LELY COMMUNITY DEVELOPMENT DISTRICT NAPLES, FLORIDA REGULAR MEETING OF THE BOARD OF SUPERVISORS JULY 19, 2017

A regular meeting of the Lely Community Development District Board of Supervisors was held on Wednesday, July 19, 2017 at 1:30 p.m. at the LCDD Maintenance Building.

SUPERVISORS PRESENT:	William Lee, Chairman
	Robert Fisher, Vice-Chairman (Via Speakerphone)
	Harold Ousley, Treasurer
	Kenneth Drum, Secretary
	Gerry Campkin, Supervisor
ALSO PRESENT:	W. Neil Dorrill, Dorrill Management Group, Manager
	Assistant Secretary/Treasurer
	Kevin Carter, Dorrill Management Group
	Freddy Bowers, 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. No Public Comment was received at this time.

ROLL CALL/APPROVAL OF AGENDA

Item 7A, Discussion of Benches; 7B, Jasmine; 7C, New Lockers; 7D, Pay Raise; 7E, Lake Bank Erosion, and 7F, Flag were added to the agenda, and with those additions, the Agenda was unanimously approved, as well as Mr. Fisher's participation via speakerphone, on a MOTION by Mr. Drum and a second by Mr. Ousley.

APPROVAL OF JUNE, 2017 MINUTES

As it relates to the Hurricane Workshop minutes, on Page 3 in the second paragraph, Mr. Campkin indicated that (Comments inaudible.)

With that correction, the Workshop minutes were unanimously approved on a MOTION by Mr. Ousley and a second by Mr. Drum.

As it relates to the Regular Meeting Minutes, there being no corrections, **the Minutes were unanimously approved on a MOTION by Mr. Ousley and a second by Mr. Campkin.**

MANAGER'S REPORT

A. June Community Patrol Report

The Sheriff's Department had a total of 22 stops, with 13 written citations.

There were a total of 64 incidents that resulted in an incident report being prepared by the Community Patrol, with a number related to fishing in and around the golf course lakes, two of which were residents. Mr. Campkin noted that quite a few non residents seemed to be coming in to fish, and Mr. Dorrill agreed, noting that 80 to 90 percent of the individuals fishing within the District are non residents.

Mr. Drum asked if a non resident comes into the District and gets hurt, what the District's liability is. Mr. Dorrill noted that Mr. Bryant had always advised him that it doesn't take much to file a lawsuit, but part of the District's vigorous defense would include the insurance company on the liability side, and the special counsel they would bring. These areas have all been posted, and the area within that easement is not intended for recreational purposes, but for maintenance of the lakes.

The balance of the activity at Lely in addition to the fishing related issues included gate failures due to lightening strikes, some unusual loitering and other suspicious activity, animal related complaints, and assisting disabled vehicles. Mr. Dorrill noted that good will is being generated within the community with the activity and involvement of the in house Community Patrol staff.

Mr. Drum noted that in reading Mr. Bowers' report, there seems to be an increase of people climbing on the Freedom Horse Memorial and the horses themselves. He reminded the Board that when they took it over from Stock, almost half a million dollars was spent to repair it before it was accepted by the District. Mr. Drum added that some of the damage was due to people climbing on the horses to have their pictures taken. He did not feel that a fence around the monument would be appropriate, but asked if something could be done if this problem persists, as evidently signs don't work in some cases. He suggested that perhaps a four foot fence would help, and Mr. Lee suggested that some sort of thorny shrubbery around the monument may work. Mr. Bowers also suggested that signs indicating that there were cameras trained on the horses, when Mr. Bowers drives to the location, the people generally leave. Mr. Lee advised that he had looked at the other Horse Monuments by the artist, one being at the George H. W. Bush Library in Texas with five horses, and the other in Berlin, again with all five horses displayed together, neither of which showed any sort of barrier.

(Inaudible audience comment.)

Mr. Fisher suggested that if the horses were surrounded by water people may be less interested in getting to them, as he has seen monuments of this kind located in pools of water. Mr. Drum asked how often this seems to be happening, and was advised by Mr. Bowers that it could happen twice in a row, and then you don't see it for awhile. It probably occurs twice a month.

Mr. Dorrill suggested that if they look at some of the more recent video files to see if there is a pattern in the way they come into the horses, they could concentrate on that area to make it more difficult, but Mr. Bowers indicated that they come in from all directions. Mr. Dorrill suggested that the signs be beefed up in this area, warning people of the electric voltage and the attendant dangers. It was felt that thorny bushes would probably not be enough of a deterrent as this beautiful monument is also classified as an "attractive nuisance" which draws people to go where they don't belong. There are some features on the monument that are ongoing maintenance items, such as the mister tubes and the devices on the hooves of the horses that make it appear as if they are running through the water.

The Board discussed the fact that it is one of the most recognized features in the County, and draws people who are visiting the area from all over the world.

B. Grand Lely Drive Traffic Problems and Community Signage

At Mr. Campkin's request, Mr. Dorrill has prepared some information for the Board, and the County has finally responded to his questions on this. Mr. Dorrill felt that what began as a well intentioned idea to help solve the traffic problems on this roadway has turned into a very big issue with the County, as they now want to come in and replace all the Community signage with the standard issue DOT poles. The County's chief transportation officer, Jay Ahmad, and the growth planning officer, James French, are both on vacation at this time, but Mr. Dorrill advised the County that the posts were paid for by the residents and they do not wish to change them out. They would be willing to replace the faces of the signs to allay the County's concerns about reflectivity and safety, within the existing Lely frames. There are almost 400 community traffic signs within Lely, and each one cost \$600.

Mr. Dorrill noted that if this situation escalates he will call the County Manager or Mrs. Fiala, the District's commissioner. The new County traffic safety manual shows that the top of the sign has to be eight feet in the air, and Mr. Dorrill felt that these new signs, such as the ones Stock put in front of the Players Club, look out of scale in Lely, but in fact, that is what is called for with any new signage. Mr. Campkin agreed that this all started with a reasonable request

that had nothing to do with signposts, but had to do with getting rid of the arrow on the road. (General discussion, overtalk.)

Mr. Drum added that the County's contention is you can't have speed limits of 20 miles per hour, as Florida Law is 25 or 30. He felt that this issue had been resolved in the meeting, as Mr. Ahmad had said that he wanted the signs changed on Lely Island Circle to reflect the 25 mile an hour speed limit, which didn't make any difference with speeders. He asked why this was now coming back up, and Mr. Dorrill reiterated that this started as a result of one very simple, common sense request on the part of a resident. The County staff has now taken it upon themselves to do community wide surveys and audits, and to create this enormous issue. Some of the higher level County officials will be back from vacation this coming Monday, and Mr. Dorrill will address this with them at that time. Mr. Dorrill has advised Mr. Carter that he is not interested in any large meeting with this Board and County staff to address the issue. The worst case scenario would be that they are going to install additional signage within the roundabout as they own the road, and Mr. Dorrill hopes that the Lely architectural poles can continue to be used, which this community is used to and has spend money on them. Mr. Drum agreed, and added that the County put up one sign on Lely Island Circle, which is yellow and on a galvanized pole, which does look out of place. Mr. Campkin indicated that the County did suggest that they had gotten requests to put up other signs, but they did not elaborate on that. He indicated that Mr. Dorrill may want to mention that to them as well. Mr. Dorrill assured him that they would be having a staff level meeting when Mr. French and Mr. Ahmad return from vacation to discuss this further. If they have some legitimate concerns about any ageing signs at Lely, staff will work with the County to have the signs refaced and mounted on Lely's poles.

Mr. Campkin added that the situation still exists as the arrow has not been removed and people are still driving the wrong way on that exit.

The Board will be kept advised on this issue.

C. 2018 LCDD Budget Update

Mr. Dorrill updated the Board on some changes that will occur following Staff's recent meeting with Stock regarding the CSA. On the positive side, Stock advised the CDD that for accounting reasons they are going to be billing the Master Association as an annual assessment, payable upon receipt of the invoice. In theory, that means that the District will be receiving their entire payment during the month of January. On the negative side, what Stock may not have fully contemplated is that at the same time they are going to go to individual billings as opposed to

batch billings through the individual homeowner associations. That database does not currently exist, and transferring from HOA billings to individual is going to be a difficult transition for them. Mr. Drum felt that they would also run into a problem with enforcing the collection, as some people may not pay, and they may spend more money trying to collect those fees. Mr. Dorrill will keep the Board advised on this as it goes forward.

As a result of that change, in order for the District to cover all the costs associated with the community wide landscape activity, Mr. Dorrill wrote a carefully written letter explaining the State's required notice of an increase in their assessment, and provided copies to the Board. There has not been an assessment in years, and Mr. Dorrill was concerned about the confusion that would arise out of this change and an increase on their bill.

The letter explains that this is a \$90 increase on their tax bill, for which they should expect an offset on their Master HOA bill. This is being done to facilitate the provisions of the settlement agreement which provides that the CDD would pick up the responsibility for all the landscaping. After the Chairman reviewed the letter, it was sent to the printer, who is responsible for mailing it as well, and it should be received by the residents at any time.

Mr. Dorrill noted that Dorrill Management also works for The Classics Plantation Homeowners Association, with 238 homes. Their bookkeeper is kept busy all the time coordinating the ACHs and late payments incurred by interest and late fee charges. There is a lot of bookkeeping entries to coordinate with the bank on automatic payments, and all of this will only get worse with 4,500 residents at Lely Resort should they bill individually.

Mr. Dorrill suggested that if anyone who had concerns about this should contact the CFO's office at Stock Development and ask them about how they intend to implement this process. Additionally, if Stock is leaving at the end of 2018, which they have intimated, it would not make sense to incur this amount of work. Mr. Lee suggested that the new Board of the Master Association would probably have to clean this up when they took over.

D. Status of District Counsel and Memorial

Greg Urbancic of the law firm of Coleman, Yovanovich and Koester practices almost exclusively in the area of CDDs, and he was on the short list of candidates to be the next District counsel. He has a potential conflict of interest due to the fact that they are currently Stock's real estate and development firm. While they were solicited based on an individual's practice area, the firm has been advised that it needs to decide if there is a potential of conflict there, and Mr. Urbancic has acknowledged that this needs to be discussed internally with the firm. The Board members briefly discussed the possibility of conflicts, which seems to exist in a

few areas.

Mr. Lee and Mr. Dorrill have met and developed an outline for a formal request for qualifications, and have identified a half dozen areas that would need to be incorporated into any response that may be sent to the Board. It runs the gamut from potential conflicts, and in particular if they have any relationships with developers that need to be disclosed, and included in the RFQ was the fact that the Board of the Lely CDD has for many years been resident controlled. They were also asked to disclose the fees for any individual who may work on Lely's account, and any discounts or terms that they might extend to this Board.

Mr. Dorrill noted as well that they had been somewhat spoiled by Mr. Bryant, who had what he called a two-tiered rate which the Board benefitted from, partly due to the fact that they pay their bills on time and Mr. Bryant did not have to chase after his fees. He also did all his own filings and correspondence to Mr. Dorrill's knowledge, which saved the District money as well. The responses are due to be returned to the Board on July 28th before 4:00 p.m. and any responses received after that will be considered nonresponsive.

Mr. Dorrill also advised the attorneys who respond that they must be available to introduce their firm at the August 17 meeting. The Board may not make a decision on that day, but the overall goal is to have someone present at the beginning of the next fiscal year.

Mr. Drum asked if the law firm has a partner that could possibly be billing up to \$400 an hour, Lely could be billed at the partner's rate. This could be difficult as Lely may have several different issues going at any time. Additionally, if they are paying a certain rate for an attorney, he did not want to see a junior associate doing the work, he wanted the attorney who works for Lely doing it. Mr. Dorrill noted that this was Mr. Lee's rationale in asking them to disclose anyone who might be assigned to work on Lely's account, and what they would charge. To Mr. Drum's point, however, Mr. Dorrill suggested that they may want to refine the interview which will be done by the full Board. They may also want to stipulate in the engagement letter that if there is a partner who may sit on a particular deliberation, or if there is an associate who will be doing some work at a reduced rate, the circumstances behind who is eligible to bill for what amount needs to be established.

Mr. Dorrill also noted that the first point in the mailings that were sent out to the various firms was that Lely was looking for a local attorney. There are some attorneys in cities around the state who participate by phone when it comes to CDDs, but what the Board wishes to have is a relationship with a local firm. There are two large firms, one being the Adamczyk firm. Steve Adamczyk is one of the founding members, and Mr. Dorrill has a relationship with him. The other is the Roetzel and Andress firm, and Bob Pritt in that firm is the City of Naples attorney.

Mr. Pritt's practice is almost exclusively local government administration.

There are two medium sized firms, the first being the Pires, Lombardo and Woodward firm. Tony Pires was a former assistant county attorney and former state prosecutor. The other medium sized firm is Greg Urbancic's firm, Coleman, Yovanovich and Koester, that has the potential conflict.

Mr. Drum noted that Bruce Anderson is a member of the Roetzel and Andress firm, and a very capable man but represents quite a few developers, which Mr. Drum does not see as a fit for Lely.

The two individual attorneys are Mike D'onofrio, who has a practice that is similar to Mr. Bryant's, in that it is real estate and litigation driven. The other sole practitioner is Leo Salvatori, who was with a small firm for a number of years and is now practicing with his daughter. His principal area is real estate and contract law, and HOAs which his daughter does the majority of work in.

In order to meet Mr. Lee's original goal, this is a mix of large, medium and sole practitioner firms, all of which are Naples based, and all who have good real estate backgrounds. At this point they are waiting to see who replies, and if the Board wishes, they do not have to make a final decision until Mr. Fisher returns to Naples for the October meeting. After a brief discussion, the Board agreed to put the formal interviews off until September due to summer travel plans, and Mr. Dorrill added that it was important to have the entire Board present for the personal interviews. The interviews will be handled as a workshop. The Board briefly expressed their thoughts on what would work best for Lely, and Mr. Lee agreed that they should wait until September, as the budget meeting is held in August.

Mr. Drum asked where the District stood as it relates to being a desirable client, and Mr. Dorrill felt that Lely was a desirable client, and that they have been fortunate to have been through very little litigation. They were Mr. Bryant's largest client in just general representation, and this year's budget is \$80,000 for legal fees, which is an opportunity for someone to bill that much a year for their representation, which makes Lely an important client.

Mr. Campkin asked if the decision had to be unanimous or if a majority was needed. Mr. Dorrill noted that it would be a majority, and advised that the decision is at the sole discretion of the Board, whose rationale thus far has been that the Board wished to have a local, Southwest Florida firm. Mr. Drum suggested as well that the engagement letter should contain a termination clause if their selection does not work out, and Mr. Lee noted that would be a decision that the Board would make. Mr. Dorrill added that the initial selection will be subject to negotiating a final contract, and the Board can then insert any terms they want.

Mr. Dorrill then asked the Board for some direction on what they would wish to do for an appropriate memorial for Mr. Bryant. Several of the Board members have suggested a well done plaque, perhaps in bronze, that could be outside, perhaps affixed to the maintenance building. Others suggested the renaming of the street to the District facilities , and petition the County to rename it Bryant Boulevard or something similar. Another suggestion was to purchase a large oak tree and plant it somewhere near the intersection of Wildflower and the access road with some sort of suitable plaque on it. This would be done once Mr. Fisher returns in October, which gives Mr. Dorrill enough time to get something done once the Board makes a decision on this.

Mr. Ousley would like to see Mr. Bryant's picture put up in the meeting room, and Mr. Drum wished to do several things, including renaming the maintenance building the David Bryant Center, and to have a picture or portrait with a small plaque with some details about Mr. Bryant and what he meant to the Lely CDD. When everything is done, he also felt that a dedication should be held. He also liked the idea of the tree or renaming a street. The Board agreed. Mr. Dorrill noted that the County has an overly complex process for renaming streets, and the access street to the maintenance building is private and currently without a name, and would be much easier to accomplish and would be nice to have it lead to the David Bryant Center. Mr. Dorrill repeated the Board's wishes, which included renaming the maintenance building and having a portrait or picture with a plaque on the wall in the meeting room; to investigate renaming the road to the facility to Bryant Boulevard or Drive, and Mr. Dorrill and Mr. Carter will explore the process for that.

E. Audit Engagement Renewal

There are no changes contemplated for the coming year with the auditor, Mr. Phillips, and his firm is very thorough, without error, and has been well received. Mr. Dorrill recommended approval for renewal. On a MOTION by Mr. Ousley and a second by Mr. Drum, the engagement renewal for Mr. Phillips' firm was unanimously approved by the Board.

FINANCIALS

The seven month financials showed approximately \$2.2 million dollars in cash through the end of the seventh month. Mr. Dorrill is beginning to look towards the end of the year and into the next year on some of the District's operating cash flow. It does look good, and they have yet to receive the final quarter's CSA payment, which will be approximately \$225,000 of additional

revenue which will come in before the end of the fiscal year.

On the income statement, under Miscellaneous Revenue, contract work to the Collier County School Board, the Board of County Commissioners and the results of the surplus property sale were all recognized during the month of May, and that money has all been received for a total of \$62,000 in these third party billings.

On the expense side, the only substantially over budget items were engineering, largely as a result of the work done to address the drainage and lake bank erosion, which is now substantially completed. Street lighting was also over budget by about \$11,000 due to some repairs to those lights. Other contractual services were also over budget slightly, but overall, taking into account the total operating budget, through the end of seven months the District is \$130,000 under budget.

Mr. Lee asked about Mr. Bryant's legal fees, and Mr. Dorrill noted that Mr. Bryant billed in arrears, and on the advice of the auditor, they had begun estimating anticipated billings yet to be received. Because of that, the payables number is about \$120,000, which creates a nice cushion in anticipation of future legal expenses. As Mr. Dorrill advised the Board the previous month, a member of the local Bar Association met with Mr. Dorrill at Mr. Bryant's office where an initial assessment of his files was done in the event there was a time critical issue with the Court so someone could fill in and do what was necessary. Today Mr. Dorrill received a text from this attorney asking Mr. Dorrill to give him a call regarding accessing the Lely CDD files. Mr. Drum also spoke to this gentleman who was going through Mr. Drum's HOA files as well, and advised Mr. Drum that he was going to issue some sort of report. Mr. Dorrill will follow up with him, and added that he had advised him that the Lely files were public records, and there would need to be a separate accounting for them and then turnover to Mr. Dorrill as the State's representative.

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

SUPERVISERS' REQUESTS

A. Benches

Mr. Drum suggested that as the benches that were put out seem to be appreciated, perhaps a few more should be purchased and put up near the Collier Boulevard exit. He was advised that this project was in the process of getting the right-of-way permit, which staff opted to wait until off season to purchase it at half price. Once that is obtained two benches will be ordered for placement on either side of Wildflower. Mr. Drum asked if any were contemplated to be

put in closer to Rattlesnake, and Mr. Dorrill advised him that the position the Board had taken thus far was to keep them inside District boundaries. If the Master HOA wanted to make a donation, staff would be willing to coordinate that. If the work was included in the budget, then CSA contributions would be received in support of that. Mr. Dorrill will look into having more benches installed in that area.

B. Jasmine

Mr. Campkin reported that the problem with the jasmine is a major one, making it impossible in certain areas to see around corners, and the growth issues seem to be getting worse. It is also full of weeds, and Mr. Campkin proposed that it be gotten rid of and replaced with grass. It is located at the end of every island area, and Mr. Campkin noted that he continues to get calls from residents asking that it be removed.

Mr. Dorrill added that the fact that it is on top of a three foot tall berm makes it even more of a problem, and if all of the jasmine throughout Lely is removed, it could cost up to \$25,000 by the time the irrigation is done and sod put down. As this issue has not been budgeted, Mr. Dorrill suggested that some particular intersections be priced out and brought to the Board at the next meeting. Mr. Campkin indicated that jasmine removal was done several years ago down the hill off the bridge and it made a huge difference, and added that the intersection near the golf course is very dangerous.

Mr. Dorrill advised that there is \$8,000 that can be spent, and he asked Mr. Campkin to pick some specific locations where Mr. Carter can prepare a removal, grading and sodding plan to bring back to the Board.

C. New Lockers

Mr. Ousley suggested that the old lockers be considered for replacement, even though they are operable, they are old and dented in some areas. Mr. Carter indicated that they would cost \$2,000 to \$3,000 to replace, and also indicated that if he were going to replace them, he would get full sized lockers, and he will work up a proposal for Mr. Dorrill who will approve their purchase if the cost is within his authority. Mr. Lee suggested that a bike rack could be used as well. (Inaudible request from the public.)

D. Pay Raises

Mr. Dorrill advised the Board that pay raises for the Board are established by the Florida Legislature, and only the Florida Legislature can make that decision.

E. Lake Bank Erosion

The Lake Bank Erosion initiative will be part of the capital improvement budget which is to be evaluated the following month. At the recent meeting with Stock they indicated that they acknowledged their responsibility at the Tiger Island Estates lake, which in both their opinion and staff's has the most severe erosion situation in the community. It will be addressed this fiscal year, which for the Master ends in December.

Mr. Dorrill's advice to the Tiger Island residents would be to push for this, as Stock's staff is busy. While it is not a high priority for them, it is in their adopted budget and is acknowledged to be a serious problem.

Mr. Carter has identified a few lakes that need attention first, and Mr. Dorrill indicated that they have prepared a schedule which will be shared with the Board at the August meeting. This schedule shows ownership of the lakes, and some are owned by Stock through the Master Association, some of the lakes are the responsibility of Joe Boff or the former Lely Development entities, and a handful of them are owned by the CDD. Mr. Carter and Mr. Cole have made that distinction for the Board.

Mr. Drum asked if there was not some type of implied warranty in place that if the lake needs work, then Stock is still responsible as turnover has not yet taken place. Mr. Dorrill noted that the law, in advance of the turnover, requires that, and Mr. Stock probably does understand that at this point. The developer is obligated at the end of each fiscal year, and at turnover, to do a post turnover audit and identify any shortfall in annual or historical funding. Mr. Dorrill suggested that it would be appropriate for Stock to do that at this point, and Mr. Drum agreed, noting that twice in the past Stock had turned over two HOAs where this had not been done and he then had to deal with lawsuits.

Mr. Drum noted that this erosion problem would be fixed by Stock with resident money, and asked if they could check to see if there was any type of implied warranty that Stock as the developer would be responsible to correct, and Mr. Lee agreed that it was his understanding that this area was the responsibility of the Master HOA. They are the ones who got the money in the settlement, not Stock Development, who cannot touch that money.

(Further comments by Mr. Lee were inaudible.) Mr. Drum added that he did not think that the residents should have to pay for something that should be paid for by the entity responsible for it. Mr. Dorrill indicated that they will talk further about these lakes, and again urged the Board members to advise their friends at Tiger Island to assert their position with Stock Development on the lake in that area.

The lake issue is complicated as there are a number of entities responsible for the many lakes in

the community, and Mr. Dorrill agreed.

F. Flagpole

The timing for the installation of the flagpole and flags was discussed, and Mr. Carter will have to get a permit for the electric to be installed. He added that the ceremony would be coordinated with a representative from the Congressman's office as well as Mrs. Fiala. (Mr. Lee's comments were inaudible.)

Mr. Dorrill added that it will probably coincide with the October meeting when Mr. Fisher is back at Lely as well.

PUBLIC COMMENT

No comments were received from the public at this time.

ADJOURNMENT

The next meeting of the Board will be on the 16th of August, and Mr. Campkin indicated that he will not be in attendance. The meeting was then adjourned on a MOTION by Mr. Drum and a second by Mr. Campkin at 3:00 p.m.