

**LELY COMMUNITY DEVELOPMENT DISTRICT
NAPLES, FLORIDA
REGULAR MEETING OF THE BOARD OF SUPERVISORS
JULY 16, 2014**

A regular meeting of the Lely Community Development District Board of Supervisors was held on Wednesday, July 16, 2014 at 1:30 p.m. at the LCDD Maintenance Building.

SUPERVISORS PRESENT: Paul Sullivan, Chairman
Harold Ousley, Vice-Chairman
Robert Fisher (Via Speakerphone)
Kenneth Drum, Secretary
Gerry Campkin, Assistant Secretary and Supervisor

ALSO PRESENT: W. Neil Dorrill, Dorrill Management Group, Manager
Assistant Secretary
Kevin Carter, Dorrill Management Group
David Bryant, District Counsel
Jerry Ellis, Operations Manager

INVOCATION/PLEDGE OF ALLEGIANCE

The meeting was called to order by the Chairman, and the invocation was offered by Mr. Dorrill. The Board then recited the Pledge in unison.

ROLL CALL/APPROVAL OF AGENDA

All Board members were noted to be in attendance, with Mr. Fisher appearing via speakerphone.

The following items were added to the Agenda: 4C, Law Enforcement Updates; 4D, Bids for Emergency Generators; 4E, Debris Removal Retainer; 4F, Lely Community Banners; 5A, Ongoing Litigation; 5B, Cash Reserves Delineation; 5C, Expert Witness; 6A, Transfer of Funds; 7A, Three Remaining Lely Horses, and 7B, Lakoya Water use.

A MOTION was then made by Harold Ousley, seconded by Robert Fisher and unanimously approved to accept the Agenda as amended.

APPROVAL OF MINUTES OF JUNE 18, 2014 MEETING

On Page 5, the first line under Item A should be Mr. Sullivan rather than Fitzgerald.

On Page 6, on the last line, the word "bear" should be "near".

On Page 7, the gentleman's name under Public Comment was Charlie (inaudible).

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Additionally on Page 7, the second to adjourn the meeting was made by Mr. Campkin.

On Page 6 under Item D, Mr. Dorrill indicated that the inaudible section was comments made by Mr. Cole regarding the unintended benefit of water seepage through a clay liner into the adjacent groundwater table, which sets the lake level during the dry season. The Board agreed that the area noted as inaudible would be left as it is.

With those corrections and additions, the amended minutes were unanimously approved on a MOTION by Gerry Campkin and a second by Harold Ousley.

MANAGER'S REPORT

A. Well Field Project

The well field project has been completed, the final inspection has been done, and the small amount of punch out items has been taken care of. Mr. Bryant added that the well drilling company did an excellent job, and the electrical permit is in place. Once the electrician connects the components to the pumps, the project will receive the final affidavit of no liens. Mr. Bryant also complimented Mr. Carter on the excellent job he did coordinating this project.

B. Flooded Vault at Horse Monument

An insurance claim has been filed on the flooded vault caused by a leaking supply line which destroyed two 7-horsepower pumps. It was fully insured, and new pumps will be replacing the old, rebuilt ones that were destroyed. The District will be responsible for approximately \$12,000 after the insurance.

C. Law Enforcement Updates

An employee was injured while installed flags for the 4th of July celebration, was transported to the hospital via ambulance, and the utility vehicle totaled when it was struck in the median by another vehicle. The vehicle that hit the employee left the scene, and the Highway Patrol investigation is ongoing. As soon as additional information is received, Mr. Dorrill will update the Board.

Mr. Ellis indicated that they are aware of the woman who was involved who is apparently not a resident of Lely, and Mr. Bryant added that he has contacted the State Attorney's office and advised them that they want to be kept up to date on the information as it is received, as Mr. Bryant wants the \$5,000 deductible to be paid by the person responsible for this accident. Mr. Drum felt that as nice as the flags are, they are an attractive nuisance, and some of them

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have actually been stolen.

The other issue Mr. Dorrill updated the Board on was the bank fraud that occurred, indicating that the perpetrator was in jail with multiple counts against him. Both Mr. Dorrill and their office accountant, Leigh Briant, gave sworn statements to a criminal investigator with the Sheriff's Department. The account had to be closed, as apparently this scam involved a sophisticated group from the East Coast. There is extra incentive for law enforcement in this case as they are stealing from a public entity, and staff intends to make sure that this man is prosecuted. The amount taken, which was \$600 more than the original check, has already been credited to the District's account.

D. Bids on Emergency Generators

Three bids were obtained for use in the maintenance building which serves as a central mobilization area in storm events. After consulting the literature and doing some research, staff opted to go with the propane fired generator, which will be able to run the lighting, air conditioning, and associated mechanics' area and fueling station. This generator will run for 120 hours.

The different bids were provided to the Board, and Mr. Carter explained the differences in each and how they met the District's needs. They felt that the best fit and price was the bid from West Coast Generators for \$26,230. This contract also obligates the contractor to get the necessary permits and arrange for the electrical contractor to install it.

Mr. Dorrill indicated that he would prefer the propane tank be above ground, and he suggested that the Board's approval on this project be subject to a site plan that they will coordinate with the contractor. There will be stanchions in front of the tank and a concrete wall behind it for safety purposes.

Mr. Dorrill summarized staff's recommendation, adding that if they wished them to investigate natural gas, they will do that. Mr. Drum pointed out that a propane tank costs \$5,000, while no tank is necessary with natural gas. Mr. Dorrill will get some information from TECO, the company that controls the natural gas on Florida's west coast, and see if it would be available, especially during a storm event.

After further discussion, **the Board unanimously approved the West Coast Generator bid for \$26,340 on a MOTION by Robert Fisher and a second by Kenneth Drum.**

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E. Disaster Cleanup

As alluded to the previous month, Mr. Dorrill asked for a retainer proposal from their horticultural debris removal contractor, Bobcat Tree Service, which would be on an annual retainer with the District, a portion of which would be considered earned upon receipt. In return for that, following a named tropical storm or hurricane, he would agree to mobilize his resources at the Lely Community before he went anywhere else. In the event that those services have not had to be used by the end of the hurricane season, then his retainer would be applied against his normal, monthly horticultural debris removal.

At the end of a calendar year there would be an opportunity to renew the retainer, and it would provide some peace of mind knowing that a local, qualified contractor was retained for this purpose.

Mr. Bryant will take a look at the legal parameters before they move forward with this, noting that the County has some similar arrangements with service companies.

In response to Mr. Fisher's question, Mr. Dorrill indicated that the cost would be \$5,000, and the contractor would be entitled to keep a portion of that, roughly \$500 to \$1,000, and the balance would be applied towards his normal, monthly fee.

Mr. Bryant noted that this piggybacked on Mr. Fisher's question about fund balances, and a catastrophic fund that could be targeted for some of the cash reserves may be warranted.

On a MOTION by Robert Fisher and a second by Harold Ousley, the Chairman was unanimously authorized to sign the retainer agreement, subject to counsel's legal review.

F. Lely Banners

Staff has been working with a vendor do some concept drawings for a set of straightforward Lely banners, with the Lely logo superimposed over a rectangular banner. It was suggested that different colors be ordered that can be changed with the seasons, at a cost of \$245 each. Probably no more than a dozen would be needed, and the hardware is still on the poles where the old banners were located.

In response to a question from Mr. Drum, Mr. Dorrill indicated that all of the light poles where these banners will be located are owned by the CDD.

On a MOTION by Kenneth Drum and a second by Harold Ousley, staff was authorized to proceed with the purchase of 15 of the Option B banners on a unanimous vote of the Board.

ATTORNEY’S REPORT

A. Letter to Mr. Koester re: Lakoya Water Use

This letter was just recently sent as Mr. Bryant wanted the motions already filed to be heard before the letter was received by Mr. Koester. Mr. Bryant has not received a reply as of yet, and Mr. Dorrill does not need Board approval to buy a meter as was discussed as an option the previous month as the cost is within his decision limit. Lakoya gets water from both Wildflower and Grand Lely, and the total flow can then be monitored by this meter.

In response to Mr. Campkin’s question about the mechanics of the water going into Lakoya, it was described as a loop system, and once the meter is installed, there will only be one access point. Mr. Bryant also answered a question from Mr. Drum about who is paying for the water, indicating that the only people paying for Stock’s water are residents of the CDD. People who live outside the CDD are not. That water is not part of the CSA Agreement, which means that the people of Lakoya are not paying anything for the water that is irrigating their common area landscaping, and that is costing the CDD residents a great deal of money.

After further discussion regarding the payment of CSS fees and what those amounts cover, it was determined that this item would be discussed further once the response was received from Mr. Koester.

B. Discussion of Fund Balance

Mr. Fisher felt that some of the money being carried should be transferred into reserve funds so that the District will be able to replace some of the basic infrastructure when becomes necessary. He suggested that perhaps \$200,000 should be transferred to a designated fund for infrastructure, and a couple of other funds should be looked at as well.

Mr. Dorrill noted that the contribution to the capital reserve this year was \$175,000, and there was a contribution made earlier in the year as well. The Board will get an opportunity to see the updated, five year capital reserve schedule at the final budget adoption workshop in August. Once a better idea is available for what the five and ten year projected capital improvements are, then an additional transfer from general revenues into restricted revenues can be made.

The Board agreed, and Mr. Bryant added that he had spoken to Mr. Phillips about this issue, as these funds cannot be designated as profit, but must be put in contingency funds for future replacements or emergencies. It has been estimated that approximately \$550,000 to \$600,000 is needed to fund the first three months of the fiscal year before money is received from the

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taxpayers. It was the auditor's suggestion that this money be set aside and designated for that purpose, as this money should not be considered as a sum with no designated use that the CDD is sitting on. The Board just expanded and improved the master irrigation system for \$400,000, which is coming out of general revenue. In the future these types of improvements or replacements can come out of a designated fund.

Mr. Drum reiterated what he had spoken about previously, that schedules should be created for the infrastructure that will have to be replaced in the future, and planning for these items will help avoid another bond issue for the District.

Mr. Dorrill noted that at the August meeting when the general budget is adopted, it would be appropriate for the Board to authorize any remaining transfer into the capital reserve, and/or the creation of a cash flow reserve. Mr. Bryant agreed that this was a perfect time to do it.

C. Review of Dr. Fishkind's Reports

Mr. Bryant indicated that he was in the process of hiring an expert to assist the auditors in a review of Dr. Fishkind's reports, as his latest report states that the Master HOA has been overcharged in the amount of \$1,529,421. The Board will be kept advised.

FINANCIALS

The end of May financials were provided to the Board showing \$1,900,000 in cash in the operating account against \$74,000 in payables. In any given month approximately \$200,000 is spent in total operation, and with four months remaining in the fiscal year, there is approximately \$1,100,000 in cash that will be remaining at the end of the year. There is a final, quarterly distribution from the CSA that will increase that amount.

There is currently \$499,000 in the future capital reserve account, and Mr. Dorrill suggested that as the Board looks to establish a separate contingency fund of approximately \$500,000 to \$600,000, it will put the use and allocation of the present cash available in a better perspective. The income statement showed the non ad valorem tax assessments year-to-date at \$1,931,000, which is 96 percent of the yearly revenues. An additional \$10,000 was received in May, just prior to the tax certificates being sold. This year the total year-to-date revenues are accurate and realistic, showing the many people who opted to take the 4 percent discount when they paid their taxes in November.

Miscellaneous revenues include CSA and similar types of revenues from the School Board and

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the Board of County Commissioners. Those are tracking at about \$70,000 year-to-date, which is a function of higher sales of new homes in the community than previously projected. Year-to-date expenses remain at about \$150,000 below budget, but factoring in transfers, they are exactly where they were projected to be.

A MOTION was then made by Robert Fisher to accept the Financials as presented, seconded by Harold Ousley, and unanimously approved by the Board.

SUPERVISORS' REQUESTS

A. Three Remaining Lely Horses

Mr. Drum asked when the agreement signed with Stock on these horses was coming due, and suggested that the Board begin to think about their placement. The original plan for this was to have them in three separate locations throughout Lely, and a subsequent plan was for the placement of one of the horses on private property. The next idea was for the placement of all three horses at the entrance of Grand Lely and Collier Boulevard, which was also ultimately decided against.

Mr. Drum felt that the agreement date is coming soon, and as there is an option for the District to build the base and place the horses where they would want them to go, possibly with a water feature, it would be appropriate to begin to think about placement.

Mr. Dorrill will pull the agreement for the Board members, and suggested that this could be addressed at the August or September meeting, with perhaps some scaled sketches showing dimensions to facilitate the determination of a location for them.

Mr. Fisher felt that there were two or three years remaining on the agreement with Stock, but agreed that it would be appropriate for the Board to take a look at it next month. Mr. Campkin suggested that they ask Mr. Stock if he had any ideas on where he wanted to place them, and if not, suggest that they could begin to consider this. Mr. Bryant added that if the Board decided that they wanted to go ahead and place the horses themselves, there is additional cash on hand to facilitate that.

Mr. Dorrill indicated that it will be put on the agenda for the following month, and at the appropriate time they will see whether Stock is agreeable to either an amendment or concession on the horses.

The Board briefly discussed asking for input from the public as to their thoughts on placement, and Mr. Bryant felt that an article in the newsletter may be appropriate in this regard.

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PUBLIC COMMENT

Bill Leigh from Mustang Island Circle spoke to the Lely Horses placement, ***his comments were unable to be heard.

ADJOURNMENT

The next meeting and public hearing was scheduled for the 20th of August at 1:30.

The meeting was then adjourned on a MOTION and a second at 3:00 p.m.