
37 CDD taking ownership in some of these. Mr. Pires suggested that if the Board were
38 interested it would be helpful to have a title report prepared. Once the title report was
39 prepared it would indicate, based upon a search of records by the title company, who
40 the owner of the property is or what easements or other encumbrances effect the
41 property. If the board was inclined to consider taking over ownership of any of the
42 parcels, that would be the first step. In addition, the board may want to have a
43 comprehensive resolution of issues related to individual matters because there are a

1 number of issues. Mr. Pires indicated that title searches cost \$150 or more each per
2 parcel. The title company does this search by Folio number.

3
4 Mr. Pires said the question is, when the Master acquired these parcels by quit claim
5 deed was there discussion about inquiring title reports or affidavits of no leans or were
6 they just recorded. He thinks that may be worth exploring. Gabe said they just got the
7 quit claim deeds. He brought up to the Master President when Stock presented them in
8 April 2021 asking if they could reject taking over the parcels. They were told by
9 Attorneys at the time that they had to take it. If the Master wants the District to acquire
10 these four parcels it was suggested that they pay to have the title searches done for
11 them. In order to acquire them, the District would have to prove that these parcels serve
12 a purpose to them, operationally or otherwise. Mr. Dorrill said he would be most
13 interested in the parcel adjacent to the Master pump station and horticultural site, the
14 parcel ending in 506. He said he might also be interested in the piece that is adjacent to
15 the NW corner water storage lake, the one ending in 001. Mr. Dorrill said there is no
16 hurry but there is potential interest in certain parcels and the District would want to
17 address them holistically instead of one at a time. Dr. Bularzik asked if they can go
18 about officially proposing this to the Master Association. Mr. Dorrill suggested that the
19 Master Association summarize the nature of their proposal in a one paragraph email
20 and then they could take it from there.

21
22 Dr. Bularzik said The Master continues to bring up if the CDD wants to take over
23 maintenance of the access road as previously discussed. The CDD's continued position
24 is that they are not interested.

25
26 Mr. Campkin asked if the board is going to have to continue going through lists of
27 questions from the Master at future meetings and if so, they might have to adjust their
28 meeting time. Mr. Dorrill said it would be better for the Master Board, through their
29 Manager, to indicate these points of discussion necessary backup in advance of the
30 meeting instead of Dr. Bularzik having to on their behalf.

31 **PUBLIC COMMENT**

32 No public comment was received at this time.

33 **ADJOURNMENT**

34 The next meeting will be January 17, 2024, at 1:30 p.m. A landscape and streetscape
35 workshop is scheduled for 1 p.m., with the regular meeting to follow. **On a MOTION by**
36 **Mr. Lee, and a second by Mr. Campkin the meeting was adjourned at 2:51 p.m.**