

**LELY COMMUNITY DEVELOPMENT DISTRICT
NAPLES, FLORIDA
REGULAR MEETING OF THE BOARD OF SUPERVISORS
December 16, 2015**

The regular meeting of the Lely Community Development District Board of Supervisors was held on Wednesday, December 16, 2015 at 1:30 p.m. at the LCDD Maintenance Building.

SUPERVISORS PRESENT: Robert Fisher, Chairman
Gerry Campkin, Vice Chairman
Harold Ousley, Treasurer
Kenneth Drum, Secretary
William Lee, Public Relations

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

INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was offered by Mr. Dorrill, and the Board recited the Pledge of Allegiance.

A. Public Comment

Stacey Corter from Lely Island Estates advised the Board of a Queen Palm in front of his house that died from the palm disease that is circulating in that area. The tree was located between the sidewalk and the road, and he asked the Board who had responsibility to replace it, as it was not part of his property. He added that several years ago the LCDD had replaced another Queen Palm that had died and was part of that same row of palms.

Mr. Drum indicated that he was aware of this issue and wished to put it on the agenda for discussion as there are covenants of the Master HOA that seem to indicate that this is their responsibility. This issue will be discussed further under Supervisors Requests.

ROLL CALL/APPROVAL OF AGENDA

All members of the Board were in attendance.

With the addition of Items 7B, a discussion of the Master HOA covenants; 7C, Security; 7D, County Signs; 7E, Placement of Horses; 7F, a discussion of the CSA watering of the median on Grand Lely Boulevard; 7G, Falcon Glen Burglary; 7H, Walking Benches; 7I, Reserve Workshop

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and 2016 Workshop Schedule, and 7J, Update on Players Cove Crossing, **the Agenda was unanimously approved on a MOTION by Mr. Lee and a second by Mr. Drum.**

APPROVAL OF NOVEMBER 18, 2015 MEETING MINUTES

On Page 2, the Motion under the District Banking Services Proposal was to move these services to First Integrity Bank.

On Page 6, Mr. Lee's comments that were inaudible were regarding Stock's purchase of 196 acres on the east side of Collier Boulevard and the transfer of ***

Additionally on Page 6, the last sentence under Public Comments should read Mustang Island Circle as opposed to Lely Island Circle, and the words "with the approval of the Lely Development Corporation" should be added at the end of the sentence.

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

APPEARANCE BY MR. LETOURNEAU

Jeff Letourneau from Code Enforcement addressed the Board, gave them a brief synopsis of his background, noting that he had been with the County for 20 years. He then touched on a few areas of their concern.

As it relates to the short term rental issue, Mr. Letourneau noted that in the first 10 to 11 years of his time at Code Enforcement there were no complaints about this issue. Around 2011-2012, three complaints came in, one after another. The County's Land Development Code and Ordinances do not indicate that you cannot have short term rentals in any specific zoning district. When asked for his opinion on this, the County Attorney indicated that there is a short ordinance on prohibited uses which indicates that unless there is verbiage on temporary use, it is then assumed that it is not allowed. As virtually none of the zoning districts contain this temporary use verbiage, the assumption is that it is not allowed and that it is a code violation. Two cases were taken to the Code Enforcement Board, and they are no longer allowed to have short term rentals.

Presently when complaints are received they are dealt with on a case by case basis. It is a difficult ordinance to enforce, but once sufficient evidence is obtained, they will address the owner and advise them that they are violating the code. As many people are not aware of that fact, Code Enforcement will work with them if possible. Once they are brought before the Code Enforcement Board, however, they are given 30 days to comply, and thereafter will be fined on a daily basis.

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Mr. Letourneau acknowledged that it is a difficult situation as there are many short term rentals going on at any given time, and people rely on the income from them. However, until the original PUD is amended, short term rentals will not be allowed. The State Statutes also indicate that if this change is made, it cannot be reversed.

Mr. Drum noted that the covenants in his community were drafted in 2004 and allow for three rentals a year, and with permission of the Board, further rentals are allowed. He asked if they would supersede the County codes as the County approved their development order. Mr. Bryant added that what Mr. Letourneau is referring to is the land use designation under the PUD. The only place in Lely that is approved for short term rentals is the area at Grand Lely and Lely Resort where the Breckenridge was going to be located. Mr. Bryant also noted that the covenants that a local HOA writes up that governs an HOA does not pre-empt a County ordinance, even if it is recorded.

Mr. Campkin indicated that this would mean virtually all the HOAs in Lely have covenants that are incorrectly written. Mr. Letourneau added that in the case of garage sales or a commercial vehicle with lettering, for example, the HOAs covenants are usually stricter than the County's ordinance and the stricter HOA covenant rules will then apply.

Mr. Letourneau indicated that Code Enforcement acts on a complaint driven basis only, and is not out actively looking for violations of the ordinance. The Board of County Commissioners is the only entity that can change this rule. As there are differing opinions coming from different attorneys who have been approached by Lely homeowners, there appears to be an ongoing debate on the legality of short term rentals.

Mr. Drum asked if the County had any regulations in place as it relates to renters who have created a messy lanai, and have a pool that is unfilled. Mr. Letourneau will have to check the ordinances as it relates to the empty pool, which may be a violation.

Apparently the workshop on this issue that was mentioned by Commissioner Fiala has not yet occurred, but Mr. Letourneau will contact the Board via email as to what he read that morning regarding this meeting or workshop.

Mr. Letourneau indicated that he will take some pictures of the large piles of dirt that are accumulating at two of Stock's construction sites. He indicated that Stock had received a notice of violation, but the County Engineering Department had indicated that there was no violation. Mr. Letourneau did not agree as there were no safety nets in place. The Engineering Department indicated that they would monitor it and allow them to continue until the permit expired. When the permit did expire, Stock was allowed to renew it for another year, and

nothing has been done to correct what are clearly violations of the Land Development Code. Mr. Dorrill asked Mr. Letourneau to advise Mr. Bryant as to whether the County Excavation Ordinance is still in place and what the citation was. Mr. Lee added that there were some large piles of dirt back on Rattlesnake Hammock that may still be there, and this area should be checked as well.

Mr. Letourneau urged anyone to call him with any questions on code violations, and he will do his best to get them answers.

MANAGER'S REPORT

A. Arlington Irrigation Agreement Status

Mr. Dorrill asked for direction from the Board as to approaching the Master HOA as to the third amendment to the Comprehensive Service Agreement which was done in furtherance of the sale of property from Stock Development to the Lutheran Life Communities. Due to some matters involving the Fire Code, the project has been delayed for some period of time, and Mr. Dorrill noted that the District has been providing water for landscaping that was installed six months ago without compensation, as the agreement was tied to the issuance of the first CO. If this issuance has occurred, Mr. Dorrill wished to send them a bill for irrigation water back to the date when the first CO was anticipated to be issued.

Several Board members indicated that there are residents living at the Arlington now, and Mr. Bryant agreed with Mr. Dorrill that they should be back billed for the benefits they have received, and the Board agreed as well. Mr. Dorrill will move forward with this and will keep the Board advised.

B. Holiday Bonuses

As has been the Board's custom, Mr. Dorrill asked them to once again consider a lump sum bonus to be paid a week before Christmas. In the past a scale of \$200 to \$500 was given to the direct employees, in addition to a bonus for the managerial staff.

Mr. Drum moved and Mr. Ousley seconded that bonuses for the direct employees as provided the previous year would be repeated this year, and the MOTION was unanimously approved by the Board.

Mr. Lee moved, Mr. ** seconded that bonuses of \$1,000 to Mr. Ellis, \$2,000 to Mr. Bryant and \$3,000 to Mr. Dorrill be awarded this year. The MOTION was unanimously approved by the Board.**

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ATTORNEY'S REPORT

A. Security Workshop Meeting

Mr. Bryant has extended an invitation to the Sheriff to attend the March security workshop meeting, and is waiting for his reply. Once that has been confirmed, Mr. Bryant will send him a letter and copy the Board.

B. Short Term Rental Issue

Mr. Bryant received a call from the County Attorney about this issue, but was out of town when Mr. Bryant returned it. Apparently the letter Mr. Bryant wrote to Commissioner Fiala was forwarded to the County Attorney for a response, and Mr. Bryant anticipates talking to him this week. He will advise the Board if there is any additional information other than what was received from Mr. Letourneau.

C. Master HOA Litigation

No reply has been received from the Master's attorney to the letter Mr. Bryant sent asking him to consider a discussion on a global settlement to the ongoing litigation. Their attorney has filed a motion to amend their complaint which is scheduled for January, and Mr. Bryant is in the process of researching it. He anticipates that the motion will be granted as the law is quite liberal on this issue if no trial has been set. The Board will be kept advised as this moves forward.

FINANCIALS

The October, first month financials were presented to the Board, showing cash on hand at the end of the first month of \$1,814,000 against \$224,000 in payables. The revenue side of the income statement showed \$19,000 in taxes having been received from those people who pay on a quarterly basis. A large amount of money will be posted in November and December as people take advantage of the discounts.

A large expense for the general commercial insurance package was noted which was prepaid for the entire year, along with a few other seasonally adjusted expenses such as the annual flower program. Overall expenses for October were \$207,000 against a budget of \$243,000, or \$36,000 under budget for all the operating expenses that month.

Mr. Campkin asked about the CSA revenue, and whether it was possible to work out a per unit

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number on that. Mr. Dorrill indicated that the number is the same as the regular cost for CDD residents plus 10 percent, or roughly \$700 annually. The residents of Arlington will not be charged that amount by virtue of their agreements, which are slightly different as it relates to their menu of services. Similar terms were extended to the Board of County Commissioners, the York rental apartment complex, and the School District for the school adjacent to Naples Manor. It is not anticipated that these differences will be a cause for concern as it relates to the CSA litigation.

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

SUPERVISORS' REQUESTS

A. Security

Mr. Drum asked who is presently providing security to the District, and was advised that G4 remains under contract, with a revised anticipated start date of February 1 for the new firm. Once the appropriate insurance certificates are received from the new provider, a letter of termination with 30 days notice will be sent to G4. If they wish to opt out earlier, the Board will be advised.

Mr. Drum expressed concern about the security performance at this point, noting that fishing continues to take place in the posted areas and the parking lot at the horse monument continues to be used after sundown. Mr. Dorrill indicated that he will reinforce these issues with G4 in an effort to tighten security.

Mr. Drum asked if having an in house security staff could be considered, and Mr. Dorrill noted that Pelican Marsh has done this, and with a slightly higher pay rate than on the open market, the quality of security has greatly improved. Unfortunately, the staffing vacancy rate is high and part time and overtime budgets do run higher. He suggested that this could be looked at during budget discussions for the coming year.

Mr. Dorrill added that the Statute allows a district to provide security services and to contract for extraordinary law enforcement. He would like to make a full presentation to the Board on this issue, adding that in house security is a viable alternative. He also noted that staffing problems may not necessarily be as much of an issue for Lely. He also noted that using off duty Sheriff's deputies is also an option that has been effective in Pelican Marsh.

Mr. Dorrill added that he felt the new firm that will be providing security, Gilliard, will be a great improvement for the District.

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B Signage in District

Mr. Drum noted that in various places throughout the District there are signs that are not on the decorative poles, such as the two at the Horse monument. He suggested that Mr. Ellis be put in charge of changing these signs to match the others in the community when the roadwork in certain areas is completed.

C. Placement of Horses

In eleven months the agreement with Stock for placement of the horses will expire, and Mr. Drum felt that the Board should become more aggressive in moving this forward. Mr. Bryant indicated that if the Board wished him to, he would write a letter to Stock reminding him of the deadline, although this was done in the past on a few occasions with no response from Stock. Mr. Dorrill indicated that there have been some conciliatory gestures from Mr. Boff and Mr. Gelder regarding different issues within the community, and suggested that they give all of these things a few more weeks to see if Stock and the District can enter into mediation, where all of the issues can be addressed.

D. Master HOA Covenants

Mr. Corter's comments at the beginning of the meeting raised the question of who has the responsibility for certain things within the District. The Master HOA's covenants indicate that they have responsibility for many things that they do not cover, such as reclaimed water, security and the warehouse. This may be something that should have been taken out of their covenants, as it does cause some confusion as it did for Mr. Corter who does not know who has responsibility for replacing palms along the roadway. These things were probably written into the Master Covenants before the CDD was created, and never taken out.

Mr. Fisher suggested that Mr. Bryant take a look at those covenants and Mr. Bryant felt that a good place to start would be whether the covenants were overlaying the entire area or just old Lely, and he will look into it.

F. Burglaries

There were three homes burglarized in Falcons Glen about six months ago, and Mr. Drum spoke with Lt. Mulholland about them, who asked Mr. Drum to relay to the Board that the Sheriff's Office has cracked the case and have arrested two or three people on the basis of fingerprints. These people are all juveniles, so it will not be reported in the paper.

The perpetrators will not receive jail time, but will be under the Court's supervision.

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G. Sprinklers on Grand Lely Drive

A nonresident who plays golf at the Classics spoke with Mr. Drum about the fact that in the mornings a lot of the sprinklers in the median along Grand Lely Drive are spilling water out into the roadway. Mr. Dorrill will investigate and follow up this to determine what can be done to eliminate the problem, and who is responsible for the constant watering that is going on.

H. Queen Palm Replacement

In response to Mr. Lee's question, when a Queen palm dies due to disease, a determination is made by Mr. Ellis as to what and if they will be replaced with as the Queen's are no longer being used due to their susceptibility to disease.

I. Benches

Mr. Lee thanked the Board for the walking benches, noting that a good job was done in placement and they looked very nice. He asked if another one could be placed on the west side and Mr. Dorrill indicated that they have discussed this, and a plan is being developed for additional benches and trash cans. He and Mr. Carter will be bringing this to the Board in the near future. Mr. Ousley also took the opportunity to thank Mr. Carter for his hard work in getting the benches installed, as they are greatly appreciated.

J. Reserve Workshop

Mr. Lee asked if there was enough time to plan the Reserve Workshop for January, and Mr. Dorrill indicated that Mr. Lee had already indicated that he wished to have the follow up capital workshop in January, and it is planned for that time. The Sheriff will be addressing the Board in March, and then budget workshops will begin.

K. Pedestrian Crossing at Players Cove

Mr. Campkin asked for an update on the crossing at Players Cove, and Mr. Bryant reported that he and Mr. Carter had a meeting with Mr. McLean, the head of the Planning Road Management Division now, which was facilitated by Mr. Casalanguida. Mr. Bryant explained their concerns with the crosswalk, and Mr. McLean called him the previous day and advised him that he had shared those concerns with Mr. Gelder of the HOA, and they are looking into changing the stop sign to a yield, and moving the crosswalk east to line it up with the sidewalk. The County will give them the permit if it meets the FTDP criteria, and the drawings will be redone to that end.

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L. Thanks for Cleanup

Mr. Campkin thanked Mr. Carter and Mr. Ellis for the clearing they did on the area on Ivy at the junction of the Players Club. The visibility has improved greatly with two-thirds of the cleanup having been done.

PUBLIC COMMENT

Mrs. Lewis asked if the new irrigation water purchasing agreement with the County had been finalized, and Mr. Bryant indicated that he had spoken with Mr. Eick the previous day and was advised that the County had not agreed to change the language yet. Mr. Bryant advised him that he wished to have a meeting with the head of the division, where he hopes the changes will be accepted.

Mrs. Lewis also asked about the unit fee for the Arlington and York apartments, and wondered if there was an expiration date on that. Mr. Bryant thought it was a 30 year agreement, but Mr. Dorrill asked her to see him after the meeting where he will answer this question for her. Additionally Mrs. Lewis asked how long the contract would be for the new security company, and was advised that initially it will be for one year, with a series of renewals at the Board's discretion.

Another resident asked about the item on sidewalks noted on the agenda, and was advised that a slip and fall occurred on a sidewalk that involved the County's participation, and Mr. Carter had resolved that issue.

MISCELLANEOUS

A. Election of 2016 Officers

Mr. Ousley proposed the slate of officers as follows: Mr. Campkin, Chairman; Mr. Lee, Vice-Chairman; Mr. Fisher, Legal Aide; Mr. Drum, Secretary, and Mr. Ousley, Treasurer. Mr. Dorrill was proposed as Assistant Treasurer/Secretary.

The Board unanimously approved the new slate of officers for the coming year.

ADJOURNMENT

With the agreement that the January meeting would be held on the 20th, with the workshop beginning at 1:00 followed by the meeting at 1:30, **the meeting was adjourned on a MOTION by Mr. Drum and a second by Mr. Lee at 3:01 p.m.**